

BEFORE THE MANAWATU DISTRICT COUNCIL

IN THE MATTER OF a review of the Manawatu District Plan

and

IN THE MATTER OF Plan Change 45

DECISION OF COMMISSIONERS

Date: 1 September 2014

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Introduction

- [1] Plan Change 45 is part of the sectional review of the Manawatu District Plan and addresses the issue of how best to provide for residential development (i.e. urban growth) to accommodate increased demand for residential allotments that are residentially zoned and form part of the Feilding urban fabric. Feilding continues to enjoy steady population growth. This distinguishes it from other rural towns in the Manawatu-Wanganui region. Given the range of economic activity and opportunities that exist in the Manawatu district and wider Manawatu Plain, this process of growth is expected to continue, albeit not at a rampant level. In the last 10 years urban subdivision growth concentrated on the periphery of Feilding. There are isolated pockets of residential development that are relatively disconnected and lack many of the features we now associate with good urban design and appropriate “place making” that is sympathetic to the look and feel of Feilding and its historical patterns of development. With better design and improved planning, efficiencies can be obtained from effective coordination with network services and transportation links.
- [2] Since 2009 the Manawatu District Council investigated the provision of future infrastructure and how best to accommodate urban growth. The outcome of that investigation is known as the “Feilding Framework Plan”. While the opportunities and constraints have been identified, there is no detailed costing of the provision of network services. The Manawatu District Council wishes to manage the rollout of services as and when required in response to demand to minimise the cost of lazy infrastructure that is not offset by realistic development contribution income. That is why a crucial method of Plan change 45 is deferred zoning which may be transfigured through Council resolution to residential zoning.

- [3] The Council's proposed approach to managing growth in Plan Change 45 is one that is more directive and intended to facilitate long term planning. The Plan adopts a precinctual approach that identifies areas spatially as precincts which have characteristics that in combination are best managed as integrated units in order to achieve the orderly development of that area. Most of the land to be re-zoned in Plan Change 45 will have a deferred zoning with relatively small pockets benefitting from conversion to residential zoning immediately.
- [4] Within each precinct there is a structure plan which provides an urban extent, a neighbourhood focal point as appropriate and a range of subdivision densities, together with the location of key roads and esplanade reserves. It also identifies areas of steep topography where development should be avoided or carefully managed. While the Feilding Framework Plan identifies five growth areas, Plan Change 45 is confined to providing strategic planning for urban growth in three precincts only. These precincts are:
- (a) Growth Precinct 1: (Ranfurly Road/Awahuri Road);
 - (b) Growth Precinct 2: (Ranfurly Road/Halcombe Road);
 - (c) Growth Precinct 3: (Halcombe Road/Lethbridge Road).
- [5] To secure the overall urban strategic planning strategy the following key provisions are proposed by Plan Change 45:
- (a) A new Objective S8 under Objective 5.3.8 (urban growth) that reads:

To provide for urban growth that adjoins existing urban areas and manage that growth to avoid, remedy and mitigate adverse effects through to design of safe, integrated infrastructure networks and the efficient use and development of land.
 - (b) Four (4) additional policies that implement Objective S8, that are focused on ensuring that development occurs in the growth precincts and occurs in

the manner that conforms with structure plans and the Subdivision Design Guide incorporated as part of Plan Change 45.

- (c) Additions to S9 in Section 5.3.9 of the Plan concerning urban neighbourhoods;
- (d) Supporting policies to implement the amended Objective S9, that is consistent with the policies supporting Objective S8 but which have a greater urban design focus;
- (e) Amendments to rules principally related to subdivision on the basis that subdivision is the gateway that determines the long-term form of patterns of development.

A description of the various growth precincts

Growth Precinct 1 – Ranfurly Road/Awahuri Road

- [6] Precinct 1 is approximately 166 ha and its Northern boundary is on the Southern side of Ranfurly Road. It extends South almost as far as Lees Road and its Eastern boundary is the Awahuri/Feilding Road. It lies adjacent to the existing urban fabric of Feilding, with the closest streets on the Eastern boundary including Osborne Terrace, Windsor Terrace, Sunrise Heights and Turitoa Terrace.
- [7] Much of the land adjacent to Ranfurly Road is of mixed topography and tends to be more elevated typical of a marine terrace formation. Steeper topography is interleaved with flatter portions. That part of the land is proposed to be residential immediately, together with a pocket of residential adjacent to Satori Way. The balance of land is deferred residential with a mixture of both Density 1 and Density 2. Of the total area, 35 ha has a slope exceeding 30%.

- [8] The Mangaone West Stream is on the Western boundary and a significant part of the Deferred Residential Zone on the adjacent plain is zoned Flood Channel 2 in the Operative Manawatu District Plan.
- [9] The structure plan shows an arterial road connecting Satori Way with Ranfurly Road. Precinct 1 within it a section of the National Grid Towers 29-32 of the Bunnythorpe-Wanganui B Line that plays a critical function in distributing electricity to places such as Marton and Whanganui.
- [10] The MWH Report dated 10 June 2013, called “Feilding Urban Growth Strategy-Engineering Services Assessment” provides an engineering assessment for the growth precincts,¹ and estimates a future growth yield of 1010 residential allotments from Precinct 1. The total local reserve provision is anticipated to be 6 ha with 35 ha of open space. Based on achievement of stormwater neutrality (i.e. peak stormwater discharges post development are no greater than pre-development peak flows for a six hour event) the MWH Report notes significant stormwater infrastructure is required including private property treatments such as detention tanks together with catchment detention ponds to absorb peak flows.
- [11] The area that will be immediately re-zoned residential is an area of 30 ha. The rest will be Deferred Residential Zoning.²
- [12] In the MWH Report at Table 4-2 there is a summary of geotechnical and land related risks and constraints. The constraints include poorly drained soils, high seismic hazard, moderate slope stability risk and low liquefaction risk. The report identifies that areas requiring further assessment prior to subdivision include slope stability risk and on-site soakage. The report does not address flood risk. The Southern boundary of Precinct 1 is the true left bank of the Mangaone West Stream. A significant portion of the plain, adjacent to the true left bank is identified as Flood Channel Zone. That zone currently limits the

¹ *Feilding Urban Growth Strategy – Engineering Services Assessment*, MWH 10 June 2013.

² *Infra* at Table 8-1

type of use and development that can occur on land so zoned. Flood information from the 2004 flood area, provided by Horizons Regional Council, shows significant out of channel inundation from the Mangaone West Stream during the February 2004 floods.³

Precinct 2 – Ranfurly Road/Halcombe Road

- [13] Precinct 2 is an area of 143 ha approximately and at its Southern boundary is on the Northern side of Ranfurly Road. It extends north past Sandon Road, with its Northern boundary on the Southern side of Halcombe Road. It lies adjacent to the existing urban fabric of Feilding, immediately adjacent to development on the Western side of West Street.
- [14] The land comprises mixed topography with approximately 64 ha having a slope exceeding 30%.
- [15] The expected yield from the area is 570 allotments. The only land area to be immediately re-zoned is an area of 13 ha with a likely yield of 160 lots. This area is comparatively flat and consequently identified as Density 2.
- [16] The structure plan shows a local road network within the Ranfurly flat area. There is also a collector road comprising an extension of Highfield Road through to the North to link up with Hill Road and then onto Halcombe Road.
- [17] Stormwater management is based on the provision of stormwater collection and dry/wet pond retention to ensure hydrological neutrality. Service provision for wastewater is based on reticulated wastewater services for all potential lots, although it is assumed that a proportion of lots in the Density 1 areas will utilise on-site wastewater treatment and disposal.
- [18] The geotechnical and land related risks and constraints assessment in Table 4-2 of the MWH Report dated 10 June 2013, identifies a high slope stability risk with over 40% of the areas described as steep. The report concludes that further

³ See Horizons plan dated 5 June 2014 “Feilding-Flood Info for Precincts 1-3”.

assessment will be required of slope stability risk and on-site soakage prior to subdivision.

- [19] The MWH Report describes Precinct 2 as a difficult area to service, particularly for roading given the three distinct landforms. The South is described as flat terrace, bounded by Ranfurly Road. This then drops off the terrace to the North and South of Sandon Road which is a basin area with nodular hills, while further to the North are areas of elevated terrace top or “fingers” of land accessed from Highfield Road and Halcombe Road to the North.⁴

Precinct 3 – Halcombe Road/Lethbridge Road

- [20] Precinct 3 comprises 87.8 ha. This precinct comprises two discreet areas identified for future development. Both areas classified as deferred. The first is bounded by Halcombe Road to the South and comprises a gully area, the Mount Taylor subdivision to the West and the Eastern extent of the Feilding urban area. The second area is larger and is North of Halcombe Road, bounded by Lethbridge Road to the North, Makino Road to the East and the Mount Taylor, Titchborn and Jackland developments to the West and South.
- [21] Precinct 3 has 32 ha that exceeds a slope of 30%. The MWH Report analysis of geotechnical and land related risks and constraints identify slope stability risk as the greatest risk. The report notes that slope stability risk and on-site drainage will need to be assessed prior to subdivision.
- [22] The expected yield for Precinct 3 is 280 allotments, all of which are identified as Density 1 (i.e. more than 2000m²).
- [23] The structure plan does not shown any specific road infrastructure for the Southern part of Precinct 3, but a connector road extending to the Northern extent of Lethbridge Street, up through the development to connect to Mount Taylor is shown for the Northern area.

⁴ Infra at Section 8.3.2.1.

[24] Stormwater management is predicated on the provision of stormwater collection and dry/wet pond detention to ensure hydrological neutrality. Wastewater provision is based on reticulated wastewater services although it is considered likely that a significant proportion of lots within the precinct will utilise on-site wastewater treatment and disposal.

The hearing and principal issues in contention

[25] The hearing was held on 4 June 2014. Four submitters attended. Feilding Promotion Incorporated was represented by Michael Ford and he spoke in support of Plan Change 45. Feilding Promotion Incorporated supports the development of Feilding. Mr Ford is an experienced realtor and knows the Feilding market intimately. His opinion was that the proposed growth areas provide strategic direction for future growth in Feilding and will provide opportunities for residential development that meets the needs of the Feilding market.

[26] The remaining three submitters who attended the hearing did not oppose Plan Change 45, but sought modifications to it to address particular resource management issues. It is those elements of the submissions that define the issues in contention.

Garry and Linda Simpson

[27] Mr and Mrs Simpson own a farm that has a boundary on Ranfurly Road in the North and in the South incorporates land beyond the true right bank of the Mangaone West Stream. Lot 9 in the Plan of Subdivision of Rural Sections 85 & 85, Township of Sandon, Oroua XIII & IVX is included within Precinct 1. An adjoining Lot (Lot 10) is not included in Precinct 1. Mr and Mrs Simpson seek two things:

- (a) A relaxation of the minimum lot size in Table 1, Rule C 2.1.1 on the basis that the topography in Lot 9 is such that larger lot sizes may be required to account for topography and to provide for on-site servicing;

- (b) The inclusion of Lot 10 within Precinct 1. As we understood it, Mr Simpson sought the extension of the Density 2 deferred zone that applied to Lot 9 so that it applied to Lot 10 also.

Submission by Transpower

- [28] Transpower is concerned to protect the transmission corridor of all components of the National Grid within the Manawatu District, and in the context of Plan Change 45, Transpower seeks rule changes to protect the National Grid corridor that may be affected. Those provisions are considered by Transpower necessary to implement the National Policy Statement on Electricity Transmission (NPSET).
- [29] The principal issue in contention arising from Transpower's submission is the nature of the provisions that should be inserted to give effect to the NPSET in the context of Plan Change 45 recognising that a separate review of the District Plan will address the question of how to give effect to NPSET on a district wide basis.

Submission by Horizons Regional Council

- [30] A number of issues raised by Horizons Regional Council were addressed to its satisfaction in the RMA, s 42A report prepared by Ms Thompson on behalf of Manawatu District Council. The remaining issues related to notification, activity classification if development is not supported by reticulated services and the issue of flood hazards. The principal matters of contention remaining at the time of the hearing were:
- (a) A non-notification rule in Rule A1 1.2.6B which could have the consequence that Horizons Regional Council was not notified of applications that were of interest to Horizons Regional Council;

- (b) That subdivision development not supported by reticulation of wastewater was nevertheless a controlled activity under Rule C2 2.1.1. There was a disconnect between the maximum lot size in Plan Change 45 and the minimum area for on-site wastewater disposal in the One Plan. Horizons Regional Council considers that the activity should default to restricted discretionary if the reticulated wastewater disposal standard in Rule C2 2.1.1H is not met; and
- (c) To implement the One Plan, Horizons Regional Council sought a restricted discretionary rule for any subdivision within a precinct that will be inundated in a 0.5% AEP [1 in 200 year] flood event; and
- (d) Horizons Regional Council sought more provisions in Plan Change 45 to recognize the importance of achieving storm water neutrality based on the limited capacity of catchments to absorb increased storm water flows, particularly seriously constrained capacity in the Makino Stream and Oroua River.

Other submissions

[31] There were two other submissions addressing particular aspects of Plan Change 45 where the submitter did not attend the hearing. The first submitter in that category is Powerco Limited. Powerco sent a letter dated 26 May 2014 from its consultants Burton Planning Consultants Ltd, supporting the recommendations of Ms Thompson in RMA, s 42A report responding to particular matters raised by Powerco. The letter dated 26 May 2014 encouraged the hearing panel to adopt those recommendations.

[32] The second submitter that made a submission and tabled evidence but did not attend the hearing is KiwiRail. The evidence tabled in support of the commission was by a planner, Rebecca Beals. KiwiRail has land in proximity to Precinct 3 with the rail corridor running along Makino Road and then Maewa Road. The land is separated from the area identified for future development by

an unformed legal road. The submission of KiwiRail arose from concern of potential reverse sensitivity effects associated with residential development near the rail corridor. The submission sought controls on residential development within 100 metres of the railway corridor. A number of the submission points by KiwiRail were rejected by the RMA, s 42A report on behalf of the Manawatu District Council as being beyond scope. A more fundamental objection however by Manawatu District Council is that the question of separation of residential development from the rail corridor should be addressed on a district wide basis and is more appropriately addressed when the Subdivision and Utilities chapter of the Plan is reviewed.

- [33] It is difficult to consider the merit of submission points when the hearing panel does not have an opportunity to debate and engage with the submitter. It is also difficult to attribute weight to planning evidence in the absence of an opportunity by the panel to question the planning witness. We confronted those difficulties here.
- [34] We agree with KiwiRail that addressing effects associated with residential development proposed by Plan Change 45, including reverse sensitivity effects on infrastructure outside the boundaries of the plan change, would nevertheless be within scope. The submission directly addressed effects that potentially arise from the implementation of the plan change. The reverse sensitivity effects directly arise from the proposal to enable noise sensitive uses proximate to infrastructure. Despite that, we agree with Ms Thompson that this issue is best addressed on a district wide basis with performance standards for residential development close to the rail corridor. It is desirable in a review of this type, not to set standards in a small area that create an expectation for KiwiRail that they will be applied district wide. We consider the risk of development in the area adjacent to the rail corridor in Precinct 3 before the Subdivision and Utilities chapter of the Plan, is reviewed to be very low. Virtually all of the land is deferred zoning. To further minimise the risk we propose an amendment to Rule B1A(b) that limits any resolution in respect of the deferred zoning in the

northern section of Precinct 3 until a sectional review of the Subdivision and Utilities chapter of the Plan is complete.

The Manawatu District Council RMA, s 42A report and further memoranda dated 16 June 2014 and 6 August 2014

- [35] Ms Thompson for the Manawatu District Council provided a comprehensive RMA, s 42A report on Plan Change 45 and the submissions received in respect of Plan Change 45. She identified each individual submission point, analysed it and provided a recommendation. Many of her recommendations are un-contentious and disposed of a large number of submission points. Those elements of the report do not require further consideration and we adopt those recommendations.
- [36] The matters in contention unresolved by the RMA, s 42A report are outlined in the previous section of this decision. As a result of the evidence provided at the hearing and as a result of questioning at the hearing, it became plain to us that further conferencing was desirable amongst the policy planners and led by the Manawatu District Council strategic planning team. We directed that further conferencing occur and it was productive.
- [37] The strategic planning team at the Manawatu District Council conferred with their equivalents at Horizons Regional Council and Transpower Limited and a large measure of agreement was achieved. Those areas of agreement are identified in a memorandum dated 16 June 2014. There are some unresolved issues, but they are of smaller scope than existed at the hearing. The memorandum from the Manawatu District Council dated 16 June 2014 also proposed consequential changes to the provisions of Plan Change 45 to ensure internal consistency and definitional robustness. These can be characterised as minor or consequential changes that are well within our power to make under RMA, Schedule 1. All of the un-contentious changes proposed in the memorandum dated 16 June 2014 are considered sensible and we adopt them. Further analysis is unnecessary. We therefore confine ourselves to addressing

the matters in contention that are unresolved by the memorandum dated 16 June 2014. We will do that on a submitter topic basis.

- [38] In relation to the unresolved issue of natural hazards and specifically flood protection raised by Horizons Regional Council, we note for the sake of completeness, that we issued a further minute to the Manawatu District Council dated 10 July 2014 seeking more information as to the risks of inundation in Precincts 2 and 3, relative to the already identified risks in Precinct 1. That request was answered by memorandum dated 6 August 2014, prepared following consultation with Horizons Regional Council.

Statutory evaluation and provisions in higher order instruments that have special relevance

- [39] Parliament amended the RMA a number of times between 2000 and 2010. In 2009, further amendments were made to RMA, s 32 and other provisions relating to the evaluation of plan changes. Case law helpfully summarises the statutory evaluation required. The most recent statement of the mandatory decision making requirements that apply to plan changes notified after the Resource Management Amendment Act 2009 came into force is in the decision of the Environment Court in *Colonial Vineyard Ltd v Marlborough District Council*.⁵ These requirements identified in the RMA and summarised in that decision are set out below:

A. General requirements

1. A district plan (change) should be designed to **accord with**⁶ — and assist the territorial authority **to carry out** — its functions⁷ so as to achieve the purpose of the Act.⁸

⁵ [2014] NZEnvC 55.

⁶ Section 74(1) of the Act.

⁷ As described in section 31 of the Act.

⁸ Sections 72 and 74(1) of the Act.

2. The district plan (change) must also be prepared **in accordance with** any regulation⁹ (there are none at present) and any direction given by the Minister for the Environment.¹⁰
3. When preparing its district plan (change) the territorial authority **must give effect** to¹¹ any national policy statement or New Zealand Coastal Policy Statement.¹²
4. When preparing its district plan (change) the territorial authority shall:
 - (a) **have regard to** any proposed regional policy statement;¹³
 - (b) **give effect to** any operative regional policy statement.¹⁴
5. In relation to regional plans :
 - (a) the district plan (change) must **not be inconsistent** with an operative regional plan for any matter specified in section (1) or a water conservation order;¹⁵ and
 - (b) **must have regard to** any proposed regional plan on any matter of regional significance etc.¹⁶
6. When preparing its district plan (change) the territorial authority must also:
 - **have regard to** any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations¹⁷ to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities;¹⁸

⁹ Section 74(1) of the Act.

¹⁰ Section 74(1) of the Act added by section 45(1) Resource Management Amendment Act 2005.

¹¹ Section 75(3) RMA.

¹² The reference to “any regional policy statement” in the *Rosehip* list here has been deleted since it is included in (3) below which is a more logical place for it.

¹³ Section 74(2)(a)(i) of the RMA.

¹⁴ Section 75(3)(c) of the Act [as substituted by section 46 Resource Management Amendment Act 2005].

¹⁵ Section 75(4) of the Act [as substituted by section 46 Resource Management Amendment Act 2005].

¹⁶ Section 74(2)(a)(ii) of the Act.

¹⁷ Section 74(2)(b) of the Act.

¹⁸ Section 74(2)(c) of the Act.

- **take into account** any relevant planning document recognised by an iwi authority;¹⁹ and
- not have regard to trade competition²⁰ or the effects of trade competition:

7. The formal requirement that a district plan (change) must²¹ also state its objectives, policies and the rules (if any) and may²² state other matters.

B. Objectives [the section 32 test for objectives]

8. Each proposed objective in a district plan (change) **is to be evaluated** by the extent to which it is the most appropriate way to achieve the purpose of the Act.²³

C. Policies and methods (including rules) [the section 32 test for policies and rules]

9. The policies are to **implement** the objectives, and the rules (if any) are to **implement** the policies;²⁴

10. Each proposed policy or method (including each rule) is to be examined, **having regard to its efficiency and effectiveness**, as to whether it is the most appropriate method for achieving the objectives²⁵ of the district plan **taking into account:**

- (i) the benefits and costs of the proposed policies and methods (including rules); and

¹⁹ Section 74(2A) of the Act.

²⁰ Section 74(3) of the Act as amended by section 58 Resource Management (Simplifying and Streamlining) Act 2009.

²¹ Section 75(1) of the Act.

²² Section 75(2) of the Act.

²³ Section 74(1) and section 32(3)(a) of the Act.

²⁴ Section 75(1)(b) and (c) of the Act (also section 76(1)).

²⁵ Section 32(3)(b) of the Act.

- (ii) 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;²⁶ and
- (iii) if a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.²⁷

D. Rules

- 11. In making a rule the territorial authority must **have regard to** the actual or potential effect of activities on the environment.²⁸
- 12. Rules have the force of regulations.²⁹
- 13. Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive³⁰ than those under the Building Act 2004.
- 14. There are special provisions for rules about contaminated land.³¹
- 15. There must be no blanket rules about felling of trees³² in any urban environment.³³

E. Other statutes:

- 16. Finally territorial authorities may be required to comply with other statutes.

F. (On Appeal)

²⁶ Section 32(4) of the RMA.

²⁷ Section 32(3A) of the Act added by section 13(3) Resource Management Amendment Act 2005.

²⁸ Section 76(3) of the Act.

²⁹ Section 76(2) RMA.

³⁰ Section 76(2A) RMA.

³¹ Section 76(5) RMA as added by section 47 Resource Management Amendment Act 2005 and amended in 2009.

³² Section 76(4A) RMA as added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

³³ Section 76(4B) RMA – this “Remuera rule” was added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

17. On appeal³⁴ the Environment Court must **have regard** to one additional matter — the decision of the territorial authority.³⁵

[40] The One Plan is virtually operative and for practical purposes Part 1 is the Regional Policy Statement that the Manawatu District Plan must give effect to. The most relevant policy in the Regional Policy Statement relevant to Plan Change 45 is Policy 10-2. That policy is set out below:

Policy 10-2: Development in areas prone to flooding

- (a) The Regional Council and Territorial Authorities must not allow the establishment of any new structure[^] or activity, or any increase in the scale of any existing structure[^] or activity, within a floodway* mapped in Schedule I unless:
- (i) there is a functional necessity to locate the structure or activity within such an area, and
 - (ii) the structure or activity is designed so that the adverse effects of a 0.5% annual exceedance probability (AEP) (1 in 200 year) flood event 2 on it are avoided or mitigated, and
 - (iii) the structure or activity is designed so that adverse effects on the environment, including the functioning of the floodway, arising from the structure or activity during a flood event are avoided or mitigated, in which case the structure or activity may be allowed.
- (b) Outside of a *floodway** mapped in Schedule I the Regional Council and *Territorial Authorities*[^] must not allow the establishment of any new *structure* or activity, or an increase in the scale of any existing *structure* or activity, within an area which would be inundated in a 0.5% AEP (1 in 200 year) flood event unless:
- (i) *flood hazard avoidance** is achieved or the 0.5% AEP (1 in 200 year) flood hazard is mitigated, or

³⁴ Under section 290 and Clause 14 of the First Schedule to the Act.

³⁵ Section 290A RMA as added by the Resource Management Amendment Act 2005.

- (ii) the non-habitable *structure* or activity is on *production land*, or
 - (iii) there is a functional necessity to locate the *structure* or activity within such an area,
in any of which cases the *structure*[^] or activity may be allowed.
- (c) *Flood hazard avoidance** must be preferred to flood hazard mitigation.
- (d) When making decisions under Policies 10-2(a) and b(i) regarding the appropriateness of proposed flood hazard mitigation measures, the Regional Council and *Territorial Authorities*[^] must:
- (ia) ensure that occupied structures have a finished floor or ground level, which includes reasonable freeboard, above the 0.5% AEP (1 in 200 year) flood level.
 - (iii) ensure that in a 0.5% AEP (1 in 200 year) flood event the inundation of access between occupied *structures*[^] and a safe area where evacuation may be carried out (preferably ground that will not be flooded) must be no greater than 0.5 m above finished ground level with a maximum water velocity of 1.0 m/s, or some other combination of water depth and velocity that can be shown to result in no greater risk to human life, *infrastructure*[^] or *property**,
 - (iv) ensure that any more than minor adverse *effects*[^] on the effectiveness of existing *flood hazard avoidance** or mitigation measures, including works and *structures*[^] within River and Drainage Schemes, natural landforms that protect against inundation, and overland stormwater flow paths, are avoided,
 - (iii) ensure that adverse effects on existing *structures*[^] and activities are avoided or mitigated,
 - (v) have regard to the likelihood and consequences of the proposed flood hazard mitigation measures failing,

- (vi) have regard to the consequential *effects*[^] of meeting the requirements of (d)(i), including but not limited to landscape and natural character, urban design, and the displacement of floodwaters onto adjoining *properties*^{*}, and
 - (vii) have regard to the consequential *effects*[^] of meeting the requirements of (d)(i), including but not limited to landscape and natural character, urban design, and the displacement of floodwaters onto adjoining *properties*^{*}, and
 - (viii) have regard to the proposed ownership of, and responsibility for maintenance of, the flood hazard mitigation measures including the appropriateness and certainty of the maintenance regime.
- (e) Within that part of the Palmerston North City Council district that is protected by the Lower Manawatu River Flood Control Scheme to a 0.2% AEP (1 in 500 year) standard, including the Mangaone Stream stopbank system, additional *flood hazard avoidance*^{*} or mitigation measures will generally not be required when establishing any new *structure*[^] or activity or increasing the scale of any existing *structure*[^] or activity.
- (ea) Despite Policy 10-2(d)(ia) and (i), within that part of the Wanganui central city bounded by Bates Street, Ridgeway Street and Victoria Avenue, flood hazard mitigation measures will not be limited to considering flood height and flow but will include such methods as resilient construction and emergency management systems.
- (f) This policy does not apply to new *critical infrastructure*^{*}.

[41] The other higher order instrument relevant to Plan Change 45 is NPSET in its entirety.

Unresolved matters in contention arising from submission of Garry and Linda Simpson

- [42] In the memorandum dated 16 June 2014, the Manawatu District Council strategic planning team agreed with Garry Simpson that a maximum lot size was unnecessary and could unnecessarily constrain the evaluation of optimal allotment size options by the landowner. It may also prevent on-site wastewater disposal on Density 1 land. The Manawatu District Council strategic planning team noted that since the Framework Plan was finalised, additional assessment of the future yield and servicing was undertaken. The results of that work indicate that the minimum lot size is the critical factor for future yield and infrastructure capacity. Accordingly, it is recommended that Table 1 in Rule C2 2.1.1 be amended so that the maximum lot size parameter is deleted. In addition, Mr Simpson correctly pointed out that the minimum lot size area for Density 1 and Density 2 had been incorrectly transposed and that is resolved by the amendment proposed in the memorandum dated 16 June 2014. There should also be a consequential change so that the minimum lot frontage of 25m should apply to the the 800m² category and 40m to the 2000m² category. This is a minor consequential change we authorise.
- [43] The sole matter remaining in contention is whether or not Mr and Mrs Simpson's land in Lot 10 should be included in Plan Change 45. Garry Simpson did not produce any technical evidence in support of that proposal and it is plain from the technical reports, including the MWH Report dated 10 June 2013, that the capacity of this land to be developed was not considered. There is no RMA, s 32 analysis that examines the feasibility and desirability of developing Lot 10. In those circumstances, it would be contrary to good planning practice to agree to that extension, and we do not have the necessary technical evidence available for us to evaluate that possibility. As Lot 10 is in a separately disposable allotment, this is not a case where we may have had jurisdiction to extend the zoning on the basis that the proposed precinct boundary bisected a separately disposable allotment. On the present case law, application for extensions of

zoning, whether deferred or immediate, beyond the natural and physical resources within the boundary of the plan change would be beyond scope.³⁶

Unresolved matters in contention arising from submission of Transpower Limited

[44] Transpower Limited seeks to protect the physical resources associated with the National Grid by introducing land use controls and subdivision controls in order to manage activities that can cause adverse effects on the National Grid, including reverse sensitivity effects. The principal method to achieve this is the establishment of a National Grid Yard and Corridor in respect of each part of the National Grid asset within the district (or the asset within the spatial purview of the plan change in question) and using that method to do five things:

- (a) Limit the scope for sensitive activities to locate near lines;
- (b) Limit opportunities for direct contact with the lines;
- (c) Preserve access to lines so that maintenance can be carried out efficiently;
- (d) Manage reverse sensitivity effects; and
- (e) Control subdivision and incentivize appropriate development near lines.

[45] Implementing provisions to achieve the intended outcome involves inclusion within the Plan of:

- (a) Appropriate definitions and supporting diagrams;
- (b) An appropriate activity cascade for both subdivision and land use, including earthworks; and
- (c) Appropriate performance conditions for activity classifications and appropriate reservations of control where a discretion is to be exercised, either as to conditions or whether or not consent should be granted.

[46] All of these matters are addressed in the memorandum dated 16 June 2014. In particular, there are proposed amendments to Rule 1.3.3, Rule C1 1.2.1, Rule C1

³⁶ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZIC 1290. For authority that it is possible to seek an extension of zoning to cover a separately disposable allotment in its entirety, see *Taylor v Manakau City Council* 8 NZTPA 71 (HC).

1.3A, Rule B1 1.1.1, Rule B1 1.3, Rule B1 1.3.5, Rule B1 1.4 and new Rule 1.6 together with associated definitions.

[47] These provisions apply only to Precinct 1. They do not have district wide status and Plan Change 45 is not the correct vehicle to address implementation of NPSET district wide. The district wide rules will be undertaken as part of the review of the General Rules Chapter. At that time, the provisions relating to Precinct 1 will be removed and the more generic provisions will apply. This is acknowledged and accepted by Transpower.³⁷

[48] The sole issue remaining in contention between the Manawatu District Council and Transpower relates to whether or not Rule A1 1.3.3N should have added to it, as a matter of discretion, the following:

Any technical advice or recommendations arising from any consultation with Transpower New Zealand Limited.

[49] Transpower says that that additional matter of discretion is appropriate. The Manawatu District Council strategic planning team considers that it is not and maybe *ultra vires* on the grounds that it requires third party consent.

[50] The context for this debate needs to be set. The parties agree to the special yard requirements relating to the National Grid proposed in the memorandum dated 16 June 2014, and to be included is Rule B1 1.3.5(F). There are also performance conditions relevant to the National Grid in Rules B1 1.3.1 – B1 1.3.6. If these performance standards are not met, for either permitted or controlled activities, then Rule B1 1.4 states that they will be restricted discretionary activities. The parties agree on the scope of the reservation of control for all restricted discretionary activities except restricted discretionary earthworks. The reservation of control for earthworks that is agreed is set out in the proposed amendment to Rule A1 1.3.3(N) that reads:

³⁷ See Memorandum from Corporate Council for Transpower, Dhilum Nightengale, dated 16 June 2014. This memorandum was appended to the memorandum dated 16 June 2014.

In assessing applications for earthworks that do not comply with Rule B1 1.3.5(F)(iii)(a), Council has restricted its discretion to:

- (i) Any affects on the integrity of the National Grid;
- (ii) Volume, area and location of the works, including temporary activity such as stockpiles;
- (iii) Time of the works;
- (iv) Site remediation;
- (v) The use of mobile machinery near the National Grid; and
- (vi) Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

[51] So the question comes down to this: is it appropriate and reasonable to add an additional matter of discretion to Rule A1 1.3.3(N) ?

Any technical advice or recommendations arising from any consultation with Transpower New Zealand Limited.

[52] A reservation of control is a method. A method is a provision for the purposes of RMA, s 32(1) and it must be assessed as to its efficiency and effectiveness in achieving the relevant objectives of the Plan.³⁸ Restricted discretionary activities are a class of activity defined in RMA, s 87A(3) that reads:

If an activity as described in this Act, regulations (including the National Environmental Standard), a plan or a proposed plan as a restricted discretionary activity, a resource consent is required for the activity, and –

- (a) The consent authority's power to decline a consent, or to grant a consent and to impose conditions on the consent, is restricted to the matters over which discretion is restricted (whether in its plan, or proposed plan, a National Environmental Standard, or otherwise); and

³⁸ See RMA, s 32(1)(b)(ii).

- (b) If granted, the activity must comply with the requirements, conditions and permissions, if any specified in the Act, regulations, plan or proposed plan.

[53] It is plain that for a restricted discretionary activity involving earthworks, it is necessary to ensure the reservation of control is sufficiently broad to address the potential effects on the National Grid so they are efficiently and effectively identified and managed.

[54] We consider the parties have been at cross purposes on this matter. The matter of discretion that Transpower proposes does not give them a right of veto in any real sense, and so therefore it is not objectionable on the grounds of *vires* for that reason. However, the additional matter of control proposed by Transpower does not truly state a matter over which discretion is restricted. It is more directed at the nature of the response that Transpower New Zealand Limited may make to any particular application. It does not seem to us desirable or lawful to set a flexible scope of discretion based on a future response by a third party to an application. If the existing reservation of control is directed at effects on the National Grid (which it is), and those effects are the sole matter of interest for Transpower New Zealand Limited, then the subject matter of proposed discretion put forward by Transpower New Zealand Limited related to a particular activity is a sub-set of an existing matter of discretion. There is no need for redundancy.

[55] We consider that the words “on the integrity of” are potentially ambiguous or uncertain and can be usefully deleted. We therefore propose that the matter of control in Rule A1 1.3.3(N)(1) read: “any effects on the National Grid”.

Unresolved matters in contention arising from submission of Horizons Regional Council

- [56] Happily, most of the issues in contention at the hearing were resolved by conferencing. The only remaining issue concerns the method of managing flood risk in light of the requirements of Policy 10-2 of the One Plan.
- [57] The February 2004 floods in the Manawatu powerfully brought home the inundation risk associated with an inhabitation of an alluvial flood plain. The One Plan is designed to ensure that the level of risk associated with flood inundation is addressed in every aspect of land development and in particular ensuring a level of protection for new occupied structures. That level of protection is pitched at a 0.5% AEP. This is a community-determined level of flood resilience expected for new areas of development. There is a preferential option for avoidance, but there are opportunities for mitigation. Mitigation is an appropriate option for low scale development and can include such measures as minimum free board and minimum reduced levels. For residential development of any scale, more substantial mitigation measures are required, including river and drainage schemes.
- [58] We did not receive any detailed information as to the inundation risk within Precincts 1, 2 and 3. It was plain to us from a site visit that the Mangaone West could in a 1 in 200 year event cause extensive flooding on the adjacent plain. Some of that land is already zoned Flood Channel Zone, but the extent of that zone was not assessed on the basis of the One Plan requirement of a 1 in 200 year flood level. So we are able to conclude in relation to Precinct 1 that there is a material risk of an inundation hazard. In relation to Precinct 2 and 3 there is no LIDAR data, but we are informed by the Manawatu District Council staff that there are small water bodies, most of which are located in areas identified as open space, in the structure plans. Based on our knowledge of topography and the catchment sizes, we consider that the risk of inundation from a spatial extent point of view is significantly less than for Precinct 1. Nevertheless, it is necessary in giving effect to the One Plan Policy 10-2, to ensure that any increase in infrastructure within an area subject to a 1 in 200

year flood event, should either be avoided or subject to controls to ensure that any risk is minimized.

[59] The subdivision and land use provisions intended to apply to Precincts 1 and 2 seek to minimize the barriers to development that meets appropriate performance criteria and conforms to the structure plans. Such development is classified as a controlled activity and will proceed on a non-notified basis. Horizons Regional Council proposes new rules for Precincts 1, 2 and 3 to ensure that any land to be subdivided, it will be inundated by a 1 in 200 year flood event is classified as a restricted discretionary activity.

[60] Ms Tucker, the policy planner for Horizons, proposed in her evidence an amendment to Rule C1 by adding the following:

(viii) Any subdivision within a Growth Precinct Appendix 8A-C on land that will be inundated in a 0.5% AEP (1 in 200 year flood) flood event, based on flood hazard information provided by the Regional Council.

Ms Tucker also proposed an amendment to the Reservation of Control Rule A1 1.3.1 as follow:

(L) In assessing applications for subdivision within any of the Growth Precincts that include land that would be inundated in a 0.5% AEP (1 in 200 year) flood event, Council has restricted its discretion to the measures used to avoid remedy and mitigate the flood hazard.

[61] The proposed Rule C1(7) of course assumes that there is flood hazard information relevant to these growth precincts. In fact, that information does not exist. Therein lies the problem. There is an information deficit. Horizons Regional Council's response to that information deficit is to nevertheless insist on a rule stream that requires that flood hazard examined as part of subdivision, although the intensity of enquiry will depend on the nature of the risk, including the scale of development. The Manawatu District Council on the other hand does not want rules that create considerable uncertainty for

developers who do not have the resources or means to establish the scale and extent of risk or the application of the rule.

[62] In the memorandum from the Manawatu District Council dated 16 June 2014, at Section 8, the following is stated:

The proposed new wording based on the meeting held was circulated to Horizons for comment. Horizon officers now do not support the new wording as they want reference to 0.5% AEP in the rule stem. Horizons recognize that they do not currently have 0.5% AEP modeling of the flood information for Precincts 1-3. However, this is the standard of flood assessment that is required in Policy 10-2 of the Proposed One Plan. Horizons currently undertake a site-specific flood risk assessment for subdivisions, however they expect applicants of large scale applications to do this assessment themselves. They have not stated what large scale applications are. They state that without a identified return period in the Rule, then applicants may assess the flood risk at a smaller scale, such as a 50 year or 100 year event.

[63] The memorandum goes on to say:

Officers [i.e. Manawatu District Council Officers] acknowledge the provisions of the One Plan and intend to include appropriate policy in the future Natural Hazards Chapter. The difficulty in specifying the 0.5% AEP in the Rule for any greenfield subdivision in the District is that no applicant is able to meet the requirements given that in each case information from Horizons is necessary. As Horizons have already stated, they do not have this information, then subdivision that has water body within it or near it, is unlikely to be processed as a controlled activity. All would have to be processed as a non-complying activity, which is the current default in the District Plan; unless a new discretionary activity rule was included (which officers have recommended as part of the changes here).

- [64] In relation to the Flood Channel Zone that already applies to land within Precinct 1 the officers for the Manawatu District Council propose that these zones are included as an overlay on the structure plan. The officers note that the Flood Channel Zone will be reviewed in the future as part of the sectional District Plan review, and the extent of the zone will be determined at that time.
- [65] The first step in addressing this problem is to understand the legal requirements. It is plain from RMA, s 31(1)(b) that it is a function of a territorial authority to control the potential effects of the use of development of land for the purpose of avoidance or mitigation of natural hazards. Natural hazard management is one of those core functions that is fundamental to achieving social, economic and cultural wellbeing. For practical purposes, Policy 10-2 of the One Plan represents the relevant Regional Policy Statement and we are obliged to give effect to Policy 10-2 and that involves implementing it faithfully, recognizing that how that is achieved is an entirely contextual driven matter and in the context of the sectional review of the District Plan, is controlled by the scope of the plan change.
- [66] Objective S9 introduced in Section 5.39 of the Manawatu District Plan, states as an objective *To develop useful, attractive and sustainable urban neighbourhoods ...* In achieving that objective Policy (a)(ii) states:
- Flood hazard and potential seismic hazards, areas are identified and the subdivision is managed so that the areas of high risk are avoided, and all residual risk is mitigated through design of the subdivision and future development.
- [67] In our RMA, s 32 analysis, we must evaluate methods and their efficiency and effectiveness in achieving Objective S9 and Policy (a)(ii).
- [68] We must then examine the scope of the plan change and the nature of the risks. The plan change re-zones to Residential some land, within Precincts 1 and 2.

All of this land, as we understand it, is not at risk from inundation. In the case of land adjacent to Ranfurly Road that is obvious just from the topography of the land and its location distant from any water body. There is no evidence of any natural hazard problems here.³⁹

- [69] The remainder of the land within Precincts 1, 2 and 3 has a deferred zoning. That deferred zoning means that subdivision down to Densities 1 or 2 as the case may be, cannot be utilized until such time as the Deferred Residential Zoning is uplifted. This was made plain by PC 45 as notified, and in particular Rule B1(A) that read:

Until such time that deferred status is uplifted, the rules of the Rural Zone shall apply within any land shown as Residential (Deferred) Zone on the planning maps, except that Rule B1 – 1.3.5(F) Special Yard Requirements shall apply.

- [70] Rule B1(A) is amended in the memorandum from the Manawatu District Council dated 16 June 2014 and replaced by a definition of “Deferred Residential Zoning” that reads:

DEFERRED RESIDENTIAL ZONING means specific areas identified in the Growth Precinct Structure Plans in Appendix 9A, 9B and 9C as Deferred Residential Zone Density 1 or Density 2. Within these areas the relevant existing Rural Zone or Flood Channel Zone provisions apply to all subdivision and development until such time as the Deferred Residential Zone is uplifted according to Rule B1A and the area becomes Residential Zone.

- [71] The subdivision and development entitlements associated with Plan Change 45 do not bite in respect of land zoned as “Deferred Residential” until such time as Council passes a resolution. That resolution provision is in Rule B1A(b) and reads:

³⁹ We have also verified this by reference to the 2004 flood event map, provided by Horizons which was Appendix 3 to the memorandum dated 16 June 2014.

(b) The Deferred Residential Zone will cease to have effect and the Residential Zone provisions will apply, along with changes to the relevant District Plan zoning maps following the passing of the Council resolution that there is adequate reticulated water, stormwater and wastewater provided by the Council, or to the satisfaction of the Council to the subject area of land.

[72] There is no material increase in hazard risk (beyond that which exists in the Operative Plan) associated with the provisions of Plan Change 45, unless and until the Council resolution is passed under Rule B1A(b).

[73] The scope of Plan Change 45 is not to address flood hazards in the Manawatu District generally. These will be addressed separately in the Hazards section of the Plan.

[74] Our conclusion, based on all of the above, is that:

- (a) It is necessary to give effect to the One Plan Policy 1-2 to ensure that any new development on residentially zoned land (including Deferred Residential Zoning) avoids flood hazards from a 1 in 200 year event in the first instance, or alternatively there is appropriate mitigation imposed as part of the evaluation of any resource consent for smaller scale development; and
- (b) In order to implement Policy 10-2, it is necessary to identify (in new zones where such new residential development may occur) the 1 in 200 year flood hazard extent using LIDAR data and modeling; and
- (c) Identification is the method that best achieves proposed Objective S9, Policy (a)(ii); and
- (d) It is not necessary for that identification to occur immediately, but it must occur prior to any decision by the Council to uplift Deferred Residential

Zoning of any land which is the gateway to that new residential development.

[75] We therefore consider, it sufficient that the trigger for uplifting Deferred Residential Zoning includes as a precondition that:

(a) The Hazards section of the District Plan has been reviewed and notified under RMA, Schedule 1 and become operative after 1 August 2014; and

(b) The flood hazard from a 1:200 year event has been modeled and identified in the structure plans for Precincts 1, 2 and 3 after 1 August 2014.

[76] These pre-conditions will ensure that before any Deferred Residential Zoning is uplifted, the issue of hazards is addressed both by identification and appropriate rules in the Hazards chapter of the Plan or elsewhere as is appropriate. Horizons can contribute to that process to ensure its inundation concerns are addressed prior to intensification.

[77] The amendment that we propose to Rule B1A(b) is set out in the next section of this decision that addresses the method of Deferred Residential Zoning.

Council Resolution to uplift deferred residential zoning

[78] Rule B1A(b) provides the mechanism by which land zoned Deferred Residential Zone is transfigured to the Residential Zone with all of the consequential changes that that implies. This mechanism is not unusual.

[79] RMA, s 76(4) states that rules can apply all of the time or for stated periods or seasons. That means that rules can come into effect by operation of a sunrise clause, or cease to have effect by means of a sunset clause.

[80] The Environment Court in *Akaroa Orchards Ltd v Selwyn District Council*⁴⁰ addressed a plan change where the land in question was subject to a deferred zoning because wastewater facilities were not available. At [12] the Environment Court said:

That being the case, we are satisfied that our infrastructural concerns in rezoning the site were completely avoided by allowing for a deferred zoning. We conclude that the trigger mechanism for Council resolution, that there is adequate capacity to service the particular area is both certain and transparent. On that part basis, both parties will be aware at the time that resolution is passed, the deferred zoning is no longer affective and the zoning would then change to Living 1A2, to Living 1A5.

[81] We suspect given the complexity of servicing and the fact that demand will not be so great as to justify release of all land within a precinct, that the Manawatu District Council is contemplating the possibility that subset areas of each precinct may be the subject of a resolution under Rule B1A(b) and it is not necessary to uplift the zoning for all land. Rule B1A(b) could benefit from some refinement to express that intention. We must also incorporate the preconditions applicable to address the hazards.

[82] We consider that the proposed definition of “DEFERRED RESIDENTIAL ZONING” in the memorandum dated 16 June 2014 should read:

DEFERRED RESIDENTIAL ZONING is the zoning that applies to land in the Growth Precinct Structure Plans in Appendix 9A, 9B and 9C as Deferred Residential Zoning Density 1 or Density 2. The existing Rural Zone or Flood Channel Zone provisions continue to apply to all subdivision and development of land zoned Deferred Residential until that zoning is uplifted in accordance with Rule B1A. When the Deferred Residential Zone is uplifted in accordance with Rule B1A, then the land becomes residentially zoned. Until such time as

⁴⁰ Decision No. C85/2006.

the Deferred Residential Zoning is uplifted, none of the subdivision rules, applying to land within Growth Precincts will apply. Land will only be able to be treated as within a Growth Precinct when the Deferred Residential Zoning is uplifted.

[83] We propose that Rule B1A(b) be re-worded as follows:

The Deferred Residential Zoning applying to any land, or parcels of land, within the Growth Precinct 1 (Appendix 9A), Growth Precinct 2 (Appendix 9B), and Growth Precinct 3 (Appendix 9C) will be removed and replaced with the Residential Zone so that all Residential Zone provisions apply to that land (together with consequential changes to the relevant District Planning maps), on the passing of a Council resolution that there is an adequate reticulated water, stormwater and wastewater network either provided by the Council, or to the satisfaction of the Council, in respect of that land.

Provided that no Council resolution may be made in respect of any land in Growth Precinct 1, Growth Precinct 2 or Growth Precinct 3 until the following cumulative requirements are met:

- (a) The Council has reviewed, notified and made operative the Hazards chapter of the Plan, in accordance with RMA, Schedule 1 after 1 August 2014; and
- (b) The land subject to a 1 in 200 year flood event is identified in the Structure Plan for Growth Precinct 1, 2 and 3 as the case may be in respect of that land after 1 August 2014; and
- (c) The Deferred Residential Zone is not uplifted for any land within 100 metres of the KiwiRail Rail Corridor in Growth Precinct 3 until such time as the General and Utilities Chapter of the Plan has been reviewed, notified and made operative after 1 August 2014.

Summary and conclusion

[84] Plan Change 45 provides clear strategic direction for the future growth of Feilding and secures an appropriate urban form over the long-term. A range of factors including the rate of demand and the capacity of the Council or developers to provide the necessary infrastructure to support that development will govern the rate of release of land for development. Release will be achieved by relatively simple mechanisms that do not require further plan change. This is both an efficient and effective way of managing the sustainable release of urban land. There are other components of the sectional review that will be relevant in completing the exercise of achieving sustainable urban development, but the methods that we propose in this decision should ensure that these steps are completed.

[85] We therefore approve the Plan Change as notified with the following modifications:

- (a) Those changes proposed by Ms Thompson in her RMA, s 42A report; and
- (b) Those additional modifications or changes proposed recommended in the memorandum dated 16 June 2014 with the latter prevailing over the RMA, s 42A report where inconsistent; and
- (c) The additional modifications recorded in this decision and where inconsistent with either of the items above, this decision shall prevail.

[86] As is typical with a plan change, it is an iterative process and it will be necessary to pick up all of the changes through the journey in a single document. This decision authorizes the Manawatu District Council to compile a decision in accordance with this decision, and make any other minor corrections or changes that are required and are incidental to our decision. That compiled document with tracked changes should be incorporated in the decision and the public notification of our decision.

[87] Ms Thompson's RMA, s 42A report fully addresses the submission points that are allowed and disallowed and this decision as a consequence also allows and disallows them, however, we further allow the submissions of Garry and Linda Simpson, Transpower, KiwiRail and Horizons Regional Council disallowed in the RMA, s42A report to the extent contained in this decision, but otherwise disallow them.



John Maassen



Howard Voss



Tony Jensen