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13 September 2017

Upper Hutt City Council
Private Bag 907
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Attention: Helen Ellams

By email: helen.ellams@uhcc.govt.nz

RE: HEARING STATEMENT ON BEHALF OF POWERCO LIMITED ON PROPOSED PLAN CHANGE 42 – MANGAROA AND PINEHAVEN FLOOD HAZARD EXTENTS

1. INTRODUCTION

1.1 We refer to the abovementioned matter set down for hearing commencing on the 27th of September 2017. Powerco Limited (*Powerco*) will not be attending the hearing as it is generally in agreement with the recommendations set out in the Section 42A Report prepared with respect to Proposed Plan Change 42 (*PC42*).

1.2 This statement has been prepared on behalf of Powerco and represents its views. The statement relates to the submission and further submissions by Powerco, including how they have been addressed in the Section 42A reports. Powerco was allocated submitter number 7.

1.3 It would be appreciated if this statement could be tabled before the Hearings Committee.

2. POWERCO'S SUBMISSION

2.1 Powerco supplies gas to Upper Hutt City and has an extensive network of infrastructure within the Pinehaven Flood Hazard Extent identified in PC42. Powerco's submission generally supported the intent of PC42 but sought some amendments to ensure that the construction, operation, maintenance, minor upgrading, and replacement of network utilities, including necessary earthworks, can be undertaken as a permitted activity within flood hazard extents,

particularly where these activities can be undertaken in a manner that will not adversely affect flood hazards in a material way.

2.2 Powerco participated in pre-hearing discussions with the Council to address the matters raised in Powerco's submission. These discussions were very positive and constructive and resulted in Powerco's concerns largely being addressed in the recommendations of the Section 42A Report. The process pursued by Council is supported and to be commended. This hearing statement therefore specifically addresses those matters that Powerco considers have not been fully resolved by the recommendations in the Section 42A Report. For completeness, a table identifying Powerco's response to the recommendations in the Section 42A Report to each of Powerco's submission points has been included as **Attachment 1.**

Network Utilities Provisions To Take Precedence

2.3 In particular, Powerco supports the recommendation of the reporting planner that the Network Utilities provisions in Chapters 16, 23 and 30 take precedence over all other provisions in other chapters. To avoid misinterpretation, however, Powerco considers that this must be clearly communicated in the plan. Paragraph 321 of the Section 42A Report recommends including the following note at the bottom of Table 33.1:

Note:
Network Utility Structures are addressed through the provisions within Chapter 16 and 30. For the avoidance of doubt any Network Utility Structure activity undertaken by a network utility operator within the Flood Hazard Extent subject to the provisions of Chapter 16 and 30, will prevail over the provisions of Chapter 14 and 33.

2.4 Powerco supports the inclusion of an advice note to that effect. However, Powerco queries why Chapter 23 (Rules for Earthworks) is not also mentioned, given that Table 23.1 within Chapter 23 contains provisions which specifically relate to Network Utilities (refer paragraph 2.10 below). It is considered that the advice note should be included in an amended form to provide greater certainty, as follows (additions in underline):

Note:
Network Utility Structures are addressed through the provisions within Chapters 16, 23 and 30. For the avoidance of doubt any Network Utility Structure activity undertaken by a network utility operator within the Flood Hazard Extent subject to the provisions of Chapters 16, 23 and 30, will prevail over the provisions of Chapter 14 and 33.

Policy 14.4.5

2.5 Powerco, in its submission, sought an amendment to Policy 14.4.5 as follows:

Policy 14.4.5: Enable planned flood mitigation works within identified Flood Hazard Extents that decrease the flood risk to people and property or maintain the function of the floodplain, whilst managing adverse effects on existing infrastructure.

2.6 The rationale of the submission is to protect network utility infrastructure from potential damage during flood mitigation works. In other jurisdictions, Powerco has faced situations where Councils have not consulted Powerco prior to undertaking works, and have consequently uncovered Powerco's underground assets during earthworks. Such events are dangerous and threaten both worker and public health and safety and the district's supply of gas and electricity. The amendment sought by Powerco is consistent with the position already taken in the District Plan to protect network utilities (i.e, Objectives 16.3.1 and 16.3.3, and Policy 16.4.3).

2.7 During pre-hearing discussions between the Council and Powerco, the Council stated that it would not support the amendment sought by Powerco because the need to consult with network utility operators is addressed through other regulations outside of the district plan processes. This recommendation was carried through in the Section 42A Report (paragraph 249).

2.8 At the time of discussions, Powerco agreed that it would not pursue the issue further. However, on reflection Powerco considers it important to point out in this hearing statement that the recommendation in the Section 42A Report is contrary to the approach taken by the Council elsewhere in the district plan. For instance, Policy 16.4.17 seeks to "*Encourage network utility providers to consult with local communities on the appropriate placement, location and design of new network utilities.*" If the Council places such expectations on others, then the Council should also meet these (similar) expectations by consulting with network utility operators prior to undertaking flood mitigation works. A consistent approach is appropriate, and better seeks to achieve the purpose of the RMA, including by managing the use, development and protection of resources in a way which enables people and communities to provide for their social and economic well-being and for their health and safety.

2.9 In light of the above, Powerco asks the Hearings Committee to adopt the amendment sought by Powerco in its submission, as identified in Paragraph 2.5 of this hearing statement.

Permitted Activities

2.10 Powerco particularly supports the recommendations in the Section 42A Report for the following activities to be undertaken as permitted, in recognition that they are reasonably necessary and unlikely to materially adversely affect flood hazards:

- Thrusting and directional drilling techniques to install utilities beneath streams and rivers within the road reserve (Table 23.1 and Standard 23.17);
- Earthworks for network utilities within the road reserve provided the ground is reinstated to its original level upon completion of works (including where the stream/river corridor is technically within the road reserve) (Table 23.1 and Standard 23.17); and

- Network utilities crossing a stream or river which are underground or attached to an existing structure such as a bridge, and provided that the utilities do not hang beneath the lowest level of the existing structure (Rule 30.8(a)).

3. OVERALL RECOMMENDATION

3.1 Powerco recommends that the Hearings Committee adopt the recommendations set out in the Section 42A Report, subject to the amendments sought in paragraphs 2.4 and 2.9 of this hearing statement.

3.2 Thank you for your time and acknowledgement of the issues raised in Powerco's submission. Please do not hesitate to contact the writer on (09) 917 4302 should you wish to seek any clarification as to the above.

Yours sincerely,
BURTON PLANNING CONSULTANTS LIMITED

Kahlia Thomas
Graduate Planner