

## D2 14.2 Rules applying to all infrastructure

This report section is D2 of Part D Submissions Analysis of the section 42A report on the Infrastructure and Energy topic, Proposed Waikato District Plan. This report provides consideration of submissions on section 14.2, which contains the rules applying to all infrastructure. Sections 14.4 to 14.12 deal with individual types of infrastructure.

### I Introduction

1. The main themes in submissions on the rules applying to the All Infrastructure section are:
  - a. area and height controls
  - b. relocation of rules within the PWDP
  - c. default activity status for unspecified infrastructure
  - d. utilities corridors
  - e. infrastructure and farming definitions and rural flexibility
  - f. line support structures and overhead lines
  - g. noise limits
  - h. protection of Identified Area values.

### 2 General submissions

2. Watercare has provided further submissions on many submission points, however it is intending to provide a new set of provisions. The Watercare further submissions are not shown against individual submission points or addressed directly, and should be accepted or rejected in accordance with the responses to the original submission points. Watercare further submissions are identified in Appendix I along with recommendations.

Submission point	Submitter	Decision requested
924.25	Genesis Energy	Retain rules in Section 14.2- Rules applying to all Infrastructure in the same or similar form.
836.13	Powerco	Retain Chapter 14.2 rules relating to all infrastructure as notified, except where rules are specifically addressed elsewhere in the submission.
697.525	Waikato District Council	Add to Rule 14.2 Rules applying to infrastructure as follows; <u>(4) Where compliance with Rule 14.2 or 14.3 would contravene a rule in Rule 14.4, 14.5, 14.6, 14.7, 14.8, 14.9, 14.10, 14.11, or 14.12, then the requirements of Rule 14.4, 14.5, 14.6, 14.7, 14.8, 14.9, 14.10, 14.11, or 14.12 shall prevail.</u>
<i>FS1273.78</i>	<i>Auckland Transport</i>	<i>Supports 697.525</i>
<i>FS1031.4 FS1032.4 FS1033.4</i>	<i>Vodafone, Chorus,Spark</i>	<i>Supports 697.525</i>
742.86	NZTA	Retain Rule 14.2.3 DI Rules applying to all

		<p>infrastructure, except for the amendments sought below</p> <p>AND</p> <p>Amend Rule 14.2.3 DI Discretionary activities applying to all infrastructure as follows:</p> <p style="padding-left: 40px;">Any infrastructure not specifically listed provided for as a permitted restricted discretionary or non-complying activity within Chapter 14 ...</p> <p>AND</p> <p>Delete Rule 14.2.3 NC3 Rules applying to all infrastructure.</p>
<i>FS1176.256</i>	<i>Watercare</i>	<i>Supports 742.86</i>
<i>FS1273.77</i>	<i>Auckland Transport</i>	<i>Supports 742.86</i>
423.18	Watercare	Amend the Proposed District Plan to provide for the operation, maintenance, repair and upgrade of infrastructure in existence prior to the notification of the PWDP and that has been lawfully established as a permitted activity.

## 2.1 Analysis

3. **Genesis Energy** [924.25] seeks to retain the rules in Section 14.2 in the same or similar form. **Powerco** [836.13] seeks to retain Chapter 14.2, except where rules are specifically addressed elsewhere in their submission. Genesis Energy is generally supportive of the proposed rule framework in section 14.2 of the Proposed District Plan. In general, Powerco supports Chapter 14.2 as drafted, apart from the sections specifically addressed.
4. For the reasons that Section 14.2 is in the notified PWDP - to provide effective rules for all infrastructure - and with the support of the submitters, I recommend accepting in part Genesis Energy [924.25] and Powerco [836.13], to the extent that Section 14.2 remains largely intact, as amended in response to other submissions.
5. **Waikato District Council** [697.525] seeks to clarify that specific infrastructure type rules prevail over general infrastructure rules, where there is a conflict. The reason is that the plan would benefit from a rule which provides clarity over which prevails where there is a general rule and a specific rule which could cover the same structure or activity.
6. *[FS1273.78] Auckland Transport supports [697.525] Auckland Transport supports the inclusion of 14.1 generally and is neutral in respect to the proposed amendments. Auckland Transport supports amendments that provide clarity.*
7. *[FS1031.4, FS1032.4, FS1033.4] Vodafone, Chorus, Spark support [697.525]. A rule that clarifies whether general rules or specific infrastructure rules prevail when the same activity is concerned will benefit administration and interpretation the District Plan.*
8. I consider that the suggested amendment clarifies the relationship between rules in 14.2 and 14.3 and those in the other specialist sections, therefore recommend accepting [697.525] Waikato District Council, *[FS1273.78] Auckland Transport; [FS1031.4, FS1032.4 and FS1033.4] Vodafone, Chorus, Spark.*

9. **NZTA** [742.86] seeks to delete Rule 14.2.3 NC3 and replace it with a discretionary activity status rule.
10. The submitter states that these rules refer to "any infrastructure not specifically listed within Chapter 14", but it is unclear what this covers. For example, 14.2.1.1 mentions "roads" – the submitter asks whether this means that they are excluded from this rule, and asks what does "specifically listed" mean in this rule?
11. *[FS1176.256] Watercare supports the clarification sought. [FS1273.77] Auckland Transport supports the inclusion of 14.1 generally, and is neutral in respect to the proposed amendments. Auckland Transport supports amendments that provide clarity.*
12. I agree with the suggested amendment, as it provides clarification that the rule is providing an activity status for activities which are not otherwise classified. I consider that Rule 14.2.3 NC3 needs to be retained as the activity classification for "Any infrastructure not specifically listed ~~provided for as a permitted, restricted discretionary, discretionary or non-complying activity~~ within Chapter 14, including associated earthworks, within an Identified Area". The value of having a default rule is for clarity for users of the plan, to understand the activity status of any activity. Non-complying activity status is appropriate, in my opinion, as it will apply to activities within an Identified Area. The RPS objectives and policies require a protective approach to Identified Areas, such as Significant Natural Areas, Historic and Cultural heritage and Outstanding Natural Features and Landscapes, and the PWDP is required to give effect to the RPS. I recommend accepting in part NZTA [742.86], *[FS1176.256] Watercare* and *[FS1273.77] Auckland Transport*.
13. **Watercare** [423.18] seeks to amend the Proposed District Plan to provide for the operation, maintenance, repair and upgrade of infrastructure in existence prior to the notification of the PWDP and that has been lawfully established as a permitted activity.
14. The operation, maintenance, repair and removal of existing infrastructure is a permitted activity with no activity-specific conditions (Rule P1 in 14.3 General Infrastructure 14.3.1 Permitted Activities). Minor upgrading of existing infrastructure is a permitted activity (P2), and the extent of 'minor' is addressed in recommendations in response to other submissions, and in the definitions. Larger-scale upgrading may have effects and require resource consent or designation. I recommend rejecting Watercare [423.18].

## 2.2 Recommendations

15. For the reasons above I recommend that the Hearings Panel:
- Accept in part Genesis Energy [924.25] and Powerco [836.13]
  - Accept Waikato District Council [697.525], *[FS1273.78] Auckland Transport and [FS1031.4], [FS1032.4], [FS1033.4] Vodafone, Chorus, Spark.*
  - Accept in part NZTA [742.86], *[FS1176.256] Watercare*, and *[FS1273.77] Auckland Transport.*
  - Reject [423.18] Watercare [423.18].

## 2.3 Recommended amendments

16. Add to Rule 14.2.1 as follows:

(b) Where compliance with Rule 14.2 or 14.3 would contravene a rule in Rule 14.4, 14.5, 14.6, 14.7, 14.8, 14.9, 14.10, 14.11, or 14.12, then the requirements of Rule 14.4, 14.5, 14.6, 14.7, 14.8, 14.9, 14.10, 14.11, or 14.12 shall prevail. [697.525 Waikato District Council]

Amend Rule 14.2.3 DI as follows:

DI	Any infrastructure not specifically <u>listed provided for as a permitted, restricted discretionary or non-complying activity</u> <sup>1</sup> within Chapter 14, including associated earthworks, not located within an Identified Area
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Amend Rules 14.2.34 NC3 as follows:

NC3	Any infrastructure not specifically <u>listed provided for as a permitted, restricted discretionary, discretionary or non-complying activity</u> <sup>2</sup> within Chapter 14, including associated earthworks, located within an Identified Area
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## 2.4 Section 32AA evaluation

17. As the amendment is to provide a complete rule cascade covering all activities, no further s.32AA re-evaluation is required.

## 3 14.2.1 General Permitted Activities

Submission point	Submitter	Decision requested
836.74	Powerco	Retain Activity Table 14.2.1 relating to all infrastructure as notified except where rules are specifically addressed elsewhere in the submission.
578.114	POAL	Retain Rule 14.2.1 Permitted Activities, as notified.
749.68	HNZC	Retain Rule 14.2.1 Permitted Activities as notified.
986.77	KiwiRail	Retain Rule 14.2.1 P1 Permitted activities as notified AND Retain Rule 14.2.1 P2 Permitted activities as notified.
692.4	WEL Networks	Add a new activity to Rule 14.2.1 Permitted Activities, that applies to the design and location of infrastructure services, as follows (or other amendments to give effect to the concerns raised):  <u>P5 Design and location of infrastructure services 14.2.1.5 Within all Zones new subdivision and development shall provide utilities corridors in the road reserve free of tree plantings and in accordance with Tables 14.12.5.14 and 14.12.5.15.</u>  AND

- <sup>1</sup> 742.86 NZTA

- <sup>2</sup> 742.86 NZTA

		Add a new activity to Rule 14.2.3 Discretionary Activities, that applies where the activity cannot comply with the new P5 as follows (or other amendments to give effect to the concerns raised):  <u>D2 Design and location of infrastructure services Any infrastructure development that cannot comply with 14.2.1.5.</u>
FS1342.173	FFNZ	Opposes 692.4
FS1134.39	Counties Power	Supports 692.4

### 3.1 Analysis

18. **WEL Networks** [692.4] seeks to add a new activity to Rule 14.2.1 and Rule 14.2.3, requiring utility corridors to be provided in new subdivision and development. The submitter states that allowing adequate berm space is necessary to ensure that sufficient space is available for WEL to install its network utility equipment. WEL considers that ensuring adequate berm space will ensure better urban planning and provide sufficient areas for footpaths and landscaping along the road exclusive of each other, which will enhance the amenity of any subdivision or development.
19. *[FS1342.173] FFNZ opposes WEL Networks. FFNZ seek relief allowing subdivision for boundary adjustment and boundary relocation as a controlled activity in rural areas (Rural Zone and consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone) as per submission points 680.235, 680.238, 680.247, 680.284. Where no additional lots are being created, there is no overall intensification of land use, and there should not be a requirement for utilities corridors.*
20. *[FS1134.39] Counties Power supports WEL Networks. As Counties Power performs the same role as WEL Networks within the Waikato District, the submitter supports that there be provision for infrastructure corridors, as without them it leads to infrastructure being placed in less than ideal locations, which in turn results in decreased performance of the network overall.*
21. I note that it is intended that there be trees in the berms of streets and roads, and that berms are generally an appropriate location for utilities. PWDP Figure 14.12.5.16 shows road cross-sections with tree and services in the non-footpath part of the berm. There is no intention to provide a utilities corridor completely free of trees. I accept that in some cases armouring of cables and pipes may be needed to protect against tree roots, and that some infrastructure work may need to be trench-less to avoid trenching damaging the roots of mature trees. I recommend rejecting WEL Networks [692.4] and *[FS1134.39] Counties Power*; and accepting in part *[FS1342.173] FFNZ*, to the extent that utilities corridors will not always be required.
22. **Powerco** [836.74] seeks to retain Activity Table 14.2.1 relating to all infrastructure as notified, except where rules are specifically addressed elsewhere in the submission (no reasons provided). **POAL** [578.114] and **HNZC** [749.68] seek to retain Rule 14.2.1 Permitted Activities as notified, because it appropriately enables the provision of new infrastructure to service development. The submitters support the activities listed under 14.2.1. **KiwiRail** [986.77] seeks to retain Rules 14.2.1 P1 and P2 as notified. P1 provides for the maintenance of the railway network. P2 enables the maintenance upgrading and

operation of land transport networks across a range of routine activities within reasonable parameters.

23. For the reason that 14.2 remains largely intact but amended by other submissions, and for the reasons provided by the submitters, I recommend accepting in part Powerco [836.74], POAL [578.114], HNZN [749.68] and KiwiRail [986.77].

### 3.2 Recommendations

24. For the reasons above I recommend that the Hearings Panel:
- a. Reject WEL Networks [692.4] and [FS1134.39] Counties Power, and accept in part [FS1342.173] FFNZ
  - b. Accept in part Powerco [836.74], POAL [578.114], HNZN [749.68] and KiwiRail [986.77].
25. I have not recommended any amendments in response to these submissions.

## 4 14.2.1 PI New Infrastructure

Submission point	Submitter	Decision requested
692.3	WEL Networks	Retain Rule 14.2.1.1 PI Permitted Activities relating to new infrastructure.
742.85	NZTA	Retain Rule 14.2.1.1(2)(b) New infrastructure as notified AND Retain Rule 14.2.1.1(2)(c) New infrastructure as notified.
579.60	Lakeside 2017	Amend activity specific conditions in Rule 14.2.1.1 (1) (a) relating to PI New Infrastructure as follows: (a) Not exceed 10m <sup>2</sup> in area above-ground for <u>any one structure</u>
<i>FS1134.34</i>	<i>Counties Power</i>	<i>Supports 579.60</i>
680.275	FFNZ	Amend Rule 14.2.1.1 PI New infrastructure (relating to Rule 14.2.1 PI New Infrastructure) as follows: (1) Any new infrastructure activity and associated structures listed as a permitted activity within Chapter 14 must meet all of the following conditions <u>except within the Rural Zone</u> : (a) ... (2) The conditions in Rule 14.2.1.1(1) do not apply to: (a) ... (e) Any infrastructure within the Rural Zone
<i>FS1342.167</i>	<i>FFNZ</i>	<i>Opposes 680.275</i>
<i>FS1275.13</i>	<i>Aztech Buildings</i>	<i>Supports 680.275</i>
<i>FS1134.38</i>	<i>Counties Power</i>	<i>Supports 680.275</i>
697.527	Waikato District Council	Delete Rule 14.2.1.1(1)(a) New infrastructure AND Delete Rule 14.2.1.1(1)(b) New infrastructure AND Amend Rule 14.2.1.1(2)(a) New infrastructure as

		follows: (a) Activities with specific conditions relating to <del>area, height</del> , location and noise listed elsewhere within Rules 14.3-14.12;...
<i>FS1342.187</i>	<i>FFNZ</i>	<i>Supports 697.527</i>
423.9	Watercare	Amend Activity specific condition 14.2.1.1(1)(b) Permitted Activities relating to PI new infrastructure as follows: Not exceed <del>2.5m</del> <u>3m</u> in height.
<i>FS1134.33</i>	<i>Counties Power</i>	<i>Supports 423.9</i>
644.32 646.32 648.32	Spark, Vodafone,Chorus	Amend Rule 14.2.1.1 New Infrastructure- Activity Specific Conditions relating to PI New Infrastructure by providing an exemption for service connections including any associated support poles from all height in relation to boundary controls.
<i>FS1134.35</i> <i>FS1134.36</i> <i>FS1134.37</i>	<i>Counties Power</i>	<i>Supports 644.32; 646.32; 648.32</i>
836.12	Powerco	Retain Rule 14.2.1.1- Permitted Activities which allows for new infrastructure as a permitted activity not exceeding 10m <sup>2</sup> in area above ground and 2.5m in height as a permitted activity. AND Amend Rule 14.2.1.1 (2) Permitted Activities relating to PI New Infrastructure as follows (or alternative wording or planning approach to address the issues raised) as follows: (2) The conditions in Rule 14.2.1.1(1) do not apply to:.. <u>(e) Support structures for the distribution of electricity.</u>
<i>FS1134.40</i>	<i>Counties Power</i>	<i>Supports 836.12</i>
405.17	Counties Power	Amend Rule 14.2.1.1 (1) (b) Permitted Activities relating to PI New infrastructure, to allow for new poles and support structures in other zones or roads adjacent to a zone other than Rural.
405.18	Counties Power	Delete Rule 14.2.1.1 (1) (c) and (d) Permitted Activities relating to PI New infrastructure.
<i>FS1211.44</i>	<i>First Gas</i>	<i>Supports 405.18</i>
423.8	Watercare	Amend Activity specific condition 14.2.1.1(1)(a) Permitted Activities relating to PI new infrastructure as follows: Not exceed <del>10m<sup>2</sup></del> <u>40m<sup>2</sup></u> in area above ground;
923.142	Waikato DHB	Amend Rule 14.2.1.1 (1. (e)- Permitted Activities: New Infrastructure as follows: Not exceed the relevant noise limits that are applicable to that zone, <del>when measured at the</del>

		nearest boundary of the site.
<i>FS1134.41</i>	<i>Counties Power</i>	<i>Supports 923.142</i>
405.19	Counties Power	Amend Rule 14.2.1.1 (2) (a) Permitted Activities relating to PI New infrastructure, by including the following: <u>except where the actual or % increase in height or area for minor upgrading would be less than allowed for in 14.2.1.1(1) (a-b), in which case 14.2.1.1 (1) (a) &amp; (b) would apply.</u>
942.70	Tainui o Tainui	Add a new clause to Activity specific condition 14.2.1.1(1) as follows: <u>(g) Not be sited on Maori sites of significance</u>

#### 4.1 Analysis

26. **WEL Networks** [692.3] seeks to retain Rule 14.2.1.1 PI. PI would ensure that network utility equipment such as pillar boxes, service pillars and ring main units (which are small but essential and a common part of WEL's electricity network) are permitted.
27. **NZTA** [742.85] seeks to retain Rule 14.2.1.1(2)(b) and (2)(c), as they state that the conditions in 14.2.1.1(1) do not apply to roads or other lineal transport networks, or road network activities.
28. The RPS requires infrastructure to be enabled, and for effects on and of infrastructure to be managed. For the reasons the provisions are in the notified PWDP - to provide an overall starting point for the rules applying to all new infrastructure - and for the reasons provided by the submitters, I recommend accepting in part WEL Networks [692.3] and NZTA [742.85], to the extent that the provisions are amended in response to other submissions.
29. **Lakeside 2017** [579.60] seeks to amend Condition 14.2.1.1 (1)(a) to add 'for any one structure' to the 10m<sup>2</sup> area limit. The submitter considers that the restriction on the size of above-ground infrastructure should apply to individual structures, noting that in developments it is possible there could be multiple structures, such as pump stations.
30. *[FS1134.34] Counties Power supports Lakeside. The area limit in the rule should relate to each structure, as projects within an area such as substations may include more than one structure.*
31. In response to submission Waikato District Council [697.527], it is proposed to delete the general area and height limit from 14.2 Rules Applying to All Infrastructure, and to instead locate area and height limits against each specific activity. Those activity-specific conditions will relate to each building or structure. For that reason, I recommend accepting in part Lakeside 2017 [579.60] and *[FS1134.34] Counties Power*, to the extent that the relief is granted but located within other sections of Chapter 14.
32. **FFNZ** [680.275] seeks to amend Rule 14.2.1.1 PI, to exclude activities in the Rural Zone from having to meet the conditions.
33. The submitter conditionally supports Rule 14.2.1, provided that it is amended to reflect their relief sought in respect of the introductory statement in 14.1. However, FFNZ considers that it is not appropriate to limit infrastructure activity and structures within the Rural Zone

with the same scale of restriction that applies to urban areas. FFNZ states that provision should be made for appropriate infrastructure requirements within the Rural Zone that reflect these opportunities and constraints, and that infrastructure within the Rural Zone should be exempt from compliance with stricter requirements that apply to urban areas, because such restrictions are inappropriate within rural areas.

34. *[FS1342.167] FFNZ opposes its own submission: Upon reflection, FFNZ understands that the proposed plan wording is appropriate and should apply in the Rural Zone. The concerns raised in submission [680.275] will be better addressed by adopting submission point 281.18, which seeks to exclude farming infrastructure from the definition of infrastructure.*
35. *[FS1275.13] Aztech Buildings supports FFNZ. Rural Infrastructure should be exempt from the provisions as per the submission, as for example, new farm drainage (drains being within the definition of infrastructure) may either be deemed to require consent as an RDA if above ground or as full Discretionary if below ground.*
36. *[FS1134.38] Counties Power supports FFNZ. Provisions should be made for appropriate infrastructure requirements within the Rural Zone, and that infrastructure within the Rural Zone be exempt from compliance with stricter requirements that apply to urban areas.*
37. I note that the Federated Farmers' further submission has opposed their own original submission, on realising that the provision is appropriately applied in the Rural Zone. In response to other submissions, I have recommended that farming activities, and particularly on-farm services, be distinguished from 'infrastructure', either by definition or description. I have recommended an advice note in the Introduction to Chapter 14, independent of any definition changes recommended in other Hearings. I recommend rejecting FFNZ [680.275], [FS1275.13] Aztech Buildings, [FS1134.38] Counties Power; and accepting [FS1342.167] FFNZ.
38. **Waikato District Council** [697.527] seeks to delete Rule 14.2.1(1)(a) and (1)(b) and amend Rule 14.2.1.1(2)(a) to delete 'area and height'. The submitter considers that a more efficient approach is to insert maximum height and area limits for those structures that require it, rather than a blanket height and area limit which applies to all structures unless otherwise stated. The submitter notes that there are many structures specifically listed in Chapter 14 having their own permitted dimensions.
39. *[FS1342.187] FFNZ supports this for same reasons.*
40. For reasons of efficiency and avoiding confusion for Plan users, I recommend accepting Waikato District Council [697.527] and [FS1342.187] FFNZ.
41. **Watercare** [423.9] seeks to amend Condition 14.2.1.1(1)(b) from 2.5m to 3m. This is because 2.5m does not appropriately enable the provision of infrastructure or recognise the technical or operational needs of infrastructure. The submitter notes that most Watercare pump stations are likely to be up to 3m in height.
42. *[FS1134.33] Counties Power supports Watercare. The rule does not enable the provisions of infrastructure or recognise the technical or operational needs of infrastructure.*
43. In response to Waikato District Council submission [697.527], I am recommending deleting the general area and height limit from 14.2 Rules Applying to All Infrastructure, and to instead locate area and height limits against each specific activity. Those activity-specific conditions will relate to each building or structure. The pump station activity-specific

Condition 14.11.1.6 should be amended to 3m height. I recommend accepting in part Watercare [423.9] and [FSI134.33] Counties Power, to the extent that the pump station height limit is amended. Counties Power may wish to have the height limit of other specific infrastructure amended to above 2.5m.

44. **Spark, Vodafone, Chorus** [644.32, 646.32, 648.32] seek to amend Rule 14.2.1.1 PI by providing an exemption for service connections, including any associated support poles from all heights in relation to boundary controls.
45. The submitters state that support poles associated with service connections should be exempt from any height in relation to boundary controls either within a road or outside of a road (e.g. along a right of way), on the basis that they have very minor bulk compared with more substantial buildings and structures.
46. [FSI134.35, FSI134.36 and FSI134.37] Counties Power support [644.32, 646.32 and 648.32] for the same reasons.
47. I agree it is appropriate to exempt support poles from the height in relation to boundary controls, where they are associated with a service connection and the services have not been undergrounded. This is for poles associated with a service connection, for example running along a right-of-way, and is not the service connection itself. I recommend accepting Spark [644.32], Vodafone [646.32], Chorus [648.32]; [FSI134.35, FSI134.36 and FSI134.37] Counties Power.
48. **Powerco** [836.12] seeks to retain Rule 14.2.1.1 and amend Rule 14.2.1.1 (2) so that the conditions in Rule 14.2.1.1(1) do not apply to support structures for the distribution of electricity.
49. Powerco states that this rule allows for new infrastructure as a permitted activity, and supports this not exceeding 10m<sup>2</sup> in area above-ground and 2.5m in height. The submitter notes that the Proposed District Plan includes support structures in the definition of 'infrastructure'. Under Rule 14.12.1.1(1)(b), (c) and (d), all new infrastructure is required to comply with height to boundary within various zones and be under 2.5m in height. Powerco states that this is not practical, due to the locational requirements of support structures and their minimum required height to achieve safe separation between conductors, the public, traffic and buildings.
50. [FSI134.40] Counties Power supports Powerco. Counties Power agrees that all support structures for electricity distribution be specifically excluded from the rule as they must have specified clearances for safety reasons - this will always be more than 2.5m in height.
51. **Counties Power** [405.18] seeks to delete Rule 14.2.1.1 (1) (c) and (d). The submitter considers that it does not make sense to have a rule that requires compliance with height in relation to boundary when the height limit is 2.5m, and that this will cause confusion in interpretation.
52. [FSI211.44] First Gas supports Counties Power. First Gas supports the removal of 14.2.1.1(1)(c) and (d) height in relation to boundaries, given the maximum height limit of 2.5m.
53. I note that these submissions appear to be a misreading of the proposed rule. Rule 14.2.1.1(2)(a) provides an exemption from the general height/area rule where there is a height or area rule specific to the infrastructure type, as there is for support poles. In any

case, I have recommended, in response to Waikato District Council [697.527] submission, that the general height/area rule be deleted, and specific height and area rules be located with the infrastructure types in Sections 14.3 to 14.12. The proposed permitted activity 2.5m height limit does not apply to poles, but to minor infrastructure structures. New poles, where not associated with a service connection or a road network activity, would be covered by the rules of 14.5 Electrical distribution or 14.10 Telecommunications, depending on their function. I recommend accepting in part Powerco [836.12] and [FS1134.40] Counties Power, to the extent that support pole heights are not restricted to 2.5m, and rejecting Counties Power [405.18] and [FS1211.44] First Gas.

54. **Watercare** [423.8] seeks to amend condition 14.2.1.1(1)(a) to allow 40m<sup>2</sup> area instead of 10m<sup>2</sup>.
55. The reason provided by the submitter is that 10m<sup>2</sup> does not appropriately enable provision of infrastructure or recognise the technical or operational needs of infrastructure. The submitter states that most Watercare pump stations (at least the area above ground) are likely to exceed 20m<sup>2</sup> in above ground areas and will consistently be up to 40m<sup>2</sup>.
56. In response to submission [697.527] from Waikato District Council, I have recommended deleting the general area and height limit from 14.2 Rules Applying to All Infrastructure, and to instead locate area and height limits against each specific activity. Those activity-specific conditions will relate to each building or structure. The 10m<sup>2</sup> area limit is a permitted activity concession, recognising no or minimal adverse effects and that the minor structure might be located in a residential zone or in the road. I consider that the 10m<sup>2</sup> limit is appropriate for a permitted activity in most zones, although some zones may be capable of absorbing the effects of larger pump stations as a permitted activity. That may not be appropriate for a pump station up to 40m<sup>2</sup>, which would be a restricted discretionary activity. I recommend rejecting Watercare [423.8].
57. **Waikato DHB** [923.142] seeks to amend Rule 14.2.1.1(1)(e) to clarify that noise limit measurements are not always related to the boundary of the site within which the noise is created.
58. The submitter states that the Rule refers to zone noise limits, which is appropriate. However, the rule then refers to application of noise limits at the "...boundary of the site", which is inconsistent with some zone noise limits that are specified at notional boundaries. The submitter states that as drafted the rule contradicts itself - because each zone noise limit explicitly specifies a receiver point, it should not be referenced here - and as noted in other submissions, regardless, all assessment locations should be "at any point within" rather than "at" site or notional boundaries.
59. [FS1134.41] Counties Power supports this for the same reasons.
60. I agree that this general noise limit rule should be consistent with the ways in which noise is measured, however the rule also needs to refer to adjacent zones and should also be relevant to infrastructure located in the road. I recommend accepting in part Waikato District Health Board [923.142] and [FS1134.41] Counties Power, to the extent that the rule is amended further, and will apply to noise within the zone and within adjacent zones, rather than at site boundaries.

61. **Counties Power** [405.17] seeks to amend Rule 14.2.1.1 (1) (b) to allow for new poles and support structures in other zones or roads adjacent to a zone other than Rural. The submitter states that these height restrictions do not allow for new poles and support structures in any zone (or roads adjacent to a zone) other than the Rural Zone.
62. New poles and support structures are permitted as 'replacements and minor upgrading' in Section 14.3, and as part of a service connection, but otherwise only in the Rural Zone and on rural roads. Outside the Rural Zone, new electricity and telecommunications lines are required to be underground, or are a restricted discretionary activity (14.5.2 RD1). I recommend rejecting Counties Power [405.17].
63. **Counties Power** [405.19] seeks to amend Rule 14.2.1.1 (2)(a) by including the following:  
except where the actual or % increase in height or area for minor upgrading would be less than allowed for in 14.2.1.1(1) (a-b), in which case 14.2.1.1 (1) (a) & (b) would apply.
64. The submitter states that the proposed percentage increase in area (and height) of above ground infrastructure for minor upgrading may be less than the limits proposed for new infrastructure of the same type; in which case it would make sense for the greater of the two measurements to apply.
65. It is proposed, in response to Waikato District Council [697.527] submission, to delete the general area/height Rules 14.2.1.1(a) and (b), and to instead allocate area and height limits against each specific activity. I recommend rejecting Counties Power Limited [405.19].
66. **Tainui o Tainui** [942.70] seeks to add a new clause to Condition 14.2.1.1(1) to require infrastructure not be sited on Maaori sites of significance.
67. The submitter states that over the last 150 years, Maaori cultural landscapes and sites of significance have been sacrificed to growth and development; noting that a few years ago Contact Energy sought a consent which covered numerous Maaori areas of significance from south of Port Waikato to north of Raglan. With the enactment of the Resource Management Act 1991, the submitter states attention to the effects of land use on people are more closely scrutinised; and that today with tourism growing there is an opportunity to enhance Maaori sites of significance as well as have infrastructure that meets the needs of communities.
68. The permitted activity rules for not locating infrastructure on Maaori Sites and Areas of Significance are in the specific infrastructure sections 14.3 to 14.12, and covered within 14.2 - any infrastructure within an Identified Area that has not been specifically listed being a non-complying activity (14.2.4 NC3). Some had been omitted and are added in response to Heritage NZPT submissions. I recommend accepting in part Tainui o Tainui [942.70], to the extent that infrastructure locating within a Maaori Site or Area of Significance is not a permitted activity, and requires a resource consent, and that is recommended to be clarified in response to Heritage NZPT submissions.

## 4.2 Recommendations

69. For the reasons above I recommend that the Hearings Panel:
- a. Accept in part WEL Networks [692.3] and NZTA [742.85].
  - b. Accept in part Lakeside 2017 [579.60] and [FSI 134.34] Counties Power.

- c. Reject FFNZ [680.275], [FSI 275.13] Aztech Buildings and [FSI 134.38] Counties Power; and accept [FSI 342.167] FFNZ
- d. Accept Waikato District Council [697.527] and [FSI 342.187] FFNZ
- e. Accept in part Watercare [423.9] and [FSI 134.33] Counties Power
- f. Accept Spark [644.32], Vodafone [646.32], Chorus [648.32] and [FSI 134.35, FSI 134.36 and FSI 134.37] Counties Power.
- g. Accept in part Powerco [836.12] and [FSI 134.40] Counties Power, and reject Counties Power [405.18] and [FSI 211.44] First Gas.
- h. Reject Watercare [423.8].
- i. Accept in part Waikato District Health Board [923.142] and [FSI 134.41] Counties Power.
- j. Reject Counties Power [405.17].
- k. Reject Counties Power [405.19].
- l. Accept in part Tainui o Tainui [942.70].

### 4.3 Recommended amendments

70. Amend Rule 14.2.1.1 as follows:

Activity	Activity specific conditions
New infrastructure	<p>14.2.1.1</p> <p>(1) Any new infrastructure activity and associated structures listed as a permitted activity within Chapter 14 must meet all of the following conditions:</p> <p><del>(a) Not exceed 10m<sup>2</sup> in area above ground;</del></p> <p><del>(b) Not exceed 2.5m in height;</del><sup>3</sup></p> <p>(c) Comply with the height in relation to boundary limits for the zone in which it is located;</p> <p>(d) Comply with the height in relation to boundary limits for the adjoining zone, if located in road or unformed road;</p> <p>(e) Not exceed the relevant noise limits that are applicable to that zone, <del>when measured at the nearest boundary of the site and any adjacent zone.</del><sup>4</sup></p> <p>(f) Any other relevant conditions applying to that activity listed within Rules 14.3–14.12.</p> <p>(2) The conditions in Rule 14.2.1.1(1) do not apply to:</p> <p>(a) Activities with specific conditions relating to <del>area, height,</del><sup>5</sup> location and noise listed elsewhere within Rules 14.3–14.12;</p> <p>(b) Roads or other lineal transport networks;</p> <p>(c) Road network activities, which include lighting and</p>

<sup>3</sup> 697.527 Waikato District Council]

<sup>4</sup> 923.142 Waikato District Health Board

<sup>5</sup> 697.527 Waikato District Council

	<p>signage structures; and</p> <p>(d) Activities subject to National Environmental Standards Telecommunication Facilities 2016.</p> <p><u>(e) Support poles associated with service connections are exempt from height in relation to boundary rules</u> <sup>6</sup></p>
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#### 4.4 Section 32AA evaluation

71. Amendments are recommended in order to be consistent with other rules. Support poles associated with service connections are exempted from height in relation to boundary controls for efficiency. As such, a s.32AA re-evaluation is not required.

## 5 14.2.1.2 P2 Construction Noise

Submission point	Submitter	Decision requested
692.63	WEL Networks	Retain Rule 14.2.1 P2 Permitted Activities, relating to construction noise.
405.20	Counties Power	Amend Rule 14.2.1.2 Permitted Activities relating to P2 Construction Noise, based on clarifying where the noise limits are measured AND Amend Rule 14.2.1.2 Permitted Activities relating to P2 Construction Noise, to clarify which noise standards would apply when a transformer is in the road.
<i>FS1211.45</i>	<i>First Gas</i>	<i>Supports 405.20</i>
<i>FS1176.71</i>	<i>Watercare</i>	<i>Supports 405.20</i>

### 5.1 Analysis

72. **WEL Networks** [692.63] seeks to retain Rule 14.2.1 P2, as it would ensure that works comply with NZS 6803:1999 Acoustics – Construction noise, which WEL acknowledges is a recognised standard for construction noise.
73. **Counties Power** [405.20] seeks to amend Rule 14.2.1.2 P2 to clarify the application of the noise standard. The submitter states that it does not understand which noise standards would apply to a transformer in the road.
74. *[FS1211.45] First Gas supports: insofar as it seeks clarification on where noise limits are measured from under 14.2.1.2 and clarification on 14.2.1.2 in regard to applicable noise standards for infrastructure within the road.*
75. *[FS1176.71] Watercare supports clarification of the reasons given in the submission. Watercare is neutral on what standard should apply to transformers in the road.*

<sup>6</sup> 644.32 Spark; 646.32 Vodafone; 648.32 Chorus

76. Rule 14.2.1.2 P2 is concerned with construction noise. Construction noise is controlled by NZS 6803:1999 Acoustics – Construction noise, and would include a transformer being used on a road for construction. The construction noise is measured, according to the NZ Standard, at a point 1m outside the façade of an adjacent building, and at each building level above. Operational noise from a transformer permanently located in the road is not construction noise and would be required to meet the noise limits of the adjacent Zone. I do not consider that any amendment is needed to 14.2.1.2.

## 5.2 Recommendations

77. For the reasons above I recommend:
- a. Reject WEL Networks [692.63], Counties Power [405.20], [FS1211.45] *First Gas* and [FS1176.71] *Watercare*.
78. I do not recommend any amendments in response to these submissions.

## 6 14.2.1.3 P3 Any activity emitting electric and magnetic fields

Submission point	Submitter	Decision requested
405.21	Counties Power	Retain Rule 14.2.1.3 Permitted Activities relating to P3 Any activity emitting electric and magnetic fields, as notified.
692.64	WEL Networks	Retain Rule 14.2.1 P3 Permitted Activities, relating to any activity emitting electric and magnetic fields.

### 6.1 Analysis

79. **Counties Power** [405.21] supports the management of electric and magnetic fields via the International Commission on Non-ionising Radiation Protection Guidelines.
80. **WEL Networks** [692.64] states that P3 would ensure that any activity emitting electric magnetic fields would comply with International Commission on Non-ionising Radiation Protection Guidelines, which WEL acknowledges is a recognised standard for electric and magnetic fields.

### 6.2 Recommendations

81. The value of the rule is that it provides certainty of the permitted levels of electric and magnetic field emissions. The RPS also requires management of activities emitting electric and magnetic fields. For the reasons that the provisions are in the notified PWDP, and for the submitters' reasons above I recommend that the Hearings Panel:
- a. Accept Counties Power [405.21] and WEL Networks [692.64].
82. There are no recommended amendments to this rule.

## 7 14.2.1.4 P4 Any activity emitting radio frequency fields

Submission point	Submitter	Decision requested
692.65	WEL Networks	Retain Rule 14.2.1 P4 Permitted Activities, relating to any activity emitting radio frequency fields.

### 7.1 Analysis / Recommendations

83. **WEL Networks** [692.65] states that P4 would ensure that any activity emitting radio frequency fields would comply with the New Zealand Standard for Radiofrequency Fields Part 1: Maximum Exposure Levels 3 kHz to 300GHz (NZS 2772.1:1999), which WEL acknowledges is a recognised standard for radio frequency fields.
84. The value of the rule is that it provides certainty of the permitted levels of radio frequency field emissions. The RPS also requires management of activities emitting radio frequency fields. For the reasons that the provisions are in the notified PWDP, and for the submitter's reasons above, I recommend that the Hearings Panel:
- a. Accept [692.65] WEL Networks.
85. There are no recommended amendments to this rule.

## 8 14.2.2 General Restricted Discretionary Activities

Submission point	Submitter	Decision requested
578.115	POAL	Retain Rule 14.2.2 Restricted Discretionary Activities as notified.
749.69	HNZC	Retain Rule 14.2.2 Restricted Discretionary Activities as notified.

### 8.1 Analysis / Recommendations

86. **POAL** [578.115] supports the restricted discretionary activity status for new infrastructure that does not comply with the standards of Rule 14.2.1, and considers the matters of discretion to be appropriate.
87. **HNZC** [749.69] supports the activities listed under 14.2.2, in particular RDI and matters of discretion.
88. The value of the rule is that it provides a clear cascade where the standards are not met. For the reasons that the provisions are in the notified PWDP, and for the submitters' reasons above, I recommend that the Hearings Panel:
- a. Accept POAL [578.115] and HNZC [749.69].
89. There are no recommended amendments to this rule.

## 9 14.2.2 RDI New Infrastructure not complying with conditions

Submission point	Submitter	Decision requested
405.22	Counties Power	No specific decision sought, but submission states Rule 14.2.2 RDI (a) Restricted Discretionary Activities enables new infrastructure/technology.
680.276	FFNZ	Amend Rule 14.2.2 (RDI) Restricted Discretionary Activities as follows: Discretion is restricted to: (a) The functional and operational needs of, and benefits derived from, the infrastructure (b) Visual, landscape, streetscape and amenity effects <u>except within the Rural Zone</u> ; (c) Noise levels
<i>FSI 342.168</i>	<i>FFNZ</i>	<i>Opposes 680.276</i>
<i>FSI 223.200</i>	<i>Mercury NZ</i>	<i>Opposes 680.276</i>
<i>FSI 134.42</i>	<i>Counties Power</i>	<i>Supports 680.276</i>

### 9.1 Analysis

90. **FFNZ** [680.276] seeks to amend Rule 14.2.2 (RDI) Restricted Discretionary Activities to exempt the Rural Zone from matter of discretion (b). The submitter conditionally supports Rule 14.2.2, provided that whichever permitted activity conditions may be imposed on infrastructure in rural areas, they do not inappropriately trigger resource consent for discretionary activity or non-complying activity, as there would be little or no environmental benefit in doing so. The submitter states that visual, landscape, streetscape and amenity effects that may be of concern in relation to infrastructure within urban areas, are not appropriate as a basis for consideration within rural areas, and that infrastructure within the Rural Zone should be exempt from any such assessment requirement where restricted discretionary activity status is triggered.
91. *[FSI 342.168] FFNZ opposes its own submission. Upon reflection, FFNZ understands that the proposed plan wording is appropriate and the matters of discretion should apply in the Rural Zone. The concerns raised in submission [680.276] will be better addressed with adoption of submission [281.18], which seeks to exclude farming infrastructure from the definition of infrastructure.*
92. *[FSI 223.200] Mercury NZ opposes FFNZ: Mercury has an interest in the submission points listed in paragraphs 11.1 and 11.2 above. Mercury supports the protection of outstanding natural features and outstanding natural landscapes in the context of section 6(b) of the RMA, where there has been a robust expert assessment undertaken to describe the values supporting an assessment of what is outstanding. The Waikato RPS Table 12.2 sets out factors that District Councils are to consider when undertaking such an assessment. Mercury considers that such a robust assessment has not been undertaken as part of the preparation of the PWDP.*

93. *[FSI134.42] Counties Power supports FFNZ. Counties Power agrees that visual, landscape, streetscape and amenity effects that may be of concern in relation infrastructure within urban areas, are not appropriate as a basis for consideration within rural areas, and that infrastructure within the Rural Zone should be exempt from any assessment requirement where RD activity is triggered.*
94. I note that the Federated Farmers' further submission has opposed their own original submission, on realising that the provision is appropriately applied in the Rural Zone. I consider that visual, landscape, streetscape and amenity effects are appropriate for consideration in relation to infrastructure within the Rural Zone. I recommend rejecting FFNZ [680.276] and *[FSI134.42] Counties Power*, and accepting *[FSI342.168] FFNZ* and *[FSI223.200] Mercury NZ*.
95. **Counties Power** [405.22] has not sought a specific decision, but the submission states that Rule 14.2.2 RDI (a) Restricted Discretionary Activities enables new infrastructure/technology. The submitter notes that objectives and policies list new technological advancements as an important part of infrastructure.
96. I recommend accepting what appears to be a supportive submission - Counties Power [405.22].

## 9.2 Recommendations

97. For the reasons above I recommend that the Hearings Panel:
- a. Reject FFNZ [680.276] and *[FSI134.42] Counties Power*, and accept *[FSI342.168] FFNZ* and *[FSI223.200] Mercury NZ*.
  - b. Accept Counties Power [405.22].
98. I do not recommend any amendments in response to these submissions.

## 10 14.2.2 RD2 Construction noise not complying with conditions

Submission point	Submitter	Decision requested
405.90	Counties Power	Amend Rule 14.2.2 RD2(a) Restricted Discretionary Activities based on clarifying where the noise limits are measured.

### 10.1 Analysis / Recommendations

99. **Counties Power** [405.90] states that where a transformer is in the road, it needs to be clarified as to which noise standard would apply.
100. As discussed in relation to [405.20] above on Rule 14.2.1.2 P2, if the transformer is permanently operating in the road, and not just for supporting a construction activity, it would need to comply with the adjacent Zone noise limits (14.2.1.1) at the boundary of the site and Zone, that is the road frontage boundary. I note that RMA s.16 "Duty to avoid unreasonable noise", requires that every occupier of land shall adopt the best practicable

option to ensure that the emission of noise from that land or water does not exceed a reasonable level. That supports the adjacent Zone boundary noise limit being the “reasonable level”.

101. For the reasons above, I recommend rejecting Counties Power [405.90].
102. There are no recommended amendments to this rule.

## II 14.2.3 DI Discretionary Activities

Submission point	Submitter	Decision requested
578.32	POAL	Retain Rule 14.2.3 Discretionary Activities, as notified.
836.15	Powerco	Amend Rule 14.2.3 DI Discretionary Activities so that Infrastructure in identified areas is a Discretionary activity rather than non-complying: Any infrastructure not specifically listed within Chapter 14, including associated earthworks, <del>not</del> <u>located</u> and those within an Identified Area AND Delete Rule 14.2.3 NC3 Non-complying activities.
<i>FS1293.65</i>	<i>Department of Conservation</i>	<i>Opposes 836.15</i>
680.277	FFNZ	Amend Rule 14.2.3 DI Discretionary Activities, as follows: DI Any infrastructure not specifically listed within Chapter 14, including associated earthworks, not located within an Identified Area <u>except within the Rural Zone</u>
<i>FS1134.43</i>	<i>Counties Power</i>	<i>Supports 680.277</i>
<i>FS1108.80</i>	<i>Waikato-Tainui</i>	<i>Opposes 680.277</i>
<i>FS1139.71</i>	<i>Turangawaewae Trust Board</i>	<i>Opposes 680.277</i>
<i>FS1223.201</i>	<i>Mercury NZ</i>	<i>Opposes 680.277</i>
281.10	Aztech Buildings	Amend Rule 14.2.3 Discretionary Activities to exclude farm irrigation/drains. (This relates to the changes sought to the definition of "Infrastructure" to exclude farm irrigation/drains elsewhere in the submission).

### II.1 Analysis

103. **POAL** [578.32] seeks to retain Rule 14.2.3 as notified. The submitter supports a discretionary activity status for 'activities not otherwise provided for' and considers such an approach to be consistent with section 87B of the RMA.

104. For the reasons the provisions are in the notified PWDP - that this is an appropriate default status for activities not provided for as long as they are not within an Identified Area - and with the support of the submitter, I recommend accepting POAL [578.32].
105. **Powerco** [836.15] seeks to amend Rule 14.2.3 DI so that Infrastructure in Identified Areas is a discretionary activity rather than non-complying, and to delete Rule 14.2.3 NC3. This issue was also discussed under the general heading at the beginning of this report section, in relation to an NZTA submission seeking to retain activity DI and also to convert activity NC3 to a discretionary activity.
106. The submitter considers that new infrastructure in Identified Areas should be a discretionary activity rather than a non-complying activity.
107. *[FSI 293.65] Department of Conservation opposes the submission from Powerco. The Director-General considers that a discretionary activity status for earthworks with significant adverse effects on identified areas is too permissive.*
108. I agree with the DOC further submission. There needs to be an activity status that identifies that the effects are likely to be significantly adverse. Many of the Identified Areas are RMA s.6 matters. I recommend rejecting Powerco [836.15], and accepting *[FSI 293.65] Department of Conservation*.
109. **FFNZ** [680.277] seeks to amend Rule 14.2.3 DI to exclude the Rural Zone from the discretionary status.
110. FFNZ states that Identified Areas within the Infrastructure and Energy chapter cover the following areas and items identified within the proposed plan: Urban Expansion Area, Significant Natural Area, Landscape and Natural Character Areas, Outstanding Natural Feature, Outstanding Natural Landscape, Significant Amenity Landscape, Outstanding Natural Character, High Natural Character, Heritage Item, Heritage Precinct, Maaori Site of Significance, Maaori Area of Significance, Notable Tree. The submitter considers such Identified Areas affect many farms and result in a cost and delay burden for unnecessary resource consent applications for little or no environmental benefit, where infrastructure has to be supplied to develop use or subdivision land in the Rural Zone.
111. The submitter further considers that it is not appropriate to require infrastructure within any Identified Area that is within the Rural Zone to have to seek resource consent for a discretionary activity where district plan activity-specific conditions for permitted activities are not complied with; this is hugely inefficient and presents a highly onerous and inappropriate burden on farmers who need to install, maintain, repair, replace or upgrade infrastructure, including associated earthworks, where these are within an Identified Area, in order to develop, use or subdivide farms. The submitter suggests that farm activity should be a permitted activity with appropriate activity-specific conditions, and subdivision in the Rural Zone should be a controlled activity with appropriate activity-specific conditions and matters of control, with a restricted discretionary activity pathway for situations where permitted activity or controlled activity conditions are not met.
112. *[FSI 134.43] Counties Power supports.*
113. *[FSI 108.80] Waikato-Tainui and [FSI 139.71] Turangawaewae Trust Board oppose:*

114. [FS1223.201] Mercury NZ opposes. Mercury has an interest in the submission points listed in paragraphs 11.1 and 11.2 above. Mercury supports the protection of outstanding natural features and outstanding natural landscapes in the context of section 6(b) of the RMA, where there has been a robust expert assessment undertaken to describe the values supporting an assessment of what is outstanding. The Waikato RPS Table 12.2 sets out factors that District Councils are to consider when undertaking such an assessment. Mercury considers that such a robust assessment has not been undertaken as part of the preparation of the PWDP.
115. Identified Areas, which include many areas identified in RMA s.6 as matters of national importance, need to be protected, whether in urban or rural locations. I recommend rejecting FFNZ [680.277] and [FS1134.43] Counties Power; and accepting [FS1108.80] Waikato-Tainui and [FS1139.71] Turangawaewae Trust Board. I recommend accepting [FS1223.201] Mercury NZ, only to the extent that it opposes the original submission.
116. Aztech Buildings [281.10] seeks to amend Rule 14.2.3 Discretionary Activities to exclude farm irrigation/drains. (This relates to the changes sought to the definition of "Infrastructure" to exclude farm irrigation/drains elsewhere in the submission). The submitter states that infrastructure includes drainage – so discretionary or non-complying Activities status may apply for earthworks associated with farm drainage. The submitter considers that this is in conflict with the Rural Zone Objectives and Policies relating to earthworks.
117. I do not recommend the suggested amendment be accepted. Earthworks associated with infrastructure can have significant adverse effects if not controlled, and Rule 14.2.3 DI is designed to manage effects of all infrastructure not otherwise allocated an activity status. On-farm drainage is not infrastructure. Network utility drainage is infrastructure. I have recommended, in another section of this report, an advice note in the Introduction to clarify the distinction between on-farm services and network infrastructure. I recommend rejecting Aztech Buildings [281.10].

## 11.2 Recommendations

118. For the reasons above I recommend that the Hearings Panel:
- Accept POAL [578.32]
  - Reject Powerco [836.15], and accept [FS1293.65] Department of Conservation
  - Reject FFNZ [680.277] and [FS1134.43] Counties Power; and accept [FS1108.80] Waikato-Tainui, [FS1139.71] Turangawaewae Trust Board and [FS1223.201] Mercury NZ
  - Reject Aztech Buildings [281.10].
119. I am not recommending any amendments in response to these submissions.

## 12 14.2.3 General Non-Complying activities

Submission point	Submitter	Decision requested
836.16	Powerco	Amend Rule 14.2.3 Non-Complying Activities as follows: <del>14.2.34</del> Non-Complying Activities AND Delete 14.2.3 NCI Non-Complying Activities.

697.528	Waikato District Council	Amend Rule 14.2.3 Non-Complying Activity as follows: <del>14.2.3</del> 14.2.4 Non-Complying Activities
680.279	FFNZ	Amend Rule 14.2.3 Non-Complying Activities by renumbering to Rule 14.2.4.

## 12.1 Analysis

119. **Waikato District Council** [697.528], **FFNZ** [680.279] and **Powerco** [836.16] all note that Rule 14.2.3 is duplicated in the numbering and should be corrected.
120. **Powerco** [836.16] also states that Rule 14.2.3 NCI is considered to be too onerous and requires providers to prove that they comply with electric and magnetic field emissions standards. The submitter states that this would require proving compliance each time work is undertaken. The electric magnetic field levels produced by Powerco's infrastructure are well below those allowed by the International Commission on Non-ionising Radiation Protection Guidelines. Given the low levels, Powerco suggests that this rule be deleted, and considers that the issue of electromagnetic field emissions is adequately managed through Performance Standard 14.2.1.3(1).
121. The Non-Complying Activity NCI only applies where the 14.2.1.3 activity-specific condition is not met. If the electric magnetic field levels produced by Powerco's infrastructure are well below those allowed by the International Commission on Non-ionising Radiation Protection Guidelines, then they will not be affected by NCI. I recommend accepting Waikato District Council [697.528] and FFNZ [680.279]; and accepting in part Powerco [836.16]: as a numbering correction. I recommend rejecting in part Powerco [836.16], to the extent that 14.2.3 NCI is not deleted.

## 12.2 Recommendations

122. For the reasons above I recommend that the Hearings Panel:
- Accept Waikato District Council [697.528] and FFNZ [680.279]; and accept in part Powerco [836.16]
  - Reject in part Powerco [836.16].
123. As this only involves renumbering amendments, a s.32AA re-evaluation is not required.

## 13 14.2.3 Non-complying activities

Submission point	Submitter	Decision requested
559.149	Heritage NZPT	Retain Rule 14.2.3 NC3 Non-Complying Activities
680.278	FFNZ	Amend Rule 14.2.3 NC3 Non-Complying Activities, as follows: NC3 Any infrastructure not specifically listed within Chapter 14, including associated earthworks, located

		within an Identified Area, <u>except within the Rural Zone.</u>
FSI 134.44	Counties Power	Supports 680.278
FSI 342.169	FFNZ	Opposes 680.278

### 13.1 Analysis

124. **FFNZ** [680.278] seeks to amend Rule 14.2.3 NC3 to exempt the Rural Zone.
125. The submitter states that it is not appropriate to require infrastructure within the Rural Zone, or within any Identified Area that is within the Rural Zone, to have to seek resource consent for a non-complying activity where district plan activity-specific conditions for permitted activities are not complied with. FFNZ considers that a restricted discretionary activity status would be more appropriate in such situations.
126. *[FSI 134.44] Counties Power supports: Federated Farmers requests to amend Rule 14.2.3 to include an exemption within the Rural Zone for any infrastructure not specifically listed within Chapter 14, including associated earthworks, located within an Identified Area.*
127. *[FSI 342.169] FFNZ opposes. FFNZ seek to clarify that their concerns relate to the Chapter 14 rules framework having the potential to inadvertently apply to farming infrastructure, as opposed to infrastructure in the Rural Zone not having to meet appropriate controls and conditions. The concerns raised in submission [680.278] will be better addressed with adoption of submission point submission 281.18, which seeks to exclude farming infrastructure from the definition of infrastructure.*
128. I note that the Federated Farmers' further submission has opposed their own original submission, on realising that the provision is appropriately applied in the Rural Zone. I consider that infrastructure in the Rural Zone should have to meet appropriate controls and conditions, and that the non-complying activity status is appropriate for unspecified infrastructure, including associated earthworks, within an Identified Area. I recommend rejecting FFNZ [680.278] and *[FSI 134.44] Counties Power*; and accepting *[FSI 342.169] FFNZ*.
129. **Heritage NZPT** [559.149] seeks to retain Rule 14.2.3 NC3, as this catch-all rule will ensure that the Identified Areas are protected from the adverse effects of energy and infrastructure activities.
130. For the reasons that the provision is in the notified PWDP, as a catch-all for unspecified infrastructure activities attempting to locate within Identified Areas, and for the reason provided by the submitter, I recommend accepting Heritage NZPT [559.149].

### 13.2 Recommendations

131. For the reasons above I recommend that the Hearings Panel:
- Reject FFNZ [680.278] and *Counties Power [FSI 134.44]*; and accept *FFNZ [FSI 342.169]*.
  - Accept Heritage NZPT [559.149].
132. I have not recommended any amendments in response to these submissions.