



FORM 5

Submission on a notified proposal for Plan Change 65 Outstanding Natural Features & Landscapes under Clause 6 of Schedule 1 Resource Management Act 1991

13 March 2020

Attn: District Plan Team
Manawatū District Council
Private Bag 10-001
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Via Email: districtplanreview@mdc.govt.nz

This is a submission on a change proposed to the following plan:

Proposed Plan Change 65 to the Manawatū District Plan (PC65).

The specific provisions of the proposal that our submission relates to are:

PC65 in its entirety to the extent the provisions have the potential to compromise Waka Kotahi NZ Transport Agency's (Transport Agency) statutory obligations and give effect to existing or impending designations, for which the Transport Agency is the requiring authority.

The Transport Agency's submission is:

Background

1. The Transport Agency has an interest in proposed Plan Change 65 (**PC65**) because PC65 includes land that is or will be subject to the following designations, for which the Transport Agency is the requiring authority:
 - a. the impending designation for the construction, operation, maintenance and improvement of approximately 11.5km of new State highway between Ashhurst and Woodville to replace the closed section of State Highway 3 (**SH3**) through the Manawatū Gorge, and associated works¹
 - b. a portion of State Highway 54 (**SH54**), where it intersects the Rangitikei River area at Vinegar Hill (District Plan reference D3).

¹ This designation is currently awaiting confirmation by the Environment Court; a draft consent order was submitted by the Transport Agency, Manawatū District Council, and other parties to the relevant proceedings in October 2019. The current designation for SH3 is District Plan reference D2.

Both designations will have the same purpose: *“to undertake maintenance, operation and use of, and improvements to the State Highway network”*.

2. The Transport Agency is a Crown entity that takes an integrated approach to transport planning, investment and delivery. The Transport Agency’s statutory objective is to undertake its functions in a way that contributes to an affordable, integrated, safe, responsive, and sustainable land transport system.
3. The Transport Agency has a mandate under the Land Transport Management Act 2003 (LTMA), the Government Rounding Powers Act 1989 (GRPA), and the Government Policy Statement on Land Transport 2018/19-2027/28 (GPS), to carry out its functions in a way that delivers the transport outcomes set by the Government.
4. The Government released the GPS to be effective from 1st July 2018. The GPS outlines both New Zealand’s strategic transport priorities and guides investment. The GPS lays out four new priorities and six objectives, which include safety; improved transport access to economic and social opportunities as well as providing more resilience and choice; better environmental outcomes; and infrastructure which delivers the best value for money.
5. The GPS also has three themes to guide and effectively deliver the above priorities. These are a mode neutral approach to transport planning and investment decisions; incorporating technology and innovation into the design and delivery of land transport investment; and integrating land use and transport planning and delivery.
6. The GPS promulgates the Government’s future strategic transport priorities, and these should be considered in the development and decision processes for PC65.

The Transport Agency’s Submission

7. The Transport Agency supports the intent of PC65 to identify and protect natural features and landscapes within the Manawatū District, subject to PC65 not compromising the Transport Agency’s ability to meet its statutory obligations, including through giving effect to the works authorised by the designations listed above.
8. PC65 seeks to identify the Manawatū Gorge as an Outstanding Natural Feature (ONF13). As acknowledged in PC65, this ONF area includes the Notice of Requirement (NoR) for a new state highway between Ashhurst and Woodville (Te Ahu a Turanga; Manawatū Tararua Highway Project), which is a replacement state highway following the closure of the Manawatū Gorge in April 2017.
9. The NoR was lodged with Manawatū District Council on 2 November 2018, publicly notified, and considered by independent hearing commissioners appointed by Manawatū District Council (together with other related NoRs applying to Tararua District and Palmerston North City). The commissioners recommended that the NoR be confirmed on conditions, including conditions to mitigate the adverse effects of the project on the landscape through which it passes. The Transport Agency largely accepted the recommendations and confirmed the designation on conditions.
10. The designation is currently subject to appeals in the Environment Court. Those appeals have been the subject of Court-assisted mediation, following which most of the parties (including the

Transport Agency and Manawatū District Council) recorded their agreement on the conditions to apply to the designations, subject to endorsement by the Court.

11. The Transport Agency considers that the area traversed by the project (i.e. the area the subject of the designation) should be excluded from ONF13, because the project introduces large-scale works and built form into the environment (notwithstanding the agreed designation conditions, particularly in relation to landscape and ecology, which will mitigate adverse effects on the environment).
12. PC65 also seeks to identify the Rangitikei River as an Outstanding Natural Feature (ONF3). This ONF includes a portion of the existing SH54. As above in paragraph 7, the Transport Agency considers that its existing infrastructure should be excluded from ONF3.
13. The Transport Agency is concerned that PC65 documentation (including the section 32 evaluation) did not consider how PC65 gives effect to Regional Policy Statement Policies 3-1 and 3-3 of the Horizons One Plan, by recognising the benefits of and appropriately recognising and providing for, nationally significant infrastructure, subject to existing or impending designations. As such, PC65 may not meet the requirements of section 32 of the Resource Management Act 1991.
14. The changes requested are required to:
 - a. Ensure that the Transport Agency can carry out its statutory obligations;
 - b. To reduce interpretation and processing complications for decision makers.
15. Further points are summarised in the attached Table, which forms part of our submission.
16. Where a provision is not specified in the table below, the Transport Agency generally supports the way it is drafted.
17. The Transport Agency could not gain an advantage in trade competition through this submission.

We seek the following decision from the local authority:

18. Amend PC65 as set out above and as detailed in the attached Table 1 including such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in this submission.

The Transport Agency would like to be heard in support of its submission. If others make a similar submission, the Transport Agency will consider presenting a joint case with them at a hearing.

Signature of person authorised to sign on behalf of Submitter:



Natasha Reid

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Table 1: Decisions Sought Plan Change 65 Outstanding Natural Features and Landscapes

The following table sets out where further amendments are sought to the PC65 provisions and identifies those provisions which the Transport Agency supports.

Italics = *PC65 notified text*

Underline, not italics = proposed additions.

Strikethrough, italics = ~~*proposed deletions*~~.

	Provision	Support / Oppose	Reasons and Decision Sought
1	NFL-01	Support	<p>The Transport Agency is supportive of this objective as it is helpful to have such areas identified and mapped for when we are planning future roading or any works outside of our designations.</p> <p>Decision sought: Retain as notified.</p>
2	NFL-02 and -04	Support in part	<p>The Transport Agency supports the intent of these two objectives. However, it considers they may be conflicting given 02 seeks to 'protect', which sets a very high threshold, and 04 seeks to 'maintain or enhance'. Nonetheless, it is our understanding (confirmed by MDC Policy Planner) that as there are no Network Utility specific provisions in the new NFL chapter, the specific provisions in amended Chapters 3A and 3D apply to roading activities. This is explained on page 1 of the Introduction to the new NFL chapter.</p> <p>Decision sought: Retain the explanatory note on page 1 Introduction as notified</p>
3	NFL-all policies	Support in part	<p>The Transport Agency understands that there are no Network Utility specific provisions in the new NFL chapter. As such, the specific provisions in amended Chapters 3A and 3D apply to any Network Utility activities, including roads. The Transport Agency considers that the wording explaining this on Page 1 within the Introduction section is adequate for plan users</p>

			<p>to determine which provisions are relevant when applying for, or processing applications, for Network Utilities.</p> <p>Nonetheless, the Transport Agency also seeks to ensure that the policies, read together with Chapters 3A and 3D, are appropriately enabling of the state highway network. The specific amendments to policies required may depend on whether the primary relief sought by this submission (of omitting current/impending state highway designations from the mapped ONFs) is granted.</p> <p>Decision sought: Retain explanatory note on Page 1 Introduction as notified; potentially amend policies to reflect the importance of enabling state highway operations (specific wording may depend on whether primary relief is granted).</p>
4	3A Policy 1.5	Support with amendment.	<p>The NoR and resource consent process must consider the amenity and landscape values of an area. This provision has only been updated to include SAFs. Clarification is sought to understand if this policy also applies to ONFLs (it appears from the s32 report that it does not).</p> <p>Decision sought: Clarification is sought as to whether this policy also applies to ONFLs.</p>
5	3A Objective 3	Support with amendment.	<p>The Transport Agency supports the intent of this objective. It does, however, have concerns about how it can be achieved given its qualitative nature and the extent to which it is in conflict with Objective 1^[1]</p> <p>^[1] <i>“To ensure:</i> <i>a) Network utility infrastructure of national and regional importance, including the National Grid, is able to operate, upgrade and develop efficiently and effectively while managing any adverse effects in the environment having regard to the locational, technical and operational constraints of the infrastructure.”</i></p>

			<p>The high threshold of the ‘protection’ provision may be difficult for linear infrastructure to achieve its economic, environmental and social outcomes as required by the LTA and One Plan Policy 3-1. ‘Protection’ of characteristics and values is also dependent on how the provision of “inappropriate” use and development is assessed by plan users and decision makers and is subject to a fair amount of interpretation uncertainty for applicants.</p> <p>Decision sought: Adopt amended quantitative provisions:</p> <p><i>The characteristics and values of ONFL’s... from the inappropriate use and development of network utilities are managed through an effects-based hierarchy.</i></p>
6	3A Policy 3.1	Support with amendments	<p>The Transport Agency supports the intent of this policy. We do however, have concerns about how it can be achieved given its qualitative nature. The high threshold of the ‘protection’ provision may not allow our projects to achieve the economic, environmental and social outcomes required by the LTA.</p> <p>Decision sought: Adopt amended provision:</p> <p><i>To protect recognise and provide for the characteristics and values...</i></p>
7	3A Policy 3.2	Support with amendments	<p>The Transport Agency does not support the use of the term ‘avoid’ in this policy. This term sets an unreasonably high, perhaps unachievable threshold, that may prevent the Transport Agency from carrying out its statutory obligations. The term ‘avoid’ does not provide for the management of significant adverse cumulative effects. The Transport Agency needs a clear decision-making pathway for its projects, which this provision as notified does not provide.</p> <p>Whilst the Transport Agency will seek to avoid such adverse effects where practicable, the complexities of infrastructure projects (their functional and operational needs and their</p>

			<p>national and regional importance) may not always allow for ‘avoidance’. Furthermore, it is not clear how ‘cumulative’ effects will be assessed for linear infrastructure.</p> <p>Decision sought 1: Clarify how cumulative effects will be assessed for linear infrastructure.</p> <p>Decision sought 2: Adopt the cascading provisions of policy 3.3 within Chapter 3A or amend the provisions:</p> <p><i>‘To avoid remedy or mitigate significant adverse cumulative effects from new network utilities on the characteristics and values of Outstanding Natural Features and Landscapes’</i></p>
8	3A Policy 3.3	Potentially support with clarification	<p>The Transport Agency supports the effects-based hierarchy approach of this policy, specifically that it acknowledges and provides for the complexity and importance of network utilities. There does not appear to be an explanation of footnote ‘2’ and as such, we cannot definitively comment on this provision.</p> <p>Decision sought: clarification of footnote 2 in bullet point ‘a’.</p>
9	3A Policy 3.4	Support	<p>The Transport Agency supports this provision in its entirety, specifically that it acknowledges the lifecycle of a network utility.</p> <p>Decision sought: Retain provisions as notified.</p>
10	3A.4.3 Permitted Activity Standard (j)	Support with amendment	<p>The Transport Agency generally supports this Permitted Activity Standard. It considers however, that it needs to include the specific ability for ‘emergency works’ to be undertaken as per section 330 and 330B of the Resource Management Act 1991.</p> <p>Decision sought: Amend this provision:</p>

			<i>Works that are undertaken outside of an existing road corridor carriageway (excluding emergency works)...</i>
11	3D Policy 1.3	Support with amendment.	<p>The Transport Agency supports the intent of this policy however, as all our projects require earthworks we seek clarification as to what ‘restrict earthworks’ means and how this provision will be quantified and assessed by plan users and decision makers.</p> <p>Decision sought: clarification of the provision ‘restrict’ as it relates to earthworks; how this provision will be quantified and assessed by plan users and decision makers.</p>
12	ONF-3 Map	Oppose.	<p>It is not entirely clear from the ONF-3 map if the state highway is included in this ONF. Council’s Policy Planner has advised that a portion of SH54 intersects the Rangitikei River area at Vinegar Hill.</p> <p>Whilst we support the identification and protection of these areas, SH54 is already designated and is an existing road. We consider that the designation framework will achieve the same outcome as proposed by these provisions and therefore, it is unnecessary to include this road within this ONF. Furthermore, including the designation can create confusion for future decision makers when assessing outline plans for example, due to interpretation differences and/or confusion over which provisions apply.</p> <p>Decision sought: Exclude SH54 from ONF-3.</p>
13	ONF-13 Map	Oppose	<p>The Transport Agency considers that this ONF should exclude the new highway designation. It should be excluded because the new highway will introduce substantial works and built form into the environment, and this has clearly been signalled since before PC65 was notified. Conversely, it is not necessary for the new highway designation to be included within the ONF, because the provisions of the designation have been agreed and will appropriately mitigate effects on the landscape and receiving environment more broadly.</p>

			<p>This will be achieved through the numerous designation conditions (the ecological, earthworks, planting and landscape management plans in particular).</p> <p>If the designation area is included within the ONF, there would be a potential for future decision makers to interpret differently the PC65 provisions and how these do or do not apply to the new state highway, including outline plans and outline plan waivers.</p> <p>Decision sought: Exclude the new state highway designation from ONF-13.</p>
14	ONF-13 Features of Outstanding Natural Feature	Support with amendment.	<p>The Table is very informative and provides plan users with helpful information. The Transport Agency considers however, that the information under “Shared/Recognised” unnecessarily complicates our agreed designation provisions where it refers to “<i>Careful design of the highway by bridging and retention of ecological values...</i>”. This entire last sentence should be removed.</p> <p>Decision Sought: Amend the provisions: “Careful design of the highway by bridging and retention of ecological values will allow the area to retain recognition as an ONF with the highway designation in place”.</p>
15	Definitions in existing Chapter 2	Support in part with clarification.	<p>The Transport Agency acknowledges the inclusion of two new definitions: ‘functional need’ and ‘operational need’ from the National Planning Standards. It is unclear how ‘need’ will be demonstrated by plan users and clarification is sought on this aspect.</p> <p>Decision sought: clarify how ‘need’ as it relates to these provisions will be demonstrated by plan users.</p>