

**RESOURCE MANAGEMENT ACT 1991**

**HOROWHENUA DISTRICT PLAN**

**HEARINGS OF SUBMISSIONS**

**DECISION OF HEARING PANEL**

**HEARING DATES: 14 – 17 NOVEMBER 2011 & 2 FEBRUARY 2012**

**TOPIC: REPORT ON PLAN CHANGE 22  
OUTSTANDING NATURAL FEATURES AND  
LANDSCAPES**

**HEARING PANEL: Dean Chrystal (Chair)  
Julia Williams**

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## 1. INTRODUCTION

- 1.1 We were appointed by the Horowhenua District Council to consider submissions on Proposed Plan Change 22 (PC 22) – Outstanding Natural Features and Landscapes to the Operative Horowhenua District Plan.
- 1.2 The purpose of PC 22 was to analyse and identify the outstanding and high amenity natural features and landscapes in the district.
- 1.3 A hearing into the submissions received on PC 22 was initially held on the 14<sup>th</sup> -17<sup>th</sup> November 2011 and was reconvened on the 2<sup>nd</sup> February 2012 after two days of site visits. The hearing was closed on the 22<sup>nd</sup> March 2012 upon receipt of all final information sought by the Panel.

### Submission numbers

- 1.4 Submissions received were given a number; e.g. 001, 002 etc. Each issue, provision or point made in the submission was notated and points; e.g. 001A, 001B, 001C. Further submissions made in support or opposing issues raised in the original submissions are prefaced by the number 5; e.g. 501A, 501B, 501C. At the end of the discussion on each issue in the plan change, the relevant submission points are accepted, accepted in part or rejected, with submissions in numerical order. Further submissions are referred to in the schedule of decisions on original submissions which is appended to the end of this decision as Appendix B.
- 1.5 At this point we note that some submissions were summarised so as to essentially seek more than one outcome. This has created some difficulty for us in allocating a decision, particularly where different outcomes could result in opposing decisions. We have resolved this by making our decision on what we considered was the primary outcome or primary decision sought. That does not mean to say that we have not taken into account secondary outcomes.

### Abbreviations

- 1.6 In preparing this decision we have used the following abbreviations:

DoC	Department of Conservation
DHLA	Domain with High Landscape Amenity
EECA	Energy Efficiency and Conservation Authority
HAL	High Amenity Landscape
HLA	High Landscape Amenity (as in 'landscape domains with HLA')
District Plan	Horowhenua District Plan
NES	National Environmental Standard
NESETA	National Environmental Standards for Electricity Transmission Activities
NPSREG	National Policy Statement on Renewable Energy Generation
NPSET	National Policy Statement on Electricity Transmission 2008
NZHPT	New Zealand Historic Places trust
NZCPS	New Zealand Coastal Policy Statement
NZWEA	New Zealand Wind Energy Association
Officer's report	Report evaluating the applications prepared by Mr Thomas for our assistance under s42A(1) of the RMA
One Plan	Proposed Horizons Regional Council One Plan
ONFL	Outstanding natural feature or landscape
PC 20	Plan Change 20 Rural Subdivision
PC 21	Plan Change 21 Greenbelt Residential Zone and Urban Growth
The Act	Resource Management Act

## Background

- 1.7 As background to the Plan Change the Panel was advised that the existing District Plan provisions on ONFLs were not subject to specialist assessments and were confusing and inconsistent. These provisions are currently encompassed in Objective 4.3 and Policies 4.12 - 4.14. The thrust for the provisions is on identifying outstanding values, protecting them and raising community appreciation of these values. The District Plan identifies a methodology for identifying outstanding landscapes. Schedule 4 then identifies the ONFLs but these are not mapped. There are 23 Outstanding Landscapes and 8 Outstanding Natural Features. Some areas are common to both lists and overall appear to cover a large part of the District.
- 1.8 Plan Maps 32 and 33 show a different scope of Outstanding Landscape Area which are labelled as:
- Tararua Forest Park
  - Foxton Ecological Area
  - Coastal Buffer Area
  - Manawatu River Estuary
  - Coastal Environment
  - Manakau Downlands
- 1.9 The following are also specifically identified on Plan Maps 32 and 33:
- Lake Papaitonga
  - Lake Horowhenua
  - Moutere Hill
  - Round Bush Reserve
- 1.10 In summary therefore Plan Maps 32 and 33 show somewhere between 40% and 50% of the District is considered to be Outstanding Natural Landscape, while Schedule 4 includes some additional areas which would further increase this percentage.
- 1.11 The existing rules in the District Plan contain a limited number of provisions that apply specifically to areas within ONFLs. These are:
- 19.2.5 A permitted activity condition in relation to effluent disposal on any outstanding natural landscape or natural feature.
- 19.4.2 Subdivision Controlled matter in relation to (ii) the disturbance of land and effects of earthworks on any outstanding natural features or landscapes and (iii) adverse effects of subdivision on outstanding landscape or natural feature.
- 19.5 Limited Discretionary Activity rule for network utilities on outstanding landscapes and natural features.
- 19.6 (a) and (b) Discretionary Activity rule for buildings structures and the subdivision of land in the Coastal Buffer Area and "all earthworks and new roading" within Outstanding Landscapes and on Natural Features. (Note: "Earthworks" is defined in the plan as excavation or fill exceeding 1 metre depth or height.)

22.1.10 Network Utilities permitted activity condition requiring that no masts, pylons or power poles shall be located on the outstanding natural features as identified in Maps 32 and 33. (Note this includes only features, not landscapes and features)

- 1.12 We were informed that a review of the efficiency and effectiveness of the existing provisions had found that there is considerable scope for confusion and poor administration of the District Plan in relation to Outstanding Natural Features and Landscapes. In particular, Schedule 4 did not line up with the Plan Maps and the land recognised as outstanding landscape was extensive. As a result the necessary District Plan approach has been one of a low level of protection for a large area. The approach relies heavily on the discretionary activity rule relating to earthworks and roading. (Note: Roading is not currently defined in the District Plan).
- 1.13 It was noted that the earthworks rules were difficult to enforce and monitor. They often relied on the public bringing to the Council's attention earthworks that may not be consented at which point the landscape and landform effects may not be able to be avoided. This had particularly been the case with dune areas where the evidence suggested that there has been a degree of non-consented earthworks associated with farm development in some areas and particularly associated with dairy farm development and the accommodation of irrigation systems.
- 1.14 There had similarly been some uncertainty and lack of clarity about the way in which the network utilities apply and the related definitions.
- 1.15 We were reminded that Section 6 of the Act specifically requires the District Plan to recognise and provide for amongst other things "*the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.*" Section 7 also requires the Council in preparing or reviewing its District Plan to have regard to "*the maintenance and enhancement of amenity values*".
- 1.16 It was also noted that case law since the District Plan was prepared, and more recently the One Plan, has identified specific criteria for assessment and evaluation of landscapes and natural features. The areas currently identified in the District Plan were not evaluated on the currently accepted criteria. In particular "Outstanding" has been considered by the Environment Court<sup>1</sup> to mean "conspicuous, eminent, especially because of excellence" or "remarkable. This has been widely acknowledged by professionals as meaning that an outstanding landscape was an "exceptional" and "remarkable" landscape and needs to have a "wow" factor.
- 1.17 Also of background relevance was the fact that the Council had recently promulgated Plan Changes 20 and 21 which both had a relationship to landscape issues. PC 20 established new policies and rules associated for rural subdivision based around "landscape domains". As a result, subdivision opportunities are more limited in the Coastal Environment, Coastal Lakes, Hill Country, Moutoa-Opiki Plains and Kuku landscape domains. PC 21 sits alongside the more strict regime for general rural subdivision in PC 20 by providing a planned approach to low density rural residential growth through specific green belt zoned land.
- 1.18 Neither PC 20 nor 21 are yet operative, however we were informed that only one appeal on each matter remained unresolved, a site specific matter (which we will refer to later) and therefore considerable weight could be attached to these provisions as part of our decision making on PC 22.

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<sup>1</sup> WESI v QLDC 2000

### Notification

- 1.19 PC 22 was publicly notified on 5 September 2009 with a total of 118 submissions being received. These submissions were summarised and were notified for further submissions on 26 February 2010 and 15 further submissions were received. We noted that PC 22 was notified prior to 1 October 2009 and therefore has been required to be "had regard to" in making relevant resource management decisions.

## **2. PANEL MINUTES**

- 2.1 The Panel issued a preliminary minute on the 29<sup>th</sup> September 2011 setting out hearing dates, the venue, hearing times, requiring the pre-provision of evidence pursuant to section 41B of the Act and covering the presentation and timetable for the appearance of submitters.
- 2.2 The first post hearing minute was issued on the 25<sup>th</sup> November 2011 advising of the rescheduling of the hearing to allow for the reporting officer to respond to questions we had raised and to enable FRP Investments Ltd to provide us with further evidence. We also signaled two dates for site visits.
- 2.3 The second post hearing minute was issued on the 21<sup>st</sup> February 2012 enabling the provision of further information relating to the Okotore Lagoon.
- 2.4 Our final post hearing minute was issued on the 22<sup>nd</sup> March 2012 closing the hearing.

## **3.0 OFFICER'S REPORT**

- 3.1 We were provided with and reviewed the officer report prepared by Mr Paul Thomas pursuant to s42A of the Act prior to the hearing commencing. Mr Thomas's report contained specialist inputs from two landscape architects, Mr Boyden Evans and Ms Nicola Treadwell. Their reports were attached as Appendices to Mr Thomas's report.
- 3.2 Mr Thomas noted that of particular significance had been the number of submissions which questioned the landscape evaluation on which PC 22 was based. As a result the Council commissioned a peer review of the ONFLs. This had resulted in a reduced number of ONFLs including a more clearly defined Coastal ONFL, a reduced Tararua Ranges ONFL, a combined Moutere Hill, Lake Horowhenua and Hokio Stream ONFL, the Manawatu Estuary ONFL and Lake Papaitonga with the Waiwiri Stream ONFL. The Foxton Dunefields were no longer considered to be an ONFL as a result of the peer review.
- 3.3 Mr Thomas also indicated that areas of the District with potential HALs had been reviewed and these had been confirmed as the Hill Country, Manakau Downlands, Coastal Lakes and Coastal Environment landscape domains which had been established in PC 20. He said that it was proposed to now delete the other streams and rivers previously proposed as HALs and address those in the wider Plan Review.
- 3.4 Mr Thomas said that a number of refinements had been proposed to the wording and focus of objectives, policies and rules in PC 22 as a result of the submissions lodged. In particular, it was proposed to exempt single storey buildings less than 130 m<sup>2</sup> as well as temporary buildings and most additions and alterations from the restricted discretionary rule for domains with HALs. The exemption for primary production buildings in these domains was also proposed to be retained.

- 3.5 It was also proposed to refine the rules relating to earthworks to allow a specified level of permitted earthworks over a 12 month period. The permitted levels varied between the domain areas to reflect their different characteristics. Mr Thomas indicated to us that some aspects such as earthworks associated with forestry harvesting may justify further relaxation which would need to be considered further during the hearing.
- 3.6 Mr Thomas said that the rules applying to the refined ONFLs were proposed to be retained, although some relaxation is proposed with the introduction of a discretionary activity rule for buildings and network utilities between 3m and 7m in height.

#### **4.0 SUBMITTERS/FURTHER SUBMITTERS** (appearances)

John Bryant on behalf of Higgins Aggregate Ltd (Higgins)

Hywel Edwards, consultant planner on behalf of Higgins Aggregate Ltd

Christina Patton on behalf of George and Christina Paton

Mark Goodwin

Andrew Feierabend on behalf of Meridian Energy (Meridian)

Richard Turner, consultant planner on behalf of Meridian Energy

Geoff and Liz Lewis on behalf of Lewis Farms

Fyfe Williamson

Susanne Blatch, Mike Tate, Brian Forth and Andrew Parkin on behalf of Levin Waitarere Surf Lifesaving Club

Ben Farrell on behalf of New Zealand Wind Energy Association (NZWEA)

Peter Weir on behalf of Enslaw One Ltd (Enslaw)

Steve Couper

Robbie Shaw

Jeremy Stevenson-Wright on behalf of Genesis Power Ltd (Genesis)

Richard Matthews, consultant planner on behalf of Genesis Power Ltd

Vivienne Taueki on behalf of Muaupoko Cooperative Society

Andrew Hoggard on behalf of Federated Farmers of New Zealand (Inc) (Federated Farmers)

Rhea Dasent on behalf of Federated Farmers of New Zealand (Inc)

Paul Barber on behalf of Koputara Farm Ltd

Warwick Meyer, engineer on behalf of Horowhenua District Council (HDC)

Geoff Kane

Nathan Murray

Kris Ericksen on behalf of the Department of Conservation (DoC)

Dr Michael Sheppard, geologist on behalf of the Department of Conservation

Bruce and Christine Mitchell on behalf of a number of Tararua foothill farmers and landowners

Ken Riddle  
Rob and Heather Gaskin  
John Catley  
Larry Hine on behalf of Waitarere Progressive and Rate Payers Association Inc  
Patrick and Marlene Anderson  
Richard Barber on behalf of Te Ngaio Trust and Te Ngaio Company Ltd  
John and Diane Denton  
Charlotte Jones on behalf of Rayonier NZ Ltd (Rayonier)  
Karl Baldwin, consultant on behalf of Rayonier NZ Ltd  
Ernie Crombie  
Lynette Wharfe, consultant on behalf of Horticulture New Zealand (Horticulture NZ)  
John Maassen, legal Counsel for FPR Investments Ltd (FRP)  
John Hudson, landscape consultant on behalf of FPR Investments Ltd  
Dr Mike Hilton, geologist on behalf of FRP Investments  
Daniel Kilsby-Halliday  
Peter Blackwood on behalf of Horizons Regional Council (Horizons)  
Penelope Tucker, policy analyst on behalf of Horizons Regional Council  
David McCorkindale, planner on behalf of Horowhenua District Council (HDC)  
Doug Easton  
Colin Easton  
Tom Bennion, legal Counsel for the Huzziff's and others  
Dave Evans  
Rosalie Huzziff  
Bill Huzziff  
Malcolm Huzziff  
David Roache  
Peter Everton on behalf of Lakeview Farm Ltd, Everton Farm Ltd, Ahurangi Farm Ltd & Lakeview Holdings Ltd and in conjunction with Dennis Everton & Des Rolfe  
Sonia Dolan on behalf of New Zealand Historic Places Trust (NZHPT)  
Te Kenehi Teira on behalf of New Zealand Historic Places Trust

2. In addition, written submissions for presentation at the hearing were received from:
- Ann Nicholas on behalf of the Todd Energy Ltd and Mangahao Joint Venture  
Phil Gurnsey, consultant planner on behalf of Telecom New Zealand Ltd (Telecom)  
Kathryn Lacey, consultant on behalf of Transpower New Zealand Ltd (Transpower)  
Michael (John) Page on behalf of Rangeview Ltd



## 5.0 DISCUSSION

### Statutory Tests

- 5.1 The general approach for the consideration of changes to district plans was summarised in the Environment Court's decision in Long Bay<sup>2</sup>, the relevant components of which are set out in the following paragraphs.
- 5.2 A plan change should be designed in accordance with (section 74(1)) of the Act:
- (a) the district council's functions under section 31;
  - (b) the provisions of Part 2;
  - (c) its duty under section 32; and
  - (d) any regulations (section 74(1)).
- 5.3 When preparing a plan (change) a district council:
- (a) must give effect to any operative regional policy statement (section 75(3)(c)); and
  - (b) shall have regard to management plans and strategies prepared under other Acts; and
  - (c) shall have regard to the extent to which the plan needs to be consistent with the plans of adjacent territorial authorities.
- 5.4 A district plan must state the objectives sought to be achieved, policies to implement the objectives and rules (if any) to implement the policies (s75(1). It may also state the significant resource management issues, methods other than rules for implementing the policies, reasons for adopting the policies and methods, and the environmental results expected (s75(2)).
- 5.5 The rules are to implement the policies (sections 75(1)(c) and 76(1)) and the proposed policy or method is to be examined, having regard to its efficiency and effectiveness as to whether it is the most appropriate method of achieving the objectives of the plan (section 32(3)(b)) taking into account (section 32(4)):
- the benefits and costs of the proposed policies and methods; and
  - the risks of acting or not acting if there is uncertain or insufficient information.
- 5.6 Overall the s32 test is one of appropriateness (i.e. not necessity) and the requirement is to achieve the objectives of the plan.
- 5.7 In making a rule the territorial authority shall have regard to the actual or potential effect of activities on the environment (s76(3)).

### Structure of Decision

- 5.8 The structure of the decision follows a general top-down approach. We have dealt initially with overarching matters and/or matters which have an impact on subsequent sections. This is followed by the Issues, Objectives and Policies. We then deal with each of the ONFLs followed by the various domains and associated rules. Specific matters such as forestry and utilities are covered towards the end of the decision.

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<sup>2</sup> Long Bay – Okura Great Park Society Inc v North Shore City Council A 078/08

There are two appendices which deal with the contents of the plan change and our decision on each of the submission points.

#### General

- 5.9 A number of submitters requested that PC 22 be abandoned altogether or at least until further consultation had been undertaken, while others supported its adoption. These submissions were made on the originally notified plan change. We acknowledge there has been an extensive review of the plan change since that time, a number of changes have been made and that there has been engagement with landowners and other submitters.
- 5.10 The abandoning of a plan change would not be undertaken lightly and would need to be based around significant deficiencies in the overall analysis and its findings. No one at the hearing provided us with evidence as to that effect. On this basis we find that there is no reason to abandon the PC 22.
- 5.11 Those submissions 006A, 008A, 017A seeking for PC22 to proceed are accepted, submissions 002A, 013A 025A, 053L, 054D, 086A, 099A and 101A are accepted in part and submissions 009A, 014A, 025C, 035A, 040A, 042A, 050A, 054A, 067A, 067C, 075A, 077, 092A, 093A, 094A, 096A, 113A, 113B, 113C, 114, 115A and 116A seeking for PC22 to be abandoned outright are rejected.
- 5.12 A further group submitted that PC 22 be deferred until One Plan has been finalised through the Environment Court. While things have moved on substantially in this regard since the submissions on PC 22 were lodged, we accept that there is still a degree of uncertainty about the final determination of ONFLs in the One Plan. As we understood it at the time of the hearing and at its closure decisions on the One Plan relating to ONFLs were still before the Environment Court and the hearings themselves were still progressing.
- 5.13 We were advised by Mr Thomas that the key issues that would need to be determined by the Environment Court were the definition of 'skyline' in relation to the Tararua and other ranges and that aspect of Policy 7-7 which refers to significant adverse cumulative effects.
- 5.14 Other than the Tararua skyline issue we understood that the scope of change in terms of the other ONFLs within the Horowhenua District identified Schedule F of the One Plan had now narrowed such that PC 22 could proceed with confidence. We also noted that the schedule also states that there are other areas that are "highly likely to be regionally if not nationally, outstanding natural features or landscapes". These include:
- Lake Horowhenua and its margins.
  - Lake Papaitonga and its adjacent reserve.
- 5.15 These areas had not been included in Schedule F due to a need for the Regional Council to either consult with affected landowners or undertake further studies of the areas using the approach set out in Policy 7-7A and the criteria listed in Table 7.2.
- 5.16 Given the above, and the fact that the PC22 evaluations have used consistent landscape criteria which would accord with those in the One Plan, the ONFLs are have been spatially defined by mapping and the process has involved consultation, we see no reason why the plan change should be delayed. The Panel noted that no submitters at the hearing itself sought for PC 22 to be delayed.

- 5.17 Those submissions 001A, 007A, 036A, 039A, 039B, 039C, 047D, 053I, 066A, 072B, 073A, 074A, 090B and 106A seeking for PC22 to be delayed pending the outcome of the One Plan are rejected.
- 5.18 Rayonier and Ernslaw sought that PC22 be withdrawn to undertake a robust analysis of the social and economic impacts of the plan change. Regard does need to be given to the costs and benefits of the proposed Plan Change through this decision-making process and some refinements to the rules are proposed in response to submissions to ensure there are not unreasonable impacts on productive rural activities. Having said this, it is important to note that the peer review has now excluded the majority of existing exotic forested areas from the ONFLs.

#### Consultation

- 5.19 Consultation, or the lack thereof, was raised by a number of submitters. Horticulture NZ had sought that PC22 be limited to changes necessary to remove inconsistencies with the existing provisions of the Operative District Plan, without adding new areas into the Plan, until such time as full public consultation is undertaken on the identification of Outstanding Natural Landscapes and Outstanding Natural Features and appeals on Plan Change 20 are resolved. Federated Farmers raised concerns about the PC22 consultation process relating to the limited time between the completion of the landscape assessment and the notification of the plan change and subsequent immediate effect of the rules. They told us that *"implications of the proposed policies and provisions on rural land use are not well understood by those for whom they will have the greatest effect on."* In this regard we sought a further response from Mr Thomas.
- 5.20 Mr Thomas said that the Council accepted that public consultation on PC22 prior to notification was limited. However, the statutory consultation, including consultation with iwi was undertaken and a number of workshops were held with Councillors. He noted that since submissions had closed on the plan change there has been consultation with landowners and stakeholders, including public workshops as part of the Boffa Miskell review and individual land owner meetings.
- 5.21 Mr Thomas also referred to the situation of the Muaupoko Cooperative Society on behalf of whom Ms Taueki had attended the hearing. He reminded us that the opportunity was offered for her to appear again after she had considered the s42A report in more detail but that had not been taken up.
- 5.22 He advised us that Ms Taueki expressed concern about a lack of iwi consultation and time to prepare for the hearing.
- 5.23 For the record Mr Thomas noted that the Council undertook consultation with the Muaupoko Tribal Authority as the iwi authority for Muaupoko in accordance with Clause 3 of the First Schedule which requires consultation at the iwi authority level. He advised us that the Te Puni Kokiri directory of Maori organisations called Te Kahui Mangai confirmed that Muaupoko Tribal Authority Incorporated represents Muaupoko as an iwi authority for the purposes of the Resource Management Act and that the Muaupoko Cooperative Society therefore does not represent Muaupoko as an iwi authority.
- 5.24 We accept that there has been some criticism of the lack of consultation early in the process, however we consider that with the peer reviews undertaken and the subsequent engagement with submitters and stakeholders, there has now been

sufficient engagement and that further consultation is not necessary. We also acknowledge the significant engagement by submitters during the hearing process which has enabled us to clarify the extent of issues and reach our decision.

- 5.25 In terms of iwi consultation we consider that the Council has fulfilled its obligations under the Act.
- 5.26 We therefore resolve that submissions 046B and 049B be accepted, submissions 031, 051A, 059A and 066C be accepted in part and submissions 061A and 097A be rejected.

#### Landscape Assessment

- 5.27 The basis for identifying and evaluating the landscapes of the District was a study undertaken by Treadwell and Associates dated August 2009. This built on a previous study of the landscapes characteristics of the District which was undertaken for PC 20.
- 5.28 A number of submissions supported the conclusions of this assessment but many others challenged the specific parts of the conclusions. Submitters including Federated Farmers, NZWEA, Horticulture NZ, Mighty River Power and EECA specifically requested that the assessment be subject to expert peer review.
- 5.29 The assessment clearly lay at the heart of PC 22 and the Council decided that a peer review would best assist the process of determining submissions. Subsequently Boffa Miskell Ltd was commissioned to undertake a peer review of the ONFLs but not the HALs. This was reported in a report titled Outstanding Natural Landscapes and Features Review August 2011. The Panel noted for the record that the review did have regard to the content of relevant submissions.
- 5.30 A number of submitters questioned whether it is appropriate to have primary production land in ONFLs. Federated Farmers sought that ONFLs avoid all pastoral farms or that PC 22 ONFL rules not inhibit usual farming activity on pastoral farms. Forestry companies including Ernslaw, Rangeview Ltd, Rayonier and FRP more specifically questioned the validity of including exotic forestry in ONFLs.
- 5.31 Mr Hudson, landscape architect appearing for FRP, noted "*Pines are typically planted as a plantation crop, and although they have a degree of naturalness in the sense that they are unbuilt, they are far from the pristine end of the naturalness scale. Plantation planting has an expectation of removal and a rotation crop, or in the Horowhenua situation, perhaps also as an erosion control crop. To assign a high naturalness value to them could be a misinterpretation of their functional intention and could also be misplaced emphasis on their temporary aesthetic values, which are possibly associated with their vegetated unbuilt character.*"
- 5.32 The outcome of the Boffa Miskell ONFL review is that for the most part primary production land particularly exotic forest has not been found to have landscape values that qualify as an ONFL. However, as Mr Evans of Boffa Miskell explained to us, landcover is only one of the aspects taken into account in the evaluation. Discussing forestry for example, he acknowledged that while plantation forests detract from natural values, exotic forest is not expressly excluded from ONFL areas. The final evaluation is dependent on the overall analysis of the criteria set out on page 5 of the ONFL report. For this reason, a number of small areas of farmed and modified land remain included within ONFLs, usually on or close to the ONFL boundary. The one exception, Moutere Hill, sits within production farmland; this is discussed more specifically further on in this decision.

- 5.33 It should be noted that existing uses are accepted in outstanding natural landscapes. They may even be important in sustaining their values. Constraints can only be imposed when there is a significant change in the use of land. This is because a significant change in land use would require a resource consent and the effects would be assessed in the context of the outstanding feature or landscape.
- 5.34 Finally, Todd Energy sought that the planning maps provide that boundaries are certain. Many of the boundaries have been revised as part of the review and it is our understanding that the Council through its GIS system is able to provide more details of boundaries than shown on the planning maps should a greater level of precision be necessary.
- 5.35 As a result submissions 018A, 018C, 019A, 053D, 058A, 065H, 066D, 087O, 087Q, 088J, 105A and 106B are accepted and submissions 059U and 091Q are accepted in part.

#### High Amenity Landscapes

- 5.36 We have dealt with the issue of HALs at this point because a number of submitters questioned their continued existence. A decision therefore on this matter is important because of its impact on the subsequent policy framework.
- 5.37 The basis for identifying and evaluating the landscapes of the District was a study by Treadwell and Associates dated August 2009. This built on a previous study of the landscapes characteristics of the District which was undertaken for PC 20 and formed the basis for the consideration of the HALs identified in PC 22. In each case these matched the boundaries of the landscape domains identified and inserted into the Plan through PC 20. The Treadwell and Associates report explored in detail the values of those landscapes and their sensitivity to adverse effects. It concluded that these areas do justify a policy and methods response in the Plan. Given that they were based on the domain boundaries it was proposed that the terminology of "high amenity landscapes" be deleted in favour of recognising these specific domains as having high landscape amenity. The Panel noted that this change may appear insignificant but places the focus on the domain defined areas as a whole entity rather than further landscape assessment within each domain.
- 5.38 A further report from Taumanuka Studio (previously Treadwell and Associates), 'Identification of High Amenity Landscapes' was then prepared in 2011 to supplement the s42A planning report. This report reviewed the status and merit of the domains identified as having high amenity and clarified that amenity encompasses a range of values beyond 'naturalness' including visual quality, landscape vulnerability, topography, vegetation and visibility.
- 5.39 A large number of submitters requested that HALs be removed from PC 22, either in principle or in reference to proposed rules in specific domains. Federated Farmers submitted that identification of, and provisions for HALs should be deleted because it oversteps the Act's direction. Horticulture NZ's position was that the HALs be withdrawn from PC 22 and it sought to do this through deletion of the various references to HALs throughout the plan change. It argued that a peer review of the Treadwell and Associates report which focuses on evaluating the district's landscape domains in terms of amenity was necessary. Furthermore it submitted that:

*The recommendation to align the HALs with the landscape domains means that the landscape domain mechanism is being used for purposes other than that for which it was developed. There has been no robust Section 32 assessment as to whether this is*

*an appropriate approach and whether the whole landscape domain should be considered as an HAL.*<sup>3</sup>

- 5.40 Horticulture NZ's position was supported by Ms Wharfe at the hearing who questioned whether a second tier of landscape protection was needed. She said it was not clear what the special attributes or qualities were within the landscape domains identified as high amenity that require an additional level of regulation above that already required by the District Plan.
- 5.41 The Panel noted that the concept of high or significant amenity landscapes has become well accepted in resource management terms in recent times. Most recent major wind farm projects have included analysis and assessment of effects on such amenity landscapes. Perhaps the most relevant and recent example is the Board of Inquiry into the Turitea Wind Farm where this term is used extensively by nearly all landscape witnesses and also used in the Board's findings (Chapter 12 para 80).
- 5.42 Furthermore there is established case law that landscapes may be important under s7 of the RMA for a large number of reasons. The *Wakatipu Environmental Society Inc v Queenstown-Lakes District Council* uses a specific example of a modified landscape in the section of the decision dealing with 'visual amenity landscapes'. In that decision the Court stated:
- We now consider the landscapes of the district which are not outstanding natural landscapes but which are visual amenity landscapes either because they are **important in respect of visual amenities**, or **outstanding but insufficiently natural**. There may be other reasons for significance, but the evidence did not identify any*<sup>4</sup>
- 5.43 Based on the above, we accept that a case can be made for the incorporation of second tier landscapes with District Plans. The question therefore becomes whether they are appropriate within the Horowhenua District.
- 5.44 A group of submitters sought that HALs be removed from the plan where they apply over farmland, focusing on the restrictions the HAL status places on farmers in a working landscape. Horticulture NZ also noted the need to retain the ability for growing activities is paramount. The Mitchells submitted that all high amenity landscapes identified in PC 22 be removed as they are primary production landscapes, are already highly modified and have rural amenity values.
- 5.45 Other submitters were concerned that farmers were being penalized in order to preserve the rural landscape amenity that they had created. Ms Wharfe said "*the existing rural character, amenity and historic landscape are a consequence of planning regimes that allow rural production activities to change over time to meet market demands*" and that "*the very people and activities that helped shape the Horowhenua are now being penalized because of how they have made the landscape look*".
- 5.46 Mr Thomas informed us that the Taumanuka Studio report had effectively been a staged development of work stemming from the landscape analysis of the whole district undertaken for PC 20. This overall analysis has withstood careful scrutiny through the PC 20 process and is now almost operative.

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<sup>3</sup> Hort NZ evidence page 5

<sup>4</sup> *Wakatipu Environmental Society Inc v Queenstown-Lakes District Council* (C180/99) para 113

- 5.47 Having reviewed this latest report we noted that a reasonably thorough assessment and comparison had been undertaken on each of the landscaping domains in identifying the special attributes or qualities that the four domains which have been indicated as HALs. We note that other than suggest this report should have also been further peer reviewed, its contents were not specifically challenged in anyway by submitters who understandably tended to focus more on the associated rules stemming from the HAL status.
- 5.48 Furthermore, no one proffered an alternative mechanism to HALs other than they be deleted. We have given consideration to their deletion but have been persuaded against this because we consider that on the basis of the evidence before us there are elements of these areas which require some degree of assessment and regulation in order for the sustainable management purpose of the Act to be achieved. We were provided with examples of earthworks in particular in a DHLA which had moderate to significant impacts on landscapes with high visual qualities. Further, we noted that operative District Plan uses a blanket fully discretionary approach to things such as earthworks and roading where they are in ONFLs. The majority of the proposed HAL areas are within areas which are presently ONFLs in the operative plan. While the specific regulations are discussed in more detail later in our decision we make the point here that the regulation proposed in the HALs is less restrictive and more focussed than the current provisions.
- 5.49 We also acknowledge that in nearly all cases the landscapes assessed as having high amenity are working primary production landscapes. Mr Thomas has told us that it is not the intent of PC 22 to unreasonably constrain the management of farming activities. It is our opinion that PC 22 should provide a balance that allows for productive activities without compromising landscape values. This is discussed further in relation to the rules.
- 5.50 We do note that the peer review of the ONFLs which had a finer grain of assessment concluded that there were areas within the proposed ONFL which were not outstanding. It is our opinion that this could be extended to the HALs, and there may well be areas within the four landscape domains identified which do not have high amenity. For example there are areas above the 100m contour within the Hill Country landscape domain which are unlikely to meet the high amenity criteria. This may be something the Council needs to consider further in a future District Plan review.
- 5.51 We also consider that there is a degree of confusion created between the term high amenity landscapes (HAL) and the reference to domains of high landscape amenity (DHLA). We believe this should be standardized and recommend that the term High Amenity Landscape be deleted and replaced with Domains with High Landscape Amenity (DHLA).
- 5.52 The other component of the High Amenity Landscapes is the rivers and streams. The status of these has also been further considered in light of the submissions. Rivers and streams raise a number of different resource management issues other than the landscape in which they are a natural feature. In particular section 6(a) requires specific consideration of the natural character of rivers and their margins and the protection of them from inappropriate subdivision use and development. This was considered by Mr Thomas to be beyond the scope of PC 22 and should be considered further in the Plan Review. He said that the management of river and stream issues can be better achieved in a more integrated manner through the Plan Review process

rather than PC 22. He recommended and the Panel accepted that the streams, other than those that are attached to proposed ONFLs (being the Waiwiri and Hokio Streams) be removed from PC 22. We note that Mr Edwards sought for the inclusion of a note under Rule 19.5(c) confirming that earthworks within the bed of a river are not managed by the District Plan, but rather the Regional Plan. Mr Thomas recommended this be placed in the definition of earthworks rather than Rule 19.5(c).

- 5.53 We resolve that submissions 047A and 069A be accepted, submissions 053J, 062A, 063A, 079A, 083D, 084D and 116B be accepted in part.

#### National Policy Statements and Standards

##### Renewable Energy Generation (NPSREG)

- 5.54 Through submissions and at the hearing a number of submitters sought that PC 22 give effect to the 2011 National Policy Statement on Renewable Energy Generation (NPSREG) through provisions in the policies and amendments to rules.
- 5.55 Mr Farrell for NZWEA argued that "*renewable electricity generation activities (which by definition under the NPSREG include wind farms and all ancillary activities including earthworks) should be contemplated in ONFLs.*" He further stated "*An effective and efficient method for doing this is to provide for renewable electricity generation activities as a Discretionary Activity classification, inclusive of all ancillary activities such as buildings and earthworks*".
- 5.56 Mr Turner on behalf of Meridian said that the Commissioners were compelled to give effect to the NPSREG. He further contended that PC22 rules were more rigorous and restrictive than suggested by the objectives and policies.
- 5.57 Mr Matthews for Genesis Energy told us "*PC22 seeks to manage land that also has the potential to be identified for renewable electricity generation. Given the national significance of renewable electricity generation, it is important that the NPSREG is duly considered as part of PC22.*"
- 5.58 Mr Thomas assured us that PC 22 does not unreasonably prevent the Plan giving effect to the NPSREG at a later date. He maintained that the NPSREG must be taken into account in our decision but did not need to be given effect to in the Plan Change and indeed could not be fully given effect to in this plan changes because some aspects were beyond scope.
- 5.59 Firstly we acknowledge the requirements of the NPSREG. Policy E2 directs that district plans include provisions "*to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities*". Policies H1 & H2 require district councils to notify a change to their district plans to give effect to the NPSREG within 24 months from the date on which the NPS took effect, unless these planning documents already achieve the NPSREG. HDC therefore have until 12 May 2013 to comply with this requirement.
- 5.60 Notwithstanding the above requirement, there are difficulties associated with including renewable energy provisions within what is essentially a Plan Change about landscapes. For example any provisions would only apply to those landscape areas and not to other areas. There is also clearly an issue around the scope available to us to include such provisions. It is our opinion that the implications of the NPSREG go beyond this plan change, impinging as it does on a number of areas and issues outside the scope of PC 22.



- 5.61 Further, it was our understanding that Council intended to review the need for a Renewable Energy chapter in the upcoming District Plan review. We consider this is the appropriate way forward which will enable the wider implications of the NPSREG to be considered throughout the reviewed District Plan without introducing new material into PC 22 that could prove difficult to effectively integrate and that could deprive the wider community of the opportunity to participate in the process.
- 5.62 Our decision here has significant implications for a number of submissions points in relation to specific issues such as the objective and policies. We do not propose to go over our reasoning again, but simply note our intention to reject submissions relating to this matter in these sections of our decision.
- 5.63 For the above reasons submissions 018G, 019H, 027F, 066G 087P, 088A and 091E are rejected.
- Electricity Transmission
- 5.64 There are two documents that give consideration to electricity transmission: the National Policy Statement on Electricity Transmission 2008 (NPSET) and the National Environmental Standards for Electricity Transmission Activities (NESETA).
- 5.65 Mr Thomas informed us that the existing provisions of the District Plan were broadly in line with the NPSET and a number of changes were included in PC 20 to meet NPSET requirements. He was of the view that the NPSET should be considered in a similar manner to the NPSREG in that consideration be given to it in the Network Utilities section as part of the District Plan review.
- 5.66 Mr Thomas noted that the existing provisions of the District Plan are broadly in line with the NPSET and that Policy 8 of the NPSET states:
- In rural environments, planning and development of the transmissions system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive areas.*
- 5.67 PC 22 was in his opinion consistent with that policy, noting that existing Policy 23.3 covers it. In addition he said that a number of changes were included in PC 20 to meet NPSET requirements.
- 5.68 Mr Thomas noted that Ms Lacey for Transpower has sought an additional policy to have regard to locational and operational requirements of regionally significant infrastructure in ONFLs or high amenity areas. He said that Issue 29 on page 140 of the District Plan specifically sought to recognise locational constraints of network utilities but accepted that this was not fully followed through into policy. In his opinion a review of Section 23 of the Plan is the appropriate place to locate such policy however he did recognise that some consideration should be given to additional assessment criteria.
- 5.69 NESETA applies only to the operation, maintenance, upgrading, relocation, or removal of existing transmission lines. This includes any access track to an existing transmission line. It states that the following are permitted activities:
- The operation of an existing transmission line
  - Use of an access track to an existing transmission line.
  - Adding or replacing an overhead conductor – subject to conditions

- Adding or replacing an earthwire – subject to conditions
  - Adding an overhead circuit – subject to conditions
  - Adding or replacing an underground conductor
  - Increasing the voltage of an existing transmission line
  - Altering replacing or relocating a tower
- 5.70 We note that where NPSET and NESETA apply to existing transmission lines and where conditions are not met, an activity is either a controlled or restricted discretionary activity. The point here is that there are nationally derived rules for transmission lines outside of, and in some cases overriding, the provisions of the District Plan. We acknowledge, as sought by Transpower, that this needs to be referenced in the District Plan, however in our view it should be undertaken as part of the review because of its wider implications beyond PC 22.
- 5.71 For the above reasons submission 027A is accepted in part.

#### New Zealand Coastal Policy Statement (NZCPS)

- 5.72 Objective 2 of the NZCPS requires the preservation of the natural character of the coastal environment and protect natural features and landscape values through:
- Recognising the characteristics and qualities that contribute to the natural character, natural features and landscape values and their location and distribution
  - Identifying those areas where various forms of subdivision, use and development would be appropriate and protecting them from such activities; and
  - Encouraging restoration of the coastal environment
- 5.73 Objective 6 balances this with the enabling of subdivision use and development recognising that:
- The protection of values of the coastal environment does not preclude use and development in appropriate places and forms within appropriate limits
  - Some developments which rely on the resources in the coastal environment are important to the wellbeing of communities
  - The coastal environment contains renewable energy resources of significant value.
- 5.74 This objective signals that more detailed analysis of the coastal environment is required to meet the requirements NZCPS and it is proposed that this be undertaken through the District Plan Review. As part of this a Coastal Management Strategy is being prepared which will address these matters in a comprehensive manner.
- 5.75 We note that Policy 15 specifically requires the avoidance of "*adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment*". It also requires identification and assessment of natural features and landscapes of the coast.
- 5.76 We note that the Coastal ONFL and a Manawatu Estuary ONFL have been identified in PC 22 which we consider are consistent with the above requirements.

- 5.77 DoC has argued that the Council has responsibility to preserve the natural character of the inland dunes under the NZCPS because they are part of the coastal environment and that in any case they are an ONFL. At the hearing Dr Sheppard promoted the outstanding qualities of the dune landscape but acknowledged that no investigations have been carried out on the dunefields of the Horowhenua District.
- 5.78 The evidence before us from the landscape experts was that the Foxton Dunefield as an entity did not warrant ONFL status. We accept that evidence and note that while individual dunes may warrant protection in terms of their size and structure, overall landscape domain does not in itself meet the criteria for ONFL status.
- 5.79 While not directly submitting on it, DoC argued at the hearing that the plan change should give effect to the relevant aspects of the NZCPS. Given that NZCPS came into effect in December 2010, after submissions had been received, we consider that it is more practicable to give effect to the NZCPS in the on-going wider District Plan review than in PC 22.

#### Proposed NES for Plantation Forestry

- 5.80 The Proposed National Environmental Standard on Plantation Forestry was raised in detail by Mr Peter Weir for Ernslaw One. As we understand it the Proposed NES had a significant number of submissions and as a result the Ministry for the Environment set up working groups to provide feedback on some of the issues raised in submissions. This resulted in a revised proposed NES being released in May 2011 in conjunction with a booklet that reported on the working group's findings.
- 5.81 Mr Thomas noted that there are some important points in relation to the revised NES. Firstly, the scope does refer to achieving landscape outcomes which are referred to as follows:
- Avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes, and for all other natural features and natural landscapes avoid significant adverse effects and avoid, remedy or mitigate other adverse effects.
  - If possible, employ a consistent response to the decline of biological and landscape diversity by bringing together the management of biodiversity and landscapes into an integrated framework
- 5.82 He told us that the proposed NES addressed a range of forestry activities including afforestation, replanting, mechanical land preparation, harvesting, pruning and thinning to waste, earthworks, quarrying and river crossing. He noted however that the scope of PC22 was limited to controlling earthworks and that there have been no submissions or evidence seeking that the scope of control within ONFLs or DHLA be broadened to control other forestry activities. We were informed however that the NES does specifically enable consent authorities to have a higher level of control than the NES in ONFLs.
- 5.83 Mr Thomas advised us that the NES rules are based around an erosion susceptibility classification and therefore are solely focussed on erosion and sediment control rather than other issues. There are four classes, green being least susceptible moving through yellow to orange then red as most susceptible. As now proposed maintenance and upgrading of existing earthworks for plantation forestry would be a permitted activity in all classes and any earthworks would be a permitted activity for green and yellow classes. There are to be requirements of notification to the district and regional consent authorities and provision of an earthworks plan. In addition the slope shall not

exceed 20 degrees and in the yellow areas the maximum area of earthworks shall not exceed 5000m<sup>2</sup> and volume of 5000m<sup>3</sup>. Mr Thomas said consents for non-permitted activities are classed as restricted discretionary and in most cases it appears that this would be a joint district-regional consent process.

- 5.84 Mr Weir told us that the likely final outcome of the NES may well be different from the May 2011 revised version. Officially he said the NES is in a redesign phase. In Mr Thomas's opinion it was likely (but not certain) that it would be finalised and come into force. If this occurs it overrides any other district and regional rules other than where it specifically enables more strict rules. He said that current indications were that this will include ONFLs however there is little production forestry within the ONFLs proposed.
- 5.85 Mr Thomas said that the Ministry for the Environment (MfE) had recently advised that the NES has "*a negative cost benefit ratio*" largely due to the difficulty of costing out environmental values. Consultants are revisiting the CBA in an attempt to fill gaps in the original." He had sought clarification from MfE as to the implications of this. They reported that this work is underway but it may be a number of months before it is finally reported. He said there therefore remains uncertainty about whether and when and in what form the NES will be enacted.
- 5.86 Mr Thomas said the focus of this issue was on the domains with high landscape amenity and any earthworks rules applying to these. He considered that the options available to us include:
- Option 1: Expressly exclude plantation forestry from any earthworks rules applying to domains with high landscape amenity on the basis that landscape effects are temporary and an NES is reasonably likely to be completed and enacted in the short to medium term.
- Options 2: Include less restrictive permitted activity limits for production forestry or limit control to within say 30 metres of ridgelines to manage landform effects.
- Option 3: Do not provide any form of exclusion for production forestry.
- 5.87 Mr Thomas said Options 2 and 3 could be seen as an interim measure until the NES is finalised and changes could be made as part of the Plan Review. Conversely if Option 1 is adopted the matter can be further considered through the Plan Review process when there is likely to be greater certainty about the NES. In his opinion the NES had proceeded to an advanced stage, however, unless the CBA issues can be resolved there remained some doubt about whether it will be enacted. Notwithstanding this uncertainty, it was Mr Thomas's opinion given the stage the NES had reached that it was hard to justify in terms of section 32 imposing rules where these are likely to be overridden by an NES.
- 5.88 We noted from the evidence we had received from Ernslaw One and Rayonier that forestry is a cyclical process and that significant earthworks are necessary prior to harvesting to establish or reinstate roads and platforms from previous harvesting or planting. We therefore accept that earthworks are an integral component of production forestry. The forestry cycle is such that there are short periods of harvesting and earthworks where the visual impacts are at their greatest followed by long periods of forest growth and management (25-30 years). Those visual effects, we were told by Mr Baldwin, are substantially mitigated within 18 – 36 months of harvesting through replanting.

- 5.89 We have considered this matter closely because we accept that the visual impact of forestry associated earthworks have the potential to be significant. Nevertheless, we agree with Mr Thomas that the justification for total control of earthworks in this situation where an NES appears likely is difficult to sustain. We do however consider there is a case for some limited controls in particularly sensitive situations. We therefore resolve that unless otherwise specified any earthworks in DHLA for production forestry is exempt. This is discussed and addressed in more detail later in our decision along with our decisions in relation to submissions.

The Regional Policy Statement and Regional Plans

- 5.90 Mr Thomas provided some background to the proposed RPS and associated Regional Plan (One Plan). He identified the key objectives and policies relevant to PC22, all of which are included in Chapter 7, *Indigenous biological diversity, landscape and historic heritage*.
- 5.91 Mr Turner, speaking for Meridian, was of the opinion that as the plan change was seeking to manage land areas which may have a potential renewable energy resource, the discussion should have extended to Chapter 3, *Infrastructure, energy, waste, hazardous substances and contaminated land* as well as Policies in the operative RPS.
- 5.92 Mr Matthews for Genesis referred to Policy 7-7 of the One Plan that requires generally that adverse effects on outstanding features are avoided, remedied or mitigated, but specifically that adverse cumulative effects on those areas are avoided. He argued that in this regard, the One Plan accepts that there can be development or use of ONFLs that have significant effects, provided that those effects can be avoided, remedied or mitigated. We have discussed this in the section *Buildings and Utilities in ONFLs*.
- 5.93 We refer to our decision on NPSREG. This plan change is primarily about landscape issues. We appreciate Mr Turners argument that Policy 8.2 of the operative RPS gives direction to consider both "the degree of adverse effects on outstanding values and the social and economic benefits provided by the proposed activity" but our view is that the upcoming Plan Review is the most appropriate mechanism to introduce the wider issue of renewables into the District Plan.

**Issue 4.3 and Discussion**

- 5.94 PC 22 proposed to revise the existing stated issue relating to ONFLs to read:
- The risk that development will cause adverse effects to the outstanding natural landscapes, features and high amenity landscapes of the District.*
- 5.95 A new "Discussion of the Issue" is then proposed that makes a link to section 6 responsibilities, explains that further assessment has been undertaken, explains the methodology scope, states the conclusions of the assessment, identifies the principal threats to these values, and identifies that further review of the coastal environment will be undertaken as part of the wider Plan review.
- 5.96 Submissions on the Issue have suggested a number of amendments to the wording including: enlarging the focus from development to subdivision, use and development; qualifying the adverse effects to being ones that cannot be avoided, remedied or mitigated; rewording focused on ensuring effects of development are well managed; and inserting the word inappropriate before development.

5.97 At the hearing Ms Wharfe did not consider that Horticulture NZ's submission to remove the 'risk' focus of Issue 4.3 had been addressed in the s42A report nor had their request to retain the wording in the operative plan. As such she sought that the Issue be amended to read:

*Changes in land use can have adverse effects on outstanding natural landscapes and features of the District.*

5.98 Ms Dasent said Federated Farmers supported the revised focus on the risk of inappropriate subdivision, use and development however it remained opposed to the inclusion of high amenity landscapes as they were not a matter of national importance under s6 of the Act.

5.99 Mr Thomas said that the submissions provided general support for the focus that the issue has on "risk of effects". He did not support, and we agree, the addition of words that did not add to the meaning or clarity of the issue statement. He agreed however that some of the suggestions had merit and recommended that the issue be amended to incorporate references to "*inappropriate subdivision, use and development*" and to effects that cannot be "*avoided, remedied or mitigated*".

5.100 We acknowledge that the above references reflect specific wording contained within the Act (section 6 and 5) and therefore are appropriate to be included in the issue. We consider this better reflects the actual issue at hand and is more encompassing than the original or that proposed by Horticulture NZ and is more succinct and unambiguous than using phrases such as 'the effects of development are well managed'. We also reiterate here our earlier decision on high amenity landscapes. We have therefore determined that Issue 4.3 be amended to read:

*The risk that inappropriate subdivision, use and development will cause adverse effects to the outstanding natural features and landscapes of the District and domains with high landscape amenity that cannot be avoided, remedied or mitigated.*

5.101 As a result submissions 088B, 091B and 111B are accepted, submissions 043A, 058B, 064A and 110B accepted in part and submissions 025B, 054C and are rejected.

5.102 A number of submitters sought amendments to the "discussion" associated with Issue 4.3. The amendments sought are extensively covered in Mr Thomas's s42A report but in summary they included:

- emphasising the importance of ONFLs to some tangata whenua;
- adding to the end of the second paragraph as follows. "In seeking to achieve the purpose of the resource management Act, the District Plan should also appropriately manage the values associated with landscapes that are not 'outstanding';
- adding a reference to the purpose of the Act in the first paragraph;
- clearer cross references to the One Plan criteria and the District Plan should reflect only the ONFLs identified in the One Plan
- a clearer discussion of why particular landscapes are outstanding, what impacts inappropriate development has had on these and issues such as the sensitivity to change;
- the deletion of the reference to case law in the 3rd paragraph;

- listing of ONFLs and HALs in an order starting with the ranges and working to the sea;
  - acknowledgement of the additional threats of high impact activities on the dunefields;
  - that the stated threat be qualified by the insertion of the words "inappropriately sited" before transmission lines in the third bullet;
  - clearer recognition of the importance of estuaries in the coastal environment as Outstanding Natural Features; and
  - a wider discussion of the existing environment associated with these areas.
- 5.103 As a result of the submissions Mr Thomas recommended a number of changes be made including providing more detail on the assessment criteria, making reference to the revised ONFLs and introducing the DHLA.
- 5.104 Ms Wharfe said that Horticulture NZ supported the retention of the existing wording in the Operative District Plan, while in a written statement Ms Lacey on behalf of Transpower supported the changes proposed by Mr Thomas.
- 5.105 Ms Dasent said that the discussion associated with Issue 4.3 did not provide users of the District Plan with a clear justification of why and how inappropriate subdivision, use and development adversely affect the District's outstanding natural features and landscapes . She said there is a clear difference in the RMA between outstanding natural landscapes and features as a matter of national importance under s6 of the Act, and amenity values as a s7 matter. She considered this distinction needed to be imbued within the discussion. She made the point that the wording around identification and assessment in the third paragraph includes high amenity landscapes alongside outstanding natural landscapes and features as if they had the same status in the Act. The sixth paragraph she said seemed to imply that landscapes of high amenity have equal status to ONFLs and also require protection, when in fact their purpose is to maintain and enhance amenity values, rather than requiring protection.
- 5.106 Ms Dasent considered that the Discussion needed to remind readers that activities are still enabled under the overall purpose of the Act, and that only the adverse effects of inappropriate activities carried out in ONFLs are to be avoided, remedied or mitigated. Otherwise the Discussion imparts the impression that all activities are undesirable. She sought that the wording of the Discussion be amended to provide a clear justification for the subsequent policies and rules. To be effective she considered that it should:
- explain why certain landscapes are considered to be more valued than others;
  - discuss that inappropriate subdivision, use and development (or activities) had impacted on these "special" landscapes in the past;
  - explain that not all activities have adverse effects, and that adverse effects can be avoided, remedied or mitigated;
  - address landscape sensitivity to changes and the ability of some landscapes to better absorb change than others;
  - the methodology used to undertake a district-wide landscape assessment.
- 5.107 We accepted that the One Plan has now reached a stage where a cross reference to the relevant provisions is appropriate and the landscape assessment is consistent with

those identified criteria. We also agree that the combined terms of ONFLs avoids debates over what parts are features and what parts are landscapes.

- 5.108 We also accept that PC22 is not limited to the landscapes identified in the One Plan. The One Plan specifically anticipates that additional ONFLs may be forthcoming as a result of more detailed assessment. We note however that the list of ONFLs arising from the Boffa Miskell peer review consists predominantly of landscapes identified or foreshadowed in the One Plan. We also accept that the detailed assessment required by the One Plan has been undertaken in terms of the development of PC 22, the Boffa Miskell review and our investigations during the hearing. We consider that there has now been thorough assessment of why particular landscapes are outstanding, and what impacts inappropriate development might have on them. We also agreed that other features such as groundwater flows do not form landscapes in their own right and are not appropriate to be included as ONFLs and that rivers in general should not be included as ONFLs.
- 5.109 We accepted that the reference to case law in the 3<sup>rd</sup> paragraph is more appropriately made to the One Plan however we do not consider the reordering of the assessment criteria to reflect the sequencing of natural history is necessary and note that the order is consistent with the order of criteria stated in the One Plan.
- 5.110 DoC had sought that the discussion acknowledge additional threats on the dunefields such as recreational vehicles, irrigation, afforestation, spread of weed species, discharge and disposal of wastewater, stormwater and refuse, and coastal protection walls. Mr Thomas accepted that these were threats to some of the values involved with ONFLs, however, the jurisdiction for these matters largely lay with the Regional Council. He noted that the One Plan did control afforestation in the coastal foredune area and that where this was in reserve issues such as vehicle access could be controlled. Further he correctly pointed out that regulation of wastewater discharges and coastal structures were the responsibility of the Regional Council. We did not consider we needed to take this any further.
- 5.111 We accept the insertion of the words "inappropriately sited" sort by Windflow Technology before transmission lines, telecommunication towers etc in the third bullet.
- 5.112 Taiao Raukawa Trustees sought clearer recognition of the importance of estuaries in the coastal environment as Outstanding Natural Features. As we understood it this had been taken into account in the peer review which has spatially defined the Coastal ONFL and enlarged the Manawatu Estuary ONFL. We also noted that it was proposed to remove some of the rivers and address them in a more integrated way through the Plan Review but that the Waiwiri Stream and Hokio Stream are to be included within wider ONFLs.
- 5.113 We have some sympathy with the concerns raised by Ms Dasent and have made an amendment that recognises that the high amenity landscapes are 'second tier' of landscape.
- 5.114 Finally, we note that Transpower had sought a wider discussion of the existing environment associated with these areas. Mr Thomas proposed to also address this concern through some discussion of the values associated with the landscape domains that have high landscape amenity.
- 5.115 The amended Discussion proposed by Mr Thomas and now confirmed by us is detailed below with our specific changes identified:



The Horowhenua District is framed by the Tararua Ranges to the east and the open expansive duneland coast to the west. Within this are important estuaries, lakes and dune features. Rivers and streams flow from mountain to sea across the District.

The District Plan is required, as a matter of national importance, to provide for the protection of outstanding natural landscapes and features from inappropriate subdivision, use and development.

The landscapes of the District have been assessed to bring the Plan in line with the Regional Policy Statement (One Plan) and to apply a consistent landscape evaluation methodology. The aim of this has been to robustly identify the outstanding natural features and landscapes of the District and also a second tier of other landscapes that are of high amenity to the community.

The assessment has taken into account the landscape attributes associated with:

- Biophysical features, patterns and processes including:
  - Representativeness
  - Research and education
  - Rarity
  - Ecosystem functioning
- Sensory and perceptual qualities including:
  - Coherence
  - Vividness
  - Expressiveness
  - Transient values
- Spiritual, cultural and social associations including:
  - Recognised values
  - Tangata whenua values
  - Historical association

The assessment has concluded that the Outstanding Natural Features and Landscapes (ONFLs) of the District are as follows:

- The Tararua Ranges including the Skyline of the Tararua Ranges
- Lake Horowhenua, Moutere Hill and the Hokio Stream
- Lake Papaitonga and the Waiwiri Stream
- The Manawatu River Estuary
- The Coast including the foredune and adjacent dunelands

In addition, further assessment has identified that the following landscape domains have a high level of landscape amenity:

- Hill Country
- Manakau Downlands
- Coastal Lakes

- *Coastal Environment*

*Whilst these domains may include ONFLs, their wider environments also have high overall visual quality, vulnerability to change, distinguishing topography and high visibility. This is essentially a second tier of landscapes below the ONFLs.*

*Some activities that this Plan is responsible for may not be appropriate in these landscapes where their specific location and design prevents them from adequately avoiding, remedying or mitigating their effects. Activities where these may be relevant include:*

- *Development facilitated by subdivision*
- *Large buildings or inappropriately designed and sited buildings in each landscape type.*
- *Inappropriately sited structures such as transmission pylons, telecommunication towers and wind farm turbines.*
- *Earthworks for development and access*
- *Removal of native vegetation*

*Policies and methods for the wider management of the coastal environment will be reviewed as part of the overall review of this Plan. This will focus on achieving integration of policy relating to the natural character of the coast and the outstanding landscape values.*

- 5.116 As a result submissions 011A, 011B, 027B, 032A, 058C, 061B, 061C, 061D, 061E, 061F, 064B, 064C, 087A, 088C, 091C, 110C, 111C and 111D are accepted in part and submissions 059C, 064D and 064E are rejected.

### **Objective and Policies**

#### **Objective 4.3**

- 5.117 PC 22 introduced a new Objective 4.3 as follows:

*"Ensure that subdivision, use and development does not adversely affect outstanding natural landscapes and features and also has regard to high amenity landscapes."*

- 5.118 A number of submissions sought wording changes to the objective. These include:

- Reorder the wording to refer to ONFLs first and protection from subdivision use and development second.
- Insert "inappropriate" or "adverse effects of inappropriate"
- Insert "manage activities to prevent inappropriate..."
- Insert "avoids, remedies or mitigates potential adverse effects..." either at the beginning or at the end
- Insert "the landscape characteristics and values of ONFLs etc."

- 5.119 Mr Thomas said that the ONFLs had been identified after careful consideration of their characteristics and values and therefore it did not seem necessary to insert these words. He was however comfortable with the reordering of the objective and the reference to "adverse effects of inappropriate" and said it was also arguably

important to include the word "protection" because that is used in section 6. He proposed that the Objective be reworded follows:

*Ensure that the District's Outstanding Natural Features and Landscapes are protected from the adverse effects of inappropriate subdivision use and development and that regard is had to other landscapes having high amenity.*

- 5.120 At the hearing Mr Turner and Mr Matthews considered that words "the adverse effects" should be deleted from the objective on the basis that its inclusion implies that it is solely adverse effects that will determine appropriateness. Mr Thomas disagreed with this assertion that benefits would not be taken into account in any assessment. However he also did not think that the objective was any less effective if we decided that these words are best removed.
- 5.121 Ms Dasent supported the amended objective but sought the deletion of "*and that regard is had to other landscapes having high amenity*" and inclusion instead of "*in that adverse effects are avoided, remedied or mitigated.*" The basis of these suggested amendments appeared to be similar to the concerns raised by Mr Turner with regards it being solely about adverse effects, and Ms Dasent's previous comments on the status of ONFLs versus high amenity landscapes.
- 5.122 Ms Lacey disagreed with the revised wording considering that the values of the ONFLs should be recognised in the Objective. She sought for this to be included in the wording.
- 5.123 Ms Wharfe made the point that both the objective and policies began with the words "Ensure that". She said that there is usually a distinction between the two because they have different roles and purposes hence Horticulture NZ had sought retention of the words "Recognise and provide for".
- 5.124 We consider the general thrust of the objective is acceptable as it is essentially seeking to ensure that the ONFLs are protected from inappropriate activities as is required by s6(b) of the Act. How that is then achieved is then established by the subsequent policies and rules. We do not subscribe to the necessity of paraphrasing s5(2)(c) of the Act in terms of the use of the words "avoid, remedy or mitigate" given that it is a requirement to be met regardless. We accept however that the use of the words "adverse effects" might be seen as being problematic and do not consider in any event they are necessary in terms of what the objective seeks to achieve. We have therefore decided that the objective should be worded as follows:
- Ensure that the District's Outstanding Natural Features and Landscapes are protected from inappropriate subdivision, use and development and that regard is had to other landscapes having high amenity.*
- 5.125 Finally, we acknowledge the comments of Ms Wharfe and agree she has a point, however we consider it is the policies rather than the objective which require amendment. We will discuss this further below.
- 5.126 As a result submission 050B is accepted, submissions 043B, 064F, 088D, 111E and 112A are accepted in part and submissions 026B, 027C, 058D, 059D, 087B, 091D and 110D are rejected.

## **Policies 4.12 – 4.14E**

### **Policy 4.12**

- 5.127 Policy 4.12 states:
- Ensure that specified outstanding natural landscapes and features are protected from inappropriate subdivision, use and development.*
- 5.128 A number of submissions sought amendments to Policy 4.12: they can be summarised as follows:
- To protect ONFLs from inappropriate subdivision, use and development
  - All subdivision, use and development affecting ONFLs shall be managed in a manner which:
    - (a) Avoids adverse effects as far as reasonably practicable and where avoidance is not reasonably practicable, remedies or mitigates adverse effects on the characteristics and values that make the particular landscape outstanding.
    - (b) Protects them from inappropriate, subdivision use and development.
- 5.129 Mr Thomas considered the first option shortens the policy but maintains the same sense, while the second brings in the sense of management and a framework first of avoidance and then remedy and mitigate. He was not convinced at that 'management' was the appropriate term as it infers a more intimate ongoing relationship with landowners and occupiers which might be appropriate for significant natural areas but not ONFLs. In terms of part (a) he said the key question was whether the longer version remains inherent in the policy without spelling it out in this manner. His considered this was not necessary and risked confusing the overall policy.
- 5.130 Mr Turner considered the policy did not provide any direction as to how a determination of whether a development is 'inappropriate' should be made. He was of a view that there was a conflict between Objective 4.3 and Policy 4.12 and the course of action established via Policy 4.14, which focuses on avoidance of buildings rather than protection from inappropriate development.
- 5.131 Mr Matthews commented that Policy 4.12 merely repeats Objective 4.3 and would be better to specify how the adverse effects of an activity within an ONFL should be managed. He promoted a hierarchy approach indicated above whereby avoidance of adverse effects should be the principal objective and only where that cannot be achieved should options of remedying or mitigating those effects be considered.
- 5.132 We agree with Mr Matthews that the policy replicates the objective and also note the previous comments referred to by Ms Wharfe as to the objective and policies beginning with the same words. We accept that the policy needs to better articulate how the objective is going to be achieved rather than repeat it. To that end we consider the direction provided by Genesis and referred to by Mr Matthews goes some way towards setting out how the objective is to be achieved. However, we agree with Mr Thomas's concerns about the use of the word 'managed' in this context.
- 5.133 We have given careful consideration to the wording of this policy because of its importance in setting the direction for the subdivision, use and development within ONFLs. We consider the policy needs to refer to the protecting of the relevant character and values of the ONFLs and identify how that is to be achieved i.e. the

mechanisms. We have therefore decided that the policy should be reworded as follows:

*Protect the character and values of Outstanding Natural Features and Landscapes from inappropriate, subdivision, use and development by controlling the level and extent of activities including earthworks and the scale of buildings and network utilities.*

- 5.134 As a result submissions 061G, 087C and 112B are accepted in part and submission 064G is rejected.

Policy 4.13

- 5.135 Policy 4.13 as notified read:

*Ensure that subdivision, use and development in high amenity landscapes does not detract from the amenity values of that landscape.*

- 5.136 In a similar manner to the above, submissions sought alternative wording for this policy to place greater emphasis on management, and avoiding, remedy or mitigation. Genesis suggested a more positive frame of wording as "all subdivision use and development affecting High Amenity Landscapes shall be managed in a manner that gives particular regard to the maintenance and enhancement of the amenity values of that landscape." Other submissions sought the deletion of the policy for reasons aligned to the deletion of HALs in general which we have already discussed.

- 5.137 Mr Thomas agreed that the term High Amenity Landscape in this context could lead to some confusion and introduced an added layer of complexity to the Plan. He recommended that the term High Amenity Landscape be deleted as such from PC 22 and replaced with stated landscape domains with high landscape amenity. He said he was comfortable with the wording proposed by Genesis and if adopted the policy would read:

*Subdivision, use and development affecting domains with high landscape amenity shall be undertaken in a manner that gives particular regard to the maintenance and enhancement of the amenity values of that landscape.*

- 5.138 We generally agree with the revised policy, however consider it needs to refer to the fact that there are controls beyond which activities will be enabled provided they are undertaken in the a manner that has particular regard to the maintenance and enhancement of the amenity values of that landscape. We have concluded that the policy should read:

*Subdivision, use and development affecting domains with high landscape amenity shall be controlled to specified levels and enabled beyond this where undertaken in a manner that gives particular regard to the maintenance and enhancement of the amenity values of that landscape.*

- 5.139 As a result submissions 061H, 087D, 091F and 112C are accepted in part and submissions 059E and 110E are rejected.

Policy 4.14

- 5.140 Policy 4.14 as notified stated:

*Avoid the development of large buildings on Outstanding Natural Landscapes and Outstanding Natural Features.*

- 5.141 Submissions sought the insertion of the word 'inappropriate' before development, the removal of the word 'large', the amendment of the policy to refer to large buildings not detracting from the values of the ONFL, and the deletion of this policy on the basis that it conflicts with Policy 14.12.
- 5.142 Mr Thomas agreed that the effects are the issue rather than the size of the building and this has a link to the form of rule that is to implement this. He had recommended that the word 'large' be removed and the policy be amended to refer to adversely affecting the values of ONFLs so that it reads:
- Avoid the development of buildings where they will adversely affect the values of Outstanding Natural Features and Landscapes.*
- 5.143 At the hearing Mr Turner, Mr Matthews and Ms Dasent considered that Policy 4.14 should be deleted because it lacked the balance required for determining what is appropriate and was drafted on the premise that any building which adversely affects an ONFL will be 'inappropriate' and should be avoided. Mr Thomas responded that this was just one policy and all relevant policies would need to be assessed and weighed in determining whether the social and economic benefits of buildings were such that they ultimately outweighed the extent of any adverse effects on landscape values.
- 5.144 Ms Wharfe considered that the 'avoid' threshold was too rigid, saying that while care was needed over building location in these landscapes there should always be options to remedy or mitigate the effects.
- 5.145 Ms Lacey on behalf of Transpower supported the amended policy.
- 5.146 This policy is clearly focused on building development rather than any other uses. Having reviewed the revised version, we do not consider it conflicts with the objective or the revised Policy 4.12. It is designed to send a strong message that building development on ONFLs will need to avoid adversely affecting their values. We consider that the changes that have been made in response to submissions have provided more balance and gone some way towards meeting the concerns raised.
- 5.147 We therefore conclude that the revised policy be adopted and that submissions 027G be accepted, submissions 061I be accepted in part and submissions 032B, 059F, 087E, 091G, 110F and 112D be rejected.
- Policies 4.14A, 4.14B, 4.14C, 4.14D and 4.14E
- 5.148 Policies 4.14A, 4.14B, 4.14C, 4.14D and 4.14E as notified were as follows:
- Ensure that dwellings on high amenity landscapes have low impact siting and design and have particular regard to the Horowhenua Rural Subdivision Design Guide January 2009.*
- Have regard to any positive effects associated with landscape and biodiversity restoration.*
- Have regard to the ability of existing land uses within landscape areas to accommodate subdivision, use and development without adverse landscape effects.*
- Have regard to the potential adverse effects on the landscape values of an outstanding natural feature or landscape from development on a nearby high amenity landscape.*

*Have regard to the needs of primary production activities within the Foxton Dunefields area.*

- 5.149 We note that Mr Thomas said there were no submission points on Policies 4.14A and 4.14B however he advised us that some consequential changes to wording were required as a result of the changed approach to domains with high landscape amenity. He also noted that the Rural Subdivision Design Guide had been subject to some amendment through an appeal mediation process.
- 5.150 Ms Wharfe indicated to us that contrary to the s42A report, Horticulture NZ had submitted on Policy 4.14A seeking its deletion in relation to the high amenity landscapes issue until appropriate criteria and assessment were undertaken. She also noted the Windflow Technology Ltd had submitted on the same policy.
- 5.151 Ms Dasent also requested that Policy 4.14A to be deleted. However we believe that Federated Farmers submission did not seek this outcome and therefore have not taken her concerns into account.
- 5.152 We have already addressed the issue of inclusion of high amenity landscapes in PC 22; we consider their inclusion to be appropriate and therefore on this basis the policy should not be deleted. The Windflow submission sought reference to ONFLs rather than domains with high landscape amenity, which seem to be out of place as the policy was never intended to deal with ONFLs.
- 5.153 We accept the consequential changes to these two policies which now read:
- POLICY 4.14A Ensure that buildings within domains with high landscape amenity achieve low impact by having particular regard to the Horowhenua Rural Subdivision Design Guide.*
- POLICY 4.14B Have regard to any positive effects associated with landscape and biodiversity restoration.*
- 5.154 As a result submissions 059G and 110G are rejected.
- 5.155 Submissions on Policy 4.14C included:
- Re word to "ability of existing landscapes to absorb development, which includes existing land uses, and also topography and vegetation".
  - Amend to "whilst ensuring that adverse effects are avoided, remedied or mitigated."
  - Insert "appropriate" after accommodate.
- 5.156 Mr Thomas agreed that it is the landscape that is capable of accommodating development because of its characteristics including amongst other things the existing land uses. He did not consider the policy needed to be qualified with avoid, remedy etc because if adverse effects are not present then it is inherent that they either did not exist or they have been remedied or mitigated in a satisfactory manner. We therefore accept the following wording for this policy:
- POLICY 4.14C Have regard to the ability of existing landscapes to absorb appropriate subdivision, use and development, which includes existing land uses, and also topography and vegetation.*
- 5.157 Having supported the original version Ms Wharfe for Horticulture NZ expressed concerns about the reworded policy. She said that the revised version implies that existing land

- uses may not be able to be 'absorbed' within the landscape, noting that primary production is an 'existing land use' permitted by the rural zone yet the policy is inferring that it may not be able to be absorbed within the landscape. She also did not support removing the adverse effects test from the policy.
- 5.158 Mr Turner and Ms Lacey appeared to support the above rewording, while Ms Dasent sought the addition of the 'and future' after existing.
- 5.159 The inclusion of 'existing land uses' appears to stem from a submission from Telecom that modification to existing structures can have less impact than the creation of new structures. The sentiments of this submission concur with our understanding of the way the policy should be interpreted. That is, existing land uses are a part of the existing landscape and need to be taken into account when considering the ability to absorb subdivision use and development. Ms Wharfe appeared to interpret the policy differently, however we consider the wording proposed is appropriate. We do not consider adding future land uses into the policy is necessary or correct as it may well be a future land use that requires assessment against the policy.
- 5.160 As a result submissions 025D, 026C, 027I, 032C, 037A 054E, 058F, 091H and 110H are accepted in part
- 5.161 Submissions on Policy 4.14D included:
- Comments focussing on the effects of activities and minimising effects on existing primary production
  - Insert inappropriate
  - Review HAL assessment against stated criteria
- 5.162 The focus of this policy is on the important interrelationship between ONFLs and the wider landscape setting in which they are located. Mr Thomas provided an example, citing the residential development on the foothills of the Tararua Ranges below the ONFL that could have a serious adverse effect on the ONFL landscape without actually being located within it.
- 5.163 He said that the landscape domains have been subject to further review assessment against specific criteria to verify those with a high level of amenity and that this addressed the Horticulture NZ submission point. Mr Thomas acknowledged that in nearly all cases the landscapes assessed as having high amenity are working primary production landscapes and that PC 22 does not seek to unreasonably constrain the management of those activities on a seasonal basis. In his opinion it was not necessary in this case to add the word appropriate because it refers to adverse effects on the landscape values which in itself require a judgement of appropriateness.
- 5.164 Ms Dasent argued that Policy 4.14D will restrain agricultural activities even when they are not located within an ONFL with the example quoted being a dairy shed. She sought that the policy be deleted. Similarly, Ms Wharfe sought that the policy be deleted because she considered its implications were to make the high amenity landscapes a 'buffer' for the ONFLs.
- 5.165 We noted that PC 22 as recommend had specifically exempted primary production buildings from the proposed limited discretionary rule and that our decision was not to change this. Therefore there is no substance to Ms Dasent argument that a dairy shed will be constrained by this policy. While we accept that the DHLAs may in many case appear as a 'buffer' to ONFLs we did not see this as being problematic in any way. As



we see if the policy seeks to ensure that developments within DHLAs which are subject to consent have regard to any nearby ONFL in terms of their impacts. We consider that is an appropriate outcome.

- 5.166 Subject to a minor amendment to refer to a 'landscape with high amenity' rather than 'high amenity landscape', we accept the following wording for this policy:

*POLICY 4.14D Have regard to the potential adverse effects on the landscape values of an Outstanding Natural Feature or Landscape from development on a nearby landscape with high amenity.*

- 5.167 As a result submissions 032D, 058G, 059H and 110I are rejected.

- 5.168 Submissions on Policy 4.14E included:

- Insert "existing and future" before primary production activities
- Change the wording to enable primary production activities to continue in ONFLs
- Change to a policy focussing on historic and cultural heritage features ensuring they are protected etc.

- 5.169 Mr Thomas said that the reason that this policy was included was because the Foxton Dunefields are almost entirely a productive area with pastoral farming, some intensive farming and woodlots on dunes. He said it was therefore important in policy terms to recognise the importance of providing for productive activities while protecting the important dune formations. As a result of the peer review this area is not now considered as qualifying as an ONFL. Further, he noted that the amenity values associated with this landscape are considered to be moderate but not high.

- 5.170 Notwithstanding the above, Mr Thomas considered that the landforms associated with the dunes in this area are of natural and scientific significance and there is justification in ensuring that the need for landform modification is justified. He considered that this policy should be replaced with the following:

*POLICY 4.14E Ensure that any adverse effects on the dune landforms in the Foxton Dunefields are avoided, remedied or mitigated.*

- 5.171 Mr Turner expressed concern about the content of the proposed changes to the policy and whether they were within scope. Based on the submissions received, he contended that no party could have envisaged that the focus of the policy would move from being about the needs of primary production to one about avoiding, remedying or mitigating the adverse effects of all activities on the dunefields. Ms Wharfe and Ms Dasent considered the policy was no longer required given the deletion of the Foxton Dunefield as either an ONFL or a DHLA.

- 5.172 DoC had previously sought for the policy to be deleted however Mr Ericksen now supported the proposed amended version of the policy. Mr Bennion on the other hand made the point that the proposed definition of 'dunes' was to be removed and 'dune landforms' were not defined which he said demonstrates the underlying unresolved issue of what features are being protected and why.

- 5.173 In response Mr Thomas said the changes proposed were largely consequential and driven by the results of the peer review of the ONFLs and the further work on domains. This work had reduced the status of the Foxton Dunefields area on the basis of expert advice so that it was now neither an ONFL, nor a domain with high amenity. He said it could be argued that on that basis that any residual values lie outside of PC 22. If PC

22 was accepted then Policy 4.14E would have to be deleted. However, in his opinion the area does have dune landforms that are of significant value albeit not outstanding and this relates clearly to the topic of this plan change. Mr Thomas told us the policy and regulatory response was to focus on landform only and therefore on earthworks. As a result of the evidence presented by parties his recommendations on methods and rules to achieve this policy had changed. However he maintained that the amended policy is within the scope of this plan change and is driven by consequential changes sought specifically by submissions.

5.174 We have undertaken extensive site visits and given some considerable thought to the issue of the Foxton Dunefield and indeed dunes in general and acknowledge they are significant features in the Horowhenua. As discussed in more detail later we agree that this is a landscape of some value from a geomorphological perspective; in our view and indeed in the view of many of the submitters who sought changes to the rules there is a need for some level of protection.

5.175 We consider that some form of regulatory regime is necessary to ensure the integrity of the significant dune formations is protected. Consequently a policy framework is required. However the policy framework in our opinion needs to be all encompassing rather than limited to the Foxton Dunefield area. We have therefore revised the policy to read:

*POLICY 4.14E Ensure that any adverse effects on significant dune landforms are avoided, remedied or mitigated*

5.176 In reaching our conclusion we have given consideration to the issue of scope raised by Mr Turner and the response provided by Mr Thomas. We consider Mr Thomas is correct. While the changes we have made to the rules below are less onerous than was the case in the notified version of PC 22, in order to retain a top down approach a policy response is necessary and comes as a consequence of the various changes made. Submitters sought for the policy to be deleted and for the rules to be changed or deleted. Given we have altered both the policy and the rules we consider that this is within the scope of what was sought by submitters.

5.177 As a result submissions 058H, 059I and 64H are rejected.

#### New Policies

5.178 Some submitters sought the inclusion of new policies and these are covered below.

5.179 Transpower requested that a new policy be included specifically recognising the presence of significant infrastructure within the ONFL or high amenity areas. We consider the amendments to Policy 4.14C we have adopted go some way towards addressing this matter.

5.180 Palmerston North City Council said that given the demonstrable demand for wind farms on the Tararua Ranges in the Horowhenua District, consideration should be given to broadening the scope of PC22 to include other relevant matters of Part II of the Resource Management Act, including Section 7(b), (g), (i) and (j). Essentially the submitter was seeking referred reference at a policy level to the efficient use and development of natural and physical resources, the effects of climate change and the benefits of renewable energy. A similar submission was received from EECA seeking reference to section 7(j).

- 5.181 Windflow Technology sought a new policy which required regard to be had to renewable energy development within ONFL. While we accept that consideration must now be given to renewable energy pursuant to the NPSREG which would be required as a matter of course in any resource consent for such development, it is our opinion that such a policy in this context would run counter to the overarching objective.
- 5.182 EECA sought similar provisions to the above except they did not seek to limit the policy to ONFLs. Such a policy to our mind is more appropriately situated in and Renewable Energy section of the District Plan. They also sought a policy based on having regard to the locational requirements of development, which we considered was too vague in its intent and in some ways was covered by Policy 4.14C.
- 5.183 NZHPT sought the inclusion of a policy requiring regard to be had to historic or cultural heritage features present within ONFLs. Ms Dolan however accepted that this was covered elsewhere in the heritage section of the District Plan.
- 5.184 Mr Turner supported the addition of two further policies. The first having regard to locational and operational requirements of regionally significant infrastructure and the second having regard to local, regional and national benefits. Mr Thomas considered the intent of these policies already existed within the District Plan in one form or another and would be subject to review of those sections during the District Plan review. There was no need in his opinion to add such policies here to ensure that those issues are taken into account.
- 5.185 We agree with Mr Thomas's conclusions. The first policy proposed by Mr Turner is, like the Transpower proposal above, effectively covered by Policy 4.14C, albeit more generically than just referring to infrastructure. The second policy is, like those sought by Palmerston North City Council and EECA, more appropriately in our view situated within an Infrastructure or Renewable Energy Sections of the District Plan. We particularly note that in this context it would be unrelated to the overarching objective.
- 5.186 Mr Matthews referred to a submission by Mighty River Power (MRP) seeking the inclusion of an additional policy that ensures a number of specific criteria are considered when assessing a proposed activity within an ONFL. In his opinion, the District Plan should provide clear direction as to the particular matters to consider in terms of whether an activity is an appropriate use or development within an ONFL, or whether the effects of such activities in these areas are acceptable. The policy proposed by MRP would he said provide such direction and accords with Policy 7-7A of the One Plan. On that basis, he considered the following policy should be included in the District Plan:

*When considering an application for resource consent, a notice of requirement or a change, variation or replacement to the District Plan, the following factors will be taken into account in determining the appropriateness of an activity:*

- a) *Will the activity generate significant adverse effects on the values of Outstanding Natural Landscapes, Outstanding Natural Features or High Amenity Landscapes?*
- b) *Can any adverse effects, not able to be reasonably avoided, remedied or mitigated, be offset by another form of environmental compensation using a 'no net loss' approach?*

c) Will the activity generate benefits relating to the social, economic and environmental well-being of communities?

d) Are there any functional, technical or operational constraints that require the activity to be located and designed in the manner proposed?

5.187 The policy proposed by MRP and supposed by Mr Matthews has a degree of merit, although it appears to sit somewhere between a policy and assessment criteria. We have looked to see whether issues addressed in this policy are already covered by the provisions we have so far adopted and to a large degree they are.

5.188 The first part of the proposed policy referring to resource consents etc is unnecessary as any policy will only be being considered if such applications had been applied for in the first place. Part a) of the policy is we consider a matter for assessment and then becomes a matter of fact as to whether or not an activity generates significant adverse effects. Part b) we consider is already largely addressed by Policy 4.14B, although we consider it should be referred to in the Explanation and Reasons and an expanded assessment criterion. It is our opinion that Part c) and d) have some merit, however we consider they are assessment criteria and we note that Mr Thomas has recommended criteria very similar to these stemming from the MRP submission. We have dealt with this further later in the decision.

5.189 On the basis of the above we have resolved that submissions 027E, 043C, 050C and 087F be accepted in part, and submissions 011C, 030, 058E, 091I, 091J, 091R and 110J be rejected.

Note: some submissions in this section have been resolved on the basis that they were in relation to more than one policy rather than individual policies.

#### **Policy Explanation and Reasons**

5.190 The majority of the submissions on the explanation and reasons reflected the submissions made to change or delete policies. Mr Thomas acknowledged that rewording of this section was required to reflect the changes proposed to the policies. In terms of specific submissions he agreed in part with EECA that the focus on landscape domains was to ensure that there is development of high quality and where there are regional or national benefits this will be able to be taken into account. He also agreed that there was no intention to prevent coastal forestry blocks from being replanted, and similarly that the coastal forestry blocks have performed an important sand stabilisation role.

5.191 MRP and EECA sought some recognition in the explanation of offset mitigation. Mr Thomas said this was not included in the policies and in his opinion is best considered through individual consent processes where adequate mitigation is not possible.

5.192 We generally accept the changes proposed but have added reference to offsetting as part of improvements to biodiversity and have also referenced the ability of landscapes to absorb development including that which already exists.

5.193 We have therefore resolved that the explanation and reasons be amended as follows:

*The above policies seek to ensure the protection of outstanding natural features and landscapes whilst enabling high quality development within domains with high landscape amenity. The policies recognise that there is potential for rehabilitation of landscapes and improvements to biodiversity, which may include offsetting, as part*

*of any proposal or as part of mitigation of effects. Similarly, the characters of the landscapes vary in terms of their ability to absorb change without adverse effects. For example some existing coastal forestry areas close to existing settlements may have potential for other more sensitive land uses. Further the policies recognise that landscapes have an ability to absorb appropriate subdivision, use and development, including existing land uses.*

*Further policy review will be undertaken on the coastal landscapes as part of the District Plan review.*

- 5.194 We therefore resolve that submissions 025E, 027D, 027H, 043D, 054F, 087G and 091K be accepted in part and submissions 059J, 088E and 110K be rejected.

**Methods for Issue/Objective 4.3**

- 5.195 Submissions sought the inclusion of the word 'inappropriate' in the first bullet point, the deletion of the first and second bullet point, reference to undertaking the identification of historic heritage within ONFLs and greater promotion of the rural design guide and site specific design guides within the methods section. Horticulture NZ sought that reference to the Rural Subdivision Design Guide be removed as it was still part of a plan change process.
- 5.196 Mr Thomas clarified that in terms of the Muaupoko and Tanenuiarangi Manawatu Incorporated submissions it was not intended that PC22 will affect the existing consultation processes with iwi which are addressed in other parts of the Plan and have been formalised in subsequent protocols.
- 5.197 As a result of submissions Mr Thomas recommended a number of changes and consequential amendments. We have reviewed those and consider that with some amendments to reflect our decisions the list below to be appropriate. As previously noted we have not removed high amenity landscapes from PC22 as sought by Horticulture NZ in this instance and we consider reference to the Rural Subdivision Design Guide is an appropriate method, particularly now that PC20 is almost completed.
- 5.198 We also did not consider it necessary to refer to historic or cultural heritage features in the ONFLs as sought by NZHPT and Taiao Ruakawa Trustees. That is a district wide matter not one specific to ONFLs.
- 5.199 Finally, in terms of the Telecom submission, we accept that the Design Guide is not intended to capture infrastructure not associated with a subdivision and have provided a note accordingly.
- 5.200 The methods are as follows:

*District Plan*

- *Control subdivision, use and development in Outstanding Natural Features and Landscapes and Domains with High Landscape Amenity and implement the District Plan policies through consent processes.*
- *Promote high quality design and development through the application of the Rural Subdivision Design Guide. (Note: the Design Guide is not intended to capture infrastructure which is not associated with a subdivision.)*

- *Further review policy on the Coastal ONFL to integrate with coastal management policy as part of the District Plan review.*
- *Undertake an expert assessment of dune formations in the coastal landscape including the Coastal Environment, Coastal Lakes and Foxton Dunefields domains to identify examples that justify protection.*
- *Consult landowners as part of that assessment and determine appropriate protection methods.*

5.201 We therefore resolve that submission 032E be accepted, submissions 033A, 043E and 117A be accepted in part, and submissions 011D, 059K, 061J, 091L, 107B, 110L and 111H be rejected.

### **ONFLs - General**

5.202 The history and process of the ONFL areas has been described in detail in the introduction to this decision. To summarize, the basis for identifying and evaluating the landscapes of the District was a study undertaken by Treadwell and Associates dated August 2009. This built on a previous study of the landscapes characteristics of the District which was undertaken for PC 20.

5.203 A number of submitters requested that the planning maps be revised so that all ONFL areas were clearly mapped. This was part of the peer review process and subsequently Maps 32 and 33 have been revised.

5.204 HDC submitted that the planning maps for PC 22 should be amended to reflect any associated changes following the decision on PC 20. We agree that such changes should be incorporated into the revised Maps. They also sought that a number of Council sites be excluded from various ONFLs and that the ONFL rules not apply to land which is not zoned rural. These have to all intents and purposes now been addressed as a result of the review (note Hokio Stream issue dealt with further below).

5.205 As a result submissions 032K, 087O, 076G and 104D are accepted and submissions 076M and 078B be accepted in part.

### **Skyline ONFL**

5.206 In the original PC 22, the Skyline of the Tararua Ranges was not explicitly given ONFL status outside of its inclusion within the Tararua Ranges ONFL. As part of the ONFL Review, Council requested an analysis of the Tararua Range Skyline. This report, prepared in June 2011 (and distinct from the ONFL report), concluded that the majority of the ridges and hilltops that comprise the indicative skyline for local and more distant viewpoints lie within the proposed Tararua Ranges ONFL.

5.207 Notwithstanding this, we note that the One Plan identifies both the Skyline of the Tararua Ranges and the Tararua Forest Park as Regional ONFLs. The Skyline is defined rather than mapped, although the final wording is still subject to an appeal before the Environment Court. Potentially the hilltops and ridgeline of the Shannon/Tokomaru foothills may be considered 'Skylines of the Tararua Ranges' and have a regionally outstanding status.

5.208 Many in the community value these foothills. Tararua Aokautere Guardians submitted that the area called Tararua foothills, particularly to the north of Shannon, forms the skyline of the ranges when viewed from the plains below and should be included within the Tararua Range ONFL. A group of hill country farmers represented by Christine

Mitchell acknowledged that the foothill skyline has a special value, and that farm dwellings "should also be excluded from height and area restrictions unless they are built on the skyline in front of the main Tararua peaks."

- 5.209 Mr Thomas informed us that the interpretation of the Tararua Range Skyline remains uncertain and it is therefore recommended that PC 22 not attempt to establish a Skyline ONFL that extends beyond the Tararua Ranges ONFL recommended in the peer review.
- 5.210 We observed that the August 2011 ONFL review and subsequent fine-grain analysis has reduced the scope of the Tararua Ranges ONFL. As a consequence several sequences of foothills, most notably those east of Shannon and Tokomaru, are no longer given this status and revert to the Hill Country DHLA. However, as outlined in the ONFL review, not all skylines are considered to be outstanding; some have high amenity in the form of shared and recognised values. On this basis we are satisfied that the foothill skylines should not be included in the Skyline ONFL but rather should sit within the Hill Country DHLA.
- 5.211 Given that a number of submissions have requested that PC22 reflects and incorporates any higher values identified in One Plan, we recommend that the Skyline of the Tararua Ranges be included in PC 22 as an ONFL and defined in accordance with the proposed One Plan Schedule F, Table F1.
- 5.212 We therefore resolve that submission 049A be accepted.

#### **Tararua Ranges ONFL**

- 5.213 A large number of submissions requested a review of the mapping of the Tararua Ranges ONFL. These are dealt with in turn below.
- 5.214 Horowhenua Energy rejected the expansion of the Tararua Range ONFL outside the Tararua Forest Park boundary, while Tararua Aokautere Guardians sought for the whole Hill Country Domain to be within the ONFL. While we recognise that the north-western end of the Tararua Range ONFL has windfarm potential, we agree with Mr Evans that it has very high landscape values that are consistent with the wider Tararua Range ONFL, particularly with respect to vegetation cover and elevation. We therefore consider that the Tokomaru end of the Tararua Ranges should remain in the ONFL in order to maintain the overall integrity of the Tararua Range ONFL boundary.
- 5.215 Mangahoe Joint Venture, Ernslaw One Ltd, Mr Gibson, Ms Leufkens, Jager Farms, MJ Page and Rangeview Ltd and HDC all sought that Tararua Range ONFL be reviewed to delineate between ONL and high amenity areas and to exclude particular activities. This work was undertaken in the wider ONFL review and the north end of the Tararua Ranges within the Horowhenua District boundary was further evaluated in order to give us a more holistic view of the areas on the Tararua Ranges with wind farm potential. As a result a number of changes to the ONFL were made and we note this has resulted in some man-made activities now being excluded which will satisfy these submissions.
- 5.216 Mr and Mrs Anderson requested that their farm be excluded from the Tararua Range ONFL, noting that only the front of their farm was visible. While a substantial proportion of their property has been out of the recommended ONFL as a result of the peer review, at the hearing the Andersons sought for the remainder to be removed. This remaining northeast part of the property lies within a montane basin behind the first ridge of the Tararua Ranges and is screened from public view.

- 5.217 We considered photographs provided by the Andersons and visited the site. Detailed plans showing the amendments recommended by Mr Evans were tabled at the reconvened hearing in February and Mr Evans took us through the information he had provided.
- 5.218 We are mindful that a combination of landscape factors is taken into consideration for evaluating ONFLs, and visibility is not necessarily a consideration. The landscape in the basin has been scrutinised in detail and fulfills in our view the criteria for an ONFL. We therefore recommend that the submission from the Andersons is accepted in part.
- 5.219 Mr Page for Rangeview Ltd tabled evidence requesting that plantation forestry be removed from the Rangeview property within the Tararua Range ONFL. A map was supplied indicating the location of the forest. We have reviewed detailed mapping of the site including elevation, vegetation cover and a range of oblique aeriels and concur with Mr Evans' revised delineation of the ONFL boundary in this regard. Ernslaw One also sought for the boundary to be adjusted to exclude the Shannon forest and other significant areas of exotic forest, and we note that changes have result in this regard. Nevertheless, as we discussed earlier exotic forestry is not necessarily always excluded from the ONFLs.
- 5.220 Finally, we examined maps of the Tararua Range ONFL and the areas with wind farm potential that lie within the ONFL and are satisfied that those areas not already in the DoC estate are limited. Therefore it is our opinion that the Plan Change is not unreasonably constraining the future delivery of policy and methods in relation to renewable electricity generation.
- 5.221 We therefore resolve that submissions 004A, 004B, 019D, 052A and 068A be accepted, submissions 019B, 025G, 028A, 054B, 054J, 065A, 076L and 105B be accepted in part, and submission 015A is rejected.

#### **Coastal ONFL**

- 5.222 The Horowhenua Branch of Royal Forest and Bird Protection Society of NZ sought that inland for 200m from the Mean High Water Springs (MHWS) be classified as ONFL and that the dune lakes listed by the Horizons Wetland inventory be classified as Outstanding Natural Features, while Mr Redfern sought to define exactly what sections are included in the Coastal Foredunes and that the definition of Outstanding Natural Features (in relation to Coastal Foredunes) be restricted only to those dunes that are well away from existing subdivisions, or that form significant wildlife habitat.
- 5.223 The ONFL review has evaluated the area and identifies that the revised ONFL is approximately 150m wide. In areas where the natural dune landforms have not been modified, the revised ONFL is wider (eg Foxtangi and Hokio Dunes 500m to 1.0km wide). In other locations, such as estuaries or lakes or where exotic forest plantings are more patchy, the width of the revised ONFL varies between 150m and 500m.
- 5.224 We concur with the more detailed ONFL assessment and see no reason to impose a minimum standard 200m setback from MHWS for the ONFL as this would clearly encompass areas which did not meet the ONFL criteria.
- 5.225 We accept that along the Coastal and Manawatu River Estuary ONFLs, a small number of structures and man-made modifications have been included in the ONFLs. The review clarified that "while evidence of human presence and activity may be apparent, natural attributes dominate."



- 5.226 In this regard Ms Treadwell commented that the Coastal ONFL needed to be managed as an entity. Mr Evans further noted that the ONFL context was important and should not be fragmented by uplifting the ONFL overlay in front of small settlements, over roads or man-made structures. He rejected the point of view that rules should be waived for maintenance of dunes or for providing access to the coast or keeping roads clear of encroaching sand. Both landscape experts agreed that coastal management practices should be consistent along the coastline in and beyond Horowhenua district.
- 5.227 Mr Thomas noted that a Coastal Management Strategy was underway that would inform the District Plan Change review in this matter. We support this initiative as it will provide an integrated approach to the management of the coastal landscape.
- 5.228 Despite some of the comments above we note that the revision of the ONFLs has resulted in a number of areas of exotic forest and grazed farmland now being excluded.
- 5.229 Mr Williamson, who farms a property on Hokio Sand Road, appeared before us and sought that the Coastal ONFL boundary be redrawn to exclude a block of his land near Lake Okotere/Rotohana which has been grazed and cropped for a number of years. Mr Evans visited the site post hearing, reviewed the DoC information on the ecological values of the lake and wetlands provided by Mr Williamson and recommended revising the ONFL boundary.
- 5.230 We concur with the revised boundary which now essentially includes all of Lake Okotere/Rotohana and the associated wetlands, but excludes the bulk of the grazed land to the north. Although the lake, wetlands and paddocks have two owners, the land is farmed as one site. Following a site visit, it is our observation that the proposed boundary aligns with the current land management regime, and that fencing the ONFL boundary rather than the cadastral boundary would be an appropriate and sustainable response to the landscape character of the site.
- 5.231 Representatives of the Levin Waitarere Surf Lifesaving Club spoke to their submission. They wish to build new Surf Lifesaving clubrooms on the dunes just above the high tide water mark, approximately 100m west of the existing building which no longer meets their needs due to the continue accretion of the dunes. Both the existing and the proposed building would be located in the Coastal ONFL. The representatives emphasised the problems associated with the location of the existing building so far back from the foreshore and the difficulties this created in terms of their club activities and surf patrol function.
- 5.232 The proposed rules would make any new building activity a non-complying activity and would mean the consent threshold would be high; it could well go through a notified process, with associated costs.
- 5.233 There followed some debate regarding the status of land and its zoning. Later in the hearing Mr Blackwood of Horizons told us that the Surf Club building was located in the Coastal Hazard zone defined in the One Plan. It was his opinion that there would be restrictions on future building in this zone anywhere along the coast and that no new buildings would to be permitted in an identified hazard zone.
- 5.234 While we agree that surf lifesaving is an essential service, our scope as Commissioners is limited, particularly because the club is a further submitter and is able only to support or oppose other submissions. The submissions they have supported were by Mighty

River Power relating to policies, and HDC relating to an exemption for temporary structures and playground and recreation equipment on Council reserves. None of these would really enable the relief sought by the Surf Club.

- 5.235 We suggest that the Club get involved in the wider District Plan Review and the Long Term Council Community Plan but that in the end Regional Council requirements may override any District Plan rules for the coastal foredune and ONFL area. There perhaps may be some resolution such as leaving the existing buildings and developing a single lookout point further towards the shoreline. Notwithstanding this we are unable to provide any relief for the Surf Club and we would encourage the parties to look for alternative solutions.
- 5.236 Finally Mr Bagrie sought to ensure that the new provisions did not prevent opportunities for facilitating sustainable public access to, and enhancement of, the coastal dune lakes. We do not consider this to be the case and have accepted the submission.
- 5.237 We therefore resolve that submissions 067B and 103A be accepted, submissions 034A and 045B be accepted in part and submission 045C be rejected.

#### **Manawatu Estuary ONFL**

- 5.238 The Foxton Community Board and HDC submitted that Foxton Beach Motor Camp boundaries and surrounds be excluded from the Manawatu River Estuary ONFL due to the highly modified nature of the land, which has a high degree of public access and is maintained to some degree by Council.
- 5.239 We visited the site and examined the various boundaries including the RAMSAR Wetland of International Importance boundary, the Manawatu River ONFL boundary, the draft Coastal Environment Natural Character boundary and the revised ONFL boundary proposed by HDC. We consider firstly that using the road cadastral boundary is a good basis for the boundary to the east as it provides integrity to the line on the ground. Secondly, whilst we agree that the Motor Camp should be excluded from the ONFL, we have concern with any extension of the camp into the estuary and RAMSAR site and suggest that in order to maintain the integrity of the estuary landscape the revised ONFL boundary align with the boundary of the managed grounds.
- 5.240 Regarding the issue of the Manawatu Marine Boating Club and car parking area in the ONFL raised in HDC's submission, we suggest that the club falls within the same context as the Waiterere Surf Lifesaving Club and should be treated in a similar manner by remaining within the ONFL area.
- 5.241 As we have already said we see no basis for treating Council's infrastructure sites any differently to other sites or facilities. ONFLs were identified through a 'weighting' process and the consideration as to whether the combined landscape values reached the threshold 'outstanding' when compared to other landscapes being considered. The landscape experts were in agreement that the management of activities and land use within identified ONFLs should not be fragmented and should be practiced to best fit with ONFL requirements.
- 5.242 We resolve that submissions 012A and 076H be accepted in part.

#### **Moutere Hill/Lake Horowhenua/Hokio Stream ONFL**

- 5.243 Mr Thomas directed our attention to advice from HDC's lawyers regarding jurisdictional matters associated with this ONFL. We were advised that in relation to the combined

Lake Horowhenua and Moutere Hill ONFL, there is no scope within the submissions to add additional land to the ONFL thus connecting the two.

- 5.244 We visited this area and viewed the surrounds and are of the opinion that even if the area was not included in the ONFL, the high standard of management of the land and existing native vegetation will ensure the on-going protection of its landscape values.
- 5.245 Lakeview Farm Ltd, Everton Farm Ltd, Ohuangi Farm Ltd and Lakeview Holdings Ltd submitted that Moutere Hill be deleted as an ONF. At the hearing, Mr Peter Everton advised the Panel that "*he was looking after the land better than any Council rules would enforce*" and expressed his dislike for further rules that undermined farmers' property rights.
- 5.246 We understand the submitters' point of view and acknowledge their passion for the landscape and stewardship of the land. However Moutere Hill has long been recognised as a biophysically unique landmark and is an ONF in the Operative Plan. We note that it is already subject to regulatory controls under the Operative Plan, although we accept that those proposed in PC 22 are of a higher threshold.
- 5.247 We therefore recommend that the submission 067E be rejected. (Note: see discussion on Hokio Stream below).

#### **Lake Papaitonga/ Waiwiri Stream ONFL**

- 5.248 At the hearing Mr Ericksen from the DoC requested that the two parcels of land to be vested as scenic reserve as part of the Prestons Farm subdivision should be included in the Lake Papaitonga ONFL. He subsequently advised that the scenic reserve land would "ecologically restored".
- 5.249 We asked that this land be further assessed to determine whether its intrinsic landscape values warranted inclusion as part of the ONFL. The expert opinion from Mr Evans was that only one of the parcels of scenic reserve land warranted inclusion and that the balance of the area vested as scenic reserve should be excluded from the ONFL. We accept this assessment and conclude therefore that the submission by DoC be accepted in part.
- 5.250 Mr Murray requested that the Hokio and Waiwiri Streams be removed from the two ONFLs. He was concerned that the definition of the ONFL boundary being 20m from the each bank of the stream was too great. He stated in respect of the Hokio Stream that "*Hokio Beach residents will find themselves with restrictions in their backyards as the stream passes by their boundaries.*" He called for a full review of all rivers and streams as part of the wider Plan Review process.
- 5.251 HDC on the other had sought for the Waiwiri Stream to be protected through the plan change and along with Mr Tonks sought that the margin to apply to rivers and streams be amended from 50m to 20m.
- 5.252 In considering these matters we first noted that the review had resulted in just these two streams being considered ONFLs. We also note that rules in the Operative Plan have a building setback of 15m from any stream or river edge and find the proposed 20m stream boundary definition in line with the riparian margin as defined in Chapter 4 of the Plan. We were informed that this will link to future reviews of the esplanade values and management of those streams.
- 5.253 With regard to the issue of residential properties, Mr Thomas clarified that there was one location (also referred to by Mr McCorkindale) where a 20m margin would extend

into the Residential 2 zone at Hokio Beach township although esplanade reserves have been established at part of this interface. As the rules associated with ONFLs are largely associated with the rural zone any effect on the residential zone would be limited to network utilities within a very small area. We see limited value in trying to eliminate this situation and would note that any consent application is very likely to be able show exceptional circumstances exist.

- 5.254 We therefore resolve that submissions 041A and 076J be accepted, submissions 064R and 076I be accepted in part.

#### **Foxton Dunefield ONFL**

- 5.255 We found status of the Foxton Dunefields to be a complex issue. Under the Operative District Plan, the dunefields fall within the Foxton Ecological area and are an ONF. The original PC 22 proposed that the Foxton Dunefields domain, which covers the same area, be an ONFL. The subsequent ONFL review did not consider that the landscape values of the area as a whole met the threshold to consider the entire area an outstanding natural landscape, noting that much of the domain is substantially modified. Submissions were received opposing and supporting both options.
- 5.256 DoC submitted that the Council has responsibility to preserve the natural character of the inland dunes under the NZCPS because they are part of the coastal environment and that in any case they are an ONFL. Mr Ericksen states that "*Dr Shepherd will show that the inland dunes are significant and it therefore follows that the dunes are an outstanding natural landscape / feature.*" We do not agree with this. In our opinion a much higher level than "significant" is required for an ONFL and on the basis of the evidence before us we were not convinced that the dunefields met the overall criteria for an ONFL, particularly with regard to natural character.
- 5.257 DoC further argued that "*whether or not the Foxton Dunefield is considered to be an ONFL, it is certainly a nationally significant geological landscape and has significant values that need protection*". They requested that the dunefields be recognized in the District Plan as a nationally significant geological landform which merits preservation; and that objectives, policies and rules be included to reflect this.
- 5.258 Dr Shephard sought to demonstrate the outstanding qualities of the dune landscape but acknowledged that no research investigations have been carried out on the dunefields of the Horowhenua District. His justification appeared to rely on the "*exceptional qualities of the landforms*" rather than any overall landscape evaluation.
- 5.259 At the hearing Mr Ericksen detailed amendments to the rules the department considered necessary to achieve the revised policy. DoC's submissions on these matters are covered in later in this decision under the section 'Proposed New Rules'.
- 5.260 Mr Te Kenehi Teira for NZHPT spoke of the rich cultural and heritage values of the dunefields, describing their importance to Raukawa and other iwi.
- 5.261 It is our general observation that most submitters, whether supporting or opposing the original PC 22 evaluation of Foxton Dunefields as an ONF, acknowledged that the larger dunes, or sandridges as they are known locally, are special and require some degree of protection, although many were reluctant to commit themselves to a definition of a 'large' dune.

- 5.262 Mr Barber told us that a sensible approach would be to remove blanket protection and identify specific hills or sequences and consult with the landowner how best to protect them.
- 5.263 Mr Dave Evans believed the vast number of small hills hold no significance and therefore should not come under the proposed changes but identified a one hundred foot high sand hill on his home farm that he says "*holds some significance within the community.*"
- 5.264 Mr Huzziff suggested that Council could come up with a proposal such as a viewing platform on one of the major dunes that would enhance the district while allowing productive development. He said "*could Horowhenua create a similar viewing platform on one of its major sand dunes? The vistas could encompass the sandhills and the sea, the Manawatu River, the urban centers of Foxton and Foxton Beach and the farmlands and forestry which have developed over the last hundred and 170 years.*".
- 5.265 Mrs Huzziff went further, suggesting that "*the council would be better employed in supporting those with major dunes on their property. I know landowners would appreciate any help they can get in keeping their land clear of introduced weeds such as gorse, boxthorn and lupins. This is a time to work together to increase the profitability on which the viability of local communities depend.*".
- 5.266 Dr Hilton, a geomorphologist giving evidence for FRP, urged Council "*to be proactive in identifying exceptional examples of all the Manawatu dune phases.*" He suggested that experts could identify such examples of dune forms present and what could be done in terms of areas that were really non-negotiable. Council could look at a lower level of protection for the wider landscape.
- 5.267 We found it interesting to note that visually the significance of the dune formations is directly linked to their land use. In other words those dunes which are of some prominence are essentially in pasture even if of low grazing value, while forestry for example essentially erases views of the dune formations and their visual significances is lost. There is some irony in the fact that the very land use that may threaten the dunes is also the one that provides them with their prominence. It is with these factors in mind that we discuss our conclusions on this issue.
- 5.268 In considering this matter we firstly agree that this landscape is valuable, and does need protection and that further investigation of the dunes is necessary to fully determine this issue. Geomorphological and heritage experts agreed that due to the size and complexity of the dunefields, this could be a significant piece of work as almost no research investigations have been carried out into the dunefields of the Horowhenua district. We concur with the submission from HDC that further analysis of the Foxton Dunefields may be necessary to determine what level of protection is most appropriate for this landscape and how this should be achieved.
- 5.269 We have resolved that Foxton Dunefields should be removed from the PC 22 ONFLs but that a further study of the dunefields be undertaken to define the most important dune or dune features and prepare a strategy for their management and protection. Furthermore it is our strong recommendation that landowners should be consulted as part of that assessment in order to determine appropriate protection methods.
- 5.270 Mr Thomas suggested that there was potential for a non-rule based approach to ensuring the protection of the more significant dunes. This might be by individual landowner negotiation and establishment of a covenant. However this will require

investigation as to which dunes require protection. In the meantime, it is our opinion that some form of rule or standard in relation to earthworks in this area is necessary and appropriate. For the purpose of clarity we discuss this in detail in the Earthworks section, in conjunction with earthworks rules in other coastal domains.

- 5.271 We agree with Mr Thomas however that the landscape values of this domain are based largely around the dunes, and rules or standards need not extend to dwellings or other buildings, or network utilities.
- 5.272 We therefore resolve that submissions be accepted, submissions 020A, 024A, 058I and 072C be accepted in part, and submissions 045A, 064D, 064Q, 076E, 085A and 095B be rejected.

### **Landscape Domains with High Landscape Amenity (DHIA)**

#### **Coastal Environment and the Coastal Lakes landscape domains**

- 5.273 We have examined the information put before us and visited the Coastal Environment and Coastal Lakes landscape domains. We conclude that the domains as a whole do not meet the threshold of ONFL although, as acknowledged in the ONFL review, the dune lakes, wetlands and their margins have uniqueness and high natural values.
- 5.274 It is our opinion that the landscape requires a more detailed analysis to evaluate its attributes/features/systems and assess how best to manage them. For example, within the Coastal Lakes domain, Poroutawhao to the east of SH1 and the landscape around the intersection of Waiterere Beach Road and SH1 would not seem to warrant HAL protection. Both areas are highly modified farmland without dune features or significant remnant wetlands.
- 5.275 Notwithstanding this we do not have enough information to redefine the domain boundaries or distinguish a particular area as not warranting high amenity status. We therefore agree with the recommendation in the Boffa Miskell ONFL report that a Coastal Management Strategy is required to identify natural values, biodiversity and habitats and ensure that they are retained and enhanced. This may well need to be extended to incorporate the Foxton Dunefields and the Coastal Lakes landscape domains.
- 5.276 In the interim there is a need to manage the remnant dune systems and lake environments. It is our opinion that a regime of rules dealing with earthworks and buildings along the lines proposed by Mr Thomas would best manage landscape values and protect significant features such as dunes (this is covered in further detail below). We accept that there are costs involved in such a regime, particularly associated with obtaining consents however we consider establishing threshold for earthworks and buildings which associated criteria is necessary to maintain the values and character of these environments. We also note that the thresholds established and exemptions provided for should mean that in particular day to day farming practices are not affected and that it is only where development or activity is of a more significant scale that consents will be required.
- 5.277 There remains the matter of the FRP site near Foxton Beach. FRP has appeals on PC 20 and PC 21 seeking a specific development regime for their site including rezoning part of the land Greenfield Residential. The appeals remained unresolved at the time of the hearing and therefore have some bearing on their submission on PC 22. Should the

appeals be successful, we understand the rezoned FRP site would be unaffected by PC 22 Coastal Environment provisions.

- 5.278 In its original submission, FRP requested that land owned by FRP be excluded from the Coastal Environment High Amenity Landscape.
- 5.279 Dr Hilton, a geomorphologist giving evidence for FRP, informed us that the dunes within the FRP block are important as a record of past geomorphic processes but they are not "*scientifically notable or distinctive*" within the Manawatu dune field.
- 5.280 Mr Hudson, a landscape architect giving evidence for FRP, gave a detailed presentation on the FRP site with respect to the operative District Plan and the changing status of the site under each proposed plan change. He argued that "*The scale of assessment involved in defining the Domains must, by its very nature, be far more general than that involved in assessing individual sites.*"
- 5.281 We were told by Mr Hudson that the FRP site has had extensive investigation undertaken in terms of landscape and coastal issues and "*it would appear that a site specific assessment would not find this site to be High Amenity.*" It is his view that specific recognition in the form of a Design Guide would lead to a better development outcome on the site and he presented a Design Guide for the FRP site.
- 5.282 We are familiar with the prolonged and somewhat convoluted process of landscape assessment and evaluation in the process of this and previous plan changes. Indeed, Mr Maassen, counsel for FRP describes "*a bewildering array of plan changes to the operative District Plan, all of which are interlinked but none of which are integrated into a single plan change.*"
- 5.283 Despite this we find no reason to assume that the FRP site should be treated differently from other forested sites or other sites in the Coastal Environment DHLA, and no site specific landscape assessment has been presented to the contrary. While we accept the intent and value of the FRP Design Guide, we do not accept the relief sought by FRP in the form of either excluding the FRP site from the HAL classification or amending PC 22 to allow specific subdivision of the FRP site in line with the FRP Design Guide is appropriate to this plan change. If FRP are successful in their appeal their site will sit outside the rural environment and not be subject to the DHLA provisions. Should the appeal not be successful then we can see no reason or evidence as to why the DHLA provisions should not apply to this site.
- 5.284 We therefore resolve that submissions 046C, 049D, 055A, 067F and 071A be rejected.

#### **Manakau Downlands landscape domain**

- 5.285 Manakau Downlands is scheduled as an ONF in the operative District Plan under Schedule 4, for its 'historic and identity' values. Although the Manakau Downlands domain mapped in PC 22 is much reduced in size, Manakau township remains the focus of the domain.
- 5.286 Taumanuka Studio's report 'Identification of High Amenity Landscapes' describes the Manakau Downlands as having high natural and cultural values arising from its sheltered environment, historic settlement patterns, varied topography and lush vegetation.
- 5.287 One submitter sought the removal of the area north of Mokena Kohere Street from the Manakau Downlands High Amenity Landscape on the basis its inclusion would restrict farming activities such as earthworks. We do not consider that the rules proposed

overly restrict farming activities and noted that there have been additional modifications proposed since this submission was lodged. We therefore see no reason to exclude this area from the DHLA.

- 5.288 We therefore resolve that the Manakau Downlands domain is retained as a DHLA and that submissions 080A and 102A be rejected.

#### **Hill Country landscape domain**

- 5.289 A number of submitters sought that changes be made to the domain boundary, that productive farmland be removed from the high amenity landscape classification or that the classification be removed in its entirety.
- 5.290 Bruce and Christine Mitchell, Tararua foothill farmers, told us that the lower west boundary of the Hill Country domain is too low and needs adjusting. They noted "*productive flat land often lies above this 100m contour line*".
- 5.291 Mr Meyer, in a submission for HDC, requested that clarification is provided that the 100m contour is arbitrary and that the actual lines on planning maps are the actual boundaries, subject to amendments as proposed and should not be limited to the 100m contour. He also sought a change to the boundary of the domain to follow the eastern side of the Gladstone Road.
- 5.292 Mr Thomas told us that the lower boundary for the Hill Country domain was established in the 2008 Treadwell landscape assessment, and that the domain contains all land above the 100m contour line where the gradient of the hills becomes noticeably steeper.
- 5.293 It is our opinion that the 100m contour boundary needs to be reviewed as part of the wider District Plan review. Mr McCorkindale spoke to this issue in his evidence and said the 100m boundary would be reviewed in the wider District Plan review. We suggest that slope rather than elevation may provide a clearer definition for this boundary so that it is described as the point where the land steepens significantly at say a gradient of 20 degrees and where effects in terms of visibility of earthworks or erosion become more pronounced. On this basis submissions which sought the revision of the 100m contour have been accepted in part.
- 5.294 We did not consider it was appropriate to remove 'productive farmland' from the DHLA. The foothills which sit in front of the Tararua Ranges are a critical part of the amenity of this highly visible the area. Much of that area is productive farmland and any significant modification would be highly noticeable. Removing productive farmland would mean that such modifications could occur without appropriate scrutiny and we were shown clear examples of this occurring. We make the point here that it is not the intention to restrict small scale modifications. We address this in more detail in terms of rules later in the decision.
- 5.295 We further did not consider that removing areas that were 'out of sight' was appropriate as visibility is just one of the criteria used for determining high amenity landscapes. We also noted that determining what was 'out of sight' could be a very subjective exercise.
- 5.296 As a result submissions 047B, 104C and 104E are accepted in part and submissions 029, 051B, 052B, 053A, 066E, 083A, 084A, 095A, 100A, 105C, 106C, and 118A are rejected.



### Earthworks Rules

- 5.297 Existing rule 19.9.3 in the operative District Plan makes earthworks a non complying activity in ONFLs. This rule extends over large areas of the district including Foxton Ecological Area, the Coastal Buffer area, the Coastal Environment and Manakau Downlands as well as Tararua Forest Park.
- 5.298 PC 22, in rule 19.5 (c) as notified, proposed earthworks as a Limited Discretionary activity in HALs, and proposed rule 19.2.28 was targeted specifically at dunes in Foxton Dunefields and made earthworks on a dune a non-complying activity. Earthworks not on a dune in Foxton Dunefields became a restricted discretionary activity.
- 5.299 The purpose of the earthworks rules was to address potential threats to landscape amenity values through landform modification and the visual impacts of earthworks. This visual impact may arise from visible scars to the landscape which may heal over time particularly with appropriate landscape treatment. Structures such as retaining walls will not soften but may be able to be screened with vegetation. The visual impact will depend on visibility both to other parties and the public in general.
- 5.300 In the ONFLs earthworks are restricted to maintain the integrity of the ONFL, while in the high amenity domains the focus is on appropriate design rather than restriction. Large scale earthworks should they be inappropriately conceived can nevertheless be rejected in the high amenity areas through the consent process or significantly modified so that the effects are mitigated. Mr Thomas did not consider that a separate rule regime is necessary in terms of section 32 for some larger scale of earthworks that might arise in these domains, but it was his opinion that the performance of this regime should be carefully monitored.
- 5.301 Submissions on the matter of earthworks were particularly strong. It was also made evident over the course of the hearing that many landowners had been unaware of the existing District Plan constraints or that they were regarded as 'benign' rules, existing on paper but unlikely to be enforced or monitored. Given that the focus of the rules were on visual and landform effects, we acknowledge those submissions that seek that the scope of the rule exclude earthworks that are associated with creating a building site, the earthworks for which are not visible once the building is constructed.
- 5.302 One submitter, Mr Lavo, sought that a more restrictive regime, possibly involving non complying activities, be applied to "large scale earthworks", although 'large scale' was not defined. We do not consider the rules need to be made more restrictive and indeed we have chosen in some areas to make them less restrictive than originally notified on the basis that this would better provide for the economic wellbeing of in particular the farming community without creating adverse effects. Therefore we resolve that submission 013C be rejected.

### Duplication of Consents

- 5.303 Submitters including a number of those who appeared before us were concerned that PC 22 would require them to gain additional consents for earthworks, effectively duplicating the One Plan requirements and creating additional costs and paperwork. We note however that Regional Councils and District Councils have different functions. The Regional Council has legal responsibility and is required to manage soil conservation which is a different function to the responsibilities of the District Council.
- 5.304 We noted the submission from Horizons seeking that the two Councils work together to create a situation whereby only one consent was necessary. While this is laudable we

received no further evidence at the hearing as to how it might be achieved other than Ms Tucker referring to it being disappointing that it had not occurred and acknowledging that the rules in the One Plan would not provide protection in relation to the identified landscapes. This in our view is really the crux of the matter as the Regional Council rules are not designed to address landscape amenity and we have doubts as to whether such is achievable under the current legislative environment. For this reason we have not taken this any further.

- 5.305 While controls on land disturbance and vegetation clearance in the One Plan may have landscape benefits they have been set to relate specifically to the slope of the land and subsequent effects of erosion and sedimentation. While there may be some overlap this is a different issue to landscape and landform effects.
- 5.306 We sympathise with landowners who struggle to appreciate the finer points of the different roles of the two levels of plan regulation. However, that remains the legislative position and reliance on the soil conservation rules of the Regional Council will not in our opinion be an effective means of achieving the objectives and policies of the District Plan and PC 22 in particular.
- 5.307 For the reasons stated above we resolve that submissions 038A, 046A, 048C, 049C, 051C, 053F, 065C, 066F, 090C, 095D, 106D and 109C be rejected.

Exemptions from the definition of earthworks

- 5.308 Some submissions sought exemptions from the definition of earthworks. Waitarere Progressive Ratepayers Association was concerned that the ONFL status would affect HDC's ability to manage dune drift and maintain stormwater outlets along Waitarere beach.
- 5.309 HDC sought for an exemption for earthworks in relation to existing roads and reserves, along with an extensive new definition of earthworks.
- 5.310 Mr McCorkindale said that the impact of earthworks associated with roading and a vested road warranted a different level of consideration to the other forms of earthworks that the plan change clearly contemplates. He said that by limiting the exemption to areas of vested road it would provide a level of certainty over where these earthworks could occur.
- 5.311 In regard to dunes in front of beach settlements and dune management, Mr Meyer representing HDC told us that "*dune maintenance and reshaping requires consenting by the Regional Council and therefore should not be burdened with additional consenting which would add no further value to the amenity protection sought by this plan change.*" Both these submitters were supported in part by Foxton Community Board.
- 5.312 We also heard from the parties that there has been significant accretion of beach dunes in front of settlements such as Waitarere Beach. However in our opinion these dunes are an important component of the ONFL and their need for dune management and restoration does not lessen their status.
- 5.313 Horizons had sought that activities associated with the maintenance and upgrade of flood control be exempted from the rule. Ms Tucker said that the volumes and extent of earthworks provided for as permitted were potentially very small, while she was concerned about the potential for earthworks within the ONFL's associated with Hokio Stream and the mouth of the Manawatu River. She considered there had been

insufficient consideration given to the impact of the proposed rules on flood control, erosion control and drainage activities. She said that without recognition in the objectives and policies an application for such activities, particularly within an ONFL would have an extremely high threshold to overcome.

- 5.314 Mr Thomas had said that soil conservation, flood protection and erosion protection works are expressly a permitted activity in the rural zone but they would still be subject to the earthworks limits proposed in the landscape domains and ONFLs.
- 5.315 We have considered this matter closely. We firstly note that Horizons did not seek the inclusion of a new policy as now promoted by Ms Tucker and therefore while we see some merit in a policy which covers emergency, protection style works we are unable to provide for it. In terms of the exemption sought we do not consider that there are any reasons for Horizons in particular to be exempt from applying for consent. However we note that in our decision on earthworks referred to below the volume levels have been removed and the cut levels increased from that originally proposed in the s42A report which will go some way towards satisfying the concerns raised by Ms Tucker on behalf of Horizons.
- 5.316 HDC and Horizons submitted that the definition of earthworks should be amended to ensure that it did not create additional consents and burden by capturing a range of everyday activities and farming activities. They were supported by Horticulture NZ who agreed but who sought that the definition of earthworks be clarified through an explanation attached to the earthworks rules.
- 5.317 Mr Thomas informed us that activities such as digging post holes, cultivation of crops, planting trees, burials, drilling bores and installation of services do not in most cases reshape or recontour the land and therefore are not captured by the existing definition. He said that the digging of an offal pit will more likely result in a temporary change in the contour of land but would still fit within the permitted activity condition. He also said that any exemptions could not apply to the overall definition of earthworks as this would take its application beyond the scope of the plan change, however exceptions could be incorporated into the permitted activity condition.
- 5.318 He noted that the HDC submissions had sought exemptions for earthworks within road reserve, maintenance of accessways and tracks, temporary military training, underground services, flood protection works, clearance of slips, stock and pedestrian underpasses, maintenance of drains and earthworks consented by the Regional Council.
- 5.319 Given the permitted level of earthworks recommended, Mr Thomas did not consider that these exemptions were required for the following reasons:
- Maintenance of tracks and accessways and military training activities will be permitted up to the thresholds of works proposed.
  - Flood protection works and drains are subject to the jurisdiction of the Regional Council and not the District Council.
  - Clearance of slips is either a maintenance or emergency work and the clearance itself is not controlled but if transported to a fill area it may give rise to the need for a consent if it exceeds the thresholds and in my opinion this is appropriate.
  - The regional council's jurisdiction is to manage soils conservation and while there may be some overlap this is a different issue to landscape and landform effects.

- 5.320 Notwithstanding the above, Mr Thomas in his written response to us acknowledged the potential area of direct duplication with the One Plan coastal foredune regime in terms of earthworks which requires a consent for any form of land disturbance within this area. He advised that the coastal foredune is defined as the strip of land between the coastal marine area and a line roughly parallel with the beach, extending 200m inland of the first line of vegetation. Having reviewed this definition alongside the Coastal ONFL he concluded that all of the Coastal ONFL is within this definition. Mr Thomas noted that while Horizons had said they held no consents for dune management, he had obtained a set of consents held by the District Council to realign Waitarere Beach Road and reshape sand dunes. Having reviewed the conditions attached to those consents he was satisfied that the scope of matters covered has regard to relevant ONFL matters. He therefore recommended that the Coastal ONFL be expressly exempt from the ONFL earthworks rule.
- 5.321 We have considered the case for exemptions and while we acknowledge the issues raised by submitters this is an area where we need to be certain that any exemptions are appropriate and warranted and are not simply unfairly favouring certain sectors.
- 5.322 We acknowledge the comments of Mr Thomas regarding activities which do not result in re-contouring and accept his interpretation on this. Nevertheless there will be those who seek greater certainty in this regard and Council may want to give some thought to the extent of the earthworks definition for this reason as part of a District Plan review. We note that we consider it is beyond our scope in terms of this Plan Change to amend this definition and we record that we did not consider a definition of large-scale earthworks to be necessary.
- 5.323 However we agree with Horticulture NZ that in the meantime a clarification of the activities not regarded as earthworks would be useful. We consider that adding a note to the end of rule 19.2.28 would best resolve this matter. The note adopted is as follows:
- Note: The term earthworks does not include activities such as digging post holes, cultivation of crops, planting trees, burials, drilling bores, digging offal pits and installation of services where these activities do not reshape or recontour the land.*
- 5.324 We consider that the permitted level of earthworks in the high amenity areas (dealt with in more detail below), is sufficient to cater for many of the circumstances raised in the HDC submission. As discussed in our comments on Horizons, where the permitted levels are unable to be met we do not consider there are any reasons why HDC activities in particular should be exempt from applying for consent. The focus here is on appropriate design and mitigation rather than restriction.
- 5.325 In terms of the dune maintenance issue in the Coastal ONFL we accept the information provided to us that HDC holds consents from Horizons to deal with this matter and that those consents are subject to conditions. On this basis we accept that earthworks within the Coastal ONFL should not require consent and that a note be added to rule 19.9.3 as follows:
- Any building or network utility with a height of more than 7 metres, or earthworks on any land shown or specified as an Outstanding Natural Feature and Landscape on Planning Maps 32 and 33, except for earthworks on land that is within the Coastal Environment Outstanding Natural Feature and Landscape.*

5.326 We therefore resolve that submission 082A be accepted, and submissions 076B, 104A, 109B and 109D be accepted in part.

#### Gravel Extraction

5.327 Submissions were received regarding the matter of gravel extraction from the district's rivers and streams being incorporated in to the earthworks provisions. John Bryant on behalf Higgins told us that the Horowhenua district has significant river based aggregate resources, which are an important and valuable resource to the district. John Catley submitted that consents are already required and issued by Horizons for gravel and silt removal to mitigate flooding damage of properties, infrastructure and safety along rivers.

5.328 Mr Thomas commented in relation to these submissions as follows:

- The Regional Council has legal responsibility for soil conservation which is a different function to the responsibilities of the District Council.
- The Plan Change does not affect any existing resource consents that have legal effect.
- It is proposed that rivers and streams be deleted from the Plan Change and will be addressed further in the Plan Review.

5.329 Hywel Edwards for Higgins provided some proposed wording to clarify in the District Plan that earthworks within the bed of a river were not within the scope of the Plan. He proposed that this be inserted into the definition of earthworks.

5.330 Mr Thomas preferred that the wording be inserted as a note at the end of the permitted activity Earthworks Standard rule 19.2.28 and be amended for clarification.

5.331 We therefore concur with Mr Thomas's view and consider that adding a note to the end of rule 19.2.28 would best resolve this matter. The note is as follows:

*Note: The term earthworks does not include gravel extraction and other works within the bed of a waterbody. This is managed by the Regional Council.*

5.332 We resolve that submission 016A be accepted in part.

#### Forestry

5.333 We have considered the forestry issue in some detail previously in this decision in relation to the proposed Forestry NES and signaled our intent. We note that as an activity forestry occurs across the district from coastal to hill country domains.

5.334 Concerns were raised by many submitters that PC 22 would require them to replant with native species only, or would not allow them to harvest existing plantations.

5.335 We agree with Mr Porteous that there is no intention to prevent coastal forestry blocks from being replanted in exotic species, and similarly with Ernslaw One Ltd and Rayonier NZ Ltd that the coastal forestry blocks have performed an important sand stabilisation role. For clarity the proposed rules do not intend to restrict harvesting of forestry or replanting unless it involves earthworks, and even then the rules we now propose are limited in their application.

5.336 We note that the focus of this plan change is on landscape and visual effects, rather than just erosion and sediment control. On the issue of forestry harvesting, where this is on steeper country a degree of earthworks is inherent in the harvesting process. The One Plan requires that erosion and sediment control measures are imposed and that

replanting is affected. Forestry is a productive component of our rural environment but does have effects on how the landscape is perceived. This evolves as the trees mature and then a dramatic change occurs with harvesting which softens gradually after replanting. Forestry is a cyclical process and significant earthworks are necessary for harvesting. It has been emphasized that the visual effects are short-term, and the District Plan Rule 19.2.18 Forestry and Timber Harvesting requires managed revegetation as soon as is practicable after harvesting has occurred.

- 5.337 As previously referred to, Mr Weir and others had raised the issue of the proposed Forestry NES and had sought a more liberal regime for forestry harvesting. While we generally accept that in the situation before us exemptions from the earthworks provisions are appropriate, we consider there are some circumstances where at least in the interim a consent regime is still necessary. In our view it remains important in dune areas to avoid the destruction of significant dunes where forest is planted. Further, in the hill country along ridgelines, substantial earthworks at harvesting will add further to landscape effects during that period.
- 5.338 We therefore have resolved that the earthwork provisions in 19.2.28 will not apply to production forestry harvesting where it occurs 30m below a ridge, as proposed by a HDC submission (104A), or on a dune of 10m in height or lower. As stated this should be regarded as an interim measure and changes can be made as part of the wider Plan Review process when there is likely to be greater certainty about the NES. As a part of this rule we have included a definition of 'ridge'.
- 5.339 We resolve that submissions 038C, 048A, 049F, 053H, 065G, 066I, 074B, 095C, 105G, 106E and 118B be accepted and submission 051F be accepted in part.

#### **Earthworks in DHLA**

- 5.340 In terms of the earthworks rules, both Federated Farmers and Horticulture NZ sought to delete the rules as they consider them to be too restrictive. There was a general expression from farmers, as typified by Te Ngaio Trust, that no restrictions be placed on stakeholders that may impinge on accepted farming environmental best practices and animal husbandry. DoC on other hand requested that the rules be retained as proposed.
- 5.341 Submissions from individual landowners focussed on issues specific to the location of their property and we have arranged the discussion accordingly. Submitter concerns in coastal domains are based on dunes and dune management. In contrast, submitters in the inland hill domains were more concerned with the impact on their farming practices with regard to fencing and requirements for tracks and track maintenance.

#### **Coastal landscape domains: Foxton Dunefields, Coastal Environment and Coastal Lakes**

- 5.342 Submitters communicated their concerns about the impact of PC 22 on their farming practices. Koputara Farms Ltd submitted that PC 22 should be redrafted "*to recognise that working farms should not be subject to trivial resource applications for micro or reasonable earthworks activity.*"
- 5.343 Mr Crombie requested that "*Dunefields be left to the owners of the land to look after. They know how the weather affects the dunefields, as they have been looking after them for years and know when remedial work is required.*"

- 5.344 In terms of the Foxton Dunefields Mr Thomas noted that while the landscape values of as a whole did not meet the threshold to consider the entire area as an outstanding natural landscape, the dune land formations were vulnerable to modification from rural production improvements and other forms of development. He suggested that until a full assessment of the dunefields had been made to identify the most significant dune forms, some form of rule or standard in relation to earthworks in this domain was appropriate. This would enable the recontouring of land through modification of smaller dune undulations but prevent damage to larger dune formations.
- 5.345 Having reviewed submissions, Mr Thomas recommended in the s42A report that rule 19.2.28 for Foxton Dunefields and rule 19.5 (c) for the domains identified as having high landscape amenity be deleted, and replaced with a new rule 19.2.28 which set out a permitted activity condition for earthworks within a 12 month period, with volume, height and length specific to each landscape domain.
- 5.346 There was general disquiet from submitters at the hearing with the specificity of the proposed new rule suggested by Mr Thomas. DoC gave evidence that *"The cumulative effect of annual reductions in dune height is such that a narrow dune ridge 5m in height, which may be prominent in the local landscape, could legally be removed along 50m of its length in little more than a decade. This could occur in multiple locations throughout the dune field and I consider that it would be impossible to monitor compliance with the rules unless each excavation in the area is surveyed annually."*
- 5.347 In contrast Tom Bennion, Counsel for a group of farmers from the Foxton Dunefield domain provided a wider view from a farming perspective, noting *"On the one hand the dunes are said to be valued because of their shifting nature, they also 'paradoxically' have value because they are fixed by farming practices. They are threatened by farming practices that fix them (stabilisation), but also by activities that might 'unfix' them."*
- 5.348 Colin Easton told us that the restriction on the volume of earthworks was impractical, as it meant that a specific job such as the recontouring of an area of land or putting a culvert through a dune in order to drain a land-locked paddock could not be completed immediately and would have to be done on a year by year basis.
- 5.349 Richard Barber described the restriction in terms of volume of earthworks as unreasonable. He said that *"In the scheme of every day working life on a farm, 150m<sup>3</sup> is insignificant and far too limiting."* He noted that his land is currently in farmland and has been since early European settlement. *"We are not clearing native bush, we are not damaging wetlands, and if we were we would need to seek consent from the Regional council. Most of this land has been drained and developed for over 150 years. Nothing new is happening here, except that we are further developing existing pasture, and trying to utilise the resources that we have better."*
- 5.350 Malcolm Huzziff told us *"a volume of 150m<sup>3</sup> is unbelievable. You would just about move that amount digging a garden."* Applying the proposed rule to a project such as upgrading a farm track, which would require moving sand from a small knob to build up the race and construct a shallow drain would require a resource consent and could be subject to notification. He was concerned that the consent would cost in terms of preparation time and application fees, when this sort of project needed to be completed quickly to ensure animal health and the smooth running of the farm.

Inland Hill landscape domains: Manakau Downlands

- 5.351 The supplementary paper 'Identification of High Amenity Landscapes' by Taumanuka Studio identified what are considered to be the "vulnerabilities" of each of the landscape domains. In terms of the Hill Country and Manakau Downlands this was considered to be associated with their visibility.
- 5.352 We agree that the Hill Country has high natural factors and aesthetic values as well as elevated visibility. However it is our interpretation of the report that Manakau Downlands vulnerabilities focused on the high level of rural character and aesthetic values. The report notes that *"its enclosed nature prevents any expansive views" and "once within the domain it becomes apparent that the traditional models of settlement, influenced by both the topography and early planning, have endured."*
- 5.353 Transpower submitted *"it is not the ONL and HAL per se that need to be protected from adverse effects, but rather the values of those areas."* Given that that the focus of the rule is on visual and landform effects, we note that that the Manakau Downlands domain mapped in PC 22 is much reduced from the area defined as Manakau Downlands in the operative Plan. The domain is located largely on gently sloping land as the steeper hills to the east have been transferred into the Hill Country domain. Thus the most visually vulnerable area of the Manakau Downlands domain has been transferred into the Hill Country domain and that cultural values in the form of settlement patterns are effectively managed by PC 20.
- 5.354 It is our opinion that the integrity of the DHLA concept is weakened by including the Manakau Downlands domain in Rule 19.2.28 (the earthworks rule), given that earthworks controls do not specifically address effects on the identified landscape values of the domain.
- 5.355 We have therefore determined that the Manakau Downlands domain is excluded from Rule 19.2.28.

Inland Hill landscape domains: Hill Country

- 5.356 Submitters in the Hill Country domain were concerned with the impact of the proposed earthworks rules on their farming practices with regard to fencing and requirements for tracks and track maintenance.
- 5.357 Mr Kilsby-Halliday said that earthworks restrictions in the Hill Country should be removed from the plan change, and Ms Timms sought that consents should not be needed for minor earthworks involving tracks for farming.
- 5.358 At the hearing a number of submitters reacted to Mr Thomas's proposed amendments in the s42A report, proposed in rule 19.2.28 which allowed earthworks to a permitted specified extent as of right before going to a restricted discretionary activity.
- 5.359 Federated Farmers supported the intent of the changed Rule to more certain parameters and the ability for resource users to carry out some extent of earthworks as a permitted activity. They noted *"The intent of this rule will allow resource users to carry on with normal activities associated with farming up to a certain degree, and recognises that farming is an acceptable and established land use that contributes to the amenity of the landscape."*
- 5.360 However, they went on to say *"the recommended limits will not allow for a reasonable amount of earthworks to continue normal farming activities. By having such small earthworks limits, Rule 19.5(c) is not consistent with Policy 4.14C of PC 22 which directs*



*that regard shall be had for existing land uses within landscape areas to accommodate subdivision, use and development without adverse landscape effects."*

- 5.361 They also considered that the Rule was not clear whether the limits applied per property or per title, noting that many farms are made up of multiple units.
- 5.362 Farmers and landowners described the problems of fencing, tracking and track maintenance on steeper slopes. Rob and Heather Gaskin said that "*Subdivision by way of fencing is an important part of productive farming and in order to do this effectively the fenceline often requires bulldozing. To only be able to build a fenceline of 100m each year is highly impractical and uneconomical.*"
- 5.363 Bruce and Christine Mitchell submitted that "*the 100m continuous length and 500m<sup>3</sup> in volume are still too restrictive. 100m is almost nothing on hill country. If a farmer wishes to put in an access track or a bulldozed fence line, it is not practical or economic to do 100m one year and 100m the next.*" As one submitter said "*No-one puts in a track for fun*".

#### Overall

- 5.364 Mr Thomas told us that he had reflected on the evidence of submitters on the subject of earthworks and in particular the needs of day to day farm management and now considered his recommendations in the s42A report were too restrictive in terms of section 32. He noted that his s42A report proposal to enable a greater amount of earthworks on properties of greater than 20 hectares may not be robust
- 5.365 In terms of the consents required, he noted that any earthworks consents under what was proposed in the s42A report would be limited discretionary and not non complying as stated in the Federated Farmers evidence. Mr Thomas maintained that this class of consent is appropriate.
- 5.366 He therefore recommended that the rule thresholds for landscape domains be structured as follows:

#### Foxton Dunefields

Cut or fill of 3m vertically subject to:

The land being recontoured to remove any cut face

If the land is not to be recontoured the cut shall not exceed 2.5m for a distance of more than 20m in continuous length

The land is not a dune or part of a dune that is at any point greater than 15 m from toe to summit

The addition of a further method

To undertake an expert assessment of dune formations in the Foxton Dunefields domain to identify examples that justify protection.

To consult landowners as part of that assessment and determine appropriate protection methods.

#### Coastal Environment and Coastal Lakes

Cut or fill of 2.5m vertically and any cut exceeding 2.5m shall not exceed 3.5m for a distance of more than 50m in continuous length and shall be hydroseeded within 2 months of the work.

## Manuakau Downlands and Hill Country

Cut or fill of 2m vertically and any cut exceeding 2m shall not exceed 3m for a distance of more than 100m in continuous length and shall be hydroseeded within 2 months of the work.

- 5.367 Dealing with each of these in turn we noted that for the Foxton Dunefields and indeed dunes in general, while a number of farmer submitters stressed that the level of earthworks initially proposed was grossly insufficient to accommodate day to day farm management tasks, many thought there should be some limit on the level of earthworks that could be carried out as of right in order to ensure the most significant landforms were protected.
- 5.368 We accept for the most part that earthworks are unlikely to occur on larger dunes as part of general farming activity. However that is more a functional or practical limitation than a regard for the landform. We were told in one case that dune sand was used to supply material to a state highway upgrade south of Foxton, and have no doubt that larger dunes would be harvested were there an on-farm use or off-farm market for the sand.
- 5.369 A number of submitters sought to link any limit to the proposed area limit of 2500m<sup>2</sup> in the One Plan. In our view however, area is probably the least important parameter in terms of landform effects. Mr Barber recommended a 3.5m cut limit and 800m in length, while Mr Dave Evans proposed a 4m cut and area of 10 hectares.
- 5.370 We have listened to the submitters, travelled the length of the coastal domains and dunefields and visited a number of properties. It is our opinion that the landscape features that PC 22 is trying to manage, the dunes in this case, have similar key attributes. We did not see any evidence produced that dunes in Foxton Dunefields have different values from those in the Coastal Lakes or Coastal Environment domains. An analysis of the dune maps and site contours seems to indicate that the dunes in the Coastal Lakes domain are by and large taller than the Foxton dunes. Moutere Hill is the most prominent example.
- 5.371 Dr Michael Shepherd, giving evidence on behalf of DoC made no distinction between the coastal dune domains, stating "*the entire dune field has national significance not only because of its size and because it contains superb examples of a wide range of individual dune landforms*".
- 5.372 In the meantime we acknowledge that PC 22 proposes a reduction in control compared to the operative earthworks rules. We remain convinced that some regulatory regime is necessary to ensure the integrity of the significant dune formations is protected. We agree however with submitters that any rules must have regard to reasonable farm management requirements. We also note at this point that the definition of Earthworks means "*any re-shaping or re-contouring of the land and includes excavation and earth filling but excludes minor soil disturbance or filling of less than 1.0 metres depth or height*". In our view that definition excludes track maintenance, which some submitters were concerned about, provided it meets the threshold.
- 5.373 We consider that as a starting point there needs to be some consistency in the management of the dunes and that until a more detailed assessment of the dunes is made, a dune height of 10m seems to be a fair starting point for protection.

- 5.374 In terms of the inland domains, we have listened to the farming community who have outlined their farming practices and visited several hill country properties. There appeared to be an acceptance that some form of height restriction for earthworks was warranted in order to avoid landscape and visual effects but that the final rule should balance reasonable farm practice with landscape amenity.
- 5.375 It was Mr Thomas's opinion that the most important of the parameters is the cut height irrespective of whether it is associated with dune lands or the high amenity landscape domains. We agree. Length is more problematic in terms of interpretation and application and needs to relate to the domain land use and land form. The circumstances in the hill country differ significantly from the coastal areas and Foxton Dunelands. Reshaping of dune undulations for farm improvements changes the landform in a minor way but leaves no lasting visible impacts. However, exposed cut faces on a steep hill country slope take a long time to weather and will often have long lasting effects.
- 5.376 Finally we note that Mr McCorkindale had sought greater certainty be provided for the term 'building platform' so that earthworks were not justified on the basis of 'future' building platforms or allowed building platforms that were much larger than the footprint of the building to be constructed. We have looked at this matter in some detail and found it difficult to appropriately define the term 'building platform'.
- 5.377 As we have previously noted the focus of the rules should be on visual and landform effects and therefore earthworks that are associated with creating a building site and which are not visible once the building is constructed, should not require consent. This has effectively been achieved by removing the volume requirement from the rule. We understand the point Mr McCorkindale is making but nevertheless have chosen not to specifically exempt building platforms which do not achieve the vertical cuts thresholds. We note that there is no longer a threshold on volume for the reasons already outlined which will go some considerable way towards meeting the concerns expressed by submitters.
- 5.378 Taking these parameters into account we have therefore amended Rule 19.2.28 to read:

**19.2.28**

***Earthworks– Specific Landscape Domains***

*Earthworks on land that is not an Outstanding Natural Feature and Landscape, shall not exceed the following:*

*Coastal Environment and Coastal Lakes Landscape Domains*

*(a) 2.5m (cut or fill) measured vertically.*

*(b) Where earthworks exceed 2.5m (cut or fill) measured vertically, those earthworks shall not exceed 3.5m (cut or fill) measured vertically and shall not exceed a distance of 50m in continuous horizontal length.*

*Where the land is a dune, in meeting the requirements of (a) and (b) the dune shall have a vertical height at any point no greater than 10m from toe to summit.*

*All disturbed surfaces shall be revegetated through hydroseeding within 2 months of the completion of the earthworks.*

*Earthworks provisions shall not apply to production forestry harvesting on a dune 10m in height or lower.*

*Hill Country Landscape Domain*

(a) 2m (cut or fill) measured vertically.

(b) Where earthworks exceed 2m (cut or fill) measured vertically, those earthworks shall not exceed 3m (cut or fill) measured vertically and shall not exceed a distance of 100m in continuous horizontal length.

All exposed surfaces shall be revegetated through hydroseeding within 2 months of the completion of the earthworks.

Earthworks provisions shall not apply to production forestry harvesting where it occurs 30m vertically below a ridge. A ridge is defined as a continuous elevated landform that connects high points over a distance.

*Foxton Dunefields Landscape Domain*

(a) 3m (cut or fill) measured vertically provided that the dune or part of a dune is no greater than 10m from toe to summit.

All disturbed surfaces shall be revegetated through hydroseeding within 2 months of the completion of the earthworks.

Earthworks provisions shall not apply to production forestry harvesting on a dune 10m in height or lower.

Note 1: The term earthworks does not include activities such as digging post holes, cultivation of crops, planting trees, burials, drilling bores, digging of pits and installation of services where these activities do not reshape or recontour the land.

Note 2: The term earthworks does not include gravel extraction and other works within the bed of a waterbody. This is managed by the Regional Council.

- 5.379 As a result submissions 001B, 010A, 022A, 027J, 032F, 048B, 058K, 058L, 059L, 059O, 060B, 064K and 069B are accepted in part, and submissions 013B, 025F, 037C, 038B, 043F, 043G, 051D, 054G, 059N, 064I, 064L, 070A, 072A, 076N, 081A, 083C, 084C, 087H, 088F, 089A and 090A and are rejected.

**Earthworks in ONFLs**

- 5.380 PC22 proposed a new rule making earthworks in ONFLs a non-complying activity, but exempting earthworks in the Foxton Dunefields on land that was not a dune. We note that Rule 19.9.3 also included height thresholds for buildings and network utilities in ONFLs which are discussed in detail in the section on Structures: Buildings and Network Utilities.
- 5.381 In terms of submitters, Earnslaw sought that the rule be withdrawn and earthworks allowed as a permitted activity in line with the Horizons Regional Plan. Jaegar Farms was of the opinion that that the control that Council wants over these activities is excessive and unnecessary and would be detrimental to the economic practices in the ONFL areas. A number of submitters sought that the activity status of earthworks in ONFL be changed to discretionary.
- 5.382 First we note that that component of the new rule relating to the Foxton Dunefields can be deleted now that they longer have ONFL status, and the matter is cover in Rule 19.2.28 above.

- 5.383 We reiterate that Horizons rules have been set to manage the effects of erosion and sedimentation rather than the landscape and visual effects that are the focus of this plan change.
- 5.384 We note that the ONFL areas have been refined as a result of the peer review and include only small areas of production farmland. We are satisfied that now that the areas have been refined and the inclusion of earthworks as proposed is appropriate having regard to section 32.
- 5.385 Mr Meyer for HDC directed our attention to a potential area of direct duplication with the One Plan coastal foredune regime in terms of earthworks. Horizons require consent for any form of land disturbance within this area. The coastal foredune is defined as the strip of land between the coastal marine area and a line roughly parallel with the beach, extending 200 metres inland of the first line of vegetation. Having reviewed this definition alongside the Coastal ONFL, Mr Thomas informed us that all of the Coastal ONFL is within this definition.
- 5.386 Horizons reported in its supplementary evidence that it held no consents for dune management. However Mr Thomas obtained a set of consents held by the District Council to realign Waitarere Beach Road and reshape sand dunes. Having reviewed the conditions attached to the regional consent, he was satisfied that the scope of matters covered has regard to relevant ONFL matters.
- 5.387 We therefore agree that the Coastal ONFL be expressly exempt from the earthworks component of the ONFL rule and have amended the rule to read:

***19.9.3 Outstanding Natural Features and Landscapes***

*Any building or network utility with a height of more than 7 metres, or earthworks on any land shown or specified as an Outstanding Natural Feature and Landscape on Planning Maps 32 and 33, except for earthworks on land that is within the Coastal Outstanding Natural Feature and Landscape.*

- 5.388 We note that this rule is discussed again later in the decision with regards to buildings and network utilities.
- 5.389 As a result submissions 058M and 059P are accepted in part and submissions 050D and 054H are rejected.

**Structures: Buildings and Network Utilities**

- 5.390 This section of the decision covers primary production buildings, residential dwellings and network utility structures including masts, pylons and towers. It encompasses rules in Chapter 19 (Rural Zone) and Chapter 22 (Network Utilities). Due to the structure of PC 22, there may be some overlap between this section and the discussion on Network Utility Standards, as well as an overlap with the previous section on earthworks.

**Buildings in DHLA**

- 5.391 PC 22 introduced two restricted discretionary activity rules, Rule 19.5(b) for buildings (excluding primary production buildings) in domains with high landscapes amenity and Rule 19.5(d) for buildings (excluding primary production buildings) not on a dune within the Foxton Dunefields. The fundamentals of this rule are based around the potential threats of poor quality built development within landscapes of assessed high amenity. Rather than saying there should be no development in the rural zone in these

environments the plan change seeks to promote and scrutinise the quality of development in the specific circumstances of each development site. It is accepted that PC 20, if made operative in its current form, is likely to significantly reduce the amount of subdivision in these rural environments, which is often a precursor to built development.

- 5.392 PC 22 has had effect for some two years now and therefore the Council has the experience of applying the rule over that period. In total 37 consents have been processed. All of these were approved and all were processed on a non-notified basis although some have had affected parties served. Nearly one third of these consents would have required land use consent for some other aspect not related to PC 22. The majority of applications have been for buildings most of which have been single storey in height. The process has enabled consideration of materials, design and visibility and conditions have been applied accordingly. Mr Thomas informed us that as a result there has been more effort made to fit buildings to the surrounding environment. While building siting has also been considered there is little evidence that there have been significant site changes during the consent process. However, landscape design has had specific consideration although the comment has been made that the level of expertise inputted to this process both from the applicant and Council has been limited.
- 5.393 Mr Thomas had given consideration as to whether the thresholds should vary between the landscape domains to reflect their different characteristics. He concluded, having regard to the policies for each domain established through PC 20, that there was no evident justification for different rules between domains but this should be the subject of careful monitoring. Similarly, he said there may be a case for including larger sized primary production buildings within this rule and this should also be monitored in terms of effectiveness.
- 5.394 Mr Thomas told us he was comfortable with an express non notification and no service rule if all relevant standards for permitted activities are complied with. He was also comfortable with an exemption for buildings for temporary activities, which are defined in the Plan.
- 5.395 Some submitters appeared to be pleased that primary production buildings were exempted but wished to include the residential dwellings of primary producers. Federated Farmers sought a new definition for 'primary production buildings' to include the residential dwellings and staff accommodation that are key components of any primary production activities. They said *"it is vital that farmers are able to live on the land they work. Farmers' homesteads and workers' accommodation are part of a farmed landscape and contribute positively to its amenity value"*.
- 5.396 HDC sought that temporary buildings be exempt, as well as provision made for small extensions, alternations and accessory buildings to be constructed without requiring resource consent.
- 5.397 DoC questioned the exemption of primary production buildings from the rule, noting that primary production buildings in general do not have less effect on the environment than other buildings and therefore this exception does not provide consistency for environmental outcomes in terms of the values identified.
- 5.398 The majority of submissions on this matter sought that this rule be deleted in its entirety.

- 5.399 Specific consideration has been given to whether this rule should apply to all buildings in all the high amenity landscape domains. In the s42A report Mr Thomas noted that there was potential for smaller scale buildings with less potential for adverse landscape effects to be exempt from this rule, as well as domestic additions and alterations. Similarly height of buildings was also a relevant factor.
- 5.400 While these thresholds can be debated at length, Mr Thomas considered that on balance that there was a section 32 justification on the basis of costs and benefits to exclude smaller scale buildings from this rule. He proposed a regime that exempted primary production buildings, temporary buildings and other buildings that do not exceed 4m in height and 130m<sup>2</sup>. Additions to existing buildings would also be excluded where they were less than 4m high and 60m<sup>2</sup> in area.
- 5.401 At the hearing we heard evidence that the rule would not enable a house to be built of average size for a family and that a 4m height limit constrained effective design.
- 5.402 Mr Kilsby-Halliday submitted that in general farm houses should not be restricted on a size limit and defined a farm unit (on which a farm house might be permitted) as above 10 to 20 hectares in size.
- 5.403 Mr and Mrs Mitchell told us that farm dwellings are also a necessary requirement of a farming operation and should be excluded from height and area restrictions "*unless they are built on the skyline in front of the main Tararua peaks.*"
- 5.404 Submitters from coastal domains sought that they should not be limited as to the siting of houses, noting their preference for building houses on the elevated non-productive dunes rather than on the flat with its associated drainage problems.
- 5.405 In considering these matters we noted, as stressed in the s42A report, that PC 20 has established a stricter regime of subdivision. It does not preclude subdivision and dwellings but does place controls on density.
- 5.406 One of the key concerns we had was the distinction, or lack thereof, between dwellings and primary production buildings from a visual or landscape amenity perspective something which was raised by some submitters. The landscape experts had confirmed that for the purposes of landscape assessment, there was no difference between a dwelling and a primary production building such as a barn or a dairy shed. Mr Thomas though told us that the exclusion of primary production buildings reflects the fact that there is generally less flexibility in terms of farming operation as to siting and design of such buildings.
- 5.407 We accept that the siting of primary production buildings is predominantly based around functionality rather than aesthetics. While such buildings are often larger and more industrial in form than other buildings, they are usually located on flat sites that suit operational farm requirements rather than elevated for views and outlook. As a result, while they have greater potential for adverse landscape effects, we concur with Mr Thomas that including primary production buildings, as sought by DoC and others, would unreasonably constrain farming operations and be difficult to support in the section 32 analysis as the likelihood is that they will not be located in positions which might create moderate or significant landscape or visual effects.
- 5.408 We also consider that the rule as proposed in the s42A report reflects a small to medium sized house and if height was controlled then we saw little point in controlling size. However, in terms of visual and landscape effects, there can be no justification

for the rule to differentiate between a farm dwelling and rural residential dwelling. It is our opinion that the visual effects are the same no matter who owns the dwelling.

5.409 Finally, HDC sought that buildings and structures on land in DHLA should be a permitted activity where they are temporary structures associated with recreation activities or emergency activities, or playground and recreational equipment erected on Council reserves.

5.410 We repeat our decision in the matter of Council facilities in ONFLs, and see no basis for treating Council's infrastructure sites any differently to other sites or facilities.

5.411 We deal with the more specific landscape domains issues below.

#### Coastal landscape domains

5.412 The Taumanuka Studio supplementary report identifies that landscape values in the Coastal Environment domain are focussed around the unique dune systems and coastal and estuarine features. The dunefield systems, predominantly the dunes themselves, as well as the associated interdunal wetlands and their margins have high landscape values in the Coastal Lakes domain. Both domains have strong cultural connections. The report notes:

*"The imposition of built form in the domain and any proposed structures must be considered in terms of location and appropriate design that is complementary to the topography in which it is intended to be placed."*

5.413 We recommend that Council undertake a Coastal Management Strategy as proposed by Boffa Miskell in their ONFL report. It is our opinion that this would be a valuable piece of work that would look at the Coastal Environment and Coastal Lake domains in detail to identify and evaluate the dune and lake systems and provide a management strategy for these areas. It might even identify more explicitly high amenity landscapes and features within the domains. We realise that such a strategy would encompass the full toolbox of regulatory and non regulatory management tools and as such parts of it may be beyond the scope of the District Plan Review.

5.414 In the meantime, as with earthworks, we accept that a rule is required that enables the visual integration of structures into the larger dune formations. In our opinion, building height and location in terms of site topography are more important than floor area.

#### Manakau Downlands landscape domain

5.415 As discussed in the section on earthworks, it is our opinion that the integrity of the DHLA concept is weakened by including the Manakau Downlands domain in Rule 19.5.2, given that building size controls do not specifically address effects on the identified landscape values of the domain. We have therefore decided that the Manakau Downlands domain is excluded from Rule 19.5.2.

#### Hill Country landscape domain

5.416 Buildings in the Hill Country domain require different provisions because landscape effects are focussed on visibility. The Taumanuka report notes *"the elevated areas of the Hill Country domain are visible from the entire district. Any modification or change would be highly noticeable with adverse visual effects arising, while the lower areas would be a little less sensitive."*

5.417 In the hill country, given the highly visible nature of new buildings, visual prominence can be a major issue. We are concerned that the rule as proposed could lead to



buildings on ridgelines or hilltops. It is our opinion that building height and location have more impact on visual prominence than the gross floor area which will be covered to a degree in the earthworks provisions for development on the steeper hill country.

Overall

5.418 Based on the evidence received and our assessment we have amended proposed Rules 19.5(b) and 19.5(c) as follows and deleted Rule 19.5.2 (d):

**19.5.2(b)** Buildings within those parts of the **Coastal Environment and Coastal Lakes Landscape Domains** that are not Outstanding Natural Features and Landscapes except for:

Buildings, additions and alterations that do not exceed 5m in height.

Buildings, additions and alterations that do not exceed 5m in height and are on a dune or part of a dune that is no greater than 10m from toe to summit.

Primary production buildings

Buildings for temporary activities

The exercise of Council's discretion shall be restricted to design, siting with particular respect to proximity to ONFL boundary, external appearance and landscaping.

Applications pursuant to this rule need not be publicly notified or served on affected parties.

**19.5.2(c)** Buildings within those parts of the **Hill Country Landscape Landscape Domain** that are not Outstanding Natural Features and Landscapes except for:

Buildings, additions and alterations that do not exceed 5 m in height and that are located 30m vertically below a ridge or hill top, measured from the roofline of the house.

Primary production buildings

Buildings for temporary activities

The exercise of Council's discretion shall be restricted to design, siting, external appearance and landscaping.

Applications pursuant to this rule need not be publicly notified or served on affected parties

Note: Primary Production Building means any building used principally to support primary production activities. This shall include buildings used for storage and management of stock and farm machinery but shall exclude buildings used in total or in part for residential activities.

Assessment Criteria

Limited discretionary activities are to be assessed against the relevant assessment criteria set out in Section 24A.

- 5.419 We therefore resolve that submissions 052C and 076Q be accepted, submissions 003A, 026D, 026E, 041B, 076A and 104B be accepted in part, and submissions 018B, 019C, 037B, 053E, 053K, 056A, 058J, 059M, 060A, 061K, 064J, 070B, 105D and 111I be rejected.

#### Utilities in DHLA

- 5.420 PC 22 introduced two specific discretionary activity rules for network utilities more than 8m in height on high amenity landscapes and land that is not a dune in the Foxton Dunefields.
- 5.421 Submissions were received from power and utility companies and members of the public. MRP supported the proposed rules. Telecom sought Council have limited discretion over network utilities higher than 8m, based on design, siting, external appearance and visual effects. Transpower sought clarification that the rules do not apply to existing network utilities.
- 5.422 A small number of submissions sought to have exemptions for new network utilities, stating that such structures should be placed where it is considered most appropriate or that windfarms should be a discretionary activity. At the hearing Mrs Mitchell expressed concern that rules that limited network utilities in the hill country DHLA might make it cheaper and easier for companies to build on more productive farmland to the west with no such restrictions. She noted" *"it would have huge negative impacts on the landscape for people living nearby, and on the value of their properties."*
- 5.423 The Gaskins were concerned that the rule was restrictive and would not provide for the development of renewable electricity generation in the form of wind farms in the Horowhenua District.
- 5.424 The introduction of rules of this nature cannot require that existing facilities are either altered or that they must seek consent. Such facilities either have an existing consent or have the protection of existing use rights assuming they were lawfully established. However, an increase in height of an existing structure in the future could require consent to be obtained. In our opinion no further clarification of the rules is required.
- 5.425 The key issue to be determined here is whether network utilities higher than 8m should be full discretionary or limited discretionary.
- 5.426 We acknowledge that there is some merit to the Telecom argument that if the focus is landscape effects then the class of consent should be limited discretionary. However Mr Thomas told us that if we were accept this position it would be important to consider whether there is a higher height threshold where proposals should move from limited discretionary to full discretionary because of wider implications. This might for example be relevant to a wind farm proposal where a range of other matters would require careful assessment.
- 5.427 After consideration we are of the opinion that tall structures may well have visual effects in high amenity landscapes. We accept Mr Thomas's point that a wind farm proposal or transmission lines could generate a range of matters for consideration other than those of a visual nature such as vehicle movements and construction effects amongst others. By setting the threshold at the full discretionary level it would ensure that these matters are able to be taken into account. In reaching this conclusion we find it is unlikely that development below the threshold would generate a similar range of matters.

5.428 As a result of the peer review Foxton Dunefields is not now considered an ONFL and we are satisfied that the rural zone standard of 20m is appropriate for this environment. Therefore we resolve that rule 19.6(c) should be deleted.

5.429 We further resolve that Rule 19.7.2(d) remain as proposed in PC 22, that is:

*Network utilities with a height of more than 8m located within those parts of the Coastal Environment, Coastal Lakes, Manakau Downlands, and Hill Country Landscape Domains that are not identified as Outstanding Natural Features and Landscapes on Maps 32 and 33.*

5.430 As a result submissions 027K, 032G, 047C, 076C, 066H, 087I and 105F are accepted in part and submissions 041C, 051E and 053G are rejected.

#### **Buildings and Utilities in ONFLs**

5.431 A new rule was introduced to manage buildings in ONFLs, making buildings and network utilities over 3m a non-complying activity in an identified ONFL.

5.432 Horticulture NZ and Windflow had sought the deletion of Rule 19.9.3. At the hearing Ms Wharfe indicated that Horticulture NZ supported the changes recommended by Mr Thomas which we discuss later.

5.433 The Royal Forest and Bird Protection Society of NZ, Horowhenua Branch sought that the height restriction not exempt primary production buildings. Mangahao Joint Venture and Todd Energy Ltd made the same point, also submitting that the height restriction would be unnecessarily restrictive on all buildings and structures and that the rule required further clarification.

5.434 Telecom sought that the rules be amended to enable masts which exceed the height limit to be considered as discretionary activities.

5.435 Ms Lowe sought that buildings be allowed up to 3.5m in height

5.436 Federated Farmers initially sought that primary production buildings be specifically excluded from Rule 19.9.3. At the hearing Ms Lacey argued that the amended rule (referred to below) was still too restrictive and that the permitted height limit for buildings in ONFLs should be increased to 7m, that the rule become discretionary with discretion limited to visual matters, that primary production buildings be specifically excluded and that their definition be amended to include farmers homesteads and that earthworks associated with primary production buildings be permitted.

5.437 Submissions by Jager Farms, Telecom, Aggregate and Quarry Association, EECA, NZWEA, Mighty River Power, and Genesis, supported by Meridian had all sought that the classification of Rule 19.9.3 be changed from non-complying to discretionary. These submissions generally stated that a non-complying activity status presumes that all utilities and earthworks are inappropriate on an ONFL and that what constitutes inappropriate development will vary from site to site and activity to activity. The submissions suggest that the use of a discretionary activity classification would ensure the protection of ONFL, while still enabling 'appropriate' development within these environments.

5.438 Mr Turner provided the main evidence at the hearing in this regard although others expressed similar opinions. He was of the opinion that the activity classification for development on ONFL should be a consequence of the statement of intent in Objective 4.3 and the implementation framework in its accompanying policies. In this

respect, he note that Objective 4.3, as recommended by the officer, sought to protect outstanding natural features and landscapes from the adverse effects of inappropriate development. He said that *"quite clearly it is not seeking to preclude appropriate development on ONFL"*.

- 5.439 Mr Turner contented that the policies accompanying Objective 4.3 also do not suggest that all development on ONFL should be precluded or restricted. In this respect, Policy 4.12 retained a focus on protecting ONFL from inappropriate development, while Policy 4.14D sought to ensure regard is given to the effects of development in locations near to outstanding natural features and landscapes. He said *"again, this policy is not seeking to preclude development – rather it is seeking that specific effects be considered in the decision making process"*.
- 5.440 Mr Turner said that just left Policy 4.14, which the reporting officer has recommended be amended by deleting reference to 'large' buildings and by providing context with the words "where they will adversely affect the values" of ONFL. He considered this policy to be in conflict with Objective 4.3 and Policy 4.12 and should be deleted, as we have already discussed earlier, on the basis that it appears to have been drafted on the premise that any building which adversely affects an ONFL will be 'inappropriate'. He said the determination of 'appropriateness' requires a case assessment under the broad framework of Part 2 of the RMA.
- 5.441 Mr Turner did not agree with Mr Thomas that the policies in PC 22 establish an express presumption against consent being granted for activities on ONFLs and that a non-complying activity status was appropriate. He said that the policy framework established a clear presumption that development which is 'inappropriate' should be precluded, although it did not provide any guidance on how determining 'appropriateness' should be made.
- 5.442 He considered a discretionary activity rule would also recognise the direction provided by the NPSREG with respect to renewable electricity generation activities as it would not preclude the potential development of new renewable electricity generation activities (as would a non-complying activity with no policy support for renewable electricity generation activities). Furthermore, a discretionary activity status would also recognise that locational or practical constraints may mean that development on an ONFL is appropriate and necessary. He said *"Importantly, a discretionary activity rule would still enable the Council to decline any consent application if potential adverse effects were unacceptable and the sustainable management purpose of the RMA was not achieved."*
- 5.443 Mr Turner also disagreed that all relevant policies and effects will be taken into account in the assessment of resource consent application. He said that this sentiment ignored the fact that if a network utility (which in this plan includes wind farms) is trying to pass through section 104D(1)(b) of the RMA that the objectives and policies in Chapter 12 of the District Plan provide no guidance or direction to consider positive social or economic effects. He noted that while Policy 22.1 refers to enabling 'essential' network utilities, the remaining policies all relate to measures to avoid, remedy or mitigate the adverse effects of network utilities. As such, in determining whether a network utility proposal will not be contrary to the objectives and policies of the District Plan, no consideration will be given to policies that require the acknowledgement of the benefits or positive effects of a proposal.

- 5.444 We asked Mr Thomas to respond as to whether the objectives and policies were framed in a manner consistent with the regulatory response being a non complying activity. He said that there were a number of inconsistencies in the arguments put forward on this matter. He noted that it was the role of the District Plan to provide a policy and assessment framework on how ONFLs are protected from inappropriate subdivision, use and development and agreed that a case by case assessment is required but that its needs to be within the policy framework of the whole District Plan.
- 5.445 Mr Thomas said that the proposed provisions set limits on the height of buildings and structures as a permitted activity standard. For ONFLs only, a non complying activity status has been recommended which means any consent is subject to the gateway tests of section 104D. He accepted that a renewable energy project such as a wind farm was unlikely to pass the minor adverse effects test and therefore would have to rely on the second gateway of not being contrary to the objectives and policies of the relevant plan. In his opinion that was appropriate given the values that are sought to be protected and the small area of non-conservation estate involved. He said that if the proposal was appropriate then it would pass this gateway and be determined accordingly. He therefore considered that the objective, policies and assessment criteria were appropriate for this framework.
- 5.446 In terms of wind energy Mr Thomas noted that earlier analysis showed that very little of the districts known wind energy potential had been given non complying status as the land involved is either a narrow strip along the coast or is within DoC estate. In his opinion this is not unreasonably constraining the Council in meeting its obligations to the NPSREG when specific energy policy is considered as part of the wider review. He maintained that the NPSREG must be taken into account but does not need to be given effect to in the Plan Change and indeed cannot be fully given effect to in this plan change because some aspects are clearly beyond its scope.
- 5.447 Notwithstanding the above, Mr Thomas suggested that the rule should be amended to allow some flexibility, making buildings with a height of more than 3m and less than 7m a Discretionary Activity, and buildings with a height of more than 7m a non-complying activity.
- 5.448 We have looked at this matter closely, considering the various points raised. We agree that the non-complying test provides a significant hurdle for development which breaches the permitted standards. Nevertheless, the objective set does seek the 'protection' of the district's ONFLs from inappropriate subdivision, use and development. This in our view establishes the need for a high threshold in terms of development, which we would have thought is not necessarily unexpected with regard to ONFLs. We also make the point that we have amended policies to better reflect, in our view, the intention of the objective. We accept therefore, as set out in the s32 analysis, that non-complying status is appropriate where the policy framework requires a protection or avoidance approach. We also acknowledge that non-complying activity status establishes a presumption against consent being granted which then activates either or gateway requirement under s104D allowing both policy and adverse effects to be prerequisite tests. In our view this is appropriate when assessed alongside the policy framework.
- 5.449 Notwithstanding the above, we accept that the non-complying rule should not be triggered at 3m. The landscape characteristics of the refined ONFLs mean that they are either water environments, exposed sand dune environments or native vegetation

on higher country. These are three quite contrasting environments in relation to openness and therefore potential visual impacts. The sand country is largely open in nature, low level with loose dunes. The hill country is vegetated and can therefore absorb structures more easily but is more visible to the wider District. Moutere Hill is different again with some lower areas of native vegetation and the exposed hill formation.

- 5.450 In reflecting on the requirements of section 32, we consider that there is merit in amending the non-complying rule as proposed by Mr Thomas so that it applies to buildings and network utility structures over 7m in height; and adding a full discretionary rule for buildings and network utilities between 3m and 7m high.
- 5.451 In saying this, we stress that when any application is being assessed all relevant policies and effects would be taken into account including social, economic and community benefits. We consider Mr Thomas's recommendation for discretionary between 3m and 7m and non-complying above 7m is appropriate for meeting the objectives and policies of the Plan.
- 5.452 The issue of primary production buildings appears to have created some confusion. While our understanding was that they are in this case not exempt from Rule 19.9.3 we can see how with a new specific definition some submitters considered they were exempt because they did not now fall within the definition of a building and were thus not referred to at all within the rule. We do not believe that was the intention however.
- 5.453 We consider that overall that primary production building in ONFLs should not be given an exemption. We are of the view that in the ONFLs there is a higher likelihood of adverse effect from buildings given their collective values and status and as such all buildings above 3m should require assessment. We also note that given the revised ONFL boundaries, very little primary production land is within ONFLs with for the most part exotic forest being excluded because it was not found to have landscape values that qualify as an ONFL and the only ONFL land used for pastoral farming being in some specific areas bordering the Tararua Forest Park, Moutere Hill and a few isolated cases at the margins of the Coastal ONFL.
- 5.454 We accept however that there is a potential issue or at least confusion associated with the inclusion of a definition of Primary Production Building in Section 25 of the District Plan in that they may be seen as different from the definition of Building. We note that the Primary Production Building definition is only of relevance in one rule associated with high amenity landscapes. We have therefore resolved to transfer the definition out of Section 25 and place it within Rule 19.5.2(b), and consider this will address the confusion.
- 5.455 In terms of the Telecom submission on allowing more flexibility for masts, we note that the changes to the rules will go some way to meeting these concerns, however we see no reason to go beyond this purely for masts.
- 5.456 Transpower has also argued against non-complying status for ONFLs because of the bundling effect where a new line may cross the Hokio or Waiwiri Streams. This might involve just some 50m of a long length of a new transmission line. The case law on bundling is now more developed and is capable of taking into account such circumstances without unreasonably affecting the consentability of a new line. However, we recommend the addition of a note to this effect for clarification.
- 5.457 We therefore resolve that the following rules are amended to read:

## **19.7 Discretionary Activities**

### **Rule 19.7 (b)**

Any building or network utility with a height of more than 3m and less than 7m on any land shown or specified as an Outstanding Natural Feature and Landscape on Planning Maps 32 and 33.

## **19.9 Non Complying Activities**

### **Rule 19.9.3**

Any building or network utility with a height of more than 7m, or earthworks on any land shown or specified as an Outstanding Natural Feature and Landscape on Planning Maps 32 and 33, except for earthworks on land that is within the Coastal Outstanding Natural Feature and Landscape.

Note: Bundling of class of consent will not be applied where a line crosses a stream that is an ONFL.

- 5.458 We therefore resolve that submissions 045D is accepted, submissions 005A, 018D, 019E, 032H, 037D, 065D, 087J, 088G, 091M, 105E, 108A, 110N and 112E are accepted in part and submission 041D is rejected.

### **Network Utility Standards**

- 5.459 The Network Utility Standards are situated in Section 22 of the District Plan and deal with the requirements for network utilities within the various parts of the district and thus alterations were required to this section amending Rules 22.1.5, 22.1.7, 22.1.8 and 22.1.10 to cater for such activities in the ONFLs and DHLAs. They have links back to Rules 19.7(b) and 19.9.3 which have been discussed in the preceding section of this decision.
- 5.460 Transpower sought that Rules 22.1.7, 22.1.10, as well as 19.6(b) and 19.9.3 be amended to explicitly recognize that they do not apply to existing network utilities. The subsequent introduction of NESETA means that this submission point is no longer relevant as NESETA effectively overrides the District Plan.
- 5.461 In addition Transpower submitted that the wording in Rule 22.1.5 be amended to specifically exclude electricity lines from requiring undergrounding, as it is generally not economically viable to locate high voltage transmission lines underground. Windflow Technology noted that the requirement to place new electricity lines underground is overly broad and may breach the RMA. We agree with these submissions and have amended the wording accordingly to read:

#### *Rule 22.1.5 Undergrounding of Services*

*In urban zoned areas, where practicable, new electricity and telecommunication supply lines shall be reticulated underground.*

*In the Coastal Environment, Coastal Lakes, Manakau Downlands, and Hill Country Landscape Domains including all areas of Outstanding Natural Features and Landscapes, new electricity reticulation lines and telecommunications and cable television supply lines shall be reticulated underground where this will not adversely affect the values of the natural area.*

- 5.462 As a result submissions 027L and 110O are accepted in part.

Size and Height of Network Utilities in ONFLs and DHLA

- 5.463 EECA and Telecom NZ sought that the heights of network utilities, masts and other structures and supports as contained in the operative plan should be retained. Telecom outlined the implications of the rules, noting that the restrictions "*will have impacts on operational costs of the networks operated by Telecom*" and that "*resources used in additional compliance requirements are diverted from new investment.*" EECA told us that the rules were unnecessarily prescriptive and would prescribe blanket protection of landscape values without the flexibility to accommodate high quality, appropriate development.
- 5.464 Windflow Technology went further and suggested that all height restrictions be removed because the new category is inconsistent with the RMA, particularly s7(j) or that the activity status for wind turbines within ONFL should be altered from 'non-complying' to 'discretionary'.
- 5.465 Mrs Meredith supported the amendments but sought that earthworks be captured in Rule 22.1.8.
- 5.466 Ms Timms sought that network utilities should be allowed in certain areas of the foothills where visibility is not prominent, while Mr and Mrs Anderson considered that network utilities along the whole of the Tararua foothills should not be classed as a discretionary or limited discretionary activity solely because of visual effects.
- 5.467 Mr Thomas stressed the importance of noting that this section addresses the standards for network utilities to be constructed as a permitted activity without requiring any form of resource consent and scrutiny of effects. In his opinion it was entirely reasonable that electricity transmission lines in areas of accepted landscape value should be subject to the scrutiny of a consent process.
- 5.468 He said that provisions for earthworks for development in general should also apply to network utilities and the wording proposed seeks to achieve that without duplicating the earthworks rule in this section.
- 5.469 Mr Thomas noted the changes to the height thresholds already proposed but said these would not alter the permitted height thresholds. He did not agree that the rural zone threshold should apply to the ONFLs and DHLA, saying it was fundamental to the Plan Change and the policies proposed that the plan rules provide a greater degree of protection in these landscape areas than in the rest of the rural zone.
- 5.470 Network utilities, by virtue of their size, have the potential for significant visual effects. We agree therefore that the proposed amendments are consistent with the intent of this plan change. We have already discussed the difficulties associated with including renewable energy provisions in this plan change and consider that these will be more appropriately dealt with in a future District Plan review. We agree with Mrs Meredith but note that earthworks are included in this plan change in a separate set of rules outside this section on network utilities.
- 5.471 HDC submitted that additional information should be provided for plan users to make it clear that the most onerous activity status would be applied where a proposal may be subject to more than one specified activity status as in the case of designations.
- 5.472 In terms of the HDC submission Mr Thomas said the concept of bundling was now well established but case law has identified particular tests as to when bundling should be applied. In terms of designations which have conditions, he said that requiring



authorities have a choice of seeking to alter those conditions or authorise the work through a resource consent. The Council cannot in his opinion require that a network utility operator abandon their designation and pursue a resource consent. Should they choose the resource consent path then in his opinion the plan provisions should apply as they would for any other applicant. Mr Thomas suggested that this issue could be addressed on a more comprehensive basis through the Plan Review.

- 5.473 While not submitting on this particular issue, Phil Guernsey of Beca provided written evidence on behalf of Telecom NZ which noted that the proposed rules relating to the height of network utilities were confusing and appeared to conflict with each other. He included a table that summarized the rules.
- 5.474 Mr Thomas clarified how the rules work and provided a correct summary of the rules as they relate to ONFLs or DHLA. We have included this in our decision.

#### High Amenity Landscape Domains

<b>Earthworks</b>	Permitted if comply with standards	Rule 19.2.28
	If not limited discretionary activity.	Rule 19.5 (a)
<b>Buildings</b>	Permitted if comply with permitted activity standard and less than 4m in height and 130m <sup>2</sup> or 60m <sup>2</sup> additions or primary production building or temporary building. If not Limited discretionary activity	Rule 19.5.2(b)
<b>Network utilities</b>	Permitted if less than 8 metres in height.	
	If not Discretionary Activity	Rule 19.7.2 (d) Rule 22.1.7 Rule 22.1.10
<b>ONFL</b>		
<b>Earthworks</b>	as defined in plan is a non-complying activity	Rule 19.9.3
<b>Buildings and network utilities</b>		
Permitted	Height less than 3m	Rule 22.1.7 Rule 22.1.10
Discretionary	Height between 3 and 7 m	Rule 19.7(b)
Non complying	Height over 7m	Rule 19.9.3

- 5.475 We are of the opinion that there is propensity for confusion in the rules. While we agree with Mr Thomas that the issue should be addressed in the Plan Review, we resolve that for the interim a note should be attached to the rules that direct attention to Chapter 19 where there are other rules on network utilities.
- 5.476 We also consider that there is an element of perceived inconsistency between Chapter 19 and 22 and the definition Network Utility. These are primarily outside the scope of PC22.
- 5.477 Therefore we resolve that the following rules are amended, except for the reference to Foxton Dunefields that is deleted, to read:

### **22.1.7 Size of Network Utilities**

A network utility building shall not have a floor area in excess of 50m<sup>2</sup> and a height in excess of the following (excluding pole-mounted street lights):

- 15 metres in the Rural Zone
- 8 metres in those Rural zoned parts of the Coastal Environment, Coastal Lakes, Manakau Downlands, and Hill Country Landscape Domains that are not identified as Outstanding Natural Features and Landscapes on Planning Maps 32 and 33
- 3 metres in Outstanding Natural Features and Landscapes
- 8.5 metres in the Residential 1,2,3,4 and Commercial 2 Zones
- 15 metres in the Commercial 1
- 15 metres in the Industrial Zone

Note: Refer to Chapter 19 for status of activity if not complying with these standards

### **22.1.8 Height of Network Utility Masts, Pylons, Towers Aerials and other Structures.**

Apart from 22.1.10 below, all masts, pylons, towers, aerials and other structures associated with the network utilities shall not exceed the following maximum height requirements:

- 20 metres in the Rural Zone, other than Rural zoned parts of the Coastal Environment, Coastal Lakes, Manakau Downlands, and Hill Country Landscape Domains.
- 13.5 metres in the Residential Zones
- 13.5 metres in the Commercial 2 Zone
- 20.0 metres in the Commercial 1 Zone
- 20.0 metres in the Industrial Zone

Note: Refer to Chapter 19 for status of activity if not complying with these standards.

### **22.1.10 Outstanding Natural Features and Landscapes and Domains with High Landscape Amenity**

No masts, pylons, towers, aerials or other structures associated with network utilities with a height of more than 3 metres shall be located on Rural zoned land shown as an Outstanding Natural Feature and Landscape or have a height of more than 8 metres on those Rural zoned parts of the Coastal Environment, Coastal Lakes, Manakau Downlands, and Hill Country Landscape Domains that are not an Outstanding Natural Feature and Landscape shown on Plan Maps 32 and 33.

Note: Refer to Chapter 19 for status of activity if not complying with these standards.

- 5.478 As a result submission 076D and 118C is accepted in part and submissions 032I, 032J, 065F, 091N, 091O, 110P and 110T are rejected.

### Assessment Criteria

- 5.479 PC 22 introduced a new set of criteria for assessing land use applications for resource consents arising from this Plan Change. A number of issues arose from submissions on assessment criteria in particular:
- Expressly consider rehabilitation after decommissioning.
  - Include non-landscape criteria.
  - Amend (d) to refer to avoided, remedied or mitigated and extend to include reference to offset and no net loss where mitigation cannot be achieved.
  - Add a criterion on the benefits of the proposal.
  - Add a criteria on the extent to which the activity is constrained to that landscape, or constrained by functional, operational and technical constraints.
  - That reference to the Rural Subdivision Design Guide be deleted.
  - Add criteria on the needs of renewable energy.
  - Add criteria on the benefits of development of an aggregate resource.
  - That objective measures be used as the basis for consent.
- 5.480 Mr Thomas said criterion (e) specifically refers to rehabilitation and restoration of landscape values and this would include any circumstances where decommissioning was relevant. We do not consider that any change is required to address this submission point.
- 5.481 Mr Thomas told us he accepted that criteria (d) would be better worded with the expression '*avoided, remedied or mitigated*'. In a second matter on this criterion, it was his opinion that consideration of offset compensation can be addressed within the context of mitigation. He told us that no policy had been proposed or sought by submission seeking to address off set measures. While we accept the first part of Mr Thomas's recommendation, we believe there is a submission by MRP (087P) specifically addressing offsetting at a policy level as discussed earlier in our decision. While we consider offsetting is covered by Policy 4.14B, we are of the view that it needs to be reference in criterion (d) thus providing for an important consideration in assessing applications.
- 5.482 We note that criterion (i) requires the provisions of the NPS on Renewable Energy Generation and Electricity Transmission to be considered. Even if this was not the case, section 104 requires NPS provisions to be considered in determining applications. Section 104 also requires all effects to be considered\_including positive effects and this would include the supply of aggregates should this be relevant. We make the point that the inclusion of criteria seeks to provide guidance on what aspects applicants should focus on but does not replace the legal requirements of the Act.
- 5.483 As to the Rural Subdivision Design Guide which is referenced in criterion (a), Mr Thomas informed us that the guide was incorporated into the Plan as part of Plan Change 20. It provides guidance on process and issues to be considered and while it is largely focused on subdivision it does include some limited guidance on building design within landscapes. Earthworks issues are relevant to both subdivision and buildings/structures. While the order of criteria does not reflect any form of weighting or priority the inclusion of this matter as the first criteria may be inappropriate.

- 5.484 We resolve that the criteria are reordered so that (a) appears further down the list of criteria and note that the Design Guide will be further reviewed in the future.
- 5.485 Landlink submitted that the Rural Subdivision Design Guide was for subdivision and was not designed for individual site assessments. There is often debate about the merits of design guides as a tool to guide and then evaluate design in rural environments. While each site will have some unique characteristics there are overarching principles that can be applied. The Rural Subdivision Design Guide includes a section on Building Sites, Buildings and Structures and the guidance in this section is relevant whether or not subdivision is part of the process. It is our opinion it is relevant to refer to this guide in the policies and assessment criteria.
- 5.486 As referred to earlier in the decision, Mr Turner supported the addition of two further policies relating to first having regard to locational and operational requirements of regionally significant infrastructure and secondly having regard to local, regional and national benefits. It was Mr Thomas's opinion that the intent of these policies already exists within the plan in one form or another and will be subject to further scrutiny in the District Plan review of those sections.
- 5.487 However he considered that there was a strong case to add to the assessment criteria two additional clauses that relate to the scope of these policies. These clauses were originally proposed by Mighty River Power in their submission.
- (k) *The extent to which the location and design of the activity is constrained by functional operational and technical constraints.*
- (l) *The extent to which the activity will generate benefits relating to the social, economic and environmental wellbeing of communities.*
- 5.488 We concur and note that the inclusion of assessment criteria (k) and (l) contributes to giving effect to One Plan Policy 3-1 Benefits of infrastructure and other physical resources of regional and national importance. We also consider these criteria would go some way towards meeting the submission by Lewis Farms who sought that there be a clear understanding of the need to allow both environmental and economic measurements to be addressed.
- 5.489 We therefore adopt the following assessment criteria:

**24A.2 Assessment Criteria for Land Use Consent Applications**

*The following criteria will be used in assessing land use applications relating to Domains with High Landscape Amenity and Outstanding Natural Features and Landscapes:*

- (a) *The extent to which the proposal adversely affects the landscape values of the landscape in which it is located*
- (b) *The extent to which there are cumulative effects on landscape values.*
- (c) *The extent to which landscape effects are able to be effectively avoided, remedied or mitigated.*
- (d) *The extent to which the proposal provides for rehabilitation and restoration of landscape and associated values or the offsetting of those values by another form of environmental compensation using a 'no net loss' approach.*
- (e) *The extent to which the proposal leads to buildings, structures and earthworks being highly visible.*

- (f) *The extent to which the proposal is in accordance with the Rural Subdivision Design Guide.*
- (g) *The extent to which a proposal on an Outstanding Natural Feature or Landscape or Domain with High Landscape Amenity affects the backdrop of the Tararua Ranges.*
- (h) *The extent to which the proposal is visible from the coast.*
- (i) *The extent to which the proposal is consistent with any relevant provisions in National Policy Statements, Regional Policy Statements and objectives and policies of the District Plan.*
- (j) *Any relevant criteria in Section 24A relating to the effects of subdivision and development.*
- (k) *The extent to which the location and design of the activity is constrained by functional operational and technical constraints.*
- (l) *The extent to which the activity will generate benefits relating to the social, economic and environmental wellbeing of communities.*

5.490 As a result 018F, 019G, 027M, 064M, 064N, 064O and 087L are accepted, submissions 013D, 049E, 087K, 088H, 090D, 090E and 091P are accepted in part and submissions 050E, 054I, 059Q, 065E, 107A and 110Q are rejected.

### **Definitions**

- 5.491 PC 22 included a number of amendments that dealt with the deletion and addition of definitions notably the inclusion of definitions of "Coastal Foredune Outstanding Natural Feature", "dune", "primary production building" and "network utility". These arose from the proposed provisions included in PC 22. No submissions were made on the deletion of three landscape related definitions that have been superseded by the mapping of the ONFL and DHLA areas.
- DoC, Taiao Raukawa Trustees and MRP made submissions on the definition of Coastal Foredune Outstanding Natural Feature. We note that the Coastal ONFL has now been mapped and a definition is no longer required.
- 5.492 Horticulture NZ and HDC submitted on the definition of 'dune', both making reference to the Foxton Dunefields ONFL. The Foxton Dunefields is not now an ONFL and all references to 'dunes' in PC22 rules define the relevant dunes in terms of height. Therefore the definition no longer needed and is deleted.
- 5.493 NZWEA, MRP, Genesis and Windflow Technology Ltd all sought the inclusion of a definition of wind energy facility instead of the clarification that a tower or pole includes any wind turbine. The wind energy facility definition would include land, substations, turbines, structures, underground cabling, earthworks, access tracks and roads associated with the generation of electricity by wind force. It would also exclude small turbines of less than 5kW.
- 5.494 Mr Matthews said that the inclusion of wind turbines in the network utility definition did not correctly account for *wind energy facilities* or any *renewable electricity generation activities*. He said that the definition of network utility either implicitly, or explicitly,

applies only to the activities undertaken by network utility operators and that network utility operators are defined under s166 of the RMA and that electricity generators such as Genesis Energy cannot be a network utility operator for the purpose of operating electricity generation facilities. As a consequence their ability to rely on the network utility provisions in the District Plan was restricted. Mr Matthews promoted a definition for *renewable electricity generation* and *renewable electricity generation activity* as separate from the definition of *network utility*. He also said that reference to wind turbines in the network utility definition should be deleted.

- 5.495 We note that most of the elements sought to be included over and above the turbines themselves are already within the definition of a network utility including lines, substations and roads. The issue raised by Mr Matthews is one associated with an alternative definition in the RMA and thus a potential cause for confusion. We understand the point he is making and accept there is a potential for interpretation problems to arise. There would appear to be other 'activities' within the Network Utility definition in the District Plan which would fall outside the corresponding RMA definition. We note however that the District Plan does not in any way attempt to link itself to the RMA definition and therefore can be seen as something broader and/or different from that in the RMA. Notwithstanding this, we consider our ability to adopt the definitions suggested by Mr Matthews is beyond the scope of this plan change.
- 5.496 Further to the above, Mr Thomas told us that it is the height of any wind structure that is the prime parameter for consent thresholds and not the power output. We agree with his conclusions. Given our comments above adopt the amendment proposed to the definition, we conclude that turbines under 5kW should not be excluded from the definition.
- 5.497 NPSREG provides for definitions of renewable electricity generation and renewable electricity generation activity. Mr Matthews for Genesis suggested that these two new definitions be included in the District Plan. However as they were not submitted on, we consider they are outside the scope of PC22. Nevertheless we considered they are matters that could be considered in the wider plan review.
- 5.498 Finally, it was Mr Thomas's opinion that earthworks are best addressed as a separate permitted activity condition as already recommended. We agree and adopt the definition for Network Utility as follows:

**Network Utility** includes any:

- *Aerial or mast or antennae or dish antennae;*
- *Tower or pole, including any wind turbine;*
- *Pole-mounted street light;*
- *Line for telecommunication, cable television, transmission, sub-transmission, or any distribution line for conveying electricity - including associated pole- or ground-mounted switch gear;*
- *Transformer, substation, compressor station, or pumping station;*
- *Water supply or irrigation race, drain, or channel;*
- *Pipeline for the distribution or transmission of natural or manufactured gas and any necessary incidental equipment, including compressors and gate stations;*
- *Pipe, including any pipe for conveyance or drainage of water or sewage and other wastes or natural gas;*

- *Navigational aid, lighthouse, or beacon;*
- *Survey peg or survey monument;*
- *Meteorological installation;*
- *Telephone booth; and*
- *Equipment incidental to the household or commercial or industrial connections to such utilities;*
- *Roading and railway lines;*

*Whether these are for private or public purposes; and includes routine maintenance of these network utilities.*

5.499 Federated Farmers, HDC and Horticulture NZ sought modifications to the definition of 'Primary Production Buildings'. Horticulture NZ was concerned that the definition might exclude some primary production buildings. Ms Wharfe informed us that many of these buildings had lunch rooms and staff facilities that might be classified as 'part residential' and therefore the definition as proposed might exclude these buildings from exceptions in Rule 19.5.2. She proposed that the word "solely" should be replaced with "principally". We agree that this change in wording lends greater clarity to the definition.

5.500 Federated Farmers submitted that residential dwellings associated with primary production activities be included in the definition. HDC in contrast submitted to the opposite effect. We have discussed this issue earlier in the context of Structures: Buildings and Network Utilities. It is our opinion that the amendments to Rule 19.5.2 in conjunction with the revised wording as proposed by Horticulture NZ provide the required clarification. We have amended the definition but have included it in Rule 19.5.2 as follows:

***Primary Production Building*** means any building used principally to support primary production activities. This shall include buildings used for storage and management of stock and farm machinery but shall exclude buildings used in total or in part for residential activities.

5.501 Finally Horticulture NZ outlined its concerns that the current definition of 'Development' was very broad. No amendment was proposed in PC22 and Horticulture NZ provided no evidence on this point. We consider in any event the matter then is beyond the scope of this plan change.

5.502 We therefore resolve that submissions 059S, 076E and 087M be accepted, submissions 059R and 076F be accepted in part and submissions 058N, 064P, 087N, 088I and 110R be rejected.

#### **Design Guidelines**

5.503 A Rural Subdivision Design Guide was produced in conjunction with PC20 to provide guidance to those undertaking subdivision. BMC Design Ltd submitted that in a similar manner, appropriate guidelines be developed for PC22 before the plan change is adopted because they would "provide a method of measurement of compliance that avoids the absolute necessity for a resource consent application, if these are adopted and complied within developing a dwelling proposal".

5.504 Taumanuka Studio's supplementary paper includes a set of indicative guidelines. However Mr Thomas informed us that they are not part of this plan change. He observed that PC22 had been in effect for some two years and that evidence in terms of the application of the rules to date is that the efficiency and effectiveness of the process has not been materially hampered by a lack of design guidance.

5.505 We accept at this stage that there is limited design guidance to sit alongside how the Council will exercise its discretion. Each site will have specific characteristics that need to be taken into account. We observed a number of new dwellings and noted some lack of landscape expertise. While more detailed guidance may be desirable, we do not consider that it is essential. It is our opinion that the more precisely targeted rules, applied in conjunction with appropriate professional design advice and liaison with the Council, will assist in achieving the outcomes sought by the Plan.

5.506 As a result submission 057A is rejected.

#### **Proposed New Rules**

5.507 DoC has proposed a number of additional rules. Some are focussed on the Foxton Dunefields which is no longer considered as an ONFL while others concentrate on issues of natural habitat and potential water or subdivision related effects which go beyond the scope of this Plan Change. Furthermore it is our opinion that a strategy for the coastal dunefields management and protection, as we have recommended to Council, will go some way in addressing DoCs concerns.

5.508 Telecom sought that a new rule should be created, stating that modifications and upgrades to existing telecommunications structures are permitted activities. We note that the existing rules in 22.1.9 provide for maintenance, upgrading and replacement of network utilities and don't consider any further reference is necessary.

5.509 As a result submissions submissions 032L, 064S, 064T, 064U, 064V, 064W and 064X are rejected.

#### **Miscellaneous Matters**

5.510 A number of miscellaneous matters were raised by submitters. Many of these were unrelated to PC22 or were matters for a District Plan review or are unnecessary in terms of the format of the decision. Therefore we have been unable to accept them.

5.511 Some submitters sought that any consequential changes be made so as to give effect to submissions. We have accepted these in part on the basis that a number of consequential amendments have been made.

5.512 HDC submitted that a note to plan users be added to make it clear that where two overlays overlap, the most onerous provisions of the overlapping overlay shall apply. We agree with this approach and have added the following to beginning of Chapter 19:

##### Note to Plan Users

The Rural zone is subject to a number of map overlays, including those that identify Landscape Domains and Outstanding Natural Features and Landscapes. In the situation where there are overlapping overlays, the most onerous provisions would be applied. For example where a property is located both within both the Hill Country Landscape Domain and the Tararua Ranges Outstanding Natural Feature



and Landscape, the provisions relating to the Outstanding Natural Feature and Landscape by virtue of being more onerous, would override the provisions relating to the Hill Country Landscape Domain.

- 5.513 Windflow sought an overarching amendment through PC22 to refer to inappropriate subdivision, use and development. We have already addressed this throughout the decision and rejected that approach. They also sought that the plan change be amended to align with the RMA and Regional Plan, and in particular, have regard to the benefits to be derived from the use and development of renewable energy/. We consider PC22 is now well aligned with the RMA and Regional Policy Statement and Plans and note that we have already addressed the issue of renewable energy and its appropriateness with the framework of the plan change.
- 5.514 Todd Energy and Mangahao Joint venture sought that the intention of the plan text be confirmed and consistent and that the reasons for the changes are well understood. We consider this has been achieved and the submissions are accepted in part.
- 5.515 HW Richardson Group Limited sought that the Council recognise the balance between protecting the landscape values of the District, and the ability of Allied Concrete to continue to use their land for the lawfully established purpose, and be provided for within the District Plan. We make the point here that PC22 does not extinguish existing use rights or resource consents that have previously been granted. However, we consider it is beyond the scope of this plan change to specifically provide for site specific activities within the District Plan. It would also require a greater level of investigation and reasoning than has been presented to us by the submitter.
- 5.516 A number of submitters made reference to Planning Maps 32 and 33. Transpower sought the retention of the High Voltage Power Transmission Lines on the maps and for them to be consistent in their labeling. The Mitchells, Gaskins and Andersons sought a similar outcome, HDC sought that Map 33 be corrected to include all properties within the Horowhenua District jurisdiction, while Mr Rudd and Ms Meredith sought that the maps be retained. These have all been achieved retained and the submissions are therefore accepted or accepted in part.
- 5.517 Mr Rudd and Horticulture NZ sought that Tables 1 and 2 from Schedule 4 in the Operative District Plan be retained, however we accept that these are no longer necessary nor aligned with PC22 and therefore the submission is rejected.
- 5.518 Muaupoko Tribal Authority and Tanenuiarangi Manawatu Incorporated sought that the term 'Maori' be changed to 'iwi' or 'mana whenua' and that a clause be added that allows for an archaeologist (verified by the iwi authority) to be present during development in areas sensitive to iwi. We have been unable to find any reference to 'Maori' in the plan change, although there is one reference to tangata whenua, and we consider it would be more appropriate to archaeological issue in the heritage section of the District Plan. The submissions are therefore rejected.
- 5.519 EECA sought an overarching submission that PC22 be amended to ensure a robust landscape assessment methodology, and clear policy direction that allows for a balanced consideration of what constitutes appropriate development in Outstanding Natural Landscapes, Outstanding Natural Features, and High Amenity Landscapes; provide for such development where the adverse effects can be avoided, remedied, or mitigated while recognising the wider context of Part II of the Resource Management Act. In our view this has generally been achieved through the review

undertaken on the ONFLs and the revisions made to the various provisions within the plan change.

- 5.520 Lakeview Farm Ltd, Everton Farm Ltd, Ohuangi Farm Ltd & Lakeview Holdings Ltd sought that rates relief be offered to landowners for fencing and protecting the identified areas for future generations. Requiring rates relief is not something we are able to address as part of this plan change, further we note that there is no requirement through the PC22 provisions to fence off areas. The submission is therefore rejected.
- 5.521 Taiao Raukawa Trustees sought that the plan change be amended to focus on s.6(e), as well as s.6(b), s.7(c) and s.7(f) of the RMA. We were unclear as to why a particular focus on s.6(e) was considered necessary in this situation where the issue is about outstanding natural features and landscapes and without further evidence have rejected the submission.
- 5.522 As a result submissions 027N, 027O, 066B, 076K and 076O are accepted and submissions 018E, 019F, 043H, 053C, 058O, 059V, 061M, 061N, 065B, 076R, 110A and 110S are accepted in part and submissions 021A, 023A, 026A, 033B, 033C, 038D, 044A, 052D, 053B, 059T, 061L, 067D, 076P, 078A, 083B, 084B, 098A, 103B, 103C, 110M, 111A, 111G, 111H, 111J, 111K, 117B and 117C are rejected.

### **Section 32**

- 5.523 Section 32 requires an evaluation of whether the objective is the most appropriate way to achieve the purpose of the Act and whether, having regard to their efficiency and effectiveness, the policies, rules and other methods are the most appropriate for achieving the objective. As we understand it the use of the term "most appropriate" in s.32(3) of the Act has a meaning similar to suitable rather than superior. As such, changes sought therefore only need to be preferable in resource management terms to the existing provisions in order to be the "most appropriate" way of satisfying the purpose of the Act.
- 5.524 Bearing this in mind the objective proposed has been altered from the notified version of PC22 and in our view is now better worded to achieve the purpose of the Act, aligning more with s6 and stating more clearly to outcomes to be sought.
- 5.525 Policies and rules have also been amended to better reflect how the objective is to be achieved. We have looked closely at the various policies and subsequent rules and consider that those we have now adopted are the most appropriate in achieving the objective. In saying this we note that the area of the ONFLs has been substantially reduced to ensure that only those areas which meet the criteria are included, and various rules have been amended to provide a better balance between regulation and land use practices.
- 5.526 As a result of the changes now proposed as part of this decision we consider the new objective will achieve the purpose of the Act. We have evaluated the policies and methods as being the most appropriate, in terms of their effectiveness and efficiency, and benefits they achieve versus the costs imposed. We also make the point that the plan change as a whole is more appropriate in achieving the purpose of the Act than was the situation with the operative District Plan provisions which had been found to result in considerable scope for confusion and poor administration.

### **Section 74 & 75**

- 5.527 The relevant planning documents we have considered in terms of sections 74 and 75 of the Act in evaluating PC22 include:
- The Operative Regional Policy Statement (RPS) and the Proposed Horizons One Plan;
  - The National Policy Statements on Renewable Energy and Electricity Transmission;
  - The New Zealand Coastal Policy Statement.
- 5.528 We consider that our assessment of these documents meets the intent of these sections of the Act.

### **Part 2**

- 5.529 As we have discussed, the peer review of the ONFLs recommended a number of changes to the ONFL boundaries originally proposed in PC22. A subsequent review of specific boundary issues as requested through submissions and at the hearing has resulted in significant amendments to the identified ONFL areas.
- 5.530 We have subsequently examined the maps, listened to submitters and in a number of cases, visited their properties. We have also reviewed the provisions associated with the ONFLs and DHLAs based of matters raised by submitters.
- 5.531 We considered for the reasons set throughout our decision and subject to the amendments we have adopted that PC22 meets the purpose and principles set out in Part 2 of the Act. Specifically it has identified through rigorous evaluation the outstanding natural features and landscapes of the district and provided a framework and provisions to ensure their protection from inappropriate development (s6(b)). Further, it has established a 'second tier' of landscapes with high amenity values where development over certain thresholds can be evaluated for its appropriateness (s7(c) & (f)).
- 5.532 We are conscious that Part 2 also requires us to give consideration to people's social and economic wellbeing. In that regard a number of submitters raised concerns about the consenting costs and the interference in particular to farming practices. While we accept those concerns and have made amendments to the rules in certain areas to address them, we are required to balance these against potential effects and the overarching sustainable management purpose of the Act. We were provided with sufficient examples of where adverse effects had occurred, or potentially could occur, to warrant a level of intervention and through it, assessment.
- 5.533 Overall we consider PC22 will promote sustainable management of natural and physical resources through ensuring that the special landscape values and environmental qualities of the district are protected and maintained whilst still retaining the potential of the land resource to provide for peoples' social and economic wellbeing and meeting the needs of future generations.

**6.0 DECISION**

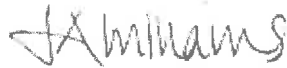
6.1 For all of the foregoing reasons we **resolve** the following:

1. That pursuant to clause 10 of Schedule 1 to the Resource Management Act 1991 PC 22 to the Horowhenua District Plan be approved as set out in Appendix A to this decision.
2. That for the reasons set out in the above report submissions and further submissions are accepted, accepted in part or rejected as listed in Appendix B to this decision.



**Dean Chrystal**

15 August 2012



**Julia Williams**