

**PROPOSED PLAN CHANGE 43 – TRANSPORTATION**

**AND**

**PROPOSED PLAN CHANGE 44 – WORKS AND NETWORK UTILITIES**

**TO THE MATAMATA-PIAKO DISTRICT PLAN**

**DECISION REPORT OF COUNCIL**

**PART 1 – INTRODUCTION**

1. Proposed “Plan Change 43 – Transportation” and “Plan Change 44 – Works and Network Utilities” (‘the plan change’) seeks to review:
  - The transportation and works and network utilities issues, objectives and policies in Part A of the District Plan;
  - The associated implementation methods (rules) in Part B, predominantly Chapter 8 “Works and Network Utilities” and Chapter 9 “Transportation”;
  - Other relevant provisions in Part B of the District Plan, notably Chapter 1 “General Provisions”, Chapter 3 “Development Controls”, Chapter 5 “Performance Standards”, Chapter 6 “Subdivision”, and Chapter 15 “Definitions”, required to integrate the new and amended provisions with other District Plan requirements, as appropriate;
  - The provisions of the Matamata-Piako District Council Development Manual (Development Manual) to improve clarity, consistency with District Plan provisions, update standards, and introduce additional standards to deal comprehensively with the transportation and utilities standards required to be met by developments undertaken in accordance with the District Plan.

As a consequence of the review, changes are also proposed to the Planning Maps, to show the location of the National Grid (where not already designated), electricity sub-transmission lines, gas transmission lines, and regional flood protection assets.

**Format of report**

2. This Decision Report provides the Council analysis of the plan change and decisions on submissions and further submissions. It contains the following sections:

Part 1 – Introduction

Part 2 – Evidence heard and tabled

Part 3 – Legislative requirements and the relevant planning instruments

Part 4 – Changes made since notification and the s32 evaluation

Part 5 – Decisions

3. The following appendix is provided to this report:

Appendix 1 – Changes to the District Plan, Planning Maps, and Development Manual as determined by Council. Within Appendix A:

- Additions to the Operative District Plan and the Development Manual in response to the plan change as determined by Council are shown in green text, and deletions in ~~green strikethrough~~.
- Council has also adopted a number of minor administrative corrections to the Operative District Plan and Development Manual under Clause 20A of Schedule 1 to the RMA. These corrections are shown in black text (additions) and black ~~strikethrough~~ (deletions) and are highlighted in yellow.

### **Plan change process**

4. The review of the Transportation and Works/Network Utilities plan changes commenced in 2012 with a review of the legislative requirements and relevant planning instruments, and identification of issues and options.

5. Subsequently, public consultation was undertaken, with initial information pages published in the Piako Post and Matamata Chronicle, notifications on Council's website, and "street stalls" in the three main towns of Matamata, Morrinsville and Te Aroha. All of these invited comments from the community and stakeholders in regards to the plan changes. Meeting were also held with key stakeholders who participated extensively in the plan change process.

6. By September 2013, the preparation and evaluation of the proposed plan changes were completed. This plan change report considered the responses received from the public and key stakeholders during consultation, and included an assessment under the provisions of section 32 of the Resource Management Act 1991.

7. The report identified and considered six key resource management issues that the plan change needed to address, namely:

- **Issue 1 – Integrating land-use and infrastructure**

*Land-use that is not integrated with infrastructure impacts on our ability to sustainably manage the natural and physical resources that are important for our social, economic, and cultural wellbeing.*

- **Issue 2 – Regionally significant infrastructure**

*Not enabling or protecting the operation, maintenance, upgrading, or development of regionally significant infrastructure networks, can adversely affect the economic and social wellbeing of national, regional, and local communities.*

- **Issue 3 – Energy efficiency and renewable energy generation**

*Failure to use energy efficiently, and to enable the development, operation, maintenance and upgrading of new and existing renewable energy generation activities; impact on our ability to meet the growing energy demand in a sustainable manner.*

- **Issue 4 – Safety and efficiency of our transportation network**

*Our social, economic and cultural wellbeing is dependent on an integrated, safe and efficient transportation network that is environmentally sustainable and that considers the movement of both people and freight.*

- **Issue 5 – Parking and loading**

*Inadequate off-street parking and loading can result in adverse effects on the safety and efficiency of the road network, yet parking and loading standards that are too onerous can stifle development and lead to inefficient use of land.*

- **Issue 6 – Enabling works and network utilities while managing adverse effects**

*The efficient provision of works and network utilities that are essential for the wellbeing of our community and their health and safety must be enabled and protected, while ensuring that the adverse effects associated with the provision of these facilities are avoided, remedied, or mitigated to the greatest extent possible.*

8. The report recommended changes to the District Plan objectives, policies and methods to comprehensively address the six key resource management issues identified above.
9. On 9 October 2013, Council formally resolved to proceed with public notification of the plan change under Schedule 1 of the RMA. Subsequently, public notice was served on 30 October 2013, with 27 November 2013 as the closing date for submissions.
10. In response to the notification, 24 submissions were received from:
  - 1) John Richard Mellow;
  - 2) Progressive Enterprises;
  - 3) Waikato Regional Council;
  - 4) Ministry of Education;
  - 5) KiwiRail;
  - 6) Macken Farm Ltd;
  - 7) Mike Gribble;
  - 8) New Zealand Transport Agency;
  - 9) Vector Gas;
  - 10) David Nickalls;
  - 11) Tidmarsh Holdings Ltd;
  - 12) M & C O'Callaghan;
  - 13) Piako Gliding Club;
  - 14) Federated Farmers;
  - 15) Kaimai Properties & Matamata Metal Supplies;
  - 16) D & L Swap;
  - 17) New Zealand Historic Places Trust;
  - 18) Fonterra;

- 19) Transpower;
  - 20) Horticulture NZ;
  - 21) Environmental Futures Inc;
  - 22) Telecom NZ;
  - 23) Powerco Ltd; and:
  - 24) Chorus NZ.
11. In addition, four late submissions were received from:
- 1) Helen & Kerry Cranston
  - 2) Ventus Energy (NZ) Ltd
  - 3) Barr & Harris Surveyors; and:
  - 4) GeoMetrix Surveyors.
12. On 12 February 2014, Council notified a summary of submissions, calling for further submissions by 26 February 2014. In response to notification of the summary of submissions, 11 further submissions were received from:
- 1) Kaimai Properties & Matamata Metal Supplies;
  - 2) D & L Swap;
  - 3) Environmental Futures Inc;
  - 4) Mike Gribble;
  - 5) Powerco Ltd;
  - 6) Federated Farmers;
  - 7) Transpower;
  - 8) Horticulture NZ;
  - 9) Te Aroha Business Association;
  - 10) Tidmarsh Holdings Ltd; and:
  - 11) New Zealand Transport Agency.
13. During April 2014 Council staff held informal meetings with key stakeholders and a formal pre-hearing meeting was also held on 1 May 2014. These meetings enabled dialog between submitters and Council staff to clarify submission points.
14. As a result of the submissions, informal meetings and the pre-hearing meeting, Council staff, in their s42A report prepared prior to the hearing, recommended further changes to the District Plan as originally notified.

### **Council hearing**

15. A Council hearing was held on 4 June 2014 to consider the merits of the plan change and to hear from the individual submitters. The following Councillors were in attendance at the hearing:
- Jan Barnes – Mayor (Chair)
  - Teena Cornes
  - Neil Goodger
  - Brian Hunter
  - Peter Jager

- Bob McGrail
- Garry Stanley
- Ash Tanner
- James Thomas
- Leonie Tisch

16. During the proceedings, the following parties were in attendance/ made appearances:

<b>Attendee</b>	<b>Representing</b>
Ally van Kuijk, District Planner	Matamata-Piako District Council
Marius Rademeyer, Planning Consultant, RMC Ltd	Matamata-Piako District Council
Mike Hurley, Senior Environmental Planner	Transpower New Zealand Ltd
Andy Holroyd, Chartered Engineer	Barr and Harris Surveyors Ltd
Lynette Wharf, Consultant, The Agribusiness Group	Horticulture NZ
Norm Robbins, Transportation Engineer, AECOM	Fonterra Cooperative Group Ltd
Graeme Mathieson, Planning Consultant, AECOM	Fonterra Cooperative Group Ltd
Paul Baylis, Environmental Manager	Fonterra Cooperative Group Ltd
Robin Britton, Planning Consultant, Focus Group	Piako Gliding Club
Caitlin Kelly, Planner	NZ Transport Agency
Dr Stephen Chiles, Consulting Acoustics Engineer	NZ Transport Agency
Jenni Fitzgerald, Senior Planner	NZ Transport Agency
Martin Wallace, Farmer	Environmental Futures and Mike Gribble
Ursula Lehr, Policy Advisor	Waikato Regional Council
Amon Martin, Programme Manager	Waikato Regional Council
John McRae, Farmer	Macken Farms Ltd
Catherine O'Callaghan, Planner	Tidmarsh Holdings Ltd, J. Tidmarsh, and C & M O'Callaghan

17. The following submitters who could not attend the hearing provided tabled evidence which was duly considered by Council:

<b>Submitter</b>	<b>Representing</b>
Chris Horne, Planning Consultant, Incite Ltd	Chorus New Zealand Ltd
Chris Horne, Planning Consultant, Incite	Telecom New Zealand Ltd
Mike Foster, Planning Consultant, Zomac	Progressive Enterprises Ltd
Planning Solutions Ltd	
Deborah Hewitt, Senior RMA Advisor	KiwiRail Ltd
Carolyn McAlley, Heritage Advisor	Heritage New Zealand
Sally Millar, Regional Policy Advisor	Federated Farmers of New Zealand
Georgina McPherson, Senior Planner, Burton	Powerco Ltd
Planning Consultants Ltd	

## **PART 2 –EVIDENCE HEARD AND TABLED**

### **Council Staff**

18. Council staff had prepared a s42A report which helpfully provided an analysis of the issues to be considered by the Council and recommendations regarding individual submissions and further submissions. Ally van Kuijk presented an overview of the plan change process. She gave an outline of the documentation that was pre-circulated with the s42A report. She noted that four of the submissions were received late and that the Council could, under s37 RMA, extend the timeframe so that the late submissions could be accepted. The Council considered the s37 RMA matters, and resolved to accept the late submissions.
19. The Council then resolved to take the s42A report as read, and Marius Rademeyer proceeded to provide a brief summary of the resource management issues, legislative requirements, and the key planning instruments. He also gave an overview of the submissions received and staff recommendations, under the 18 “topics” listed in the s42A report, namely:
  - 1) Submissions on the “rolling review” process
  - 2) ‘Whole of plan’ submissions
  - 3) Part A, “Section 1 Introduction” of the District Plan and deletion of strategic objectives and policies
  - 4) Part A, “Section 2 Sustainable management strategy” of the District Plan
  - 5) Part A, “Section 3.1 Natural environment and heritage”, “Section 3.2 Natural Hazard”, “Section 3.4 Subdivision” and “Section 3.5 Amenity” of the District Plan
  - 6) Part A, “Section 3.7 Works and network utilities” of the District Plan
  - 7) Part A, “Section 3.8 Transportation” of the District Plan
  - 8) Part B, “Section 1 General provisions” and “Section 2 Activity Table”
  - 9) Provisions relating to the National Grid and Sub-Transmission Lines (Part B, Section 3.5, 6.1.1, and 6.1.3(x))
  - 10) Activities adjacent to WRC flood control assets (Section 3.8)
  - 11) Activities adjacent to state highways and railway lines (Sections 3.7 and 5.2.9)
  - 12) Infrastructure and servicing (Section 5.9)
  - 13) Works and network utilities (Section 8)
  - 14) Transportation
  - 15) Submissions on other District Plan rules
  - 16) District Plan definitions
  - 17) Planning Maps
  - 18) Development Manual

20. The submissions heard and tabled at the hearing, following the presentation of the s42A report, are summarised below:

#### **Transpower New Zealand**

21. Mike Hurley's evidence was largely in support of Staff's recommendations subject to:
- Amendments to Part A, 2.4.7, Objective O2 and Policy P2; and
  - Relatively minor changes to Sections 3.5 and 6.1.3(ix) of the District Plan, and to the definition of "regionally significant infrastructure".

#### **Barr & Harris Surveyors**

22. Andy Holroyd requested changes to Clauses 3.5.6, 3.7.2, 3.21, 5.11, 5.17, and 6.6 of the Development Manual. In addition, he requested the inclusion of a mandatory timeframe for Council to process applications for engineering design approval.

#### **Horticulture New Zealand**

23. Lynette Wharfe sought specific provision for artificial crop protection structures and crop support structures in proximity to the National Grid (Section 3.5 of the District Plan). She opposed Staff's recommendation to amend the definition of "built environment".

#### **Fonterra**

24. Graeme Mathieson sought appropriate site specific performance standards (with regard to traffic volumes, parking, and accessways) for the Waitoa and Morrinsville dairy processing sites. He disagreed with Staff's recommendation that site specific standards be considered through a separate plan change process. He wanted the Council to amend the sites' development concept plans (DCPs) to include new permitted activity rules for traffic volumes, parking, and accessways, as part of this plan change process. In addition, he sought changes to the District Plan, to ensure that self-serviced infrastructure within DCP sites are exempt from the provisions in Table 8.5.1.
25. The evidence presented by Norm Robbins recommended actual site-specific permitted activity standards (traffic volume, accessway, and parking) for the Morrinsville and Waitoa dairy processing plants.

#### **Piako Gliding Club**

26. Robin Britton's evidence was generally in support of Staff's recommendation with the proviso that the Matamata Airport be clearly defined as being part of the District's transportation network, and locally significant.

#### **NZ Transport Agency**

27. Caitlin Kelly's evidence sought additional cross-referencing between related parts of the Plan and amendments to:
- The assessment criteria within Section 9.1.2 of the District Plan to ensure that the entirety of an integrated transport assessment (ITA) can be considered, not only the results of an ITA as recommended by Staff; and
  - The reverse-sensitivity provisions relating to development near state highways (Section 5.2.9 and 6.1.3(xi)).
28. Dr Stephen Chiles's evidence recommended the following provisions:
- Setbacks/ buffer areas: 20m from the nearest traffic lane, reducing to 10m where the posted speed limit is less than 70km/h;
  - Acoustic treatment: Specify internal design sound levels for new, and additions to, sensitive building spaces within 80m of state highways, reducing to 40m where the speed limit is less than 70km/h.
  - Ventilation: Where windows needed to be closed to meet internal noise limits, require a ventilation system that provides thermal comfort in excess of the Building Code minimum.

#### **Environmental Futures/ Mike Gribble**

29. Martin Wallace expressed concern regarding the extent of reverse-sensitivity protection that the plan changes sought, coupled with a lack of requirements on infrastructure providers to internalise adverse effects. On behalf of Mike Gribble, he objected to the disclaimers as to the accuracy of information on the location of infrastructure to be shown on the Planning Maps.

#### **Waikato Regional Council**

30. Ursula Lehr's evidence confirmed the Waikato Regional Council's (WRCs) general support for the Staff's recommendations and outlined the following two points that were still unresolved:
- Planning Maps – Include disclaimers to reflect that there may be changes to the flood protection assets over time, due to physical changes and corrections and refinements; and
  - Part A, Section 3.7.2, Policy P3, bullet 1: Include reference to the "future environment as a result of proposed changes", in addition to "the environment as it exists".

#### **Macken Farms Ltd**

31. John McRae expressed concern that the proposed provisions relating to activities near the WRC's flood control assets (Section 3.8 of the Plan) will result in an unnecessary duplication of Regional Council functions and matters already dealt with in the Waikato Regional Plan.

#### **Tidmarsh Holdings, J. Tidmarsh, and C & M O'Callaghan**



32. Cathy O'Callaghan's evidence was generally in support of the plan changes, subject to deletion of reference to "a net increase in the supply of car parking" in the matters of discretion in Section 9.1.2(vii) of the District Plan.

### **Chorus New Zealand and Telecom New Zealand**

33. The tabled evidence by Chris Horne supported Staff's recommendations, subject to minor changes to the performance standards for telecommunication facilities in Section 8.1.2(iii) of the Plan, and an additional provision to exclude minor telecommunication buildings and structures outside the road reserve, from the District-wide development controls.

### **Heritage New Zealand**

34. The tabled evidence of Carolyn McAlley sought:
- Specific recognition of historic heritage in the issues, objectives and policies relating to integration of land-use with infrastructure, and regionally significant infrastructure; and:
  - Deletion of the words "to the greatest extent practicable" and "the extent practicable" from the objectives and policies relating to regionally significant infrastructure.

### **KiwiRail**

35. The tabled evidence of Deborah Hewitt, sought:
- Application of the performance standards for internal noise limits (applicable to noise sensitive activities), to a buffer area of 100m from railway lines for internal spaces, and 60m for outdoor spaces;
  - Application of the above performance standards to both new and altered buildings for noise sensitive activities;
  - Requirements for ventilation systems that provide thermal comfort when windows have to be closed in order to meet internal noise limits;
  - Inclusion of the descriptor "1 hour", after "LAeq" in the performance standards referred to in Section 5.2.9 of the Plan;
  - Inclusion of specific performance standards relating to vibration, where development occurs adjacent to railway lines;
  - Inclusion of mandatory setbacks from railway lines for buildings, trees and shrubs;
  - Maintenance requirements for fences and walls facing a railway line, and screening of service and storage areas;
  - Incorporation of the sightline diagrams currently held in the Development Manual, within Section 3.7 of the District Plan, and amendment of Clause 3.24 of the Development Manual which conflicts with Section 3.7 of the District Plan;
  - Deletion of the definition of "private level crossing"; and:
  - Amendments to Designation 88 (Schedule 4 of the District Plan) to retain the Thames Branch Line, amend the authority name to "KiwiRail Holdings Limited (KiwiRail)", and identification of the Waitoa Branch Line.

### **Progressive Enterprises**

36. Mike Foster's tabled evidence supported Staff's recommendations, subject to amendment of the definition of "supermarket" that relied on a distinction in floor area.

#### **Federated Farmers**

37. Sally Millar's tabled evidence generally supported the Staff recommendations, subject to the changes sought by Transpower in relation the National Grid.

#### **Powerco**

38. Georgina McPherson's tabled evidence which generally supported Staff's recommendations, subject to the following amendments:
- Part A, 2.4.7, Objective O2: Deletion of the words "to promote the economic, social, and cultural wellbeing of national, regional, and local communities";
  - Part A, 2.4.7, Objective O1: Inclusion of reference to the "economic, social, and cultural wellbeing of communities".
  - Part A, 3.5.2.3, Objective O6: Deletion of the word "transport", before "infrastructure networks";
  - Changes to Clause 9 of the Activity Table relating to electricity transmission and distribution networks (Section 8.2.1) to provide for permitted activity status for transformers, substations, and switching stations of up to 66kV in the Rural Zone;
  - Amendments to the definition of "regionally significant infrastructure" to ensure consistency with the RPS.

#### **Right of reply**

39. Council Staff provided a right of reply at the end of the hearing. After hearing the evidence presented and tabled, Council staff overall affirmed their primary recommendations with some minor changes to specific plan provisions.

## **PART 3 – LEGISLATIVE REQUIREMENTS AND THE RELEVANT PLANNING INSTRUMENTS**

40. Staff's s42A report summarised the legislative requirements and planning instruments relevant to the Council's consideration of the plan changes. These matters are not repeated in full. For this plan change, the key provisions and instruments are summarised below:

### **Matters to be considered**

41. Section 74 RMA sets out the matters to be considered when changing district plans. Relevant to this plan change is that s74 requires that the Council:
- Considers its functions (section 31), and Part 2 RMA matters (i.e. the purpose and principles of the Act);
  - Have particular regard to an evaluation report prepared in accordance with s32;
  - Have regard to the proposed regional policy statement, management plans and strategies prepared under other Acts, and consistency with the plans of adjacent territorial authorities; and
  - Must disregard trade competition.

### **Council's functions**

42. As a territorial authority, Council's functions (s31) are:
- The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources in the District; and
  - The control of any actual or potential effects of the use, development, or protection of land.

### **Part 2 matters**

43. Part 2 contains the purpose and principles of the Act. Section 5 states that the overriding purpose is to promote the sustainable management of natural and physical resources. Sustainable management means:
- (2) *managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*
    - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
    - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*

(c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

(g) *any finite characteristics of natural and physical resources*

44. Section 6 addresses matters of national importance that all persons exercising powers and functions under the Act must recognise and provide for. For the Matamata-Piako District, the matters of relevance are:

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

45. Section 7 requires that all persons exercising functions and powers under the Act to have particular regard to the following matters:

- *kaitiakitanga:*
- *the ethic of stewardship:*
- *the efficient use and development of natural and physical resources:*
- *the efficiency of the end use of energy:*
- *the maintenance and enhancement of amenity values:*
- *intrinsic values of ecosystems:*
- *maintenance and enhancement of the quality of the environment:*
- *any finite characteristics of natural and physical resources:*
- *the protection of the habitat of trout and salmon:*
- *the effects of climate change:*
- *the benefits to be derived from the use and development of renewable energy.*

46. Section 8 requires the principles of the Treaty of Waitangi to be taken into account.

### **Section 32**

47. At the time of notification of the plan change on 30 October 2013, Section 32 required an evaluation of alternatives, benefits and costs of any proposed plan change. Sub-sections (3) and (4) stated the following:

(3) *An evaluation must examine—*

- (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*

- (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
  - (4) *For the purposes of the examinations referred to in subsection (3) and (3A), an evaluation must take into account—*
    - (a) *the benefits and costs of policies, rules, or other methods; and*
    - (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
- 48. Subsequently Section 32 was changed as a result of the Resource Management Amendment Act 2013. The amendments do not change the overall purpose of Section 32, but aim to improve the quality of evaluation and provide greater detail about the requirements for undertaking and reporting evaluations, particularly for the assessment of benefits and costs, including anticipated opportunities for economic growth and employment. The changes took effect on 4 December 2013.
- 49. In this instance, the plan changes were notified prior to 4 December 2013, but the further submissions period was not completed until 26 February 2014. Therefore, the new provisions with regard to preparing a further evaluation under s32AA, apply to any changes made since the plan change was notified:

**32AA Requirements for undertaking and publishing further evaluations**

- (1) *A further evaluation required under this Act—*
    - a) *is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and*
    - b) *must be undertaken in accordance with section 32(1) to (4); and*
    - c) *must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
    - d) *must—*
      - i. *be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement), or the decision on the proposal, is publicly notified; or*
      - ii. *be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.*
  - (2) *To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).*
  - (3) *In this section, **proposal** means a proposed statement, plan, or change for which a further evaluation must be undertaken under this Act.*
50. A further evaluation must follow the same processes as the initial evaluation (as set out in section 32(1) to (4)), including assessing any new objectives, policies, rules and other methods. Further evaluations, when required (subject to the scale of the changes) must be either published in a report or referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken.

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

51. The key planning instruments that this plan change must give effect to as set out in detail in the s42A report are:
- National Policy Statement on Electricity Transmission (NPS-ET) – requires the national significance of the electricity grid to be recognised.
  - National Policy Statement for Renewable Electricity Generation (NPS-REG) – requires the benefits of renewable electricity generation to be recognised.
  - Operative Waikato Regional Policy Statement (RPS) – requires the continued operation of regionally significant infrastructure to be maintained or enhanced.

**Planning instruments that these plan changes must not be inconsistent with**

52. The key planning instruments that this plan change must not be inconsistent with, as set out in the s42A report are:
- The National Environmental Standards for Electricity Transmission Activities (NES-ET) – sets out the consent requirements for activities relating to the existing National Grid.
  - National Environmental Standards for Telecommunication Facilities (NES-TF) – sets out consent requirements for radio frequency fields associated with all telecommunications facilities and for low impact telecommunications infrastructure on road reserves.
  - Operative Waikato Regional Plan (WRP) – provides further policy direction to give effect to the RPS.

**Planning instruments that the plan changes must have regard to**

53. The key planning instruments that this plan change must have regard to are:
- The Proposed Waikato Regional Policy Statement (PRPS) – requires the built environment (including transport and infrastructure) to be developed in an integrated, sustainable and planned manner and for regionally significant infrastructure to be protected and enabled.
  - The Waikato Regional Land Transport Strategy 2011 – 2041 (RLTS) – seeks to ensure an affordable, integrated, responsive, and sustainable land transport system that enhances the environmental, economic, social, and cultural wellbeing of the population.

## **PART 3 – CHANGES MADE SINCE NOTIFICATION AND THE S32 EVALUATION**

54. As a result of submissions, a number of amendments to the plan change were recommended by Staff in their s42A report. With the exception of wording changes to improve clarity, the changes can be summarised as follows:

### **Key resource management issues**

55. There have been no significant changes to the identification of the key management issues that the plan change seeks to address. The only change of note is recognition that both existing and planned infrastructure needed to be considered, with the term “planned”, in the context of the plan change, referring to “infrastructure where funding has been allocated and the infrastructure is subject to consenting or designation processes”.

### **Objectives and policies**

56. With regard to the objectives and policies in Part A of the Plan, the following minor amendments were made:
- Section 2.4.7: a new Policy P7 that seeks to avoid adverse effects, including reverse-sensitivity effects on the National Grid, was introduced;
  - Section 3.4.2.1, Objective O4 and Section 3.5.2, Objective O6 – reference that subdivision must avoid, remedy or mitigate potential reverse-sensitivity effects, was added;
  - Section 3.7.2.1, Policy P3: the term “the degree to which the environment has already been modified”, has been replaced with “the environment as it exists”.
  - Section 3.7.2, Policy P6 – recognition that the nature, timing and sequencing of development must, amongst the other matters, “prioritise the development of identified growth area and areas with existing infrastructure capacity” was added;
  - The strategic objectives and policies that do not relate to infrastructure, that have been the subject of submissions, have been reinstated.

### **Rules and Planning Maps (Parts B and C of the Plan)**

57. The only minor amendments made to Part B of the Plan were:
- Rule 3.5 – the provisions relating to activities adjacent to the National Grid were similar to those notified, but have been framed in a different manner, for national consistency;
  - Rule 3.8 – the provisions relating to activities adjacent to the WRC’s flood control assets have been clarified, and simplified;
  - Rule 5.2.9 – additions to existing buildings have been deleted from the provisions relating to noise sensitive activities adjacent to railway lines and state highways;
  - Rule 5.9 – the performance outcomes previously required for infrastructure and servicing have been deleted, and re-imposed as matters of discretion;

- Rule 5.9.4 – the consent “trigger” for larger-scale activities has been increased from 100, to 250 car-equivalent movements per day;
- Rule 6.1.3(xi) – a new provision has been introduced, requiring new vacant developable lots adjoining state highways and railway lines to nominate a building platform that complies with mandatory setbacks, at the time of subdivision;
- Chapter 8 – minor changes were made to the provisions relating to works and network utilities, notably the provisions for stock movements and stock crossings have been clarified and simplified;
- Rule 9.1.6 – a new provision that clarifies the circumstances when a resource consent under the transportation section of the Plan, “triggers” a requirement for an integrated transport assessment, has been added;
- Rule 9.2.2 – deletion of the requirements relating to private railway crossings;
- Definitions – the definition of “built environment” was amended for consistency with the RPS, and new and amended definitions as a consequence of the changes described above, were added;
- Disclaimers that apply to information shown on the Planning Maps, were added, and the location of WRC flood control assets was shown on the Planning Maps.

#### **Further evaluation (Section 32AA)**

58. Overall, the scale and significance of the changes made since the s32 evaluation was completed were minor. Consequently, the original s32 evaluation was still valid and able to be relied on at the time that the plan changes came to the hearing, without triggering the need to undertake a further evaluation to guide Council's decision-making.



## PART 5 – DECISIONS

59. Under Clause 10 of Schedule 1 to the RMA, the Council must give a decision on the provisions and matters raised in submissions on the plan changes. The decision must include the reasons for accepting or rejecting the submissions and must include a further evaluation of any alterations made:

### **10 Decisions on provisions and matters raised in submissions**

- (1) *A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.*
- (2) *The decision—*
- (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—*
    - (i) the provisions of the proposed statement or plan to which they relate; or*
    - (ii) the matters to which they relate; and*
  - (ab) must include a further evaluation of the proposed policy statement or plan undertaken in accordance with section 32AA; and*
  - (b) may include—*
    - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and*
    - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.*
- (3) *To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.*
- (4) *The local authority must—(aaa) have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and*
- (a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and*
  - (b) publicly notify the decision within the same time.*
- (5) *On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.*

60. The Council considered all of the submissions and further submissions received during the plan change process, and the evidence heard and tabled at the hearing. In accordance with sub-clause 10(3) of Schedule 1 to the RMA, Council has determined that it will not provide a decision on each individual submission. The submissions and further submissions are determined in accordance with this Council's decisions below, and the alterations to the plan provisions are provided in Appendix 1 to this decision.

61. The Council, in making its decisions, was guided by the relevant planning instruments that the plan changes must give effect to, or must not be inconsistent with, or must have regard to, as set out previously (see Part 3 of this report). Given that the provisions of the PRPS relevant to this plan change are beyond challenge, with the Environment Court

having issued consent orders to settle the matters previously under appeal, the Council has given considerable weighting to this planning instrument, in making its decisions.

## 5.1 ISSUES, OBJECTIVES AND POLICIES

62. To deal comprehensively with the six key resource management issues that the plan change seeks to address (see Part 1 of this report), new and amended issues, objectives, and policies are introduced in Part A of the District Plan.
63. These provisions are generally supported by a large number of submitters. Where the provisions are not supported, submitters in opposition have predominantly raised the following concerns:
- The reverse-sensitivity provisions are unbalanced;
  - The provisions will restrict development;
  - Historic heritage should be specifically recognised and provided for; and
  - The management of regionally significant infrastructure and renewable energy generation should place more emphasis on the avoidance, remediation, and mitigation of adverse effects.
64. The Council considers that the plan change provisions represent the appropriate resource management response to the policy-framework as set out in PRPS, NPS-ET and the NPS-REG. Historic heritage is provided for in reference to “the sustainable management of natural and physical resource”, and the need to “avoid, remedy, or mitigate adverse effects on the environment”, within the relevant objectives and policies. The policy approach towards reverse-sensitivity and managing development to ensure the integration of land-use with infrastructure is consistent with the PPRS.
65. More specifically, the Council considers that the provisions as tabled by staff at the hearing are supported by the following relevant PRPS provisions [emphasis added] that are now beyond challenge and for which the Environment Court has issued consent orders:

### **Objective 3.4: Energy**

*Energy is managed and electricity generation and transmission is operated, maintained, developed and upgraded, in a way that:*

a) ....

b) ....

baaa) *increases efficiency;*

baa) *recognises any increasing demand for energy;*

bab) *seeks opportunities to minimise demand for energy;*

c) *recognises and provides for the national significance of electricity transmission and renewable electricity generation activities;*

- ca) recognises and provides for the national, regional and local benefits of electricity transmission and renewable electricity generation;
- d) reduces reliance on fossil fuels over time;
- e) addresses adverse effects on natural and physical resources;
- ea) recognises the technical and operational constraints of the electricity transmission network and electricity generation activities; and
- f) recognises the contribution of existing and future electricity transmission and electricity generation activities to regional and national energy needs and security of supply.

**Objective 3.11: Built environment**

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

- a) promoting positive indigenous biodiversity outcomes;
- b) integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;
- c) recognising and protecting the value and long-term benefits of regionally significant infrastructure;
- d) protecting access to identified mineral resources;
- e) minimising land use conflicts, including minimising potential for reverse-sensitivity;
- f) anticipating and responding to changing land use pressures outside the Waikato region which may impact on the built environment within the region;
- g) providing for the development, operation, maintenance and upgrading of new and existing electricity transmission and renewable electricity generation activities including small and community scale generation, and
- h) .....

**Policy 6.1: Planned and co-ordinated development**

Development of the built environment, including transport, occurs in a planned and co-ordinated manner which:

- a) has regard to the principles in section 6A;
- b) recognises and addresses potential cumulative effects of development;
- c) is based on sufficient information to allow assessment of the potential long-term effects of development; and
- d) has regard to the existing built environment.

**Policy 6.6: Significant infrastructure and energy resources**

Management of the built environment ensures particular regard is given to:

- a) that the effectiveness and efficiency of existing and planned regionally significant infrastructure is protected;
- b) the benefits that can be gained from the development and use of regionally significant infrastructure and energy resources, recognising and providing for the particular benefits of renewable electricity generation, electricity transmission, and municipal water supply; and
- c) the locational and technical practicalities associated with renewable electricity generation and the technical and operational requirements of the electricity transmission network.

**Method 6.6.1: Plan provisions**

Regional and district plans shall include provisions that give effect to Policy 6.6, and in particular, that management of the built environment:

- a) does not result in adverse effects on significant transport corridors as defined in Maps 6.1 and 6.1A (section 6B) through avoiding ribbon development and through avoiding as far as practicable additional access points and exacerbation of community severance.
- b) ....
- c) ....
- d) ....
- e) ....
- ba) provides for renewable energy by having particular regard to:
  - i) the increasing requirement for electricity generation from renewable resources such as geothermal, fresh water, wind, solar, biomass and marine, and the need to maintain generation from existing renewable electricity generation activities;
  - ii) the need for electricity generation to locate where energy sources exist, and transmission infrastructure to connect these generation sites to the national grid or local distribution network;
  - iii) the logistical or technical practicalities associated with developing, upgrading, operating or maintaining renewable electricity generation, or electricity transmission activities;
  - iv) any residual environmental effects of renewable electricity generation activities which cannot be avoided, remedied or mitigated can be offset or compensated to benefit the affected community or the region; and
  - v) the benefits of renewable electricity generation activities including maintaining or increasing security of electricity supply.
- ca) provides for infrastructure in a manner that:
  - i) recognises that infrastructure development can adversely affect people and communities; and
  - ii) does not result in land uses that adversely affect the effective and efficient operation of existing and planned regionally significant infrastructure.
- caa) considers how existing and planned renewable electricity generation activities and existing and planned urban development will be managed in relation to one another.

**Method 6.6.5: Measures to avoid adverse effects**

Local authorities should ensure that appropriate measures are implemented to avoid adverse effects of development of the built environment on the safe, efficient and effective operation of regionally significant infrastructure. With respect to electricity transmission corridors, development of the built environment should also take into account National Policy Statements, National Environmental Standards and Transmission Corridor Guidelines as relevant to the circumstances.

66. Council therefore adopts the provisions as presented by staff at the hearing, with minor changes as shown in Appendix 1, including:
- Deleting the word “greatest” before “extent” in 2.4.7, Objective O2; and:
  - Deleting the word “transport” before “infrastructure”, in 3.5.2.3, Objective O6.

## **5.2 DISTRICT PLAN RULES, PLANNING MAPS AND THE DEVELOPMENT MANUAL**

67. To implement the objectives and policies, the plan changes introduce a number of new and amended rules. The key amendments are summarised below:

### **Rules 3.5, 3.6, and 6.1.3(x) Activities and subdivision adjacent to the National Grid and sub-transmission lines**

68. These provisions deal with activities and subdivision adjacent to the National Grid and sub-transmission lines. The Council considers that the provisions as tabled by staff at the hearing with the further amendments tabled by Mike Hurley are the most appropriate methods to support the implementation of the new objectives, in so far as the National Grid and sub-transmission lines are concerned. The provisions also give effect to the NPS-ET.
69. Council therefore adopts the provision as tabled at the hearing, with minor changes as shown in Appendix 1, including provision for crop protection and crop support structures.

### **Rule 3.8 Activities adjacent to WRC's flood control assets**

70. The Council adopts the simplified version of Rule 3.8 and the inclusion of the assets on the Planning Maps, as tabled at the hearing. Inclusion of the location of the assets on the Planning Maps, will ensure transparency, and clarity for plan users. The Council considers that these measures are the most efficient and effective methods to support the objectives relating to regionally significant infrastructure, in so far as the Region's flood control assets are concerned. The Council is satisfied that control over development in proximity of the flood control assets is within its functions under s31 RMA, and will not result in a duplication of matters already addressed under the Waikato Regional Plan.

### **Rule 5.2.9 and Rule 6.1.3(xi) Noise sensitive activities and subdivision adjacent to state highways and railway lines**

71. The purpose of these provisions is to implement the objectives and policies relating to integration of land-use with infrastructure, and regionally significant infrastructure, in so far as the state highway and railway networks are concerned.
72. The provisions tabled by staff at the hearing proposed to apply internal noise limits to new sensitive development within 40m of railway lines, within 80m of a state highway where the speed limit is 70km/h or above, and within 40m of a state highway where the speed limit is less than 70km/h. Where windows have to be closed to ensure compliance, the provisions require ventilation in accordance with the Building Code.
73. In addition the provisions tabled required new subdivision to nominate a building platform for development along a state highway with a setback of 10m where the speed limit is less than 70km/h, and 20m where the speed limit is more than 70km/h. For development along a railway line, a setback of 20m was to be required.

74. Submissions were received from the NZ Transport Agency and KiwiRail, seeking the setbacks to apply to all development, not just new subdivisions. Both submitters requested that the internal noise limits should apply to alterations to buildings as well, not just new development. Additional ventilation standards to ensure thermal comfort were also sought. KiwiRail sought to impose the internal noise limits to a wider buffer of 100m, and to introduce vibration standards for new buildings. The NZ Transport Agency and KiwiRail were of the opinion that the provisions as tabled at the hearing are not adequate to protect neighbours from the adverse effects of the transport networks, and to protect the networks from reverse-sensitivity.
75. Submissions were also received from a number of parties objecting that the provisions as notified were too onerous, seeking that they should apply to new railway lines and new state highways only. In respect of existing railway lines and state highways, the Submitters wanted the network operators to implement mitigation, while the neighbours should be given the discretion to decide the level of mitigation they want to design to, without being dictated by the District Plan.
76. The Council considers that standards relating to development adjacent to existing railway lines and the state highway network are required to implement the Plan's objectives. The Council also accepts that the additional standards sought by the NZ Transport Agency and KiwiRail will improve the degree to which objectives will be achieved (i.e. "effectiveness").
77. However, the Council is mindful that the District's three main towns of Morrinsville, Matamata and Te Aroha are bisected by state highways, and railway lines. In some instances, these networks run parallel and in close proximity, meaning that the provisions will affect large areas of land zoned for urban development. It is the Council's view that the cost of achieving the additional benefits that the standards sought by the NZ Transport Agency and KiwiRail will bring is not justified. Some properties will even be stripped of the ability to erect a dwelling as of right, anywhere on existing titles.
78. Given that large parts of the urban areas are bisected by state highways with a speed limit of 70km/h, the Council is concerned that the provisions recommended by staff at the hearing were already too onerous when viewed in the context of the number of properties that will be affected. Consequently, Council adopts the provisions as tabled at the hearing, with an amendment that the 40m noise-sensitivity buffer apply also where the speed limit is 70km/h. For new subdivision along a state highway, a setback of 20m will apply where the speed limit is more than 70km/h, reducing to 10m where the speed limit is 70km/h or less. For subdivision adjacent to railway lines, a setback of 10m will apply.
79. The above amendments and other minor changes made by Council are shown in Appendix 1.

#### **Rule 5.9 Infrastructure and servicing**

80. Rule 5.9 is the key method to implement the new objectives for integrating land-use with infrastructure. In response to submissions, staff recommended changes at the hearing to

improve certainty for plan users, and to increase the “threshold” for permitted activity status for larger-scale developments.

81. The Council adopts the amended provisions as tabled at the hearing with minor amendments, as the appropriate method to implement the Plan’s integration objectives. The provisions as adopted are shown on Appendix 1.

### **Chapter 8 Works and network utilities**

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

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

83. The provisions support the implementation of most of the new objectives and, with the exception of stock movements and stock crossings, were generally supported by submitters, albeit subject to minor changes.

84. The version of these provisions tabled at the hearing, included simplified provisions for stock movements and stock crossings, and a number of other minor changes suggested by submitters.

85. The Council adopts the provisions as tabled at the hearing, with minor changes in response to matters raised at the hearing. The provisions as adopted are shown in Appendix 1.

### **Chapter 9 Transportation**

86. The plan change has reviewed the transportation section in its entirety, including:

- Road hierarchy;
- Access;
- On-site loading;
- On-site parking;
- General parking, loading and formation standards;
- Integrated transport assessment, and:
- Provisions relating to the railway network.

87. The provisions implement the Plan objectives relating to integration, regionally significant infrastructure, and transportation. A number of submitters, including the NZ Transport Agency and WRC were generally in support of the provisions. Other submitters were concerned that the access provisions were overly complicated and the permitted activity threshold for access onto significant and arterial roads, too low.
88. Fonterra wanted the Morrinsville and Waitoa dairy processing plants to be excluded from the permitted activity thresholds and accessway standards, and considered that this could be achieved by means of amendments to the sites' DCPs.
89. The amended provisions tabled at the hearing included higher thresholds for access onto significant and arterial roads, and advice notes to clarify the access provisions. The Council considers that the provisions as tabled are the appropriate methods to implement the Plan objectives. The access standards, while extensive, will assist the consistent implementation of the provisions. The Council has made minor changes to the provisions tabled, in response to submissions. The amended provisions are shown in Appendix 1.
90. The Council notes that, the evidence provided by Fonterra at the hearing, indicated that the NZ Transport Agency had some concerns regarding the proposed amendments to the Waitoa and Morrinsville dairy sites' DCPs. The Council considers that it does not have jurisdiction to amend these DCPs under this plan change process. However, the Council wants to encourage and continue to work with Fonterra to enable these DCP amendments to be considered under a separate plan change process.

### **Definitions**

91. As a result of the plan changes, number of definitions and amendments to definitions are required, to improve clarity and assist with plan implementation. The Council has adopted the changes to the definitions in Section 15 of the Plan as tabled at the hearing, with minor changes in response to submissions. The provisions are adopted are shown in Appendix 1.

### **Planning Maps**

92. The plan change proposes to include the location of the WRC flood control assets, National Grid (where not already designated), sub-transmission lines, and gas transmission lines within the Planning Maps. The Council considers that the inclusion of these assets on the Planning Maps will assist in providing clarity, and will aid the implementation of the Plan. Also included, are disclaimers as to the accuracy of the information shown, given the scale of the Planning Maps.
93. The Council has adopted the above changes and the inclusion of the disclaimers. The Council notes that the WRC requested additional disclaimers to be incorporated to reflect that the location of the assets are subject to change. The Council considers that this matter is already adequately covered by the disclaimer tabled by Staff at the hearing.



94. The amendments adopted by Council and the changes to the Planning Maps are shown in Appendix 1.

#### **Other amendments**

95. In addition, the Council adopts consequential changes and other minor amendments in response to submissions, as shown in Appendix 1. These changes are made to remove conflict with other provisions, provide clarity, aid plan implementation, and to correct minor errors.
96. The Council also adopts a number of minor administration corrections to the Operative Plan made under Clause 20A of Schedule 1 to the RMA. ~~These corrections are shown highlighted in yellow within Appendix 1.~~
97. Paragraph 3 in Part 1 of this report explains how the above changes are shown within Appendix 1.

#### **Development Manual**

98. The Council adopts changes to the Development Manual as set out in Appendix 1. The Council considers that these changes will improve clarity regarding the engineering standards required to achieve compliance with the District Plan.
99. The Council notes that it supports the inclusion of timeframes to process engineering design applications as requested in submissions. However, the Council considers that such a provision should more appropriately be included in the Development Code of Practice.
100. In addition, Council notes that it adopts the deletion of the second paragraph under Clause 3.24 of the Development Manual as requested by KiwiRail, to remove conflict with the parallel provisions in the District Plan.

### **5.3 CONCLUSION**

101. The Council notes that the changes made in the decisions above are minor and not of a scale that will trigger a requirement for a further evaluation under the new Section 32AA RMA.
102. The Council wishes to thank all parties who have contributed time and resources to the consultation, submission, further submission, and hearings stages of the plan change process. The contributions made by these parties greatly assisted the Council in making its decisions.

