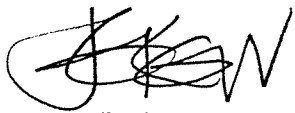


QUEENSTOWN LAKES DISTRICT COUNCIL
PROPOSED DISTRICT PLAN HEARINGS
UTILITIES (ISSUE 17)

These reports contain draft recommendations from the Planning Department only. They do not necessarily reflect the views of the Hearings Panel.

Report prepared by:



Janine Kerr
POLICY PLANNER

Report approved by:



Keith Hovell
PLANNING CONSULTANT

The Committee considering this report is:

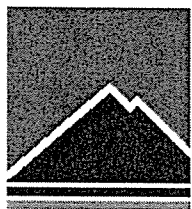
Councillor Rennie, Chairman
Councillor Hohneck
Councillor McAndrew

Queenstown Lakes District Council
Proposed District Plan
Issue 17 - Utilities

Submitter/Further Submitter	Paragraph Number
BellSouth New Zealand [1136]	1.1.1, 1.1.3, 2.17.2, 2.21.1, 4.3.1, 4.3.3, 4.5.1, 4.10.3, 5.1.14
<i>Bellsouth New Zealand [6290]</i>	2.23.3
Broadcast Communications Ltd [5013]	1.1.2, 2.21.1, 4.5.5, 4.10.2, 5.1.8, 5.1.15
<i>Broadcast Communications Limited (BCL) [6289]</i>	2.23.3
D & E H Broomfield [1211]	2.2.1, 2.5.1, 2.6.2, 2.10.1, 2.22.1, 2.23.2, 3.1.2, 4.1.1, 4.2.1, 5.1.26
<i>D & E H Broomfield [6221]</i>	4.3.10
Cardrona Holdings Limited [1280]	2.1.13
Central Electric Limited [1304]	1.2.2, 2.4.2, 2.6.3, 2.11.1, 2.16.1, 2.25.1, 2.27.2, 2.28.3, 2.29.1, 2.31.1, 2.32.1, 4.2.4, 4.4.1, 4.5.2, 4.6.1, 4.7.1, 4.9.1, 4.10.1, 4.11.1, 5.1.1, 5.1.22, 6.2.1
<i>Central Electric Limited [6034]</i>	2.1.25, 2.16.2, 2.23.3, 2.18.1, 4.2.7, 4.4.3, 4.4.7, 4.5.3
<i>Clark Fortune McDonald & Associates [6394]</i>	2.1.23
Clear Communications Limited [1340]	1.1.1, 2.17.2, 2.1.3, 2.21.1, 4.3.1, 4.3.4, 4.3.6, 4.3.7, 4.3.8, 5.1.8, 5.1.16
<i>Clear Communications Limited (CLEAR) [6288]</i>	2.23.3
<i>Ecoaction Network Inc [6328]</i>	2.1.27
P Elwell-Sutton [1496]	2.23.3
Federated Farmers Otago [1531]	4.2.7
<i>Federated Farmers Otago [6277]</i>	1.2.3, 2.1.25
Federated Mountain Clubs of New Zealand (Inc) [1532]	2.4.1, 2.7.1
P Fleming [1553]	2.1.5
D Gatward-Ferguson [1604]	4.4.7
Hawea Development Assn Inc [1713]	4.4.8
<i>Hawea Development Association Inc [6184]</i>	4.11.1
J Haworth & R Brighouse [1716]	2.24.2, 4.5.9
B Hinsén [1763]	4.5.11
M Lynch [5086]	2.1.27
D MacColl [1996]	2.1.7
Makarora Township & Water Supply Inc [2017]	2.1.11
Makarora Valley Community Inc [2018]	2.1.11
<i>Makarora Valley Community Inc [6283]</i>	2.1.11
Maritime Safety Authority of New Zealand [2034]	4.10.4
G A Martin [2047]	2.1.13
<i>I McCrone [6295]</i>	4.5.10
M L McLellan [2117]	2.1.15

Meteorological Service of New Zealand Limited (MetService) [2144]	1.1.4, 1.1.5
Minister of Conservation [2167]	2.3.1
<i>Minister of Conservation</i> [6104]	4.5.4
Ministry of Commerce [2171]	2.18.1
R Monk [2182]	2.1.17
Mount Cook Group Ltd [2631]	4.5.4
New Zealand Archaeological Association [2210]	5.1.5
New Zealand Historic Places Trust [2212]	6.1.1
New Zealand Police [2902]	1.2.5
Otago Conservation Board [2907]	2.7.2
Otago Regional Council [2258]	2.7.4, 2.8.2, 2.9.1, 2.12.1, 2.19.1, 2.20.1, 2.26.1, 2.30.1, 4.3.10, 5.1.19
<i>N W Pittaway and Family</i> [6094]	4.9.1
PowerNet Limited [2311]	1.2.1, 2.4.3, 2.6.1, 2.8.1, 2.11.1, 2.13.1, 2.15.1, 2.16.2, 2.17.1, 2.27.1, 4.4.2, 4.6.2, 4.8.1
<i>Powernet Limited</i> [6213]	2.1.23, 2.1.25, 2.3.1, 2.18.1, 4.1.1, 4.2.7, 4.9.1, 4.11.1
<i>Bob Pringle</i> [6432]	2.1.13, 4.2.7
Queenstown-Lakes District Council [2331]	1.2.3
<i>Remarkables Park Limited</i> [6017]	4.6.1
Royal Forest and Bird Protection Society [2408]	5.1.11
Southern Crown Health Enterprise Limited [2534]	2.1.1
<i>Southern Crown Health Enterprise Limited</i> [6327]	2.1.1
J Spary [2544]	2.1.13
A J & S M Strain [2575]	2.1.9
Telecom New Zealand Limited [2623]	1.2.4, 2.13.2, 2.14.1, 2.23.1, 2.27.3, 2.28.1, 4.4.3, 4.4.5, 4.5.3, 4.6.3, 5.1.23
<i>Telecom New Zealand Ltd</i> [6222]	1.1.3, 1.2.1, 2.3.1, 2.4.1, 2.7.1, 2.7.2, 2.18.1, 2.21.1, 2.24.1, 4.2.7, 4.4.2, 4.4.7, 4.4.8, 4.5.9, 4.5.10, 4.5.11, 4.9.1, 5.1.8, 5.1.16, 5.1.22
<i>Telecom New Zealand Limited</i> [6330]	5.1.14, 5.1.15
Te Runanga Otakou (Inc) [2627]	2.1.19
I J & S M Todd [2660]	2.1.8
Transit New Zealand [2675]	2.1.21, 3.1.1
Trans Power NZ Ltd [2676]	4.8.2, 5.1.2
<i>Trans Power New Zealand Limited</i> [6038]	2.1.25, 2.32.1, 5.1.11
Trilane Industries Limited [2679]	2.1.14
J L & N B Turnbull [2690]	2.1.16
<i>Upper Clutha Rural Landowners/Ratepayers</i> [6444]	4.2.7
<i>Upper Clutha Environmental Society Inc</i> [6454]	2.3.1, 2.4.1, 4.3.1
Upper Clutha Environmental Society (Inc.) [2707]	2.23.1, 2.24.1, 4.5.10
Waiorau Farms Limited [2735]	2.1.13
Wakatipu Environmental Society [2740]	2.1.23, 2.1.25
<i>Wakatipu Environmental Society</i> [6198]	2.4.1, 4.5.10

Wakatipu Rural Landowners Society Incorporated 2.1.13
[2742]
K Yasuda [2876] 2.1.14



PROPOSED DISTRICT PLAN

ISSUE 17 - UTILITIES

INTRODUCTION

This report discusses and makes recommendations on submissions received in relation to Part 17 - Utilities of the Proposed District Plan which is set out as follows:

- 17 Utilities
- 17.1 Issues, Objectives and Policies
 - 17.1.1 Resources, Activities and Values
 - 17.1.2 Issues
 - 17.1.3 Objectives and Policies
 - 17.1.4 Environmental Results Anticipated
- 17.2 Utilities Rules
- 17.3 Resource Consents - Assessment Matters - Utilities
- 17.4 Reasons for Rules - Utilities

This report contains an Executive Summary, a general assessment of the section and the submissions and future submissions lodged to it. Submissions are assessed individually or grouped where the content of the submissions is the same or similar.

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In summarising submissions, the name of the submitter is shown in bold, with their submission number shown in normal font within square brackets. Numbers following the name of the submitter, which are shown in italics within square brackets, refer to the number of associated further submitters. In summarising further submissions, the name of the further submitter is shown in bold italics, with their submission number shown italics within square brackets.

EXECUTIVE SUMMARY

The main body of submissions received on Part 17 - Utilities are from large companies such as BellSouth New Zealand, Clear Communications Ltd, Broadcast Communications, PowerNet Ltd, Telecom NZ Ltd and Central Electric.

Part 1.0 of this report deals with recommended new definitions for 'mast', 'antenna' and a revised definition for 'height' to provide clarification in administering the Utilities section of the District Plan.

A large number of submissions requested changes to objectives, policies and assessment criteria to include the issue of the cost involved in supplying the service from the utility operator. A case of particular interest to note in this report is the decision of NZ Rail v Marlborough District Council [1994] NZRMA 70 HC in which it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. References to economic cost and viability are clearly not to be considered as a trade off to adverse effects on the environment.

Most of the submissions received are concerned with the restrictions of the Rules set out in Part 17.2 of the Proposed District Plan. It is recommended in part 4.0 of this report to include a Controlled Activity section with criteria based on the bulk and location of the proposed structure. Further, that the rules provide for buildings associated with utilities in built up zones where the effects will be no more than minor. It is further recommended that provision be made for small scale activities such as antennae and structures which do not exceed the maximum height rule of the underlying zone or exceed 1 metre in diameter to be a Permitted Activity.

At the other end of the scale, it has been recommended that utilities in Areas of Landscape Importance, as set out in the Proposed District Office, remain Non-Complying activities as it is essential to consider, and take into account Part 6 of the Resource Management Act 'Matters of National Importance' which requires 'The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development'.

1.0 DEFINITIONS

1.1 2.2 Definitions - (02/011/01(A))

- 1.1.1 **BellSouth New Zealand** [1136\1] and **Clear Communications Limited** [1340\2] recognises that the Definitions section does not include 'Antenna' or 'Mast'. The submitters request an amendment to Section 2 to include the following definitions: 'Antenna' - means a telecommunications apparatus used for transmission or reception including any bracket or attachment but not any support mast or similar structure, and includes any satellite dish. 'Mast' - means any pole, tower or similar structure designed to carry antennas or dish antennas or otherwise to facilitate telecommunications.
- 1.1.2 **Broadcast Communications Ltd** [5013\2] recognises that "antenna" and "mast" are used in the Plan but are not defined. The submitter requests that the following definitions be included in the Plan (2.2) to provide certainty: "Antenna" means "a broadcasting and telecommunications apparatus used for transmission or reception including the antenna bracket or attachment but not any support mast or similar structure, and includes any satellite dish." and "Mast" means "any pole, tower or similar structure designed to carry antennas or dish antennas or otherwise to facilitate broadcasting and telecommunications."
- 1.1.3 **BellSouth New Zealand** [1136\9] considers that the definition for 'Height' in Section 2 does not include finials or chimneys. Standard telecommunication antennas are little different in scale and should be added to the list of structures excluded from the determination of height. The submitter requests an amendment to Rule 17.2.3.3 (ii) d to read: "For the purpose of calculating height in relation to Rules (a) and (b) above the following are excluded: (d) Lightning rods, rod antennas no more than 4 metres in length and other antennas that are no more than 1 metre square in area on any side"
Telecom New Zealand [6222/2] supports this submission as structures are ancillary to telecommunications facilities with only minor effects on the environment in terms of visual impact.
- 1.1.4 **Meteorological Service of New Zealand Limited (MetService)** [2144\4] believes that a definition of meteorological activities should be included. The submitter requests that the following definition be included: "Meteorological facilities - means the establishment and operation of facilities and installations or equipment to measure, collect and distribute meteorological information. This includes telecommunication, radio and satellite links."
- 1.1.5 **Meteorological Service of New Zealand Limited (MetService)** [2144\3] believes that the definition of utility does not strictly refer to meteorological activities. The submitter requests either an amendment to the definition to include "meteorological activities" or that the definition be amended in the following manner: "structures, facilities, plant, equipment and associated works for the purpose of observing, collecting and communicating weather information."

1.1.6 Discussion

These submissions request new definitions to be added to Part 2 Information and Interpretation of the Proposed District Plan. The submissions by **BellSouth New Zealand** [1136\1], **Clear Communications Limited** [1340\2] and **Broadcast Communications Ltd** [5013\2] request definitions for 'Antenna' and 'Mast'.

1.1.7 Antenna/Aerial -

The definition of antenna/aerial in the Concise Oxford Dictionary is:

-antenna - ...= AERIAL

-aerial - ...5. n. a metal rod, wire, or other structure by which signals are transmitted or received as part of a radio transmission or receiving system.

The definition of antenna includes aerials and dish antenna as 'other structure'.

The definition of antenna sought by submitters is:

Antenna - telecommunications apparatus used for transmission or reception including any bracket or attachment but not any support mast or similar structure, and includes any satellite dish.

It is agreed that a definition of 'antenna' is required in the Proposed District Plan. That provided by the Concise Oxford Dictionary is clearer and more certain than the requested definition. It is not necessary to make specific mention of dish antenna as they are a 'telecommunications apparatus' and covered by 'other structure'. The recommended definition is as follows:

Antenna - telecommunications apparatus, being metal rod, wire or other structure, by which signals are transmitted or received, including any bracket or attachment but not any support mast or similar structure.

1.1.8 Mast -

The definition of mast in the Concise Oxford Dictionary is:

-mast - 3. post or lattice-work upright, for supporting a radio or television aerial...

The definition of mast sought by submitters is:

Mast - any pole, tower or similar structure designed to carry antennas or dish antennas or otherwise to facilitate telecommunications.

It is considered that the definition requested by submitters is too broad. In particular, the reference to 'tower or similar structure' is wider than desirable, possible resulting in a substantial structure. A definition closer to that set out in the Concise Oxford Dictionary is preferred as follows:

Mast - any pole or post designed to support antenna. (see definition of antenna).

1.1.9 Height -

The inclusion of definitions within Part 2 of the Proposed District Plan will assist in clarification of the Height definition. The Proposed District Plan contains the following definition:

Height means: in relation to building means the vertical distance between ground level at any point and the highest part of the building immediately above that point.

For the purpose of calculating height in all zones, account shall be taken of parapets, but not of:

- radio and television aerials attached to a dwelling, provided that the maximum height normally permitted by the rules for the zone is not exceeded by more than 2.5m; and
- chimneys or finials (not exceeding 1.1m in any direction); provided that the maximum height normally permitted by the rules for the zone is not exceeded by more than 1.5m.

In considering submissions to Part 2 of the Proposed District Plan in September 1996, it was recommended that the definition for Height be amended by adding the following:

...For the purpose of calculating height in all zones, account shall be taken of parapets, but not of:

- aerials and/or antennas, mounting fixtures, mast caps, lightening rods or similar appendages for the purpose of telecommunications and/or radio communication but not including dish antennae which are attached to a building/dwelling, provided that the maximum height normally permitted by the rules of the zone is not exceeded by more than 2.5m, and

If this recommendation is accepted then it would be helpful in administering the definition of height in a consistent and effective manner to also include a definition of 'antenna' and 'mast' in Part 2 of the District Plan. However, having regard to the recommended definition of 'aerial' and the fact it includes dish antenna it is necessary to further amend the definition of 'height' and delete the words "but not including dish antennae which are attached to a building/dwelling". This will partially satisfy the submission by **BellSouth New Zealand** [1136/9].

1.1.10 The submission by **Meteorological Service of New Zealand Limited (MetService)** [2144\4] requesting a separate definition for Meteorological is not necessary as the definition of Utility includes:

- g structures, facilities, plant, equipment and associated works for monitoring and observation of weather and natural hazards.

This definition however, could be further clarified by changing this as requested in submission **Meteorological Service of New Zealand Limited (MetService)** [2144\3] to read:

- g structures, facilities, plant, equipment and associated works for monitoring and observation of meteorological activities and natural hazards.

1.1.11 Recommendation

That the submissions by **BellSouth New Zealand** [1136\1], **Clear Communications Limited** [1340\2] and **Broadcast Communications Ltd** [5013\2], **BellSouth New Zealand** [1136\9] supported by **Telecom New Zealand** [6222/2] and **Meteorological Service of New Zealand Limited (MetService)** [2144\3][2144\4] be accepted in part by adding and amending the following:

- (1) Including in Part 2 Information & Interpretation a definition of antenna:
Antenna telecommunications apparatus, being metal rod, wire or other structure, by which signals are transmitted or received, including any bracket or attachment by not any support mast or similar structure.

- (2) Including in Part 2 Information & Interpretation a definition of mast:
Mast pole or post designed to support antennas to facilitate telecommunications. (see defⁿ of antenna).
- (3) Amending the definition of 'height' as recommended to Part 2 of the Proposed District Plan in September 1996 as follows:
- ...For the purpose of calculating height in all zones, account shall be taken of parapets, but not of:
- *antenna/aerials, mounting fixtures, ~~masts~~ mast caps, lightening rods or similar appendages for the purpose of telecommunications and/or radio communication but not including dish antennae which are attached to a building/dwelling, provided that the maximum height normally permitted by the rules of the zone is not exceeded by more than 2.5m, and...*
- (4) Adding the following to the definition of Utility:
- g structures, facilities, plant, equipment and associated works for monitoring and observation of ~~weather~~ meteorological activities and natural hazards.*

1.2 2.2 Definitions - Utility (02/024/12)

UTILITY means:

- a lines and necessary incidental structures and equipment or the transmission and distribution of electricity;
- b pipes and necessary incidental structures and equipment for transmitting and distributing gas;
- c storage facilities, pipes and necessary incidental structures and equipment for the supply and drainage of water or sewage;
- d water and irrigation races, drains, channels, pipes and necessary incidental structures and equipment;
- e structures, facilities, plant and equipment for the treatment of water;
- f structures, facilities, plant, equipment and associated works for receiving and transmitting radiocommunications and telecommunications;
- g structures, facilities, plant, equipment and associated works for monitoring and observation of weather and natural hazards;
- h structures, facilities, plant, equipment and associated works for the protection of the community from natural hazards;
- i structures, facilities, plant and equipment necessary for navigation by water or air.

Utility does not include structures or facilities used for electricity generation, the manufacture and storage of gas, the treatment of sewage, or the disposal of solid wastes.

1.2.1 PowerNet Limited [2311\1] supports this definition and requests that 2.2, the definition of "Utility", be approved.

Telecom New Zealand Ltd [6222\29] opposes this submission for the reason that the existing definition could better reflect the fact that telecommunications facilities comprise a utility.

1.2.2 Central Electric Limited [1304\6] considers that the definition of utility should be enlarged in accordance with the provisions of the RMA and to provide for emergency situations. The submitter requests an amendment to the definition of

utility in section 2.2 by adding the following at the start of (a): "Utility means (a) Transformers, poles, lines and necessary incidental structures and equipped for: (i) the transmission and distribution of electricity (ii) the purposes of saving or protecting life or health or preventing significant damage to property or avoiding an actual or likely adverse effect on the environment.

- 1.2.3 Queenstown-Lakes District Council** [2331\1] considers that the proposed definition of "utility" in the District Plan could be considered to include water tanks, which would give the Council no control over their location in rural areas, as they would be permitted activities in terms of the Utility Rules in Part 17.2.3. The submitter requests that subclause "d" in the definition of "Utility" be amended to read "...and necessary incidental structures and equipment (but excluding water tanks)."

Federated Farmers Otago [6277/10] opposes submission as water tanks necessary farming. Opposes any redefinition which seeks to bring them into the resource management web.

- 1.2.4 Telecom New Zealand Limited** [2623\2] believes that it is not clear that all telecommunications facilities fall within the definition of utility. The submitter requests an amendment to paragraph (f) of the definition to read: "structures, facilities, plant, equipment and associated works for receiving and transmitting radio-communications and telecommunications including telecommunications facilities defined above." (as amended by the Corrections Summary).

- 1.2.5 New Zealand Police** [2902\4] consider that the definition is deficient because it does not include the provision for mounted speed camera installations. Speed cameras have an essential role in achieving the NZP's corporate goals of reducing the incidence of crimes, and detecting and apprehending offenders. The submitter requests that the following words be included as (j) - "speed camera installations and associated structures, facilities, plant and equipment for traffic purposes".

1.2.6 Discussion

The Committee should note that **PowerNet Limited** [2311/1] supports this provision of the Proposed District Plan and seeks its approval.

The submission by **Central Electric Limited** [1304/6] requests that the Utility definition be enlarged and provide for emergency services. It is considered that part of this submission be accepted by adding the word 'transformers' into the definition but not 'poles' as this is covered by the rules which refer to 'Lines and Support Structures'. It is therefore not necessary to specifically mention 'poles'.

- a Transformers, lines and necessary incidental structures and equipment for the transmission and distribution of electricity;

The second part of the submission relates to utilities to be used in emergency situations. Where there is an emergency involving risk of life then section 341 of the Act provides an exemption from prosecution. This section states:

341. Strict liability and defences -

(1) In any prosecution for an offence of contravening or permitting a contravention of any of sections 9, 11, 12, 13, 14, and 15, it is not necessary to prove that the defendant intended to commit the offence.

(2) Subject to subsection (3), it is a defence to prosecution of the kind referred to in subsection (1), if the defendant proves -

(a) That -

- (i) The action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and
- (ii) The conduct of the defendant was reasonable in the circumstances; and
- (iii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or
- (b) That the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case -
 - (i) The action or event could not reasonably have been foreseen or been provided against by the defendant; and
 - (ii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.
- (3) Except with the leave of the Court, subsection (2) does not apply unless, within 7 days after the service of the summons or within such further time as the Court may allow, the defendant delivers to the prosecutor a written notice -
 - (a) Stating that he or she intends to rely on subsection (2); and
 - (b) Specifying the facts that support his or her reliance on subsection (2).

It is preferable not to have an exemption rule in the District Plan but to rely on the exemption provisions of the Act.

It is considered that the request from **Queenstown-Lakes District Council** [2331/1] requesting that water tanks be specifically excluded from Utilities in order to provide control over their location in rural areas is reasonable. Water tanks in the rural environment have the potential for significant adverse visual impact and should be subject to the site and zone standards of the underlying zone.

The submission by **Telecom New Zealand Limited** [2623/2] refers to the definition for Telecommunications Facilities in the Proposed District Plan which means:

devices, such as aerials, dishes, antennae, wires, cables, casings, tunnels and associated equipment and support structures and equipment shelters, such as towers, masts and poles, and equipment buildings and telephone boxes, used for transmitting, emission or receiving of communications.

The submitter would like clarification that all telecommunication facilities fall within this definition and it would be appropriate to amend part (f) of the Utilities definition to confirm this as follows:

- f structures, facilities, plant, equipment and associated works for receiving and transmitting radiocommunications and telecommunications (see definition of telecommunication facilities);

The **New Zealand Police** [2902/4] would like provision made for speed camera installations within the Utilities definition. It is assumed that these installations will be placed next to roads. Any such work will require either the consent of the Council Operations Department or Transit New Zealand being the owners and operators of the roads. In addition, speed cameras are not a utility and the structure of the Proposed District Plan permits all activities, unless specified as a Discretionary, Non-Complying or Prohibited Activity.

1.2.7 Recommendation

That the submission by **PowerNet Limited** [2311\1] opposed by **Telecom New Zealand Ltd** [6222\29] be accepted in part.

That the submission by **Central Electric Limited** [1304\6] be rejected as emergency works are provided for in the Act.

That the submission by **Queenstown-Lakes District Council** [2331\1] opposed by *Federated Farmers Otago* [6277/10] be accepted by amending the following:

- d water and irrigation races, drains, channels, pipes and necessary incidental structures and equipment (excluding water tanks);

That the submission by **Telecom New Zealand Limited** [2623/2] be accepted.

That the submission by **New Zealand Police** [2902/4] be rejected as speed camera installations are a Permitted Activity.

2.0 ISSUES, OBJECTIVES AND POLICIES

2.1 PART 17. UTILITIES - All Objectives and Policies (17)

- 2.1.1 **Southern Crown Health Enterprise Limited** [2534\41] supports the objectives and policies as they relate to essential services including landfills and seeks that these be retained.

Southern Crown Health Enterprise Limited [6327/43] supports this submission. *the objectives and policies should be retained, including landfills.*

2.1.2 Discussion

This submission supports the objectives and policies as they relate to essential services including landfills and seeks that these be retained.

- 2.1.3 **Clear Communications Limited** [1340\1] considers that radio communications can be subsumed under the heading telecommunications and that to separate the two activities is superfluous. The submitter requests that the term "radio communication" be deleted throughout the Plan.

2.1.4 Discussion

It is considered that the submission by **Clear Communications Limited** [1340\1] requesting that the term "radio communication" be deleted throughout the Plan is to be considered given the definition of 'telecommunication' in the Oxford Dictionary:

telecommunication *n.* 1 communication over a distance by cable, telegraph, telephone, or broadcasting. 2 (usu. in *pl.*) the branch of technology concerned with this...

It is also necessary to consider the definition of telecommunication facility in the Proposed District Plan:

means devices, such as aerials, dishes, antennae, wires, cables, casings, tunnels and associated equipment and support structures and equipment shelters, such as towers, masts and poles, and equipment buildings and telephone boxes, used for the transmitting, emission or receiving of communications.

Both of these definitions clearly intend for radio communication to be included however, New Zealand two Acts concerning the transmission of communication being the Telecommunications Act 1987 and the Radio Communications Act 1989. The former covers communication systems as opposed to broadcast and transmission systems being covered by the latter. To accept the request of the submitter would not be in keeping with the intention and purpose of these Acts and therefore it is recommended that this request be rejected.

- 2.1.5 **P Fleming** [1553\6] states that there is a lack of practical technical input into the operation of utilities. The submitter requests a review of utilities in relation to new technologies available - the effects and need for them.

2.1.6 Discussion

It is not a function of Council to assess updates in modern technology as it relates to utilities. The Proposed District Plan can focus only on the effects of activities and updating technology by itself is not a relevant issue for the Council to be involved in.

- 2.1.7 **D MacColl** [1996\9] requests that the Council make reference to intending water and sewerage schemes and indicate the number of people these are to cater for. The submitter also requests that the Council acknowledge the Arrow Irrigation Scheme and include a water race structure.
- 2.1.8 **I J & S M Todd** [2660\11] recognises that there is no identification of areas or routes for existing or future community or Council owned reticulation water and sewerage schemes, for example, the Arrow Irrigation Scheme. The submitter requests that the Plan be amended to rectify this problem.
- 2.1.9 **A J & S M Strain** [2575\11] request an amendment to allow for the recognition of the Arrow Irrigation Scheme.

2.1.10 Discussion

The submission by **D MacColl** [1996\9], **I J & S M Todd** [2660\11] requests that the Council make reference to intending water and sewerage schemes and indicate the number of people these are to cater for and also, with **A J & S M Strain** [2575\11] requesting that Council acknowledge the Arrow Irrigation Scheme and include a water race structure.

It is not considered appropriate to make reference to specific intended water schemes and their timing in the District Plan as this is a role for the Operations Department and the Annual Planning process. It is also considered that Objective 2, Policy 1 recognises the concerns expressed above as follows:

Objective 2

The establishment, efficient use and maintenance of utilities necessary for the well-being of the community.

Policy 2

To recognise the need for maintenance or upgrading of a utility to ensure its on-going use and efficiency.

However, it is appropriate to make mention of irrigation schemes in the opening statement for Utilities and in the Explanation and Principal Reasons for Adoption section relating to the above policy.

- 2.1.11 **Makarora Township & Water Supply Inc.** [2017\8] [6283\27] and **Makarora Valley Community Inc.** [2018\15] seek that the Plan make some provision regarding the disposal of effluent from campervans.
Makarora Valley Community Inc. [6283\27] supports the provision for campervans.

2.1.12 Discussion

Effluent disposal from campervans is not a district plan function but a regional council function. However, the Otago Regional Council would anticipate Territorial Local Authorities to provide facilities for disposal of campervan effluent which is an annual planning issue and should be dealt with through that process.

- 2.1.13 **G A Martin** [2047\15], **Waiorau Farms Limited** [2735\36], **Wakatipu Rural Landowners Society Incorporated** [2742\12] [6432\120], **Cardrona Holdings Limited** [1280\10] and **J Spary** [2544\12] consider that these provisions are lacking because they do not identify areas or routes for existing or future community or Council owned reticulated water and sewerage schemes. The submitters request an

amendment to the proposed District Plan to identify areas or routes for existing or future community or Council owned reticulated water and sewage schemes, together with relevant information of their capacity and details of what land they are intended to service.

Bob Pringle [6432\120] supports this submission for the reason that the needs of rural people must be taken into account.

2.1.14 K Yasuda [2876\14] and Trilane Industries Limited [2679\14] consider that these provisions are lacking because they do not identify areas or routes for existing or future community or Council owned reticulated water and sewage schemes. The submitters request that the issues, objectives and policies, rules and implementation, assessment matters and reasons for rules be amended to reflect this submission.

2.1.15 M L McLellan [2117\5] considers that there should be provision in the District Plan for the development of infrastructure, particularly the Albert Town water reticulation system and effluent disposal system. The submitter requests that provision be made in the Plan for the upgrading of infrastructure, including the timing of any public works and the land intended to be serviced during the planning period.

2.1.16 J L & N B Turnbull [2690\11] requests amendments to provide for the scale, sequence and timing of public works, in particular for expansion of water reticulation and effluent disposal systems in Albert Town, as allowed by Clause 6 of the Second Schedule to the Act. Such amendments would be helpful for subdividers and avoid difficulties over subdivision consent conditions.

2.1.17 R Monk [2182\10] recognises that the District Plan makes no mention of future rural water or sewerage schemes which are considered to be vital. The submitter requests an amendment to this section to consider the possibility of rural water and sewerage schemes.

2.1.18 Discussion

It is not appropriate for the District Plan to state the timing of public works as this is dealt with as part of the Annual Plan process. The District Plan has a life span of approximately 10-15 years therefore cannot anticipate what works will be carried out during this time.

2.1.19 Te Runanga Otakou (Inc.) [2627\50] believes that there is potential for disruption to, or loss of waahi tapu / waahi taoka, for example, through the placement of telecommunication facilities on mountain tops. The submitter requests an amendment to make provision for consultation, reference to the "Kai Tahu Ki Otago: Natural Resource Management Plan" and cross referencing to Section 4.3.

2.1.20 Discussion

Section 6 of the Resource Management Act, 'Matters of national importance' require that all persons exercising functions and powers under the Act shall recognise and provide for:

- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites waahi tapu, and other taonga.

Te Runanga Otakou recognise that the placement of telecommunications structures on mountain tops has the potential for loss of spiritual values. It is appropriate to cross reference to part 4.3 of the Proposed District Plan 'Takata Whenua' in the

assessment matters set out in part 17.3 of the Utilities section of the Plan which already has the following:

- x The degree to which the proposed utility may affect values held by the tangata whenua.

2.1.21 Transit New Zealand [2675\47] considers that the adverse effects of road construction of Council and private roads should be avoided, remedied or mitigated through provisions of the Proposed District Plan. This is achieved for state highways through the designation process which allows for public input. No such public input appears to be available where District Council or roads serving other utilities are concerned. The submitter requests the clarification of the status of roads other than state highways and how their adverse effects on natural and physical resources will be achieved.

2.1.22 Discussion

Transit New Zealand controls the use and development of State Highways in New Zealand. Other public roads are controlled by the local authority. If a proposed road is designated by a requiring authority it will be subject to section 168 of the Resource Management Act 'Notice of Requirement of territorial authority' which requires:

- (e) A statement of the consultation, in any, that the requiring authority has had with persons likely to be affected by the designation,...

All designations in the Proposed District Plan have been subject to the submission process.

Any proposed road not designated will be subject to the rules of the relevant zone it is located in. The status of the rules for the underlying zone and the potential adverse effects of the road will determine the extent of the consultation process undertaken. On the other hand, there may also be cases where roads are developed for access to utilities that already have legal road status but are unformed. Use of these roads would not require further consultation if shown in the District Plan. It is not appropriate to list the potential adverse effects of the activity as this is to be determined on the case by case basis. The Council has already put measures in place to ensure that Transit New Zealand are notified if any proposals adjoin or affect the use of State Highways. Objective 3 'Environmental Impacts' and related policies seek to ensure that any potential adverse effects of utilities on their surrounding environment will be avoided, remedied or mitigated.

2.1.23 Wakatipu Environmental Society [2740\37] believes that utilities can have more than a minor effect on rural areas and the Utilities Section does not confirm that Queenstown is nuclear-free. The submitter requests that Rural areas be included in the list of affected sites and requests that the Plan confirm the nuclear-free status of the District.

Clark Fortune McDonald & Associates [6394\22] supports this submission for the reason that it is in accordance with principles of sustainable management of natural and physical resources.

PowerNet Limited [6213\6] opposes this submission as it is far too restrictive and general.

2.1.24 Discussion

The rules for the Utilities section already identify rural areas as requiring protection from the adverse effects of utilities. In particular, see objective 3 and associated policies which relate to 'Environmental Impacts'. It is not considered necessary for Part 17 - Utilities of the District Plan to refer to the nuclear free status of the District as this is a national issue which is stated at central government level and there are no utilities with nuclear implications.

- 2.1.25 Wakatipu Environmental Society** [2740\47] suggests that putting services underground should be a compulsory part of any development or redevelopment. The submitter requests that compulsory undergrounding of services be specified.

Central Electric Limited [6034\7] opposes this submission for the reason that it is unrealistic and unnecessary, it will impose huge costs on the local community and the effects of overhead powerlines can be mitigated, avoided or remedied.

PowerNet Limited [6213\7] opposes this submission for the reason that the compulsion is inappropriate, restrictive and even prohibitive and some flexibility is necessary.

Trans Power New Zealand Limited [6038\1] opposes this submission for the reason that undergrounding is not practical for high voltage power lines.

Federated Farmers Otago [6277/77] opposes this submission as it is inappropriate in rural areas and cost will be prohibitive relative to minor benefits.

2.1.26 Discussion

The Proposed District Plan recognises the adverse effects that utilities may have on the visual amenity values of the District but also recognises that it is not always technically feasible to place services underground. Objective 3, with associated policies relating to 'Environmental Impacts', particularly policy 6, seeks to achieve this by the following:

To require the undergrounding of services in most new areas of development and to encourage the systematic replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services.

The environmental results anticipated and rules of Part 17 of the Plan seek to require the protection of amenity by encouraging the undergrounding of services as a Permitted Activity. Lines and structures above ground require resource consent.

- 2.1.27 M Lynch** [5086\1] believes that the Council should consider the regulation of present or future electro-magnetic (EMF) radiation, both passive and broadcast, on grounds of both health and EMF pollution confined geographical areas. The submitter requests that a policy controlling electro-magnetic (EMF) radiation, both passive and broadcast, be included as an objective in the Plan.

Ecoaction Network Inc. [6328\27] supports this submission for the reason that the dangers of EMF pollution are becoming increasingly evident.

Central Electric [6234/5] opposes this submission as no evidence the EMF pose a threat to health. Submission is efficient as to certainty as no specifics have been included.

2.1.28 Discussion

It is not considered appropriate to place rules in the District Plan controlling electro-magnetic (EMF) radiation as there is a lack of conclusive evidence on the health effects of EMF. This is a issue being considered at a national level and no specific provision is necessary in the District Plan beyond reference to the Standard NZS

6609. In *World Services Ltd; Telecom NZ Ltd V Wellington City Council* (W090/93) technical evidence produced by Dr David Black summarised the following:

"The Standard NZS 6609 is a recently drafted and up to date standard which has taken the full body of currently available scientific evidence into account and has been conservatively set. Compliance with the standard can be relied upon to exclude health effects from a radio medium frequency transmitter at the Horokiwi site. In my opinion, this compliance provides an extremely wide margin of certainty that there will be no adverse health effects on residents at all".

At present this Council does not have the technical knowledge to set limits either below or beyond these Standards.

2.1.29 Recommendation

- (1) That the submission by **Southern Crown Health Enterprise Limited** [2534\41] supported by *Southern Crown Health Enterprise Limited* [6327\43] be accepted.
- (2) That the submission by **Clear Communications Ltd** [1340\1] be rejected to remain consistent with the Telecommunications Act 1987 and the Radio Communications Act 1989.
- (3) That the submission by **P Fleming** [1553\6] be rejected as it is not a function of Council to review modern technology.
- (4) That the submissions by **D MacColl** [1996\9], **I J & S M Todd** [2660\11] and **A J & S M Strain** [2575\11] be accepted in part by amending the following:

[para 3, line 3 p17/1]
...(e.g. landfill sites, irrigation schemes, and reticulated services...)

and by adding the following:

[para 1, p17/6]
..the community; (e.g., electricity, irrigation schemes)...
- (5) That the submission by **Makarora Township & Water Supply Inc.** [2017\8] and **Makarora Valley Community** [2018\15] supported by *Makarora Township & Water Supply Inc.* [6283\27] be rejected as this is a regional council function.
- (6) That the submissions by **G A Martin** [2047\15], **Waiorau Farms Limited** [2735\36], **Wakatipu Rural Landowners Society Incorporated** [2742\12] [6432\120], **Cardrona Holdings Limited** [1280\10] and **J Spary** [2544\12] supported by *Bob Pringle* [6432\120] and **K Yasuda** [2876\14] and **Trilane Industries Limited** [2679\14] and **M L McLellan** [2117\5] and **J L & N B Turnbull** [2690\11] and **R Monk** [2182\10] be rejected as timing of works is more suitably dealt with through the annual planning process.
- (7) That the submission by **Te Runanga Otakou (Inc.)** [2627\50] be accepted by adding the following:

p17/15

x The degree to which the proposed utility may affect values held by

the tangata whenua with particular regard to be had to those issues set out in part 4.3 of this District Plan.

- (8) That the submissions by **Wakatipu Environmental Society** [2740\37] supported by *Clark Fortune McDonald & Associates* [6394\22] and opposed by *PowerNet Limited* [6213\6] be rejected as this is a national wide issue dealt with through central government mechanisms.
- (9) That the submission by **Transit New Zealand** [2675\47] be rejected as each proposed road would be assessed on a case by case basis relying on the underlying zoning and the potential effects of the activity.
- (10) That the submission by **Wakatipu Environmental Society** [2740\47] opposed by *Central Electric Limited* [6034\7], *PowerNet Limited* [6213\7], *Trans Power New Zealand Limited* [6038\1] and *Federated Farmers Otago* [6277\77] be rejected as it is not always technically feasible to place services underground.
- (11) That the submission by **M Lynch** [5086\1] supported by *Ecoaction Network Inc.* [6328\27] and opposed by *Central Electric* [6234\5] be rejected due to lack of conclusive evidence of the health effects of EMF's.

2.2 17.1.1 Resources, Activities and Values - (17/001/01)

- 2.2.1 D & E H Broomfield** [1211\14] believes that Section 17 does not adequately address the effects of all utilities except in visual terms, however some parts of the chapter are supported. The submitter seeks that Rule 17.1.1 be retained.

2.2.2 Discussion

The Committee should note that **D & E H Broomfield** [1211\14] supports this provision of the Proposed District Plan.

2.2.3 Recommendation

That the submission by **D & E H Broomfield** [1211\14] be accepted by approving provision 17.1.1.

2.3 17.1.2 Issues - (17/001/02)

- 2.3.1 Minister of Conservation** [2167\36] considers that the discussion of issues does not address the removal of equipment (including masts and buildings) that has been superseded by advances in technology or is simply no longer used. Equipment that is no longer used should be removed as soon as it becomes obsolete or unnecessary. The submitter requests the addition of another issue which addresses the removal of obsolete or unnecessary equipment (including masts and buildings). The submitter also requests that provision be made in the rules for the removal of obsolete or unnecessary equipment (including masts and buildings) as soon as it is decommissioned.
- Upper Clutha Environmental Society Inc.* [6454\63] supports this submission for the reason that the Council's role is to protect areas of landscape importance, therefore, should technological advances make structures redundant, they should be removed or modified.
- Telecom New Zealand Ltd* [6222\26] opposes this submission for the reason that such matters should be dealt with as part of the lease agreement between Telecom and the respective land owner.

PowerNet Limited [6213/4] opposes this submission as it is unspecific and PowerNet would like to know what rules are proposed and be able to comment on them.

2.3.2 Discussion

It is considered that the removal of obsolete or unnecessary equipment is an issue that should be addressed in the District Plan. The adverse effects of utilities are not only visual but can also affect conservation values. The retention of obsolete or unnecessary utilities could also impact upon the efficiency of new utilities with regard to their location.

It is considered that Objective 3 Policy 5 provides for these concerns but can be further reinforced by the addition of specific reference to obsolete and/or unnecessary equipment and by further adding to the Explanation and Principal Reasons for Adoption on page 17/8 of the Proposed District Plan as recommended below.

However, it is considered that the rules do not require amending as because the activity of removing obsolete and/or unnecessary equipment is not listed as a Discretionary or Non-Complying Activity therefore it is a Permitted Activity under provision 17.2.3.1. It would not be valid to include a rule requiring removal of obsolete equipment. Council can only encourage this.

2.3.3 Recommendation

That the submission by **Minister of Conservation** [2167\36] supported by *Upper Clutha Environmental Society Inc.* [6454\63] and opposed by *Telecom New Zealand Ltd* [6222\26] and *PowerNet Limited* [6213/4] be accepted in part by amending the following:

17.1.2 iv Obsolete and/or Unnecessary Equipment

Utilities can often have an adverse effect upon the environment which can continue after the equipment is no longer required having been superseded by advances in technology, is no longer in used or a more suitable location has been found. The removal of obsolete and/or unnecessary equipment (including buildings and masts) can mitigate the adverse effects of having it there in the first place and can assist in restoring and enhancing the surroundings, especially in areas of high landscape or conservation value.

Policy 5

To encourage utility operators to adopt their own monitoring systems to ensure that the effects of utilities and their operation is regularly evaluated to avoid or mitigate the occurrence of adverse effects, including the removal of obsolete and/or unnecessary equipment (including buildings and masts).

[para 3 p.17/8]

In addition, a proliferation of infrastructure can be avoided by network utility operators negotiating the joint use of existing facilities and sites, and sharing new infrastructure and the efficient removal of obsolete and/or unnecessary equipment (including buildings and masts).

2.4 17.1.2 i - Issues - Visual Impact and Location - (17/001/03)

- 2.4.1 Federated Mountain Clubs of New Zealand (Inc.)** [1532\28] considers that the threat imposed by communication structures on hilltops and skylines is increasing and should be recognised. It is possible to minimise the impact of structures by sensitive siting off skylines, and by co-siting with existing equipment. The submitter requests that a policy be added to Section 17.1.2 to this effect.
Wakatipu Environmental Society [6198\2] supports this submission for the reason that communication facilities should be avoided over hilltops.
Upper Clutha Environmental Society Inc. [6454\62] supports this submission for the reasons given.
Telecom New Zealand [6222/19] opposes this submission as it fails to recognise the operation and technical constraints associated with the location of communication facilities and that their effects can be avoided, remedied or mitigated.
- 2.4.2 Central Electric Limited** [1304\40] opposes the statement that visual impact of these structures and overhead services 'will' be related to their size, frequency and scale. Visual impact may be mitigated by placement of structures to best take advantage of the environment in which each situation the community requires those structures. The submitter request an amendment to Section 17.1.2 i so that the third line reads: "...The visual impact of these structures may be related to their size ...".
- 2.4.3 PowerNet Limited** [2311\6] states that the issue is subjective because it depends on scale and suggests that a description will be clearer if an example of a smaller structure were given. The submitter requests an amendment to 17.1.2 i by giving consideration to an example of a smaller structure, such as a power pole, being included in the examples.

2.4.4 Discussion

It is considered that the concerns of **Federated Mountain Clubs of New Zealand (Inc.)** [1532\28] are provided for in this provision by the following statement:

"...For example, utilities erected on or along a skyline may have a significant visual impact,..."

and further, in Objective 2 Policy 5

"To encourage the co-location of facilities where operationally feasible."

The submissions by **Central Electric Limited** [1304\40] and **PowerNet Limited** [2311\6] are considered valid and reasonable requests and changes are recommended below:

2.4.5 Recommendation

That the submissions by **Federated Mountain Clubs of New Zealand (Inc.)** [1532\28] supported by *Wakatipu Environmental Society* [6198\2] and *Upper Clutha Environmental Society Inc.* [6454\62] and opposed by *Telecom New Zealand* [6222/19] be rejected as their concerns are already provided for.

That the submissions by **Central Electric Limited** [1304\40] and **PowerNet Limited** [2311\6] be accepted by amending the following:

7.1.2 i [third line] "...The visual impact of these structures ~~will~~ may be related to their size (e.g. power stations, airports, pylons, power poles), ..."

2.5 17.1.2 ii - Issues - Effect on Amenities 17.1.2 ii (17/001/04)

2.5.1 D & E H Broomfield [1211\15] The submitter seeks that the first paragraph of provision 17.1.2 ii be approved.

2.5.2 Discussion

The Committee should note that **D & E H Broomfield** [1211\15] supports this provision of the Proposed District Plan and seeks its approval.

2.5.3 Recommendation

That the submission by **D & E H Broomfield** [1211\15] be accepted by approving provision 17.1.2 ii.

2.6 17.1.2 iii - Issues - Efficiency (17/002/01)

2.6.1 PowerNet Limited [2311\7] supports the provisions and requests that the 17.1.2 (iii) be approved.

2.6.2 D & E H Broomfield [1211\16] The submitter seeks that the first paragraph of provision 17.1.2 iii be approved.

2.6.3 Central Electric Limited [1304\41] supports the concepts that essential services such as electrical supply services must be able to be readily constructed, operated and maintained throughout the District. The submitter believes that recognition that electrical supply is an element which is essential for everyday activities be included in the provision and that zone rules provide independently for types of consents requested in various circumstances. Requests that the concept of ready operation and maintenance of essential services, as set out in Section 17.1.2 iii, be retained. Requests that the first paragraph of Section 17.1.2 iii be amended by adding a new penultimate sentence as follows: "Electrical supply is recognised as an element of the environment where its effect must be balanced against each situation's practical requirements and the economics of supply to the community and district".

2.6.4 Discussion

The Committee should note that **PowerNet Limited** [2311\7] and **D & E H Broomfield** [1211\16] supports this provision of the Proposed District Plan and seek its approval.

The submission by **Central Electric Limited** [1304\41] also supports this provision but requests changes to acknowledge the importance of practical requirements and economics of supply.

In the case of NZ Rail v Marlborough District Council [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability.

Economic well-being is a factor in the definition of sustainable management in s5(2) [RMA]. Economic considerations are also involved in the consideration of the efficient use and development of natural resources in s.7 (b) [RMA]. They would also be likely considerations in regard to actual and potential effects of allowing an activity under s.104(1) [RMA]. But in any of these

considerations it is the broad aspects of economics rather than the narrower consideration of financial viability which involves the consideration of the profitability or otherwise of a venture and the means by which it is to be accomplished. [NZRMA 70 HC summary]

References to economic cost and viability are clearly not to be considered as a trade off to adverse effects on the environment as these can be avoided, remedied or mitigated. It is therefore not considered appropriate to reference specific economic cost and viability in the objectives and policies of the Proposed District Plan.

NB: The above is referred to throughout this report where there are submissions requiring that specific economic cost be considered.

2.6.5 Recommendation

That the submissions by that PowerNet Limited [2311\7] and D & E H Broomfield [1211\16] be accepted and the submission by Central Electric Limited [1304\41] be accepted in part.

OBJECTIVE 1 & POLICIES

2.7 17.1.3 Objective 1 - Co-ordination of Utilities - (17/003/01)

Objective 1 Co-ordinate the provision of utilities with the development of the District.

- 2.7.1 **Federated Mountain Clubs of New Zealand (Inc.)** [1532\29] supports this objective and related policies but believes that an extra policy should be added to assess the visual impact of such structures. The submitter requests that Section 17.1.3 be approved but amended accordingly.

Telecom New Zealand Limited [6222/20] opposes this submission as the matter is already addressed in section 17.1.3. and the associated policies.

- 2.7.2 **Otago Conservation Board** [2907\30] supports 17.1.3 Objective 1 but notes that the proliferation of communications structures on hilltops and skylines has not been adequately addressed. The submitter requests that 17.1.3 Objective 1 be approved and a further policy added which aims to manage and reduce the visual impact of such utilities.

Telecom New Zealand Limited [6222/28] opposes this submission as the matter is already addressed in section 17.1.3. and the associated policies.

2.7.3 Discussion

Objective 1 addresses the co-ordination of utilities. Objective 3 - Environmental Impacts and associated policies address the visual impact of utilities. It is not necessary to repeat these policies under Objective 1.

- 2.7.4 **Otago Regional Council** [2258\124] believes that the register of old landfills is required and that the provision should include matters detailed in the Regional Plan: Waste. The submitter requests an amendment to 17.1.3 to recognise the policies and rules contained in the Regional Plan: Waste, these being: (a) The monitoring of discharges from old, existing and new landfills; and (b) provision be made for a register of all old and new landfills which is to be made available to the public. The submitter also requests that the Plan be amended to note that old, existing and new landfills will require a resource consent from the ORC pursuant to the provisions of the Regional Plan: Waste.

2.7.5 Discussion

The register of landfills is not appropriate in the District Plan. It will require constant changing over time and would be better included on the GIS data base. The annual planning process is the appropriate process for this to be considered under. It is also considered that contaminated sites are a regional council function and this level of detail may not be appropriate for consideration at a local authority level.

2.7.6 Recommendation

- (1) That the submissions by **Federated Mountain Clubs of New Zealand (Inc.)** [1532\29] opposed by *Telecom New Zealand Limited [6222/20]* and **Otago Conservation Board** [2907\30] opposed by *Telecom New Zealand Limited [6222/28]* be rejected as these concerns are met under Objective 3.
- (2) That the submission by **Otago Regional Council** [2258\124] be rejected as the annual plan is the appropriate place to consider this request.

2.8 17.1.3 Objective 1 - Co-ordination of Utilities - Policy 1 - (17/003/03)

Policy 1

To ensure that possible areas for new development:

- i are readily able to be serviced; and/or
- ii are located in selected areas where the Council will meet the costs of major works (to be recovered from developers as development proceeds); and/or
- iii are located in other areas, provided the full costs of upgrading reticulation systems attributable to that development are met and paid for by the developer, and that an efficient pattern of development is promoted.

2.8.1 PowerNet Limited [2311\8] supports 17.1.3 Objective 1 Policy 1 and requests that it be approved.

2.8.2 Otago Regional Council [2258\125] considers that the use of "and/or" in Policy 1 of Objective 1 makes the policy ambiguous. The submitter requests that 17.1.3 Objective 1 Policy 1 be amended by deleting the words "and/or".

2.8.3 Discussion

The Committee should note that **PowerNet Limited** [2311\8] supports this provision of the Proposed District Plan. It is considered that the submission by **Otago Regional Council** [2258\125] is incorrect in that Policy 1 is not ambiguous. The removal of the wording and/or would require that the policy be read as a whole and that all aspects i,ii,iii had to be considered which is not possible and would then be ambiguous as the policy would require that areas for new development conform with all sections i,ii and iii of the policy instead of just one.

2.8.4 Recommendation

That the submission by **PowerNet Limited** [2311\8] be accepted and the submission by **Otago Regional Council** [2258\125] be rejected as the policy would be misleading.

2.9 17.1.3 Objective 1 - Co-ordination of Utilities - Policy 2 - (17/003/04)

Policy 2

To ensure the provision of utilities to service new development prior to buildings being occupied, and activities commencing.

2.9.1 Otago Regional Council [2258\126] supports 17.1.3 Policy 2 and seeks that it be approved.

2.9.2 Discussion

The Committee should note that **Otago Regional Council** [2258\126] supports this provision of the Proposed District Plan and seeks its approval.

2.9.3 Recommendation

That the submission by **Otago Regional Council** [2258\126] be accepted by approving provision 17.1.3 Policy 2.

2.10 17.1.3 Objective 1 - Co-ordination of Utilities - Policy 4 - (17/003/06)

Policy 4

To ensure adequate provision of facilities for present and future treatment and disposal of solid waste by provision for the existing landfill sites and assessing the likely future trends in solid waste management and identifying sites for future facilities.

2.10.1 D & E H Broomfield [1211\17] believes that this policy does not make sense and seeks that Policy 4 be deleted.

2.10.2 Discussion

It is considered that **D & E H Broomfield** [1211\17] is correct in that this policy does not make sense. However, the need to have a policy relating to solid waste management is deemed important and therefore the policy has been re-worded as set out in the recommendation below.

2.10.3 Recommendation

That the recommendation by **D & E H Broomfield** [1211\17] be accepted in part by amending the following:

Policy 4

~~To ensure adequate provision of facilities for present and future treatment and disposal of solid waste by provision for the existing landfill sites and assessing the likely future trends in solid waste management and identifying sites for future facilities.~~

To ensure the proper management of solid waste by:

- i providing landfill sites for the present and future disposal of solid waste,
- ii assessing trends in solid waste, and
- iii identifying solid waste sites for future need.

2.11 17.1.3 Objective 1 - Co-ordination of Utilities - Policy 5 - (17/003/07)

Policy 5

To recognise the future needs of utilities and ensure their provision in conjunction with the provider.

2.11.1 Central Electric Limited [1304\42] and **PowerNet Limited** [2311\9] supports Policy 5 and request that Objective 1 Policy 5 in Section 17.1.3 be retained in its present form.

2.11.2 Discussion

The Committee should note that **Central Electric Limited** [1304\42] and **PowerNet Limited** [2311\9] support this provision of the Proposed District Plan and seek its approval.

2.11.3 Recommendation

That the submission by **Central Electric Limited** [1304\42] and **PowerNet Limited** [2311\9] be accepted by approving provision 17.1.3 Objective 1 Policy 5.

2.12 17.1.3 Objective 1 - Co-ordination of Utilities - Policy 6 (17/003/08)

Policy 6

To assess the priorities for servicing established urban areas of the District which were developed but were not reticulated, and progressively reticulate those areas identified for urban expansion or redevelopment.

- 2.12.1 **Otago Regional Council** [2258\127] considers that the second half of Policy 6 does not make it clear whether reticulation will be completely installed before the occupation of the subdivision begins. The submitter requests an amendment to 17.1.3 Objective 1 Policy 6 to make it clear whether or not reticulation will be installed before occupation occurs.

2.12.2 Discussion

Policy 6 is not clear in its intentions and needs to be better clarified. It is considered that the most appropriate method of achieving this is to divide the policy into two separate policies dealing with those areas already developed and those to be developed. It is the intention of the policy to give priority to areas already developed and also to require reticulation prior to subdivision for new development.

2.12.3 Recommendation

That the submission by **Otago Regional Council** [2258\127] is accepted by amending the following:

- 6 To assess the priorities for servicing established urban areas of the district which were are developed but ~~were~~ are not reticulated ~~and progressively reticulate those areas identified for urban expansion or redevelopment.~~
- 7 To ensure reticulation of those areas identified for urban expansion or redevelopment is achievable, and that a reticulation system be implemented prior to subdivision.

OBJECTIVE 2 & POLICIES

2.13 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - (17/005/01)

Objective 2

The establishment, efficient use and maintenance of utilities necessary for the well-being of the community.

2.13.1 PowerNet Limited [2311\10] supports 17.1.3 Objective 2 and seeks that it be approved.

2.13.2 Telecom New Zealand Limited [2623\17] supports the objective as it recognises the critical importance of network utilities to the District. The submitter requests that it be approved.

2.13.3 Discussion

The Committee should note that **PowerNet Limited** [2311\10] and **Telecom New Zealand Limited** [2623\17] support this provision of the Proposed District Plan and seek its approval.

2.13.4 Recommendation

That the submissions by **PowerNet Limited** [2311\10] and **Telecom New Zealand Limited** [2623\17] be accepted by approving provision 17.1.3 Objective 2.

2.14 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - All Policies (17/005/02)

2.14.1 Telecom New Zealand Limited [2623\18] supports all the policies because they recognise the critical importance of network utilities to the District. The submitter requests that they be approved.

2.14.2 Discussion

The Committee should note that **Telecom New Zealand Limited** [2623\18] supports the above provisions of the Proposed District Plan and seeks their approval. This submission needs to be read in conjunction with submissions on specific policies of Objective 2 set out below as a number of policies are amended, with one deletion.

2.14.3 Recommendation

That the submission by **Telecom New Zealand Limited** [2623\18] be accepted in part.

2.15 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Policy 1 - (17/005/03)

Policy 1

To recognise the need for maintenance or upgrading of a utility to ensure its on-going use and efficiency.

2.15.1 PowerNet Limited [2311\11] supports 17.1.3 Objective 2 Policy 1 and seeks that it be approved.

2.15.2 Discussion

The Committee should note that **PowerNet Limited** [2311\11] supports this provision of the Proposed District Plan and seeks its approval.

2.15.3 Recommendation

That the submission by **PowerNet Limited** [2311\11] be accepted by approving provision 17.1.3 Objective 2 Policy 1.

2.16 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Policy 2 - (17/005/04)

Policy 2

To take economic costs into account when considering the alternative locations, sites or methods for the establishment or alteration of a utility.

2.16.1 Central Electric Limited [1304\43] supports Policy 2 and seeks that Objective 2 Policy 2 be retained in Section 17.1.3 in its present form.

2.16.2 PowerNet Limited [2311\12] believes that the policy needs to be clarified to show that economic feasibility is a matter for the service utility provider. The submitter requests that 17.1.3 Objective 2 Policy 2 be amended to read: "To take economic costs of a provider into account when considering the alternative locations, sites or methods for the establishment or alteration of utility".

Central Electric Limited [6034\2] *supports* this submission as it is appropriate to take into account the economic costs of a service utility provider when considering alternative locations, sites or methods for the establishment or alteration of a utility.

2.16.3 Discussion

The Committee should note that **Central Electric Limited** [1304\43] supports this provision of the Proposed District Plan and seeks its approval.

With regard to the submission by **PowerNet Limited** [2311\12] in the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

2.16.4 Recommendation

That the submission by **Central Electric Limited** [1304\43] be accepted and the submission by **PowerNet Limited** [2311\12] supported by *Central Electric Limited* [6034\2] be rejected because economic cost is not to be considered on a case by case basis.

2.17 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Policy 5 - (17/005/07)

Policy 5

To encourage the co-location of facilities where operationally feasible.

2.17.1 PowerNet Limited [2311\13] supports 17.1.3 Objective 2 Policy 5 and seeks that it be retained.

- 2.17.2 **BellSouth New Zealand** [1136\2] and **Clear Communications Limited** [1340\3] consider that Section 17 is deficient because it seeks to encourage co-siting of telecommunication facilities, without recognising technical and commercial constraints. The submitter requests an amendment to Section 17, Objective 2, Policy 5 to read: "To encourage the co-siting of compatible facilities on sites where technically and commercially viable".

2.17.3 Discussion

The Committee should note that **PowerNet Limited** [2311\13] supports this provision of the Proposed District Plan and seeks its approval.

The submissions by **BellSouth New Zealand** [1136\2] and **Clear Communications Limited** [1340\3] can not be considered in full as it is not a role of the Council to consider aspects of commercial viability:

In the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

2.17.4 Recommendation

That the submission by **PowerNet Limited** [2311\13] and the submissions by **BellSouth New Zealand** [1136\2] and **Clear Communications Limited** [1340\3] be accepted in part by amending the following:

Policy 5

To encourage the co-location of facilities where operationally and technically feasible..

2.18 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Policy 6 - (17/005/08)

Policy 6

To give due regard to the importance of a utility when assessing the establishment of a proposed utility or the suitability of a neighbouring activity.

- 2.18.1 **Ministry of Commerce** [2171\47] considers that the Council should not have regard to the "importance" of a utility when assessing its establishment or otherwise. The role of the Council is to ensure that the adverse effects of the utility are avoided, remedied or mitigated. The submitter requests the deletion of 17.1.3 Objective 2 Policy 6.

***PowerNet Limited** [6213\3] opposes this submission for the reason it is appropriate for the Council to have regard to "importance".*

***Telecom New Zealand Ltd** [6222\16] opposes this submission for the reason that utilities/telecommunication and radio communication services are critical to the social, economic and cultural well-being of communities and for their health and safety and believes that due regard should be given to the importance of utilities.*

***Central Electric Limited** [6034\8] opposes this submission as the amendment is inappropriate and policy 6 should be retained in its present form.*

2.18.2 Discussion

The **Ministry of Commerce** [2171\47] is correct in that it is not a function of Council to determine the importance of a particular utility. Although a particular utility may be needed within the District, the role of the Council is to avoid, remedy or mitigate any adverse effects of these activities on the environment. It is recommended therefore that this policy be deleted as it does not seek to achieve the purpose of the Resource Management Act.

2.18.3 Recommendation

That the submission by **Ministry of Commerce** [2171\47], opposed by *PowerNet Limited* [6213\3], *Telecom New Zealand Ltd* [6222\16] and *Central Electric Limited* [6034\8] be accepted by the deletion of Objective 2 Policy 6 as follows:

Policy 6 ——— To give due regard to the importance of a utility when assessing the establishment of a proposed utility or the suitability of a neighbouring activity.

2.19 Utilities 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Policy 8 (17/005/10)

Policy 8

To promote waste reduction and recycling.

2.19.1 Otago Regional Council [2258\128] supports the objective and seeks that 17.1.3 Objective 2 Policy 8 be approved. The submitter also seeks that an implementation method, dealing with the promotion of waste reduction and recycling, be introduced by the QLDC.

2.19.2 Discussion

The Committee should note that **Otago Regional Council** [2258\128] supports this provision of the Proposed District Plan and seeks its approval. The submitter requests an implementation method to achieve this policy.

It is considered that the Implementation Method ii Other Methods as follows is the means of achieving this policy and no other is required as the request is already provided for as follows:

- a Through the Annual Plan process to direct funds and resources towards providing services in specific areas.

2.19.3 Recommendation

That the submission by **Otago Regional Council** [2258\128] be accepted in part as this concern is already met by through the District Plan.

2.20 Utilities 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Policy 9 (17/005/11)

Policy 9

To achieve sustainability of the District's water supplies by:

- encouraging water conservation
- ensuring that development is able to be serviced by the water supply system.
- assessing the impact of development on water quality and quantity.

2.20.1 Otago Regional Council [2258\129] supports 17.1.3 Objective 2 Policy 9 and seeks that it be approved.

2.20.2 Discussion

The Committee should note that **Otago Regional Council** [2258\129] supports this provision of the Proposed District Plan and seeks its approval.

2.20.3 Recommendation

That the submission by **Otago Regional Council** [2258\129] be accepted.

2.21 Utilities 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Policy 10 (17/005/12)

Policy 10

To encourage and provide for utilities to adopt more efficient technology and structures which are subservient to the natural landscape and townscapes.

2.21.1 BellSouth New Zealand [1136\3], **Broadcast Communications Ltd** [5013\3] and **Clear Communications Limited** [1340\4] state that Section 17 Objective 2 Policy 10 is deficient because it is the responsibility of individual operators to determine whether they are using efficient technology. The submitters request an amendment to Section 17 Objective 2 Policy 10 to read: "To require utilities to be established in a manner that they will not result in any significant adverse effects on the environment".

Telecom New Zealand Ltd [6222/1] [6222/3] [6222/9] supports the above submissions as utility operators have a duty to avoid, remedy or mitigate adverse effects on the environment. It is not the Councils job to ensure that utility operators use efficient technology.

2.21.2 Discussion

The above submissions all seek the re-wording of Policy 10 as it is not a Council function, nor does the Council have the knowledge and resources to determine the efficiency of the latest technology or structures. This is the role of the utility operators. However, the amendment in its entirety recommended by the submitters is not considered appropriate as it is a Council function to avoid, remedy and mitigate the adverse effects of activities on the environment, not just be concerned with the significant adverse effects. It is therefore recommended that this Policy be reworded. This policy could be implemented through the rules which provide more readily for those utilities which do not impact on the visual amenity of the natural landscape and townscapes.

2.21.3 Recommendation

That the submissions by **BellSouth New Zealand** [1136\3], **Broadcast Communications Ltd** [5013\3] and **Clear Communications Limited** [1340\4] supported by *Telecom New Zealand Ltd* [6222/1] [6222/3] [6222/9] be accepted in part by amending the following:

Policy 10

To encourage utility operators and ~~provide for utilities~~ to adopt the most more efficient technology and structures. ~~which are subservient to the natural landscape and townscapes.~~

2.22 Utilities 17.1.3 Objective 2 - Efficient Use and Establishment of Utilities - Explanation and Principal Reasons for Adoption (17/006/01)

2.22.1 D & E H Broomfield [1211\18a] The submitter requests the deletion of the second sentence of the fourth paragraph, page 17/6 as the life of the existing landfill facilities will be fixed by resource consent. Also that Objective 3 be amended as follows: “Avoid, remedy or mitigate the adverse effects of utilities on their surrounding environments” and that the tenth Environmental Result on page 17/9 be amended as follows: “Adequate disposal of solid wastes, sewerage, and stormwater in a manner which protects the surrounding environment” or similar wording.

2.22.2 Discussion

This submission deals with three separate sections of Part 17 Utilities and has been divided into the relevant sections with the relevant part of the submission underlined.

The second sentence of paragraph 4 page 17/6 is as follows:

Encouraging the reduction of waste will have a number of beneficial effects. It will prolong the life time of facilities such as landfill sites and reduce the frequency with which new facilities are required.

In discussion with the Otago Regional Council, who are responsible for granting consents for landfill sites in this District, it has been determined that the ORC is responsible for issuing consent to operate a landfill. Once the landfill is being operated, it is the role of local authorities to determine when a landfill has reached capacity and should be closed. Once this has been determined, another consent is applied for from the ORC who then consider issuing a closed landfill resource consent. The purpose of this consent is for the ORC to monitor the ongoing adverse effects of the landfills such as leaching and odour, and to decide when the landfill site is ready for another land use. It is therefore considered that the above statement is correct as the less waste entering the landfill will result in a longer life for the landfill.

2.22.3 Recommendation

That the submission by **D & E H Broomfield** [1211\18a] be rejected as the submission does not address a District Council function.

OBJECTIVE 3 & POLICIES

2.23 Utilities 17.1.3 Objective 3 - Environmental Impacts - (17/006/02)

Objective 3

Avoid, remedy or mitigate the adverse effects of utilities on their surrounding environments, particularly those in or on land of high landscape value.

2.23.1 Telecom New Zealand Limited [2623\19] and **Upper Clutha Environmental Society (Inc.)** [2707\4] generally support the objective and seek that it be approved.

2.23.2 D & E H Broomfield [1211\18b] The submitter requests the deletion of the second sentence of the fourth paragraph, page 17/6 as the life of the existing landfill facilities will be fixed by resource consent. Also that Objective 3 be amended as follows: "Avoid, remedy or mitigate the adverse effects of utilities on their surrounding environments" and that the tenth Environmental Result on page 17/9 be amended as follows: "Adequate disposal of solid wastes, sewerage, and stormwater in a manner which protects the surrounding environment" or similar wording.

2.23.3 P Elwell-Sutton [1496\25] requests that another Objective (4) should be added with implementation methods to avoid, remedy or mitigate the adverse effects of utilities on human, animal, and plant health with regard to electricity operations, radio communications, and telecommunications and to recognise the inherent health hazard posed by microwave telecommunication equipment.

Central Electric Limited [6034\9] and *Clear Communications Limited (CLEAR)* [6288\1] oppose this submission for the reason that there is no evidence to support the submission and an additional policy is unnecessary and inappropriate.

BellSouth New Zealand [6290\1] and *Broadcast Communications Limited (BCL)* [6289\1] oppose this submission for the reason that the submitter opposes any additional methods being incorporated in the Plan to deal with any potential health effects that may exist.

Telecom New Zealand [6330\1] oppose this submission as objective 3 of 17.1.3 provides for avoidance, remediation and mitigation of the adverse effects of utilities - radio frequency emitting utilities should be regulated by New Zealand standards rather than the Plan.

2.23.4 Discussion

The Committee should note that **Telecom New Zealand Limited** [2623\19] and **Upper Clutha Environmental Society (Inc.)** [2707\4] generally support this provision of the Proposed District Plan and seek its approval.

The submission by **D & E H Broomfield** [1211\18b] seeks the removal of the words "*particularly those in or on land of high landscape value*" from this objective. The adverse visual impact of utilities upon land of high landscape value is an effect which must be managed in order to protect the scenic value of the District and meet the provisions of Section 6 (b) Matters of National Importance of the Resource Management Act which requires those persons exercising functions under this Act to recognise and provide for:

The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

It is not considered necessary to amend the policy as requested.

It is considered that the concerns set out in the submission by **P Elwell-Sutton** [1496\25] requesting a new objective with reference to people, animals and plant life is covered by Objective 3. The definition of 'environment' in the Resource Management Act includes:-

- (a) Ecosystems and their constituent parts, including people and communities; and
- (b) All natural and physical resources; ...”

With regard to the issue of inherent health hazard posed by microwave telecommunication equipment it is not considered appropriate to make any reference to this as to date, there is no conclusive evidence of such. See 2.1.28 of this report.

2.23.5 Recommendation

That the submissions by **Telecom New Zealand Limited** [2623\19] and **Upper Clutha Environmental Society (Inc.)** [2707\4] be accepted.

That the submission by **D & E H Broomfield** [1211\18b] be rejected as the Act requires that areas of landscape importance be recognised and provided for as a matter of National Importance.

That the submission by **P Elwell-Sutton** [1496\25] opposed by *Central Electric Limited* [6034\9], *Clear Communications Limited (CLEAR)* [6288\1], *BellSouth New Zealand* [6290\1], *Broadcast Communications Limited (BCL)* [6289\1] and *Telecom New Zealand* [6330\1] be rejected as the 'environment' covers humans and ecosystems; further that evidence relating to the health hazards resulting from microwave telecommunication equipment is inconclusive to date.

2.24 Utilities 17.1.3 Objective 3 - Environmental Impacts - All Policies (17/006/03)

- 2.24.1 Upper Clutha Environmental Society (Inc.)** [2707\5] supports the policies, especially Policies 6 and 7 which would improve the visual amenity of all settlements in the Queenstown Lakes District area, and the views from many buildings. The submitter requests that the policies be retained.

Telecom New Zealand Limited [6222\30] oppose this submission at Policy 6 fails to reflect that environmental factors may pose technical constraints on undergrounding and it is unreasonable for Policy 7 to refer specifically to one form of effect over all others.

- 2.24.2 J Haworth & R Brighouse** [1716\24] considers that enforcing these policies would considerably improve the visual amenity of all the settlements in the District and improve views from many buildings. The submitter requests that Objective 3 and associated policies be retained.

2.24.3 Discussion

The Committee should note that the **Upper Clutha Environmental Society (Inc.)** [2707\5] support Policies 6 & 7 of the Proposed District Plan and seek their approval and that **J Haworth & R Brighouse** [1716\24] support Objective 3 and all policies and seek their approval.

2.24.4 Recommendation

That the submissions by **Upper Clutha Environmental Society (Inc.)** [2707\5] opposed by *Telecom New Zealand Limited* [6222\30] and **J Haworth & R Brighouse** [1716\24] be accepted in part.

2.25 Utilities 17.1.3 Objective 3 - Environmental Impacts - Policy 1 (17/006/04)

Policy 1

To avoid, remedy or mitigate the adverse environmental effects created by the operation of utilities through the application of performance standards to separate incompatible activities, maintain visual amenities and the quality of the environment.

- 2.25.1 Central Electric Limited** [1304\44] believes that Policy 1 does not take into account the economic costs and the requirement that the needs of the community and the costs of energy supply be balanced against the visual amenities and the quality of the environment. The submitter requests an amendment to Section 17.1.3 Objective 3 Policy 1 by inserting the following at the end of the policy: "...provided that the visual amenity and the quality of the environment shall not outweigh each situation's practical requirements and the economics of supply to the community and the district".

2.25.2 Discussion

The case of NZ Rail v Marlborough District Council [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

2.25.3 Recommendation

That the submission by **Central Electric Limited** [1304\44] be rejected because of the matters referred to in the decision of NZ Rail v Marlborough District Council [1994] NZRMA 70 HC.

2.26 Utilities 17.1.3 Objective 3 - Environmental Impacts - Policy 4 (17/007/03)

Policy 4

To protect areas identified as possessing important natural features, significant indigenous vegetation or significant habitats of indigenous fauna from utilities which are visually and environmentally incompatible.

- 2.26.1 Otago Regional Council** [2258\130] fully supports 17.1.3 Objective 3 Policy 4 and seeks that it be retained.

2.26.2 Discussion

The Committee should note that **Otago Regional Council** [2258\130] supports this provision of the Proposed District Plan and seeks its approval.

2.26.3 Recommendation

That the submission by **Otago Regional Council** [2258\130] be accepted.

2.27 Utilities 17.1.3 Objective 3 - Environmental Impacts - Policy 6 (17/007/05)

Policy 6

To require the undergrounding of services in most new areas of development and to encourage the systematic replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services.

2.27.1 PowerNet Limited [2311\14] supports the undergrounding of services to new areas but opposes that part of the Policy relating to encouraging replacement of existing overhead services. The replacement and upgrading of a utility is not a matter for the District Plan. The submitter requests an amendment to 17.1.3 Objective 3 Policy 6 by deleting the following: "And encourage the systematic replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services".

2.27.2 Central Electric Limited [1304\45] identifies that Policy 6 includes two concepts which will be better promoted as separate stand alone policies. It may be appropriate to require underground services in some areas, but this must be balanced against the economics of such supply and the requirements of the community. Undergrounding existing services systematically is likely to be unrealistic. The submitter requests that Policy 6 of Objective 3 in Section 17.1.3 be amended by splitting the policy into two separate policies as follows: new Policy 6 "To require the undergrounding of services in most new areas of development"; new Policy 7 "Encourage the replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services".

2.27.3 Telecom New Zealand Limited [2623\20] states that it is not always technically feasible to underground services in areas of difficult terrain where soils have a high resistivity, in areas prone to lightning strike, or where land tenure comprises a constraint. The submitter requests an amendment by adding the following words to the end of the Policy: "...where technically feasible."

2.27.4 Discussion

PowerNet Limited [2311/14] request the removal of the words : "and to encourage the systematic replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services". The policy does not "require" it merely states "...to encourage..." and is considered necessary to achieve Objective 3 by remedying and mitigating the adverse visual impacts of utilities upon the landscape.

It is not appropriate to consider the submission by **Central Electric Limited** [1304/45] with regard to the economics of supply. In the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4. It does not seem necessary to split the policy as the policy is relating to the undergrounding and upgrading of utilities and it is not necessary to have two policies pertaining to the same matter.

It is realised that in some parts of the District the undergrounding of services will not be technically feasible due to constraints of topography, soil type and other similar circumstances and therefore it is recommended that the concerns of **Telecom New Zealand Limited** [2623\20] are provided for.

2.27.5 Recommendation

- (1) That the submissions by **PowerNet Limited** [2311/14] be rejected as this policy is necessary to achieve the purpose of the Resource Management Act.

(2) That the submission by **Central Electric Limited** [1304\45] be rejected because of the matters referred to in the decision of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC.

(3) That the submission by **Telecom New Zealand Limited** [2623\20] be accepted by amending the following:

Policy 6

To require the undergrounding of services in most new areas of development and to encourage the systematic replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services where technically feasible.

2.28 Utilities 17.1.3 Objective 3 - Environmental Impacts - Policy 7 (17/007/06)

Policy 7

To ensure that utilities are provided in a manner which takes account of the visual impacts, particularly with respect to overhead lines and structures, and buildings associated with utilities and the replacement thereof.

2.28.1 **Telecom New Zealand Limited** [2623\21] believes that Policy 7 is superfluous to Policies 1, 3 and 4 because it is unreasonable to specifically refer to one specific form of effect, over all others. The submitter requests that the policy be deleted.

2.28.2 Discussion

It is agreed that the issues of Policy 7 are covered in Policy 1 *...maintain visual amenities...*, Policy 3 *"To require utilities which have variable effects or which may have adverse effects if located in some localities, to obtain resource consent..."* and Policy 4 *"...To protect areas identified as possessing important natural features..."* and in the rules set out in 17.2.3.2 i Lines and Support Structures *"...Erecting any [structures] for overhead lines ..."*. It is recommended that the request be accepted.

2.28.3 **Central Electric Limited** [1304\46] believes that the policy does not take into account the economic costs and the requirement that the needs of the community and the costs of energy supply be balanced against the visual amenities and the quality of the environment. The submitter requests an amendment to Policy 1 of Objective 3 in section 17.1.3 by adding the following at the end of the policy: "...provided that the visual amenity and the quality of the environment shall not outweigh each situation's practical requirements and the economics of supply to the community and the district".

2.28.4 Discussion

In the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

2.28.5 Recommendation

That the submission by **Telecom New Zealand Limited** [2623\21] be accepted by deleting Policy 7.

Policy 7

To ensure that utilities are provided in a manner which takes account of the visual impacts, particularly with respect to overhead lines and structures, and buildings associated with utilities and the replacement thereof.

That the submission by **Central Electric Limited** [1304\44] be rejected because of the matters referred to in the decision of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC.

2.29 Utilities 17.1.3 Objective 3 - Environmental Impacts - Policy 8 (17/007/07)

Policy 8

To ensure that utilities are located in positions which retain visibility and intersections.

- 2.29.1 Central Electric Limited** [1304\47] believes that Policy 8 is unclear in its meaning and should be redrafted. The submitter requests an amendment to Policy 8 of Objective 3 in Section 17.1.3 by replacing the word "and" with the word "at".

2.29.2 Discussion

The submitter is correct in stating that this policy is unclear. It is recommended that the provision be amended accordingly.

2.29.3 Recommendation

That the submission by **Central Electric Limited** [1304\47] be approved by amending the following provision:

Policy 8

To ensure that utilities are located in positions which retain visibility and at intersections.

2.30 Utilities 17.1.3 Objective 3 - Environmental Impacts - Policy 10 (17/007/09)

Policy 10

To protect the amenity, drainage and recreational value of waterbodies from the adverse impacts of incompatible activities.

- 2.30.1 Otago Regional Council** [2258\131] fully supports the policy and requests that 17.1.3 Objective 3 Policy 10 be approved.

2.30.2 Discussion

The Committee should note that **Otago Regional Council** [2258\131] supports this provision of the Proposed District Plan and seeks its approval.

2.30.3 Recommendation

That the submission by **Otago Regional Council** [2258\131] be accepted.

2.31 Utilities 17.1.3 Objective 3 - Environmental Impacts - Explanation and Principal Reasons for Adoption (17/007/10)

- 2.31.1 Central Electric Limited** [1304\48] considers that the explanation is unclear because general terms are used in different zones within the proposed District Plan.

The explanation will provide sufficient clarity if the sentence is omitted. The submitter requests that 17.1.3 Explanation be amended by deleting the last sentence in paragraph 1 in its entirety.

2.31.2 Discussion

It is agreed that this sentence is unclear and ought to be deleted. In the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4. Reference to cost should also be deleted.

2.31.3 Recommendation

That the submission by **Central Electric Limited** [1304\48] be accepted by deleting the final sentence of the following and that the remainder text shown as struck out be deleted in order to provide consistency with the *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC.

[end page 17/7]

Large facilities are zones for schedules with particular rules according to the scale of effects generated. ~~Environmental effects are also balanced against operational requirements and costs.~~ This approach reflects the need to make provision for those services and developing technologies which consumers and businesses expect. ~~Other are permitted in zones.~~

2.32 Utilities 17.1.3 Objectives and Policies - Implementation Methods (17/009/01)

2.32.1 Central Electric Limited [1304\49] considers that the Implementation Method of avoiding any adverse effects fails to take into account the realistic situation which requires the economics of supply be taken into consideration and balanced against the surrounding environment. The submitter requests an amendment to 17.1.3 Implementation Methods by inserting the following to the 3rd criterion of i (a) so that it reads : "...utilities to avoid where possible and after taking into consideration the economics of supply of essential utility services and any adverse effects ..."
Trans Power New Zealand Ltd [6038\2] support this submission as in order to have infrastructure at a reasonable cost it may be necessary to accept some adverse effects.

2.32.2 Discussion

This submission by **Central Electric Limited** [1304\49] supported by *Trans Power New Zealand Ltd* [6038/2] requests that Council consider the issue of economics of supply. In The case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

2.32.3 Recommendation

That the submission by **Central Electric Limited** [1304\49] supported by *Trans Power New Zealand Ltd* [6038/2] be rejected because of the matters referred to in the decision of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC.

3.0 ENVIRONMENTAL RESULTS ANTICIPATED

3.1 Utilities 17.1.4 Environmental Results Anticipated - (17/009/02)

3.1.1 Transit New Zealand [2675\48] considers that the adverse effects of road construction of Council and private roads should be avoided, remedied or mitigated through provisions in the proposed District Plan. This is achieved for state highways through the designation process which allows for public input. No such public input appears to be available where District Council or roads serving other utilities are concerned. The submitter requests that the following be included as an Environmental Effect Anticipated: "the maintenance of a safe and efficient local roads network which provides for social and economic well being."

3.1.2 D & E H Broomfield [1211\18c] The submitter requests the deletion of the second sentence of the fourth paragraph, page 17/6 as the life of the existing landfill facilities will be fixed by resource consent. Also that Objective 3 be amended as follows: "Avoid, remedy or mitigate the adverse effects of utilities on their surrounding environments" and that the tenth Environmental Result on page 17/9 be amended as follows: "Adequate disposal of solid wastes, sewerage, and stormwater in a manner which protects the surrounding environment" or similar wording.

3.1.3 Discussion

With regard to the submission by **Transit New Zealand** [2675\48] it is not considered appropriate to add a specific point for one organisation as there are many organisations that require recognition and protection of their interests. To promote the roading network to a position of primacy would not be in the interests of the residents of the District. The Environmental Result Anticipated which reads "Protection of the functioning of utilities" can be expanded to with the wording "...to ensure their safe and efficient operation". This ought to partially satisfy the submitters.

D & E H Broomfield [1211\18c] request the amendment of the tenth Environmental Result Anticipated to encompass more thoroughly the potential adverse effects upon the environment and not just water resources and amenities. It is recommended that this be accepted.

3.1.4 Recommendation

That the submission by **Transit New Zealand** [2675\48] be accepted in part by adding the following:

- Protection of the functioning of utilities to ensure their safe and efficient operation.

That the submission by **D & E H Broomfield** [1211\18c] be accepted by amending the following:

- "Adequate disposal of solid wastes, sewerage, and stormwater in a manner which protects water resources and amenities the surrounding environment.

4.0 UTILITIES RULES

4.1 Utilities Rules - General (17/010/01)

- 4.1.1 **D & E H Broomfield** [1211\19] opposes 17.2.1 on the basis that it contains inadequate assessment criteria for utilities. The submitter requests that the environmental effects of all utilities be assessed whether small scale or significant. The delay caused by this process should not be an issue in the Purpose of this part of the Proposed District Plan.

PowerNet Limited [6213\8] opposes this submission for the reason that it is uncertain what the submitter is requesting.

4.1.2 Discussion

It is not considered appropriate to accept the submission by **D & E H Broomfield** [1211\19] as the effects of small scale activities are often no more than minor and it is not practical to require that all small scale activities apply for resource consent. It has been determined which level of utilities may have more than a minor effect and these will be assessed accordingly as Controlled, Discretionary or Non-Complying activities against the appropriate assessment criteria.

4.1.3 Recommendation

That the submission by **D & E H Broomfield** [1211\19] opposed *PowerNet Limited* [6213\8] be rejected as it is not practical to require that all small scale activities apply for resource consent.

4.2 Utilities 17.2.3.1 Permitted Activities - (17/010/02)

- 4.2.1 **D & E H Broomfield** [1211\20] opposes this section on the basis that it allows too greater range of utilities as a permitted activity without setting adequate performance standards or assessment of their environmental effects. The assessment process for the effects of utilities should be set in the District Plan together with adequate development and performance standards.

4.2.2 Discussion

D & E H Broomfield [1211/20] believe that too many activities are permitted as of right without adequate assessment criteria. This submission is very broad and does not offer alternatives. It is considered that there are very few utilities that are permitted. These being within the Industrial Zone and the Rural Uplands and Rural Downlands Zones below 1070m with restrictions on capacity and size of utilities or buildings which are less than 2.0m in height above ground level and less than 5m² in gross floor area. The site and zone standards (recommended as above) must also be complied with for an activity to be permitted. It is considered that the adverse impact of such utilities will be more than minor if all the controls are met, and that they remain as Permitted Activities. In Areas of Landscape Importance all utilities are non-complying. This provides an appropriate and adequate level of protection.

4.2.3 Recommendation

That the submission by **D & E H Broomfield** [1211/20] be rejected because the adverse effects of the Permitted Activities will be not more than minor.

- 4.2.4 **Central Electric Limited** [1304\52] [1304\53] considers that the contents of the note at the end of Rule 17.2.3.2 i should be specifically listed as a permitted activity in Rule 17.2.3.1 and to remove doubt, that permitted activity should be extended to

upgrading or renewal of existing lines and support structures. The submitter requests an amendment to Rule 17.2.3.1 to read: "Any utility which is not defined as a discretionary or non-complying activity in rules 17.2.3.2 and 17.2.3.3, existing lines and support structures and upgrading and/or renewal of existing lines and support structures is a permitted activity".

4.2.5 Discussion

Central Electric Limited [1303/52] [1303/53] submit that the note at the end of Rule 17.2.3.2 i should be moved to the Permitted Activities section. Throughout the Proposed District Plan Permitted Activities have not been listed as they are permitted as of right if not listed as a Controlled, Discretionary, Non-complying or Prohibited Activity. To list the Permitted activities would be prescriptive and inconsistent with the structure of the Proposed District Plan, and would not anticipate all activities that would meet the standards for a permitted activity.

4.2.6 Recommendation

That the submissions by **Central Electric Limited** [1303/52] [1303/53] be rejected because it is not necessary to list Permitted Activities.

4.2.7 Federated Farmers Otago [1531\108] state that overhead lines require a resource consent if they are located in some rural areas, which is absurd because they are a necessary feature of the landscape. The submitter requests an amendment to the Rules to allow overhead lines as a Permitted Activity.

***PowerNet Limited** [6213\9] supports this submission for the reason that this is a sensible and practical amendment.*

***Central Electric Limited** [6034\3] supports this submission for the reason that overhead lines are a necessary feature of the landscape in rural areas.*

***Telecom New Zealand Ltd** [6222\11] supports this submission for the reason that the mandatory nature of rule is unreasonable because the terrain, cost and the efficiency of installation prevents undergrounding.*

***Upper Clutha Rural Landowners/Ratepayers** [6444\108] supports this submission for the reason that they want to see a more moderate approach which is workable and realistic and support less intervention of farming operations.*

***Bob Pringle** [6432\108] supports this submission as there is a need to account for the needs of rural people.*

4.2.8 Discussion

Federated Farmers Otago [1531/108] requests that overhead lines be a Permitted Activity in the Rural Zones. Any line and/or support structure is permitted where it involves erecting any support structures for overhead lines to convey electricity (at a voltage of equal to or less than 100KV at a capacity of equal to or less than 100MVA); or over head line for any other purpose including telecommunications in the Industrial Zone and any part of the Rural Uplands or Rural Downlands Zones, which has an altitude of less than 1070m above sea level.

Those areas excluded within rural areas from the above include areas at an altitude greater than 1070m above sea level or those areas identified on the Planning Maps as being of Significant Nature Conservation Value, a Remote Experience Recreation Area or an Area of Landscape Importance. This still leaves much land within the Rural Zones for the construction for lines and support structures while not impacting on the visual and amenity values of these areas by keeping them free from any inappropriate form of man-made or incompatible development. Part II, section 6 (b) and (c) of the Resource Management Act lists as a Matter of national importance the protection of outstanding natural features and landscapes, areas of significant indigenous vegetation and significant habitats of indigenous fauna. For

these reasons it is considered appropriate to control the establishment of utilities in these parts of the Rural zones.

4.2.9 Recommendation

That the submission by **Federated Farmers Otago** [1531/108] supported by **PowerNet Limited** [6213\9], **Central Electric Limited** [6034\3], **Telecom New Zealand Ltd** [6222\11], **Upper Clutha Rural Landowners/Ratepayers** [6444\108] and **Bob Pringle** [6432\108] be rejected in order to protect areas of significant scenic and visual amenity from the inappropriate establishment of utilities.

The following submissions set out in section 4.3-4.11 of this report relate to the part 17.2.3.2 Discretionary Activities and 17.2.3.3 Non-Complying Activities. Although groups of submissions have been discussed separately, there is one recommendation at the end of this section relating to the group of submissions as a whole as it involves a number of changes to 17.2 Utilities Rules.

4.3 Utilities 17.2.3.2 Discretionary Activities - General (17/010/03)

- 4.3.1 **BellSouth New Zealand** [1136\4] and **Clear Communications Limited** [1340\5] believe that the rules relating to telecommunication facilities are unnecessarily restrictive. There are a number of structures which should be identified as controlled activities with control limited to potential adverse effects on the environment. The submitters requests that Rule 17.2.3.1 be amended to read: "Any utility which is not defined as a Controlled, Discretionary or Non-complying Activity in Rules 17.2.3.2 and 17.2.3.3 is a Permitted activity".
Upper Clutha Environmental Society Inc. [6454\64] *opposes BellSouth New Zealand* [1136\4] *submission as public consultation is required.*

4.3.2 Discussion

The submissions by **BellSouth New Zealand** [1136/4] and **Clear Communications Limited** [1304/5] request that a number of structures be identified as controlled activities with control limited to potential adverse effects on the environment. Utility buildings/structures are often different in appearance and character to those in the surrounding environment. It is considered that in built up zones the visual adverse effect of buildings will be minor. Further, in the Residential, Rural-Residential, Urban Township, Town Centre, Frankton Corner Shopping Centre and Business Zones the effects of buildings can be mitigated by requiring that any buildings in these zones be subject to Controlled Activity criteria which includes design, colour and location criteria. This will result in a Controlled Activity section being added to Part 17.2 Utilities Rules.

- 4.3.3 **BellSouth New Zealand** [1136\5] considers that the rules relating to telecommunication facilities are unnecessarily restrictive. There are a number of structures which should be identified as controlled activities with control limited to potential adverse effects on the environment. The submitter requests that a new Rule 17.2.3.2 be inserted which reads: 17.2.3.2 Controlled Activities Except as specified as a Discretionary Activity in 17.2.3.3 below, the following activities shall be Controlled Activities: i Telecommunication, Navigation, Meteorological and Radio Communication Facilities. Any telecommunication, navigation or radio communication facility is a Controlled Activity where it involves: a Erecting any telecommunication, navigation, meteorological or radio communication mast not greater than 10 metres in height for an antenna no greater than 2.4 m in diameter in the following zones: Residential, Rural Residential, Urban Township, Millbrook

Resort, Rural Tourist, Town Centre, Frankton Corner Shopping Centre and Business zones.

- 4.3.4 Clear Communications Limited** [1340\6] consider that the rules relating to telecommunications are unreasonably restrictive and believe that a number of structures should be classified as controlled activities, with control limited to any actual and potential adverse effects. The submitter requests that 17.2.3.2 be renumbered as 17.2.3.3 and that the following be inserted as 17.2.3.2 Controlled Activities: Except as specified as a Discretionary Activity in 17.2.3.3 below the following activities shall be Controlled Activities:(i) Telecommunication, Navigation, and Meteorological Facilities - Any telecommunication, navigation or meteorological facility is a Controlled activity where it requires: (a) Any telecommunication, navigation or meteorological mast not greater than 10m in height or an antenna no greater than 2.4m in diameter in the following zones: (i) Residential, Rural-Residential, Urban Township, Millbrook Resort, Rural Tourist, Town Centre, Frankton Corner Shopping Centre and Business Zones;

4.3.5 Discussion

The submissions by **BellSouth New Zealand** [1136/5] and **Clear Communications Limited** [1303/6] considered that the rules relating to telecommunication facilities are unnecessarily restrictive in the following zones: Residential, Rural-Residential, Urban Township, Town Centre, Frankton Corner Shopping Centre and Business Zones. As set out above, it is considered that in built up zones the visual adverse effect of some structures will be minor. By allowing telecommunication, navigation, meteorological and radio communication facilities as a controlled activity in these zones it is considered that the height of 10 metres with a width of 2.4m diameter as requested by the submitters is excessive and the visual impact resulting from this would be more than minor. It is recommended that the height be limited to that permitted by the zone and that the width of any antenna not exceed 1metre.

- 4.3.6 Clear Communications Limited** [1340\7] considers that height is critical for the location of antennas in order to achieve effective service to users. The submitter requests an amendment to 17.2.3.2 ii a to read: "Erecting any telecommunication, navigation, or meteorological mast which is over 10m in height above ground level and any antenna with a diameter greater than 2.4m in the following zones..."

- 4.3.7 Clear Communications Limited** [1340\8] considers that height is critical for the location of antennas in order to achieve effective service to users. The submitter requests an amendment to 17.2.3.2 ii b to read: "Erecting any telecommunication, navigation, or meteorological mast which is over 20m in height above ground level, or includes any antenna or structure of more than 3m diameter, in all other zones or areas of zones not referred to above".

- 4.3.8 Clear Communications Limited** [1340\9] considers that antenna and lightning rods are unlikely to produce any significant visual effects. Telecommunications antenna are no more visually intrusive than chimneys or finials. Attaching antenna to existing buildings in areas of landscape importance will diminish the opportunity for adverse visual effects. The submitter requests an amendment to add the following new discretionary rules to Rule 17.2.3.2, with all necessary renumbering: (c) "Telecommunication, navigation, or meteorological facilities in the Rural Downlands and Rural Uplands Zone, where they are located within an area identified on the Planning Maps as an Area of Landscape Importance". (d) Lightning rods, antennas that are no more than 1 square metre in area on any side and dish antennas that are no more than 1200 mm in diameter".

4.3.9 Discussion

The submissions by **Clear Communications Limited** [1303/7] [1304/8] [1304/9] request amendments to the Discretionary Activity criteria 17.2.3.ii (a) and (b) setting limits to the height and size of telecommunication, navigation or meteorological masts which are discretionary. Structures below these heights would then become Controlled Activities. It is recommended that a standard be added to the Site Standards controlling height/size/frequency of these structures. If these site standards are not met then the activity becomes a Discretionary Activity. This issue has been discussed above. If a limit is set within the Site Standard criteria, it is not necessary to express the limit within the Discretionary Activity criteria. If it does not meet the Site Standards then the next 'step' is Discretionary Activity.

- 4.3.10 **Otago Regional Council** [2258/132] considers that it is not appropriate that landfills should be treated as permitted activities. Implementation of rule 17.2.3.1 will conflict with 4.7.3 implementation method (i)(a). The submitter requests that 17.2.3 be amended to provide rules which make landfills a discharge consent in terms of section 15 of the RMA and the Regional Plan: Waste will be required from the Otago Regional Council.

D & E H Broomfield [6221/1] supports this submission as landfills are a significant utility in the District and may have significant effects depending on design and management.

4.3.11 Discussion

The submission by **Otago Regional Council** [2258/132] is not valid as landfills are not utilities. The definition for Utility states:

Utility does not include structures or facilities used for electricity generation, the manufacture and storage of gas, the treatment of sewage, or the disposal of solid waste.

Landfills are generally controlled in the Proposed District Plan by way of designation. Provision 4.7.3 (i) (a) is still valid in that any landfill not designated will require resource consent.

4.4 Utilities 17.2.3.2 Discretionary Activities - i Lines and Support Structures (17/010/04)

- 4.4.1 **Central Electric Limited** [1304/50] considers that Rules 17.2.3.2 (i) (a) and (b) adequately control overhead lines as a discretionary activity. However, some structures referred to in 17.2.3.2 (i)(c) can be considered as a controlled activity. Discretionary provision will result in significant cost in terms of delay, monetary cost, uncertainty etc. The submitter seeks a reasonable balance of environmental, economic and practical considerations. The submitter requests that either the first bullet point of Rule 17.2.3.2(i)(c) be deleted and provide for works referred to in 17.2.3.2 as a permitted activity or by inserting a new rule 17.2.3.1A as a controlled activity to read: "Any line and/or support structure for overhead lines to convey electricity (at a voltage of equal to or less than 110KV at a capacity of equal to or less than 100MVA); or overhead lines for any other purpose including telecommunications in the following zones - Residential, Urban Township, Millbrook Resort, Rural Tourist, Town Centre, Frankton Corner Shopping Centre and Business Zones. Any application shall not be notified and the written approval of the affected persons need not be obtained".

- 4.4.2 PowerNet Limited** [2311\15] specifically supports paragraph (b) but is opposed to paragraph (c) as it is considered that the classification as a discretionary activity is too restrictive. The submitter requests that 17.2.3.2 i (b) be approved and that (c) be amended to exclude minor structures.

Telecom New Zealand Limited [6222\14] supports this submission as it is consistent with Telecoms submission with respect to this standard.

- 4.4.3 Telecom New Zealand Limited** [2623\22] opposes paragraph (c), because the mandatory nature for undergrounding is unreasonable. The submitter requests the deletion of paragraph (c).

Central Electric Limited [6034\12] supports this submission as it recognises that mandatory nature of undergrounding is unreasonable.

4.4.4 Discussion

Overhead lines have been identified as having an adverse visual effect on the amenities and character of the environment. This effect can be mitigated by requiring the undergrounding of services. It is considered that providing for this provision as a permitted or controlled activity there would be an increase in the potential adverse visual effects of utilities and would compromise Objective 3 and associated policies.

- 4.4.5 Telecom New Zealand Limited** [2623\23] opposes paragraph (d) because the impact is created by the support structure and the attachment of cable television aerials and connections would have negligible additional impact. The submitter requests an amendment by deleting paragraph (d).

4.4.6 Discussion

- d Utilising any existing support structures for the erection of cable television aerials and connections.

This rule is intended to prevent the use of existing structures being used for additional overhead lines in order to encourage the undergrounding of lines and support structures. If this rule was deleted, then the existing structures would continue to be used for other purposes and would not encourage the removal of these structures as undergrounding of lines replaces overhead lines in keeping with policy 6 of Objective 3 as follows:

- 6 To require the undergrounding of services in most new areas of development and to encourage the systematic replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services.

It is considered that the deletion of this provision would compromise this policy and that existing overhead structures would continue to be used.

- 4.4.7 D Gatward-Ferguson** [1604\3] supports that structures and overhead lines create an adverse visual effect and can detract from visual amenity and therefore believes that the provision should be expanded to include all support structures and overhead lines. The submitter requests an amendment to 17.2.3.2 i to read: "Any overhead lines for any purpose or any support structure for overhead lines in all zones".

Central Electric [6034/11] opposes this submission an amendment is inappropriate and unnecessary. Submission fails to recognise costs that will be imposed on the community.

Telecom New Zealand Ltd [6222\21] opposes this submission for the reason that visual effects from over head lines and support structures are not significant and can be avoided, remedied or mitigated.

- 4.4.8 **Hawea Development Assn. Inc.** [1713\7] considers that lines and support structures should be non-complying in all zones. The submitter requests an amendment so that lines and support structures are non-complying in all zones. *Telecom New Zealand Ltd [6222\23] opposes this submission for the reason that many of the effects of overhead lines and support structures can be avoided, remedied or mitigated.*

4.4.9 Discussion

It is not practicable to require the undergrounding of services in all areas as it is not always technically feasible. The rules of the Proposed Plan presently allow overhead lines in the Rural Uplands and Downlands zone below an altitude of 1070m (excluding areas of Significant Nature Conservation, Remote Experience Recreation Areas and Areas of Landscape Importance) and within the Industrial Zones. It is considered that the effects of overhead lines in these areas will not impact on the visual amenity of the surrounding area as it would in other zones where the benefits of underground services are more readily appreciated by the residents and visitors to the District.

4.5 Utilities 17.2.3.2 Discretionary Activities - ii Telecommunication, Navigation, Meteorological and Radio Communication Facilities (17/011/01)

- 4.5.1 **BellSouth New Zealand** [1136\6] [1136\7] considers that the definition for 'Height' in Section 2 does not include finials or chimneys. Standard telecommunication antennas are little different in scale and should be added to the list of structures excluded from the determination of height. The submitter requests an amendment to Rule 17.2.3.2 (ii) a to read: a Erecting any telecommunication, navigation and meteorological or radio communication mast which is over 10 m in height above ground level and any antenna with a diameter greater than 2.4 m in the following zones (as exists already in the Proposed District Plan) and an amendment to Rule 17.2.3.2 (ii) b read: Entering any telecommunication, navigation, meteorological mast which is over 20 metres in height above ground level, or includes any antenna or structure of more than 3 m in diameter, in all other zones or areas of zones not referred to above.
- 4.5.2 **Central Electric Limited** [1304\51] considers that the facilities contained within these provisions can be more appropriately considered as controlled activities. The submitter requests the deletion of all of the activities stated in rule 17.2.3.2 (ii) to be replaced by inserting a new Rule 17.2.3. 1A to provide for all of the activities which were stated in 17.2.3.2 (ii) to be considered as controlled activities and any consequential amendments to the Plan.
- 4.5.3 **Telecom New Zealand Limited** [2623\24] opposes this provision because it is unduly restrictive, at odds with the objectives and policies, fails to acknowledge the critical importance of network utilities to economic and cultural well-being and fails to recognise that above ground structures can be designed and finished to avoid, remedy or mitigate adverse effects. The submitter requests that paragraph (a) be amended by adding the words "... which is over 20 metres in height or includes any dish antenna of more than 3 metres in diameter..." after the brackets and before the words "in the following areas". The submitter also requests that paragraph (b) be amended by replacing the height above ground level with the figure of 30 metres and the dish antenna or structure diameter with the figure of 5 metres. *Central Electric [6034\13] support this submission as the proposed amendments are appropriate and distinguish communication facilities that may have an effect on the environment and are consistent with the purpose and principles of the Resource Management Act..*

4.5.4 Mount Cook Group Ltd [2631\145] considers that it is appropriate in alpine environments which have already been significantly modified, such as ski areas, to permit more extensive development than would otherwise be appropriate. It is inefficient for both DoC and QLDC to exert similar controls intended to achieve similar objectives in relation to the same land. The siting of transmission equipment may not be practicable except on skylines and ridgelines and it is appropriate in such cases to concentrate the facilities so that only a small area is affected e.g. Skifield Policy Areas. The submitter requests an amendment to 17.2.3.2 ii a ii and b by adding the words "Except in Skifield Policy Areas as shown on the Planning Maps" before the words "Any telecommunication" in the first paragraph of this rule.

Minister of Conservation [6104\38] *opposes this submission as the facilities alluded to in this section of the plan can potentially have adverse effects on the environment significant enough to warrant public involvement in the consent process.*

4.5.5 Broadcast Communications Ltd [5013\4] considers that the rules relating to telecommunication facilities are unreasonably restrictive and that some types of telecommunication facilities should be provided for as permitted activities. The submitter requests the following amendments: (1) that Rule 17.2.3.2ii(a) be amended to read: "Erecting any broadcasting, telecommunication, navigation, or meteorological mast which is over 10m in height and any antenna with a diameter greater than 2.4m in the following zones:..."; (2) that the following be added after Rule 17.2.3.2(ii)(a)(ii): "iii Any part of the Rural Downlands and the Rural Uplands zone which is located within an Area identified on the Planning Maps as an Area of Landscape Importance."; (3) that Rule 17.2.3.2(ii)(b) of this section be amended to read: "Erecting any broadcasting, telecommunication, navigation, or meteorological mast which is over 20 metres in height, or includes any antenna or structure of more than 3m diameter, in all other zones or areas of zones not referred to above; and (4) that the following be added after Rule 17.2.3.2(ii)(b): "For the purpose of calculating height in relation to Rules (a) and (b) above the following are excluded: c Lightning rods and antennas that are no more than 1.3 metres in diameter."

4.5.7 Discussion

The above submissions highlight the need for further clarification within part 17.2.3.2 Discretionary Activities as to what utilities are included within the definition of 'Telecommunication, Navigation and Meteorological and Radio Communication Facilities'. It is also apparent that there needs to be some guidance as to the size of facilities which are exempt from the discretionary activity criteria.

Part 17.1 Issues, Objectives and Policies provide guidance on what utilities would require resource consent and to what degree:

Utilities are the infrastructure which enables a community to undertake its every day activities and functions and allows people to provide for their social and economic well-being, health and safety. [p17/1]

There are various categories of public utilities and a number of providers. Public utilities include telecommunications, radio communications, electricity operations, water supply, stormwater drainage, sewage reticulation, treatment and disposal, roads and airports.

It is reasonably assumed that the principal reasons for controlling the location of utilities is because of their potential scale and resultant adverse effects. Utilities

often involve large structures which, by necessity, must be located in a sensitive environment (such as cell phone repeater stations on prominent hill-tops).

i Visual Impact and Location

The provision of utilities can involve the erection of structures and overhead services which can detract from visual amenity or the character of an area or landscape. The visual impact of these structures will be related to their size (e.g. power stations, airports, pylons), frequency with which they occur and their scale in comparison with the character of a particular environment. For example, utilities erected on or along a skyline may have a significant visual impact, while small utility buildings in an urban area may have little or no adverse effect.

ii Effect on Amenities

Some areas of the District have higher levels of amenity than others and certain utilities may not be appropriate in those locations. Residential areas and Areas of Landscape Significance would be vulnerable to the intrusion of large structures, buildings or pylons. The natural character of lakes and rivers and areas of significant indigenous vegetation or habitats of significant fauna also need to be protected from inappropriate use and development.

However, utilities are essential to the welfare of a community and their environmental impacts must be balanced against the community's need for the service or facility.

iii Efficiency

Section 7 of the Act requires that in relation to the use and development of a physical resource (which includes structures) that regard is given to efficient use and development. Essential services such as electricity supply, telecommunications or underground water or sewage reticulation must be able to be readily constructed, operated and maintained throughout the District. Where a utility is an accepted element of the environment with minimal adverse effects and is essential for the undertaking of everyday activities, a consent process would incur costs and time delays unacceptable to the provider and user. Rules must therefore enable their establishment and on-going use subject to standards to protect amenity. Other utilities may not be as acceptable (although still essential) due to the effects of their function and or size.

The above mentioned issues identify the purpose of this section of the plan, which is essentially to enable small scale necessary 'utility' related activities, while also establishing a procedure for assessing the impacts of the larger scale works. In particular the underlined comments above clearly lead towards provision for small scale utilities (such as television aerials which includes dish antenna) without the need for obtaining a consent.

The introduction to the utility rules contain the following statements:

17.2.1 Purpose

Utilities are essential to the servicing and functioning of the District and include a wide range of services which vary significantly in scale and impact. Provision for small scale utilities are provided for in a manner which allows their establishment and operation without undue delay. At the same time controls are put in place to ensure consent is required when impacts of utilities are significant.

Large scale utilities such as power stations and sewage treatment facilities are provided for with specialised rules through scheduling or designation.

It is considered that the intent of the Plan is to ensure that utilities such as reservoirs, sewerage ponds, TV and audio reception masts and other such facilities that serve a District for community purpose are the subject of this section of the Proposed Plan.

- 4.5.8 In having regard to the above, it is necessary to determine a scale and use of utility which is exempt from the resource consent process in order to provide for activities which are small in scale and have no more than a minor adverse effect on the environment such as aerials for use in a residential nature as opposed to aerials used for a commercial use (such as hotels).

In order to achieve the above it is considered necessary to amend the provisions of 17.2.3.3 ii in order to provide for small scale activities as permitted. See recommendation.

It is further considered that provision ii (b) already provides adequately for facilities "in all other zones or areas of zones not covered by a above.". Facilities under 10 metres in height or under 3 metres in diameter are permitted in the Industrial Zone and within the Rural Uplands and Downlands Zones under 1070m above sea level. The maximum height is 6 metres in the Industrial Zone and 7 metres in the Rural Zone therefore these facilities are already permitted which are significantly out of scale with the surrounding buildings. It is not considered appropriate to amend this provision to allow for larger facilities as a discretionary activity.

- 4.5.9 **J Haworth & R Brighouse** [1716\22] considers that the effects of these structures are not minor and seeks an amendment so that all masts, towers or other tall structures for any purpose are non-complying activities and are notified.
Telecom New Zealand Limited [6222\24] opposes this submission as effects can be avoided, remedied or mitigated and are dependent upon a number of factors including height, colour, materials and location.

- 4.5.10 **Upper Clutha Environmental Society (Inc.)** [2707\28] believes that all masts, towers or other tall structures for mobile phone, TV, radio or any other purpose should be non-complying activities and should be notifiable in all cases because their effects are not minor. The submitter requests that all masts, towers or other tall structures be non-complying activities and that all resource consent applications for such activities be notified.
I McCrone [6295\15] supports this submission in general.
Wakatipu Environmental Society [6198\3] supports this submission for the reason that structures have an effect on visual amenity, particularly when on skyline.
Telecom New Zealand Ltd [6222\31] opposes this submission for the reason that the effects can be avoided, remedied or mitigated and are dependent upon a number of factors including height, colour, materials and location.

- 4.5.11 **B Hinsin** [1763\1] believes that the Council has not had power to stop horrendous structures in residential areas under the old Plan. The submitter requests an amendment to the clause so that the items listed are non-complying in urban areas.
Telecom New Zealand Limited [6222\25] opposes this submission as the effects can be avoided, remedied or mitigated and are dependent upon a number of factors including height, colour, materials and location.

4.5.12 Discussion

The above submissions request that all telecommunication, navigation, meteorological and radio communication facilities (including masts, towers and other tall structures) be non-complying. **B Hinsen** [1763/1] requests this only for urban areas.

In considering these provisions it is important to remember that utilities such as these are a necessary part of everyday life which enables communities to undertake everyday activities and functions. Although the potential effects of these activities is not always desirable, there often must be a trade-off. In this case it is adverse visual effects against the modern needs of communities. Discretionary Activity assessment provides the Council with the right to determine the impact of a particular activity upon the environment and the need for consultation with the community. Often the impact will be no more than minor, particularly in urban areas which are built up. The effects of such an activity could be mitigated through controls on the resource consent such as colour, size, location. In other instances, it is necessary to consult with affected persons to ascertain input on the consent process. If the requests of the above submissions were initiated by making all structures non-complying this will result in unnecessary delays to the utility operators without environmental benefit which will also downstream impact adversely upon the utility users.

4.6 Utilities 17.2.3.2 Discretionary Activities - iii Buildings (17/011/02)

- 4.6.1 Central Electric Limited** [1304\54] suggests that the rule be amended to make the stated discretionary activity applications specifically non-notified. This leaves the Council's discretion unfettered while recognising utility supply as an essential service. The submitter requests that Rule 17.2.3.2 (iii) be amended by adding a new paragraph to the end of the rule which reads: "Any application to erect a building involved in a utility shall not be notified and the written approval of affected persons need not be obtained".

Remarkables Park Limited [6017\46] opposes this submission at utilities and utilities buildings are often unsightly and create an adverse visual effect - should be discretionary at least and notified.

- 4.6.2 PowerNet Limited** [2311\16] is opposed to this rule because it is too restrictive and seeks that 17.2.3.2 iii be amended to be either controlled or permitted.

- 4.6.3 Telecom New Zealand Limited** [2623\25] opposes the rule because it is unreasonable and unduly restrictive. The submitter considers that it is more appropriate to include a performance standard which controls the size of the building as a threshold to determining whether consent is necessary. The submitter requests an amendment by adding after the words "Erecting any building" the words "...with a gross floor area in excess of 50 square metres...".

4.6.4 Discussion

These submissions are similar to those by **BellSouth New Zealand** [1136/4] and **Clear Communications Limited** [1304/5] set out in previously in this report which request that a number of structures be identified as controlled activities with control limited to potential adverse effects on the environment.

Utility buildings/structures are often different in appearance and character to those in the surrounding environment. It is considered that in built up zones the visual adverse effect of buildings will be minor. Further, in the Residential, Rural-

Residential, Urban Township, Town Centre, Frankton Corner Shopping Centre and Business Zones the effects of buildings can be mitigated by requiring that any buildings in these zones be subject to Controlled Activity criteria which includes design, colour and location criteria. This will result in a Controlled Activity section being added to Part 17.2 Utilities Rules as set out in the recommendation below.

4.7 Utilities 17.2.3.2 Discretionary Activities - v General (17/012/01)

- 4.7.1 Central Electric Limited** [1304\57] considers that structures stated in this rule are discretionary and the rule fails to recognise the essential service aspect of electricity supply, which may require the Council to exercise discretion contrary to the proposal in the rule. Furthermore, the landscaping requirement fails to take into account the potential that such open space not be landscaped. The Council can exercise its discretion with respect to buildings and impose colour conditions where appropriate. The submitter requests that Rule 17.2.3.2(v) be deleted in its entirety.

4.7.2 Discussion

The submission by **Central Electric Limited** [1304\57] states that structures in this section are discretionary and therefore Council can impose colour rules where necessary. It is not considered appropriate that section v General should, as in other sections of the Proposed Plan, be set out as site and zone standards as utilities are not confined to a particular zone. Provision (a) Setback from boundaries aims to protect the amenity of the street and surrounding neighbors as utility buildings are often different in appearance and character from those in the surrounding environment. Provision (b) Landscaping, and (c) Colour also aim to reduce adverse effects on the visual amenity of the environment by ensuring that utilities are screened by landscaping and/or blend into the colour of the surrounding environment or features.

4.8 Utilities 17.2.3.2 Discretionary Activities - v General c Colour (17/012/01)

- 4.8.1 PowerNet Limited** [2311\17] is opposed to this rule to the extent that it should only apply to those parts of a utility which would normally be painted. As drafted the rule would include, for example, lines and poles which are not normally painted. The submitter requests an amendment to 17.2.3.2 v (c) to read: "Any part of any utility normally painted ...".
- 4.8.2 Trans Power NZ Ltd** [2676\4] opposes paragraph (c) in relation to the Colour Palette, as it appears that transmission wires, poles, pylons, and other utilities need to be painted. This makes no sense, imposes significant costs on the consumer and would not have any significant environmental benefit. The submitter requests that either paragraph (c) be deleted or replaced with the following: "Any outwardly visible part of any utility building shall be finished in accordance with the colours set out on the Colour Palette (Appendix 2). (For the purposes of this clause a building shall not include overhead lines and support structures)."

4.8.3 Discussion

The colour palette, set out in Appendix 2 has been designed to ensure that the colours of buildings and structures are in harmony with the colours of the landscape.

Utilities have been identified as having an adverse effect on the visual amenities and character of the environment. This can be mitigated in a number of ways such as

controlling the height, size and location of structures, and in addition requiring that they blend into the surrounding environment. It is not reasonable to request that all parts of utilities be coloured in accordance with the Colour Palette as some surfaces are not able to be coloured. However, wherever possible, the structure should be in accordance with the Colour Palette. It is considered that the wording for this provision be amended to allow for surfaces which cannot, for technical reasons, be coloured in accordance with the Colour Palette of Appendix 2.

4.9	Utilities 17.2.3.3 Non-Complying Activities - i Lines and Support Structures (17/012/03)
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- 4.9.1 Central Electric Limited** [1304\56] opposes the general requirement for overhead lines being non-complying in Areas of Landscape Importance, stating that only major lines and support structures should be subject to this requirement. A controlled activity status is more appropriate because non-complying provisions will result in significant cost in terms of delay, monetary cost, uncertainty etc. The submitter believes that there must be a reasonable balance of environmental, economic and practical considerations. The submitter requests the deletion of Rule 17.2.3.3(i) to replace it by inserting the following: "(i)Any line and/or support structure where it involves - (a) erecting lattice towers for overhead lines to convey electricity; or (b) erecting any support structures for overhead lines to convey electricity (at a voltage of more than 110KV with a capacity over 100MVA)". The submitter also requests that either provision be made for works currently referred to in 17.2.3.3(i) as a permitted activity or insert into proposed Rule 17.2.3.1A (as promoted by submission no 50) a provision for lines and support structures to be a controlled activity in those parts of the Rural Downlands and Rural Uplands Zones that are located as an Area of Landscape Importance in the planning maps.

Telecom New Zealand Ltd [6222\7] supports this submission for the reason that potential effects of overhead lines can be avoided, remedied or mitigated through conditions of consent.

PowerNet Limited [6213\1] supports this submission for the reason that it accepts that only major lines and support structures should be subject to this requirement.

N W Pittaway and Family [6094\4] supports this submission as a reasonable balance must be provide between environmental, economic and practicality.

4.10	Utilities 17.2.3.3 Non-Complying Activities - ii Telecommunication, Navigation, Meteorological and Radio Communication Facilities (17/012/04)
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- 4.10.1 Central Electric Limited** [1304\55] believes that the facilities contained within these provisions can be more appropriately considered as discretionary activities. The submitter requests the deletion of all of the activities stated in rule 17.2.3.3 (ii) to replace them by inserting a new Rule 17.2.3.2 to provide for all of the activities stated in 17.2.3.3 (ii) to be discretionary activities and any consequential amendments to the Plan.
- 4.10.2 Broadcast Communications Ltd** [5013\5] considers that the rules relating to telecommunication facilities are unreasonably restrictive and that some types of telecommunication facilities should be provided for as permitted activities. The submitter request that Rule 17.2.3.3ii be deleted.
- 4.10.3 BellSouth New Zealand** [1136\8] requests an amendment to Rule 17.3.3.3 (ii) c to read as follows: (c) Erecting telecommunication, navigation or meteorological facilities in the Rural Downlands and Rural Uplands Zone, where they are located within an Area identified on the Planning Maps as an Area of Landscape Importance.

- 4.10.4 **Maritime Safety Authority of New Zealand** [2034\5] notes that navigational aids will generally be permitted because the 1070m height above sea level will not be compromised. The submitter requests that this provision be approved.

4.11 Utilities 17.2.3.3 Non-Complying Activities - iii Buildings (17/013/01)

- 4.11.1 **Central Electric Limited** [1304\58] opposes the inclusion of utility buildings as a non-complying activity in the Rural Downlands and Rural Uplands Zones where they are in an Area of Landscape Importance. These buildings are part of an essential service and the use should be a discretionary activity to be specifically non-notified. The submitter requests an amendment to Rule 17.2.3.3(iii) by deleting reference to non-complying activities and make it a discretionary activity, with the additional paragraph: "Any application to erect a utility shall not be notified and the written approval of affected persons need not be obtained".

Hawea Development Association Inc. [6184\1] opposes this submission for the reason that utility structures should not be exempt from the non-complying status in Areas of Landscape Importance.

PowerNet Limited [6213\2] supports this submission as buildings are part of an essential service and should be a discretionary activity to be specifically non-notified.

4.11.2 Discussion

The submissions set out above all request that more lenient provisions be included in the Proposed Plan with regards to utilities within those areas of the District identified on the Planning Maps as Areas of Landscape Importance.

The only utilities which are non-complying activities in the District are those within Areas of Landscape Importance. It is considered that in order to maintain the character, qualities, amenity, special features of these areas that it is important to keep them free of any man-made structures which conflict with the visual amenity of these areas. Part II Section 6(b) and (c) of the Resource Management Act lists as a Matter of national importance the protection of outstanding natural features and landscapes.

The objectives, policies and rules set out in Part 17 of the Proposed Plan seek to encourage the undergrounding of services in most areas. It is only those structures overhead or above ground level which are non-complying in the Areas of Landscape Importance. It is considered that these requirements are not too severe given the remaining area of the District in which utilities are provided for as Discretionary Activities. It is recommended that the requests of these submitters be rejected.

With reference to the submission by **BellSouth New Zealand** [1136\8] there are many other submissions by BellSouth New Zealand requesting significant amendments to Part 17 - Utilities and consequent re-numbering. As a result of this it is recognised that this request relates to removing provision 17.2.3.3 ii (as in the Proposed Plan) to 17.3.3.2 therefore making it a Discretionary, instead of Non-Complying Activity. As set out in the discussion above, it is considered that Areas of Landscape Importance are to remain protected from the establishment of visible man-made structures therefore it is recommended that this submission be rejected.

4.11.3 Recommendation

The following either accept, accept in part or reject those submissions above:

That the submissions by **BellSouth New Zealand** [1136/4] opposed by *Upper Clutha Environmental Society Inc.* [6454\64] and **Clear Communications Limited** [1304/5] be accepted.

That the submission by **BellSouth New Zealand** [1136/5]] and **Clear Communications Limited** [1303/6] be accepted in part.

That the submissions by **Clear Communications Limited** [1303/7] [1304/8] [1304/9] be accepted in part.

That the submission by **Otago Regional Council** [2258/132] supported by *D & E H Broomfield* [6221\1] be rejected because landfills are not utilities

That the submissions by **Central Electric Limited** [1304/50], **PowerNet Limited** [2311\15] supported by *Telecom New Zealand Limited* [6222\14] and **Telecom New Zealand Limited** [2623\22] supported by *Central Electric Limited* [6034\12] be rejected in order to avoid adverse visual effects on the environment

That the submission by **Telecom New Zealand Limited** [2623\23] be rejected in order to prevent the continued use of overhead structures for lines and other utilities.

That the submission by **D Gatward-Ferguson** [1604\3], opposed by *Central Electric* [6034\11] and *Telecom New Zealand Ltd* [6222\21] and **Hawea Development Assn. Inc.** [1713\7], opposed by *Telecom New Zealand Ltd* [6222\23] be rejected as the undergrounding of services is not practical in all areas and visual impact of overhead services will not impact of peoples visual appreciation of the District.

That the submissions by **BellSouth New Zealand** [1136\6] and [1136\7], **Central Electric Limited** [104\51], and **Mount Cook Group Ltd** [2631\145] and **Broadcast Communications Ltd** [5013\4] be accepted in part.

That the submission by **Telecom New Zealand Limited** [2623\24] supported by *Central Electric* [6034\13] be rejected as the dimensions requests are considered extreme and would have more than minor adverse effects on the environment.

That the submissions by **J Haworth & R Brighouse** [1716\22] opposed by *Telecom New Zealand Limited* [6222\24] and **B Hinsin** [1763\1] opposed by *Telecom New Zealand Limited* [6222\25] and **Upper Clutha Environmental Society (Inc.)**

Re:

(discussion re submission shown in bold)

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[2707\28] supported by *I McCrone* [6295\15] and *Wakatipu Environmental Society* [6198\3] and opposed by *Telecom New Zealand Ltd* [6222\31] be rejected as it is considered that the Discretionary Activity assessment criteria is adequate to determine the adverse effects of such activities upon the environment.

That the submissions by Central Electric Limited [1304\54]	4.6.1
opposed by <i>Remarkables Park Limited</i> [6017\46] and PowerNet Limited [2311\16]	4.6.2
and Telecom New Zealand Limited [2623\25]	4.6.3
be accepted in part.	4.6.4

That the submission by Central Electric Limited [1304\57]	4.7.1
be rejected as these rules ensure protection of the visual amenity of the environment.	4.7.2

That the submissions by PowerNet Limited [2311\17] and Trans Power NZ Ltd [2676\4]	4.8.1
be accepted in part.	4.8.2
	4.8.3

That the submissions by Central Electric Limited [1304\55], [1304\56], supported by <i>Telecom New Zealand Ltd</i> [6222\7], <i>PowerNet Limited</i> [6213\1], and <i>N W Pittaway and Family</i> [6094\4]	4.9.1
Broadcast Communications Ltd [5013\5], BellSouth New Zealand [1136\8] and Central Electric Limited [1304\58]	4.10.1
supported by <i>PowerNet Limited</i> [6213\2] and opposed by <i>Hawea Development Association Inc.</i> [6184\1]	4.10.2
be rejected as the majority of utilities are provided for as Discretionary Activities and the protection of Areas of Landscape Importance from man-made structures is a matter of national importance.	4.10.3
That the submission by Maritime Safety Authority of New Zealand [2034\5]	4.10.4
be accepted.	4.11.1
	4.11.2

By amending the Rules section being Part 17.2 of the Proposed District Plan as follows:

17.2 Utilities Rules

17.2.1 Purpose

Utilities are essential to the servicing and functioning of the District and include a wide range of services which vary significantly in scale and impact. Provision for small scale utilities are provided for in a manner which allows their establishment and operation without undue delay. At the same time controls are put in place to ensure consent is required when impacts of utilities are significant.

Large scale utilities such as power stations and sewage treatment facilities are provided for with specialised rules through scheduling or designation.

17.2.2 General Provisions

The rules contained in this Section take precedence over any other rules that may apply to utilities in the District Plan, except for the Height provisions in all zones, and unless specifically stated to the contrary.

17.2.3 Activities

17.2.3.1 Permitted Activities

Any **utility** which is not defined as a Discretionary or Non-Complying Activity in Rules 17.2.3.2 and 17.2.3.3 is a **Permitted Activity**.

17.2.3.2 Controlled Activities

The following activities shall be **Controlled Activities**, provided that they are not listed as a Prohibited, Non-Complying or Discretionary Activities.

The matters in respect of which the Council has reserved control are listed with each Controlled Activity.

i Telecommunication, Navigation, Meteorological and Radio Communication Facilities

Any telecommunication, navigation or radio communication facility is a **Controlled Activity** where it involves:

a Erecting any telecommunication, navigation, meteorological or radio communication facility above ground level (including any tower, mast or support structure but does not include antenna (dish or otherwise) in the following zones:

i Residential, Rural-Residential, Urban Township, Millbrook Resort, Rural Tourist, Town Centre, Frankton Corner Shopping Centre and Business Zones;

ii Any part of the Rural Uplands or Downlands Zones, which has an altitude of greater than 1070m above sea level, or is located within the area defined on the planning maps as being of Significant Nature Conservation Value or a Remote Experience Recreation Area.

- b Erecting any telecommunication, navigation, meteorological or radio communication facility including any mast, tower or support structure but does not include antenna, (dish or otherwise) below and including 10m in height above ground level in all other zones or areas of zones not covered by a above.

ii Buildings

- a All buildings, other than buildings less than 2.0m in height above ground level and less than 5m² in gross floor area, in respect of:

- i the location, design, bulk, colour, materials and methods of construction of the buildings and associated earthworks, access and landscaping, to avoid or mitigate adverse effects on landscape and visual amenity values, nature conservation values and the natural character of the following Zones:

Any part of the Residential, Rural-Residential, Urban Township, Town Centre, Frankton Corner Shopping Centre and Business Zones, Rural Uplands and Downlands Zone which has an altitude below 1070m above sea level.

17.2.3.2.3 Discretionary Activities

Except as specified as a Non-Complying Activity in 17.2.3.3 below, the following activities shall be **Discretionary Activities**:

i Lines and Support Structures

Any **line and/or support structure** is a **Discretionary Activity** where it involves:

Erecting any lattice towers for overhead lines to convey electricity **in all zones**; or

Erecting any support structures for overhead lines to convey electricity (at a voltage of more than 110KV with a capacity over 100MVA) **in all zones**; or

Erecting any support structures for overhead lines to convey electricity (at a voltage of equal to or less than 110KV at a capacity of equal to or less than 100MVA); or overhead lines for any other purposes including telecommunications **in the following zones**:

- Residential, Rural-Residential, Urban Township, Millbrook Resort, Rural Tourist, Town Centre, Frankton Corner Shopping Centre and Business Zones;
- Any part of the Rural Uplands or Rural Downlands Zones, which has an altitude greater than 1070m above sea level, or is located within the areas identified on the planning maps as being of Significant Nature Conservation Value or a Remote Experience Recreation Area.

Utilising any existing support structures for the erection of cable television aerials and connections.

except where:

- a any new poles are solely for the purpose of providing street lighting.

NOTE: *The above rules do not apply to existing lines and support structures which are protected by Section 10 of the Act.*

ii **Telecommunication, Navigation, Meteorological and Radio Communication Facilities**

Any **telecommunication, navigation or radio communication facility** is a **Discretionary Activity** where it involves:

- a Erecting any telecommunication, navigation, meteorological or radio communication facility above ground level (including any mast, antenna (dish or otherwise), tower, or support structure) which exceeds the maximum height permitted by that zone, and/or includes any dish antenna or structure over 1 metre in diameter and up to and including 2.4 metres in diameter in the following zones:
 - i Residential, Rural-Residential, Urban Township, Millbrook Resort, Rural Tourist, Town Centre, Frankton Corner Shopping Centre and Business Zones;
 - ii Any part of the Rural Uplands or Downlands Zones, which has an altitude of greater than 1070m above sea level, or is located within the area defined on the planning maps as being of Significant Nature Conservation Value or a Remote Experience Recreation Area.
- b Erecting any telecommunication, navigation, meteorological or radio communication facility (including any mast, antenna, tower or support structure) which is over 10m in height above ground level, or includes any dish antenna or structure of more than in 3m diameter, **in all other zones or areas of zones not covered by a above.**

iii **Buildings**

Where any **utility** involves the erection of a **building** (in addition to facilities in clauses i and ii above), that **building** shall be a **Discretionary Activity** where it involves:

- Erecting any building within any part of the ~~Residential, Rural-Residential, Urban Township, Town Centre, Frankton Corner Shopping Centre, Millbrook Resort or Rural Tourist Zones, Rural Uplands and Downlands Zone~~ which has an altitude of greater than 1070m above sea level, or is located within the area defined on the planning maps as being of Significant Nature Conservation Value or a Remote Experience Recreation Area.

iv **Flood Protection Works**

The construction of any new **flood protection works** shall be a **discretionary activity** (non-notified), provided that this standard shall not apply to any works carried out in relation to the maintenance, reinstatement or replacement of existing flood protection works for the purpose of maintaining the flood carrying capacity of water courses and/or maintaining the integrity of existing river protection works.

The Council shall restrict the exercise of its discretion in relation to this matter to effects on the natural character, natural conservation and landscape values of the river and lake bed and margins; and public access, recreation and enjoyment of the river and lake bed and margins.

NOTE: *The provisions of Section 13 of the Act apply to works in the beds of lakes and rivers and resource consents may also be required from the Otago Regional Council in terms of regional rules relating to the use of land in the beds of lakes and rivers.*

v **General**

Any **utility** which does not meet the following standards shall be a **Discretionary Activity** with the exercise of the Council's discretion being limited to the matter(s) specified in the standard(s) not complied with.

a **Setback from boundaries**

Where the utility is a building of more than 10m² ground floor area, or is a building, mast, tower or support structure over 6m in height above ground level, it shall be set back from all Rural-Residential, Residential, Millbrook Resort, Rural Tourist and Urban Township Zone boundaries, and the street boundary, by a distance not less than 50% of the height of the structure. *(For the purposes of this clause a building shall not include overhead lines and support structures.)*

b **Landscaping**

Any parts of a site not used for buildings, structures, or access, shall be planted with trees or shrubs which at maturity reach a height of at least 2m.

c **Colour**

Any visible part of any utility shall be finished in accordance with the colours set out on the Colour Palette (Appendix 2).

17.2.3.3.4 Non-Complying Activities

The following utilities shall be **Non-Complying Activities** ~~in the Rural Downlands and Rural Uplands Zone~~, where they are located within an Area identified on the Planning Maps as an Area of Landscape Importance:

i **Lines and Support Structures**

Any overhead lines for any purpose or any support structure for overhead lines.

ii **Telecommunication, Navigation, Meteorological and Radio Communication Facilities**

Any telecommunication, navigation, meteorological or radio communication facility above ground level (including any mast, antenna (dish or otherwise), tower or support structure).

iii **Buildings and Structures**

Any utility which involves the erection of a building or structure, including those less than 2.0m in height above ground level and less than 5m² in gross floor area.

iv **General**

Unless specified in the provisions above or contained within the Height definition, any utility in all zones which do not meet the following standard shall be a Non-Complying Activity.

a Height

Any part of any utility which exceeds the maximum height permitted in that zone.

5.0 RESOURCE CONSENTS - ASSESSMENT MATTERS UTILITIES

5.1 17.3 Resource Consents - Assessment Matters - Utilities - 2 Assessment Matters (17/014/03)

5.1.1 **Central Electric Limited** [1304\59] objects to many of the criteria being absolute rather than directory. The assessment matters should take into account beneficial and adverse effects. The submitter requests an amendment to the first paragraph of 17.3.2 by inserting the following: "...not be limited by 'or bound to have regard to in every situation', the following ...".

5.1.2 **Trans Power NZ Ltd** [2676\5] supports the recognition of landscape, but considers that the first assessment matter sets an almost impossible test for utilities, by seeking to ensure that any activity will not do a number of things which might adversely affect the way landscape is viewed. Further, the first assessment matter is not in keeping with the other assessment matters. The submitter requests that paragraph (i) be amended by replacing the words "The need to ensure that the activity will not:" with the words "The extent to which the following effects are likely to occur:".

5.1.3 Discussion

It is considered that the amendment requested by **Central Electric Limited** [1304\59] is unnecessary as the first paragraph already states "...the Council shall have regard to, **but not be limited by**, the following assessment matters,..." This therefore already allows the Council some discretion in considering the extent of adverse effects on the environment on a case by case basis.

It is recommended to accept the submission by **Trans Power NZ Ltd** [2676\5] as it is agreed that this assessment matter is not consistent with others listed under this provision.

5.1.4 Recommendation

That the submission by **Central Electric Limited** [1304\59] be rejected as this provision already allows for some discretion and that the submission by **Trans Power NZ Ltd** [2676\5] be accepted by amending the following:

17.3 (2)(i)

~~The need to ensure that the activity will not:~~ The extent to which the following effects are likely to occur:

5.1.5 **New Zealand Archaeological Association** [2210\15] requests that (vi) be rewritten so that the installation of utilities will be undertaken with minimum impact of the heritage sites, including buildings and archaeological sites (suggested version in submission).

5.1.6 Discussion

The following amendment is sought:

- vi The degree to which the proposed choice of site or route for the utility will affect the natural and cultural values of the environment and the reasons for that choice of site or route.

The definition of 'Environment' in the Resource Management Act includes -

- (a) Ecosystems and their constituent parts, including people and communities; and
- (b) All natural and physical resources; and
- (c) Amenity values; and
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:

It is not appropriate to specify certain values of the environment as this will preclude the other aspects as set out above which is not the intention of this provision.

5.1.7 Recommendation

That the submission by **New Zealand Archaeological Association** [2210\15] be rejected as the overall meaning of 'environment' should be taken into account when considering this provision.

- 5.1.8 **Clear Communications Limited** [1340\10] and **Broadcast Communications Ltd** [5013\6] believe that the assessment matters require unnecessary detail to be included in an application. The submitter requests an amendment to 17.3.2 (vii) to read: "The extent to which alternative sites have been considered and the reasons as to why these have been discounted for the proposed site".
Telecom New Zealand Limited [6222\4] supports submission [5013\6] for the reasons given by the submitter.

5.1.9 Discussion

The submitters are correct in that this provision will require unnecessary information being included in applications. The amendment sought is considered appropriate.

5.1.10 Recommendation

That the submissions by **Clear Communications Limited** [1340\10] and **Broadcast Communications Ltd** [5013\6] supported by *Telecom New Zealand Limited* [6222\4] be accepted in part by amending the following:

The extent to which alternative sites or routes have been considered and the impact ~~of these alternatives on the environment~~ reasons as to why these have been selected ahead of the alternatives.

- 5.1.11 **Royal Forest and Bird Protection Society** [2408\38] considers that Assessment Matter viii is not an environmental effect and requests the deletion of 17.3.2.viii.
Transpower New Zealand Limited [6038\3] opposes this submission as the cost of making a decision on a resource consent should be considered - especially where costs borne by the public in general as is the case with utilities.

5.1.12 Discussion

Assessment Matter viii:

The extent of any additional costs imposed by requiring compliance with any performance standard listed including the cost of placing lines underground or requiring design modifications to a utility.

The submission above is correct. In the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

5.1.13 Recommendation

That the submission by **Royal Forest and Bird Protection Society** [2408\38] opposed by **Transpower New Zealand Limited** [6038\3] be accepted by deleting provision 17.3.2 viii: (and subsequent renumbering)

~~The extent of any additional costs imposed by requiring compliance with any performance standard listed including the cost of placing lines underground or requiring design modifications to a utility.~~

5.1.14 BellSouth New Zealand [1136\10] considers that Part 17 Assessment Matter 2(ix) requires a reference to the New Zealand Standard on radio frequency emissions. Compliance with the New Zealand Standard NZS6609 ensures that there will be no adverse health effects arising from the operation of telecommunication facilities. The radio frequency energy emissions from antennas operated by BellSouth New Zealand are significantly below the maximum recommended in the New Zealand NZS6609 at any point where any member of the public may approach the antennas. The inclusion of reference to NZS6609 allows the Council to assess the potential health and safety impacts of the proposed facility as well as providing BellSouth New Zealand with a greater degree of certainty as to what issues must be addressed. The submitter requests the deletion of Section 17 Assessment Matter 2(ix) of the proposed District Plan to replace it with the following: "The degree to which the proposed utility and its location can meet the minimum levels for radio frequency emissions set out in NZS 6609 or any subsequent standard at any point where the facility could be approached by a member of the public."

Telecom New Zealand Limited [6330/4] support this submission but is opposed to relief sought - want amendment to assessment matter 17.3.(2)(ix) and insert new assessment matter 17.3.(2)(ixA).

5.1.15 Broadcast Communications Ltd [5013\7] considers that Assessment Matter 17.3 (2ix) requires reference to the New Zealand Standard which will ensure that there will be no health effects. The submitter requests that 17.3 (2ix) be amended with the following: "The degree to which the proposed utility and its location can meet the minimum levels for radio frequency emissions set out in NZS 6609 or any subsequent standard at any point where the facility could be approached by a member of the public."

Telecom New Zealand Limited [6330\3] supports this submission but is opposed to relief sought - want amendment to assessment matter 17.3(2)(ix) and insert new assessment matter 17.3(2)(ixA).

5.1.16 Clear Communications Limited [1340\11] consider that Assessment Matter 2(ix) requires reference to the New Zealand Standard on radio frequency emissions. The submitter requests the deletion of 17.3.2 (vii) to replace it with the following: "The degree to which the proposed utility and its location can meet the minimum levels

for radio frequency emissions set out in NZS 6609 or any subsequent standard at any point where the facility could be approached by a member of the public".
Telecom New Zealand Ltd [6222\10] supports this submission for the reasons given by the submitter.

5.1.17 Discussion

- ix The degree to which the proposed utility may affect the health or safety of the community including positive effects from the operation of the utility.

It is considered that in order to give a definitive measure when considering this assessment criteria that the requests of these submissions are accepted.

5.1.18 Recommendation

That the submissions of **BellSouth New Zealand** [1136\10] supported in part by **Telecom New Zealand Limited** [6330\4], **Broadcast Communications Ltd** [5013\7] and **Clear Communications Limited** [1340\11] supported by **Telecom New Zealand Ltd** [6222\10] be accepted in part by amending the following:

17.3 (2) (ix) The degree to which the proposed utility and its location may affect the health or safety of the community including positive effects from the operation of the utility by ensuring that the activity can meet the minimum levels for radio frequency emissions set out in NZS 6609 or any subsequent standard.

- 5.1.19 **Otago Regional Council** [2258\133] considers that no process is identified in the objectives, policies or methods for determining the effects that development of a utility may have on Takata Whenua values. The submitter requests that cross referencing of 17.3(2) x be provided to the provisions of 4.3.6, Objective 1 and associated Policies 1 and 2.

5.1.20 Discussion

See 2.1.19 & 2.1.20 of this report.

5.1.21 Recommendation

That the submission by **Otago Regional Council** [2258\133] be accepted.

- 5.1.22 **Central Electric Limited** [1304\60] considers that the assessment matters do not presently require the Council to give equal weight to practical considerations of energy supply to the District when supplying essential utility services. These considerations should not be outweighed by visual amenity. The submitter requests an amendment to 17.3.2 by inserting the following new assessment matter: "The economic and operational needs in assessing the location, design, and appearance of utilities and each situation's requirements and the economics of supply of essential utility services to the district".
Telecom New Zealand Limited [6222\8] support this submission as will encourage balanced decision making.

- 5.1.23 **Telecom New Zealand Limited** [2623\27] opposes this provision because it is at odds with the objectives and policies, fails to acknowledge the critical importance of network utilities to economic and cultural well-being and lacks sufficient balance. The submitter requests the addition of the following assessment matters:
1. The public need for the utility and the importance of the utility in promoting the

well-being of the community. 2. The strategic and operational needs of a utility when considering possible alternative locations for establishment. 3. The economic costs associated with the consideration of alternative locations, sites or methods for the establishment or alteration of a utility.

5.1.24 Discussion

Objective 2, Policy 3 “To take into account the strategic needs of a utility when considering possible alternative locations for establishment” covers those issues above and there is no need to repeat this. In addition, it is not appropriate to have criteria relating to the financial costs of providing the utility. In the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

5.1.25 Recommendation

That the submission by **Central Electric Limited** [1304\60] supported by **Telecom New Zealand Limited** [6222\8] and **Telecom New Zealand Limited** [2623\27] be rejected as the environmental effects of the utility is the determining factor, not the benefits to the community.

5.1.26 **D & E H Broomfield** [1211\22] requests that either provision xvii be deleted or amended to include a requirement for Council to assess all environmental effects of flood protection works.

5.1.27 Discussion

The submission is unclear as submitter does not offer any alternatives regarding other environmental effects they would like assessed with respect to flood protection works. If the submitter can produce advice at the Hearings on Part 17 - Utilities then this request can be re-considered.

5.1.28 Recommendation

That the submission by **D & E H Broomfield** [1211\22] be rejected as the submission is unclear.

6.0 REASONS FOR RULES - UTILITIES

6.1 17.4 Reasons for Rules - Utilities - (17/017/01)

6.1.1 New Zealand Historic Places Trust [2212\11] supports these reasons.

6.2 17.4 Reasons for Rules - Utilities - iii Undergrounding (17/017/04)

6.2.1 Central Electric Limited [1304\61] considers that the provision fails to identify the economic ingredient in considering whether or not undergrounding is not only practicable but economically feasible. The submitter requests that 17.4 (iii) be amended by adding the words "economically feasible" after the word "practicable," in the last sentence.

6.2.2 Discussion

The Committee should note that **New Zealand Historic Places Trust** [2212\11] supports these provisions of the Proposed District Plan.

The submission by **Central Electric Limited** [1304\61] requests changes to acknowledge the economics of undergrounding. In the case of *NZ Rail v Marlborough District Council* [1994] NZRMA 70 HC it was apparent that although Council has a role under the Resource Management Act to consider the economic well-being of people and communities and promote sustainable management, it shall not consider the narrower consideration of financial viability. See discussion 2.6.4.

6.2.3 Recommendation

That the submission by **New Zealand Historic Places Trust** [2212\11] be accepted and that the submission by **Central Electric Limited** [1304\61] be rejected as it is not a resource management function to consider specific economic cost.