

BEFORE THE HEARINGS PANEL

IN THE MATTER of hearings on submissions
concerning the proposed One Plan
notified by the Manawatu-
Wanganui Regional Council

**Introductory Statement and
Supplementary Recommendations
of Barry Gilliland
for the General Hearing on
Chapter 3: Infrastructure, Energy and Waste**

This report is prepared in three parts:

- Part One covers a brief introduction to Chapter 3.
- Part Two covers further recommendations in response to the evidence received on the Infrastructure, Energy and Waste: Planning Evidence and Recommendations Report (2008/EXT/908), pre-hearing meetings and as a result of planning and legal reviews.
- Part Three provides a correction to a recommendation that was omitted from the Addendum to the Planning Evidence and Recommendations Report.

PART ONE: INTRODUCTORY STATEMENT

1. The purpose of this introductory statement is to summarise and draw the Panel's attention to key information relevant to this hearing. I briefly set out the relevant provisions of the Proposed One Plan (POP) that are the subject of this hearing, describe their role and how they are connected to other chapters in the POP. I will also summarise the information that has been pre-circulated to the Panel.
2. This is a hearing into the Infrastructure, Energy and Waste provisions of the Proposed One Plan. The purpose of this chapter is to provide broad policy guidance for managing these activities in other chapters in Part I and Part II of the POP. Specific policy relating to how the adverse effects of these activities are managed is integrated into the resource-based chapters.

Key RMA provisions

3. The key RMA provisions relating to **Infrastructure** are:
 - (a) s30(1)(gb) sets out one of the functions of the Regional Council as “the strategic integration of infrastructure with land use through objectives, policies, and methods”.
4. The key provisions relating to **energy** are:
 - (a) s7(ba) - which states that “the efficiency of the end use of energy” is a matter that the Regional Council shall have particular regard to
 - (b) s7(i) - which states that “the effects of climate change” is a matter that the Regional Council shall have particular regard to
 - (c) s7(j) - which states that “the benefits to be derived from the use and development of renewable energy” is a matter that the Regional Council shall have particular regard to.
5. The key provisions relating to **waste, hazardous substances and contaminated land** are:
 - (a) s30(1)(c)(v) sets out one of the functions of the Regional Council as “the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances”.
 - (b) s31(1)(b)(ii) sets out that the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances is also a function of territorial authorities.
 - (c) s62(1)(i)(ii) sets out that the Regional Policy Statement (RPS) must state how this shared function is to be apportioned between a regional authority and territorial authority.

- (d) s30(1)(ca) sets out the functions of the Regional Council as “the investigation of land for the purposes of identifying and monitoring contaminated land”.
- (e) s31(1)(b)(iia) sets out that the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land is identified as a function of territorial authorities.

National guidance

Infrastructure

- 6. There is one National Policy Statement related to infrastructure. A National Policy Statement on Electricity Transmission was gazetted on 13 March 2008. The National Policy Statement makes the “need to operate, maintain, develop and upgrade the electricity transmission network” a matter of national significance. The POP was notified in May 2007 before the National Policy Statement came into force.
- 7. It is considered that policy provisions in the POP, in particular Policies 3-1 and 3-2, give effect to the National Policy Statement.

Energy

- 8. A Proposed National Policy Statement for Renewable Electricity Generation was released in 2008. The Proposed National Policy Statement seeks to make “the need to develop, upgrade, maintain and operate renewable generation activities throughout New Zealand” a matter of national significance. At this time I consider that the policies in Chapter 3 are not inconsistent with the Proposed National Policy Statement. However, a Board of Inquiry is currently hearing submissions on the Proposed National Policy Statement and its final content is uncertain.
- 9. There are two national strategy documents relevant to energy:
 - (a) The New Zealand Energy Strategy to 2050 (2007)
 - (b) The New Zealand National Energy Efficiency and Conservation Strategy (2007).
- 10. I consider the policy provisions in the POP and as amended in this report are not inconsistent with these national strategies.

Waste, Hazardous Substances and Contaminated Land

- 11. There is one national strategy relating to waste. The New Zealand Waste Strategy was released in 2002. It sets voluntary national targets for waste minimisation, organic wastes, special wastes, construction and demolition wastes, hazardous wastes, contaminated sites, organochlorines, trade wastes and waste disposal. I consider the policy provisions in the POP and as amended in this report are not inconsistent with this national strategy.
- 12. The Waste Minimisation Act 2008 has come into force since the POP was notified in May 2007. The purpose of the Act is to encourage waste minimisation and a decrease in waste disposal in order to:
 - (a) protect the environment from harm, and
 - (b) provide environmental, social, economic, and cultural benefits.
- 13. No role for Regional Councils is specified in the Act.

APPROACH TAKEN TO THE INFRASTRUCTURE AND ENERGY PROVISIONS IN THE PROPOSED ONE PLAN:

- 14. The policy provisions of Chapter 3 recognise that the establishment, maintenance and upgrading of infrastructure is regionally and nationally important for the social, economic and cultural wellbeing of people and communities. This is done by generally providing for the establishment of new infrastructure and allowing the maintenance and upgrading of existing infrastructure. In effect the policy approach is to show how infrastructure will be considered a little more favourably consideration by decision-makers than other activities.
- 15. Chapter 3 also recognises that the Region has potential for further development of renewable energy resources and that this development may be required to meet the predicted shortfall in national energy requirements in the future. This is done by recognising the benefits of use and development of renewable energy resources.
- 16. Waste, hazardous substances and contaminated land are not identified as one of the four priority areas for the Regional Council, so the Regional Council does not seek a major leadership role in this area. In general, the policy approach seeks to reduce the risks from these activities by encouraging good practice and by working with territorial authorities to identify potential issues and manage them as it becomes necessary.
- 17. As mentioned previously Chapter 3 provides broad policy guidance for managing these activities. Specific policy relating to how the adverse effects of these activities are managed is integrated into the resource-based chapters of this Plan. The POP contains both regulatory and non-regulatory methods to give effect to this integrated approach.

EVIDENCE FROM SUBMITTERS WHO HAVE ALREADY PRESENTED ALL OR PART OF THEIR SUBMISSION

- 18. On Tuesday 8 July 2008 a number of submitters presented all or part of their submissions and will not be attending the individual topic hearings, including this General hearing dealing with Infrastructure, Energy and Waste.
- 19. I note that Dr Alan Palmer presented evidence on Class I and II land on behalf of Gordon McKellar at this hearing. This matter is also subject to recommendations in Recommendation IEW_ADD 1 in the Addendum to the Planning Evidence and Recommendations Report on submissions to Chapter 3. I draw the Panel’s attention to this previous presentation because Gordon McKellar will not be presenting evidence on this matter at the General hearing:

Submitter Name	Submitter number, further submission number
GORDON MCKELLAR	354, X531

INFORMATION PROVIDED TO THE HEARING PANEL

- 20. The Hearing Panel has been provided with the Planning Evidence and Recommendations Report (2008/EXT/908) prepared by Dave Armour and myself which summarises the submissions on this chapter and makes recommendations on whether those submissions should be accepted in whole, or in part, or not at all, and how the provisions of the POP should be changed to reflect those submissions. This report was circulated in July 2008.

21. The Hearing Panel has also been provided with an Addendum to the Infrastructure, Energy, and Waste Planning Evidence and Recommendations Report (2009/EXT/908). This addendum summarises submissions unintentionally omitted from the Planning Evidence and Recommendations Report. This report contains further evidence about management of Class I and II land.
22. The Hearing Panel has also been provided with a s42A report by John Maassen concerning the inclusion of provisions in Part I of the POP regarding versatile soils.
23. Pre-circulated evidence from submitters has also been provided to the Panel. I have reviewed the evidence that is relevant to planning matters.

Pre-hearing meeting and expert caucusing

24. A pre-hearing meeting was held on 16 February 2009 in relation to the infrastructure and energy provisions of the POP. It was attended by representatives from the “linear network operators” (Powerco Ltd, N Z Transport Agency), “electricity generators” (Trust Power Ltd, Genesis Energy Ltd, Meridian Energy Ltd, Mighty River Power Ltd, NZ Windfarms Ltd), The Energy Efficiency and Conservation Authority, Tararua-Aokautere Guardians and Palmerston North City Council. Transpower NZ Ltd’s representative was not present but conveyed general support prior to the meeting for a draft track changes document (dated 10 February) I had prepared for discussion at the pre-hearing meeting.
25. Planning experts for the “electricity generators” met prior to this pre-hearing meeting to see if agreement could be reached on their requested changes. As a consequence of that meeting the “electricity generators” presented a consistent view at the pre-hearing meeting. Although modified by caucusing, that view was generally consistent with Catherine Clarke’s evidence for Meridian Energy Ltd received in August 2008. I refer the Panel to Pre-hearing Report 33 which has been previously circulated to the Hearing Panel.
26. I prepared a draft track changes version (dated 10 February) of the infrastructure and energy provisions of Chapter 3 for discussion at the pre-hearing meeting. The amendments made in that version resulted from re-evaluation of the original submissions and consideration of expert evidence received on the original Planning Evidence and Recommendations Report (July 2008). This version had no formal status but it did provide a basis for subsequent versions offered by the “electricity generators” and Transpower Ltd (termed the “Linear Network Version”). These versions can be found in evidence provided in April 2009 by David le Marquand for Transpower NZ Ltd, Catherine Ross for Powerco Ltd, Robert Schofield for Trust Power Ltd, and Richard Matthews for Genesis Energy. (Note: The appendices attached to David le Marquand’s evidence contain all three versions referred to in this report)
27. There was no overall resolution of issues raised by submitters, but the pre-hearing meeting was very helpful in clarifying the issues the “electricity generators” have with Chapter 3. As a result the Regional Council agreed to further consider a number of the infrastructure and energy provisions following the meeting. This forms much of the basis of supplementary recommendations made in this report about the infrastructure and energy provisions.
28. It was clear that Policy 3-3 is a major issue for the “electricity generators”. They were united in their opposition to Policy 3-3 as written and sought its removal in favour of a policy restricted to dealing with the functional, operational and technical constraints of infrastructure. However, the Regional Council remained of the opinion that it is helpful

for adverse effects to be dealt with in Policy 3-3 and that, subject to further changes to acknowledge electricity generator concerns, it should remain in Chapter 3.

Informal meetings

29. Informal meetings have also taken place with representatives from Palmerston North City Council (20 February 2009), Horticulture NZ Ltd (13 May 2009) and the NZ Defence Force (15 May 2009) to discuss and clarify matters raised in their submissions. This has been helpful in understanding their submissions and in some cases has led to an amendment to an original recommendation in the Planning Evidence and Recommendations Report. No formal record of these meetings was taken.
30. A number of meetings have been held with the representatives of the Territorial Authority (TA) Collective as part of ongoing engagement with them around all POP matters. These have been very successful in clarifying positions and reaching agreement where possible.
31. The results of this work are reflected in Part 2 of this report. Several changes to the original recommendations are recommended, and these are also reflected in revised track changes version ('green version') of Chapter 3

PRELIMINARY QUESTIONS FROM THE HEARING PANEL

32. No preliminary questions were raised by the Hearing Panel. Any questions that arise during the course of the hearing can be dealt with during the hearing, or, if a more detailed response is necessary, answered at the end of the hearing.

PART TWO: FURTHER RECOMMENDATIONS IN RESPONSE TO THE EVIDENCE RECEIVED ON THE INFRASTRUCTURE, ENERGY AND WASTE: PLANNING EVIDENCE AND RECOMMENDATIONS REPORT

INTRODUCTION

33. The purpose of Part Two of this report is to identify the changes sought by submitters in their pre-circulated evidence, and at pre-hearing and informal meetings to the content of Chapter 3 for the General hearing, and to indicate whether and where I wish to alter any of the original recommendations in light of this new information.
34. I have also prepared and made available a further track changes version of Chapter 3 (the 'green version') which shows the supplementary recommendations contained in this report.

PRE-CIRCULATED EVIDENCE AND LETTERS

35. Pre-circulated planning evidence relating to Chapter 3 was received from the following parties:
 - Robert J Schofield for TrustPower Ltd (August 2008 and April 2009)
 - David le Marquand for Transpower NZ Ltd (August 2008 and April 2009)
 - Chris Freear for NZ Windfarms Ltd (August 2008)
 - John McEwing for NZ Windfarms Ltd (August 2008)
 - Catherine M Clarke for Meridian Energy Ltd (August 2008)
 - Richard Turner for Meridian Energy Ltd (April 2009)
 - Rob Hunter for Mighty River Power Ltd (August 2008)
 - Trevor Nash for Mighty River Power Ltd (August 2008)
 - Richard Z Petersen for Mighty River Power Ltd (August 2008 and April 2009)
 - Richard Matthews for Genesis Energy Ltd (April 2009)
 - Rose Feary for Energy Efficiency and Conservation Authority (August 2008)
 - David R Murphy for Palmerston North City Council (updated April 2009)
 - Jonathan Ferguson-Pye for Palmerston North City Council (updated April 2009)
 - Nathan Baker for Higgins Group (updated April 2009)
 - Emily S Grace for NZ Defence Force (April 2009)
 - David le Marquand for the Oil Companies Group (August 2008)
 - Professor Vincent E Neall for Mrs Anne Judith Milne (August 2008)
 - Dr Alan Palmer for Mrs Anne Judith Milne (August 2008).
36. Pre-circulated tabled evidence relating to Chapter 3 was received from:
 - Graeme Matheson for AgResearch Ltd and Livestock Improvement Corporation (July 2008)
 - Winstone Pulp International Ltd (August 2008 and April 2009).
37. Precirculated submitter non-expert evidence relating to Chapter 3 was received from:
 - CM Ross and RM Devine for Powerco Ltd
 - Braden Austin for Territorial Authority Collective (comprising Horowhenua, Wanganui, Rangitikei, Ruapehu, Manawatu and Taranaki District Councils).
38. Changes to recommendations in the original Planning Evidence and Recommendations Report as made in this Supplementary Report have resulted from:

- a. further consideration of the policy provisions for infrastructure and energy following the pre-hearing meeting
 - b. consideration of the responses of the “electricity generators” and “linear network operators” to the Regional Council’s track changes document dated 10 February
 - c. further consideration of evidence received to the Planning Evidence and Recommendations Report (July 2008)
 - d. further consideration of policy provisions following informal meetings.
39. It is considered that these changes will result in some narrowing of submitter issues, although changes that meet with approval from the infrastructure and electricity providers are likely to remain issues for other submitters such as the Tararua-Aokautere Guardians. I note here it is probable that Policy 3-3 will remain an unresolved issue at the Hearing, although I recommend significant changes to this policy in an attempt to meet the concerns of the “electricity generators” while retaining the overall purpose of including this policy in Chapter 3.
40. The Panel will also note amendments to some provisions in the source track changes document not dealt with in this supplementary report. These amendments are as a result of:
- a. changes to wording to clarify the level of obligation and appropriate framework linkages to be consistent with the recommendations in Andrea Bell’s section 42A Report on Chapter 5: Land
 - b. ensuring consistent terminology with other parts of the POP
 - c. proofing changes such as annotation of glossary and RMA definitions that have no impact on the meaning of the provisions.

RECOMMENDATIONS

41. To assist the Hearing Panel I have cross-referenced the supplementary recommendation to the original recommendation in the Planning Evidence and Recommendations Report (July 2008) by using the suffix “A”, eg., the original recommendation for “Paragraph 3.1 Scope and Background” was identified as IEW 2, so the supplementary recommendation is identified as IEW 2A. I also deal with supplementary recommendations in the order that they were dealt with in the original report.

GENERAL OVERVIEW OF CHAPTER 3 (IEW 1)

Matters considered

42. Informal meeting with Horticulture NZ Ltd (357/41)
Planning Review (Andrea Bell)

Evaluation and reasons

43. The submission from Horticulture NZ sought that policy about contaminated land be relocated to Chapter 5 Land and Chapter 3 be renamed Chapter 3: Infrastructure, Energy, Waste and Hazardous Substances. Amending the title of the chapter to clarify its content for Plan users was also recommended as a result of a planning review carried out by Andrea Bell.

44. The submission of Horticulture NZ Ltd was rejected in the original Planning Evidence and Recommendations Report. I have reconsidered the recommendation and consider that amending the title will clarify the content of the chapter for plan users. This change is accepted. The rest of the original recommendation in the Planning Evidence and Recommendations Report to reject relocating contaminated land to Chapter 5: Land is unchanged. This is a minor change for the purpose of clarity.

Recommended changes to IEW 1 (Recommendation IEW 1A)

45. [Words to add are shown in underline, words to delete are shown in ~~strike through~~]
46. Amend Chapter 3 title as follows:
Infrastructure[^], Energy, ~~and~~ Waste*, Hazardous Substances* and Contaminated Land[^]

PARAGRAPH 3.1 SCOPE AND BACKGROUND (IEW 2)

Matters considered

47. Evidence received from:
- a. Robert J Schofield for TrustPower Ltd
 - b. David le Marquand for Transpower NZ Ltd
 - c. Catherine M Clarke for Meridian Energy Ltd
 - d. Richard Turner for Meridian Energy Ltd
 - e. Richard Z Petersen for Mighty River Power Ltd
 - f. Richard Matthews for Genesis Energy
 - g. Rose Feary for Energy Efficiency and Conservation Authority
 - h. CM Ross and RM Devine for Powerco Ltd
- Pre-hearing Report 33
Versions of Chapter 3 provided by the “electricity generators” and “linear network operators”

Evaluation and reasons

48. This evaluation focuses on the conclusions/resolutions from Pre-hearing Report 33 and the versions of Chapter 3 provided by the “electricity generators” and “linear network operators” after that meeting, because I consider they are the most recent documents relating to this provision.
49. The Regional Council agreed to look at redrafting this section after further considering submissions and indicated was open to further wording suggestions from submitters.
50. Alison Mildon representing Tararua-Aokautere Guardians provided a document of summary points of the Scope and Background at the pre-hearing. I have considered this and although it is helpful in summarising the main points of the provision, it would not provide sufficient support for the provisions that follow in the chapter if accepted.
51. Expert evidence from other submitters argues that this section needs to support the provisions that follow with a more detailed explanation. David le Marquand for Transpower Ltd provided some additional wording for the “Infrastructure” paragraphs. This appears in the “linear network operators” version of Chapter 3. I consider that it provides helpful commentary on the importance of infrastructure and its constraints. The National Policy Statement for Electricity Transmission has come into force since the POP was notified and is a helpful reference. I recommend changes to this section based on this evidence.

52. No wording suggestions were received about the “Energy” paragraphs following the pre-hearing meeting, but the matter had been addressed in expert evidence received prior to the meeting. I have referred back to Catherine Clarke’s expert evidence for Meridian Energy Ltd. In this evidence she supports Meridian Energy Ltd’s submission seeking additional clauses to provide a fuller explanation of the national context for renewable energy. Amended wording is presented in her evidence. I consider that additional commentary about the national context is helpful in supporting the provisions that follow and accordingly recommend changes based on this evidence.

Recommended changes to IEW 2 (Recommendation IEW 2A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

53. Amend Paragraph 3.1 Scope and background as follows:

Scope and Background

This chapter details with how activities involving *infrastructure*[^], *renewable energy*[^], *waste*^{*}, *hazardous substances*^{*} and *contaminated land*[^] will be addressed. In general, this chapter provides broad policy guidance for managing these activities in other chapters in Part 1 and Part II of this Plan. Where appropriate, specific policies relating to these activities is integrated into the resource-based chapters of this Plan. ~~Specific policies developed by Horizons for these activities are detailed in this chapter.~~

***Infrastructure*[^]**

~~Horizons~~ The Regional Council recognises that some *infrastructure*[^] is regionally and nationally important. *Infrastructure*[^] can have adverse *effects*[^] on the environment[^] and other activities can have adverse *effects*[^] on *infrastructure*[^]. The establishment, *operation*^{*}, *maintenance*^{*} and *upgrading*^{*} of *infrastructure*[^] and *infrastructure*[^] corridors is critical to the viability and growth of the Region.

There can be logistical or technical constraints on where *infrastructure*[^] must be located to serve communities and operate efficiently. ~~Horizons~~ The Regional Council wants to ensure the benefits of *infrastructure*[^] are recognised and appropriately weighed along with other matters in decision-making processes. ~~and effects are balanced and managed appropriately.~~

The electricity transmission network is recognised as a matter of national significance by the National Policy Statement on Electricity Transmission (2008).

~~*Infrastructure*[^] includes road[^] and rail networks, energy networks for electricity, oil^{*} and gas, facilities for energy generation, water supply and wastewater networks, drainage systems, telecommunications, airports, ports, and any other network utility operations. *Infrastructure*[^] has significant community benefit.~~

Renewable e Energy

~~Horizons recognises it has a requirement to provide for development of renewable energy resources and using renewable energy.~~ Government has developed energy strategies and made changes to the RMA to encourage *energy efficiency*^{*} and greater uptake of *renewable energy*[^] over use of non-renewable resources.

The Government has made a commitment to reduce New Zealand’s greenhouse gas emissions and to achieve increasingly sustainable energy use. This commitment is expressed by the inclusion of sections 7(ba),7(i) and 7(j) in the RMA in 2004 and in national strategy and policy documents including:

- The New Zealand Energy Strategy to 2050 (2007)
- The New Zealand National Energy Efficiency and Conservation Strategy (2007)
- Proposed National Policy Statement for Renewable Electricity Generation (2008)

The Government's current target is for 90% of New Zealand's electricity generation to be from *renewable energy*^ resources by 2025. Collectively these policy instruments seek to achieve economy-wide improvements in the efficiency of energy use and an increase in the supply of energy from *renewable energy*^ resources.

Given these national policy directives and the presence of significant *renewable energy*^ resources with the potential for development in the Region, the Regional Council, The Regional Council recognises it needs to provide for development of *renewable energy*^ resources and using *renewable energy*^.

The development and use of renewable electricity generation facilities face a number ~~One of the barriers facing development of *renewable energy*^ that~~ includes the difficulty in securing access to natural resources as well as functional, operational and technical factors that constrain the location, layout, design and generation potential of *renewable energy*^ facilities.

ISSUE 3-1 INFRASTRUCTURE AND ENERGY (IEW 3)

Matters considered

54. Evidence received from:
- Robert J Schofield for TrustPower Ltd
 - David le Marquand for Transpower NZ Ltd
 - Catherine M Clarke for Meridian Energy Ltd
 - Richard Turner for Meridian Energy Ltd
 - Richard Z Petersen for Mighty River Power Ltd
 - Richard Matthews for Genesis Energy
 - Rose Feary for Energy Efficiency and Conservation Authority
 - CM Ross and RM Devine for Powerco Ltd

Pre-hearing Report 33

Versions of Chapter 3 provided by the “electricity generators” and “linear network operators”

Evaluation and reasons

55. This evaluation focuses on the conclusions/resolutions from Pre-hearing Report 33 and versions of Chapter 3 provided by the “electricity generators” and “linear network operators” after that meeting, because I consider they are the most recent documents relating to this provision.
56. There was general agreement at the pre-hearing meeting to expand issues to include a number of additional points based on Catherine Clarke's expert evidence for Meridian Energy Ltd. This is reflected in the “electricity generators” version of Chapter 3. I have reviewed the issues using this as a reference.
57. I agree that the issue for infrastructure and energy can be improved. I do not agree that the issue summary needs to be as extensive as presented in the version of

Chapter 3 by the “electricity generators” or “linear network operators”. I consider that some of the issues presented in that version do not meet the tests of being standalone issue statements. I also note that in crafting the POP, the Regional Council has sought to make one succinct issue statement, followed by one objective and then a suite of related policies. An extensive list of issues would be inconsistent with this approach.

58. I consider that redrafting Issue 3-1 into separate issues for infrastructure and energy, and redrafting the content to reflect the matters raised in the version of Chapter 3 by the “electricity generators” and “linear network operators” will provide more clarity and be consistent with the way that these matters are dealt with later in the chapter.
59. I propose an amended issue for infrastructure and a new issue for energy in my supplementary recommendation, in which I have attempted to capture the essence of the versions of this provision proposed by the “electricity generators” or “linear network operators”.

Recommended changes to IEW 3 (Recommendation IEW 3A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

60. Amend Issue 3-1 as follows:

Issue 3-1: Infrastructure[^] ~~and energy~~

There is potential for concerns about local adverse effects[^] to prevail over recognition of the benefits, including regional and national benefits of ~~developing~~ establishing infrastructure[^]. ~~and renewable energy~~[^] There is also potential for other activities to constrain the operation*, maintenance* or upgrading* of infrastructure[^].

Issue 3-1A: Energy

Energy conservation and *energy efficiency** are important but alone will not be sufficient to meet future energy demands. If consumption of non-renewable energy resources is to be reduced or avoided, there will need to be an increase in the use of renewable energy[^] resources.

ISSUE 3-2 WASTE, HAZARDOUS SUBSTANCES AND CONTAMINATED SITES (IEW 4)

Matters considered

- Informal meeting with Horticulture NZ Ltd (357/43)
- Review of original submissions

Evaluation and reasons

61. Horticulture NZ Ltd has expressed concern that this issue statement implies that the problems related to hazardous substances and contaminated sites are more widespread than they actually are. Horticulture NZ Ltd sought that this be moderated. There is a concern that in a worst case scenario, the current wording may be used as a trade barrier. I note that there were several submissions from territorial authorities seeking the same relief.
62. These submissions were rejected in the Planning Evidence and Recommendations Report because the Regional Council has evidence that problems related to hazardous substances and contaminated sites have arisen in the Region in the past. However, I

accept that such instances are not widespread and agree that a minor amendment to moderate the scale of the issue is appropriate. I also recommend a minor change to the heading of this issue so it is consistent with terminology in the rest of the chapter.

Recommended changes to IEW 4 (Recommendation IEW4A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

63. Amend Issue 3-2 as follows:

Issue 3-2: Waste*, hazardous substances* and contaminated land^ sites

The increasing production of *waste** and use of *hazardous substances** in the Region has resulted in:

- (i) wasted resources and an increasing need for appropriate disposal
- (ii) some unsafe use, storage, disposal and transportation of *hazardous substances**
- (iii) some land^ becoming contaminated to the point it poses a risk to people and the *environment^*.

OBJECTIVE 3-1 INFRASTRUCTURE AND ENERGY (IEW 6)

Matters considered

64. Evidence received from:

- Robert J Schofield for TrustPower Ltd
- David le Marquand for Transpower NZ Ltd
- Catherine M Clarke for Meridian Energy Ltd
- Richard Turner for Meridian Energy Ltd
- Richard Z Petersen for Mighty River Power Ltd
- Richard Matthews for Genesis Energy
- CM Ross and RM Devine for Powerco Ltd
- Nathan Baker for Higgins Group

Pre-hearing Report 33

Versions of Chapter 3 versions provided by the “electricity generators” and “linear network operators”.

Evaluation and reasons

65. This evaluation focuses on the conclusions/resolutions from Pre-hearing Report 33 and versions of Chapter 3 provided by the “electricity generators” and linear “network operators” after that meeting, because I consider they are the most recent documents relating to this provision.
66. The Regional Council's track changes version (10 February 2009) presented for discussion at the pre-hearing meeting had separated the objective into two parts (infrastructure and renewable energy) and added a clause about managing adverse effects to each. Although some attending the meeting supported or were neutral about the addition of the adverse effects clause, the “electricity generators” vigorously opposed the change. This opposition was consistent with a common view that the adverse effects of infrastructure need not be dealt with in Chapter 3 because they are already considered in the resource based chapters of the POP. I will discuss this further in Recommendation IEW 11A.

67. Changes to this objective, including deletion of references to the adverse effects of infrastructure, were proposed as an outcome from the pre-hearing meeting. The Regional Council reserved its position on the changes and the Tararua-Aokautere Guardians did not agree with that change.
68. The versions of Chapter 3 provided by the “electricity generators” and “linear network operators” propose a three-part objective (infrastructure, renewable energy and energy efficiency). I note that there is a difference in view between the “electricity generators”, whose version does not refer to adverse effects, and the “linear network operators”, whose version does refer to adverse effects. This difference of view is noted in David le Marquand’s evidence for Transpower (2009 evidence, Paragraph 7.3).
69. I have reconsidered my position on Objective 3-1 and conclude that:
- (a) The objective can be improved by splitting it into two objectives (infrastructure and energy). This is consistent with the way other parts of the POP have been crafted and provides a better flow from issues to policies in Chapter 3.
 - (b) It is not necessary to include adverse effects as part of this objective. The objective should describe a desired environmental outcome or set an environmental direction. A general reference to adverse effects does neither of these things. The Regional Council and territorial authorities are still required to manage adverse effects as an obligation under the RMA.
 - (c) I do not consider it is appropriate that a separate objective is developed for energy efficiency. My reason for this is that generally in crafting the POP, the Regional Council has sought to make one issue statement, followed by one objective and then a suite of related policies. An additional objective for energy efficiency would be inconsistent with this approach.
 - (d) There is scope to redraft the objectives to make them outcome-based and more consistent with the other policy provisions of this chapter as modified by consideration of expert witness evidence, the pre-hearing meeting and versions of Chapter 3 by “electricity generator” and “linear network operator”.
70. I propose an amended objective for infrastructure and a new issue for energy in my supplementary recommendation, which I consider better meets the needs of Chapter 3. I refer the Hearing Panel to Andrea Bell’s section 42A report on Objective 3-1 for additional evidence on this matter.
71. I also note that Nathan Baker for Higgins Group presented evidence seeking reference to the gravel resource in Objective 3-1. This submission was rejected in the Planning Evidence and Officer’s Report, and I support that recommendation. Gravel resources do not meet the definition of infrastructure and their use is managed elsewhere in the POP (Chapters 6 and 16). No change is recommended as a result of this evidence.

Recommended changes to IEW 6 (Recommendation IEW 6A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

72. Amend Objective 3-1 as follows:

Objective 3-1: Infrastructure ~~and energy~~

The benefits of *infrastructure*[^] will be recognised by providing for the establishment of new *infrastructure*[^] and allowing the *operation*^{*}, *maintenance*^{*} and *upgrading*^{*} of existing *infrastructure*[^]

This objective relates to Issue 3-1

Resource use activities associated with the provision, maintenance and upgrading of *infrastructure*, and/or with the use of *renewable energy*, will be recognised and enabled.

Whāinga 3-1: Ngā kaupapa o raro me te pūngao

Ka tohua, ka whakamanatia ngā ngohe whakamahi rauomi o pā ana ki te tuku, te tiaki me te whakapai ake i ngā kaupapa o raro, te whakamahi pūngao ka taea te whakahou hoki/rānei.

Objective 3-1A: Energy^

There will be an increase in the use of *renewable energy*^ resources and an improvement in *energy efficiency*^.

This objective relates to Issue 3-1A

OBJECTIVE 3-2 WASTE, HAZARDOUS SUBSTANCES AND CONTAMINATED LAND (IEW 7)

Matters considered

73. Not applicable

Evaluation and reasons

74. I recommend a minor change to the heading of this issue so it is consistent with terminology in the rest of the chapter.

Recommended changes to IEW 7 (Recommendation IEW 7A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

75. Amend Issue 3-1 as follows:

Objective 3-2: *Waste, *hazardous substances** and contaminated land^ sites**

POLICY 3-1 BENEFITS OF INFRASTRUCTURE (IEW 9)

Matters considered

76. Evidence received from:
- Robert J Schofield for TrustPower Ltd
 - David Le Marquand for Transpower NZ Ltd
 - Richard Turner for Meridian Energy Ltd
 - Richard Z Petersen for Mighty River Power Ltd
 - Richard Matthews for Genesis Energy
 - CM Ross and RM Devine for Powerco Ltd
 - Emily Grace for NZ Defence Force
 - Braden Austin for Territorial Authority Collective (comprising Horowhenua, Wanganui, Rangitikei, Ruapehu, Manawatu and Tararua District Councils)
- Pre-hearing Report 33
Versions of Chapter 3 provided by the “electricity generators” and “linear network operators”

Evaluation and reasons

77. This evaluation focuses on the conclusions/resolutions from Pre-hearing Report 33 and versions of Chapter 3 provided by the “electricity generators” and “linear network operators” after that meeting, because I consider they are the most recent documents relating to this provision.
78. It was agreed at the pre-hearing meeting that some amendments would be made to Policy 3-1. The purpose of these amendments is to provide more certainty for Plan users about which infrastructure is included as being physical resources of regional or national importance (Policy 3-1(a)) and how the policy would be applied (Policy 3-1(b)). I note here that Tararua-Aokautere Guardians did not support amendment of Policy 3-1(b) to include the words “recognise” and “provide for” in this clause.
79. The Regional Council sought feedback from the “linear network operators” on appropriate wording for amendments and this is resulted in deletion of Policy 3-1(ii) and amendment to Policy 3-1(iii). The other changes recommended are as a result of the pre-hearing meeting, except those mentioned in the following paragraphs.
80. Two submitters seek additions to the list of infrastructure of regional or national importance.
- Braden Austin for the Territorial Authority Collective presented evidence to support inclusion of “solid waste infrastructure managed by territorial authorities” and “the existing lined landfills at Hokio (Horowhenua District Council) and Bonny Glen (Rangitikei District Council)”
 - Emily Grace for NZ Defence Force presented evidence supporting the inclusion of NZ Defence Force facilities as infrastructure of regional or national importance.
81. Although I understand the reasons these changes are sought, I do not consider these facilities meet the definition of infrastructure in the POP. The POP definition is the same as that defined in the RMA for the purpose of s30 and neither of these facilities appears to fall within the definition. In my opinion although the POP can contain a subset of those structures identified as infrastructure in the RMA, it cannot add to that list.
82. I note that in clause (l) s2(1) RMA the definition of infrastructure provides for “anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166”. I am not aware that this applies to either of these requests, however, this is an unresolved matter and I expect evidence from both witnesses to address this at the hearing.
83. My evaluation of the request for additions to Policy 3-1 (a) has identified an error in Recommendation IEW 9. Submissions seeking inclusion of flood protection and drainage schemes managed by a local authority as infrastructure of regional or national importance were accepted, however, I have re-examined the RMA definition and can find no reference that would cause them to fall within that definition. Therefore, using the same argument for not accepting the changes sought by the Territorial Authority Collective and NZ Defence Force, I recommend a change to Recommendation IEW 7 to the effect that these structures are not included in Policy 3-1(a).
84. I also note here that I have made amendments to this policy and in other parts of this chapter to provide a consistent description of activities. The original text included a number of terms such as: development, establishment, maintenance, alteration, upgrading, expansion, efficiency and effectiveness to describe the activities relating to infrastructure covered by Chapter 3. For the purpose of clarity, I recommend

consistent use of the terms establishment, operation, maintenance and upgrading in all parts of the plan. I have chosen these terms because they are consistent with those used in the National Policy Statement on Electricity Transmission and the Proposed National Policy Statement for Renewable Electricity Generation. I also note that these terms, excluding the term “operation”, are already used in track changes I have seen for the Land and Biodiversity provisions.

85. I record here that the meaning of the term “operation” is viewed very differently by the “electricity generators” and the Regional Council. The “electricity generator” view is that it should include the associated resource use of infrastructure, eg., the use of water in hydro-electricity generation schemes. The Regional Council view is that it was not intended or contemplated that Chapter 3 would cover associated resource use. The Regional Council view is supported by the way that renewable energy generation activities are defined in the Proposed National Policy Statement for renewable Electricity Generation. In this document it is defined as “the construction, operation, and maintenance of structures associated with the generation of renewable energy.” To ensure the meaning of “operation” is clear I recommend it be defined as *“operation of structures and parts of structures defined as infrastructure in the One Plan Glossary. The “electricity generators” have signalled that this will be the subject of evidence to the General Hearing.*

Recommended changes to IEW 9 (Recommendation IEW 9A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

86. Amend Policy 3-1 as follows:

Policy 3-1: Benefits of *infrastructure*[^]

- (a) ~~All persons exercising functions and powers under the RMA~~ The Regional Council and territorial authorities[^] shall recognise the following ~~infrastructure^{3^} within the Region~~ as being physical resources of regional ~~and~~ or national importance:
- (i) facilities for the generation of more than 1 MW of electricity and its supporting infrastructure[^] where the electricity generated is supplied to the electricity transmission and distribution networks grid and facilities and infrastructure to transmit the electricity generated into the electricity grid
 - (ii) ~~the electricity grid, as defined as the system of transmission lines, substations and other works, including the HVDC link used to connect grid injection points and grid exit points to convey electricity throughout the North and South Island by the Electricity Governance Rules 2003~~
 - (iii) The National Grid and Electricity distribution and transmission networks defined as the system of transmission lines, sub-transmission and distribution feeders (6.6kV and above) and all associated substations and other works to convey electricity
 - (iv) Pipelines, and gas facilities used for the transmission and distribution of natural, and manufactured gas
 - (v) the strategic road[^] and rail network as mapped ~~defined~~ in the Regional Land Transport Strategy
 - (vi) the Palmerston North and Wanganui Airports[^]
 - (vii) the RNZAF airport[^] ~~at airfield in~~ Ohakea
 - (viii) telecommunications and radiocommunications facilities
 - (ix) ~~community wastewater and water~~ public sewerage treatment plants and associated sewerage systems ~~managed by Territorial Authorities[^].~~
 - (x) Public water supply^{*} treatment plants and distribution systems

- (xi) ~~Flood protection and drainage schemes managed by a local authority~~
- (xii) Port of Wanganui
- (b) ~~In making decisions about The Regional Council and territorial authorities^ shall, in relation to the establishment, operation*, maintenance*, alteration, and upgrading*, and expansion of infrastructure*^ within the Region, including the infrastructure*^ of regional and national importance listed in subsection (a), recognise and provide for the benefits derived from the infrastructure*^, at a local, regional and national level shall be taken into account.~~
- (c) The Regional Council and territorial authorities^ shall manage ~~E~~existing and future infrastructure*^ ~~shall be managed~~ in a manner which achieves as much consistency across local authority^ boundaries as is reasonably possible.

Add the following definition to the Glossary:

Operation means operation of any structure^ or part of a structure defined as infrastructure^

POLICY 3-2 ADVERSE EFFECTS^ OF OTHER ACTIVITIES ON INFRASTRUCTURE^ (IEW 10)

Matters considered

87. Evidence received from:
- Robert J Schofield for TrustPower Ltd
 - David le Marquand for Transpower NZ Ltd
 - Catherine M Clarke for Meridian Energy Ltd
 - Richard Turner for Meridian Energy Ltd
 - Richard Z Petersen for Mighty River Power Ltd
 - Richard Matthews for Genesis Energy
 - Rose Feary for Energy Efficiency and Conservation Authority
 - CM Ross and RM Devine for Powerco Ltd
 - David R Murphy for Palmerston North City Council (updated April 2009)
 - Jonathan Ferguson-Pye for Palmerston North City Council (updated April 2009)
- Pre-hearing Report 33
 Versions of Chapter 3 provided by the “electricity generators” and “linear network operators”
 Informal meeting with David Murphy and Jonathan Fergusson-Pye (Palmerston North City Council)

Evaluation and reasons

88. This evaluation focuses on the conclusions/resolutions from Pre-hearing Report 33 and versions of Chapter 3 provided by the “electricity generators” and “linear network operators” after that meeting, because I consider they are the most recent documents relating to this provision.
89. It was agreed at the pre-hearing meeting that the Regional Council would review the wording of Policy 3-2 in accordance with suggestions from the “electricity generators” and “linear network operators”. These suggestions were forwarded to the Regional Council in the versions of Chapter 3 provided by these groups. The main changes

relate to improving the certainty of the provisions by ensuring that other activities do not constrain unimplemented resource consents or other RMA authorisations that allow for infrastructure. I consider these changes consistent with the purpose of the policy and helpful in clarifying the provisions.

90. I have also considered the evidence provided by David Murphy and Jonathan Ferguson-Pye for Palmerston North City Council. This evidence seeks greater regional direction on the need for the strategic integration of infrastructure with land use. The original submission was evaluated under recommendation IEW 1, although I consider evaluation in terms of Policy 3-2(g) seems more appropriate because I consider Policy 3-2(g) deals with part of issue (integration of transport infrastructure and land use) raised in the Palmerston North City Council submission.
91. I also note that the matter is not one of the key resource management issues identified for the Region and that growth in the Region is very low with the exception of the Palmerston North area. This means it is not a significant issue for the Region. However, after reviewing the evidence provided, I agree that the Regional Council can provide more direction to fulfil the Regional Council's function under s30(1)(gb) RMA relating to strategic integration of infrastructure with land use.
92. I therefore consider that the appropriate response by the Regional Council is to provide policy direction to territorial authorities in growth areas to recognise the need to adequately plan for infrastructure needs and to ensure that other activities that would impede the establishment of such infrastructure are not allowed. This direction can be included as part of Policy 3-2(g) which already provides policy provisions for effective integration of transport and land use planning. This policy would be implemented through decision-making at a territorial authority level.
93. I therefore recommend a change to Policy 3-2(g) to broaden its scope from effective integration of transport and land use planning to strategic integration of infrastructure with land use, including effective integration of transport and land use planning.

Recommended changes to IEW 10 (Recommendation IEW 10A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

94. Amend Policy 3-2 as follows:

Policy 3-2: Adverse effects[^] of other activities on infrastructure[^]

The Regional Council and territorial authorities[^] shall ensure that ~~A~~adverse effects[^] on infrastructure[^] from other activities ~~on infrastructure~~ shall be avoided, including by using the following mechanisms:

- (a) ensuring that current infrastructure[^] corridors are identified and taken into account in all resource management decision-making, and any development that ~~will~~ would adversely affect operation^{*}, maintenance^{*} and upgrading^{*} the ~~efficiency or effectiveness~~ of infrastructure[^] within these corridors is avoided
- (b) ensuring that any new activities that ~~will~~ would adversely affect the operation^{*}, maintenance^{*} and upgrading^{*} ~~efficiency or effectiveness~~ of infrastructure[^] are not located near existing infrastructure[^] or infrastructure[^] allowed by unimplemented resource consents[^] or other RMA authorisations

- (ba) ensuring that there is no change to existing activities that increases their incompatibility with existing *infrastructure*[^] or *infrastructure*[^] allowed by unimplemented *resource consents*[^] or other RMA authorisations.
- (c) notifying the *owners*[^] or managers of *infrastructure*[^] of consent applications that may adversely affect the *infrastructure*[^] that they own or manage
- (d) giving effect to the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001), prepared under the Electricity Act 1992, when establishing *rules*[^] and considering applications for buildings, structures[^], and other activities near overhead electric lines and conductors
- (e) giving effect to the operating code standard for Pipelines - Gas and Liquid Petroleum (NZS/AS2885), when establishing *rules*[^] and considering applications for buildings, structures[^] and other activities near transmission gas pipelines
- (f) ensuring that any planting does not interfere with existing *infrastructure*[^], including giving effect to the Electricity (Hazards from Trees) Regulations 2003 promulgated under the Electricity Act 1992 and Section 6.4.4 External Interference Prevention of the operating code standard for Pipelines - Gas and Liquid Petroleum (NZS/AS 2885).
- (g) Ensuring providing for the strategic integration of *infrastructure*[^] with *land*[^] use in growth areas of the Region, including effective integration of transport and *land*[^] use planning in growth areas of the Region, including and protecting the function of the strategic road[^] and rail network as mapped in the Regional Land Transport Strategy.

POLICY 3-3 ADVERSE EFFECTS[^] OF INFRASTRUCTURE[^] ON THE ENVIRONMENT[^] (IEW 11)

Matters considered

95. Evidence received from:

- Robert J Schofield for TrustPower Ltd
- David le Marquand for Transpower NZ Ltd
- Catherine M Clarke for Meridian Energy Ltd
- Richard Turner for Meridian Energy Ltd
- Richard Z Petersen for Mighty River Power Ltd
- Richard Matthews for Genesis Energy
- Rose Feary for Energy Efficiency and Conservation Authority
- CM Ross and RM Devine for Powerco Ltd

Pre-hearing Report 33

Versions of Chapter 3 provided by the “electricity generators” and “linear network operators”

Evaluation and reasons

96. This evaluation focuses on the conclusions/resolutions from Pre-hearing Report 33 and versions of Chapter 3 provided after that meeting by the “electricity generators” and “linear network operators”, because I consider they are the most recent documents relating to this provision.

97. In general terms the intention of the track changes version of Chapter 3 (10 February 2009) that I presented to the pre-hearing meeting was to provide guidance that:
- The adverse effects of establishing new infrastructure in areas identified as special in other chapters of the POP would be dealt in a similar manner to any other activity, and
 - The minor adverse effects of establishing new infrastructure in areas not identified as special and the operation, maintenance and upgrading of existing infrastructure anywhere would be tolerated.
98. The “electricity generators” vigorously opposed Policy 3-3 in its entirety and sought its deletion. This opposition was consistent with a common view that the adverse effects of infrastructure need not be dealt with in Chapter 3 because they were already considered in the resource-based chapters of the POP. I note the concerns raised about Policy 3-3 in expert evidence include the restrictive use of the term “avoid” in when compared to the “enabling” intent of Objective 3-1 and less restrictive policies in resource-based chapters; and the potential for confusion and uncertainty due to the duplication of policies relating to adverse effects of infrastructure in this policy and the resource-based chapters.
99. Pre-Hearing Report 33 records that it was proposed that Policy 3-3(a) be deleted and replaced with another provision that is restricted to dealing with “functional constraints” on the location of infrastructure. It is recorded that Tararua-Aokautere Guardians disagreed and, in fact, sought to have more detail added to the Policy 3-3, and that the Regional Council wanted to consider the proposal further. I note here that David le Marquand for Transpower NZ Ltd advised the Regional Council prior to the meeting that Policy 3-3 as amended for the pre-hearing meeting was acceptable.
100. Following the pre-hearing meeting the versions of Chapter 3, including Policy 3-3, were provided by the “electricity generators” and “linear network operators.” As mentioned previously these can be found attached to David le Marquand’s 2009 brief of evidence as appendices. They show that the two groups have very different views on the matter and as a consequence support two very different versions of the policy. The “electricity generators” seek a policy that is restricted to dealing with functional, operational and technical constraints, as indicated in Pre-hearing Report 33, while the “linear network operators” essentially seek confirmation of Policy 3-3 as amended in the Regional Council’s track changes 10 February 2009 draft presented to the pre-hearing.
101. I consider that Policy 3-3 can add value to the policy provisions of Chapter 3 provided the pitfalls identified by “electricity generators” can be avoided. I believe this is possible but substantial redrafting of Policy 3-3 is required to achieve that. I refer you to Andrea Bell’s section 42A report on Policy 3-3 for additional evidence on this matter.
102. In summary, an appropriate Policy 3-3 must:
- Provide an overarching framework for managing the adverse effects of infrastructure that is able to be reflected by specific policies in the other chapters; and given effect to in Part II of the POP and district plans; and
 - Provide a clear statement that in recognition of the importance of infrastructure, the adverse effects of infrastructure will be treated a little more favourably than other activities by decision-makers.
103. The redraft of Policy 3-3 recommended is an attempt to meet the concerns expressed by the “electricity generators”, retain the support of the “linear network operators” and retain the original intent of a balanced approach to policy in Chapter 3 by recognising the benefits of infrastructure, ensuring other activities do not constrain infrastructure, and recognising the importance of infrastructure by providing broad guidance on how

any adverse effects are treated a little more favourably than other activities in decision-making processes.

104. I anticipate this matter will remain unresolved at the Hearing as the redraft of Policy 3-3 may not resolve the strongly expressed concerns of the “electricity generators” or those of the Tararua-Aokautere Guardians, who are likely to perceive the recommendation as being too generous to infrastructure activities.

Recommended changes to IEW 11 (Recommendation IEW 11A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

105. Amend Policy 3-3 as follows:

Policy 3-3: Adverse effects[^] of infrastructure[^] on the environment

In managing any adverse environmental effects[^] arising from the establishment, operation^{*}, maintenance^{*} and upgrading^{*} of infrastructure[^], the Regional Council and territorial authorities[^] shall:

- (a) allow the operation^{*}, maintenance^{*} and upgrading^{*} of all infrastructure[^] once it has been established, no matter where it is located
- (b) allow minor adverse effects[^] arising from the establishment of new infrastructure[^]
- (c) avoid, remedy or mitigate more than minor adverse effects arising from the establishment of new infrastructure in the same manner as these effects would be avoided, remedied or mitigated for other types of activities unless this is impracticable due to functional, operational or technical constraints, in which case the following matters shall be taken into account:
 - (i) The need for the infrastructure;
 - (ii) The extent to which adverse effects can be practicably avoided, remedied or mitigated, including whether there are any practicable alternatives to the proposed location and design of the infrastructure; and
 - (iii) Whether a financial contribution should be sought to offset or compensate for adverse effects that cannot be adequately avoided, remedied or mitigated.

This policy relates to Issue 3-1 and Objective 3-1

~~When making decisions on consent applications regarding infrastructure[^], the adverse effects of infrastructure[^] on the environment shall be managed in the following manner:~~

- ~~(a) **Effects to be avoided** — The following adverse effects of infrastructure^{*} on: shall be avoided to the same extent required of other types of activities:~~
 - ~~(i) effects on waahi tapu^{*}, waahi tupuna^{*} and other sites of significance to Māori~~
 - ~~(ii) effects on specified waterways valued for natural state and sites of significance (aquatic)~~
 - ~~(iii) effects on rare and threatened habitats as defined in Chapter 7~~
 - ~~(iv) effects on the outstanding natural features and landscapes identified in Chapter 7~~
 - ~~(v) effects on protection zones in the coastal marine area[^] as identified in Chapter 9~~

~~Shall be managed in the same manner as other types of activities unless functional constraints require them to locate in these areas make this impossible, in which case adverse effects should be mitigated. Mitigation may include the use of financial contributions in accordance with the policies in Chapter 18.~~

~~(b) **Other effects** — All other adverse effects of *infrastructure* will be managed in a manner that tolerates minor adverse local effects and takes into account:~~

~~(i) — the benefits of *infrastructure*, particularly the benefits of regionally or nationally important *infrastructure*~~

~~(ii) — the integration of the *infrastructure* with land use~~

~~(iii) — the benefits to be derived from the use and development of *renewable energy*.~~

~~A financial contribution may be sought in order to provide the option of offsetting or compensating for adverse effects, rather than requiring adverse effects to be avoided, remedied or mitigated, in accordance with the policies for financial contributions in Chapter 18 of this Plan.~~

POLICY 3-4 RENEWABLE ENERGY (IEW 12)

Matters considered

106. Evidence received from:

- Robert J Schofield for TrustPower Ltd
- David Le Marquand for Transpower NZ Ltd
- Catherine M Clarke for Meridian Energy Ltd
- Richard Turner for Meridian Energy Ltd
- Richard Z Petersen for Mighty River Power Ltd
- Richard Matthews for Genesis Energy
- Rose Feary for Energy Efficiency and Conservation Authority
- CM Ross and RM Devine for Powerco Ltd

Pre-hearing Report 33

Versions of Chapter 3 provided by the “electricity generators” and “linear network operators”

Evaluation and reasons

107. This evaluation focuses on the conclusions/resolutions from Pre-hearing Report 33 and versions of Chapter 3 provided by the “electricity generators” and “linear network operators” after that meeting, because I consider they are the most recent documents relating to this provision.

108. There was general agreement at the pre-hearing about Policy 3-4 amendments. These were recorded in Pre-hearing Report 33 and further detailed the versions of Chapter 3 provided by the “electricity generators” and “linear network operators”. These amendments are helpful in clarifying the specific benefits of the use and development of renewable energy resources.

109. All amendments, but one are accepted. I do not agree that that the amendment requested by the “electricity generators” and “linear network operators” to Policy 3-4(iv) seeking to remove the expressed preference for the development and use of

renewable energy resources over non-renewable energy resources in the Region is appropriate. I note that one submission (Genesis Energy, 268/6) sought deletion of this policy in the Planning Evidence and Recommendations Report, but there was no support from other submissions or cross-submissions for that request. I also consider the clause is consistent with national policy and strategies for use and development of renewable energy resources.

110. The amendment sought to Policy 3-4(iv) would effectively have the same effect as deleting the clause, and that is not accepted.

Recommendation IEW 12A - changes to Recommendation IEW 12

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

111. Amend Policy 3-4 as follows:

Policy 3-4: Renewable energy

- (a) ~~All persons~~^{exercising functions and powers under the RMA} The Regional Council and territorial authorities ^{shall have particular regard to:}
- i. The social, economic, cultural and environmental benefits of the use and development of renewable energy resources including:
 - contributing to reduction in greenhouse gases
 - reduced dependency on imported energy sources
 - reduced exposure to fossil fuel price volatility
 - security of supply for current and future generations
 - ii. The Manawatu-Wanganui Region's potential for the use and development of renewable energy resources
 - iii. The need for renewable energy activities facilities to locate where the renewable energy resource is located
- (aa) The Regional Council and territorial authorities ^{shall give preference to the development of renewable energy generation and use of renewable energy resources} ~~shall be preferred~~ to the development and use of non-renewable energy ^{resources in policy development and resource consent} decision making.
- (b) ~~Local authority~~ ^{decisions and controls on land use should} The Regional Council and territorial authorities ^{shall generally not restrict the use of small domestic-scale renewable energy production for individual domestic use.}

This policy relates to Issue 3-1 and Objective 3-1A

Recommendation
IEW 11 page 155

POLICY 3-12 IDENTIFICATION OF PRIORITY CONTAMINATED LAND[^] (IEW 20)

Matters considered

112. Informal meeting with Horticulture NZ Ltd (357/41)
Re-evaluation of submissions

Evaluation and reasons

113. An informal meeting was held with Horticulture NZ Ltd. The discussion highlighted that the policy was not clear that it related only to contaminated land that is expected to be subject to a change in land use that will increase the risks to human health or the environment.
114. I note that according to Section 3.7: Explanations and Principles, Policies 3-12 and 3-13 provide a framework to assist the Regional Council and territorial authorities to determine where pressure for residential development is expected and to identify the risks associated with contaminated land. The intent is to ensure there is a proactive process in place to identify and resolve any issues with contaminated land before people or the environment are put at risk.
115. Horticulture NZ Ltd's submission (358/13) relating to this matter can be found in the Table of Submitters, Submission Points and Recommendations for Recommendation IEW 1. The submission was rejected but in my opinion it gives scope for amendment to the policy.
116. The changes identified are made to clarify the intent of Policy 3-12 and provide more certainty for Plan users. The purpose of using the term "expected to be subject to a change in land use" to replace "likely" is simply to provide more certainty that the policy is not intended to apply to all land that could conceivably be the subject of land use change. These changes would also be consistent with the decision sought by Shell NZ Ltd, BP Oil NZ Ltd, Mobil NZ Ltd and Chevron NZ Ltd in joint Submission 267/4.

Recommended changes to IEW 20 (Recommendation IEW 20A)

[Words to add are shown in underline, words to delete are shown in ~~strikethrough~~]

117. Amend Policy 3-12 as follows:

Policy 3-12: Identification of priority *contaminated land*[^]

The Regional Council and territorial authorities[^] shall jointly identify priority contaminated land[^] by 2008.

Priority *contaminated land*[^] shall be *land*[^] that:

- (a) is listed on a register of *contaminated land*[^] held by the Regional Council or a ~~Territorial Authority[^]~~, or
- (b) would have been the site* of an activity identified on the Hazardous Activities and Industries List (Ministry for the Environment, 2004a) in the past, including horticulture and sheep dips, and
- (c) is expected likely to be subject to a change of *land*[^] use within the next 10 years that is ~~–in particular to residential subdivision,~~ likely to increase the risks to human health or the *environment*[^], eg., *land*[^] identified for future residential zoning or where a specific development is proposed

~~The Regional Council and Territorial Authorities will jointly identify priority contaminated land by 2008.~~

This policy relates to Issue 3-2 and Objective 3-2

POLICY 3-13 MANAGEMENT OF PRIORITY CONTAMINATED LAND (IEW 21)

Matters considered

118. Informal meeting with Horticulture NZ Ltd (357)
Re-evaluation of submissions

Evaluation and reasons

119. An informal meeting was held with Horticulture NZ Ltd. Horticulture NZ Ltd's original submission (357/162) sought that Policy 3-13 be deleted entirely. This submission was rejected in the Planning Evidence and Recommendations Report (July 2009).
120. Horticulture NZ Ltd's submission (357/162) sought deletion of Policy 3-13 entirely on the basis that management of contaminated land is a territorial authority function. I disagree and confirm the recommendation to reject the decision requested because the Regional Council does have functions for the investigation of land for the purposes of identifying or monitoring contaminated land under s30(1)(ca) RMA.
121. However, the discussion highlighted that the policy could be very restrictive when implemented, eg., the policy may prevent the use of engineering solutions such as capping, or constrain the development over a whole site when contamination is identified in a small area of it.
122. I note that submission from Shell NZ Ltd, BP Oil NZ Ltd, Mobil NZ Ltd and Chevron NZ Ltd seeks amendments that have a "fit for purpose" philosophy, which would provide a more flexible policy approach.
123. The changes I recommend in Recommendation IEW 21A are designed to provide a more flexible policy approach while retaining the same environmental outcome sought by the Regional Council from the original Policy 3-12.

Recommended changes to IEW 21 (Recommendation IEW 21A)

[Words to add are shown in underline, words to delete are shown in ~~strike through~~]

124. Amend Issue 3-13 as follows:

Policy 3-13: Management of priority *contaminated land*

Where *land* use changes are likely to increase the risks to human health or the *environment* from priority *contaminated land* (as identified under Policy 3-12) the developer shall:

- (a) fully investigate the extent and degree of contamination prior to the granting of consent allowing development (assistance with investigations may be provided by the Regional Council in some cases)
- (b) ensure *land* is "fit for purpose" through an appropriate level of remediation or management (including engineering) controls ~~remediate the site to an appropriate level prior to any development occurring~~
- (c) ensure *land* remains "fit for purpose" through undertake adequate appropriate ongoing monitoring of residual *contaminant* levels and associated risks and/or requirement for management controls.

This policy relates to Issue 3-2 and Objective 3-2

PART THREE: CORRECTIONS TO ORIGINAL OFFICER'S REPORT

125. I have discovered that one cross submission was omitted from Recommendation IEW_ADD 1 in the Addendum to the Planning Evidence and Recommendations Report on submissions to Chapter 3. To correct this omission I have included it, with the appropriate recommendation, in Appendix A.

Barry Gilliland
20 May 2009

APPENDIX A

Note: Greyed out text for reference only

Submitter	Number	Point	Decision Sought	Recommendation
GORDON MCKELLAR	354	1	<p>To protect the sustainable future of our very limited amount of high quality class I and II soils the following rule is sought:</p> <p>The subdivision of class I and class II soils is permitted in areas outside of urban and industrial zoned land is under the following conditions/standards/terms:</p> <ol style="list-style-type: none"> 1. for title size 0.1 ha or less. 2. for title size 20 ha or more 3. for a title that has had an occupied residence on the title for ten years or more 4. where the amount of class I and II soils on a title represent less than 10 percent of the total area of the title. <p>Subdivision of class I and class II soils outside of urban and industrial zoned land and not complying with the above rule is a non-complying activity.</p> <p>OR WORDS TO THAT EFFECT</p>	Reject
	X531	74	HORTICULTURE NZ	Accept