

# Proposed Plan Change 1: Natural Hazards

## Hearing Panel's Recommendation Report

This plan change is recommended to be approved with amendments. The reasons for this, and the amendments made, are set out below.

**Date** – 2 October 2024

## Contents

1..... Overview.....	5
2..... Executive Summary - Main Issues Raised by Submissions and Overview of our recommended changes to PC1 from that notified.....	5
3..... Introduction.....	9
4..... Summary of PC1 as Notified.....	10
5..... Purpose of Report.....	12
6..... Structure of the Report.....	12
7..... Main Issues Raised by Submissions.....	15
8..... Consideration of submissions.....	15
8.1 General/Plan Change Wide Submission Topics.....	19
General support.....	20
General opposition.....	20
No relief sought or unclear relief sought.....	22
Communication and consultation process.....	22
Permitted Activity Rule Framework.....	24
Property value and insurance costs.....	31
Whenua Māori.....	32
Property rights.....	34
Managed retreat.....	35
Other hazard types.....	36
Notification rules.....	39
8.2 Hazard Mapping.....	40
General support.....	40
General opposition.....	41
Amendments to mapping display.....	49
Flood hazard mapping.....	50
Coastal hazard mapping.....	52
Land Instability hazard mapping.....	54
8.3 Definitions.....	57
General support.....	58
Requested New Definitions.....	58
Definition of Vulnerable Activity.....	64
Definition of Area of High Susceptibility to Land Instability Hazards.....	66
Definition of Area of Moderate Susceptibility to Land Instability Hazards.....	68
Definition of Boundary Adjustment.....	69
Definition of Suitably Qualified and Experienced Person.....	70
Definition of Instability Hazard Mitigation Works.....	71
Definition of Material Damage.....	72

Definition of Coastal Erosion Hazard Areas .....	72
Definition of Coastal Flooding Areas .....	73
Definition of Hard Protection Structure .....	74
Definition of Flood Hazard Area .....	74
Definition of Overland Flow Path.....	76
Definition of Major Structures.....	76
Definition of Infrastructure .....	77
Definition of Minor Upgrading.....	78
Definition of Sensitive Environments and Areas.....	78
8.4 Issues Section .....	79
8.5 Objectives .....	82
NH-O1 – Hazard Risk .....	82
NH-O2 – New Development.....	83
NH-O3 – Existing Developed Areas .....	86
NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure.....	89
NH-O5 – Natural Buffers and Defences .....	91
NH-O6 – Climate Change .....	93
SUB-O6 – Natural Hazards.....	94
EARTH-O3 – Earthworks in areas subject to land instability and mining subsidence .....	95
DGD-O10 – Natural Hazards .....	96
8.6 Policies .....	97
General Policies.....	98
Flooding Policies.....	113
Coastal Flooding and Coastal Erosion policies .....	121
Land Instability Risk policies .....	131
Mining Subsidence Risk Policies.....	134
Subdivision Chapter Policy .....	135
Earthworks Chapter Policy.....	136
District Growth and Development and Urban Form and Development Chapter Policies.....	137
8.7 Rules .....	140
General support for rules .....	141
General amendments to rules .....	141
NH Chapter Rule Notes .....	144
NH Chapter General Rules .....	149
NH Chapter Flooding Rules .....	162
NH Chapter Land Instability Rules .....	173
NH Chapter Mining Subsidence Rules .....	178
Subdivision Chapter Rules.....	180

Earthworks Chapter Rules .....	190
CE Chapter Coastal Hazard Area Rules .....	197
8.8 Information Requirement Rules .....	214
General Amendments to NH Chapter Information Requirements .....	215
NH-REQ1 – Information Requirement – Flood Hazard.....	216
NH-REQ2 – Information Requirement – Site Suitability Report for Activities in Areas of Moderate or High Susceptibility to Land Instability Hazards .....	217
NH-REQ3 – Information Requirement – Site Suitability Report for Activities in Mining Subsidence Hazard Areas .....	218
CH-REQ1 – Information Requirement.....	219
9..... Part 2 of the RMA .....	220
10..... Recommendations .....	220
11..... Appendices and Attachments .....	221

## 1 Overview

<b>Plan Change number:</b>	Plan Change 1 – Natural Hazards to the Whangārei District Plan (PC1).
<b>Hearings:</b>	19 to 22 February 2024. The hearing was adjourned when all submitters had been heard before the Hearing Panel.
<b>Hearing panel:</b>	Greg Hill (Chairperson) David Hill Michael Parsonson
<b>Attachment 1</b>	<b>Appearances at the hearing and tabled evidence</b>
<b>Attachment 2</b>	<b>Link to the Council’s Right of Reply documents</b>
<b>Attachment 3</b>	<b>Recommended Plan Provisions Track Changed Version</b>
<b>Attachment 4</b>	<b>Recommended Plan Provisions Clean Version</b>
<b>Attachment 5</b>	<b>Recommended Amendments to the Planning Maps</b>

## 2 Executive Summary - Main Issues Raised by Submissions and Overview of our recommended changes to PC1 from that notified.

1. The hearing (of submitters) occurred between 19 and 22 February 2024. While a range of issues were raised in the submissions, and by those submitters who appeared at the hearing, the three most significant issues (among others) related to:
  - *the accuracy of the natural hazards mapping mainly as they related at the site-specific scale to individual properties;*
  - *those maps being included within the District Plan; and*
  - *the lack of a permitted activity pathway or rule framework; where the notified version of PC1 requires a land use resource consent where a site was shown as being susceptible to a natural hazard.*
2. We address these matters below in some detail, as well as the other matters raised by the submitters.
3. We heard from legal counsel as well as expert and non-expert witnesses/submitters on a range of issues raised by Plan Change 1 (PC1). Where we received no additional material, statements or evidence from submitters on matters raised by PC1, we have relied on the opinion of the Council’s experts, as set out in the section 42A reports and the Council’s “Right of Reply” (RoR) documents.

### ***Accuracy of the Mapping***

4. With respect to the mapping, many submissions (and the majority of submitters who presented at the hearing) were concerned about the accuracy of the hazards mapping; especially as they related to their site-specific circumstances. This was because the coastal flooding and erosion maps and the river flooding maps were developed by the Northland Regional Council at a regional scale<sup>1</sup>, and the Land Instability maps were developed by WDC at a district scale using models. Most submitters accepted that the mapping at this scale would not be able to address every site-specific issue. However, they maintained that the implications of the mapping 'inaccuracies', combined with the requirement to obtain a resource consent for many activities if a site was covered by the hazard map/overlay, was onerous, unfair, unnecessary, had implications for the value of their properties, selling their properties and for insurance (obtaining it as well as the premiums).
5. The Council, via its consultant experts from Tonkin and Taylor Ltd<sup>2</sup>, (T+T) had addressed a number of the site-specific concerns raised by submissions prior to the hearing. These were set out as part of the section 42A reports. At the hearing the Council offered to undertake further analysis of the mapping's accuracy vis-à-vis some of the submissions (and evidence) lodged and presented.
6. The Hearing Panel directed this further analysis<sup>3</sup> setting out that this was warranted, especially where submitters have either provided further technical or other evidence as part of their evidence/presentations presented at the hearing. The purpose of the additional work was to ensure that the mapping was as accurate as possible; accepting the region and district-wide mapping will not be able to address every site-specific circumstance.
7. The Council undertook this mapping work. As set out in the RoR documents the recommendations were to remove, amend or retain the mapping over particular sites as notified in PC1. We accept those recommendations, and recommend that the Council remove or amend the hazard mapping (flooding and/or instability) from those properties from that shown in the notified PC1.

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<sup>1</sup> These maps are required to be incorporated into the District Plan by the Regional Policy Statement (RPS) by Method 7.1.7 – this matter is in more detail later in this report)

<sup>2</sup> An environmental and engineering consulting firm.

<sup>3</sup> Direction 2 (5 march 2024) - Permitted activity rule framework (expert conferencing), addressing submitters' concerns about the accuracy of the hazards mapping and other matters.

***Maps being included within the District Plan;***

8. Some submissions sought that the hazard maps sit outside of the Whangārei District Plan (WDP) as opposed to being in the WDP as notified.
9. The Coastal flooding and erosion and river flooding maps must stay in the District Plan. Method 7.1.7 (1) - of the Northland Regional Policy Statement (NRPS) is directive and states *“The district councils shall notify a plan change to incorporate finalised flood hazard maps into district plans in the first relevant plan change following the operative date of the Regional Policy Statement or within two years of the Regional Policy Statement becoming operative, whichever is earlier. Additionally, the district councils shall incorporate new flood and coastal hazard maps into district plans as soon as practicable after such areas have been investigated, defined and mapped by the regional council”*.
10. Section 75 (3) of the RMA states that the District Plan must give effect to the NRPS. While we have concerns with the accuracy of the Regional Hazards Maps (as we do with the Land Instability map), there is no discretion for the regional maps to be other than incorporated into the WDP.
11. Moreover, Ms Shaw, legal counsel for the WDC, confirmed this position as part of the Council’s RoR<sup>4</sup>. We accept those legal submissions.
12. With respect to the Land Instability mapping, we have determined that, despite their disputed accuracy, they should remain within the District Plan. The reasons for this are those set out in Issue 3 in the Planners Joint Witness Statement (JWS) dated 30 May 2024 – being in summary:
  - Would require a new complex and technically detailed definition of “land susceptible to instability hazards”;
  - A geotechnical assessment may be required in every instance to determine whether the definition applies rather than relying on the mapping,
  - The use of a definition is less transparent than statutory maps. Non-statutory mapping could also be changed without the ability for the public to participate through a Schedule 1 plan change process.
  - Whether statutory or non-statutory, the land instability maps would still be included on Land Information Memorandums as it is a legal requirement to include relevant information that Council holds.

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<sup>4</sup> Dated 5 July 2024 - paragraphs 18 – 333.

- No clear benefit has been identified of relying on a definition instead of statutory maps given that the rule framework would not change.

***The lack of a permitted activity pathway or rule framework; where the notified version of PC1 requires a land use resource consent where a site was shown as being susceptible to a natural hazard.***

13. Many submitters considered that requiring a resource consent for most activities when a site was susceptible to a hazard (ie where a hazards map was shown over a property) was inefficient, unnecessary as well as expensive and time consuming. They considered that a permitted activity framework needed to be applied.
14. We have recommended a permitted activity framework. The recommended rules provide 'permitted activity 'pathways' – one based on the proposed activity's suitability and risk, and one on the accuracy of the mapping. Again, we address this in detail later.

***Channel Infrastructure NZ Limited***

15. Channel Infrastructure NZ Limited's (Channel) principal submission was that the provisions of the proposed PC1 not apply to its site. This was because the Marsden Point Energy Precinct (MPEP)<sup>5</sup> in the WDP represented a complete and comprehensive suite of provisions governing Channel's site and that Channel considered that it was best placed to manage natural hazard risks at its site.
16. Channel sought bespoke natural hazards provisions for its site. While we accept Channel could have bespoke natural hazards provisions for its site, we are not satisfied that the provisions they proposed are appropriate. Accordingly, we have not provided alternative natural hazards provisions for Chanell's site. This is addressed in more detail later in this report.

***Other issues***

17. The other main recommendations include: adding a policy in respect of wildfire; not explicitly including the words "health and safety" in a number of objectives and policies (noting health and safety is already addressed in section 5 of the RMA); removing the terms "tolerable" and "intolerable" as they lacked clarity and as we have made a number of amendments to the objectives and policies to make them clearer; not introducing Hazardous Substances in PC1 or any other hazards than addressed in the notified version of PC1; and including the definitions for Functional and Operational Need – but only as they relate to the Natural

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<sup>5</sup> Contained in the Heavy Industrial Zone Chapter of the District Plan.



Hazards Chapter of the District Plan and the natural hazards provisions of the Earthworks and Coastal Environment Chapters.

### 3 Introduction

18. The Whangārei District Council (WDC), in accordance with sections 34 and 34A of the Resource Management Act 1991 (RMA), appointed an Independent Hearing Panel consisting of Greg Hill (chair), David Hill and Michael Parsonson, to hear the submissions made to Proposed Plan Change 1 – Natural Hazards (**PC1**) and make a recommendation on the plan change to the Council<sup>6</sup>.
19. The Hearing Panel was also delegated the power to make decisions on procedural matters – including dealing with late submissions which we address later.
20. This recommendation report to the WDC has been prepared following the hearing of submissions and considering the additional information and evidence that was prepared in response to the Hearing Panel’s Direction 2 – Permitted activity rule framework (expert conferencing), addressing submitters’ concerns about the accuracy of the hazards mapping and other matters.
21. PC1 is a Council-initiated plan change that has been prepared following the standard RMA Schedule 1 process (that is - the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA).
22. PC1 was publicly notified on 31 May 2023. The submission period closed on the 28 July 2023. A summary of submissions was notified for further submissions on 23 August 2023 and closed on the 20 September 2023. In total 193 original submissions and 25 further submissions were received to PC1. Three original submissions<sup>7</sup> were received after the closing date of the further submission period. These were not accepted by the Hearing Panel and are addressed below.
23. Accompanying PC1 was a section 32 evaluation report which included a background, description, and evaluation of the notified PC1. Due to this, we have only provided a very brief summary of the purpose of PC1.
24. The section 32 evaluation report included an assessment of the relevant statutory and policy context. Since notification of PC1 the National Environmental Standards for Commercial Forestry (**NES-CF**) came into effect on 3 November 2023 and the Proposed National Policy

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<sup>6</sup> The delegation is to “hear, deliberate and make a recommendation on any application lodged under Schedule 1 of the Resource Management Act and be authorised to make such recommendations required in terms of Schedule 1 of the Resource Management Act 1991...”

<sup>7</sup> Whangārei Heads Citizens Association, J Boyes, R Miller, and M and J Coppins, and I Fox.

Statement for Natural Hazard Decision-Making (**PNPS-NHD**) was released for public consultation on 18 September 2023.

25. The NES-CF amends and renames the National Environmental Standards for Plantation Forestry (**NES-PF**) and now applies to both plantation forestry and exotic continuous-cover forests (carbon forests) that are deliberately established for commercial purposes.
26. The PNPS-NHD has not been gazetted (at the time this recommendation report was provided to the Council) and has no legal weight. The NES-CF and PNPS-NHD are discussed in further detail where relevant in response to submissions in the sections below.

#### **4 Summary of PC1 as Notified**

27. PC1 seeks to amend the WDP to more comprehensively address natural hazards. This was considered necessary due to:
  - the management of significant risks from natural hazards being a matter of National Importance (section 6 (h) of the RMA)<sup>8</sup>,
  - having to give effect to the NRPS in respect of natural hazards; and
  - the WDP being 'out of date' with respect to appropriately managing natural hazards.
28. As set out in the section 32 evaluation report (section 4.1. Proposed management approach), PC1 controls<sup>9</sup> *“are focussed on areas of higher hazard risk, being those areas that are known to be, or are assessed as being highly likely to be, subject to river flooding, coastal erosion and flooding, land instability and mine subsidence hazards. These are identified through mapping and/or physical criteria”*.
29. That report goes on to state:

*The following five Natural Hazards were identified and are the focus of the PC1:*

- *Flooding*
- *Coastal Flooding*
- *Coastal Erosion*
- *Land Instability*
- *Mining Subsidence*<sup>10</sup>

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<sup>8</sup> Inserted into the RMA in April 2017, by the Resource Legislation Amendment Act 2017.

<sup>9</sup> Paragraph 189 of the section 32 evaluation report

<sup>10</sup> Paragraphs 190 to 194 of the section 32 evaluation report

30. While the section 32 evaluation report acknowledges other natural hazards (e.g. acid sulphate soils, liquefaction and wildfire) may be present, and would fall under the general objectives and policies of PC1, they are not managed by specific rules. Moreover, that report has identified that specific methods to manage some hazards, such as tsunami and earthquake are more appropriately delivered through civil defence procedures, although tsunami evacuation routes are considered in PC1 at a policy level.
31. PC1 as notified proposed:
- Deleting the operative Natural Hazards provisions.
  - Insert into Part 2: District Wide Matters, under the Hazards and Risks section, the Natural Hazards chapter which will contain:
    - General objectives, policies and rules for managing the risks associated with natural hazards
    - Hazard specific policies relating to land instability, mining subsidence, flooding, coastal erosion and coastal flooding hazards
    - Hazard specific rules for land instability, mining subsidence and flooding
  - Amend the Definitions chapter by:
    - Inserting a new definition for vulnerable activities to cover land use activities which are more susceptible to the effects of natural hazards or are less able to respond to, or recover from, a natural hazard event.
    - Inserting new definitions for individual natural hazard types.
  - Amend the Subdivision chapter by:
    - Inserting an objective and policy relating to the management of risks from natural hazards.
    - Inserting rules which manage subdivision in areas subject to natural hazards.
  - Amend the Earthworks chapter by:
    - Inserting an objective and policy which relates to managing the risk associated with earthworks in areas susceptible to land instability.
    - Inserting a rule to manage earthworks in areas susceptible to land instability.
  - Amend the Coastal Environment chapter by:

- Inserting rules which manage risks associated with coastal hazards.
- Amend the Referenced Documents chapter by
  - deleting referenced documents relating to Coastal Hazard Identification.
- Amend the District Growth and Development chapter by:
  - Amending the objectives and policies in relation to natural hazards.
- Amend the Urban Form and Development chapter by:
  - Inserting consistent terminology in relation to natural hazards.
- Amend the Port Nikau Development Area Chapter by:
  - Including a requirement that developments comply with the natural hazard provisions.
- Amend the District Plan maps by inserting maps for Coastal Erosion, Coastal Flooding, Flooding, Land Instability, and updated Mining Subsidence Maps.

## **5 Purpose of Report**

32. The purpose of this report is to make recommendations to the Council (as the decision maker) on matters raised in submissions received for PC1. It includes recommendations to the Council to accept, accept in part, or reject individual submissions as required by Clause 10 of the First Schedule of the RMA. We have recommended some significant changes to the notified version of the PC1 provisions. This has been to address submitters' concerns.
33. Where changes are recommended to the notified version of a plan change, a further evaluation is required to evaluate the efficiency, effectiveness, risk of acting or not, that corresponds to the scale and significance of the requested changes<sup>11</sup>. This detailed recommendation report fulfils that obligation under section 32AA of the RMA.
34. It also set out the process we followed to hear, address and make recommendations on the submissions before us.

## **6 Structure of the Report**

35. The Structure of this report is similar to that of the Council Officers' section 42A report. We have done this for efficiency reasons, rather than 'reinventing the wheel'.
36. However, given the time between the hearing and this report as the Hearing Panel directed additional work be done (e.g. – developing the permitted activity framework, reviewing some

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<sup>11</sup> Section 32AA of the RMA

of the site-specific hazard's mapping) and receiving the RoR where the Council Officers have responded in considerable detail to the evidence heard, we have 'adopted' most of and referenced the Council's RoR (and its attachments), rather than repeating that material. Where we did not agree with the Council Officers recommendations, we set that out in the body of this report.

37. Those submitters specifically addressed in the RoR are:

<b>Submitter</b>	<b>Submission #</b>
M Haag	3
B Johnston	24
D Slatter	30
M Steedman	33
R Steedman	34
Chorus New Zealand Limited, Connexa Limited, FortySouth, One New Zealand Group Limited, and Spark New Zealand Trading Limited ( <b>Telecom Companies</b> )	40
A Le Clus	45
P Topzand	49
J Schwartfeger	51
S Sharma	59
L Watson	60
C Bergstrom	62
T Robinson	64
M Aylward	65
U Buckingham	67
R Challenger	69
V Hall	73
J Calder	84
J Glenie	86
C Weston	87
T and D Baxter	91
G Bracey	103
C Stevens	122
M and T Hodgson	124
D and J Garrick	126
F Morgan	127
Northland Regional Council ( <b>NRC</b> )	133
Golden Bay, a division of Fletcher Concrete & Infrastructure Ltd ( <b>GB Cement</b> )	136
Metlifecare Retirement Villages Limited ( <b>MetlifeCare</b> )	137
bp Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited ( <b>Fuel Companies</b> )	138
Commercial Centres NZ (2012) LTD ( <b>Commercial Centres</b> )	143
Marine Park Ltd, Port Road Ltd, Westpoint Land Holdings Ltd, Kotata Development Ltd, TDC Family Trustee Ltd, Springs Flat Ltd and Weddel Farm Limited ( <b>DC Group</b> )	146
Hika Limited	147
Quality Developments Limited ( <b>Quality Developments</b> )	149
Regeneration Holdings Limited ( <b>Regeneration Holdings</b> )	151
Moureeses Trust No. 2 ( <b>Moureeses</b> )	152
Jackson Hikurangi Ltd ( <b>Jackson Hikurangi</b> )	153
Fire and Emergency New Zealand ( <b>FENZ</b> )	154
G Martin	155
University of Auckland	156
Otaika Valley Free Range Eggs Ltd ( <b>Otaika Valley</b> )	157
Te Whatu Ora – Health New Zealand ( <b>Te Whatu Ora</b> )	159
Transpower New Zealand Limited ( <b>Transpower</b> )	161

Foodstuffs North Island ( <b>Foodstuffs</b> )	163
Hurupaki Holdings Limited ( <b>Hurupaki Holdings</b> )	166
Onoke Heights Limited ( <b>Onoke Heights</b> )	167
Totara Estate Developments Limited Partnership ( <b>Totara Estate</b> )	168
TMB Limited ( <b>TMB</b> )	169
Marsden Cove Limited ( <b>Marsden Cove</b> )	170
Kāinga Ora – Homes and Communities ( <b>Kāinga Ora</b> )	171
Fonterra Limited ( <b>Fonterra</b> )	173
Channel Infrastructure NZ Limited ( <b>Channel Infrastructure</b> )	178
Waka Kotahi New Zealand Transport Agency ( <b>Waka Kotahi</b> )	180
M and L Dissanayake	184
Woolworths New Zealand Limited ( <b>Woolworths</b> )	185
Northpower Ltd ( <b>Northpower</b> )	186
HKRS Holdings Ltd ( <b>HKRS Holdings</b> )	189
Whangārei District Council Infrastructure Planning Department ( <b>WDC-IPD</b> )	X212

38. The submitters listed above, and all other parties, need to read the RoR along with this report. To avoid doubt, we accept the recommendations in the Officers' RoR documents other than those relating to the permitted activity rule framework (which we address in some detail later in this report), and the submission points made by Northpower in relation to Sub - R2A and SUB – R2E where the Officers' recommendation was to reject the submission points. For the reasons set out later we recommend that they be "accepted in part"<sup>12</sup>.
39. Accordingly, the RoR documents (including Attachments 1 – 3 and 5 - 8), other than the exceptions listed above, should be read as forming part of our recommendations (and reasons) to the Council. A link to the RoR is set out in Attachment 2.
40. The evaluation and recommendations of submissions which follow in this report generally follows the format below:

Submission information – Matters raised in the submissions with a brief outline of relief sought.

Discussion – Discusses responses to the relief sought.

Recommendation – Recommendations to the Council in response to the relief sought.

41. Responses and recommendations have generally been included for all original submission points. However, where there was a duplicate or blank submission point, or a submission point requesting similar or consequential relief to other relief sought in the original submissions, these have not been directly responded to unless otherwise relevant.

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<sup>12</sup> Note – we have 'reconciled' our recommendations on the submissions between the RoR version and this report (which is, as stated based on the section 42A report for efficiency reasons). If there are any contradictions in terms of the recommendations, those set out in the RoR prevail (other than those we have disagreed with as set out above).

However, we record that we have considered all submissions, including the further submissions.

42. Responses have not been included for further submissions. Further submissions are restricted to stating either support or opposition to the original submissions of other submitters. However, where further submissions presented additional evidence, these have been discussed in the relevant sections below.
43. We have recommended significant changes to the PC1 provisions. These are shown as track changes in **Attachment 3**. A 'clean' version of the recommended provisions is included as **Attachment 4** to assist with readability. **Attachment 5** includes the amendments to the maps. A summary of the key changes has been set out earlier, and these are addressed in more detail later.

## **7 Main Issues Raised by Submissions**

44. While a range of issues were raised (and these were fully addressed in the section 42A report) there were, in our view, three significant overarching issues raised. These were:
  - the accuracy of the natural hazards mapping mainly as it related at the site-specific scale to individual properties;
  - those maps being included within the WDP; and
  - the lack of a permitted activity pathway or rule framework where the notified version of PC1 requires a land use resource consent where a site was shown as being susceptible to a natural hazard.
45. Other issues included that PC1 should address a wider range of hazards than notified in PC1. For example, some submitters sought that PC1 address: fire and drought and hazardous substances. Other submitters sought greater clarity and direction in the objectives and policies, while other sought the opposite – indicating that the objectives and policies should be more generic (our words).
46. As said above, we have addressed all of the submissions lodged to PC1

## **8 Consideration of submissions**

### ***Late submissions***

#### *Submission Information*

47. The closing date for original submissions was 28 July 2023, with the further submissions closing date being 20 September 2023.

48. Two original submissions<sup>13</sup> were received on 25 September. One original submission<sup>14</sup> was received on 15 November. As these submissions were received after the closing date for the Further Submissions, they were obviously not included in the public notification of the Summary of Decisions Requested to provide for further submissions.

### Discussion

49. Pursuant to section 37 of the RMA, WDC resolved to double the submission period from 20 working days to 40 working days and the further submission period from 10 working days to 20 working days.
50. The submissions from the Whangārei Heads Citizens Association and J Boyes were received 42 working days after the close of original submissions and the submission from I Fox was received 78 working days after the close of original submissions.
51. Under s37A(2) of the RMA a time period may be extended for a time not exceeding twice the maximum time period specified in the RMA. As the submission period was already doubled from 20 working days to 40, these submissions were received well in excess of the maximum time extension provided for under the RMA.
52. Our decision is that for the following reasons it would not be appropriate, pursuant to s37A of the RMA, to accept these late submissions:
- The submissions were not made available for further submissions to either support or oppose them. If the submissions were accepted, then the summary of the decision requested would have to be publicly notified for further submissions, and hence delaying the hearing process. In terms of s37A(1)(c) we have a duty under s21 of the RMA to avoid unreasonable delay; and
  - In terms of s37A(1)(b) the interests of the community in achieving adequate assessment of the effects of this plan change are not affected as other submissions have raised the same or similar issues.

### Decision

53. That the late submissions are **not accepted** for the reasons set out above. We note this is a decision (as a procedural matter) that the Hearing Panel can make, and hence this is not a recommendation to the Council.

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<sup>13</sup> Whangārei Heads Citizens Association (X216), and J Boyes (X217).

<sup>14</sup> I Fox (X218).



Submitter	Submission # and Point #
Whangārei Heads Citizens Association	X216
J Boyes	X217
I Fox	218

## Scope

### Submission Information

54. A number of submission points were received that potentially fell outside of the scope of PC1, and if so cannot be accepted. The relief sought related to:
- Physical infrastructure works such as the installation, upgrades, maintenance of stormwater drains, review of stormwater management, waterway maintenance, and drainage into neighbouring properties and waterways;
  - Promoting sustainable infrastructure practices;
  - Changes to WDP provisions outside of what was notified under PC1;
  - Unclear requests for relief to submission points;
  - Compensation for work undertaken if further subdivision consent is declined;
  - Changes to zone mapping;
  - The Introduction of hazardous substance rules through PC1; and
  - Including definitions of “functional need” and “operational need” through PC1.

### Discussion

55. The issue of the scope of submissions (if they are “on” the plan change) has been well canvassed in case law, and the legal principles relevant to determining whether a submission is “on” a plan change (in scope) are well-settled. Ms Shaw addressed these in her legal submissions as part of the Council’s ROR (which we accept), and we do not repeat those principles in detail here. However, briefly, determining the issue of scope involves addressing the following two questions (also referred to as ‘limbs’):
- Whether the submission addresses the change to the status quo advanced by the plan change; and
  - Whether there is a real risk that persons potentially affected by such a change have been denied an effective opportunity to participate in the plan change process.
56. For the purposes of PC1, we have considered the submission points listed below in the section 42A report as being ‘out-of-scope’. We have found that all of those submissions to be ‘out of scope’ as they either do not pass one or both of the limbs referred to above.

57. The following text was included in the section 42A report, and no evidence was provided by the submitters to refute or challenge the section 42A statements.

*Physical works, infrastructure upgrades, and rates relief are beyond the scope of PC1. We do not support any amendments with respect to these issues.*

*The request by Ohawini Bay Limited (**Ohawini Bay**) for the removal of the 27m setback from Mean High Water Springs for non-habitable buildings or structures would require consequential amendments to the underlying zone chapters within the WDP. In our opinion this is out of scope of PC1, and the general public would not have anticipated PC1 resulting in a change of this nature.*

*We do not recommend any amendments in response to submission points seeking changes to the zone mapping within the WDP. The public notice of PC1 (**Appendix G**) stated that the scope of PC1 does not include amendments to the District Plan Area Specific Maps.*

58. We find that Channel's request to amend operative objective CE-O10.3 and policy CE-P25 within the Coastal Environment Chapter of the WDP is not in scope of PC1. CE-O10.3 and CE-P25 manage land use and subdivision activities within the CE and are not specifically related to natural hazards, so we do not think these are 'on' the plan change. We also do not consider that the general public would have anticipated these provisions changing through PC1, and that the requested amendments would have impacts beyond the focus of PC1.
59. We find that the Introduction of hazardous substance rules through PC1 proposed by Te Whatu Ora (and the evidence of Ms McGrath) is not within the scope of PC1. The reasons for this are those in the section 42A report, Ms Shaw's legal submissions and the Council Officers RoR. Rather than repeat those reasons, for the purpose of our recommendation to reject the submission, we adopt those reasons as our own. The issue of hazardous substance rules proposed by Te Whatu Ora is also addressed in the RoR.
60. A number of submitters<sup>15</sup> sought the inclusion of the definitions of "functional need" and "operational need" through PC1. The Council officers (section 42A report and RoR) and Ms Shaw's legal submissions considered that including those definitions via submissions to PC1 was both within scope and appropriate in terms of section 32AA.
61. Without repeating their reasons (set out in the documents mentioned above), we agree in part with the Council's and Submitters position. We agree that the definitions should apply to the Hazards Chapter as well as natural hazards provisions in the Earthworks and Coastal Environment Chapters of the WDC only, but not across the entire District Plan. The

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<sup>15</sup> Northpower, Hika Limited, Jackson Hikurangi, Mouresses, Quality Developments, DC Group, Otaika Valley Eggs, and Commercial Centres

definitions of Functional Need and Operational Need have potentially wider implications across the entire plan, and those implications are unknown and out of scope.

62. We find that including those definitions across the entire District Plan would create a 'submissional sidewind' as the definitions were sought to be included via submissions to the Natural Hazards plan change – and therefore it is highly unlikely that parties would have anticipated submissions seeking definitions which would apply across the entire plan. We address the substantive issues in relation to the definition later in this report.

### Recommendations

63. We recommend that the Council **reject** the submission points below:

Submitter	Submission # and Point #
M Pouwels	4.1, 4.2
R Mackey	10.1
J Beaumont & W Mariner	22.2
M Erceg	29.1
Ohawini Bay	41.2
J Askew	82.1
J Jongkees	104.1, 104.2, and 104.4
T and J Lewis	107.1
Pei C	125.1
A Lydiard and S Hirst	158.4
Te Whatu Ora	159 - Various – we address this more later
T Climie	164.3
Channel Infrastructure	178.23 and 178.24
G Higgins	181.5
S Boyd and F Lockwood	182.2 and 182.3

64. We recommend that the Council **accept in part** the submission points below relating to the definition of Functional and Operational Need:

Submitter	Submission # and Point #
Northpower, Hika Limited, Jackson Hikurangi, Mouresses, Quality Developments, DC Group, Otaika Valley Eggs, and Commercial Centres	Various – we address the specific submissions later in this report in the Definitions section

## 8.1 General/Plan Change Wide Submission Topics

65. This section addresses general submissions on PC1 that do not directly relate to individual or specific provisions or mapping. They are:
- General support
  - General opposition
  - No relief sought or unclear relief sought
  - Communications and consultation process
  - Permitted Activity Rule Framework

- Property value and insurance costs
- Whenua Māori
- Property rights
- Managed retreat
- Other hazard types
- Notification rules

### **General support**

#### **Submission Information**

66. Four submitters<sup>16</sup> stated general support of various aspects of PC1.

#### **Discussion**

67. We acknowledge the general support for various aspects of PC1. However, we note that specific matters raised in other submissions (addressed below) challenge some of the PC1 provisions. Our recommendations on some of those submissions is to amended (and in some cases substantially) the PC1 provisions. On this basis we accept in part these submissions noting that changes have been recommended in relation to other submissions.

#### **Recommendation**

68. We recommend that the Council **accept in part** the submission points below:

<b>Submitter</b>	<b>Submission # and Point #</b>
M Kepa	23.1
Waipapa Pine Ltd ( <b>Waipapa Pine</b> )	120.22
Northland Regional Council ( <b>NRC</b> )	133.1 and 133.2
Te Tāhuhu o te Mātauranga Ministry of Education ( <b>The Ministry of Education</b> )	141.1

### **General opposition**

#### **Submission Information**

69. Five submitters<sup>17</sup> oppose PC1 in its entirety due to concerns about limiting development potential, increased building costs, impacts on private property rights, and claims that the science behind the mapping is not sound.

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<sup>16</sup> M Kepa (23.1), Waipapa Pine (120.22) NRC (133.1 and 133.2), and The Ministry of Education (141.1).

<sup>17</sup> K Buckley (31.1), D Molloy (56.1), J Croad (68.1), N Dobbs (75.1), and NorthChamber (129.1).

## Discussion

70. We have not accepted these submissions, and accept the Council's rationale for the plan change. Notwithstanding this, we acknowledge the sentiments of the submitters, and summarise the changes we have recommended below, which may go some way to addressing the submitters concerns.
71. As we have set out earlier, we have recommended some significant changes to the PC1 provisions from those notified. The more significant have been making the Land Instability Maps as a 'non-statutory' layer outside the District Plan and provided a permitted activity pathway as opposed to a resource consent regime as notified.
72. We had no ability to place the maps produced by the NRC outside of the District Plan – noting again that we must give effect to Method 7.1.7 of the NRPS. However, we have sought to ensure the maps are as accurate as possible, as well as providing a permitted activity pathway.
73. Submission points on specific provisions are discussed in subsequent sections of this report and amendments have been recommended in some instances to improve the efficiency and effectiveness of the provisions.
74. We reiterate again that managing significant risks from Natural Hazards is a matter of national importance (section 6(h) of the RMA), and a requirement of the NRPS. Accordingly, we agree that PC1 is an appropriate response to this, but there is need to ensure that its provisions are the most efficient and effective.
75. Our recommendation on these submissions is to amend (and in some cases substantially) the PC1 provisions. On this basis, rather than rejecting these submissions, we have accepted them in part to the extent that the proposed amendments to PC1 address some of the concerns raised.

## Recommendation

76. We recommend that the Council **accept in part** the submission points below to the extent that our recommendations in totality have addressed, at least some of, the concerns raised by the submitters

<b>Submitter</b>	<b>Submission # and Point #</b>
K Buckley	31.1
D Molloy	56.1
J Croad	68.1
N Dobbs	75.1
North Chamber	129.1

## *No relief sought or unclear relief sought*

### Submission Information

77. Several submission points were received that did not seek any specific relief or amendments to the PC1 provisions, or it was unclear what amendments the submitters were requesting.

### Discussion

78. We have reviewed these submissions and where specific relief, or amendments have been requested (albeit unclear) those aspects have been addressed in subsequent sections of this report. We have recommended no changes in response to the submission points where no relief was sought or where we were unable to discern what specific relief or amendments were being requested.

### Recommendation

79. We recommend that the Council **reject** the submission points below noting that amendments have been recommended in response to other submission points.

<b>Submitter</b>	<b>Submission # and Point #</b>
J Tana	18.1
D and N Oberholster	19.1
N Coenradi	43.1 and 43.2
P van den Berg	52.1
P Ferguson	53.3
B Wild	58.1, 58.2
C Bergstrom	62.1, 62.2, and 62.13
C Small	98.1
G Bracey	103.1
R Thurlow	108.5
T Connor	111.3
P and F Andrew	132.1
T Climie	164.2
Marsden Cove Limited ( <b>Marsden Cove</b> )	170.2
G Higgins	181.1, 181.2, 181.3, and 181.4
Hawthorne Geddes	188.7, 188.8, 188.25, and 188.27

## *Communication and consultation process*

### Submission Information

80. Thirteen submission points were made on the topic of communication and consultation process. These submissions related to: requests for more information to be provided related to individual properties and the proposed mapping criteria; the PC1 webpage being more user friendly; a robust consultation process; access to a suitably qualified geotechnical professional available to landowners; and utilisation of more non-statutory methods such as collaborative and educational approaches to waterway maintenance.

## Discussion

81. The complete details of public engagement undertaken prior to formal notification of PC1 was provided in the section 32 evaluation report. We do not set this out in any detail, and submitters are directed to the section 32 evaluation report. We provide a very brief overview below.
82. As part of the public notification of PC1, letters were sent to all landowners in the district; a formal notice was published in the newspaper; and two updates were given on the WDC Facebook page. Full details of PC1 have been available on the WDC website and upon request at WDC’s Library and Service Centres since PC1 was notified. We were also advised that during the submission and further submission periods, District Plan staff were available to answer calls, emails, and in-person queries.
83. It is our view that appropriate consultation and information was provided in relation to PC1, including the information that was available online as a part of the notification of the PC1.
84. The request for collaborative and education approaches to waterway maintenance is supported by the proposed objective “NH-O5A and NH-O5B – Defences”. The proposed provisions do not require river maintenance, but also do not necessarily limit these types of activities occurring. Regarding land use and subdivision activity near waterbodies, the WDP manages activity on the surface of the water and not under water (which is a regional function undertaken by NRC).
85. WDC engaged T+T to provide advice on site specific mapping requests that were made through submissions. We have addressed this earlier, and discuss it later in this report. We directed the Council to undertake further mapping accuracy checks following the hearing<sup>18</sup>. This further work, set out in the Council’s RoR, has resulted in further recommended changes to the hazards maps from that publicly notified. We address these later in this report.

## Recommendation

86. We recommend that the Council **reject** the submission points below, acknowledging that some changes have been recommended due to other submission points by these and other submitters.

<b>Submitter</b>	<b>Submission # and Point #</b>
M Haag	3.1
M Knox	6.1
D Westwood	15.1

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<sup>18</sup> Direction 2 – 5 March 2024.

S Moorhead	44.1
J Schwartfeger	51.2
U Buckingham	67.3
B Plumpton	92.2
J Jongkees	104.3
T & J Lewis	107.2
PF Olsen Ltd	109.1
T Connor	111.4
D and J Garrick	126.1
S Boyd and F Lockwood	183.4

## ***Permitted Activity Rule Framework***

### **Submission Information**

87. A number of submitters<sup>19</sup> raised concerns that the proposed rule framework was too onerous; and that the requirement for a resource consent was unnecessary, expensive and time consuming. They considered that the management of natural hazards could be achieved through a more permissive permitted activity rule framework. Across the various submission points concerns have been raised specifically in relation to the following rules:
- NH-R5, NH-R7, NH-R8, NH-R10, NH-R11, NH-R13 – NH-R17.
  - EARTH-R3.
  - CH-R5 – CH-R13.
88. These submitters generally sought similar amendments to the various rules whereby an activity (e.g. new building, earthworks, or alteration to an existing building) would be permitted within a natural hazard area if a report was prepared by a suitably qualified person in accordance with the information requirement rules and the activity was undertaken in accordance with the recommendations of the report.
89. Key concerns raised by the submitters in support of the requested permitted activity rule framework included:
- Requiring resource consent will likely amount to significant costs and potential delays.
  - The resource consent process is not proportionate to lower risk activities.
  - Requiring resource consents is unnecessary as risks can be assessed and managed by a suitably qualified person, and the Building Act 2004 and

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<sup>19</sup> Northpower, NorthChamber, Waka Kotahi, F Morgan, Centuria Funds, M Balea, Commercial Centres, Hika Ltd, L Gelder and D Wallace, Classic Builders, Blampied, DC Group, Jackson Hikurangi Ltd, Otaika Valley, Quality Developments, Regeneration, Moureeses, University of Auckland, Te Whatu Ora, Hurupaki Holdings, Onoke Heights, Totara Estate, TMB, Kāinga Ora, and Foodstuffs.



subdivision process (under section 106 of the RMA) can adequately manage natural hazard risk.

### Discussion

90. This issue, in conjunction with the accuracy/reliability of the mapping, was one of the most significant issues raised in submissions and in the evidence before the Hearing Panel.
91. The permitted activity rule framework requested by these submitters was similar to operative WDP rules NH-R4 (Flooding) and NH-R5 (Mining Subsidence) in the Natural Hazards (NH) Chapter in the WDP. Those operative rules enable land use and development as permitted activities provided that a report or certificate from a suitable qualified and experienced professional is provided to the WDC.
92. We also note that the use of the permitted activity framework is implemented in other operative rules in the WDP<sup>20</sup>, as well as in the proposed PC1 provisions<sup>21</sup>.
93. The section 42A report authors initially expressed some concerns about the *vires* and efficiency of a permitted activity framework. However, they also 'left the door open' to consider whether a permitted activity framework could be applied as requested by the range of submitters.
94. In addition to those concerns, Officers also noted that there would be increased costs to Council to<sup>22</sup>:
  - *Establish an internal process to receive and record reports that were provided under a permitted activity rule framework as there would be no related resource consent fee or process, and*
  - *Monitor and enforce the permitted activity rules to ensure that hazard risk was being adequately managed.*

*Ultimately, we do not see these additional costs as a barrier to utilising the permitted activity rule framework, but it is a factor to consider in terms of the overall efficiency of such an approach.*

95. In relation to the lack of a permitted activity rule framework, a JWS from four planners<sup>23</sup> was tabled at the beginning of the hearing setting out a draft permitted activity rule framework.

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<sup>20</sup> Rule PKA-R2 in the Papakāinga Chapter and rule PNDA-R104 in the Port Nikau Development Area Chapter as examples.

<sup>21</sup> This is proposed for the permitted activity standards in EARTH-R4 and the restricted discretionary activity standards in SUB-R2F, SUB-R2A, and NH-R7.

<sup>22</sup> Paragraphs 76 and 77 of the section 42A report.

<sup>23</sup> Mr Hood, Ms Miller, Ms McGrath and Mr Badham - dated 16 February 2024.

96. We agreed to allow the planning experts to introduce and present the JWS. However, as the JWS was expert evidence and had not been pre-circulated as required by the Hearing Panel's Direction 1<sup>24</sup>, we signalled that we would set up a process whereby all expert planners (where their client's submission addressed this matter) could address the JWS and this issue.
97. Following the hearings held the we directed<sup>25</sup> that expert conferencing occur between the expert planners (the Council planners and those planners who provided expert evidence on this topic).
98. The purpose of the expert conferencing was to determine if the experts could develop (and if possible, agree) a permitted activity rule framework that was both lawful (*intra vires*) and allowed for the appropriate management of adverse effects from natural hazard events without the need for a resource consent.
99. Following the planners' expert conferencing session a JWS was produced<sup>26</sup>. It set out that while the Council's and Submitters' planners agreed there could be a permitted activity framework (and each produced their version), they disagreed on each other's framework. The key difference between the two was, in summary, that the Submitters' version assesses the proposed activity's suitability and risk, while the Council's version assesses the accuracy of the mapping.
100. We reviewed the Council's ROR documents, and as part of our initial deliberations we considered whether or not to include a permitted activity framework in the plan change. In doing so, we considered both frameworks (as well as the issue of permitted activity status if a subdivision consent has been granted after a specified date<sup>27</sup>).
101. We found that as the two permitted activity frameworks were different, both could potentially be included in the plan change (subject to the issue of their *vires*)<sup>28</sup>. On this basis the Hearing Panel sought the assistance of the planners to incorporate both permitted activity frameworks into the plan change so we could determine if it was appropriate to have both in terms of section 32 and 32AA of the RMA. We requested that further expert conferencing occur between those expert planners who produced the JWS of 30 May 2024<sup>29</sup>.

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<sup>24</sup> "Hearing Dates and Evidence Exchange Timetable" - dated 24 October 2023.

<sup>25</sup> Direction 2 – 5 March 2024.

<sup>26</sup> Dated 30 May 2024.

<sup>27</sup> Noting that the Hearing Panel is persuaded by the dates recommended by the Council's experts.

<sup>28</sup> We note that the Council considers that the permitted activity framework proposed by the Submitters' planners is *ultra vires*; and we are yet to determine this.

<sup>29</sup> Direction dated 2 August 2024.

102. We also sought assistance on the issue of ‘certification’. Neither of the proposed permitted activity frameworks had a certification rule while requiring certification – i.e. that the Council is, for example, to certify that the report provided satisfies the requirements of the permitted activity rules. We requested the planners draft an appropriate certification rule, which should also include an appropriate time interval/period by which certification is to be given, and what occurs if certification is not given due to the plan requirements not deemed to have been met. We also requested the planners to advise us whether or not they considered it appropriate to include such a certification rule.

103. We received the JWS on the 27 August 2024. It recorded<sup>30</sup>:

*“The Planners agree that both proposed permitted activity frameworks could be incorporated into PC1 as they provide different pathways for activities to be permitted rather than requiring resource consent.*

*Mr Burgoyne and Ms Strohush preface this agreement, and maintain their primary position as outlined in the JWS dated 30 May 2024 that the submitters’ version of the provisions do not appropriately manage natural hazard risks and include a level of subjectivity which is not consistent with a permitted activity rule framework.*

104. Notwithstanding the JWSs, the Council’s position (including Ms Shaw’s legal submissions) as set out in its RoR was that the Submitters’ permitted activity framework version was not appropriate; but did not go as far as saying it was *ultra vires*, but implied this. They considered that the Council version was *intra vires*.

105. The JWS (dated 30 May 2024) stated<sup>31</sup>:

*With specific regard to Mr Burgoyne, Ms Dey, and Ms Strohush’s concern regarding the “vires” of the terms “highly unlikely” and “geotechnically suitable” we note:*

- i. “Highly unlikely” is used in Regulation 8(4) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (“NES-CS”). We note that this includes a requirement for a “preliminary site investigation” which must be prepared in accordance with Contaminated Land Management Guidelines No. 1–Reporting on Contaminated Sites in New Zealand. Our approach is similar in that the information requirements (NH-REQ-1 – 3) provide clear and measurable direction on what an assessment needs to address and conclude; and*

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<sup>30</sup> Paragraphs 3.1 and 3.2 of the JWS.

<sup>31</sup> Paragraph 4.7 - d

- ii. As acknowledged by Mr Burgoyne, Ms Dey, and Ms Strohush in paragraph 4.2(d) above, “geotechnically suitable” is the wording that has been proposed by Council in Earth-R4. On the one hand Mr Burgoyne, Ms Dey, and Ms Strohush have accepted that this is within the PC1 provisions and beyond challenge, and on the other it affords too much discretion for other activities. We do not support that logic.

106. Ms Shaw, in her legal submissions set out that<sup>32</sup>:

*The submitters’ version requires the report writer to confirm, depending on which mapped hazard is engaged, that (emphasis added):*

- a *the land is geotechnically suitable for the proposed activity; and*
- b *the proposed activity is highly unlikely to result in increased flooding risk or material damage on the subject site or immediately adjoining sites/ exacerbate instability risks on immediately adjoining sites. [Underlining is our emphasis]*

*In my submission the phrases “geotechnically suitable” and “highly unlikely” are both subjective and, in the absence of any accompanying standards or guidance, are highly reliant on assessments made by individual engineers.*

107. On this basis it was Ms Shaw’s submission that compliance with the rule relies on the engineer’s opinion, requiring a broad evaluative assessment regarding “highly likely”. She did not support the rule legally, but supported the Council’s version.

108. We do not share the same concerns as the Council or Ms Shaw in relation to the Submitters’ version. We find that the terms “geotechnically suitable” and “highly unlikely” are likely to be well understood by the professions concerned, able to be ‘applied’ in terms of the submitters rule framework, and are already in use in other statutory documents<sup>33</sup>. There are also similar terms which require such assessment as set out below.

**National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health**

*Subdividing or changing use*

*(4) Subdividing land or changing the use of the piece of land is a permitted activity while the following requirements are met:*

- (a) *a preliminary site investigation of the land or piece of land must exist:*
- (b) *the report on the preliminary site investigation must state that it is highly unlikely that there will be a risk to human health if the activity is done to the piece of land:*

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<sup>32</sup> Paragraphs 43 and 46 of Ms Shaw’s legal submissions.

<sup>33</sup> Noting some of these were identified by the Council and the Submitters.

5 Application

Activities

6 - An activity is changing the use of the piece of land, which means changing it to a use that, because the land is as described in subclause (7), is **reasonably likely** to harm human health.

Land covered

(7) The piece of land is a piece of land that is described by 1 of the following:

(c) it is **more likely than not** that an activity or industry described in the HAIL is being or has been undertaken on it.

**National Environmental Standards for Commercial Forestry**

**86 Permitted activity conditions: inspection and clearance**

(1) The slash trap must be—

(b) inspected within 5 working days of the date of any significant rainfall event in the upstream catchment that **is likely** to mobilise debris:

**Natural Hazards Plan Change PC1**

SUB-2B Subdivision of land within or containing Mining Subsidence Hazard Areas 2 or 3 All Zones – Mining Subsidence Hazard Areas 2 and 3 Activity Status: Controlled

Where:

1. The site is **geotechnically suitable** for the proposed subdivision and potential future uses

**EARTH-R4 Earthworks in Mining Subsidence Hazard Areas 2 and 3**

Activity Status: Permitted Where:

1 A report or certificate, which has been prepared by a suitably qualified and experienced person in accordance with the information requirements in NHREQ3, is provided to the Council which: a. Confirms and demonstrates the site is **geotechnically suitable** for the proposed earthworks;

109. The term “*geotechnically suitable*” is already in PC1 – and is beyond challenge as there were no submissions seeking to change or delete it. Accordingly, it will remain irrespective of the Council’s decision on the permitted activity framework. Moreover, that term satisfied the requirements of section 32 of the RMA when PC1 was notified.

110. We also note there was a difference of opinion between the Submitter planners and the Council planners in terms of three key matters being:

- a) The reference to “*entirely within a building area*” in Permitted Activity rules NR-R8, NH-R9A, NH-R11, NH-R13, NH-R13A and NH-R15 was favoured by the Council’s planners, while the Submitters planners’ preference was for “*identified area*”;
- b) The dates referenced in Permitted Activity rules NH-R8, NH-R9A, NH-R11, NH-R13, NH-R13A are those favoured by Council’s planners but not those favoured by

Submitters’ planners who confirm their preference for the dates recommended in their provisions detailed in Attachment 1 of the original JWS; and

- c) The s127 compliance standards of rules NH-R8, NH-R9A, NH-R11, NH-R13, NH-R13A compliance standard 1 are not supported by Submitters’ planners.

111. With respect to a) – c) we prefer the Council planners. The reasons for this are those set out in the JWS, and we do not repeat them here, other than to say that we find those proposed by the Council planners more appropriate in terms of section 32 and 32AA of the RMA.

112. With respect to “certification” the planners all agreed that<sup>34</sup>:

“...it is inappropriate and unnecessary to provide a ‘certification rule’ within the permitted activity rule framework provisions.”

113. The Council planners’ reasons were set out in paragraph 3.8 (a) - e) while the Submitters planners’ reasons were set out in paragraph 3.9. We accept the overall opinion of the planners; that no certification rule is required, but note the position of the Submitters planners’ *“the information requirements provide the mechanism within which certification is provided and received by Council, noting that these provisions include a specified timeframe”*<sup>35</sup>.

114. Commissioner D Hill disagreed that certification is required in the rule(s) on his understanding of the WDC interpretation of what that step requires – which was little more than lodgement of a report on time and with the item headings required by the rule. It was evident from discussion that no material consideration of the content would be conducted – which seems to negate justification for requiring such a step and the additional time delay thereby occasioned. His preference was for a rule that simply required lodgement of the required expert report.

115. We recommend, based on the JWSs, that both permitted activity ‘pathways’ be included in the amended PC1 provisions.

**Recommendation**

116. We recommend that the Council **accept or accept in part** the submission points below to the extent that we have recommended the introduction of a permitted activity rule framework into PC1.

<b>Submitter</b>	<b>Submission # and Point #</b>
M Balea	26.1

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<sup>34</sup> Paragraph 3.7 of the JWS dated 27 August 2024.

<sup>35</sup> Paragraph 3.9 of the JWS dated 27 August 2024.

F Morgan	127.33, 40, and 41
NorthChamber	129.2
L Gelder and D Wallace	140.5 and 140.6
Commercial Centres NZ (2012) LTD ( <b>Commercial Centres</b> )	143.5, 143.6, and 143.7
Classic Builders Whangarei LTD ( <b>Classic Builders</b> )	144.5, 144.6, and 144.7
N and S Blampied ( <b>Blampied</b> )	145.4
DC Group	146.5, 146.6, and 146.7
Hika Limited ( <b>Hika Ltd</b> )	147.5 and 147.6
Quality Developments	149.5 and 149.7
Regeneration	151.6
Moureeses	152.6
Jackson Hikurangi Ltd	153.4
University of Auckland	156.14 and 156.15
Otaika Valley Free Range Eggs Ltd ( <b>Otaika Valley</b> )	157.6, 157.7, and 157.8
Te Whatu Ora	159.26, 159.27, and 159.31
Foodstuffs	163.9, 163.10, 163.11, and 163.12
Hurupaki Holdings	166.16, 166.17, and 166.22
Onoke Heights Limited ( <b>Onoke Heights</b> )	167.16, 167.17, and 167.22
Totara Estate	168.16 and 168.21
TMB Limited ( <b>TMB</b> )	169.12 and 169.15
Kāinga Ora	171.31, 171.32, and 171.37
Centuria Funds Management (NZ) Limited ( <b>Centuria Funds</b> )	175.10
Waka Kotahi	180.20 and 180.37
Northpower	186.21

### *Property value and insurance costs*

#### Submission Information

117. Six submission points were received expressing concerns that the natural hazards information held by WDC would influence insurance and property values. Submitters made requests for the operative flood mapping to remain as it is, for the natural hazard mapping to be a confidential map to inform consent applications only, for the adoption of compensation or a process for landowners to object to the mapping, and for the changes to not affect homeowner income.

#### Discussion

118. As we have already addressed the Council has an obligation under the RMA, NZCPS, and NRPS to identify and manage development within hazard areas. It is a matter of national importance to manage significant risks from natural hazards.
119. We accept that the operative flood mapping cannot remain (as requested by some submitters) as the Council is required by the RPS to incorporate the NRC hazards maps into the District Plan (as already addressed), and there are no land instability maps in the current operative District Plan. It is also not possible, as requested by some submitters, for the

natural hazard mapping to be a confidential map to inform consent applications only, or for the adoption of compensation or a process for landowners to object to the mapping. District Plan provisions, including mapping, and a range of other information held by the Council, must be public (for natural justice and transparency purposes) unless they fall within a very narrow band of exceptions (which do not apply here).

120. As an example, under S44A(2)(a) of the Local Government Official Information and Meetings Act 1987, where a land information memorandum (**LIM**) has been requested, WDC must include any known hazard information that is available to it. This includes, but is not limited to:

*...potential erosion, avulsion, falling debris, subsidence, slippage, alluvion, or inundation, or likely presence of hazardous contaminants, being a feature or characteristic that being a feature or characteristic that—*

- (i) is known to the territorial authority; but*
- (ii) is not apparent from the district scheme under the Town and Country Planning Act 1977 or a district plan under the Resource Management Act 1991...*

121. In our view, the key issue is that the provisions contained in the District Plan need to be as accurate as possible, and the most efficient and effective so as to minimise as much as possible the burden on land owners. This is what the Hearing Panel has attempted to do in terms of its recommendations.

### Recommendation

122. We recommend that the Council **reject** the submission points below, noting again that we have recommended a range of amendments to the PC1 provisions that may go some way to addressing submitters concerns:

<b>Submitter</b>	<b>Submission # and Point #</b>
J Beaumont & W Mariner	22.1
B Johnston	24.1
J Schwartfeger	51.3
B Singleton	77.1
B Jackman	130.2
A Vanosenbruggen	139.1

### *Whenua Māori*

### Submission Information

123. C Bennett (47.1) sought to exclude Māori Land from PC1. The submitter raised concerns about impacts on whānau land in Ōakura and would like to see no further limitations on



Papakāinga development. The submitter would also like clarification on how PC1 affects the Papakāinga chapter of the WDP.

### Discussion

124. There are no consequential amendments to the Papakāinga chapter proposed through PC1, and rule PKA-R1 states that the District Wide objectives, policies, and rules apply to Papakāinga developments. This means that a Papakāinga development plan would need to consider the PC1 provisions where relevant. We find this appropriate given natural hazard events can adversely affect all people and all property.
125. WDC staff are currently preparing for a suite of plan change reviews which includes reviewing the Tangata Whenua Policies (**TWP**) chapter of the WDP. It is our view that there is potential to better address some of the concerns raised by the submitter in those plan changes.
126. It is noted that the current overarching objective TWP-O2 in the TWP Chapter currently provides for the exercise of rangatiratanga and kaitiakitanga, which helps to alleviate some of the submitter’s concerns about limiting development on whenua Māori.

#### ***TWP-O2 Enable exercise of Rangatiratanga and Kaitiakitanga***

*To enable tangata whenua to exercise rangatiratanga and kaitiakitanga over their ancestral lands, waters, sites, waahi tapu and other taonga in the District.*

127. To align with TWP-O2 and the policies and methods within Section 8 “Policies and methods – Tangata whenua”<sup>36</sup> of the NRPS, and to clarify the application of this in relation to natural hazards, a new policy “NH-P9A – Whenua Māori” is recommended that partially provides for the outcomes sought by the submitter relating to decision making on Māori land.

### Recommendation

128. We recommend that the Council **accept in part** the submission point.

<b>Submitter</b>	<b>Submission # and Point #</b>
C Bennett	47.1

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<sup>36</sup> 8.1.2, 8.1.3, 8.1.7(a), 8.3.1, 8.3.2, 8.3.4 of the NRPS

## *Property rights*

### Submission Information

129. Eight submission points were received relating to property rights; requesting the removal of mapping from their properties on the basis that having the mapping would be an imposition on private property rights, making it harder and more expensive to make improvements to their property.
130. J Schwartfeger requests the removal of identifying an existing property from an identity register where an addition or alteration has been done to an existing building prior to the proposed zoning changes taking effect.
131. D Leggatt and W Popata requests the removal of the requirement for NRC resource consent for building or renovating.
132. S Stanbridge requests the removal of the requirement for resource consent for building or renovating on 30 Pacific Bay Road.
133. A Hopkins requests that developments in natural hazard areas are allowed within normal building code and existing resource consent requirements. The submitter considers that if people choose to develop their land outside of the constraints that they should be free to do so without resource consent approval, with the non-compliance recorded on the LIM.
134. D Broughton requests to use their land as they wish but note the hazards on LIM reports.
135. D McInnes requests clarification as to what it means when new development triggers the requirement for resource consent.

### Discussion

136. As stated in the section 32 evaluation report<sup>37</sup>, WDC has a function under s31(1)(b) of the RMA to control any actual or potential effects of the use, development, or protection of land for the purpose of the avoidance or mitigation of natural hazards. Within the NRPS<sup>38</sup> is direction for WDC regarding development in natural hazard-prone areas and general risk reduction. If WDC were to exclude any general land, as requested by D Leggatt, W Popata<sup>39</sup>, and S Stanbridge, from PC1 it would not be meeting these statutory obligations. This is also the case for the requests made by A Hopkins and D Broughton to allow

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<sup>37</sup> Page 8 of the section 32 evaluation report

<sup>38</sup> Section 7 "Policies and methods – Natural hazards" of the NRPS.

<sup>39</sup> Based on the assumption that D Leggatt and W Popata are referring to WDC when requesting removal of the requirement for NRC consent.

landowners to use their land without requiring resource consent with non-compliance recorded on the property file within WDC records.

137. WDC staff followed up with J Schwartfeger to clarify what he was requesting. The submitter confirmed that he would like properties to either be identified as at risk, or not. We note that T+T specifically looked at Mr Schwartfeger’s site (40 Whareora Road) and recommended that the instability mapping be amended on this property (note this issue and the balance of Mr Schwartfeger’s submissions 51.4 is addressed more fully later in this report).
138. In response to D McInnes, should property owners wish to develop or use their land in a way that is identified in the District Plan as a controlled, restricted discretionary, discretionary, or non-complying activity then resource consent is required to help manage the effects of that activity. A resource consent is not required for any permitted activity and cannot be granted for any prohibited activities.
139. We record again, that we understand the concerns raised by the submitters; and to the extent we have been able, we have recommended changes that will likely address, at least, some of the submitters’ concerns. These include addressing some of the mapping inaccuracies and provided a permitted activity pathway.

### Recommendation

140. We recommend that the Council **reject** the submission points below:

<b>Submitter</b>	<b>Submission # and Point #</b>
J Schwartfeger	51.4
D Leggatt	71.1
S Stanbridge	72.1
W Popata	85.1
A Hopkins	94.1
D Broughton	97.1
D McInnes	114.1

### *Managed retreat*

#### Submission Information

141. Three submission points were received from Z Heswall (70.1, 70.2, 70.3) on the topic of managed retreat. The submitter requests that managed retreat be addressed through PC1, which includes:
- how managed retreat will be facilitated for in specific coastal areas,
  - a timespan for when homes will need to move that considers climate change and pacific oscillation, and

- clarification on if the approach is going to be reaction based (i.e., move people after a natural hazard event occurs).

142. The submitter also requested more detail about what areas will likely need to move, how will it be funded in the event of a natural hazard event displacing multiple people, where these people can move, and what will happen to the old sites once managed retreat has occurred.

### Discussion

143. We acknowledge that ‘managed retreat’ is one of the potential responses to climate change as suggested by the submitter.
144. However, as discussed in the section 32 evaluation report, managed retreat from areas impacted by climate change is a matter that is outside the scope of PC1. We have addressed the legal ‘tests’ related to scope earlier in this report (Out of Scope Submissions), and do not repeat them here, other than to say we agree with the section 42 report that the request is out of scope.
145. We agree with the section 42 report authors that this work is best addressed through the climate change adaptation work that is being carried out by WDC’s Strategy department.<sup>40</sup>

### Recommendation

146. We recommend that the Council **reject** the submission points below:

Submitter	Submission # and Point #
Z Heswall	70.1, 70.2, and 70.3

### *Other hazard types*

### Submission Information

147. Four<sup>41</sup> submissions were received relating to tsunami risk and fire hazard. The relief sought in these submissions related to acknowledgement of fire and drought in the district through inclusion of these matters within the PC1 provisions, including tsunami inundation hazard areas and associated policies, a clearly defined expectation of risk and assessment for tsunami hazards or removal of it from the assessment list, and subdivision requirements that facilitate safe and efficient evacuation.

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<sup>40</sup> Stated on page 51 of the section 32 evaluation report. Information on the Natural Disaster Relief Fund may provide some insight and can be found online at: <https://www.eqc.govt.nz/what-we-do/natural-disaster-fund/>. Information on the region-wide climate adaptation plan can be found online here: <https://catt.org.nz>.

<sup>41</sup> FENZ (154.1, 154.2, 154.3, 154.4, 154.5, 154.6, 154.7) Department of Conservation (DOC, 177.3), Hawthorne Geddes (188.15), Toka Tū Ake EQC (190.11).

148. There was also general support for the proposed objectives and policies as they include other natural hazard types through the definition of natural hazards.

### Discussion

149. The request from the Department of Conservation (DOC, 154.1) for an amendment to the Issues section of the NH chapter to include acknowledgement of fire and drought in the district is supported. This provides WDP users with certainty that other natural hazard types were considered in the plan review, while not specifically managed in the NH Chapter provisions.
150. The support for objectives NH-O1 – NH-O6 and SUB-O6, and policies NH-P1 – NH-P8 and SUB-P6 from Fire and Emergency New Zealand (FENZ) (154.2, 154.3, 154.6, 154.7) is acknowledged.
151. To fully give effect to the requested inclusion of the policy for fire threat and rule information requirement for hazards that are not mapped as requested by FENZ (154.4, 154.5), and for the inclusion of Tsunami Inundation Areas and associated provisions, as requested by DOC (177.3), would require a variation to PC1 and further section 32AA analysis.
152. FENZ (in the evidence and response to our questions from Mr Robert's, FENZ's planner) accepted that to include all of the provisions sought (but not specifically requested in their submission) would require a variation to PC1.
153. However, we have recommended the inclusion of a policy (NH-P6A – Wildfire Threat) relating to wildfire, as requested by FENZ. The reasons for this are those provided by FENZ at the hearing, and as set out in the Officers' RoR.
154. In preparing PC1, WDC considered other hazard types to potentially include within the proposed Natural Hazards chapter. It was concluded that<sup>42</sup>:

*Some hazards, such as acid sulphate soils, liquefaction and wildfire are excluded from the plan change as they managed through alternative mechanisms outside the district plan, including through the building consent process.*

155. We note that it is our understanding that DOC is referring to the NRC Tsunami Evacuation Zone map that has identified coastal areas that are at risk of tsunami inundation that have not been captured within the Coastal Hazard (**CH**) mapping of PC1. The coastal hazard mapping that was included in PC1 was provided by NRC, and the mapping worksheets and

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<sup>42</sup> Paragraph 129 of the section 42A report.

methodology can provide more insight as to how these maps were created. Page 11 of the Coastal Environment Mapping Methodology report used by NRC states:

*...the tsunami risk areas are not considered appropriate to use to define the landward boundary of the coastal environment as these are rare and potentially extreme events with effects that reach far inland. To use them would quite literally push the boundary of what may be considered coastal under normal circumstances.*

156. It is noted that the PC1 section 32 evaluation report references the 2016-2021 version of the Northland Civil Defence Emergency Management Plan (NCDEM Plan). In this version, the likelihood of a local tsunami event occurring within the next 10 years was rare with the effects of a tsunami being major.<sup>43</sup> This categorised local tsunami hazards with an “M (moderate)” rating on Northland’s Hazard Risk Analysis. In the updated 2021-2026 version of the Northland CDEM Plan<sup>44</sup>, local tsunami hazards are now categorised with an “H (high)” rating on the Hazard Risk Analysis, where the likelihood of a tsunami occurring within the next 10 years is rare, however the consequences would be catastrophic.
157. Because the likelihood of a tsunami occurring is rare, it is difficult to ascertain if development in coastal areas will be significantly impacted by a tsunami – and what scale of event should be considered in the absence of an agreed standard. While we recognise that the consequences associated with tsunami events may be catastrophic, justification for more restrictive provisions to manage tsunami risk is difficult to determine at this time – and has not been addressed by PC1.
158. Proposed policy NH-P6 provides for mitigation measures that can be considered during resource consent application assessment. CH-REQ1 requires an assessment of the risks and effects of tsunami hazards, to be prepared by a suitably qualified and experienced person.
159. The request from EQC (190.11) for subdivisions exposed to coastal hazards to be designed to facilitate safe and efficient evacuation is covered in the reserved matters of control of SUB-R2D. To support this, page 36 of the section 32 evaluation report states:

*It is acknowledged other natural hazards may be present, and would fall under the general objectives and policies of PC1, although not managed by specific rules. It has been identified that specific methods to manage some hazards, such as tsunami and earthquake are more appropriately delivered through civil defence procedures, although tsunami evacuation routes are considered in PC1 at a policy level.*

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<sup>43</sup> Based on the criteria set out on page 16 of the Northland CDEM Plan 2016-2021

<sup>44</sup> Northland CDEM Plan 2021-2026

160. The further requests within this submission points to requiring public education as an issue. This matter is better addressed through the NCDEM Plan rather than the District Plan which is regulating land use vis-à-vis natural hazards.
161. Technical Standard [TS03/14] Tsunami Warning Sirens provides technical guidance for installing tsunami sirens, outside of the mechanisms (e.g., National Environmental Standards) provided for under the RMA. This document refers to further guidance that also sits outside of the RMA. This guidance may be used by processing planners to help inform their decision making on resource consent applications that require an assessment of natural hazard effects. This also addresses the issue raised by Hawthorne Geddes (188.15) regarding the inclusion of tsunamis within the information requirement CH-REQ1.

**Recommendation**

162. We recommend that the Council **accept in part** or **reject** the submission points as set out below and include amendments to the Issues section, and include a policy addressing wildfire.

<b>Submitter</b>	<b>Submission # and Point#</b>	<b>Accept/Reject</b>
FENZ	154.1, 154.2, 154.3, 154.6, and 154.7	Accept/ Accept in Part
FENZ	154.4 and 154.5	Reject
DOC	177.3	Reject
Hawthorne Geddes	188.15	Reject
EQC	190.11	Accept in part

***Notification rules***

**Submission Information**

163. Three submission points<sup>45</sup> were made, either directly or indirectly, requesting notification rules to require notification where consent is required.

**Discussion**

164. Sections 95A – G of the RMA address the issue of public and limited notification. Those section address how notification (or non-notification) is to be determined.
165. Assessing and managing land instability is a technical matter and the proposed rules seek to manage risks and require site suitability reports where appropriate. However, this is not to say that neighbouring properties or wider community should not be notified of resource

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<sup>45</sup> R Miller (134.2), J Boyes (162.1, 162.2, 162.3), and T Climie (164.4).

consent properties where required under the RMA. Similarly, it may be that due to the nature of a proposal no notification is required.

166. Requiring notification without any clear benefit could have significant impacts on the efficiency of the proposed rules as well as cost and time implications. We find that there are no particular circumstances in PC1 where the District Plan should specify a requirement for public or limited notification. Accordingly, we do not recommend any changes in response to these submission points.

### Recommendation

167. We recommend that the Council **reject** the submission points below:

<b>Submitter</b>	<b>Submission # and Point #</b>
R Miller	134.2
J Boyes	162.1, 162.2, and 162.3
T Climie	164.4

## 8.2 Hazard Mapping

168. This section addresses submissions received on the proposed hazard mapping. Topic headings for the submissions assessed under this section are as follows:

- General support
- General opposition
- Amendments to mapping display
- Flood hazard mapping
- Coastal hazard mapping
- Instability hazard mapping

### *General support*

#### Submission Information

169. Two submitters<sup>46</sup> support the proposed hazard mapping generally.
170. NRC (133.3) requests that the proposed coastal and flood hazard maps be retained, and that amendments are only considered where robust evidence is provided by qualified professionals.

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<sup>46</sup> R Baxter (5.1) and H Leith (12.1).



171. Centuria Funds (175.1) requests that the extent of the flood hazard area as it relates to 124 Tauroa Street be retained.
172. Foodstuffs (163.15) seeks to retain the mapping showing no natural hazards applying to the New World Onerahi Site.
173. DOC (177.1 and 177.2) supports the proposed coastal flooding and coastal erosion mapping.

### Discussion

174. We acknowledge the support for the proposed hazard mapping. However, we note that changes have been recommended by us in response to other submissions, but no changes have been recommended to the flood mapping of 124 Tauroa Street or the New World Onerahi Site.
175. We recommend that the Council **accept** or **accept in part** the submission points detailed below, and retain the proposed hazard mapping noting that amendments are recommended in responses to other submissions.

Submitter	Submission # and Point #	Accept/Reject
R Baxter	5.1	Accept in part
H Leith	12.1	Accept in part
NRC	133.3	Accept in part
Foodstuffs	163.15	Accept
Centuria Funds	175.1	Accept
DOC	177.1 and 177.2	Accept in part

### *General opposition*

#### Submission Information

176. Fourteen submissions<sup>47</sup> were received in general opposition to the proposed flood hazard maps with the key matters raised including:
- The flood modelling does not account for factors such as silt accumulation, site specific considerations, obstructions on flood mitigation measures, and stormwater and drainage infrastructure.
  - The flood modelling is based on out-of-date Light Detection and Ranging (**LiDAR**).
  - Further reviews of the flood modelling are required.

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<sup>47</sup> J Cullen (2.1), M Haag (38.1), C Jenkins (50.1), D Leggatt (71.2), D Robertson and T Baxter (91.1), J Jongkees (104.5), T & J Lewis (107.3), T Connor (111.1), L Simpson (123.1 and 123.2), A Templeman (160.1), D Carey (176.1), Woolworths (185.1), Hawthorne Geddes (188.1), and M Craven (165.2).

- The flood modelling should be based on actual weather events.
- All pluvial flood areas should be removed from the flood mapping.
- The mapping is too inaccurate to use for the purposes of district plan provisions.

177. Six submissions<sup>48</sup> were received in general opposition to the proposed coastal hazard maps with the key matters raised including:

- The coastal hazard maps should not be based on Intergovernmental Panel on Climate Change (**IPCC**) RCP 8.5 climate change scenario.
- The long-term projections should be excluded from the mapping.
- The terminology used in the coastal hazard mapping is inconsistent with the source study and dataset.
- Post subdivision completion documentation should supersede the map hazard risk and be considered for subsequent individual lot resource or building consents.

178. Eight submissions<sup>49</sup> were received in general opposition to the proposed land instability hazard maps with the key matters raised including:

- The land instability mapping is inaccurate and inconsistent and requires further review and ground truthing.
- The land instability modelling does not account for factors such as more detailed property specific assessments, or ground water and surface flows.
- The land instability mapping should be consistent with NRC's erosion-prone land mapping.
- The land instability mapping is based on outdated information.

179. T Climie (164.1, and 164.5 – 7) considered that the land instability mapping in the Parua Bay area should be reviewed and requested that:

- The longer and steeper slopes near Whangarei Heads Road, with swampy vegetation in places, should be classified as High Landslide Susceptibility.
- Detailed geotechnical evaluations should be required prior to development within the area of Parua Bay outlined in his submission and specifically at 24A Kiteone Road.

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<sup>48</sup> G Powell (16.1), P Alexander (76.2), B Gribben (174.1), Hawthorne Geddes (188.22 and 188.23), M Craven (165.2), and Marsden Cove (170.3).

<sup>49</sup> D Morse (1.1), J Perlich (11.1), J Schwartfeger (51.1), M Aylward (65.1), PF Olsen (109.5), M and P Hodgson (124.1), Te Whatu Ora (159.1), and Kāinga Ora (171.38).

180. Kāinga Ora (171.38) requested that the proposed land instability mapping be reviewed and amended to remove inappropriate areas of partial instability within sites, particularly as it relates to Kāinga Ora's lettable properties and units within Whangārei.

### Discussion

181. As we have set out earlier, the accuracy of the natural hazards maps, which have been completed at a regional (coastal flooding and erosion and river flooding) and district (land instability) scale, do not and cannot address every site-specific circumstance. However, PC1 as notified has these maps included in the District Plan<sup>50</sup>, and sets up a resource consenting framework (with few permitted activities).

182. While this matter was one of the most contentious of PC1, and was the concern of many submitters, we have recommended retaining the mapping, but with some site-specific changes. We set these out below. Also, we have included a permitted activity rule/framework so not all sites covered by the NRPS hazards maps require a resource consent if the permitted activity rule standards can be met. We have already addressed this matter earlier.

183. In response to the submissions generally opposing the flood hazard mapping we quote from the section 42A report, with which we agree<sup>51</sup>:

- *The flood hazard mapping has been developed by NRC. Method 7.1.7 of the NRPS requires Council to incorporate flood hazard maps into the district plan. Not incorporating the maps or making significant changes, such as removing all pluvial areas, would not give effect to the NRPS.*
- *We understand that the flood hazard maps are based on models which predict future risks over time. They do not guarantee that a hazard event will occur in a given area. Instead, they identify areas of potential susceptibility and are a trigger for detailed site-specific assessments.*
- *There are several examples of “information principles” in national legislation<sup>52</sup>. Generally, these information principles direct that decision makers must:*
  - *Use the best information available at the time.*
  - *Not delay making decisions solely because of uncertainty about the quality or quantity of the information available.*
  - *Favour caution if there is uncertainty around the information.*

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<sup>50</sup> The NRC hazards maps must be incorporated into the District Plan.

<sup>51</sup> Paragraph 156 of the section 42A report.

<sup>52</sup> Section 10 of the Natural and Built Environment Act 2023, Section 10 of the Fisheries Act 1996, Section 34 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, and Clause 3.3 of the PNPS-NHD.

- *While the RMA does not include specific sections relating to the “precautionary approach” or “information principles”, the provisions in other national legislation closely pair sustainable management with the precautionary principle/information principles, in a manner that indicates Parliament has had the view that achieving sustainable management relies on proper application of these principles. We are of the view that 100% accuracy is [un]likely unattainable for any desktop-based mapping model at a district wide scale. However, we consider it is the best information available in these circumstances and that the schedule 1 plan change process provides an opportunity for more detailed data and site-specific information to be provided to inform the mapping.*
- *We agree with the further submission of NRC which responded to several of the submission points contesting the flood maps and sought that these submissions be disallowed for the following reasons:*
  - *“Sedimentation is not taken in account in flood modelling due to the high level of uncertainty. It is unlikely that the effect of sedimentation will reduce riverine flood risk. On the contrary, sedimentation reduces channel volume and often plays a role in exacerbating flood risk”.<sup>53</sup>*
  - *“All NRC flood models are peer reviewed by experts in the field. They account for an increase in rainfall intensity due to climate change but cannot account for future land use change”.<sup>54</sup>*
  - *“NRC recognises that there are some limitations to the flood modelling, however, we contend that the purpose of the flood hazard maps is not to define spatially detailed flood extents at the property level, but to indicate a potential risk warranting closer investigation if development is proposed”.<sup>55</sup>*

184. We also note that NRC are updating their mapping, and this was set out in the Council’s memorandums to us post the hearings<sup>56</sup>. However, for them to be included in the District Plan, a subsequent plan change will be required.

185. In response to the submissions generally opposing the coastal hazard mapping, while we acknowledge the submitters concern, and to an extent share them, we do not recommend wholesale changes to them for the following reasons, again quoting from the section 42A report with which we agree<sup>57</sup>:

- *As noted in NRC’s further submission, “NRC’s climate change scenarios are consistent with the latest science that is in alignment with IPCC AR6, as well as the NZ 2021 Interim Guidance on the use of new sea level projections. This guidance now requires councils*

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<sup>53</sup> Page 1 of further submission X202.

<sup>54</sup> Page 2 of further submission X202.

<sup>55</sup> Page 2 of further submission X202.

<sup>56</sup> These are on the Council’s website in relation to PC1.

<sup>57</sup> Paragraph 157 of the section 42A report.

*and agencies to apply the updated scenarios of IPCC issued in 2021 named: SSP (Social-Economic Pathways). Accordingly, the previous RCP 8.5 is replaced by SSP5 8.5-M. The SLR values used by NRC are consistent with those referred to in this guidance i.e., NZSeaRise, although NRC does not include vertical land movement in the SLR projections due to the fact that the assessments were done prior to MfE's Interim Guidance".<sup>58</sup>*

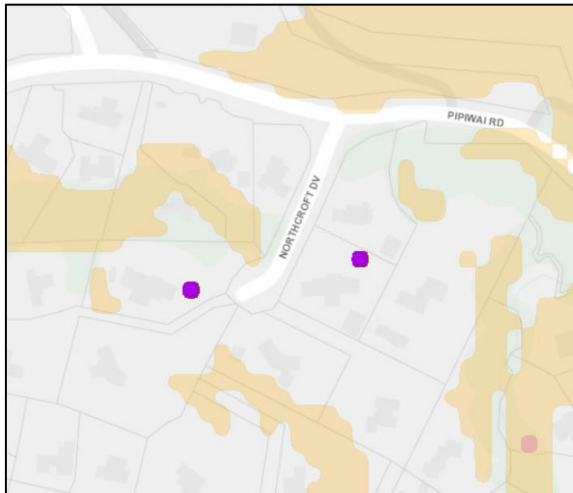
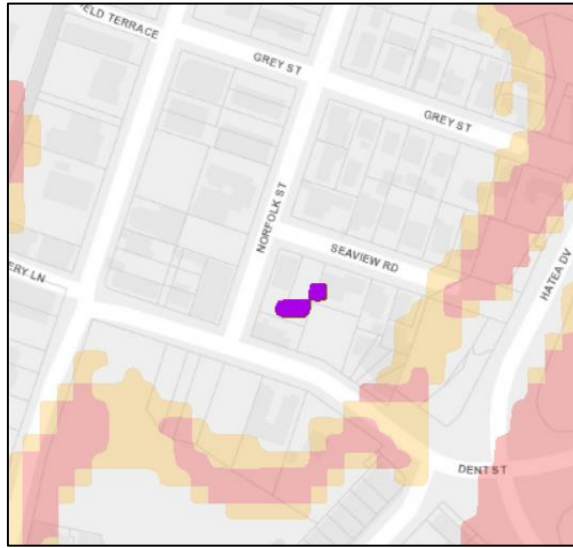
- We understand that the modelling used to create the hazard maps is consistent with national guidance on sea level rise data and follows ministry guidelines.*
- Method 7.1.7 of the NRPS requires Council to incorporate coastal hazard maps into the district plan. NRC's coastal hazard maps include the long-term projection scenarios. In our opinion it is appropriate to include this scenario in the district plan mapping to give effect to the NRPS. We note that no rules are proposed in relation to the CEHA3 and CFHA3.*
- It is not always appropriate for post subdivision completion to supersede the coastal hazard maps as climate change information on coastal hazard risk is continually evolving. Past subdivisions may not have considered the most up to date sea level rise projections. Additionally, method 7.1.7 of the NRPS requires Council to incorporate coastal hazard maps into the district plan.*

186. Notwithstanding that above, we have recommended a number of changes at a site-specific scale. This is based upon the specific information provided by submitters and the work done by the Council (via its consultant T+T) in relation to submitters' concerns about the mapping inaccuracies. These are addressed below in this section "Hazard Mapping".
187. In response to T Climie, we understand that the areas that the submitter requests to be remapped as high susceptibility to instability have been proposed to be mapped as moderate susceptibility. The proposed rules apply equally to moderate and high susceptibility areas. While we do not recommend amendments to the maps in the Parua Bay area we have recommended a significant change the rule framework (introducing a permitted rule framework).
188. Regarding 24A Kiteone Road, the property is mapped as moderate susceptibility to land instability. Should the landowner wish to undertake any land use or subdivision then the relevant PC1 provisions would need to be assessed.
189. In response to the Kāinga Ora submission, the land instability mapping was reassessed to determine if there were potential "anomalies". Having done so, we agree with the section 42A report and Kāinga Ora that there are several areas identified as moderate susceptibility that are relatively small and isolated from other large, contiguous instability

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<sup>58</sup> Pages 1 – 2 of further submission X202.

hazard areas. The images below (Pixels) show examples of these areas identified in purple with the moderate and high susceptibility areas identified in orange and red, respectively.



190. Council officers agreed that there was merit in reviewing these isolated areas and to consider their appropriateness. A Geographic Information System (GIS) mapping exercise was undertaken to identify small, isolated areas of moderate susceptibility where they have an area of 400m<sup>2</sup> or less and that are located at least 20 metres from a separate area of moderate or high susceptibility that is greater than 400m<sup>2</sup>. Examples of the areas identified under these criteria are shown in purple in the images above<sup>59</sup>. This exercise identified:

- 75.85ha of isolated pixels across the District.
- 2.01ha of isolated pixels within the Whangārei Urban Area.<sup>60</sup>
- 73.84ha of isolated pixels outside the Whangārei Urban Area.

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<sup>59</sup> The identified small, isolated areas are referred to as “isolated pixels”.

<sup>60</sup> Whangārei Urban Area boundary is based on Stats New Zealand Census Area Units.

191. We find it is appropriate to amend the land instability hazard mapping to remove these isolated pixels for the following reasons:

- The isolated pixels are identified as moderate susceptibility (rather than high) and are not part of a larger contiguous area of identified susceptibility. This would suggest that these areas have lower risk than other larger contiguous extents of susceptibility, and areas of high susceptibility.
- Approximately 65ha of the identified isolated pixels are within the Open Space and Recreation Zones or the Rural Production Zone (**RPROZ**). These zones have limited development opportunities and sites within these zones are often large, so a small, isolated area of potential susceptibility is less likely to have adverse effects on wider areas and surrounding properties.
- Within the urban setting the isolated pixels often cover a small portion of a site. Applying the land instability mapping and rules to these sites may result in an inefficient approach to managing small, isolated areas of moderate susceptibility.
- The isolated pixels appear to be relatively small slopes and, in some cases, appear to be engineered slopes (i.e., not natural slopes).
- The Building Act controls will still apply within these areas to ensure that buildings are appropriately designed. As the isolated pixels are not part of a larger contiguous area of potential susceptibility, there is less risk to wider areas and surrounding properties.

192. The Council's planners' view, set out in the Council's RoR<sup>61</sup>, was that they did not support deleting other 'isolated pixels which were areas of high instability, and those which weren't "isolated". Mr Badham's evidence on behalf of Kāinga Ora provided examples<sup>62</sup> of these pixels which showed them within or adjoining contiguous areas of instability hazards. On this basis we agree with the Council's position.

193. We also accept the RoR in relation to Kāinga Ora's submission and evidence as follows<sup>63</sup>:

*No engineering evidence was presented by Kāinga Ora to demonstrate why the proposed maps are inappropriate. The evidence presented does not change our recommendation from the s42A report. T+T provided commentary on the accuracy, scale, and pixilation of the maps in sections 6.2 – 6.4 of their [Council] technical report. The report explains that while the geological mapping component of the mapping model is at 1:250,000 scale and is not accurate to property level, the LiDAR was sampled on a 10m square, and the overall model is designed to be viewed*

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<sup>61</sup> Paragraph 5.2 of the Council's RoR.

<sup>62</sup> Paragraph 13.3 of Mr Badham's evidence

<sup>63</sup> Paragraph 5.2, final bullet point of the Council's RoR.

at a 1:10,000 scale. While it would be possible to “smooth” out the pixelation, a deliberate decision was made to leave the pixelation in place to reflect the 10m square sampling. Smoothing out the pixelation would presumably result in additional areas being identified as susceptible to instability to “fill in the gaps”. It is unclear what the benefit of this would be.

### Recommendation

194. We recommend that the Council **accept in part** or **reject** the submission points as detailed below and:
- a. Retain the proposed hazard mapping, noting that amendments are recommended in responses to other submissions.
  - b. Amend the land instability hazard mapping to remove some of the ‘isolated’ pixels.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
D Morse	1.1	Reject
J Cullen	2.1	Reject
J Perlich	11.1	Reject
G Powell	16.1	Reject
M Haag	38.1	Reject
C Jenkins	50.1	Reject
J Schwartfeger	51.1	Reject
M Aylward	65.1	Reject
D Leggatt	71.2	Reject
P Alexander	76.2	Reject
D Robertson and T Baxter	91.1	Reject
J Jongkees	104.5	Reject
T & J Lewis	107.3	Reject
PF Olsen	109.5	Reject
T Connor	111.1	Reject
L Simpson	123.1 and 123.2	Reject
M and P Hodgson	124.1	Reject
Te Whatu Ora	159.1	Reject
A Templeman	160.1	Reject
T Climie	164.1, 164.5, 164.6, and 164.7	Reject
M Craven	165.2	Reject
Marsden Cove	170.3	Reject
Kāinga Ora	171.38	Accept in part
B Gribben	174.1	Reject
D Carey	176.1	Reject
Woolworths NZ Ltd ( <b>Woolworths</b> )	185.1	Reject
Hawthorne Geddes	188.1	Reject
Hawthorne Geddes	188.22 and 188.23	Reject



## *Amendments to mapping display*

### Submission Information

195. C Bergstrom (62.5) requests that the flood maps should be amended to include an information panel that provides a full definition for the respective layers and states the underlying key assumptions.
196. R Thurlow (108.8) requests that a disclaimer be inserted on the maps stating that the base mapping is to a LiDAR survey, and it may be necessary that it be verified at the time of consent application.
197. T Connor (111.2) and M Craven (165.1) request that the flood and coastal hazard maps should be amended to show the water height expected in flood events.
198. M and L Dissanayake (184.2) request that the instability maps be amended to show areas of low susceptibility.

### Discussion

199. We agree with C Bergstrom that the underlying assumptions and information behind the flood hazard maps should be available for the public to view. We understand from the Council that it is intended that the hazard mapping reports will be publicly available online and upon request. We do not recommend any amendments to the mapping display at this stage but note that these changes can be made outside of the plan change process if further feedback from plan users indicates that improvements are needed, and the Council agrees.
200. In response to R Thurlow, NH-P2 – Risk Assessment directs the requirements for a site-specific report. Further to this, elsewhere in this report we set out that the inclusion of text clarifies that the natural hazard maps do not state or predict that an area will be subject to a hazard event, but that the maps identify a potential susceptibility to a particular hazard, and this 'prompts' a more detailed site-specific assessment. The basis of the mapping is set out in the section 32 evaluation report, and notes that there are already disclaimers attached to the maps.
201. In response to T Connor and M Craven, we understand that the data set with information on flood depths is too large to display online. Additionally, this information is technical in nature and could cause confusion for plan users. We do not recommend any amendments to the mapping display but note that this information will be held by WDC and can be provided on request.
202. In response to M and L Dissanayake, we do not recommend that the land instability maps be amended to show areas of low susceptibility. The recommended provisions are tied to moderate and high susceptible areas, and we see no benefit by mapping low susceptibility

areas. We think this would cause unnecessary confusion as there are no PC1 provisions related to the area of “low susceptibility”.

### Recommendation

203. We recommend that the Council **reject** the submission points below noting that amendments are recommended in responses to other submissions.

<b>Submitter</b>	<b>Submission # and Point #</b>
C Bergstrom	62.5
R Thurlow	108.8
T Connor	111.2
M Craven	165.1
M and L Dissanayake	184.2

### *Flood hazard mapping*

#### Submission Information

204. A number of submissions were received seeking amendments to the notified flood hazard mapping. WDC engaged T+T to review these submissions and the available information and to provide responses and recommendations. These were attached as Attachment 4 to the section 42A report and contained the details of each submission point on the flood hazard mapping as well as the responses and recommendations from T+T. Additional work was also completed by T+T as part of the Hearing Panel’s Direction 2 following the hearings, and attached to the Council’s RoR.

#### Discussion

205. In their responses and recommendations T+T recommended the following amendments:
- Remove the flood hazard mapping from 6 Vinery Lane (P Gregory 8.1).
  - Remove the flood hazard mapping from 23 Te Kokoru Place (K McElrae 54.2).
  - Remove the 10-year flood hazard layer from 6B Mains Avenue (S Smith 63.1).
  - Remove the 10-year flood hazard layer from 8A Mains Avenue (P and K Andrews 88.1 and 102.1).
  - Remove the flood hazard mapping from around the stable building at 48 Ginty Way (K Williams 106.1).
  - Remove the flood hazard mapping from 44 McCathie Road (M O’Donnell 116.1).
  - Remove the flood hazard mapping from 19 Armstrong Avenue (L Simpson 123.3).

- Remove the 10-year flood hazard layer from 6A Mains Avenue (C Witten 148.1).

206. We accept the recommendations of the Council T+T and recommend that the notified flood hazard mapping be amended as set out above.

207. Following the additional work undertaken by T+T (as set out in Direction 2), a number of site-specific changes have been recommended to remove or modify the hazards mapping over individual sites. The reasons for these are those set out in the section 42A report, the evidence and the Council's RoR; section 5 - HAZARD MAPPING. We do not repeat that information here, but for the purpose of our recommendations we adopt the reasoning and information set out in the RoR.

208. With respect to flood hazard mapping, several submitters presented evidence seeking amendments to the notified flood hazard mapping. T+T reviewed the new evidence and information that was presented<sup>64</sup>. In their responses and recommendations, T+T recommended that the flood hazard mapping be retained apart from the following amendments:

- Remove the flood hazard mapping from 36 Tironui Drive (D Slatter).
- Remove the flood hazard mapping from 3 Tullamore Lane (A Le Clus).
- Remove the flood hazard mapping from 15, 17 and 19 Kapiakauri Road (S Sharma).
- Remove the 10-year flood hazard layer from 3 Michel Colombon Close (D Robertson and T Baxter).
- Remove the flood hazard mapping from 8,10,12,14, and 16 Harrison Drive (Totara Estate).

209. We accept those recommendations, as well as those where no changes are recommended.

### Recommendation

210. We recommend that the Council **accept, accepts in part** or **reject** the submission points as detailed below and retain the flood hazard mapping as notified apart from the amendments we have recommended.

Submitter	Submission # and Point #	Accept/Reject
M Haag	3.1	Reject
P Gregory	8.1	Accept
A Johnson	14.1	Reject
J Beaumont & W Mariner	22.1	Reject

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<sup>64</sup> Attachment 6 to the RoR contains the responses and recommendations from T+T.

Z Woods	27.1	Reject
D Slatter	30.1	Accept
O Ellery	32.1	Reject
M Steedman	33.1	Reject
R Steedman	34.1	Reject
P Shoebridge	35.1	Reject
F & F Campbell	37.1	Reject
A Le Clus	45.1	Accept
J Cook	48.1	Reject
K McElrea	54.1, 54.3, and 54.4	Reject
K McElrea	54.2	Accept
J Bonham	57.1	Reject
S Sharma	59.1	Accept
S Smith	63.1	Accept in part
V Hall	73.1	Reject
L Martin	80.1	Reject
B and J Fulton	81.1	Reject
G and B Smith	83.1	Reject
P and K Andrews	88.1	Accept in part
P Blundell	90.1	Reject
D Robertson and T Baxter	91.2	Accept in part
M Hicks	93.1	Reject
T Cookson	96.1	Reject
P and K Andrews	102.1	Accept in part
K Williams	106.1	Accept in part
L Williams	115.1	Reject
M O'Donnell	116.1	Accept
G and C Martyn	117.1	Reject
C Stevens	122.1	Reject
L Simpson	123.3	Accept
B Jackman	130.1	Reject
F McAulay	131.1	Reject
R Miller	134.1	Reject
P Richards	135.1	Reject
C Witten	148.1	Accept in part
Foodstuffs	163.1	Reject
M Craven	165.3	Reject
Hurupaki Holdings	166.2	Reject
Onoke Heights	167.2	Reject
Totara Estate	168.2	Accept
M and J Howarth	179.1	Reject
Woolworths	185.2	Reject
HKRS Holdings	189.1	Reject

### ***Coastal hazard mapping***

#### **Submission Information**

211. A number of submissions were received seeking amendments to the notified coastal erosion and coastal flooding hazard mapping. WDC engaged T+T to review these submissions and available information and to provide responses and recommendations. Attachment 5 to the

section 42A report contained the details of each submission point on the coastal hazard mapping as well as the responses and recommendations from T+T. Additional work was also completed by T+T as part of the Hearing Panel’s Direction 2 following the hearings, and attached to the Council’s RoR.

**Discussion**

- 212. As we have previously set out these maps must be incorporated into the District Plan by method 7.1.7 of the NRPS. There is no discretion to delete them. Notwithstanding this, as set out by the NRC submission and Mr Murfitt’s evidence, amendments can be made to the maps where evidence demonstrates the maps are inaccurate.
- 213. T+T, in accordance with Direction 2, has completed a more detailed analysis on a number of sites and has recommended a number of site-specific changes to remove or modify the hazards mapping over individual sites (site-specific scale). The reasons for these are those set out in the section 42A report, the evidence and the Council’s RoR; section 5 - HAZARD MAPPING. We do not repeat that information here, but for the purpose of our recommendations we adopt the reasoning and information set out in the RoR.
- 214. With respect to the notified coastal hazard mapping, several submitters presented evidence seeking amendments. T+T reviewed the new evidence and information that was presented<sup>65</sup>. In their responses and recommendations, T+T recommended that the coastal hazard mapping be retained apart from the amendments that have been set out above under the heading of “*Flood Hazards Mapping*”.
- 215. We accept those recommendations, as well as those where no changes are recommended.

**Recommendation**

- 216. We recommend that the Council **reject** the submission points below.

<b>Submitter</b>	<b>Submission # and Point #</b>
J Beu	17.1
B Gribben	25.1
D Drinkwater	28.1, 28.2, and 28.3
G Thompson	39.1
P Alexander	76.1
F Scott	79.1
J Calder	84.1
R Hodgson	89.1
B Plumpton	92.1
K Fleming	118.1
G Martin	155.1 and 155.2

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<sup>65</sup> Attachment 7 of the RoR contains the responses and recommendations from T+T.

N Roberts	172.3
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### *Land Instability hazard mapping*

#### Submission Information

217. A number of submissions were received seeking amendments to the notified land instability hazard mapping. As already addressed WDC engaged T+T to review these submissions and the available information and to provide responses and recommendations. Attachment 6 to the section 42A report contained the details of each submission point on the land instability hazard mapping as well as the responses and recommendations from T+T. Additional work was also completed by T+T as part of the Hearing Panel's Direction 2 following the hearings, and attached to the Council's RoR.

#### Discussion

218. In their responses and recommendations (in Attachment 6 to the section 42A report) T+T recommended that the notified land instability hazard mapping be retained apart from the following recommended amendments:

- Amend the moderate and high susceptibility to land instability mapping to align with the 48m contour on 223 Maunu Road (S Northey 21.1).
- Reduce the extent of moderate susceptibility to land instability mapping to the northeast of Highfield Way in Maunu (J Karalus 119.1)
- Amend the moderate and high susceptibility to land instability mapping near 41 Rathbone Street to terminate along the edge of the existing car park and continue on a similar line across Dent Street/Riverside Drive (Te Whatu Ora 159.37).
- Remove the moderate susceptibility to land instability mapping from 237 Kamo Road (Te Whatu Ora 159.38)
- Remove the moderate and high susceptibility to land instability mapping from the canal walls within Marsden Cove (Marsden Cove 170.1).
- Remove the moderate susceptibility to land instability mapping from 23 Wairahi Road (N Roberts 172.1).
- Amendments to the moderate susceptibility to land instability mapping within the Fonterra Kauri site to remove areas adjoining the stormwater ponds and some small, isolated areas (Fonterra 173.10).

219. As we have addressed earlier, we have recommended that the land instability maps be retained. We accept the T+T recommendations to amend the maps in relation to the properties above.
220. A number of site-specific changes have been recommended – to remove or modify the hazards mapping over individual sites (site-specific scale), we have recommended that the Land Instability maps remain in the District Plan. The reasons for these are those set out in the section 42A report, the evidence and the Council’s RoR; section 5 - HAZARD MAPPING. We do not repeat that information here, but for the purpose of our recommendations we adopt the reasoning and information set out in the RoR.
221. With respect to the notified Land Instability Hazard Mapping several submitters presented evidence seeking amendments to the notified land instability hazard mapping. As part of the Hearing Panel’s Direction 2<sup>66</sup> we directed that additional analysis of the mapping’s accuracy was warranted, especially where submitters have either provided further technical or other evidence as part of their evidence, or due to material/presentations presented at the hearing.
222. T+T reviewed the new evidence and information that was presented<sup>67</sup>. In their responses and recommendations, T+T recommended that the land instability hazard mapping be retained apart from the following amendments:
- Amend the land instability mapping at 36 McClintock Street (B Johnston).
  - Amend the land instability mapping at Lot 4 DP 584312 and Lot 60 DP 584312 (D Slatter).
  - Amend the land instability mapping at 40 Whareora Road (J Schwartzfeger).
  - Amend the land instability mapping at 491 Apotu Road and 12 Apotu Park Lane (M Aylward).
  - Amend the land instability near Konini Street (J Irving and R and S Catchcart).
  - Amend the land instability mapping at 1088 Matapouri Road (J Glenie).
  - Amend the land instability mapping at Lot 1 DP 533834 (C Stevens).
  - Amend the land instability mapping at Apotu Park Lane (M and P Hodgson).
  - Amend the land instability mapping at Lots 1-3 DP 58076, Lot 21 DP 36424, and Lot 1 DP 49493 (MetlifeCare).
  - Amend the land instability mapping at 13 Alexander Street (Auckland University).

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<sup>66</sup> Dated 5 March 2024.

<sup>67</sup> Attachment 8 of the RoR contains the responses and recommendations from T+T.

- Amend the land instability mapping at near and within the Whangārei Hospital site (Te Whatu Ora).
- Amend the land instability mapping at Lot 2 DP 99045 and Lot 3 DP 99045 (Hurupaki Holdings).
- Amend the land instability mapping at Section 1 SO 65970 (Onoke Heights).
- Amend the land instability mapping for various properties on Rock Ridge Drive (TMB).
- Amend the land instability mapping at the Fonterra Kauri Dairy Manufacturing Site (Fonterra).

223. We accept those recommendations, as well as those where no changes are recommended.

### Recommendation

224. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
F Newman	7.1	Reject
G Powell	13.1	Reject
C Lambert	20.1	Reject
S Northey	21.1	Accept in part
B Johnson	24.1	Accept in Part
D Slatter	30.2	Accept in part
V Giles	36.1	Reject
P Topzand	49.1	Reject
J Schwartfeger	51.4	Accept in part
M Robertson	55.1	Reject
L Watson	60.1	Reject
S Ingram and W Dove	61.1	Reject
T Robinson	64.1	Reject
M Aylward	65.7	Accept in part
U Buckingham	67.1	Reject
R Challenger	69.1	Reject
J Irving	74.1	Accept in part
J Glenie	86.1	Accept in part
C Weston	87.1	Reject
R Antunovich	95.1	Reject
R and S Cathcart	101.1	Accept in part
S and T Nielsen	105.1	Reject
K Williams	106.2	Reject
G and G Reed	112.1	Reject
J Karalus	119.1	Accept
L Barfoote	121.1	Reject
C Stevens	122.2	Accept in part
M and P Hodgson	124.2	Accept in part
V Panicker	128.1	Reject



Metlifecare Retirement Villages Limited ( <b>Metlifecare</b> )	137.1	Accept in part
S Osbaldiston	142.1	Reject
D Molloy	150.1	Reject
University of Auckland	156.1	Accept in part
A Lydiard and S Hirst	158.1 and 158.2	Reject
Te Whatu Ora	159.33	Accept in part
Te Whatu Ora	159.34	Accept in part
Te Whatu Ora	159.36	Accept in part
Te Whatu Ora	159.37	Accept in part
Te Whatu Ora	159.38	Accept in part
Te Whatu Ora	159.35, 159.39, and 40	Accept in part
Hurupaki Holdings	166.1	Accept in part
Onoke Heights	167.1	Accept in part
Totara Estate	168.1	Reject
TMB	169.1	Accept in part
Marsden Cove	170.1	Accept
N Roberts	172.1	Accept
Fonterra Limited ( <b>Fonterra</b> )	173.10	Accept in part
Centuria Funds	175.2	Reject
S Boyd and F Lockwood	182.1	Reject
D Devasurendra	183.1	Reject
M and L Dissanayake	184.1	Reject

### 8.3 Definitions

225. This section addresses submissions received on the proposed definitions. Topic headings for the submissions assessed under this section are as follows:

- General support
- Requested new definitions
- Definition of Vulnerable Activity
- Definition of Area of High Susceptibility to Land Instability Hazards
- Definition of Area of Moderate Susceptibility to Land Instability Hazards
- Definition of Boundary Adjustment
- Definition of Suitably Qualified and Experienced Person
- Definition of Instability Hazard Mitigation Works
- Definition of Material Damage
- Definition of Coastal Erosion Hazard Areas
- Definition of Flooding Areas
- Definition of Hard Protection Structure
- Definition of Flood Hazard Area
- Definition of Overland Flow Path

- Definition of Major Structures
- Definition of Infrastructure
- Definition of Minor Upgrading
- Definition of Sensitive Environments and Areas

### **General support**

#### **Submission Information**

226. Waipapa Pine (120.2) and Centuria Funds (175.12, 175.13, and 175.14) support the proposed definitions.<sup>68</sup>

#### **Discussion**

227. We acknowledge the support of the proposed definitions. However, we note that recommended changes have been made in response to other submissions detailed in the sections below.

#### **Recommendation**

228. We recommend that the Council **accept in part** the submission points below.

<b>Submitter</b>	<b>Submission # and Point #</b>
Waipapa Pine	120.2
Centuria Funds	175.12, 175.13 and 175. 14

### **Requested New Definitions**

#### **Submission Information**

229. NRC (133.5) requests that a new definition of “*high-risk natural hazard areas*” be added to the definitions chapter, or to include specific reference to the high-risk areas in the relevant objectives and policies.

230. Firstgas Ltd (**Firstgas**, 187.10) seeks the inclusion of a new definition of “*functional need*” as follows:

#### **Functional Need**

*means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.*

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<sup>68</sup> Refer to pages 25 – 28 of the PC1 Proposed Natural Hazards Chapter document for details on the proposed amendments to the Definitions Chapter.

231. The Ministry of Education (141.2) and Firstgas (187.11) request the inclusion of a new definition of “*operational need*” as follows:

**Operational Need**

means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.

232. The University of Auckland (156.19) requests the inclusion of a new definition of “*operational need*” as follows:

**Operational Need**

means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

233. M and L Dissanayake (184.18) request that a new definition of “*area of low susceptibility to land instability hazards*” be included as follows:

**Area of Low Susceptibility to Land Instability Hazards**

means land where erosion or landslide morphology is not apparent, and which is not considered to be at risk of instability.

234. Firstgas (187.3) requests that a new definition of “*maintenance and repair*” be included as follows:

**Maintenance and Repair**

means any work or activity necessary to continue the operation and / or functioning of existing infrastructure. It does not include upgrading.

235. Waka Kotahi (180.1 and 180.2) request that a new definition of “*critical infrastructure*” be included as follows:

**Critical Infrastructure**

has the same meaning as lifeline utilities, Schedule 1 of the Civil Defence Emergency Management Act 2002.

236. Golden Bay, a division of Fletcher Concrete & Infrastructure Ltd (**Golden Bay**, 136.1) requests that a new definition of “*habitable building*” be included as follows:

**Habitable Building**

means any building, group of buildings or part of a building that is, or will be, primarily used for living activities, which has sleeping, cooking, bathing and toilet facilities.

237. F Morgan (127.14) requests that a new definition of “*hazard prone area*” be included as follows:

### **Hazard Prone Area**

Mapped areas which include Coastal Hazard Areas, Flood Hazard Areas, Land Instability Hazard Areas and Mining Subsidence Hazard Areas. The maps identify areas where flooding or land movement are predicted to occur within specified timeframes. In some cases, the events are unlikely to occur within these timeframes due to inaccuracies or uncertainties in the information used to derive the modelled maps or due to works which have reduced the occurrence of the event. The mapped areas are identified as 'hazard prone areas' as they do not assess the significance of the risk of a natural hazard which requires consideration of the level of occurrence of the event and the level of consequences on human life, property or other aspects of the environment. The identified hazard prone areas cover a large proportion of the Whangārei district but for the majority of areas the natural hazard risk is insignificant due to the absence of human-life, structures etc.

238. Kāinga Ora (171.1) requests that the definition of “coastal hazard area” be amended as follows:

#### **Coastal Hazard Area:**

*means areas of coastal erosion hazard and coastal flooding hazard ~~mapped by the Northland Regional Council and included in the District Plan maps: ...~~*

*...Note: The Coastal Hazard area maps included in the Council's GIS viewer represent the current known extent of coastal erosion hazard and coastal flooding hazard as mapped by the Northland Regional Council. These maps may be amended should more updated information be made available.*

### **Discussion**

239. In response to NRC's submission, we agree that the proposed provisions lack clarity as there is no definition of “high-risk natural hazard areas”. However, in response to other submission points it is recommended to amend the relevant PC1 provisions to remove the reference to high-risk natural hazard areas. Accordingly, we do not consider that a definition is necessary as the term is no longer used in the recommended version.
240. In response to the submitters seeking the inclusion of definitions for “functional need” and “operational need”, we note we have addressed this issue under the heading of “Scope” earlier, where we agree that these should be included (but only in relation to the Natural Hazards chapter and the natural hazards provisions of the Earthworks and Coastal Environment chapters and not the entire plan) as: - they are not currently defined in the District Plan and that a number of the PC1 provisions (e.g. policies and rules) refer to these terms. Without a definition of these terms, interpretation issues of the plan provisions are likely to arise.
241. We acknowledge that the definition of these terms is already defined in the Mandatory Directions 1 of section 14 of the National Planning Standards, and therefore the wording of

those definitions needs to be adopted. However, including these definitions by way of submissions to the Natural Hazards Chapter raises issues of scope (the legal tests relating to scope have been addressed earlier); the implications being that they will apply across the entire District Plan where the effect of this has not been considered. Moreover, parties are unlikely to have contemplated this change across the District Plan in a specific Natural Hazards Plan change.

242. Due to the scope issues raised above, it is our recommendation to include these definitions, but that they be limited to the Natural Hazards chapter only. The Council can include these definitions in a subsequent district wide plan change.
243. We do not support the inclusion of a definition of “area of low susceptibility to land instability hazards”. As we have set out earlier, the recommended PC1 text does not include provisions relating to areas of low susceptibility to instability hazards and the term is not referred to in the WDP.
244. In response to Firstgas’s request for a definition of “maintenance and repair”, under general rule (a) of the Definitions Chapter of the WDP, any term which is not defined in the Definition Chapter takes its common meaning from the Concise Oxford Dictionary (Ninth Edition) or the Williams Māori Dictionary (Seventh Edition). The relevant Concise Oxford Dictionary (Ninth Edition) definitions are as follows:

***Maintenance:*** *The process of maintaining or being maintained.*

***Maintain:*** *Preserve or provide for the preservation of (a building, machine, road, etc.) in good repair.*

***Repair:*** *Restore to good condition after damage or wear. Renovate or mend by replacing or fixing parts or by compensating for loss or exhaustion.*

245. The terms “maintenance” and “repair” are used in various provisions within the WDP and are not currently defined.<sup>69</sup> Additionally, we note that the terms “maintenance” and “repair” are used together and separately in different WDP provisions. Given this, and the scope issue raised above, we find that the current approach of relying on the dictionary definitions for these terms is more appropriate than inserting a bespoke definition, which would need to be limited to the Natural Hazards chapter.

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<sup>69</sup> See CE-R9.1(b) in the Coastal Environment Chapter and Table NFL 1 in the Natural Features and Landscapes Chapter for examples.

246. In response to Waka Kotahi’s request to include a definition of “critical infrastructure”, we agree that including a definition of this term would help provide greater clarity to the PC1 provisions (objectives, policies and rules).

247. Furthermore, we note that the NRPS defines “critical infrastructure” as:

*Is defined in section 4, page 13, Critical Lifeline Utility Sites – Northland Lifeline Groups: Infrastructure Resilience Plan. In addition to certain utility and communication services, critical infrastructure can include public healthcare institutions and emergency services which are vital to respond to the event and ensure community recovery after the event.*

248. Given this is different to that proposed by Waka Kotahi’s request, we recommend including their proposed definition.

249. In response to Golden Bay’s request for a definition of “habitable building”, we acknowledge the intent of this amendment and agree that the current provisions lack clarity as there is no definition of habitable/non-habitable building. The relevant Concise Oxford Dictionary (Ninth Edition) definitions are as follows:

**Habitable:** *Can be inhabited.*

**Inhabit:** *Dwell in; occupy.*

**Dwell:** *Live, reside.*

**Occupy:** *reside in, be the tenant of. Take up or fill (space or time or a place).*

250. Based on the above definitions, in our view “habitable” takes on a very broad definition. There is clearly a link to residential use, but it also applies to any building that can be occupied. This could capture a range of buildings and major structures that have low vulnerability and low risk to natural hazard events (e.g., workshops, gyms, industrial premises, and storage facilities).

251. It is our view, based on the section 42A report that it is more appropriate to reframe the PC1 provisions to relate to “vulnerable activities” rather than to create a new definition for “habitable buildings”. The notified provisions alternate between referring to habitable and vulnerable for no discernible reason. The term “vulnerable” best aligns with the recommended objectives and policies NH-O2, NH-P2, NH-P3, NH-P9, NH-P10, NH-P11, NH-P14, and NH-P23<sup>70</sup>.

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<sup>70</sup> As set out in the section 42A version of the provisions, which have been altered in the final RoR version

252. We recommend amending a number of the rules to refer to vulnerable activities rather than habitable/non-habitable. In our view this addresses the concern of the submission point by providing clarity to the rules and focuses the rules on vulnerable activities rather than the broader term of habitable buildings.
253. As a result of these changes the term “habitable” would only remain in NH-P11 and NH-P15. We think it is appropriate for the term to remain, and take its ordinary dictionary definition for the purpose of interpreting those policies.
254. We also note that the term “habitable/non-habitable” is used elsewhere in the WDP.<sup>71</sup> Introducing a definition through PC1 again raises the issue of scope, could have unintended consequences for how the term is interpreted elsewhere in the plan.
255. In response to Mr Morgan’s request, the term “hazard prone area” is not proposed in the PC1 provisions or elsewhere in the WDP. It is our view that it is not necessary to include such a definition.
256. Kāinga Ora sought a change to the definition of “Coastal Hazard Area” and the removal of these hazards from the District Plan maps and their placement in a non-statutory layer. While we understand the request made by Kāinga Ora and its reasoning, we have set out a number of times that the coastal maps are produced by the NRC and must be incorporated into the District Plan by Method 7.1.7 of the NRPS.
257. The maps that get incorporated will need to be those dated at the time the Plan Change is approved (as they form part of the District Plan and will therefore need a plan change if those maps are change – even if NRC continually updates them). Given this, we do not find it appropriate to include the definition as sought by Kāinga Ora.
258. Therefore, our findings are:
- Include a definition of “functional need” but limit this to the natural hazards provisions of PC1 as we have set out above, and not to the entire District Plan.
  - Include a definition of “operational need” but limit this to the natural hazards provisions of PC1 as we have set out above, and not to the entire District Plan.
  - Not include a new definition of “area of low susceptibility to land instability hazards”.
  - Not include a new definition of “maintenance and repair”.

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<sup>71</sup> See FUC-R10 in the Future Urban Zone Chapter, GRZ-R4 in the General Residential Zone Chapter, and NFL-ONL-R3 in the Natural Features and Landscapers Chapter for examples.

- Include a definition of “critical infrastructure”.
- Not include a new definition of “habitable building”.
- Amend the rules to refer to “vulnerable activities” rather than habitable/non-habitable buildings.
- Not include a new definition of “hazard prone area”.
- Not include the definition of “coastal hazard area” as notified as sought by Kāinga Ora, but that proposed by PC1.
- Not introduce a new definition of “high-risk natural hazard areas”.

### Recommendation

259. We recommend that the Council **accept in part** or **reject** the submission points as set out below:

Submitter	Submission # and Point #	Accept/Reject
F Morgan	127.14	Reject
NRC	133.5	Reject
Golden Bay	136.1	Accept in part
The Ministry of Education	141.2	Accept in part
University of Auckland	156.19	Accept in part
Kāinga Ora	171.1	Reject
Waka Kotahi	180.1 and 180.2	Accept
M and L Dissanayake	184.18	Reject
Firstgas	187.3	Reject
Firstgas	187.10	Accept in part
Firstgas	187.11	Accept in part

### **Definition of Vulnerable Activity**

#### Submission Information

260. The Ministry of Education (141.3) and University of Auckland (156.18) support the proposed definition of “vulnerable activity”.
261. F Morgan (127.9) requests that the definition of vulnerable activity be renamed to “habitable building”.
262. Te Whatu Ora (159.29) requests that the definition of vulnerable activity be amended as follows:

#### **Vulnerable Activity**

*means residential activities, community activities and commercial activities. ~~care centres, retirement villages, visitor accommodation, marae, and medical facilities where patients and/or staff stay overnight.~~*



263. NRC (133.6) requests that the definition of vulnerable activity be amended to include schools and childcare centres.
264. M and L Dissanayake (184.17) request that the definition of vulnerable activity be amended as follows:

***Vulnerable Activity***

*means includes residential activities, care centres, retirement villages, visitor accommodation, marae, and medical facilities, childcare, schools and all other activities where public of more than 10 persons gather at one time where patients and/or staff stay overnight.*

265. EQC (190.1) requests that the definition of vulnerable activity be amended to include childcare facilities, schools, community centres, places of worship, and emergency service facilities.

**Discussion**

266. We acknowledge the support for the definition of vulnerable activity.
267. In response to F Morgan, we do not support renaming the definition of vulnerable activity to habitable building. Habitable buildings could capture a wider range of activities than vulnerable activities. Amending the terminology could make the proposed PC1 rules significantly more restrictive. We have addressed the issue of a definition of “Habitable buildings” in the previous section.
268. We support including educational facilities as part of the definition as requested by several submitters. This inclusion is also supported by the Ministry of Education’s further submission as discussed below. We note that childcare services are included within the definitions of educational facilities and care centres.
269. The Ministry of Education’s further submission<sup>72</sup> supports the inclusion of educational facilities provided that amendments are made to NH-O2 and NH-P2 to acknowledge that The Ministry of Education may have an operational need at times to locate or continue the maintenance and management of schools in areas susceptible to natural hazards to provide for those communities.
270. We do not support the broader inclusion of all commercial activities and community activities as requested by Te Whatu Ora. Those activities include trade retail, drive through facilities, and recreational facilities. In our view those activities do not have the same level of vulnerability to natural hazard events as those in the proposed definition.

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<sup>72</sup> Further submission X200.

271. Furthermore, we do not support the inclusion of all activities where public of more than 10 persons gather at one time as requested by M and L Dissanayake. In our view this would not be appropriate as the number of people present does not necessarily translate to vulnerability, and it would be difficult to ‘enforce’ as it will be often be unknown how many people are at venue/place/building.
272. In response to EQC, we recommend that places of assembly and emergency services be included within the definition. As a consequential amendment we recommend deleting “marae” as this is included within the places of assembly definition.
273. We note that the proposed definition refers to “medical facilities”. This term is not defined in the WDP. Instead, the WDP defines “hospital” and “commercial services”, which specifically refers to including health care facilities” within the definition. We recommend that the vulnerable activity definition refer to “hospitals and other health care facilities” to better align with the WDP terminology.
274. We also note that “retirement village” is a subset of “residential activities”, and therefore it is not necessary to explicitly identity “retirement village” in the definition of Vulnerable Activities. We recommend a consequential amendment to the definition, to remove the reference to retirement village.

### Recommendation

275. We recommend that the Council **accept, accept in part** or **reject** the submission points as detailed below and amend the definition of “Vulnerable Activity”.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
F Morgan	127.9	Reject
NRC	133.6	Accept
The Ministry of Education	141.3	Accept in part
University of Auckland	156.18	Accept in part
Te Whatu Ora	159.29	Accept in part
M and L Dissanayake	184.17	Accept in part
EQC	190.1	Accept

### **Definition of Area of High Susceptibility to Land Instability Hazards**

#### Submission Information

276. F Morgan (127.10) requests that the definition of “Area of High Susceptibility to Land Instability Hazards” be amended as follows:

#### **Area of High Susceptibility to Land Instability Hazards**

*means ~~land~~ a hazard prone area which appears to be either subject to erosion or slippage or is likely to be subject ~~has a high susceptibility~~ to erosion or slippage within the next 100 years*

*timeframe, based on geomorphic evidence and/or the combination of geology and slope angle. These areas are identified in an overlay to the Planning Maps. It is expected that some of the land within these areas may not be subject to land instability within the 100-year timeframe due to uncertainties in the topography and/or underlying geology or due to existing or proposed works which reduce the frequency of land instability occurrence.*

277. Three submitters<sup>73</sup> request that the definition of “area of high susceptibility to land instability hazards” be amended as follows – and will result in it being consistent with the WDC Environmental Engineering Standards (EES):

***Area of High Susceptibility to Land Instability Hazards***

~~*means land which appears to be either subject to erosion or slippage or is likely to be subject to erosion or slippage within the next 100 years, based on geomorphic evidence and/or the combination of geology and slope angle. These areas are identified in an overlay to the Planning Maps.*~~

*This land exhibits evidence of recent or present slippage or erosion and/or is subject to processes where slippage or erosion is considered likely to occur within the next 100 years. Development of this land presents an identifiable hazard to property and could also, in some circumstances, threaten life.*

**Discussion**

278. We generally agree with the submitters seeking that the definition be amended as set out – and being more consistent with the WDC EES definition. However, we consider that some aspects of the WDC EES definition are unnecessary in the District Plan definition context as they are addressed by the provisions. Additionally, there are elements of the original notified definition which provide useful context and description and should be retained.
279. We also note that the mapping methodology report prepared by T+T notes that the updated mapped susceptibility zones can be considered analogous with the Low, Moderate and High “land stability hazard zones” as outlined in the WDC EES.<sup>74</sup>
280. As a consequence of the above, we do not support F Morgan’s requested amendments which do not improve the efficiency or effectiveness of the definition.
281. The definition proposed by the section 42A report, with which we support, is:

***Area of High Susceptibility to Land Instability Hazards***

*means land which exhibits evidence of recent or present slippage or erosion and/or is subject to processes where slippage or erosion is considered likely to occur within the next 100 years,*

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<sup>73</sup> Regeneration (151.2), Moureeses (152.2), and Otaika Valley (157.2).

<sup>74</sup> Landslide Susceptibility Assessment for Whangarei District Council. Tonkin + Taylor Ltd. October 2022.

based on geomorphic evidence and/or the combination of geology and slope angle. These areas are identified in an overlay to the Planning Maps.

### Recommendation

282. We recommend that the Council **accept in part** or **reject** the submission points as detailed below and amend the definition of “area of high susceptibility to land instability hazards”.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
F Morgan	127.10	Reject
Regeneration	151.2	Accept in part
Moureeses	152.2	Accept in part
Otaika Valley	157.2	Accept in part

### **Definition of Area of Moderate Susceptibility to Land Instability Hazards**

#### Submission Information

283. F Morgan (127.11) requests that the definition of “Area of Moderate Susceptibility to Land Instability Hazards” be amended as follows:

#### **Area of Moderate Susceptibility to Land Instability Hazards**

*means ~~land a hazard prone area which exhibits evidence of past slippage or erosion and could be subject to inundation from landslide debris and slope deformation~~ has a moderate susceptibility to erosion or slippage within the next a 100-year timeframe. These areas are identified in an overlay to the Planning Maps. It is expected that most of the land within these areas may not be subject to land instability within the 100-year timeframe due to modelling uncertainties in the topography and/or underling geology or due to existing or proposed works which reduce the frequency of land instability occurrence.*

284. Eight submitters<sup>75</sup> request that the definition of “area of moderate susceptibility to land instability hazards” be amended as follows to be consistent with the WDC EES:

#### **Area of Moderate Susceptibility to Land Instability Hazards**

*means ~~land which exhibits evidence of past slippage or erosion and could be subject to inundation from landslide debris and slope deformation. These areas are identified in an overlay to the Planning Maps.~~*

*This land does not exhibit any evidence of recent instability but does display ‘relic’ landslide geomorphology, or is sufficiently sloping to be potentially subject to instability due to either natural events (e.g. high intensity rainfall events or earthquake), or as a result of inappropriate cutting, filling, and/or site disposal of stormwater and/or effluent waste water.*

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<sup>75</sup> Commercial Centres (143.1), Classic Builders (144.1), DC Group (146.1), Hika Ltd (147.1), Quality Developments (149.1), Regeneration (151.1), Moureeses (152.1), and Otaika Valley (157.1).

## Discussion

285. The discussion set out under the heading “Area of High Susceptibility to Land Instability Hazards” is relevant to this definition. We do not repeat it here - but adopt it for this section.
286. The definition proposed by the section 42A report, which we support, is:

### ***Area of Moderate Susceptibility to Land Instability Hazards***

*means land which displays ‘relic’ landslide geomorphology and/or is potentially subject to instability hazards based on geomorphic evidence and/or the combination of geology and slope angle. These areas are identified in an overlay to the Planning Maps.*

## Recommendation

287. We recommend that the Council **accept in part** or **reject** the submission points as detailed below and amend the definition of “Area of Moderate Susceptibility to Land Instability Hazards”.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
F Morgan	127.11	Reject
Commercial Centres	143.1	Accept in part
Classic Builders	144.1	Accept in part
DC Group	146.1	Accept in part
Hika Ltd	147.1	Accept in part
Quality Developments	149.1	Accept in part
Regeneration	151.1	Accept in part
Moureeses	152.1	Accept in part
Otaika Valley	157.1	Accept in part

## ***Definition of Boundary Adjustment***

### Submission Information

288. Six submitters<sup>76</sup> requested that the proposed definition of “Boundary Adjustment” be deleted.

### Discussion

289. “Boundary Adjustment” is defined in the National Planning Standards. In accordance with Mandatory Direction 1 of section 14 of the National Planning Standards, where a Planning Standards term is used in a District Plan then the Planning Standards definition must be included in the Definitions Chapter.

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<sup>76</sup> Commercial Centres (143.8), Classic Builders (144.8), Blampied (145.5), DC Group (146.8), Hika Ltd (147.7), and Quality Developments (149.8).

290. Due to other recommendations made to the provisions, the term “Boundary Adjustment” is not used in PC1. As it is used in the operative WDP, we accept the definition needs to be included in accordance with the National Planning Standards, regardless of whether proposed rules referred to the term or not.

### Recommendation

291. We recommend that the Council **accept in part** the submission points below and retain the definition of “Boundary Adjustment” as notified.

<b>Submitter</b>	<b>Submission # and Point #</b>
Commercial Centres	143.8
Classic Builders	144.8
Blampied	145.5
DC Group	146.8
Hika Ltd	147.7
Quality Developments	149.8

### ***Definition of Suitably Qualified and Experienced Person***

#### Submission Information

292. Hawthorne Geddes (188.18) requests that the definition of “Suitably Qualified and Experienced Person” be amended as follows:

#### ***Suitably Qualified and Experienced Person***

*~~a professional who is working within their level of competency and whose level of competency and qualifications corresponds with the scale and type of the project and the overall risk. Appropriately qualified engineer or engineering geologist with a demonstrable track record in geotechnical assessment and analysis in relation to land development.~~*

293. Hawthorne Geddes (188.10) also notes that there is a lack of clarity about how an individual meets the definition of a suitably qualified and experienced person, and how WDC would ascertain whether an individual is one or not.
294. R Thurlow (108.6) requests that the definition of “Suitably Qualified and Experienced Person” be amended to include “not professionally conflicted”.

### Discussion

295. We acknowledge the concerns raised by Hawthorne Geddes and agree that there is a degree of uncertainty in the proposed definition. However, in our view this is an inherent issue with a definition of this nature as it is difficult, and inappropriate, to tie the definition to a specific qualification or certification as there could be a range of expertise and fields of practice that are relevant depending on the nature and scale of the activity.

296. It is unclear how the amendments requested by Hawthorne Geddes would significantly improve the definition or resolve the inherent lack of clarity and case-by-case nature of the definition. In our view the proposed definition in PC1 provides greater flexibility and should be retained.
297. We do not support the amendment sought by R Thurlow as “professionally conflicted” is uncertain and unclear – e.g. who is determining if an expert is conflicted (real or perceived).

**Recommendation**

298. We recommend that the Council **reject** the submission points as set out below.

Submitter	Submission # and Point #	Accept/Reject
R Thurlow	108.6	Reject
Hawthorne Geddes	188.10 and 188.18	Reject

***Definition of Instability Hazard Mitigation Works***

**Submission Information**

299. Waka Kotahi (180.3) seeks to amend the definition of “Instability Hazard Mitigation Works” as follows:

***Instability Hazard Mitigation Works***

*means engineering works to prevent and/or control existing land instability hazards and includes the building of rockfall protection structures, the mechanical fixing of rocks in-situ, the re-contouring of slopes and/or land and any necessary on-site geotechnical investigations required as part of the works. Retaining walls, other structures and re-contouring that are associated with a proposed development and are not required to mitigate an existing instability hazard are excluded from this definition.*

**Discussion**

300. We support the amendment sought by Waka Kotahi as there may be instability hazard mitigation works which only seek to control existing land instability hazards (rather than prevent and control).

**Recommendation**

301. We recommend that the Council **accept** the submission point below and amend the definition of “Instability Hazard Mitigation Works”.

Submitter	Submission # and Point #
Waka Kotahi	180.3

## ***Definition of Material Damage***

### **Submission Information**

302. R Thurlow (108.4) supports the proposed definition of “Material Damage” and its use in NH-R10.2(a).
303. Waka Kotahi (180.4) seeks to amend the definition of “Material Damage” as follows:

#### ***Material damage***

*means:*

*~~a. situations where damage has occurred to the extent that~~ where repair or replacement requires a building consent under the Building Act; or*

*~~b. in the opinion of a suitably qualified and experienced person, D~~ damage (including effects on structural integrity) which would affect the structural integrity of the building is likely to be regarded as material. If the building or significant parts of it were rendered parts or all of the building unusable by the damage or could and the building cannot be safely used for its intended purpose, then such damage would be material.*

### **Discussion**

304. We acknowledge the support for the proposed definition.
305. We also support the structural amendments requested by Waka Kotahi to improve the clarity and readability of the definition.

### **Recommendation**

306. We recommend that the Council **accept in part** the submission points below.

<b>Submitter</b>	<b>Submission # and Point #</b>
R Thurlow	108.4
Waka Kotahi	180.4

## ***Definition of Coastal Erosion Hazard Areas***

### **Submission Information**

307. DOC (177.17) supports the proposed definition of “Coastal Erosion Hazard Areas”.
308. Hawthorne Geddes (188.2) requests that the definition of “Coastal Erosion Hazard areas” be amended to reflect that “CEHZs for shorelines protected by consented structures (CEHZ0) have been assessed to reflect the protection potentially offered by these structures while they remain functional. Where the structure extends to the crest of the backshore (i.e., along a beach or low coastal terrace), the CEHZ is at the structure crest. However, where the structure protects the toe only, the unprotected backshore above the structure will flatten to form a stable angle”.



### Discussion

309. We acknowledge the support of the proposed definition.
310. In our view the level of detail requested by Hawthorne Geddes is not appropriate or beneficial for the district plan definition. Information on the hazard mapping methodologies can be found in the technical reports prepared by NRC.<sup>77</sup>

### Recommendation

311. We recommend that the Council **accept** or **reject** the submission points set out below and retain the definition of “Coastal Erosion Hazard areas” as notified.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
DOC	177.17	Accept
Hawthorne Geddes	188.2	Reject

### *Definition of Coastal Flooding Areas*

#### Submission Information

312. DOC (177.18) supports the proposed definition of “Coastal Flooding Areas” but notes that it could be amended to “Coastal Flooding Hazard Areas” to improve consistency throughout the chapters.

### Discussion

313. We acknowledge the support of the proposed definition and agree with the suggested amendment.

### Recommendation

314. We recommend that the Council **accept** the submission point below and amend the definition of “Coastal Flooding Areas”.

<b>Submitter</b>	<b>Submission # and Point #</b>
DOC	177.18

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<sup>77</sup> Refer to section 4.9.2 of Coastal Erosion Hazard Assessment for Selected Sites 2019-2020. Tonkin & Taylor Ltd. October 2022.

## Definition of Hard Protection Structure

### Submission Information

315. DOC (177.19) seeks to amend the definition of “Hard Protection Structure” as follows:

#### **Hard Protection Structure**

*means a seawall, rock revetment, groyne, breakwater, stop-bank, retaining wall or comparable structure or modification to the seabed, foreshore or coastal land that has the primary purpose of protecting an activity from a coastal hazard, including erosion.*

### Discussion

316. The proposed definition of hard protection structures requested by DOC is consistent with the NZCPS. On this basis we accept the suggested amendment.

### Recommendation

317. We recommend that the Council **accept** the submission point below and amend the definition of “Hard Protection Structure”.

Submitter	Submission # and Point #
DOC	177.19

## Definition of Flood Hazard Area

### Submission Information

318. F Morgan (127.12) seeks to amend the definition of “flood hazard area” as follows:

#### **Flood Hazard Area**

*means ~~areas of~~ a hazard prone area which is prone to river flooding during a 1-in-10 year or 1-in-100-year event - mapped by the Northland Regional Council in November 2021. Some of the land within these areas will not be subject to flooding due to inaccuracies in the models or changes to topography. The NRC maps are ~~and~~ included in the District Plan maps as follows:*

- 1 in 10 Year River Flood Hazard Area – the area potentially susceptible to river flooding in a 10% Annual Exceedance Probability (AEP) / 10Yr Average Return Interval (ARI) storm event.
- 1 in 100 Year River Flood Hazard Area – the area potentially susceptible to river flooding in a 1% AEP / 100Yr ARI storm event plus climate change.

319. Kāinga Ora (171.2) seeks to amend the definition of “Flood Hazard Area” as follows:

### **River Flood Hazard Area**

*means areas of river flooding based on the a 1/100year event mapped by the Northland Regional Council in November 2021 and included in the District Plan maps as follows:*

- *1 in 10 Year River Flood Hazard Area – the area potentially susceptible to river flooding in a 10% Annual Exceedance Probability (AER) / 10Yr Average Return Interval (ARI) storm event.*
- *1 in 100 Year River Flood Hazard Area – the area potentially susceptible to river flooding in a 1% AEP / 100Yr ARI storm event plus climate change.*

*Note: The Council holds publicly available information showing the modelled extent of river flood hazard areas affecting specific properties in its GIS viewer, based on current NRC mapping. The river flood hazard area map is indicative only although Council accepts its accuracy with regard to land shown on the floodplain map as being outside the floodplain. A party may provide the Council with a site specific technical report prepared by a suitably qualified and experienced person to establish the extent, depth and flow characteristics of the floodplain. When taking account of impervious areas that would arise from changes in land use enabled by the policies and zonings of the Plan, recognition should be given to any existing or planned flood attenuation works either exiting or planned in an integrated catchment management plan. Council will continually update the floodplain map to reflect the best information available.*

### **Discussion**

320. We do not support F Morgan’s requested amendments as it does not improve the efficiency or effectiveness of the definition. The submitter states that the amendments are required because there are inaccuracies in the models; however, the definition already acknowledges that the sites identified are only “...potentially susceptible to river flooding” in each bullet point. However, we recommend that “potentially susceptible to” be included within the chapeau for consistency.
321. In response to Kāinga Ora, the submitter is seeking to remove the flood hazard layers from the District Plan maps and instead to hold the maps as a non-statutory layer. This issue has been addressed earlier in this report (and in the section 32 report) given Method 7.1.7 of the NRPS.

### **Recommendation**

322. We recommend that the Council **accept in part** or **reject** the submission points set out below and amend the definition of “Flood Hazard Area”.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
F Morgan	127.12	Accept in part
Kāinga Ora	171.2	Reject

## **Definition of Overland Flow Path**

### **Submission Information**

323. F Morgan (127.13) seeks to amend the definition of “Overland Flow Path” as follows:

#### **Overland Flow Path**

*The path taken by surface stormwater crossing a property comprising low points in the terrain (not including rivers and identified water courses in mapped Flood Hazard Areas), which will accommodate flood flows in a one percent annual exceedance probability rainfall event.*

### **Discussion**

324. It is our view that it is not relevant whether rivers and water courses are inside or outside mapped flood hazard. The amendments sought would unduly limit the definition, and this is not the intent of the definition – which is to what is an “overland flow path”.

### **Recommendation**

325. We recommend that the Council **reject** the submission point below and retain the definition of “Overland Flow Path” as notified.

<b>Submitter</b>	<b>Submission # and Point #</b>
F Morgan	127.13

## **Definition of Major Structures**

### **Submission Information**

326. Northpower (186.2) seeks to amend the definition of “Major Structures” to exclude “network system equipment”.

### **Discussion**

327. We acknowledge the intent of the amendment sought by Northpower. However, we do not support it.
328. PC1 has not proposed to amend the definition of “Major Structures”. The term “major structure” is used throughout the WDP and there are various rules such as height and setback rules in each zone which manage the bulk and location of major structures. Amending the definition through PC1 would have wider-reaching implications for how the WDP rules work. PC1 is intended to relate specifically to natural hazard management. In our view the general public would not have anticipated PC1 resulting in a change of this nature – and therefore amending this definition as sought would raise scope issues that we have discussed earlier in this report.

329. Northpower has also made submissions to various rules of PC1 seeking exemptions for network system equipment. These submissions points are discussed in the relevant sections below.

### Recommendation

330. We recommend that the Council **reject** the submission point below and retain the operative definition of “Major Structures”.

Submitter	Submission # and Point #
Northpower	186.2

### *Definition of Infrastructure*

#### Submission Information

331. Northpower (186.3) seeks to amend the definition of “Infrastructure” to include ““uninhabited buildings and shelters housing electrical, telecommunications and/or fibre network equipment”.

#### Discussion

332. We acknowledge the intent of the amendment sought by Northpower. However, we do not support it.
333. PC1 has not proposed to amend the definition of “Infrastructure”. The term “infrastructure” is used throughout the WDP and there are various rules such as exemptions in the Coastal Environment and within Outstanding Natural Features. Amending the definition through PC1 would have wider-reaching implications for how the WDP rules work. PC1 is intended to relate specifically to natural hazard management. In our view the general public would not have anticipated PC1 resulting in a change of this nature – and therefore amending this definition as sought would raise scope issues that we have discussed earlier in this report.
334. Northpower has also made submissions to various rules seeking exemptions for uninhabited buildings housing electrical or telecommunications equipment. These submissions points are discussed in the relevant sections below.

### Recommendation

335. We recommend that the Council **reject** the submission point below and retain the operative definition of “Infrastructure”.

Submitter	Submission # and Point #
Northpower	186.3

## ***Definition of Minor Upgrading***

### **Submission Information**

336. Firstgas (187.4) seeks to amend the definition of “Minor Upgrading” as follows:

#### ***Minor Upgrading***

*means an increase in the carrying capacity, efficiency or security of any network utility operation utilising the existing support structures or additional ancillary structures with the effects of a similar scale, character, bulk and form. It includes, in regard to electricity, telecommunication and radio-communication services: ...*

### **Discussion**

337. We support the amendments sought for the reasons set out in the submission. The requested amendment provides greater clarity and does not change the intent of the definition or its application within the WDP.

### **Recommendation**

338. We recommend that the Council **accept** the submission point below and amend the definition of “Minor Upgrading”.

<b>Submitter</b>	<b>Submission # and Point #</b>
Firstgas	187.4

## ***Definition of Sensitive Environments and Areas***

### **Submission Information**

339. Te Whatu Ora (159.30) seeks to amend the definition of “Sensitive Environments and Areas” as follows:

#### ***Sensitive Environments and Areas***

*...k. Areas of High and Moderate Susceptibility to Land Instability Hazards.*

### **Discussion**

340. We support the requested amendment as it this appears to be an error and should have included “moderate”.

### **Recommendation**

341. We recommend that the Council **accept** the submission point below and amend the definition of “Sensitive Environments and Areas”.

<b>Submitter</b>	<b>Submission # and Point #</b>
Te Whatu Ora	159.30

## 8.4 Issues Section

342. This section addresses submissions received on the proposed issues section of the Natural Hazards chapter.

### Submission Information

343. Three submitters<sup>78</sup> support the Issue section as notified.
344. Transpower New Zealand Limited (**Transpower**, 161.1) seek to retain the 'Issues – Risk Based Approach' as notified.
345. Channel Infrastructure (178.2) seeks that the overarching resource management issue for natural hazard risk in the proposed Issues section of the Natural Hazards Chapter is retained as notified.
346. Waipapa Pine (120.21) supports the proposed amendments to the Coastal Environment Chapter Issues section.
347. C Jenkins (50.2) seeks that specific dated set of flood maps is cited in the Issues section.
348. F Morgan (127.23) seeks multiple amendments to the Issues section of the proposed NH Chapter as set out in the submission.<sup>79</sup>
349. Transpower (161.2) seeks to amend the 'Issues' – River Flooding description of the 1 in 10-year event as follows:
- ... Most types of built development in the 10-year flood hazard areas are therefore not sustainable due to repeated risk to life, health and property from both floodwater and debris. Built development may be appropriate in the 10-year flood hazard areas where that development is infrastructure with a functional need or operational need for its location or where that development does not result in unacceptable risk to life, health and property. ...*
350. C Bergstrom (62.4) seeks that the terminology throughout the plan change should be clear that the 1 in 100-year flood hazard area includes climate change projection or at least "100-year CC event".
351. Hawthorne Geddes (188.24) seeks that the introduction to the chapter should make it clear that the mapping should be used as an assessment trigger rather than linking land "mapped

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<sup>78</sup> Waipapa Pine (120.9), Fuel Companies (138.1), and Centuria Funds (175.3).

<sup>79</sup> Refer to pages 14 – 17 of Submission #127.

as susceptible to flooding at the 10-year event" with the terminology of "high risk flood hazard" since they have a reasonable likelihood of not being so.

352. M and L Dissanayake (184.3) seek to retain the following paragraph:

*The Planning Maps identify areas of low, moderate, and high susceptibility to land instability hazards. These maps consider different factors which can contribute to land instability hazard events to give an indication of where landslides are more likely to occur. The identified areas of low, moderate, and high susceptibility to land instability hazards correspond to the defined characteristics of each zone and the recommended level of geotechnical assessment required to support the development of a site within each zone.*

353. M and L Dissanayake (184.4) seek to amend the following paragraph of the NH Chapter Issues section as follows.

*Identifying areas susceptible to land instability through the district plan provides a basis to require geotechnical investigation and risk assessments. Areas susceptible to land instability are defined as: Area of Low Susceptibility to Land Instability Hazard means land where erosion or landslide morphology is not apparent, and which is not considered to be at risk of instability.*

### Discussion

354. We acknowledge the support for the Issues section.

355. Regarding C Jenkins' submission, it is unnecessary to cite the map's date as this is determined by when the maps become operative. However, this is an important point as it is the maps included in the District Plan that the PC1 provisions will apply to.

356. In response to F Morgan's requested changes:

- We support changes to the first paragraph to clarify the meaning of risk and to improve the efficiency and effectiveness of the paragraph.
- We do not recommend including the definition of natural hazard within the Issues section as this is a defined term so the definition is included and can be easily found in the Definitions Chapter.
- We support the deletion of the list of "high risk natural hazards" and instead recommend that all mapped natural hazard areas be listed with more specific detail provided on each one in the subsequent paragraphs.
- We recommend including text to clarify that the natural hazard maps do not mean that an area *will* be subject to a hazard event. Rather they identify potential susceptibility and are a prompt to require more detailed site-specific assessment.
- We recommend amendments to the River Flooding description to improve clarity.



- We support amendments to the Land Instability description to remove references to “low”, list some of the mapping criteria, streamline the description, and remove defined terms as these can be found in the Definitions Chapter.

357. We do not support the amendment requested by Transpower as it is unnecessary to include this level of detail in the Issues section. The policy and rule framework provide direction on the appropriateness of infrastructure in hazard areas.
358. Regarding C Bergstrom’s submission, we agree that greater clarity could be provided in PC1 to indicate that the flood hazard overlay includes consideration for climate change. We recommend that this is addressed in the Issues section description of the 100-year flood hazard area. We do not think it is necessary to refer to 100-year CC extent throughout the provisions if this clarity is provided in the Issue section.
359. We agree with Hawthorne Geddes’ submission and recommend amending the issues section to clarify that the purpose of the maps is to identify potential susceptibility.
360. We agree in part to retain the description of the land instability planning maps, however we recommend amendments to improve the efficiency of this section. We do not agree with M and L Dissanayake to insert a description of low instability. The proposed district plan hazard maps do not show low instability areas and there are no rules to manage activities in areas of low instability.

**Recommendation**

361. We recommend that the Council **accept in part** or **reject** the submission points set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
C Jenkins	50.2	Reject
C Bergstrom	62.4	Accept in part
Waipapa Pine	120.9	Accept in part
Waipapa Pine	120.21	Accept in part
F Morgan	127.23	Accept in part
The Fuel Companies	138.1	Accept in part
Transpower	161.1	Accept in part
Transpower	161.2	Reject
Centuria Funds	175.3	Accept in part
Channel Infrastructure	178.2	Accept in part
M and L Dissanayake	184.3	Accept in part
M and L Dissanayake	184.4	Reject
Hawthorne Geddes	188.24	Accept in part

## 8.5 Objectives

362. This section addresses submissions received on the proposed objectives. Topic headings for the submissions assessed under this section are as follows:

- NH-O1 – Natural Hazard Risk
- NH-O2 – New Development
- NH-O3 – Existing Developed Areas
- NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure
- NH-O5 – Natural Buffers and Defences
- NH-O6 – Climate Change
- SUB-O6 – Natural Hazards
- EARTH-O3 – Earthworks in areas subject the land instability and mining subsidence
- DGD-O10 – Natural Hazards

### *NH-O1 – Hazard Risk*

#### Submission Information

363. Eight submitters<sup>80</sup> support NH-O1.

364. Te Whatu Ora (159.3) requests that NH-O1 be amended to include reference to “public health”.

#### Discussion

365. We acknowledge the submissions which support the retention of NH-O1 as notified.

366. It is not clear to us what the inclusion of “public health” is intended to achieve. It is our view that “public health” is inherent in the reference to “people, property, infrastructure and the environment”, however the term “communities’ may assist (see the next paragraph). Adding the term “public health” is likely to lead to a lack of certainty for applicants and decision makers.

367. We note that Objective 3.13 of the NRPS (and Objective 1 of the PNPS-NHD which we accept has no status) refer to “people, communities, property, the environment, and infrastructure”.<sup>81</sup> We consider that “communities” would be similar to “public health” in the

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<sup>80</sup> Waipapa Pine (120.10), Fuel Companies (138.2), The Ministry of Education (141.4), FENZ (154.2), Kāinga Ora (171.5), DOC (177.4), Channel Infrastructure (178.3), and EQC (190.2).

<sup>81</sup> The NRPS also refers to the “regional economy”.

sense that they are both considering the wider community wellbeing. In our view including communities is more consistent with the NRPS (and PNPS-NHD) and will be clearer for decision makers and applicants as there is existing higher order direction. We find this may partly assist in achieving the relief sought by Te Whatu Ora.

368. We have deleted the word “appropriately” for the Objective. Risks associated with natural hazards are to be “appropriately identified, assessed, and managed”.
369. Also see the Council’s RoR in terms of adding “electricity infrastructure” to the objective, as requested by Northpower.

### Recommendation

370. We recommend that the Council **accept** or **accept in part** the submission points as detailed below and Amend NH-O1 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.10	Accept
The Fuel Companies	138.2	Accept
The Ministry of Education	141.4	Accept
FENZ	154.2	Accept
Te Whatu Ora	159.3	Accept in part
Kāinga Ora	171.5	Accept
DOC	177.4	Accept
Channel Infrastructure	178.3	Accept
EQC	190.2	Accept

### **NH-O2 – New Development**

#### Submission Information

371. Five submitters<sup>82</sup> support NH-O2.
372. PF Olsen (109.2) opposes NH-O2 and seeks clarification that plantation forestry, as defined by the NES-PF, is not deemed to be a new development.
373. F Morgan (127.24) seeks to amend NH-O2 as follows:

#### **NH-O2 – New Development**

*Avoid ~~inappropriate~~ subdivision, land use and development, particularly vulnerable activities, in areas subject to a significant natural hazard risk.*

374. The Ministry of Education (141.5) seeks to amend NH-O2 as follows:

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<sup>82</sup> Waipapa Pine (120.10), Fuel Companies (138.2), FENZ (154.2), DOC (177.5), and EQC (190.3).

**NH-O2 – New Development**

*Avoid inappropriate subdivision, land use and development, particularly vulnerable activities, in areas subject to natural hazard risk, unless there is a functional or operational requirement for the activity to be located in the hazard risk area.*

375. Eleven submitters<sup>83</sup> seek to amend NH-O2 as follows:

**NH-O2 – New Development**

*Avoid ~~inappropriate~~ subdivision, land use and development, particularly vulnerable activities, in areas subject to natural hazard risk where natural hazard risks are unable to be avoided, remedied, or mitigated.*

376. The University of Auckland (156.2) seeks to amend NH-O2 as follows:

**NH-O2 – New Development**

*Avoid ~~inappropriate~~ Manage subdivision, land use and development, particularly vulnerable activities, in areas subject to high natural hazard risk.*

377. Foodstuffs (163.2) seeks to amend NH-O2 as follows:

**NH-O2 – New Development**

*Avoid ~~inappropriate~~ Manage subdivision, land use and development, particularly vulnerable activities, in areas subject to natural hazard risk.*

378. Five submitters<sup>84</sup> seek to amend NH-O2 as follows:

**NH-O2 – New Development**

*Avoid ~~inappropriate~~ Manage, and where appropriate avoid, subdivision, land use and development, particularly vulnerable activities, in areas subject to natural hazard risk.*

379. Kāinga Ora (171.6) seeks to amend NH-O2 as follows:

**NH-O2 – New Development**

*Avoid ~~inappropriate~~ Manage, and where appropriate avoid, subdivision, land use and development, particularly vulnerable activities, in areas subject to unacceptable natural hazard risk.*

380. Marsden Cove (170.4) seeks to amend NH-O21 as follows:

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<sup>83</sup> L Gelder and D Wallace (140.1), Commercial Centres (143.2), Classic Builders (144.2), Blampied (145.1), DC Group (146.2), Hika Ltd (147.2), Quality Developments (149.1), Regeneration (151.3), Moureeses (152.3), Jackson Hikurangi Ltd (153.1), and Otaika Valley (157.3).

<sup>84</sup> Te Whatu Ora (159.4), Hurupaki Holdings (166.3), Onoke Heights (167.3), Totara Estate (168.3), and TMB (169.2).

### **NH-O2 – New Development**

*Avoid ~~inappropriate~~ subdivision, land use and development, particularly vulnerable activities, in areas subject to natural hazard risk unless the risk of adverse effects to people, property, infrastructure and the environment have been assessed and are avoided.*

### **Discussion**

381. We acknowledge the submissions in support of NH-O2.
382. In response to PF Olsen’s submission, we note that the term “development” is not defined in the WDP and could have a relatively broad interpretation. We do not recommend any amendments in response to this submission point as we consider it appropriate for the objective to be relatively high level and for the rules to specify what controls apply to particular activities.
383. The relief sought by the other submitters generally relates to concerns that the proposed wording, particularly the use of “avoid”, is too absolute and is not possible to achieve without effectively prohibiting new development. We do not entirely agree with this as the use of “inappropriate” in conjunction with “avoid” allows for consideration of types of activities that may be appropriate rather than a blanket avoid approach for all activities. The objective does not prohibit all development but enables a framework of risk assessment.
384. Notwithstanding the above, we do acknowledge that NH-O2 is a general objective that applies to a range of activities across all identified hazard areas. We consider that it is appropriate to reframe NH-O2 to apply more broadly, and to then rely on the general policies and hazard-specific policies to provide a more detailed and nuanced approach where required.
385. We have deleted the word “risk” from the objective. This is because the objective is addressing the natural hazard and not its ‘risk’. The objective reads “*Manage, and where appropriate avoid, subdivision, land use and development, and particularly vulnerable activities, in areas subject to natural hazards ~~risk.~~*”
386. Overall, the various amendments sought to NH-O2 have similar outcomes and generally consist of including qualifiers or exemptions in the objective and replacing “avoid” with alternative terminology. We consider that the amendments sought by Te Whatu Ora, TMB, Hurupaki Holdings, Onoke Heights, and Totara Estate provide for the most efficient and effective high-level objective.

### **Recommendation**

387. We recommend that the Council **accept, accept in part** or **reject** the submission points as detailed below and amend NH-O2 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
PF Olsen	109.2	Reject
Waipapa Pine	120.10	Accept in part
F Morgan	127.24	Accept in part
The Fuel Companies	138.2	Accept in part
L Gelder and D Wallace	140.1	Accept in part
The Ministry of Education	141.5	Accept in part
Commercial Centres	143.2	Accept in part
Classic Builders	144.2	Accept in part
Blampied	145.1	Accept in part
DC Group	146.2	Accept in part
Hika Ltd	147.2	Accept in part
Quality Developments	149.1	Accept in part
Regeneration	151.3	Accept in part
Moureeses	152.3	Accept in part
Jackson Hikurangi Ltd	153.1	Accept in part
FENZ	154.2	Accept in part
The University of Auckland	156.2	Accept in part
Otaika Valley	157.3	Accept in part
Te Whatu Ora	159.4	Accept
Foodstuffs	163.2	Accept in part
Hurupaki Holdings	166.3	Accept
Onoke Heights	167.3	Accept
Totara Estate	168.3	Accept
TMB	169.2	Accept
Marsden Cove	170.4	Accept in part
Kāinga Ora	171.6	Accept in part
DOC	177.5	Accept in part
EQC	190.3	Accept in part

### **NH-O3 – Existing Developed Areas**

#### **Submission Information**

388. Five submitters<sup>85</sup> support NH-O3.

389. F Morgan (127.25) seeks to amend NH-O3 as follows:

#### ***NH-O3 – Existing Developed Areas***

*In existing developed areas, build resilience to potential impacts from natural hazards and ~~avoid locating vulnerable activities in areas of high hazard risk~~ intensification of subdivision, land use and development, where they would result in a significant natural hazard risk.*

390. NRC (133.4) seeks to amend NH-O3 as follows:

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<sup>85</sup>Waipapa Pine (120.10), Fuel Companies (138.2), FENZ (154.2), DOC (177.6), and EQC (190.4).

**NH-O3 – Existing Developed Areas**

*In existing developed areas, reduce vulnerability build resilience to potential impacts from natural hazards and avoid locating vulnerable activities in high-risk natural hazard areas ~~of high hazard risk or intensifying existing vulnerable activities in areas subject to hazard risk.~~*

391. Eleven submitters<sup>86</sup> seek to amend NH-O3 as follows:

**NH-O3 – Existing Developed Areas**

*In existing developed areas, build resilience to potential impacts from natural hazards and avoid locating vulnerable activities in areas ~~of high~~ subject to natural hazard risk where the risk cannot be sufficiently avoided, remedied, or mitigated.*

392. Seven submitters<sup>87</sup> seek to amend NH-O3 as follows:

**NH-O3 – Existing Developed Areas**

*In existing developed areas, build resilience to potential impacts from natural hazards and ~~avoid locating~~ minimise the risk to vulnerable activities in areas of high hazard risk.*

393. Marsden Cove (170.5) seeks to amend NH-O3 as follows:

**NH-O3 – Existing Developed Areas**

*In existing developed areas, build resilience to potential impacts from natural hazards and avoid locating vulnerable activities in areas of high hazard risk, unless the risk of adverse effects to people, property, infrastructure and the environment have been assessed and are avoided.*

**Discussion**

394. We acknowledge the submissions in support of NH-O3.

395. Similar to the submissions on NH-O2, the relief sought by the submitters generally relates to concerns that the proposed wording, particularly the use of “avoid”, is too strong. Many of the amendments sought to NH-O3 have similar outcomes and generally consist of including qualifiers or exemptions in the objective and replacing “avoid” with alternative terminology.

396. We consider that the intent of NH-O3 is to recognise that there has been historical development in areas which are now identified as being at risk of natural hazards and that there is a need to not increase natural hazard risk to existing development, and to encourage its reduction. We consider that the objective should be reframed around “existing

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<sup>86</sup>L Gelder and D Wallace (140.2), Commercial Centres (143.3), Classic Builders (144.3), Blampied (145.2), DC Group (146.3), Hika Ltd (147.3), Quality Developments (149.2), Regeneration (151.4), Moureeses (152.4), Jackson Hikurangi Ltd (152.2), and Otaika Valley (157.4).

<sup>87</sup>University of Auckland (156.3), Te Whatu Ora (159.5), Hurupaki Holdings (166.4), Onoke Heights (167.4), Totara Estate (168.4), TMB (169.3), and Kāinga Ora (171.7).

development” rather than “existing developed areas” as this has a clearer meaning and better aligns with Policy 7.1.4 of the NRPS.

397. The intent of the objective is not strictly about managing the location of new development; this is more directly addressed through NH-O2, NH-P2, and NH-P3. We therefore agree with submitters seeking to remove the reference to “avoid locating vulnerable activities in areas of high hazard risk”.
398. Regarding the submission from NRC, we generally support the requested inclusion of reducing vulnerability as we consider it generally aligns with the intent of the objective. However, we note that Policy 7.1.4 of the NRPS seeks to “reduce natural hazard risk to existing development” and recommend that this wording be used instead to better give effect to the NRPS.
399. In response to F Morgan’s submission, we accept that there may be cases where mapping has inaccuracies at a site level, however the purpose of the maps is to serve as a trigger for a site-specific investigation. We do not support the amendments sought as the reasons given by the submitter<sup>88</sup> are already addressed through the rule framework.
400. Also see the Council’s RoR in terms of additional reasons for amending the objective.

### Recommendation

401. We recommend that the Council **accept** the submission points below in part and amend NH-O3 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #
Waipapa Pine	120.10
F Morgan	127.25
NRC	133.4
The Fuel Companies	138.2
L Gelder and D Wallace	140.2
Commercial Centres	143.3
Classic Builders	144.3
Blampied	145.2
DC Group	146.3
Hika Ltd	147.3
Quality Developments	149.2
Regeneration	151.4
Moureeses	152.4
Jackson Hikurangi Ltd	153.2
FENZ	154.2
University of Auckland	156.3
Otaika Valley	157.4
Te Whatu Ora	159.5

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<sup>88</sup> Refer to page 18 of submission 127.



Hurupaki Holdings	166.4
Onoke Heights	167.4
Totara Estate	168.4
TMB	169.3
Marsden Cove	170.5
Kāinga Ora	171.7
DOC	177.6
EQC	190.4

## **NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure**

### **Submission Information**

402. Seven submitters<sup>89</sup> support NH-O4.
403. BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (**The Fuel Companies**, 138.3) seek to amend NH-O4 as set out below:

#### **NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure**

*New infrastructure or the redevelopment of infrastructure particularly regionally significant infrastructure and critical infrastructure, is only provided for in areas that may be susceptible to natural hazards where there is a functional need or operational need to locate in the area and where risks to people, property and the environment are mitigated as far as practicable.*

404. The University of Auckland (156.4) seeks to amend NH-O4 as set out below:

#### **NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure**

*Infrastructure particularly regionally significant infrastructure and critical infrastructure, is only provided for in areas that may be susceptible to natural hazards where there is a functional need or operational need to locate in the area and where risks to people, property and the environment are appropriately managed ~~mitigated as far as practicable~~.*

405. Te Whatu Ora (159.6) seeks a similar amendment along with the inclusion of “public health” as set out below:

#### **NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure**

*Infrastructure particularly regionally significant infrastructure and critical infrastructure, is only provided for in areas that may be susceptible to natural hazards where there is a functional need or operational need to locate in the area and where risks to people, property, public health and the environment are appropriately managed ~~mitigated as far as practicable~~.*

406. Transpower (161.3) seeks to amend NH-O4 as set out below:

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<sup>89</sup> Waipapa Pine (120.10), FENZ (154.2), Marsden Cove (170.6), Kāinga Ora (171.8), Centuria Funds (175.4), DOC 177.7), and EQC (190.5).

***NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure***

*The operation, maintenance and upgrading of existing infrastructure in areas that may be susceptible to natural hazards is enabled, while infrastructure particularly regionally significant infrastructure and critical infrastructure, is only provided for in identified areas that may be susceptible to natural hazards where there is a functional need or operational need to locate in the area and or where risks to people, property and the environment are mitigated as far as practicable.*

407. Channel Infrastructure (178.4) seeks to amend NH-O4 as set out below:

***NH-O4 – Regionally Significant Infrastructure and Critical Infrastructure***

*Infrastructure particularly regionally significant infrastructure and critical infrastructure, is only provided for in areas that may be susceptible to natural hazards where there is a functional need or operational need to locate in the area and where risks to people, property and the environment are appropriately mitigated or managed as far as practicable.*

408. Waka Kotahi (180.5) requests that NH-O4 is deleted and replaced with the following two objectives:

**NH-O4A**

*Existing regionally significant infrastructure and critical infrastructure is encouraged away from areas identified as susceptible to natural hazards and, where this is not practicable, measures to reduce natural hazard risk are provided for.*

**NH-O4B**

*New or modified regionally significant infrastructure and critical infrastructure may be considered appropriate in areas identified as susceptible to hazard areas where risks are managed and infrastructure appropriately designed.*

409. Northpower (186.1) notes that infrastructure must be provided for including in areas susceptible to natural hazards where development/community has been enabled.

**Discussion**

410. We acknowledge the submissions in support of NH-O4.
411. Several submitters seek to amend NH-O4 to acknowledge that the continued use of existing infrastructure is generally enabled while new infrastructure is more carefully considered in natural hazard areas. We support creating separate objectives for existing infrastructure and for new infrastructure as this would improve clarity of the objective and would better correspond to the proposed rule structure. In doing so we have recommended deleting NH – 04 as notified.
412. In response to the other submissions seeking amendments to the wording for new infrastructure, we generally agree with the intent of these submissions and recommend

amendments to provide higher level direction within the objective so that the policies can provide more detailed and nuanced direction.

413. It is unclear what Northpower’s specific relief sought is; however, we consider that the recommended objective wording provides a framework for infrastructure to locate in areas susceptible to natural hazards where development has been enabled where appropriate.
414. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-04 A and B.

### Recommendation

415. We recommend that the Council **accept in part** in the submission points below and **delete** NH-04 and **replace** it with NH-04A and NH-04B as set out in the amended PC1 provisions.

Submitter	Submission # and Point #
Waipapa Pine	120.10
The Fuel Companies	138.3
FENZ	154.2
University of Auckland	156.4
Te Whatu Ora	159.6
Transpower	161.3
Marsden Cove	170.6
Kāinga Ora	171.8
Centuria Funds	175.4
DOC	177.7
Channel Infrastructure	178.4
Waka Kotahi	180.5
Northpower	186.1
EQC	190.5

## **NH-05 – Natural Buffers and Defences**

### Submission Information

416. Nine submitters<sup>90</sup> support NH-05.
417. Channel Infrastructure (178.5) seeks to amend NH-05 as follows:

#### **NH-05 – ~~Natural~~ Buffers and Defences**

*Existing ~~natural~~ buffers and ~~natural~~ defences against natural hazards are maintained, protected, restored and enhanced., and new development does not compromise existing ~~natural~~ buffers and ~~natural~~ defences.*

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<sup>90</sup> Waipapa Pine (120.10), FENZ (154.2), Fuel Companies (138.2), Te Whatu Ora (159.7), Marsden Cove (170.7), Kāinga Ora (171.9), Centuria Funds (175.4), DOC (177.8), and EQC (190.6).

418. Waka Kotahi (180.6) requests that NH-O5 be amended, and a new objective be included as set out below:

***NH-O5 – Natural Buffers and Defences***

*Existing natural buffers and natural defences against natural hazards are maintained, protected, restored and enhanced., and new development does not compromise existing natural buffers and natural defences.*

**NH-O5A**

*New development does not compromise the attributes that contribute to natural buffers and natural defences ability to minimise or manage the impacts of natural hazards.*

**Discussion**

419. We acknowledge the submissions in support of NH-O5.
420. In relation to Channel Infrastructure’s submission, we acknowledge the intent of the submission and agree that Objective 3.13(d) of the NRPS directs that defences (natural and man-made) should not be compromised. We support deleting the last two references to “natural” as this better gives effect to the NRPS in our opinion. However, the first half of the objective is about the maintenance, protection, restoration and enhancement of natural defences. In our opinion this should relate specifically to just natural defences rather than natural and man-made defences to give effect to Policy 7.1.4(f) of the NRPS and Policy 26 of the NZCPS.
421. Additionally, upon review of the NZCPS and the NRPS the term “natural defences” is used, and no references are made to “buffers” for natural hazard purposes. Examples of natural defences are provided in the NZCPS and NRPS including beaches, barrier islands, dune systems, coastal vegetation, wetlands, flood plains and estuaries. It is unclear what “natural buffers” is intended to mean. We also note that “buffer” is referred to in NH-P19. We consider that these objectives could be improved and made more efficient by only referring to “defences” and removing the references to “buffers”.
422. In response to the submission from Waka Kotahi, while we agree that the objective does include two separate directives, we do not consider that these are entirely different concepts. It is unclear how the requested amendment improves the efficiency or effectiveness of the objective. We consider it appropriate that NH-O5 be retained as one objective.
423. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-05 A and B.

### Recommendation

424. We recommend that the Council **accept in part** or **reject** the submission points submission points below as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.10	Accept in part
The Fuel Companies	138.2	Accept in part
FENZ	154.2	Accept in part
Te Whatu Ora	159.7	Accept in part
Marsden Cove	170.7	Accept in part
Kāinga Ora	171.9	Accept in part
Centuria Funds	175.4	Accept in part
DOC	177.8	Accept in part
Channel Infrastructure	178.5	Accept in part
Waka Kotahi	180.6	Reject
EQC	190.6	Accept in part

### **NH-O6 – Climate Change**

#### Submission Information

425. Nine submitters<sup>91</sup> support NH-O6.
426. Transpower (161.4) requests that NH-O6 be amended as follows:

#### **NH-O6 – Climate Change**

*The potential effects of climate change, including long-term effects and positive effects of activities on climate change outcomes, of climate change are taken into account when managing subdivision, land use and development.*

#### Discussion

427. We acknowledge the submissions in support of NH-O6.
428. We generally support the change sought by Transpower as it would provide clearer policy direction for considering the positive effects of proposed activities. However, we recommend minor amendments to the requested wording and structure to streamline the objective and improve readability.

#### Recommendation

429. We recommend that the Council **accept in part** the submission points below and amend NH-O6 as set out in the amended PC1 provisions.

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<sup>91</sup> Waipapa Pine (120.10), Fuel Companies (138.2), FENZ (154.2), Te Whatu Ora (159.8), Transpower (161.4), Marsden Cove (170.8), Kāinga Ora (171.10), Centuria Funds (175.4), DOC (177.9), and EQC (190.7).

Submitter	Submission # and Point #
Waipapa Pine	120.10
The Fuel Companies	138.2
FENZ	154.2
Te Whatu Ora	159.8
Transpower	161.4
Marsden Cove	170.8
Kāinga Ora	171.10
Centuria Funds	175.4
DOC	177.9
EQC	190.7

## ***SUB-O6 – Natural Hazards***

### **Submission Information**

430. FENZ (154.6) and DOC (177.20) support SUB-O6.
431. Marsden Cove (170.25) seeks to amend SUB-O6 as follows:

#### ***SUB-O6 – Natural Hazards***

*Avoid inappropriate subdivision in areas subject to natural hazard risk or mitigate so that the proposed activity does not increase, and where practicable reduces, risk.*

432. F Morgan (127.15) seeks to amend SUB-O6 as follows:

#### ***SUB-O6 – Natural Hazards***

*Avoid ~~inappropriate~~ subdivision in areas subject to a significant risk of natural hazard risk.*

### **Discussion**

433. We acknowledge the submissions in support of SUB-O6.
434. We acknowledge the concerns raised by submitters that the notified objective lacks clarity and specificity. We recommend that SUB-O6 be redrafted to focus on risk assessment and minimisation at subdivision stage. In our view this is more consistent with Policy 7.1.1 of the NRPS. Additionally, this links better to the proposed policy SUB-P6 which is about risk assessment and minimisation.

### **Recommendation**

435. We recommend that the Council **accept** the submission points below in part and amend SUB-O6 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #
F Morgan	127.15
FENZ	154.6
Marsden Cove	170.25
DOC	177.20

## ***EARTH-O3 – Earthworks in areas subject to land instability and mining subsidence***

### **Submission Information**

436. Three submitters<sup>92</sup> support EARTH-O3.

437. F Morgan (127.15) seeks to amend EARTH-O3 as follows:

***EARTH-O3 - Earthworks in areas subject to land instability and mining subsidence***

~~*Earthworks do not create, contribute to or exacerbate land instability or mining subsidence onsite or on other property.*~~

*Avoid earthworks in areas subject to a significant-risk of natural hazard*

438. Waka Kotahi (180.29) seeks to amend EARTH-O3 as follows:

***EARTH-O3 - Earthworks in areas subject to land instability and mining subsidence***

~~*Earthworks do not create, contribute to or exacerbate land instability or mining subsidence risk beyond the site boundary onsite or on other property.*~~

### **Discussion**

439. We acknowledge the submissions in support of EARTH-O3.

440. In our view blanket avoidance of earthworks in areas subject to a significant risk of natural hazards would be onerous. EARTH-O3 recognises that earthworks may need to take place in areas subject to natural hazards for various reasons. Other proposed objectives in PC1 do not have an avoidance approach. We find that EARTH-O3, with the amendments we recommend, is consistent with NRPS policy 7.1.1 as it enables use and development of land to be managed to minimise the risk from natural hazards.

441. We do not support F Morgan's requested amendment and consider there is an adequate basis for general avoidance of risk where appropriate is already provided for in PC1's general Objectives.

442. We largely agree with the submission from Waka Kotahi.

443. Also see the Council's RoR in terms of additional reasons for amending Objective EARTH - 03.

### **Recommendation**

444. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and amend EARTH-O3 as set out in the amended PC1 provisions.

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<sup>92</sup> Fuel Companies (138.4), Waipapa Pine (120.5), and EQC (190.29).

Submitter	Submission # and Point #	Accept/Reject
Waipapa Pine	120.5	Accept
F Morgan	127.20	Reject
The Fuel Companies	138.4	Accept
Waka Kotahi	180.29	Accept in part
EQC	190.29	Accept

## **DGD-O10 – Natural Hazards**

### **Submission Information**

445. Five submissions<sup>93</sup> were received in support of the proposed amendments to DGD-O10.
446. Eight submitters<sup>94</sup> seek that DGD-O10 be retained as is in the operative WDP and not amended by PC1.
447. F Morgan (127.1) requests that DGD-O10 be amended as follows:

#### ***DGD-O10 – Natural Hazards***

*Avoid inappropriate new subdivision, land use and development ~~in areas~~ on land subject to a high occurrence of natural hazard risk, and*

*In existing developed areas ~~minimise~~ reduce the impacts occurrence of natural hazard events to an acceptable level risk including the influence of climate change, on people, property and infrastructure.*

### **Discussion**

448. We acknowledge the submissions in support of DGD-O10.
449. We generally agree with the intent of the submitters seeking to retain the operative version of DGD-O10 to achieve better consistency with section 6(h) of the RMA and policy 7.1.1 of the NRPS. In addition, we note that DGD-O10 is a high-level objective that does not need to provide the full policy framework for hazard management as the proposed NH Chapter objectives provide further direction. In our opinion the notified objective which splits the operative version into two limbs (one managing new development and one managing existing developed areas) is overly detailed for a DGD-level objective and is better addressed in the NH Chapter.
450. We support amending the objective but recommend minor additional amendments to improve consistency with objective 3.13 of the NRPS.

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<sup>93</sup> Waipapa Pine (120.3), Fuel Companies (138.4), Centuria Funds (175.15), DOC (177.30), and Waka Kotahi (180.41).

<sup>94</sup> University of Auckland (156.16), Te Whatu Ora (159.32), Foodstuffs (163.13), Hurupaki Holdings (166.23), Onoke Heights (167.23), Totara Estate (168.22), TMB (169.16), and Kāinga Ora (171.3).



451. It is unclear what F Morgan is seeking to achieve with his requested amendments. The submitter states “an area may be subject to the occurrence of an event within a 100-year timeframe, but the significance of the risk may be minimal due to the absence of impacts on people, property or other aspects of the environment. Likewise in existing developed areas it will be more appropriate to reduce the occurrence of the natural hazard event”.<sup>95</sup> In our view it is not always possible to reduce the occurrence of natural hazard events through planning interventions.
452. No specific amendments in response to F Morgan’s submission are recommended, but it is noted that the relief sought may be addressed in part by amendments recommended in response to the other submitters.
453. Also see the Council’s RoR in terms of additional reasons for amending Objective DGD- 010.

### Recommendation

454. We recommend that the Council **accept** or **accept in part** the submission points below in part and amend DGD-O10 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #
Waipapa Pine	120.3
F Morgan	127.1
The Fuel Companies	138.4
University of Auckland	156.16
Te Whatu Ora	159.32
Foodstuffs	163.13
Hurupaki Holdings	166.23
Onoke Heights	167.23
Totara Estate	168.22
TMB	169.16
Kāinga Ora	171.3
Centuria Funds	175.15
DOC	177.30
Waka Kotahi	180.41

## 8.6 Policies

455. This section addresses submissions received on the proposed policies. Topic headings for the submissions assessed under this section are as follows:
- General Policies
  - Flooding Policies

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<sup>95</sup> Refer to page 2 of submission 127.

- Coastal Flooding and Coastal Erosion Policies
- Land Instability Risk Policies
- Mining Subsidence Risk Policies
- Subdivision Chapter Policy
- Earthworks Chapter Policy
- District Growth and Development and Urban Form and Development Chapter Policies

## **General Policies**

### **8.6.1.1 NH-P1 – Risk Identification**

#### **Submission Information**

456. Five submitters<sup>96</sup> support NH-P1.
457. C Jenkins (50.2) requests that the date of the flood maps is cited in the policies.
458. C Bergstrom (62.3) requests that the policies should be changed to make it clear to decision makers that their first priority is to enable property owners to remain in their existing location, recognising that this includes the ability to extend or replace existing buildings provided that it can be done in a way that does not result in serious risk.
459. PF Olsen (109.3) seeks to amend NH-P1 – NH-P4 to provide clarification that the NES-PF prevails over the provisions in the plan for Natural Hazards.
460. F Morgan (127.26) seeks to amend NH-P1 as follows:

#### ***NH-P1 – Risk Identification***

*To identify and ~~manage~~ map land that may be subject to hazards, including flooding, coastal inundation/flooding, coastal erosion, land instability and mining subsidence hazards within specified timeframes.*

461. Six submitters<sup>97</sup> seek to amend NH-P1 as follows:

#### ***NH-P1 – Risk Identification***

*To identify ~~and manage~~ land that may be subject to hazards, including flooding, coastal inundation/flooding, coastal erosion, land instability and mining subsidence hazards.*

462. Kāinga Ora (171.11) seeks to amend NH-P1 as follows:

#### ***NH-P1 – Risk Identification***

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<sup>96</sup> Waipapa Pine (120.11), FENZ (154.3), Marsden Cove (170.9), Centuria Funds (175.5), and M and L Dissanayake (184.5).

<sup>97</sup> University of Auckland (156.5), Foodstuffs (163.3), Hurupaki Holdings (166.5), Onoke Heights (167.5), Totara Estate (168.5), and TMB (168.4).

*To identify and manage land that may be subject to natural hazards, including flooding, coastal inundation/flooding, coastal erosion, land instability and mining subsidence hazards.*

### Discussion

463. We acknowledge the submissions in support of NH-P1.
464. Regarding C Jenkins submission, it is not necessary to cite the district plan map's date in our view as this is determined by when the maps become operative.
465. In response to PF Olsen's submission, it is unclear exactly what the concern of the submitter is. We acknowledge that under regulation 6 of the NES-CF there are limits as to what plan rules may be more stringent than the NES-CF regulations. It is unclear whether there is any conflict created by the proposed policies or what specific amendments the submitter considers are required. We do not recommend any amendments in response to this submission point.
466. In response to C Bergstrom, it is considered that the policy and rule framework allow for property owners to remain in their existing location and provide opportunities for extensions or alterations to existing buildings and structures.
467. In response to F Morgan's submission, we do not agree with the suggested amendments to include "map" as the policy is not necessarily intended to mean mapping. Rather it is about the process of risk identification which could be in the form of mapping but could also occur through site specific assessments or the consenting process.
468. We acknowledge the rationale of including "within specified timeframes" within the policy but recommend that this be reworded to "over the foreseeable future" instead as the broader language is considered more appropriate at a policy level.
469. In relation to the six submissions seeking to delete "and manage", we consider this is appropriate as Council is required to manage subdivision, use and development not manage 'land'. Furthermore, the focus of this policy is risk identification while other policies adequately provide for risk management.
470. We agree that the wording would be improved by the suggested amendment of Kāinga Ora.

### Recommendation

471. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and amend NH-P1 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
C Jenkins	50.2	Reject
C Bergstrom	62.3	Reject
PF Olsen	109.3	Reject

Waipapa Pine	120.11	Accept in part
F Morgan	127.26	Accept in part
FENZ	154.3	Accept in part
Universality of Auckland	156.5	Accept
Foodstuffs	163.3	Accept
Hurupaki Holdings	166.5	Accept
Onoke Heights	167.5	Accept
Totara Estate	168.5	Accept
TMB	169.4	Accept
Marsden Cove	170.9	Accept in part
Kāinga Ora	171.11	Accept
Centuria Funds	175.5	Accept in part
M and L Dissanayake	184.5	Accept in part

### 8.6.1.2 NH-P2 – Risk Management

#### Submission Information

472. Eight submitters<sup>98</sup> support NH-P2.

473. F Morgan (127.27) seeks to amend NH-P2 as follows:

#### **NH-P2 Risk Management**

*To manage natural hazard risk to an appropriate acceptable level giving consideration to:*

1. *The nature, frequency and scale of the natural hazard event(s) present within the site.*
2. *The existing and potential ~~risks and~~ adverse effects of the natural hazard event(s) on ~~to~~ people, property, infrastructure and the environment within and beyond the site.*
3. *The location and design of land use and development, including safe access to building platforms.*
4. *The nature, scale, location and design of earthworks and vegetation clearance activities.*
5. *The proposed use of the site, including location of vulnerable activities.*
6. *The ability to adapt to long term changes in natural hazards.*
7. *The management of the natural hazard risk by other agencies*

474. The Ministry of Education (141.6) seeks that an additional clause is added to NH-P2 as follows:

*...7. The operational need for the activity to be located in the hazard risk area.*

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<sup>98</sup> Waipapa Pine (120.11), Fuel Companies (138.5), FENZ (154.3), Kāinga Ora (171.12), Centuria Funds (175.5), Channel Infrastructure (178.6), M and L Dissanayake (184.5), and EQC (190.8).

475. University of Auckland (156.6) seeks to amend NH-P2.3 as follows:

*...3. The location and design of land use and development, ~~including safe access to building platforms...~~*

476. Te Whatu Ora (159.9) seeks to amend NH-P2.2 as follows:

*...2. The existing and potential risks and adverse effects to people, property, public health, infrastructure and the environment within and beyond the site....*

477. Marsden Cove (170.10) supports NH-P2 but seeks clarification on how this enabling provision interphases with NH-O2.

### **Discussion**

478. We acknowledge the submissions in support of NH-P2.

479. In relation to F Morgan's submission, we are generally supportive of changes to the chapeau of NH-P2 and clauses 1 and 2 but consider that "risk" should be retained within NH-P2.2 as section 6 of the RMA and the NRPS direction is to manage "risk". Additionally, we consider that "tolerable" should be used instead of "acceptable" to better align with the thinking behind the as-yet inoperative NPS-NHD terminology.

480. We do not support the new clause 7 requested by F Morgan. The focus of PC1 is to assess risk and appropriateness of development prior to building consent stage (not relying on building consent to address natural hazard risk).

481. We generally support The Ministry of Education's requested amendment but consider that "functional need" should also be referred to in the new clause 7.

482. In response to the University of Auckland's submission we consider that it is appropriate to consider access when managing hazard risk and that this is necessary to give effect to Policy 7.1.2 of the NRPS. We consider that the policy could be clarified by referring specifically to vehicular access in line with Policy 7.1.2 of the NRPS.

483. In response to Te Whatu Ora's submission, we recommend that "communities" be included within the policy rather than "public health" for the reasons outlined already in this report.

484. In response to Marsden Cove, we consider that the recommended NH-O2 wording provides the high-level direction for managing hazard risks while NH-P2 provides a more detailed policy framework for risk management. It is unclear if the submitter is seeking further amendments.

485. Also see the Council's RoR in terms of additional reasons for amending Policy NH-P2.

## Recommendation

486. We recommend that the Council **accept in part** or **reject** the submission points set out below and amend NH-P2 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.11	Accept in part
F Morgan	127.27	Accept in part
The Fuel Companies	138.5	Accept in part
The Ministry of Education	141.6	Accept in part
FENZ	154.3	Accept in part
University of Auckland	156.6	Accept in part
Te Whatu Ora	159.9	Accept in part
Marsden Cove	170.10	Reject
Kāinga Ora	171.12	Accept in part
Centuria Funds	175.5	Accept in part
Channel Infrastructure	178.6	Accept in part
M and L Dissanayake	184.5	Accept in part
EQC	190.8	Accept in part

### 8.6.1.3 NH-P3 – Risk Assessment

#### Submission Information

487. Six submitters<sup>99</sup> support NH-P3.
488. NRC (133.7) seeks to either add a definition of ‘high-risk natural hazard areas’ or amend NH-P3 to include reference to specific hazard areas deemed high risk.
489. The University of Auckland (156.7), Te Whatu Ora (159.10), and Foodstuffs (163.4) seek to amend NH-P3 as follows:

#### **NH-P3 – Risk Assessment**

*To require appropriate assessment of natural hazard risk prior to subdivision, and use and development of land where an assessment has not already been submitted to Council, to inform decision making on the appropriateness of the proposed activity. The risk assessment must include consideration of: ...*

490. Kāinga Ora (171.13) seeks to amend NH-P3 as follows:

#### **NH-P3 – Risk Assessment**

*To require assessment of natural hazard risk prior to subdivision, and use and development of land where an assessment has not already been submitted to Council, to inform decision making*

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<sup>99</sup> Waipapa Pine (120.11), Fuel Companies (138.5), FENZ (154.3), Centuria Funds (175.5), M and L Dissanayake (184.5), and EQC (190.9).

*on the appropriateness of the proposed activity. The risk assessment must include consideration of: ...*

491. Hurupaki Holdings (166.6), Onoke Heights (167.6), Totara Estate (168.6), and TMB (169.5) seek to amend NH-P3 as follows:

***NH-P3 – Risk Assessment***

*To require assessment of natural hazard risk prior to subdivision, and use and development of land where an assessment has not already been submitted to Council, to inform decision making on the appropriateness of the proposed activity. The risk assessment must include consideration of:*

- 1. The likelihood and consequences of a natural hazard event.*
- 2. Uncertain or dynamic nature of natural hazards present within the site.*
- 3. The type of activity being undertaken and the consequences of a natural hazard event in relation to the activity.*
- 4. Any increase of natural hazard risk within the site and surrounding area, transfer of risk to other sites, or creation of new natural hazard risk.*
- 5. Any measures to avoid, mitigate or reduce risk.*

~~*A higher level of scrutiny and site assessment by a suitably qualified and experienced person is required where activities and development are proposed to be located on land subject to high risk natural hazards.*~~

492. Channel Infrastructure (178.7) seeks to include a new clause 6 in NH-P3 as follows:

~~*...6. Whether there is a functional or operational need to locate in a hazard susceptible area.*~~

493. Marsden Cove (170.11) supports NH-P3 but seeks clarification on how this enabling provision interphases with NH-O2.

**Discussion**

494. We acknowledge the submissions in support of NH-P3.
495. With regard to NRC's submission, we note that the recommended amendments in response to other submissions has resulted in the deletion of "high risk natural hazards" from the policy.
496. Regarding the request from several submitters to exempt risk assessments where an assessment has already been provided to Council, we acknowledge the intent of this amendment and generally agree that duplicative risk assessments should not be required. However, we consider that the requested amendment could enable applicants to rely on out-

dated or insufficient historic risk assessments. Amendments have been recommended in response to other submissions which provide for greater flexibility when requiring information to be provided with applications. We do not support including “where an assessment has not already been submitted to Council” within the policy but consider that including “appropriate level of detail” can help address this to an extent.

497. We consider it appropriate to make the deletion to the last sentence of the policy sought by Hurupaki Holdings, Onoke Heights, Totara Estate, and TMB. In conjunction with this we recommend including reference to “appropriate level of detail” in the chapeau of the policy to help provide a link to the proposed information requirements and case by case consideration of the level of detail required.
498. We do not consider it appropriate to make the amendments sought by Channel Infrastructure. Whether an activity has a functional or operational need to locate in an area is not a factor of risk assessment, but rather it is a consideration of risk management, and functional or operational need is included in Policy NH-P2.
499. In response to Marsden Cove, we consider that the recommended NH-O2 wording provides the high-level direction for managing hazard risks while NH-P3 provides a more detailed policy framework for risk assessment.
500. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-P3.

### Recommendation

501. We recommend that the Council **accept in part** or **reject** the submission points set out below and amend NH-P3 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
Waipapa Pine	120.11	Accept in part
NRC	133.7	Accept in part
The Fuel Companies	138.5	Accept in part
FENZ	154.3	Accept in part
University of Auckland	156.7	Accept in part
Te Whatu Ora	159.10	Accept in part
Foodstuffs	163.4	Accept in part
Hurupaki Holdings	166.6	Accept in part
Onoke Heights	167.6	Accept in part
Totara Estate	168.6	Accept in part
TMB	169.5	Accept in part
Marsden Cove	170.11	Reject
Kāinga Ora	171.13	Reject
Centuria Funds	175.5	Accept in part
Channel Infrastructure	178.7	Reject
M and L Dissanayake	184.5	Accept in part
EQC	190.9	Accept in part



#### 8.6.1.4 NH-P4 – Risk Reduction

##### Submission Information

502. Six submitters<sup>100</sup> support NH-P4.
503. F Morgan (127.28) seeks to delete NH-P4.
504. NRC (133.7) seeks to either add a definition of 'high-risk natural hazard areas' or amend NH-P4 to include reference to specific hazard areas deemed high risk.
505. The University of Auckland (156.8) seeks to amend NH-P4.2 be amended as follows:
- ...2. Locating or designing subdivision, use and development so that hazard risk is not transferred to, or increased for other properties...*

506. Six submitters<sup>101</sup> seek to amend NH-P4 as follows:

##### **NH-P4 – Risk Reduction**

*To support risk reduction by:*

- 1. Directing vulnerable activities to locations ~~outside of land subject to high risk~~ within the site which will minimise the risk of natural hazards.*
- 2. Locating or designing subdivision, use and development so that hazard risk is not transferred to, or increased for other properties.*
- 3. Requiring measures to reduce the risk from natural hazard events to people, property, and the environment.*

507. Marsden Cove (170.12) seeks to amend NH-P4.1 as follows:

*...1. Directing vulnerable activities to locations outside of land subject to high-risk natural hazards, unless the risk has been assessed and significant adverse effects are avoided...*

508. Waka Kotahi (180.7) seeks to amend NH-P4.3 as follows:

*...3. Requiring measures to reduce the risk from natural hazard events to people, property, and the environment over time.*

##### Discussion

509. We acknowledge the submissions in support of NH-P4.

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<sup>100</sup> Waipapa Pine (120.11), Fuel Companies (138.5), FENZ (154.3), Centuria Funds (175.5), M and L Dissanayake (184.5), and EQC (190.11).

<sup>101</sup> Te Whatu Ora (159.11), Hurupaki Holdings (166.7), Onoke Heights (167.7), Totara Estate (168.7), TMB (169.6), and Kāinga Ora (171.14).

510. With regard to NRC’s submission, we note that the recommended amendments in response to other submissions has resulted in the deletion of “high risk natural hazards” from the policy.
511. We do not support F Morgan’s submission as we consider risk reduction is a relevant consideration when assessing resource consents. While risk reduction can be a subset of risk management, we consider it important to provide policy direction on risk reduction to give effect to Policies 7.1.3 and 7.1.4 of the NRPS and NH-O3. However, we do consider that the policy can be better drafted to provide clearer direction to decision makers as discussed below.
512. With regard to the requested amendments to NH-P4.1 we acknowledge that the notified wording provides little to no opportunity for vulnerable activities to locate in high-risk hazard areas. We recommend that amendments be made to NH-P4.1 accordingly. This will provide a policy framework for decision makers to consider activities where there is a high natural hazard risk.
513. We consider that the addition of “designing” to NH-P4. 2 as sought by several submitters is appropriate as it may also be a means of ensuring that risks are not transferred to other properties. We had added “including engineering design” to avoid any misunderstanding that this is limited to architectural or landscape/urban design.
514. With regard to the Waka Kotahi submission to include “over time” at the end of NH-P4.3, we do not consider this is appropriate. We acknowledge that some methods to reduce risk may take time; however, some may have (and require) immediate effect. Including “over time” limits the policy to focusing on risk reduction measures that do not have immediate benefit, whereas the notified version allows consideration of both short term and long-term measures.
515. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-P4.

**Recommendation**

516. We recommend that the Council **accept in part** or **reject** the submission points set out below and amend NH-P4 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.11	Accept in part
F Morgan	127.28	Reject
NRC	133.7	Accept in part
The Fuel Companies	138.5	Accept in part
FENZ	154.3	Accept in part
University of Auckland	156.8	Accept in part
Te Whatu Ora	159.11	Accept in part
Hurupaki Holdings	166.7	Accept in part

Onoke Heights	167.7	Accept in part
Totara Estate	168.7	Accept in part
TMB	169.6	Accept in part
Marsden Cove	170.12	Accept in part
Kāinga Ora	171.14	Accept in part
Centuria Funds	175.5	Accept in part
Waka Kotahi	180.7	Reject
M and L Dissanayake	184.5	Accept in part
EQC	190.10	Accept in part

### 8.6.1.5 NH-P5 – Climate Change

#### Submission Information

517. Seven submitters<sup>102</sup> support NH-P5.
518. NRC (133.8) seeks to amend NH-P5 as follows:

#### **NH-P5 – Climate Change**

*To ensure that the potential effects, including long-term effects, of climate change over at least 100 years, including sea level rise, river flooding, drought and others, are considered when assessing natural hazard risks.*

519. Transpower (161.15) seeks to amend NH-P5 as follows:

#### **NH-P5 – Climate Change**

*To ensure that the potential effects of climate change, including long-term effects and positive effects of activities on climate change outcomes, ~~of climate change~~, including sea level rise, river flooding, drought and others, are considered when assessing natural hazard risks and managing subdivision, land use and development.*

#### Discussion

520. We acknowledge the submissions in support of NH-P5.
521. We agree with NRC submission as this wording aligns with the NRPS and NZCPS.
522. We generally support Transpower's requested amendment but suggest minor grammatical and structural changes to improve the readability of the policy.
523. Also see the Council's RoR in terms of additional reasons for amending Policy NH-P5.

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<sup>102</sup> Waipapa Pine (120.11), FENZ (154.3), Te Whatu Ora (159.12), Kāinga Ora (171.15), Centuria Funds (175.5), DOC (177.10), and M and L Dissanayake (184.5).

### Recommendation

524. We recommend that the Council **accept** or **accept in part** the submission points set out below and amend NH-P5 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.11	Accept in part
NRC	133.8	Accept
FENZ	154.3	Accept in part
Te Whatu Ora	159.12	Accept in part
Transpower	161.5	Accept in part
Kāinga Ora	171.15	Accept in part
Centuria Funds	175.5	Accept in part
DOC	177.10	Accept in part
M and L Dissanayake	184.5	Accept in part

#### *8.6.1.6 NH-P6A – Wildfire*

525. We have addressed this issue earlier in this report under the heading – “Other Hazards”.
526. In summary we have recommended the inclusion of a policy (NH-P6A – Wildfire Threat) relating to wild fire, as requested by FENZ. The reasons for this are those provided by FENZ at the hearing, and as set out in the Officers’ RoR.

#### *8.6.1.7 NH-P6 – Tsunami Hazards*

### Submission Information

527. Seven submitters<sup>103</sup> support NH-P6.

### Discussion

528. We acknowledge the submissions in support of NH-P6.

### Recommendation

529. We recommend that the Council **accept** the submission points as set out below and retain NH-P6 as notified.

<b>Submitter</b>	<b>Submission # and Point #</b>
Waipapa Pine	120.11
FENZ	154.3
Te Whatu Ora	159.13
Kāinga Ora	171.16
Centuria Funds	175.5
DOC	177.11
M and L Dissanayake	184.5

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<sup>103</sup> Waipapa Pine (12011), FENZ (154.3), Te Whatu Ora (159.13), Kāinga Ora (171.16), Centuria Funds (175.5), DOC (177.11), and M and L Dissanayake (184.5).

### 8.6.1.8 NH-P7 – Infrastructure

#### Submission Information

530. Nine submitters<sup>104</sup> support NH-P7.

531. Te Whatu Ora (159.14) seeks to amend NH-P7.3 as follows:

*...3. Risks to people, property, public health and the environment are minimised to the greatest extent practicable; and...*

532. Transpower (161.6) seeks to amend NH-P7 as follows:

#### **NH-P7 - Infrastructure**

- 1. To enable the operation, maintenance and upgrading of existing infrastructure on land identified and mapped as susceptible to natural hazards; and*
- 2. To provide for the establishment of new infrastructure, on land identified and mapped as susceptible to natural hazards, where:*
  - ~~1-a.~~ There is a functional need or operational need to locate in a hazard susceptible area and there is no reasonable alternative; and or*
  - ~~2-b.~~ The infrastructure has been designed with consideration given to its resilience, integrity and function during a natural hazard event; and*
  - ~~3-c.~~ Risks to people, property and the environment are ~~minimised~~ mitigated to the greatest extent practicable; and*
  - ~~4-d.~~ Consideration has been given to the ability to respond and adapt to long term effects such as climate change, and any contribution the infrastructure makes to New Zealand's climate change response.*

533. Channel Infrastructure (178.8) seeks to amend NH-P7 as follows:

#### **NH-P7 - Infrastructure**

*To provide for the establishment of new infrastructure, on land susceptible to natural hazards, where:*

- 1. There is a functional need or operational need to locate in a hazard susceptible area and there is no reasonable alternative; and*

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<sup>104</sup> Waipapa Pine (120.11), Fuel Companies (138.5), FENZ (154.3), Marsden Cove (170.13), Kāinga Ora (171.17), Centuria Funds (175.5), DOC (177.12), M and L Dissanayake (184.5), and EQC (190.12).

2. *The infrastructure has been designed with consideration given to its resilience, integrity and function during a natural hazard event; and*
3. *Risks to people, property and the environment are appropriately managed ~~minimised to the greatest extent practicable~~; and*
4. *Consideration has been given to the ability to respond and adapt to long term effects such as climate change.*

534. Waka Kotahi (180.8) seeks to amend NH-P7 as follows:

***NH-P7 - Infrastructure***

*To provide for ~~the establishment of~~ new infrastructure, on land susceptible to natural hazards, where:*

- ~~1. *There is a functional need or operational need to locate in a hazard susceptible area and there is no reasonable alternative; and*~~
1. *The infrastructure provider demonstrates that the location is most appropriate to support the social, cultural and economic well-being of the community the infrastructure services.*
2. *The infrastructure has been designed with consideration given to its resilience, integrity and function during a natural hazard event; and*
3. *Risks to people, property and the environment are minimised to the greatest extent practicable; and*
4. *Consideration has been given to the ability to respond and adapt to long term effects such as climate change.*

535. Northpower (186.2) seeks that the conflict created with the inclusion of network systems equipment in the definition of “major structures” and “infrastructure” is resolved to ensure the application of the rules is clear and recommends that this is resolved by excluding “network system equipment” from the definition of “major structures.”

536. Firstgas (187.1) seeks to amend the chapeau of NH-P7 as follows:

***NH-P7 Infrastructure***

*To provide for the establishment of new infrastructure and associated assets and equipment to operate that infrastructure, including any on land susceptible to natural hazards, where: ...*

**Discussion**

537. We acknowledge the submissions in support of NH-P7.

538. In response to Te Whatu Ora’s submission, we recommend that “communities” be included within the policy rather than “public health” for the reasons already outlined in this report.

539. In response to the Transpower submission we agree that policy direction for existing infrastructure should be included and recommend a new policy NH-P7A as set out in as set out in the amended PC1 provisions. We also agree with the requested amendment to the chapeau to include “identified as”.
540. We do not agree with Transpower’s requested amendment to replace “and” with “or” at the end of NH-P7.1. We consider that even if there is a functional or operational need to locate in a hazard susceptible area that risk should still be reduced where possible. We consider this is consistent with the direction of Policy 7.1.5 of the NRPS.
541. We do not agree with Transpower’s request to replace “minimised” with “mitigate” in NH-P7.3. We find risk can be reduced or avoided and hence have inserted “reduced to the greatest extent practicable”. We have also recommended other amendments to the wording of this clause.
542. We do not support Transpower’s requested amendments to NH-P7.4 as we consider this is addressed through the amendments recommended to NH-O6 and NH-P5 discussed above.
543. With regard to Channel Infrastructure’s submission, we agree with the deletion of “and there is no reasonable alternative” from NH-P7.1 as this is already part of the functional need assessment. We also consider that the wording of this policy direction could be improved and made clearer and recommend amending it as set out in as set out in the amended PC1 provisions to better align with Policy 7.1.5(2)(b) of the NRPS. We do not support Channel Infrastructure’s requested amendments to NH-P7.3 but recommend that the wording be amended as set out in the amended PC1 provisions.
544. We support Waka Kotahi’s requested amendment to the chapeau of NH-P7 to streamline the wording.
545. With regard to Waka Kotahi’s requested amendments to NH-P7.1 and NH-P7.2, we do not support the deletion of consideration of functional and operational need. There is clear direction in Policy 7.1.5 of the NRPS to consider functional and operational need. We recommend that a new clause be included as NH-P7.2 that is similar to the wording requested by Waka Kotahi but better aligns with Policy 7.1.5(2)(b) of the NRPS.
546. With regard to Northpower’s submission, we consider that the amendment sought more directly relates to the definitions and rules for major structures and infrastructure which are discussed in other sections of this report as relevant. We do not recommend any changes to NH-P7 in response to this submission point.
547. It is unclear what additional assets and equipment Firstgas seek to provide for through their requested amendment that are not already provided for by the reference to infrastructure.

548. Also see the Council's RoR in terms of additional reasons for amending Policy NH-P7.

### Recommendation

549. We recommend that the Council **accept in part** or **reject** the submission points as set out below and amend NH-P7 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.11	Accept in part
The Fuel Companies	138.5	Accept in part
FENZ	154.3	Accept in part
Te Whatu Ora	159.14	Accept in part
Transpower	161.6	Accept in part
Marsden Cove	170.13	Accept in part
Kāinga Ora	171.17	Accept in part
Centuria Funds	175.5	Accept in part
DOC	177.12	Accept in part
Channel Infrastructure	178.8	Accept in part
Waka Kotahi	180.8	Accept in part
M and L Dissanayake	184.5	Accept in part
Northpower	186.2	Reject
Firstgas	187.1	Reject
EQC	190.12	Accept in part

#### 8.6.1.9 NH-P8 – Adaptive Planning

### Submission Information

550. Six submitters<sup>105</sup> support NH-P8.

551. NRC (133.9) seeks that NH-P8 is amended as follows:

#### ***NH-P8 – Adaptive planning***

*To support an adaptive planning approach to managing the risks from natural hazards, by ensuring that capability for climate change adaptation is considered at the resource consenting stage and development does not restrict future adaptation options.*

552. Channel Infrastructure (178.9) seek that NH-P8 is deleted as they consider the intent of the policy unclear.

### Discussion

553. We acknowledge the submissions in support of NH-P8.

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<sup>105</sup> Waipapa Pine (120.11), FENZ (154.3), Te Whatu Ora (159.15), Kāinga Ora (171.18), Centuria Funds (175.5), and M and L Dissanayake (184.5).



554. We consider that the intent of NH-P8 is focused on ensuring that the District can continue to adapt and respond to climate change issues as needed rather than enabling new development and land uses that would compromise or restrict future adaptation efforts. This is consistent with the direction in the NAP 2022 and Te Tai Tokerau Climate Adaptation Strategy 2022<sup>106</sup>.
555. We generally agree with changes suggested by NRC to ensure development and consent decisions do not unduly constrain future adaptation options. We recommend minor structural changes to the policy to include this amendment as an example of how adaptation may be considered at the consenting stage.
556. Regarding the submission from Channel Infrastructure, we consider that the amendments sought by NRC help to improve clarity by providing an example of what is intended by the policy.

### Recommendation

557. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and amend NH-P8 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.11	Accept in part
NRC	133.9	Accept
FENZ	154.3	Accept in part
Te Whatu Ora	159.15	Accept in part
Kāinga Ora	171.18	Accept in part
Centuria Funds	175.5	Accept in part
Channel Infrastructure	178.9	Reject
M and L Dissanayake	184.5	Accept in part

### **Flooding Policies**

#### *8.6.1.10 New flood mapping policy NH-P9A*

### Submission Information

558. Four submitters<sup>107</sup> seek to insert a new mapping policy as follows:

*To identify the degree of susceptibility to flood hazard events across the District by mapping areas with 10 and 100 year flood hazard risk based on:*

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<sup>106</sup> Relevant priority actions are 25 – District Plan which seeks to avoid increasing risk from new development and 28 - Embed community adaptation plans which seeks to ensure community adaptation plans are embedded in regulatory instruments.

<sup>107</sup> Hurupaki Holdings (166.11), Onoke Heights (167.11), Totara Estate Developments (168.11), and Kāinga Ora (171.23).

1. [Council to insert technical criteria...]; and

4. Site specific assessments of land instability that demonstrate that the instability hazard is not applicable.

### Discussion

559. We do not agree with the submitters that there is missing policy direction with respect to flood mapping. Unlike the land instability and mining subsidence maps which were produced by WDC, the flood maps (and coastal hazard maps) were produced by NRC. Method 7.1.7 of the NRPS requires district councils to incorporate the flood (and coastal hazard) maps into district plans (and this is confirmed in Ms Shaw's legal submissions, with which we agree). WDC's role is to incorporate the flood maps into the District Plan, but not undertake the mapping exercise.
560. See the Council's RoR in terms of the reasons for adding Policy NH-P9A.

### Recommendation

561. We recommend that the Council **reject** the submission points below and not introduce a new policy related to flood mapping.

<b>Submitter</b>	<b>Submission # and Point #</b>
Hurupaki Holdings	166.11
Onoke Heights	167.11
Totara Estate	168.11
Kāinga Ora	171.23

#### *8.6.1.11 NH-P9 New Subdivision, Land Use and Development*

### Submission Information

562. Kāinga Ora (171.20), Hurupaki Holdings (166.8), Onoke Heights (167.8), Totara Estate (168.8), and M and L Dissanayake (184.6) support NH-P9 as notified.
563. Te Whatu Ora (159.16) and Centuria Funds (175.6) seek to retain Policy NH-P9 - NH-P12 as notified.
564. Marsden Cove (170.14) support NH-P9 but seek clarification on how this enabling provision interacts with NH-O2.
565. C Jenkins (50.3) requests that NH-P9 is amended to ensure any work undertaken to create a safe building platform and access to the building platform avoids creating a dam or other obstruction that will exacerbate flooding problems on adjoining properties.
566. F Morgan (127.29) seeks to amend NH-P9 as follows:

**NH-P9 New Subdivision, Land Use and Development**

To ensure that the location and design of new subdivision and development on land subject to flood ~~hazards~~ events does not ~~increase the~~ result in a significant risk of adverse effects on people, property, and the environment including by:...

567. NRC (133.10) seeks to amend NH-P9 by adding a new clause as follows:

*...5.Ensuring adequate vehicular access is available to serve development.*

568. EQC (190.13) seeks to amend the wording of NH-P9 and other PC1 provisions to reflect that the flood hazard management areas are based on 1% and 10% AEP.

**Discussion**

569. We acknowledge the submissions in support of NH-P9.

570. In response to C Jenkins' submission, we note that consideration of whether an activity would exacerbate risk on other properties is provided for as a matter of discretion in the flooding rules and therefore consider that the rules would benefit from a supporting policy. We recommend amending NH-P9 by inserting:

*...5. Not exacerbating or creating a flood hazard for other properties.*

571. We agree with F Morgan's submission that the wording of NH-P9 is unlikely to be achievable as it is not possible without effectively prohibiting new development. The response should be based on the level of risk, rather than avoiding 'any' increase in risk.

572. In our view the amendment sought by NRC is consistent with NRPS and supports the rule framework which requires assessment of vehicular access. We recommend accepting the policy insertion requested by NRC.

573. We do not support EQC suggested amendments, as we consider that the proposed policy wording is consistent with the NRPS which references 10- and 100-year events. The proposed Issues section and definitions of PC1 provide explanations that the 1 in 10-year event and the 1 in 100-year event is synonymous with a 10% AEP and 1% AEP, respectively. Accordingly, we recommend amending NH-R9 to reference 1 in 100-year flood event.

574. Also see the Council's RoR in terms of additional reasons for amending Policy NH-P9.

**Recommendation**

575. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and amend NH-P9 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
C Jenkins	50.3	Accept

F Morgan	127.29	Accept in part
NRC	133.10	Accept
Te Whatu Ora	159.16	Accept in part
Hurupaki Holdings	166.8	Accept in part
Onoke Heights	167.8	Accept in part
Totara Estate	168.8	Accept in part
Marsden Cove	170.14	Accept
Kāinga Ora	171.20	Accept in part
Centuria Funds	175.6	Accept in part
M and L Dissanayake	184.6	Accept in part
EQC	190.13	Reject

### 8.6.1.12 NH-P10 – Existing Developed Areas

#### Submission Information

576. Four submitters<sup>108</sup> support NH-P10.

577. F Morgan (127.30) seeks to amend NH-P10 as follows:

#### **NH-P10- Existing Developed Areas**

To ~~minimise~~ reduce flood hazard risk in existing developed areas through redevelopment or changes in land use that reduce the vulnerability to adverse effects from flood hazards including by:

1. Requiring alterations to existing buildings to achieve a minimum freeboard above a 100 year flood event.
2. Redevelopment incorporating flood resilient design.
3. Managing the risk for vulnerable activities by avoiding intensification of existing vulnerable activities on ~~sites~~ land subject to flooding in a 100 year flood event; and encouraging the re-location of vulnerable activities to ~~locations~~ land outside of areas subject to flooding in 10 and 100 year flood events.

578. Marsden Cove (170.15) seeks to amend NH-P10 as follows:

- ...4. Remedy or mitigate where practicable or contribute to remedying or mitigating flood hazards in the 100 year flood event.
5. Demonstrating through site specific flood level investigation that the site is not subject to the 10 or 100 year flood event.

579. Kāinga Ora (171.19) seeks to amend NH-P10 as follows:

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<sup>108</sup> University of Auckland, Hurupaki Holdings, Onoke Heights and Totara Estate.

...3. *Managing the risk for vulnerable activities by ~~avoiding~~ minimising intensification of existing vulnerable activities...*

580. EQC (190.14) supports NH-P10 but suggests that the wording of NH-P10 is amended to reflect that the flood hazard management areas are based on 1% and 10% AEP.
581. R Thurlow (108.1 and 108.2) seeks to amend NH-P10 to allow for the alteration to existing houses to floor levels commensurate to that which already exists. The submitter also requests similar relief to NH-P9.

### Discussion

582. We acknowledge the support of NH-P10.
583. To ensure consistency with NH-O3, which was reframed around “existing development” rather than “existing developed areas” due to this having a clearer meaning and better aligns with Policy 7.1.4 of the NRPS, we recommend consequently amending NH-P10 to refer to existing development as well.
584. In response to F Morgan’s submission, we consider that “minimise” is consistent with Objective 3.13 of the NRPS which both have the overarching objective to minimise natural hazard risk. We agree with the submitter that clause 3 of the policy should reference “land”. If only a portion of the site is affected by flooding, it is the intensification on land subject to flood hazard risk that the policy seeks to manage.
585. In relation to Marsden Cove’s submission, we consider that mitigation of flood hazards is an appropriate addition to NH-P10, as this would help to minimise risk as sought by the policy. We do not agree that the addition of clause 5 is necessary as NH-P10 refers to the 10- and 100-year event (rather than hazard area) to ensure when a site-specific risk assessment is triggered through the rule framework, that the risk assessment is tied to the hazard event.
586. In response to Kāinga Ora’s submission, we agree that minimise is more appropriate as objective 3.13 and policy 7.1.1 of the NRPS seek to manage significant risks from natural hazards, rather than avoid.
587. In relation to EQC submission, we do not consider that the policy should refer to 1% AEP for the reasons set out earlier in this report.
588. With regard to R Thurlow’s submission, it appears the submitter seeks to delete policies NH-P9.3 and NH-P10.1 and the associated rule (NH-R10.1(a)) which require a minimum floor level to be achieved. We do not consider it appropriate to delete these provisions as they are required to give effect to 7.1.2 of the NRPS. The purpose is to ensure an appropriate level of mitigation is provided to manage the risk associated with a 1 in 100-year flood event.

## Recommendation

589. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and amend NH-P10 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
R Thurlow	108.1 and 108.2	Accept in part
F Morgan	127.30	Accept in part
University of Auckland	156.9	Accept in part
Hurupaki Holdings	166.9	Accept in part
Onoke Heights	167.9	Accept in part
Totara Estate	168.9	Accept in part
Marsden Cove	170.15	Accept in part
Kāinga Ora	171.19	Accept
EQC	190.14	Reject

### 8.6.1.13 NH-P11 – Vulnerability

#### Submission Information

590. Three submitters<sup>109</sup> support NH-P11.
591. Waipapa Pine (120.12) seeks to amend NH-P11 as follows:

##### **NH-P11 - Vulnerability**

*To recognise that there are some land uses and development, such as non-habitable buildings and rural land uses, that are resilient to the adverse effects of flooding events, and can be carried out in flood hazard areas, and may not need to meet the location or design standards required by NHP9 and NH-P10*

592. The Fuel Companies (138.6) seek to amend NH-P11 as follows:

##### **NH-P11 - Vulnerability**

*When determining the need for any location or design standards under Policies NH-P9 and NHP10, To recognise that there are some land uses and development, such as non – habitable buildings and rural land uses, that are resilient to the adverse effects of flooding events and can be carried out in flood hazard areas.*

593. Golden Bay (136.2) seeks to amend NH-P11 as follows:

##### **NH-P11 - Vulnerability**

*To recognise that there are some land uses and development, such as non – habitable buildings, ~~and~~ rural and industrial land uses, that have the ability to be more ~~are~~ resilient to the adverse effects of flooding events and can be carried out in flood hazard areas.*

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<sup>109</sup> PF Olsen Ltd (109.4), Kāinga Ora (171.20), and Marsden Cove (170.16).

594. Transpower (161.7) and Waka Kotahi (180.9) seek to amend NH-P11 as follows:

***NH-P11 - Vulnerability***

*To recognise that there are some land uses and development, such as infrastructure, non – habitable buildings and rural land uses, that are resilient to the adverse effects of flooding events and can be carried out in flood hazard areas.*

**Discussion**

595. We acknowledge the submissions in support of NH-P11.
596. Regarding Waipapa Pine’s and The Fuel Companies’ submissions, we consider that NH-P9 and NH-P10 differentiates between the approach applied to vulnerable activities, and activities that will not be subject to material damage (i.e., commercial and industrial buildings) and not creating a flood risk to other properties.
597. The freeboard requirements are only intended to apply to vulnerable activities which is considered to have a higher level of risk. This is explicit in NH-P9 but not in NH-P10, and therefore we recommend amending NH-P10.1 to specify existing buildings containing vulnerable activities. In my view this wording clarification means it is not necessary that activities referred to in NH-P11 are explicitly exempt from NH-P9 and NH-P10.
598. In response to Golden Bay’s, Transpower’s and Waka Kotahi’s submissions, we agree that the policy should also recognise that some industrial land uses, and infrastructure may have the ability to be resilient to the effects of flooding. However, we do not agree that with the wording suggestion to refer to “more resilient” as this weakens the policy intent and could enable some activities that are technically “more resilient” than others but are still not appropriately resilient.

**Recommendation**

599. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and amend NH-P11 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
PF Olsen	109.4	Accept in part
Waipapa Pine	120.12	Reject
Golden Bay	136.2	Accept
The Fuel Companies	138.6	Reject
Transpower	161.7	Accept
Kāinga Ora	171.20	Accept in part
Marsden Cove	170.16	Accept in part
Waka Kotahi	180.9	Accept

### 8.6.1.13 NH-P12 – Defences

#### Submission Information

600. Kāinga Ora (171.20) seek to retain NH-P12 as notified.
601. Channel Infrastructure (178.10) seek to amend NH-P12 as follows:

#### **NH-P12 – Defences**

1. To avoid activities that modify, reduce, remove, or otherwise compromise existing defences against flood hazards. ~~and~~

2. ~~Enable~~ appropriate hazard mitigation measures to be created to protect existing development.

602. Waka Kotahi (180.10) seeks to amend NH-P12 as follows:

#### **NH-P12 – Defences**

To avoid activities that ~~modify, reduce or, remove,~~ flood defences or otherwise result in an increase in ~~compromise existing defences against~~ the extent of flood hazards and enable appropriate hazard mitigation measures to be created to protect ~~existing~~ development.

#### Discussion

603. We acknowledge the submission in support of NH-P12.
604. In response to the submission from Channel Infrastructure, we agree that the policy includes two separate directives and recommend accepting the requested amendment to improve clarity of the policy.
605. With regard to the Waka Kotahi submission, we agree that NH-P12 should be amended to focus on the effect (flooding) rather than protecting the feature (defences). We also agree that the removal of 'modify' is appropriate to allow for situations where modification to flood defence may not exacerbate (and could possibly result in a reduction) to the extent of the flood hazard.
606. We do not support the deletion of 'existing' as it is an important component of the policy. The policy intent is to recognise that historical development has occurred in places which are now facing increased flood hazard risk due to climate change. This policy strongly links to NH-O3 which recognizes the need to protect existing vulnerable development. The policy intent is to 'not allow' or 'discourage' development which then requires hazard mitigation. The rationale for this policy is supported by policy 7.1.4 of the NRPS which specifically promotes protecting existing development through natural defences.



## Recommendation

607. We recommend that the Council **accept or accept in part** the submission points as set out below and amend NH-P12 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Channel Infrastructure	178.10	Accept
Kāinga Ora	171.20	Accept in part
Waka Kotahi	180.10	Accept in part

## **Coastal Flooding and Coastal Erosion policies**

### **8.6.1.14 NH-P13 - New Subdivision, Land Use and Development**

#### Submission Information

608. Four submitters<sup>110</sup> support NH-P13.

609. NRC (133.11) seeks to amend NH-P13 to add two new clauses as follows:

*3) Requiring appropriate finished floor levels.*

*4) Assessing new development against the latest government guidance on sea level rise projections.*

610. Te Whatu Ora (159.17) seeks to amend NH-P13 as follows:

#### **NH-P13 - New Subdivision, Land Use and Development**

*To ensure that the location and design of new greenfield subdivision, land use and development within coastal hazard areas does not increase the risk of adverse effects from coastal hazards on people, property, public health and the environment, and takes into account the potential long term effects...*

611. Marsden Cove (170.17) seeks to amend NH-P13.2 as follows:

*2. Limiting new uses and development within CEHA0, CEHA1, CFHA0 and CFHA1 unless significant adverse effects are avoided....*

612. Channel Infrastructure (178.11) seeks to amend NH-P13 as follows:

*...1. Requiring subdivision plans to identify and locate building platforms, access and services outside of coastal hazard areas except where infrastructure has a functional or operational need to locate within those areas...*

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<sup>110</sup> Kāinga Ora (171.21), M and L Dissanayake (184.7), DOC (177.13), and EQC (190.15).

613. Hawthorne Geddes (188.4) considers NH-P13 should not be so strong as to require building platforms to be outside CEHA0-2 or require new development or redevelopment to be outside CEHA1. Hawthorne Geddes (188.6) also seeks that NH-P13 should not require accessways outside of coastal hazard areas, as this is largely inappropriate application where the wider network is inundated for that scenario.

### Discussion

614. We acknowledge the submissions in support of NH-P13.
615. In response to the submission from NRC, we agree with the suggested amendments sought as it gives effect to Policy 7.1.6 and Method 7.1.7 of the NRPS. However, we consider that the wording of new clause 3 needs to be amended to better align with NH-P14.
616. In response to Te Whatu Ora's submission, we recommend that "communities" be included within the policy rather than "public health" for the reasons outlined earlier.
617. Marsden Cove considers that development within coastal hazard areas can be appropriately managed through engineering solutions and subdivision design. In our opinion the policy and rule framework adequately provide for this. NH-P13.2 should be read in conjunction with the chapeau which seeks to ensure "development does not increase the risk of adverse effects from coastal hazards" (consistent with Policy 7.1.3(d) of the NRPS).
618. Moreover, in relation to Marsden Cove, the word "limiting" in NH-P13.2 is not absolute, such as avoid or prohibit. It is intended to reflect that CEHA0, CEHA1, CFHA0 and CFHA1 generally have a higher level of risk which warrants scrutiny about the type of development and risk on site. The rule framework provides for site-specific assessment of risk and the proposed development. For these reasons we do not support the amendment sought by the submitter.
619. With regard to the submission from Channel Infrastructure, we do not consider it appropriate to exempt infrastructure that has a functional or operational need. Policy 7.1.3 of the NRPS directs infrastructure to locate away from areas of coastal hazard risk, but if located within these areas requires that it be designed to maintain its integrity and function during a hazard event. If infrastructure is required to locate in hazard areas, we consider that NH-P7 and NH-P7A set out the appropriate policy considerations.
620. We do not support the amendments to subdivision being located outside coastal hazard areas as sought by Hawthorn Geddes. Policy 7.1.3(b) of the NRPS requires subdivision to identify that building platforms are located outside high-risk coastal hazard areas.

621. We agree with the Hawthorn Geddes submission related to access and recommend NH-P13 be amended to ensure vehicular access routes to be assessed, rather than located outside of coastal hazard areas.
622. Also see the Council's RoR in terms of additional reasons for amending Policy NH-P13.

### Recommendation

623. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and amend NH-P13 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
NRC	133.11	Accept
Te Whatu Ora	159.17	Accept in part
Marsden Cove	170.17	Reject
Kāinga Ora	171.21	Accept in part
DOC	177.13	Accept in part
Channel Infrastructure	178.11	Reject
M and L Dissanayake	184.7	Accept in part
Hawthorn Geddes	188.4	Reject
Hawthorne Geddes	188.6	Accept
EQC	190.15	Accept in part

#### 8.6.1.15 NH-P14 - Existing Developed Areas

### Submission Information

624. Te Whatu Ora (159.18), Transpower (161.8), and DOC (177.14) support NH-P14.
625. Waka Kotahi (180.11) seeks to amend NH-P14.3 – 4 as follows:

*...4. Requiring the finished floor level for new habitable buildings and alterations and modifications to existing habitable buildings meet minimum standards including an allowance for to be 500mm above the maximum water level in a 1% AEP flood event plus a 1.2m sea level rise.*

*5. Requiring the finished floor level for new non-habitable buildings ~~or major structures to meet minimum standards including an allowance for be 300mm above the maximum water level in a 1% AEP flood event plus a 1.2m sea rise....~~*

626. Marsden Cove (170.18) opposes NH-P14 on the basis of a 1.2m sea level rise scenario being used.
627. Channel Infrastructure (178.12) seeks to amend NH-P14 as follows:

#### **NH-P14 - Existing Developed Areas**

*To minimise coastal hazard risk in areas with existing development and land use by, where appropriate:*

1. *Requiring all subdivision plans to identify building platforms, with safe access, that are located outside coastal hazard areas except where infrastructure has a functional or operational need to locate within those areas....*

628. Golden Bay (136.3) seeks to amend NH-P14 as follows:

- ...4. *Requiring the finished floor level for new habitable buildings and alterations and modifications to existing habitable buildings to be 500mm above the maximum water level in a 1% AEP flood event plus a 1.2m sea level rise, or the provision of alternative flood levels where a site specific flood assessment has been carried out.*
5. *Requiring the finished floor level for new non-habitable buildings or major structures to be 300mm above the maximum water level in a 1% AEP flood event plus a 1.2m sea rise, or the provision of alternative flood levels where a site specific flood assessment has been carried out.*
6. *Designing for relocatable, or recoverable structures and flood resilient design when altering or modifying existing buildings and constructing new buildings.*
7. *Encouraging managed retreat by relocation, removal or abandonment of structures in CEHAs.*
8. *Providing for intensification within existing areas only where development has the ability to be resilient to the effects of natural hazards. ...*

629. EQC (190.16) seeks that intensification of existing development within areas at high risk from coastal hazards (i.e., within the CFHA0, CFHA1, CEHA0 and CEHA1) should be avoided, rather than “managed”.

### Discussion

630. We acknowledge the support of NH-P14.

631. With regard to the submission from Waka Kotahi, we agree that parts of NH-P14 reads as rules by specifically referencing minimum finished floor level heights and the sea level rise scenario. We generally accept the relief sought by the submitter. However, we consider that the efficiency and readability of the policy could be improved by combining NH-P14. 4 and 5, which no longer need to differentiate the freeboard required for habitable versus non-habitable buildings.

632. Golden Bay’s further submission considers that the Waka Kotahi relief sought, which removes the blanket requirement for minimum floor levels, aligns with the changes to NH-P14.4 – 5 sought by Golden Bay’s original submission.

633. In response to the submission from Marsden Cove, we consider that that the reason for their opposition to NH-P14 is addressed through the amendments recommended in response to Waka Kotahi by removing specific reference to the sea level rise scenario used for determining appropriate minimum floor levels.

634. Regarding Channel’s submission, which seeks to exempt infrastructure from NH-P14.1, we do not agree with the amendment sought for reasons similar to those outlined previously in relation to other submissions lodged by Channel Infrastructure.
635. Additionally, Channel sought an amendment to the chapeau of the policy - to recognise that the measures set out in the sub-clauses should only apply to the extent it is appropriate in each case. We consider that the amendments recommended in response to the Waka Kotahi submission and inclusion of the word “appropriate” used in conjunction with floor levels allows for greater flexibility to determine if they are relevant in specific circumstances. We also suggest that the chapeau of NH-P14 should state, “including by” to indicate that all do not necessarily have to be achieved simultaneously but are methods for minimising coastal hazard risk.
636. We do not agree with Golden Bay’s amendments to clause 6, as it would be inconsistent with the NRPS and NZCPS. NH-P14 is specifically about existing development so should not state construction of new buildings. The type of structures encouraged by clause 6 (relocatable, recoverable) seek to provide for future possible need to retreat from coastal hazard areas as directed in Policy 25 (c) of the NZCPS and Policy 7.1.4 (a) of the NRPS.
637. In response to the suggested inclusion of clause 8 by Golden Bay, we consider that NH-P14.2 already covers the matters requested in the new clause 8. The policy broadly references ‘managing intensification’ which provides for a balanced approach, noting that in some situations natural hazard risk can be managed but there are instances where risk is significant, and avoidance is appropriate. We also note that there are other policies such as NH-P15 that recognise some activities are resilient to the adverse effects of coastal hazards and can be carried out in coastal hazard areas.
638. With regard to EQC submission, the policy refers to coastal hazard areas and not specifically to “high risk” we therefore do not consider it appropriate to use the word “avoid”. “Managing” is a broader term which could include avoiding intensification if risks are significant.
639. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-P14.

**Recommendation**

640. We recommend that the Council **accept**, **accept in part** or **reject** the submission points as set out below and amend NH-P14 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
Golden Bay	136.3	Accept in part
Te Whatu Ora	159.18	Accept in part
Transpower	161.8	Accept
Marsden Cove	170.18	Accept in part
DOC	177.14	Accept in part

Channel Infrastructure	178.12	Accept in part
Waka Kotahi	180.11	Accept in part
EQC	190.16	Reject

#### 8.6.1.15 NH-P15 – Vulnerability

##### Submission Information

641. Te Whatu Ora (159.18) supports NH-P15.
642. Waipapa Pine (120.13) seeks to amend NH-P15 as follows:

##### **NH-P15 - Vulnerability**

*To recognise that there are some land uses and development, such as non-habitable buildings and rural land uses, that are resilient to the adverse effects of coastal hazards, and can be carried out in coastal hazard areas, and may not need to meet the location or design standards required by NH-P9 and NH-P10.*

643. The Fuel Companies (138.7) seek to amend NH-P15 as follows:

##### **NH-P15 - Vulnerability**

*When determining the need for any location or design standards under Policies NH-P13 and NHP14, To recognise that there are some land uses and development such as non-habitable buildings and rural land uses that are resilient to the adverse effects of coastal hazards and can be carried out in coastal hazard areas.*

644. Three submitters<sup>111</sup> seek to amend NH-P15 as follows:

##### **NH-P15 - Vulnerability**

To recognise that there are some land uses and development such as infrastructure, non-habitable buildings and rural land uses that are resilient to the adverse effects of coastal hazards and can be carried out in coastal hazard areas.

##### Discussion

645. We acknowledge the submissions in support of NH-P15.
646. In response to the submissions from Waipapa Pine and The Fuel Companies concerns about how NH-P15 works alongside NH-P13 and NH-P14, we recommend adding “including by” to the chapeau of both NH-P13 and NH-P14 to indicate that all do not necessarily have to be achieved simultaneously but are methods for minimising coastal hazard risk. Matters

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<sup>111</sup> Transpower (161.19), Waka Kotahi (180.12), and Channel Infrastructure (178.13).

outlined in NH-P14.1 – 7 will not necessarily be relevant to all activities but should form part of the consideration of the appropriateness of development.

647. We do not consider that NH-P15 should explicitly exempt activities from the requirements in NH-P13 and NH-P14; but instead, the policies should be considered alongside one another. The wording in NH-P14 has been amended in response to other submissions (discussed elsewhere in this report) to no longer specify minimum floor level requirements and instead requires appropriate floor levels. This wording allows more flexibility for activities (i.e., boatsheds) to consider whether a minimum floor level is relevant in particular circumstances.
648. In response to the three submitters, although we consider that other policies provide explicit policy direction for infrastructure, we agree that NH-P15 could also apply to infrastructure and support the requested amendment.

### Recommendation

649. We recommend that the Council **accept** or **accept in part** the submission points as set out below and amend NH-P15 as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
Waipapa Pine	120.13	Accept in part
The Fuel Companies	138.7	Accept in part
Te Whatu Ora	159.18	Accept in part
Transpower	161.9	Accept
Channel Infrastructure	178.13	Accept
Waka Kotahi	180.12	Accept

#### *8.6.1.16 NH-P16 - Natural Defences*

### Submission Information

650. NRC (133.12), Te Whatu Ora (159.18), and DOC (177.15) support NH-P16.

### Discussion

651. We acknowledge the submissions in support of NH-P16.

### Recommendation

652. We recommend that the Council **accept** the submission points below and retain NH-P16 as notified.

Submitter	Submission # and Point #
NRC	133.12
Te Whatu Ora	159.18
DOC	177.15

### 8.6.1.17 NH-P17 – Hard Protection Structures

#### Submission Information

653. NRC (133.12), Te Whatu Ora (159.18), and DOC (177.16) support NH-P17.
654. Channel (178.14) seeks to delete NH-P17.
655. Waka Kotahi (180.13) seeks to amend NH-P17 as follows:

#### ***NH-P17 – Hard Protection Structures***

*To ensure that new subdivision, land use and development, and redevelopment (excluding regionally significant infrastructure and critical infrastructure) are located and designed in a way that avoids the need for new or upgraded hard protection structures.*

#### Discussion

656. We acknowledge the submissions in support of NH-P17.
657. We agree with the Waka Kotahi submission that the policy wording in the NRPS and NZCPS is not absolute, as it seeks to discourage hard protection structures rather than avoid them altogether. We consider it appropriate to provide an exemption for regionally significant infrastructure and critical infrastructure, noting that a number of the provisions (e.g. NH-O4A, NH-O4B, NH-P7 and NH-P7A) provide a policy pathway for consenting of infrastructure in specified circumstances which may require hard protection structures.
658. We do not agree with Channel that NH-P17 inappropriately restricts new development and is inconsistent with NH-P18 and NH-P20, but nonetheless, consider that the adoption of Waka Kotahi's addition to NH-P17 addresses the concern raised by Channel. The focus of NH-P17 is new development which creates a need for hard protection structures. If new development requires hard protection structures to mitigate coastal hazard risk, it may be that the proposed location is inappropriate and an unsuitable location for investment given coastal hazard risks are likely to increase in the future. This is consistent with the policy direction of Policy 27 of the NZCPS and 7.2.2 of the NRPS which provides policy direction on establishment of new hard protection structures, including that they are for the purpose of providing protection for concentrations of vulnerable existing development.

#### Recommendation

659. We recommend that the Council **accept** or **accept in part** the submission points as set out below and amend NH-P17 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
NRC	133.12	Accept in part
Te Whatu Ora	159.18	Accept in part
DOC	177.16	Accept



Channel	178.14	Accept in part
Waka Kotahi	180.13	Accept

### 8.6.1.18 NH-P18 - Appropriate Hard Protection Structures

#### Submission Information

660. NRC (133.12), Te Whatu Ora (159.18), and Channel (178.15) support NH-P18.

661. Waka Kotahi (180.14) seeks to amend NH-P18 as follows:

#### ***NH-P18 - Appropriate Hard Protection Structures***

*...1. The level of hazard risk reduction that the proposed structure is seeking to achieve is appropriate and cannot reasonably be achieved through non-structural options; or*

*1A. The structure is for regionally significant infrastructure or critical infrastructure; or*

*2. The structure is the most appropriate method having regard to the entire area potentially affected by the hazard, and the work forms part of a long-term hazard management strategy that represents the best practicable option for the future; and*

*~~3. It can be demonstrated that the benefits of mitigation outweigh the adverse effects on the environment.~~*

#### Discussion

662. We acknowledge the submissions in support of NH-P18.

663. With regard to the Waka Kotahi submission, we agree with the rationale of the submitter that the policy should provide for regionally significant infrastructure or critical infrastructure, giving effect to the NZCPS policy 27(c). However, we recommend minor amendments to the requested wording to be consistent with the terminology in Policy 27(c) of the NZCPS.

664. We do not consider it appropriate to delete NH-P18.3 as it is consistent with policy 7.2.2(d) of the NRPS. This policy is important to establish the criteria, which includes looking at long-term costs and benefits, to assist decision-makers to determine when hard protection structures may be considered an appropriate option to mitigate natural hazard risk.

#### Recommendation

665. We recommend that the Council **accept in part** the submission points below and amend NH-P18 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
NRC	133.12
Te Whatu Ora	159.18
Channel Infrastructure	178.15
Waka Kotahi	180.14

### 8.6.1.19 NH-P19 – Hard Protection Structures Location and Design

#### Submission Information

666. NRC (133.12) and Te Whatu Ora (159.18) support NH-P19.

667. Waka Kotahi (180.15) seeks to amend NH-P19 by deleting clauses 3 and 4 as follows:

~~...3. Ensuring structures are designed to minimise adverse effects on the environment including effects on natural character, ecology, landscape, cultural values, and amenity values.~~

~~4. Ensuring effects on public access, cultural values, and recreational values are avoided as far as practicable and otherwise mitigated....~~

668. Hawthorne Geddes (188.9) considers that policies and rules relating to seawall/coastal defence should not be in the district plan as coastal structures located in the CMA fall outside the remit of WDC.

#### Discussion

669. We acknowledge the submissions in support of NH-P19.

670. In response to Waka Kotahi's submission, we agree that aspects of clause 3 relating to natural character, ecology, landscape values, amenity values, and public access are sufficiently managed by other parts of the district plan.

671. We understand that the consideration of effects on cultural values was included a result of feedback received from iwi/hapū during the early engagement period which highlighted these as particular areas of concern within the coastal environment.<sup>112</sup> In the rule framework new hard protection structures require a Discretionary Activity consent which means consideration of the relevant objectives and policies. This policy therefore offers a level of 'protection' for cultural values through the consent process. We recommend refining the policy and retaining consideration of cultural values which was highlighted as an issue through early engagement with iwi/hapū.

672. We disagree that all policies and rules managing hard protection structures should be deleted as there is the possibility that hard protection structures may be located or partially located landward of mean high-water springs and therefore will fall within the jurisdiction of WDC. For this reason, we consider necessary to maintain policies and rules to manage hard protection structures.

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<sup>112</sup> Plan Change PC1: Natural Hazards Section 32 Evaluation Report – Paragraphs 184 and 240.

## Recommendation

673. We recommend that the Council **accept in part** or **reject** the submission points as set out below and amend NH-P19 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
NRC	133.12	Accept in part
Te Whatu Ora	159.18	Accept in part
Waka Kotahi	180.15	Accept in part
Hawthorne Geddes	188.9	Reject

## **Land Instability Risk policies**

### **8.6.1.20 NH-P20 – Mapping**

#### Submission Information

674. Centuria Funds (175.7) and EQC (190.17) support NH-P20.
675. U Buckingham (67.1) seeks to add a new clause 4 to NH-P20 as follows:

*...4. Ground truthing of mapped areas to confirm accuracy of mapping.*

676. Nine submitters<sup>113</sup> seek to add a new clause 4 to NH-P20 as follows:

*...4. Site specific assessments of land instability that demonstrate that the instability hazard is not applicable.*

677. M and L Dissanayake (184.8) seek to amend NH-P20 as follows:

#### **NH-P20 – Mapping**

*To identify the degree of susceptibility to land instability hazard events across the District by mapping areas with low, moderate or high susceptibility to land instability hazards based on: ...*

678. F Morgan (127.31) seeks to amend NH-P20 as follows:

#### **NH-P20 – ~~Mapping~~ Risk Identification**

*1. To identify the degree of susceptibility to land instability hazard events across the District by mapping areas with moderate or high susceptibility to land instability hazards based on:*

*~~1.a.~~ Topography and slope;*

*~~2.b.~~ Underlying geological characteristics; and*

*~~3.c.~~ Historical landslide events.*

*2. Requiring more accurate geotechnical assessment of the land instability hazards on-site within moderate or high susceptibility to land instability hazards before undertaking subdivision, residential, commercial or industrial use or development.*

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<sup>113</sup> Metlifecare (137.2), University of Auckland (156.10), Te Whatu Ora (159.19), Hurupaki Holdings (166.10), Onoke Heights (167.10), Totara Estate (168.10), TMB (169.7), N Roberts (172.2), and Kāinga Ora (171.22).

## Discussion

679. We acknowledge the submissions in support of NH-P20.
680. We understand the rationale of the submitters seeking a new clause 4 referring to more detailed site-specific analysis and/or ground truthing that can inform the instability mapping. We have addressed the ‘general nature’ and ‘accuracy’ of the Land Instability mapping at a site-specific scale earlier. While the mapping has been amended (the additional work undertaken by T+T) to address some of the concerns of submitters, and we have recommended a permitted activity rule framework. We think this will address a number, but not all, of submitter’s concerns.
681. We do not support the requested amendments by M and L Dissanayake to include reference to low susceptibility to land instability hazard areas. The proposed PC1 provisions do not introduce any rules in relation to areas of low susceptibility to instability hazards. Therefore, the policy does not need to require low instability areas to be mapped.
682. Again, while we understand the concerns raised by F Morgan, we do not support the specific amendments. NH-P20 is intended to relate specifically to mapping. “Risk identification” can include more aspects than just mapping, such as the scale and nature of the activity proposed on the site.
683. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-P20.

## Recommendation

684. We recommend that the Council **accept in part** or **reject** the submission points set out below and amend NH-P20 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
U Buckingham	67.1	Accept in part
F Morgan	127.31	Accept in part
Metlifecare	137.2	Accept in part
University of Auckland	156.10	Accept in part
Te Whatu Ora	159.19	Accept in part
Hurupaki Holdings	166.10	Accept in part
Onoke Heights	167.10	Accept in part
Totara Estate	168.10	Accept in part
TMB	169.7	Accept in part
Kāinga Ora	171.22	Accept in part
N Roberts	172.2	Accept in part
Centuria Funds	175.7	Accept in part
M and L Dissanayake	184.8	Reject
EQC	190.17	Accept in part

8.6.1.21 NH-P21 – Remediation and Mitigation Works

**Submission Information**

- 685. Centuria Funds (175.7) supports NH-P21.
- 686. F Morgan (127.32) seeks to amend NH-P21 as follows:

***NH-P21 – ~~Remediation and Mitigation Works~~ Risk Management***

*To ensure that remediation and mitigation works are undertaken when they are necessary to ~~minimise~~ reduce land instability hazards to an acceptable level.*

- 687. M and L Dissanayake (184.9) seeks to amend NH-P21 as follows:

***NH-P21 – Remediation and Mitigation Works***

*To ensure that remediation and mitigation works are undertaken when they are necessary to minimise current and potential land instability hazards.*

**Discussion**

- 688. We acknowledge the submission in support of NH-P20.
- 689. We do not support the amendment to the policy title requested by F Morgan. Policy NH-P21 is specifically related to remediation and mitigation works rather than risk management more broadly, which is covered by NH-P2. We think “minimise” is the appropriate wording as it suggests ‘to the smallest extent possible’ where as ‘reduce’ could be a very minor reduction.
- 690. We also do not agree with Mr Morgan’s requested inclusion of “to an acceptable level” to provide further direction to applicants and decision-makers.
- 691. It is our finding that the amendment requested by M and L Dissanayake is not supported. Hazards simply are - whether they occur (actual or potential) is the risk factor. Requiring consideration of “potential” hazards is therefore illogical, and therefore the word “current” is also unnecessary.
- 692. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-P21.

**Recommendation**

- 693. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and retain NH-P21 as notified.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
F Morgan	127.32	Reject
Centuria Funds	175.7	Accept in part
M and L Dissanayake	184.9	Refuse

## ***Mining Subsidence Risk Policies***

### ***8.6.1.22 NH-P22 – Mapping of Mining Subsidence Hazard Areas***

#### **Submission Information**

694. Kāinga Ora (171.24) and M and L Dissanayake (184.10) support NH-P22.

#### **Discussion**

695. We acknowledge the submissions in support of NH-P22.

#### **Recommendation**

696. We recommend that the Council **accept** the submission points below, but amend NH-P22 in relation to other submissions as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
Kāinga Ora	171.24
M and L Dissanayake	184.10

### ***8.6.1.23 NH-P23 – Buildings and Structures***

#### **Submission Information**

697. Kāinga Ora (171.24) and M and L Dissanayake (184.10) support NH-P23.

698. Waka Kotahi (180.16) request that NH-P23 is amended by deleting clause 2 as follows:

#### ***NH-P23 – Buildings and Structures***

~~...2. The functional need or operational need for the activity to locate within Mining Subsidence Hazard Area 1...~~

#### **Discussion**

699. We acknowledge the submissions in support of NH-P23.

700. We do not support the requested amendment by Waka Kotahi. The functional or operational need of a building or structure is a relevant consideration of its suitability for locating within a mining subsidence hazard area (noting the change we have made in relation to other submission points to the provisions in relation to functional or operational need – and not having to demonstrate the ‘need’). This matter has been addressed earlier in relation to other submitters, and the reasoning given there is applicable to this submission.

701. Also see the Council’s RoR in terms of additional reasons for amending Policy NH-P22.

### Recommendation

702. We recommend that the Council **accept** or **reject** the submission points as set out below and amend NH-P23 in relation to other submissions as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
Kāinga Ora	171.24	Accept
Waka Kotahi	180.16	Reject
M and L Dissanayake	184.10	Accept

### **Subdivision Chapter Policy**

#### 8.6.1.24 SUB-P6 – Natural Hazards

### Submission Information

703. FENZ (154.7) and DOC (177.21) support SUB-P6.
704. F Morgan (127.16) seeks to amend SUB-P6 as follows:

#### **SUB-P6 – Natural Hazards**

*To ensure that the location and design of new subdivision does not ~~increase the risk from, occurrence of, or the adverse effects of natural hazards on people, property and the environment~~ result in people or structures being subject to a natural hazard event within a 100-year timeframe and takes into account the potential long-term effects of climate change.*

### Discussion

705. We acknowledge the submissions in support of SUB-P6.
706. We do not fully support the amendments requested by Mr Morgan. It is not possible in all instances to ensure that people or structures will not be subject to a natural hazard event within a 100-year timeframe, and is beyond the control of most resource management interventions. While the notified policy focuses on not increasing the risk, occurrence, and adverse effects, which we find this is appropriate, other than “occurrence”. Occurrence is not something people have control over.

### Recommendation

707. We recommend that the Council **accept** or **reject** the submission point as set out below and retain SUB-P6 as notified.

Submitter	Submission # and Point #	Accept/Reject
F Morgan	127.16	Reject
FENZ	154.7	Accept
DOC	177.21	Accept

## Earthworks Chapter Policy

### 8.6.1.25 EARTH-P4 – Risk reduction

#### Submission information

708. Three submitters<sup>114</sup> support EARTH-P4.

709. F Morgan (127.21) seeks to amend EARTH-P4 as follows:

#### **Risk reduction management**

~~Manage the risks associated with earthworks in areas subject to land instability or mining subsidence hazards giving consideration to:~~

~~1. The nature, frequency and scale of the natural hazard(s) present within the site.~~

~~2. The nature, scale, location and design of earthworks.~~

~~3. Any increase of natural hazard risk within the site and surrounding area, transfer of risk to other sites, or creation of new natural hazard risk.~~

~~4. Any measures to avoid, mitigate or reduce risk.~~

~~To ensure that earthworks do not result in people in habitable structures or other property being affected by land movement within a 100-year timeframe.~~

#### Discussion

710. We acknowledge the submissions in support of EARTH-P4.

711. We do not support the amendments requested by Mr Morgan. The reasoning is the same as that given above under policy SUB-P6 – Natural Hazards above.

#### Recommendation

712. We recommend that the Council **accept** or **reject** the submission points as set out below and retain EARTH-P4 as notified.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.6	Accept
F Morgan	127.21	Reject
The Fuel Companies	138.5	Accept
EQC	190.30	Accept

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<sup>114</sup> Fuel Companies (138.5), Waipapa Pine (120.6), and EQC (190.30).



## ***District Growth and Development and Urban Form and Development Chapter Policies***

### ***8.6.1.26 DGD-P3 – Natural Hazards***

#### **Submission Information**

713. DOC (177.31) supports the proposed amendments to DGD-P3.
714. The Fuel Companies (138.8) request that DGD-P3 is deleted in full or that DGD-P3.2 is deleted.
715. Eleven submissions<sup>115</sup> seek to delete DGD-P3.2 or amend it so that “avoid” is not used.
716. Waipapa Pine (120.4) seeks to amend DGD-P3.2 as follows:

*...2. Avoiding inappropriate new subdivision, use and development in areas subject to natural hazards...*

717. Seven submissions<sup>116</sup> seek to delete DGD-P3.5.
718. Waka Kotahi (180.42) seeks to amend DGD-P3.6 as follows:

*...6. ~~Avoiding locating~~ Encouraging regionally significant and critical infrastructure ~~within areas subject to locate outside of natural hazard areas where practicable unless there is a functional or operational need for its location.~~*

719. F Morgan (127.2) seeks to amend DGD-P3 as follows:

#### ***DGD-P3 – Natural Hazards***

*To manage the risk impacts of natural hazards to people, property and infrastructure by:*

- 1. ~~Assessing the risk of coastal and flood hazards on subdivision, use and development over a 100-year timeframe.~~ Identifying natural hazard areas where there is a likelihood of the occurrence of the event within a 100-year timeframe.*
- 2. ~~Avoiding new subdivision, use and built~~ development in areas subject to natural hazards where the occurrence of a natural hazard cannot be reduced to a level beyond 100 years.*
- 3. Ensuring measures to mitigate and adapt to the effects of climate change are provided for in development, growth and transport planning.*

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<sup>115</sup> L Gelder and D Wallace (140.3), Commercial Centres (143.4), Classic Builders (144.4), Blampied (145.3), DC Group (146.4), Hika Ltd (147.4), Quality Developments (149.3), Regeneration (151.5), Moureeses (152.5), Jackson Hikurangi Ltd (153.3), and Otaika Valley (157.5).

<sup>116</sup> University of Auckland (156.17), Foodstuffs (163.14), Hurupaki Holdings (166.24), Onoke Heights (167.24), Totara Estate (168.23), TMB (169.17), and Kāinga Ora (171.4).

4. *Ensuring that the risks from natural hazards are assessed when zoning new areas of land for more intensive development.*
5. *Ensuring all proposals to subdivide or develop land ~~that is subject to~~ in identified natural hazard ~~risk~~ areas include an assessment that is commensurate with the level of natural hazard risk*
6. *Avoiding locating regionally significant and critical infrastructure within areas subject to natural hazard unless there is a functional or operational need for its location.*

### Discussion

720. We acknowledge the submission in support of DGD-P3.
721. In response to the submission points on DGD-P3.2, we support the amendment sought by Waipapa Pine to include “inappropriate” within the policy. We consider that it is relevant to retain DGD-P2.3 to some degree as it sets the policy direction for managing natural hazards. However, the DGD Chapter sits at a district wide level in addition to the proposed NH Chapter and does not need to provide the full policy framework for hazard management. The proposed NH Chapter objectives, policies, and rules provide further direction on what is considered to be “inappropriate”.
722. In response to the submissions seeking the deletion of DGD-P3.5, we agree and consider that this specific policy direction is not necessary within the DGD chapter as it is covered more appropriately in NH-O1 and NH-P3.
723. We generally support the amendments sought by Waka Kotahi to DGD-P3.6. Similar to the clauses above, we consider that it is more appropriate for DGD-P3.6 to set a ‘high-level’ policy framework for infrastructure and rely on NH-O4B and NH-P7 to provide more detailed direction. We consider Waka Kotahi’s requested wording is appropriate apart from the inclusion of “where practicable”. There may be instances where it is not practicable for infrastructure to locate outside of hazard areas, but it equally may still not be appropriate to locate in hazard areas in those instances. Equally, the policy encourages the location of infrastructure outside of hazard areas, but does not direct that that must occur.
724. In response to F Morgan:
- We support including “and impacts” in the chapeau to align with DGD-O10.
  - We do not support the requested amendments to DGD-P3.1. NH-O1 and NH-P1 more appropriately provide the policy framework for hazard identification.
  - We acknowledge the intent of the requested amendments to DGD-P3.2. However, it is not always possible to reduce the occurrence of natural hazard events through

planning interventions. We consider that the amendments recommended to DGD-P3.2 in response to other submissions will address the submitter's concerns to a degree.

- We do not support the requested amendments to DGD-P3.5 as we have recommended that this clause be deleted in response to other submissions.

### Recommendation

725. We recommend that the Council **accept** or **accept in part** the submission points below in part and amend DGD-P3 as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
Waipapa Pine	120.4
F Morgan	127.2
The Fuel Companies	138.8
L Gelder and D Wallace	140.3
Commercial Centres	143.4
Classic Builders	144.4
Blampied	145.3
DC Group	146.4
Hika Ltd	147.4
Quality Developments	149.3
Regeneration	151.5
Moureeses	152.5
Jackson Hikurangi Ltd	153.3
University of Auckland	156.17
Otaika Valley	157.5
Foodstuffs	163.14
Hurupaki Holdings	166.24
Onoke Heights	167.24
Totara Estate	168.23
TMB	169.17
Kāinga Ora	171.4
DOC	177.31
Waka Kotahi	180.42

#### *8.6.1.27 DGD-P23, DGD-P25, DGD-P26, UFD-P10, and UFD-P13*

### Submission Information

726. PC1 proposes to amend policies DGD-P23, DGD-P25, DGD-P26, UFD-P10, and UFD-P13 to replace:

- “hazard prone area” with “areas subject to natural hazard risk, and
- “significantly hazard prone” with “areas at high risk from natural hazards”.

727. F Morgan (127.3, 127.4, 127.5, 127.6, 127.7, 127.8) opposes these proposed amendments and seeks to retain the operative “hazard prone” terminology.

### Discussion

728. We acknowledge the intent of the submission and agree that the wording could be improved to make the policies clearer.
729. It is our understanding that these policies are intended to be zoning framework policies to help determine where certain zones may be appropriate as part of a future plan review or private plan change.
730. We agree with the submitter that all areas are subject to some form of natural hazard risk and that the proposed wording may be interpreted too broadly and result in overly restrictive zoning policies. In our view it would be clearest and most efficient for the policies to clearly refer to mapped hazard areas in the District Plan. We recommend that the proposed wording be amended as set out in the amended PC1 provisions.

### Recommendation

731. We recommend that the Council **accept in part** the submission point below and amend the provisions as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
F Morgan	127.3, 127.4, 127.5, 127.6, 127.7, 127.8

## 8.7 Rules

732. This section addresses submissions received on the proposed rules. Topic headings for the submissions assessed under this section are as follows:
- General support for rules
  - General amendments to rules
  - NH Chapter Rule Notes
  - NH Chapter General Rules
  - NH Chapter Flooding Rules
  - NH Chapter Land Instability Rules
  - NH Chapter Mining Subsidence Rules
  - Subdivision Chapter Rules
  - Earthworks Chapter Rules
  - CE Chapter Coastal Hazard Area Rules

## *General support for rules*

### Submission Information

733. The Fuel Companies (138.9) seek to retain NH-R1 – NH-R14, CH-R1 – CH-R6, and CH-R10 – CH-R12 as notified except for the specific amendments requested in the submission.
734. Centuria Funds (175.8) supports NH-R1 – NH-R7.

### Discussion

735. We acknowledge the general support for some of the proposed rules while noting that amendments are recommended in response to other submission points as discussed in the sections below.

### Recommendation

736. We recommend that the Council **accept in part** the submission points below noting that amendments are recommended in response to other submission points, and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
The Fuel Companies	138.9
Centuria Funds	175.8

## *General amendments to rules*

### Submission Information

737. NRC (133.13) seeks that WDC review the need for rules to manage hazardous substances pending the outcome of Plan Change 91 (**PC91**).
738. Te Whatu Ora (159.28) requests that a new rule be inserted to manage hazardous substances in natural hazard areas.
739. The further submissions of the Fuel Companies (X197) and Waipapa Pine (X213) oppose the submission points from NRC and Te Whatu Ora above.
740. C Bergstrom (62.4) requests that the terminology be changed throughout the rules to make it clear what they refer to such as “100-year event with climate change”.
741. A Disher (99.1) requests that development in all areas subject to high-risk natural hazards (other than construction of hazard mitigation structures on previously developed land) be prohibited.
742. A Disher (99.3) also requests that the mining subsidence provisions be removed from the proposed NH Chapter as they are not a “natural hazard” and should be addressed elsewhere in the District Plan.

743. Waka Kotahi (180.18) requests that NH-R5, NH-R8, NH-R10, NH-R11, NH-R13, and NH-R15 be amended to remove reference to major structures.
744. P Ferguson (53.1 and 53.4) requests that engineering reviews should only be required when construction is planned in the immediate vicinity of a risk identified area, and that the rules should not require a neighbour to put up retaining structures on bare land to prevent a "possible" future slip from an area simply because it is identified as hazard susceptible.
745. Quality Developments (149.6) requests that the Precinct 17 (**PREC17**) provisions in the Low Density Residential Zone Chapter be amended to exempt PREC17 from rules NH-R5, NH-R13, NH-R14, and SUB-R2A.
746. HKRS Holdings (189.2) requests that amendments are made to rules NH-R5, NH-R7, NH-R8, NH-R10, NH-R12 CH-R6, CH-R9, and CH-R12 to clearly state that where hazard risk has been addressed through subdivision consents, new buildings and infrastructure do not need to go through an additional consenting process.

### Discussion

747. In response to the submission points relating to hazardous substances, including those of NRC and Te Whata Ora (and the opposing further submissions) we note that PC91 was recently resolved and made operative in October 2023.
748. PC91 amended the WDP's Hazardous Substances chapter to remove all rules relating to the management of hazardous substances. The rationale for PC91 arose through the statutory requirement to give effect to the 2017 RMA amendments. The RMA amendments removed the explicit requirement for local authorities to control the adverse effects of the storage, use, disposal, and transportation of hazardous substances under the district plan. Following the 2017 amendments, district plans are only now required to manage hazardous substances where the risks and adverse effects from hazardous substances are not adequately addressed by other legislation, including the Hazardous Substances and New Organisms Act 1996 and the Health and Safety at Work Act 2015.
749. The need for rules to manage hazardous substances in natural hazard areas was considered as part of the PC91 process. Ultimately the Commissioner to PC 91 determined that:

*"The PC91 provisions are the most appropriate way to achieve these outcomes sought by this plan change and there is no need for a rules-based approach to achieve the intended planning outcomes. The 2017 RMA amendments sought to ensure Councils were using the 'right tool for the job' and prevent duplication of regulatory controls."<sup>117</sup>*

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<sup>117</sup> PC91 Report and Recommendations of Independent Commissioner. Paragraph 47.

750. In our view the need for rules managing hazardous substances within natural hazard areas has been sufficiently considered through PC91 and we do not recommend including rules as part of PC1. Additionally, mandatory Direction 12 of Section 7 of the National Planning Standards states:

*If provisions relating to hazardous substances are addressed, they must be located in a chapter titled Hazardous substances under the Hazards and risks heading.*

751. If a rule relating to hazardous substances was to be included, we consider that it would need to be located in the recently operative Hazardous Substances Chapter.

752. We acknowledge the concern raised by C Bergstrom and agree that the rule terminology should be as clear as possible. We do not support any amendments directly in response to his submission point but note that other amendments are recommended in response to other submissions which seek to improve the clarity and consistency of the rule wording.

753. We do not support A Disher's request of prohibiting all development in all areas subject to high-risk natural hazards. In our view the requested amendment would result in overly restrictive rules. The intent of the proposed mapping and rules is to allow for site-specific assessment and management of risk. Applications for resource consents are unable to be applied for under a prohibited activity. In our view this would not achieve relevant higher order direction or the WDP objectives and policies.

754. We acknowledge A Disher's request to relocate the mining subsidence provisions to another location within the WDP and agree that mining subsidence hazards are slightly different in nature than flooding and instability hazards in that they are a direct result of human activity.

755. The RMA defines "natural hazard" as:

*means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment*

756. In our view this definition is broad enough to include mining subsidence hazards. Furthermore, while flooding and instability events would occur naturally without human presence, they have been exacerbated and created in some locations as a result of human activity. In our opinion the mining subsidence provisions are appropriate to locate in the proposed NH Chapter. The option of locating them elsewhere could result in unnecessary complexity and confusion for plan users.

757. In response to Waka Kotahi's requested amendment to remove "major structures" from several rules, we acknowledge that major structures often do not have minimum floor levels and therefore some of the standards in those rules will not be relevant. However, each of the rules does have permitted standards that are relevant to major structures (e.g., requirements

for the major structure to not accommodate a vulnerable activity, and to not alter or divert an overland flow path). We note that these rules refer to “gross floor area” which broadly means the sum of the total area of all floors of a building or buildings. Where a major structure is not a building then the rules should not be restrictive in this regard. We do not recommend any amendments in response to this submission point.

758. We acknowledge the concerns raised by P Ferguson and consider that the proposed provisions achieve the submitter’s relief sought without further amendment. The land use rules only apply to land that is mapped as a hazard area and do not require mitigation measures on land where no subdivision, use, or development is proposed.
759. We acknowledge the concerns raised by Quality Developments that the PREC17 provisions already manage instability hazards to a degree. In our view it is appropriate to exempt PREC17 from rule SUB-R2A as there is a bespoke subdivision rule within PREC17 to manage instability hazards when subdividing. We do not support exempting PREC17 from rules NH-R5, NH-R13, or NH-R14 as these are land use rules and there is no equivalent in the PREC17 provisions. We note that the submitter has sought alternative relief in the form of amendments to the land instability rules. These are discussed elsewhere in this report.
760. We acknowledge the concern raised by HKRS Holdings that land use consent may be required to undertake an activity on a site that has previously had hazard risks assessed through a subdivision consent. We have provided a permitted activity framework to address this matter, which may apply to this submitter.

### Recommendation

761. We recommend that the Council **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions:

Submitter	Submission # and Point #	Accept/Reject
P Ferguson	53.1 and 53.4	Accept in part
C Bergstrom	62.4	Accept in part
A Disher	99.1 and 99.3	Reject
NRC	133.13	Accept in part
Quality Developments	149.6	Accept in part
Te Whatu Ora	159.28	Reject
Waka Kotahi	180.18	Reject
HKRS Holdings	189.2	Reject

### ***NH Chapter Rule Notes***

#### Submission Information

762. Transpower (161.10) seeks to amend the notes at the start of the NH rules to clarify whether they apply to the General Rules or all the rules in the NH Chapter.



763. Transpower (161.11) also seeks that Note 1 be amended as follows:

1. *Any application for a land use resource consent in relation to a site that is potentially affected by natural hazards ~~must~~ will, in most circumstances, need to be accompanied by a report prepared by a suitably qualified and experienced person that addresses the matters identified in the relevant objectives, policies, performance standards and matters of control/discretion.*

764. Channel (178.1 and 178.16) seeks that Note 1 be amended and that a new Note 3 be included as follows:

1. *Any application for a land use resource consent in relation to an area site that includes a mapped ~~is potentially affected by~~ natural hazards must be accompanied by a report prepared by a suitably qualified and experienced person that addresses the matters identified in the relevant objectives, policies, performance standards and matters of control/discretion.*
2. *Coastal hazard rules are located in the Coastal Environment Chapter.*
3. *The provisions do not apply to any area within the Marsden Point Energy Precinct.*

765. PF Olsen (109.6) requests that Note 1 be deleted or clarified note to ensure that it applies only to mapped and confirmed natural hazard areas or that a letter from a suitably qualified and experienced person stating that a report is not required is an acceptable solution.

766. Eight submitters<sup>118</sup> request that Note 1 be deleted.

### Discussion

767. We acknowledge the concerns raised by submitters in relation to Note 1. Changes are recommended to Note 1 in response to other submission points as discussed elsewhere in this report and should address the concerns raised around Note 1.

768. Channel requested amendment to exempt the Marsden Point Energy Precinct (**MPEP**)<sup>119</sup> from the proposed NH Chapter rules.

769. Channel's principal submission was that the provisions of PC1 should not apply to its site. This was because the MPEP in the WDP represented a complete and comprehensive suite of provisions governing Channel's site and that (in summary) Channel considered that it was best placed to manage natural hazard risks at its site. Channel set out that it had<sup>120</sup>:

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<sup>118</sup> University of Auckland (156.11), Te Whatu Ora (159.20), Foodstuffs (163.5), Hurupaki Holdings (166.12), Onoke Heights (167.12), Totara Estate (168.12), TMB (169.8), and Kāinga Ora (171.25).

<sup>119</sup> Contained in the Heavy Industrial Zone Chapter of the District Plan.

<sup>120</sup> Paragraph 12 of Channel's opening legal submissions.

*“thorough knowledge of its site and its unique features, including the history of the Site since approximately 1960. A presence at the Site for over 60 years has enabled Channel Infrastructure to compile extensive records and data, including relevantly in relation to matters such as sea level rise and coastal erosion”.*

770. Channel sought the inclusion of new provisions in the Natural Hazards Chapter and the Coastal Environment Chapter. They were to provide that the rules of those chapters would not apply within the MPEP where a Natural Hazards Management Plan (NHMP) had been developed by Channel, approved by the Council, and implemented for the Site.
771. We have recommended that this submission be rejected for the reasons set out below. However, we support in principle that Channel is best placed to manage natural hazard risks at its site, and that a bespoke set of provisions should be able to be developed that was both appropriate and vires. This did not occur through the hearing process even though Channel was provided opportunity during and after the hearing as addressed below.
772. We note that we have provided a permitted activity framework (set out in our recommended set of provisions). Channel may be able to ‘take advantage’ of these provisions.
773. Ms Calmeyer, Channel’s planner provided expert evidence on this matter, including a draft NHMP. In her evidence she also recommended some amendments and refinements to Channel’s relief sought, including in response to the Council officers’ section 42A report.
774. The Council’s section 42A report and the RoR<sup>121</sup> did not support Channel’s request for its site to be exempt from PC1 based on a NHMP. The officers set out<sup>122</sup>:

*It is unclear how the provisions requested by Channel Infrastructure would be implemented and how the NHMP would be received, processed, reviewed, monitored, and enforced by Council. Based on the information provided we do not consider the proposed approach would be efficient or effective. There is no activity status associated with the requested provisions and there is no clear practical mechanism for Council to approve the NHMP, nor is there a right of appeal for an applicant if Council does not approve/certify the NHMP.*

*The provisions recommended by Channel Infrastructure only allow council to reject the NHMP if it does not cover matters listed in (2)(a) – (h). These matters are considered inadequate to manage natural hazard risk as they do not stipulate the degree to which the risk needs to be managed and there is no consideration of whether the proposed risk management measures are appropriate. Furthermore, the matters the NHMP must cover do not include a description of proposed activities (or potential future activities). It is unclear how decision makers would assess an NHMP when the potential uses, and associated effects, are unknown.*

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<sup>121</sup> Dated 12 July 2024.

<sup>122</sup> Paragraphs 5.5 and 5.6 of the RoR.

775. We agree with the Council's reasons. On this basis we do not accept Channel's relief.
776. During the hearing Channel was invited by the Hearing Panel to discuss its relief with the Council officers and provide additional legal submissions and evidence. Channel filed further legal submissions<sup>123</sup> setting out that while Channel continued to seek its primary relief<sup>124</sup>, that it now sought new provisions be included within the MPEP provisions.
777. In summary Channel's amended position was that the Natural Hazards and Coastal Hazards rules do not apply within MPEP where a resource consent had been granted within the last 10 years in accordance with a proposed new controlled activity rule. Channel considered the updated position was within the scope of Channel submission which sought clarification of the application of PC1 to MPEP<sup>125</sup>. Council officers agreed regarding the scope matter, and so do we.
778. The proposed new controlled activity rule would require a report to be prepared by a suitably qualified and experienced person that included a range of stated matters, including details of a monitoring programme for natural hazards as well as detailing measures to manage natural hazards at the site. Where compliance with the rule was not achieved, the PC1 provisions would apply to the site.
779. Channel considered this approach was appropriate for the reasons set out above, including that<sup>126</sup>:
- a) *It better recognises and provides for Channel Infrastructure's operations as regionally significant infrastructure in accordance with the higher order policy documents;*
  - b) *The MPEP site represents heavy industrial zoned land with good transport infrastructure links, and as such represents a scarce natural resource that itself requires sustainable management;*
  - c) *The inclusion of new site-specific provisions is consistent with the objectives and policies of MPEP. The new provisions do not have district wide application and therefore the number and location of the activities that may be undertaken pursuant to the proposed new provision is very limited. Therefore, it will not create a significant regulatory burden for the Council; and*

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<sup>123</sup> Dated 11 July 2024.

<sup>124</sup> As set out in Channel Infrastructure's submission #178, dated 28 July 2023, and further submission X211, dated 20 September 2023. See also the Statement of Evidence of Riaan Elliot, dated 19 February 2024, the Statement of Planning Evidence and Supplementary Statement of Planning Evidence of Teresa Calmeyer, dated 31 January 2024, and 19 February 2024 respectively. Refer also to the legal submissions on behalf of Channel Infrastructure, dated 20 February 2024.

<sup>125</sup> Channel Infrastructure's submission #178, dated 28 July 2023. At [13].

<sup>126</sup> Paragraph 11 of Channel's legal submissions dated 11 July 2024.

(d) Channel Infrastructure has operated at the site for many decades and therefore has comprehensive of data/information relating to the site to inform a targeted and site-specific management of natural hazards.

780. Ms Shaw<sup>127</sup> and Ms Ellis<sup>128</sup> respectively filed legal submissions setting out why they considered Channel’s proposed provisions were *ultra vires* (Ms Shaw), and *intra vires* (Ms Ellis). We do not detail these submissions as it is our view, as expressed above, that Channel could devise appropriate new rules bespoke to it, but has not demonstrated that to our satisfaction, including the proposed controlled activity rule<sup>129</sup>. We set out our reasons for this below.
781. In response to Channel’s suggested provisions, the Council officers (at section 3 of the officers’ Addendum RoR) responded in some detail<sup>130</sup> to the question of *vires* and the appropriateness of the provisions. Their view was informed by Ms Shaw’s submissions, and we have addressed that above.
782. Rather than repeating the officers’ reasons we refer and adopt paragraphs 3.8 to 3.16 of the Addendum RoR. We agree with the officers’ reasons and opinion as set out that the rule as provided is neither appropriate, efficient or effective in section 32 and 32AA terms to manage potential natural hazards on Channel’s site.
783. We also note that the operative natural hazard rules, and other district wide rules (e.g., rules within the Transport Chapter, Three Waters Management Chapter, and Critical Electricity Lines Chapters) apply within the MPEP.

### Recommendation

784. We recommend that the Council **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions:

Submitter	Submission # and Point #	Accept/Reject
PF Olsen	109.6	Accept in part
University of Auckland	156.11	Accept in part
Te Whatu Ora	159.20	Accept in part

<sup>127</sup> Legal Submissions dated 25 July 2024

<sup>128</sup> Legal Submissions dated 9 August 2024

<sup>129</sup> We note in Channel’s Legal Submissions dated 9 August 2024 an amendment to the proposed new rule PREC6-RNEW1 as follows:

*Rules NH-R7 – NH-R11 in the Natural Hazards Chapter and rules CH-R5A – CH-R12 in the Coastal Environment Chapter do not apply within PREC6 where a report has been approved in accordance with ~~resource consent has been approved under~~ PREC6-RNEW2 within the last 10 years and the activity is undertaken in accordance with any conditions of that consent. Otherwise, rules NH-R7 – NH-R11 in the Natural Hazards Chapter and rules CH-R5A – CH-R12 in the Coastal Environment Chapter apply as relevant.*

<sup>130</sup> Paragraphs 3.1 = 3.17 of the Addendum RoR dated 26 July 2024.

Transpower	161.10	Accept in part
Transpower	161.11	Accept in part
Foodstuffs	163.5	Accept in part
Hurupaki Holdings	166.12	Accept in part
Onoke Heights	167.12	Accept in part
Totara Estate	168.12	Accept in part
TMB	169.8	Accept in part
Kāinga Ora	171.25	Accept in part
Channel Infrastructure	178.1	Accept in part
Channel Infrastructure	178.16	Reject

## ***NH Chapter General Rules***

### ***8.7.1.1 NH-R1 – Any activity requiring a restricted discretionary activity consent in this chapter***

#### **Submission Information**

785. Fourteen submitters<sup>131</sup> support NH-R1.
786. Woolworths (185.3, 185.5, 185.7) request that NH-R5, and NH-R7 – NH-R16 be amended to replace all references to NH-R2 with the correct rule reference of NH-R1.

#### **Discussion**

787. We acknowledge the support for NH-R1.
788. We agree with the request to correct the rule cross references. This appears to be an error in the original drafting.

#### **Recommendation**

789. We recommend that the Council **accept** the submission points below and as set out in the amended PC1 provisions:

<b>Submitter</b>	<b>Submission # and Point #</b>
U Buckingham	67.2
PF Olsen	109.7
Waipapa Pine	120.14
Te Whatu Ora	159.21
Transpower	161.13
Foodstuffs	163.6
Hurupaki Holdings	166.13
Onoke Heights	167.13
Totara Estate	168.13
TMB	169.9
Kāinga Ora	171.26

<sup>131</sup> U Buckingham (67.2), PF Olsen (109.7), Waipapa Pine (120.14), Te Whatu Ora (159.21), Transpower (161.13), Foodstuffs (163.6), Hurupaki Holdings (166.13), Onoke Heights (167.13), Totara Estate (168.13), TMB (169.9), Kāinga Ora (171.26), Fonterra (173.1), Channel Infrastructure (178.18) and M and L Dissanayake (184.11).

Fonterra	173.1
Channel Infrastructure	178.18
M and L Dissanayake	184.11
Woolworths	185.3, 185.5, and 185.7

8.7.1.2 NH-R2 – Any Activity Not Otherwise Listed in This Chapter

**Submission Information**

790. Three submitters<sup>132</sup> support NH-R2.

**Discussion**

791. We acknowledge the submissions in support of NH-R2.

**Recommendation**

792. We recommend that the Council **accept** the submission points below.

<b>Submitter</b>	<b>Submission # and Point #</b>
Waipapa Pine	120.15
Fonterra	173.2
M and L Dissanayake	184.11

8.7.1.3 NH-R3 – Minor Buildings and General Public Amenities

**Submission Information**

793. Marsden Cove (170.19) and Fonterra (173.3) support NH-R3.

794. Waipapa Pine (120.16) requests that NH-R3 is amended to include an additional note as follows:

*...2. This rule includes any earthworks associated with the above activities.*

795. M and L Dissanayake (184.12) request that NH-R3 is amended as follows:

***NH-R3 - Minor Buildings and General Public Amenities***

*Activity Status: Permitted*

*Note:*

*1. ~~Minor buildings and General Public Amenities~~ are exempt from rules NH-R5 – NH-R18.*

796. The Telecommunications Companies (40.1) request that NH-R3 is amended as follows:

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<sup>132</sup> Waipapa Pine (120.15), Fonterra (173.2), and M and L Dissanayake (184.11).

**NH-R3 - Minor Buildings and General Public Amenities**

*Activity Status: Permitted*

*Note:*

1. Minor buildings, ~~and~~ General Public Amenities, and telecommunications poles, antennas, lines and cabinets including any ancillary earthworks are exempt from rules NH-R5 – NH-R18.

797. The Fuel Companies (138.10) request that NH-R3 is amended as follows:

**NH-R3 - Minor Buildings, underground structures, and General Public Amenities**

*Activity Status: Permitted*

*Note:*

1. Minor buildings, any underground structures and General Public Amenities are exempt from rules NH-R5 – NH-R18.
2. This rule includes any earthworks associated with the above activities.

**Discussion**

798. We acknowledge the support of NH-R3.

799. We acknowledge the intent of the requested amendments to exempt earthworks associated with minor buildings and general public amenities. The proposed earthworks rules are contained within EARTH-R3 – R5. There are permitted thresholds which provide for a reasonable amount of earthworks as a permitted activity. Specific submissions on those rules are addressed below.

800. In our view the submitters have not demonstrated why the permitted thresholds for earthworks in EARTH-R3 – R5 are insufficient for minor buildings and general public amenities which are generally anticipated to be smaller in scale and require minimal earthworks.

801. Several submitters noted that there is an exemption for earthworks in NH-R4 and that the requested amendment to exempt earthworks within NH-R3 would improve consistency with that rule. We note that NH-R4 relates to the operation, maintenance, and minor upgrading of existing infrastructure for which there is specific enabling policy direction and exemptions within EARTH-R3 – R5. In our view it is not appropriate to provide an exemption for earthworks in NH-R3 as there is an exemption in NH-R4 for a different suite of activities.

802. We acknowledge the concerns raised by M and L Dissanayake regarding enabling general public amenities within hazard areas. The facilities included within the general public amenity definition are generally small scale and are not vulnerable activities (e.g., seating

and picnic tables, drinking fountains, and rubbish bins). The submitter specifically refers to public toilets and we agree that toilets can be larger in scale than other activities considered to be general public amenities. However, they are typically of a scale and nature that they would be permitted under NH-R5 regardless. Including the exemption within NH-R3 provides greater clarity.

803. In response to The Telecommunications Companies, we note that under the recommended version of the provisions, infrastructure is managed under NH-R4 and NH-R7. Including an exemption within NH-R3 is not appropriate in our opinion as this would lead to complexity with the rule structure over which rules apply to the activity. We do not recommend any changes to NH-R3 in response to this submission point. Specific amendments requested to NH-R7 are discussed later.
804. We acknowledge the concern raised by The Fuel Companies and support the requested amendments to include reference to underground structures within NH-R3 for the reasons set out in their submission.<sup>133</sup>

### Recommendation

805. We recommend that the Council **accept** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
The Telecommunications Companies	40.1	Reject
Waipapa Pine	120.16	Reject
The Fuel Companies	138.10	Accept
Marsden Cove	170.19	Accept
Fonterra	173.3	Accept
M and L Dissanayake	184.12	Reject

#### *8.7.1.4 NH-R4 – Operation, Maintenance, and Minor Upgrading of Existing Infrastructure*

### Submission Information

806. Eight submitters<sup>134</sup> support NH-R4.
807. Transpower (161.12 and 161.14) seeks to amend NH-R4 to make explicit reference to ‘identified and mapped natural hazard areas’ and to include an additional note as follows:

*...2. No other rules in this Chapter apply to activities regulated by this rule.*

<sup>133</sup> Refer to Paragraphs 17 – 22 of submission #138.

<sup>134</sup> Waipapa Pine (120.17), Te Whatu Ora (159.22), Marsden Cove (170.20), Kāinga Ora (171.27), Fonterra (173.4), Channel Infrastructure (178.19), Waka Kotahi (180.17), and Northpower (186.4).



808. PF Olsen (109.8) seeks clarification on the rule as the submitter considers it is poorly defined and there are no specified limits as to what is envisaged.

809. Firstgas (187.2) seeks that the title of NH-R4 be amended as follows:

***NH-R4 – Operation, Maintenance and Repair, and Minor Upgrading of Existing Infrastructure***

**Discussion**

810. We acknowledge the support of NH-R4.

811. We acknowledge the concern raised by Transpower that NH-R4, and other proposed rules, are not clear where they apply. Some rules state specific mapped areas where they apply while some rules do not. We recommend that a new rule be included at the start of each section (i.e., “General Rules”, “Flooding Rules”, “Land Instability Rules”, and “Mining Subsidence Rules”) to clearly state where those specific rules apply. We also recommend minor amendments to CH-R1.1 to list the specific rules that apply to Coastal Hazard Areas.

812. We support the amendment requested by Transpower to include an additional note in NH-R4. This aligns with the intent of the rule framework and provides greater clarity. We recommend the requested wording is slightly altered to be consistent with the wording of the note in NH-R3.

813. In response to PF Olsen, we disagree that further clarification is required. “Minor upgrading” is defined in the WDP. In our view “maintenance”, “repair”, and “operation” are clearly defined in the Concise Oxford Dictionary (Ninth Edition) and will appropriately enable correct application of the rule.<sup>135</sup>

814. We support the inclusion of “repair” requested by Firstgas as repairing existing infrastructure is consistent with the other permitted activities in NH-R4.

**Recommendation**

815. We recommend that the Council **accept** or **accept in part** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
PF Olsen	109.8	Accept in part
Waipapa Pine	120.17	Accept
Te Whatu Ora	159.22	Accept
Transpower	161.12 and 161.14	Accept in part

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<sup>135</sup> Refer to paragraph 209 for the Concise Oxford Dictionary (Ninth Edition) definitions of “maintenance” and “repair”. “Operation” is defined in the Concise Oxford Dictionary (Ninth Edition) as “the action or process or method of working or operating. The state of being active or functioning”.

Marsden Cove	170.20	Accept
Kāinga Ora	171.27	Accept
Fonterra	173.4	Accept
Channel Infrastructure	178.19	Accept
Waka Kotahi	180.17	Accept
Northpower	186.4	Accept
Firstgas	187.2	Accept

**8.7.1.5 NH-R5 – Non habitable Buildings and Major Structures in 100 year flood hazard areas and areas moderate or high susceptibility to land instability hazards**

**Submission Information**

816. Marsden Cove (170.21) supports NH-R5.
817. Northpower (186.5) seeks to amend NH-R5 to provide for uninhabited buildings housing electrical and telecommunications infrastructure as a permitted activity or exempt them from the rule.
818. Fonterra (173.5) seeks to amend NH-R5 as set out below:

**NH-R5 – Non habitable Buildings ~~and~~ or Major Structures and extensions or alterations that increase the gfa of existing buildings in 100 year flood hazard areas and areas moderate or high susceptibility to land instability hazards**

*Activity Status: Permitted*

*Where:*

1. *The building or major structure is non-habitable and:*
  - a. *Has a gross floor area less than 30m<sup>2</sup>; or*
  - b. *Is associated with farming and located within the Rural Production Zone or the Fonterra Kauri Milk Processing SRIZ – Ancillary Irrigation Farms, with a gross floor area less than 100m<sup>2</sup>; or ...*

819. Waka Kotahi (180.19) seeks to amend NH-R5 by adding a new permitted exemption as follows:

*...c. Is an artificial crop protection structure, crop support structure or a frost protection fan; or*  
*d. Is regionally significant infrastructure or critical infrastructure.*

820. F Morgan (127.33) seeks to amend NH-R5 as follows:

*Activity Status: Permitted*

*Where:*

1. *The building or major structure is non-habitable and:*
  - a. *Has a gross floor area less than 30m<sup>2</sup>; or*
  - b. *Is associated with farming and located within the Rural Production Zone, with a gross net floor area of 110m<sup>2</sup> or less than 100m<sup>2</sup>; or ...*
  - c. *Is an artificial crop protection structure, crop support structure or a frost protection fan.*
  - d. *A report which has been prepared by a suitably qualified and experienced person, is provided to the Council which confirms and demonstrates that:*
    - i. *The building has been designed to maintain its integrity and functionality in a natural hazard event; and*
    - ii. *The building will not exacerbate natural hazards onsite or on other properties; or*
  - e. *The buildings are on land within Lot 2 Deposited Plan 95642.*

821. Waipapa Pine (120.18) seeks to amend NH-R5.1(b) by removing the 30m<sup>2</sup> GFA threshold where slope stability and land slide risks are unlikely, such as flat sites.

822. M Aylward (65.2) seeks to amend NH-R5.1(b) by either removing the 100m<sup>2</sup> GFA threshold or increasing it to at least 1,000m<sup>2</sup>.

823. Horticulture New Zealand (**Hort NZ**, 46.1) seeks to amend NH-R5.1(b) as follows:

- b. *Is associated with ~~farming~~ primary production and located within the Rural Production Zone, with a gross floor area less than 100m<sup>2</sup>; or ...*

824. Golden Bay (136.4) seeks to include an additional matter of discretion in 100-year flood hazard areas as follows:

- ...4. *Recommendations, proposed conditions, and remediation or mitigation measures to determine appropriate site specific floor levels as a result of a site specific flooding assessment.*

825. The Ministry of Education (141.7) seeks to include an additional matter of discretion in 100-year flood hazard areas as follows:

- ...4. *Whether there is an operational need for the building or major structure to be located within the Flood Hazard Area.*

826. The Ministry of Education (141.8) also seeks to amend matter of discretion 2 for areas of moderate or high susceptibility to land instability hazards as follows:

2. *The functional need or operational need for the building or major structure ~~infrastructure~~ to locate within areas of high susceptibility to land instability hazards.*

827. Waka Kotahi (180.19) seeks to delete matter of discretion 2 for areas of moderate or high susceptibility to land instability hazards as follows:

~~2. The functional need or operational need for infrastructure to locate within areas of high susceptibility to land instability hazards.~~

### Discussion

828. We acknowledge the support of NH-R5.

829. We note that the General Rules are intended to apply to all mapped hazard areas (other than Coastal Hazards). Upon reviewing the submission points on NH-R5 it became apparent that the proposed structure of the rules may cause confusion as NH-R5 only applies to 100-year flood hazard areas and instability hazard areas. We consider that the rule structure could be improved and clarified by shifting NH-R5 into those sections respectively rather than listing it in the General Rules. We have recommended changes as set out in the amended PC1 provisions.

830. In response to Northpower's request to provide for uninhabited buildings housing electrical and telecommunications infrastructure, there are specific rules (NH-R4 and NH-R7) relating to infrastructure which more appropriately apply to activities of this nature.

831. In response to Fonterra's requested amendment to the rule title to include "and extensions or alterations that increase the GFA of existing buildings" is unnecessary. Rules NH-R8 and NH-R13 already manage extensions and alterations in flood hazard areas and instability hazard areas, respectively. Amending the rule title as requested could cause confusion and conflict with the other NH Chapter rules.

832. We support the amendment requested by Fonterra to include reference to the Fonterra Kauri Milk Processing SRIZ – Ancillary Irrigation Farms in new rule (NH R9A). This is consistent with the notified exemption for the RPROZ and more appropriately gives effect to SRIZ-O1, SRIZ-P1 and SRIZ-P2 in the Strategic Rural Industries Zone (**SRIZ**).

833. We do not support the amendment requested by Waka Kotahi to permit all regionally significant infrastructure and critical infrastructure. This is inconsistent with Policy 25 of the NZCPS and Policy 7.1.5 of the NRPS, and recommended Objective NH-O4B and Policy NH-P7 of PC1.

834. We support F Morgan's request to increase 100m<sup>2</sup> to 110m<sup>2</sup> in NH-R5.1(b) for the reasons set out in the submission in that this aligns with the Building Act provisions and provides a more consistent set of standards for landowners. We do not support amending "gross floor area" to "net floor area". The Building Act refers to "floor area" which is not defined in the WDP. It appears to us that gross floor area better aligns with the Building Act definitions.

835. F Morgan's requested inclusion of a new clause (d) to provide for a permitted activity based on a site suitability report being provided is discussed other part of this report.
836. We do not support F Morgan's request to include specific reference to Lot 2 DP 95642 within NH-R5. It is not appropriate to exempt a specific site in the rule framework. The rules are triggered by the maps which identify land that is potentially susceptible to natural hazards. As already set out we have provided for a permitted activity framework.
837. With regard to Waipapa Pine's requested amendment, we note that the proposed mapping is intended to identify areas where landslide risks are unlikely (i.e., areas that do not have high or moderate susceptibility to land instability hazards). In these areas NH-R5 would not apply. We consider that amendments to the maps may be a more appropriate way of ensuring that the rules do not apply to areas where landslide risks are unlikely. We do not recommend any changes in response to this submission point.
838. We do not support M Aylward's request to increase 100m<sup>2</sup> to 1,000m<sup>2</sup> in NH-R5.1(b). As discussed above the recommended 110m<sup>2</sup> aligns with the Building Act.
839. We do not support the amendment requested by Hort NZ to refer to "primary production" instead of "farming". While primary production is a National Planning Standards term, the WDP uses and defines farming instead. Using primary production and introducing the Planning Standards definition would have unintended effects on other chapters of the plan and would require rules to be inserted within each zone chapter to manage primary production activities.
840. We support Golden Bay's requested matter of discretion as this is consistent with the matters of discretion for areas of moderate or high susceptibility to land instability hazards and provides for the ability to determine the site-specific flood risks and potential recommendations from a site suitability report. It is unclear why the requested wording refers specifically to floor levels. We recommend a minor amendment to remove reference to floor levels so that the matter is broader.
841. We support The Ministry of Education's requested amendments to the matters of discretion. We consider that these improve consistency across the two hazard areas and acknowledge that the rule is managing all buildings and major structures, not just infrastructure. We suggest minor wording tweaks to improve consistency with similar matters.
842. We do not support the amendment requested by Waka Kotahi to delete the matter of discretion relating to functional and operational need. The submitter states that this matter is overly restrictive as it would limit infrastructure only to areas where there is a functional or operational need. In our opinion this is not accurate as this is a matter of discretion rather than a rule standard. The matter is intended to be an enabling matter that allows decision-

makers to factor in the functional or operational need to locate in a hazard area. In our opinion the matter is appropriate to give effect to NH-P2, NH-P4, and NH-P7.

### Recommendation

843. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions noting this is to:

- Remove NH-R5 from the General Rules and insert new rules NH-R9A in the Flooding Rules section and NH-R13A in the Land Instability Rules section.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Hort NZ	46.1	Reject
M Aylward	65.2	Reject
Waipapa Pine	120.18	Reject
F Morgan	127.33	Accept in part
Golden Bay	136.4	Accept in part
The Ministry of Education	141.7	Accept
The Ministry of Education	141.8	Accept
Marsden Cove	170.21	Accept in part
Fonterra	173.5	Accept in part
Waka Kotahi	180.19	Reject
Northpower	186.5	Reject

#### *8.7.1.6 NH-R6 – Changes in use to accommodate a vulnerable activity within existing buildings*

### Submission Information

844. F Morgan (127.34) and Marsden Cove (170.22) support NH-R6.

845. NRC (133.15) seeks to amend NH-R6 so that it refers to 100-year flood areas and does not permit a change in use to a vulnerable activity within 100-year flood areas. Alternatively, NRC requests that buildings in 100-year flood areas that will accommodate a vulnerable activity be required to achieve a 500mm minimum freeboard above the 100-year flood event and provision for safe access (as applied in NH-R10.1) as a condition of the permitted activity rule.

### Discussion

846. We acknowledge the support of NH-R6.

847. In response to NRC, we acknowledge that the proposed rule structure may cause confusion. The General Rules are intended to apply to all mapped hazard areas (other than Coastal Hazards). We note that NH-R6 only specifically relates to 10-year flood hazard areas and Mining Subsidence Hazard Area 1. We consider that the rule structure could be improved and clarified by shifting NH-R6 into those sections respectively rather than listing it in the

General Rules. We have recommended changes as set out and as set out in the amended PC1 provisions.

848. We also recommend minor amendments to NH-R8 to clarify that any alteration or modification to a building or major structure that creates a new vulnerable activity in a 100-year flood hazard area would require consent.

### Recommendation

849. We recommend that the Council **accept in part** the submission points as set out below and as set out in the amended PC1 provisions – noting this:

- Remove NH-R6 from the General Rules and insert new rules NH-R11A in the Flooding Rules section and NH-R17A in the Mining Subsidence Rules section.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
F Morgan	127.34	Accept in part
NRC	133.15	Accept in part
Marsden Cove	170.22	Accept in part

#### 8.7.1.7 NH-R7 – New Infrastructure

### Submission Information

850. Three submitters<sup>136</sup> support NH-R7.
851. PF Olsen (109.9) requests that NH-R7 be amended to provide a controlled activity status for lower risk infrastructure and restricted discretionary for higher risk infrastructure with different rules for each category commensurate with risk.
852. Northpower (186.6) seeks to amend NH-R7 to:
- Include a permitted activity in NH-R7 for new infrastructure (especially discrete infrastructure such as is associated with electricity and telecommunications networks).
  - Add to the matters of discretion a requirement to ensure there are no adverse impacts of imposed hazard treatments for new infrastructure, on existing infrastructure.
853. Fonterra (173.6) seeks to amend the rule title of NH-R7 as follows:

*NH-R7 – New above ground infrastructure in 10 and 100 year flood hazard areas and new infrastructure in areas of moderate or high susceptibility to land instability hazards or mining subsidence hazard area*

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<sup>136</sup> Te Whatu Ora (159.23), Kāinga Ora (171.28), and EQC (190.18).

854. Transpower (161.12 and 161.15) seeks several amendments to NH-R7 as set out in their submission and described below:

- Make explicit reference to “identified and mapped natural hazard areas”.
- Amend the rule title to “New and more than minor upgrades of Infrastructure”.
- Delete the restricted discretionary rule criteria and the discretionary activity status so that all activities under NH-R7 are restricted discretionary.
- Delete matter of discretion 7.
- Include a new matter of discretion as follows:

*XX. The public benefits associated with the infrastructure, particularly in the case of regionally significant infrastructure and critical infrastructure.*

- Include a new note as follows:

*3. No other rules in this Chapter apply to activities regulated by this rule.*

855. Waka Kotahi (180.20) seeks several amendments to NH-R7 as set out in their submission and described below:

- Amend the default activity status from restricted discretionary to permitted.
- Amend the wording of the rule standards in NH-R7.1.
- Delete matters of discretion 1, 7, and 8.

856. The WDC Infrastructure Department (X212) submitted in support of Waka Kotahi’s submission point on NH-R7 stating that requiring consent for all new local road network infrastructure is too onerous.

857. Channel (178.20) seeks to amend NH-R7 matters of discretion 2 and 6 as follows:

*Matters of discretion:*

*... ~~2. Other practicable alternative locations.~~ ...*

*...6. The extent to which hazardous substance will be exposed to risk from natural hazards and any measures proposed to manage that risk...*

858. Firstgas (187.5) seeks to amend NH-R7 matter of discretion 2 and include a new matter of discretion as follows:

*Matters of discretion:*

*... 2. Other practicable alternative locations, also taking into account financial considerations. ...*

*...9. The public benefits associated with the infrastructure, particularly in the case of regionally significant infrastructure and critical infrastructure.*



## Discussion

859. We acknowledge the support of NH-R7.
860. We note in response to submitters requests, substantial changes have been recommended to this rule –as set out in the amended PC1 provisions
861. It is unclear what activities PF Olsen considers to be lower risk and what activities should be higher risk and how these would be identified and defined within the district plan. The submitter refers to tracks that would be used to access a farm or forest however it is unclear whether this activity would meet the definition of “infrastructure” and whether this rule would apply at all. We do not recommend any changes in response to this submission.
862. We acknowledge the concerns raised by Northpower but do not support the requested amendment for a new permitted standard for discrete infrastructure such as infrastructure associated with electricity and telecommunications networks.
863. We support the matter of discretion requested by Northpower to ensure that existing infrastructure can continue to operate and be maintained safely.
864. We support the amendment requested by Fonterra to exempt underground infrastructure within flood hazard areas. We recommend that this amendment is provided for within the permitted standards of the rule rather than the rule title itself as set out in and as set out in the amended PC1 provisions.
865. We generally support the amendments requested by Transpower for the following reasons:
- The recommended insertion to provide clarity about where the rules apply.
  - Amending the title to include “more than minor upgrades” will improve the clarity of the rule.
  - Amending the activity status to be a restricted discretionary activity and not a discretionary activity status – this will streamline and simplify the rule.
  - Deleting the matter of discretion relating to landscape values and public access is appropriate, but we consider cultural values should be retained.
  - Including consideration of public benefits in the matters of discretion is consistent with DGD-O15 and DGD-P15 and Objectives 3.7 and 3.9 of the NRPS.
  - Including the requested note to clarify that no other rules in the chapter apply to new infrastructure aligns with the intent of the rule framework and provides greater clarity.
866. In response to Waka Kotahi’s request to amend the activity status, the rule standards, and matter of discretion, these have been discussed above.

867. We do not support Waka Kotahi's requested deletion of matter of the discretion relating to functional and operational need, but have changes the context as requested by other submitters.
868. In response to Channel's submission, we do not support the deletion of matter of discretion 2 as we consider this relevant to give effect to NH-P4 and NH-P7. We do support the requested amendments to matter of discretion 6 to take into account any mitigation measures available to manage the potential risks.
869. We support the amendments requested by Firstgas for the following reasons:
- Including financial considerations within matter of discretion 2 helps provide more clarity and specificity, but we have recommended minor amendments to Firstgas's requested wording.
  - Including consideration of public benefits in the matters of discretion as highlighted above.

### Recommendation

870. We recommend that the Council **accept**, **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions:

Submitter	Submission # and Point #	Accept/Reject
PF Olsen	109.9	Reject
Te Whatu Ora	159.23	Accept in part
Transpower	161.12	Accept
Transpower	161.15	Accept in part
Kāinga Ora	171.28	Accept in part
Fonterra	173.6	Accept
Channel Infrastructure	178.20	Accept in part
Waka Kotahi	180.20	Accept in part
Northpower	186.6	Accept in part
Firstgas	187.5	Accept
EQC	190.18	Accept in part

## **NH Chapter Flooding Rules**

### **8.7.1.8 General submissions**

#### Submission Information

871. C Bergstrom (62.6, 62.7, 62.8, 62.9) seeks that WDC adopts a similar framework to Taupo District Council for its flood and coastal flood hazard rules. C Bergstrom also considers that the 500ml freeboard should be changed to 300ml throughout the flood and coastal flood rules.

872. Seven submitters<sup>137</sup> seek to tie the rules to actual storm events rather than the mapped hazard areas in recognition that climate change predictions are constantly in a state of flux, and to account for situations where it has been remediated.
873. Channel (178.21) seek that rules NH-R8 – NH-R11 be amended to ensure that operation, extensions and construction of new buildings or major structures associated with regionally significant infrastructure are appropriately recognised and provided for, within mapped flood hazard areas.
874. N Quan (42.1) seeks to stop allowing filling activity on natural catchment areas like on Nova Scotia Drive.

### Discussion

875. C Bergstrom considers that the proposed flood and coastal flood hazard areas have been segregated based on how far in the future the risk will occur with respect to climate change impact, and the expected frequency of the risk, but not by the seriousness of the risk in terms of inundation level and (where relevant) flow velocity. The submitter does not support this approach and considers that PC1 should implement a framework which categorises areas as “Low”, “Medium”, or “High” risk based on a combination of maximum flood depth and flow rate.
876. We acknowledge the point raised by the submitter that there is merit in the maps identifying risk as opposed to frequency. However, the purpose of the maps is not to quantify the level of site-specific risk but instead to serve as a trigger for a site-specific investigation which would enable consideration of factors such as the water depth, flow velocity, and activity proposed at the time to determine the level of risk present.
877. In relation to the C Bergstrom submission on minimum freeboard, we do not support the suggested change, as 500ml is consistent with 7.1.2 policy of the NRPS.
878. We do not support the submission from the seven submitters, as method 7.1.7 of the NRPS requires district councils to incorporate NRC’s flood maps into district plans. This is confirmed in the Council’s legal submission – with which we agree. We agree with the further submission of EQC<sup>138</sup> which seeks to reject these submissions, as it is best practice to use maps of regional hazard areas based on predictive modelling as a trigger for site specific investigations.

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<sup>137</sup> L Gelder and D Wallace (140.7), Jackson Hikurangi Ltd (153.7), Otaika Valley (157.10), Commercial Centres (143.10), Classic Builders (144.10), Blampied (145.7) and DC Group (146.10).

<sup>138</sup> Further submission X194.

879. The mapping of flood hazard areas serves as the trigger for the rule framework which requires a site-specific assessment. The specific wording in the rules, such as NH-R10 (now NH-R11) which refers to demonstrating the building will not be subject to material damage in a 100-year event, ties the site-specific assessment to the flood event. This ensures the actual extent of the 100-year flood event is assessed.
880. We do not support the amendments to the rules suggest by Channel and consider that infrastructure should be assessed under NH-R4 and NH-R7. Rule NH-R7 aligns with NRPS policy direction which seeks to ensure that new regionally significant infrastructure and critical infrastructure is designed to maintain its integrity and function during a natural hazard event.
881. N Quan did not specifically submit on any rules, but the submitters relief generally relates to seeking controls over fill activities/ earthworks. The proposed natural hazards chapter did not include rules managing earthworks in relation to flood hazards as the PRPN contains rules managing earthworks (C.8.3.1). We consider a specific earthworks rule in flood hazard areas would be duplicative of the PRPN. A more appropriate management mechanism is through a matter of discretion which we have recommended including earthworks as a matter of discretion in various flooding building and subdivision rules.

### Recommendation

882. We recommend that the Council **accept** or **reject** the submission points as set out below and as set out in the amended PC1 provisions:

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
N Quan	42.1	Accept
C Bergstrom	62.6, 62.7, 62.8, and 62.9	Reject
L Gelder and D Wallace	140.7	Reject
Commercial Centres	143.10	Reject
Classic Builders	144.10	Reject
Blampied	145.7	Reject
DC Group	146.10	Reject
Jackson Hikurangi Ltd	153.7	Reject
Otaika Valley	157.10	Reject
Channel Infrastructure	178.21	Reject

#### *8.7.1.9 NH-R8 Alterations and Modification of Buildings and Major Structures within 10 and 100-year Flood Hazard Area*

### Submission Information

883. Centuria Funds (175.9) seeks to retain NH-R8 as notified.
884. The Ministry of Education (141.9) seeks to amend NH-R8 to include a new matter of discretion in 100-year flood hazard areas as set out below:

5. Whether there is a functional need or operational need for the building or major structure to be located within the Flood Hazard Area.

885. Eight submitters<sup>139</sup> seek to amend NH-R8 to add a new permitted standard and matter of discretion as set out below:

*Activity Status: Permitted*

*Where:*

1. The alterations and modifications are consistent with the recommendations of an approved site-specific assessment prepared by a suitably qualified expert; or ...

*Matters of discretion:*

...5. Recommendations, proposed conditions, and remediation or mitigation measures of the site-specific assessment as follows:

886. F Morgan (127.35) seeks to add a new clause 3 to NH-R8 as follows:

...3. The buildings are on land within Lot 2 Deposited Plan 95642.

887. Hort NZ (46.2) seeks to amend NH-R8 to include the following note:

Note: Artificial crop protection structures and crop support structures are permitted.

888. Northpower (186.7) seeks to amend NH-R8 to permit minor increases to footprint of uninhabitable buildings associated with electricity/telecommunications networks.

### Discussion

889. We agree with The Ministry of Education's submission to include a matter of discretion for functional need or operational need, as modified by other recommendations.

890. With regard to the eight submitters, we have already addressed the issue of a permitted activity framework. We do however see merit in amending the rule to allow for a minor increase in GFA to recognise that there are existing activities within flood hazard areas and a small alteration is unlikely to significantly increase the risk from that already existing. To ensure risk to the alteration/extension is mitigated if the alteration contains a vulnerable activity, we have recommended that it demonstrate that minimum floor level requirements are achieved.

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<sup>139</sup> Kāinga Ora (171.29), Foodstuffs (163.7), Hurupaki Holdings (166.14), Onoko Heights (167.14), Totara Estate (168.14), TMB (169.10), University of Auckland (156.12) and Te Whatu Ora (159.24).

891. We do not support F Morgan’s request to include specific reference to Lot 2 DP 95642 within NH-R8 for the reasons set out earlier.
892. With regard to Hort NZ’s submission, as a result of amendments and structural changes to made to NH-R8 artificial crop protection structures and crop support structures are now included as a permitted standard in NH-R8 so unnecessary to include it as a note.
893. Regarding Northpower’s submission, we find infrastructure activities are better addressed through the infrastructure specific rules.
894. In response to a broader range of submissions across the plan change seeking either the deletion or amendments of the provisions to make them less onerous or more specific we have recommended deleted the mater of discretion “*The scale, bulk, location and form of the building or major structure*” in this and the other rules in this plan change. It is our finding that if the building/structure does not trigger consent under the other chapters and rules of the WDP then this ‘matter’ is too broad and goes beyond the purpose of PC1. Where such things are relevant to hazards then they will be engaged through the other provisions of this chapter.

### Recommendation

895. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Hort NZ	46.2	Accept in part
F Morgan	127.35	Reject
The Ministry of Education	141.9	Accept
University of Auckland	156.12	Reject
Te Whatu Ora	159.24	Reject
Foodstuffs	163.7	Reject
Hurupaki Holdings	166.14	Reject
Onoke Heights	167.14	Reject
Totara Estate	168.14	Reject
TMB	169.10	Reject
Kāinga Ora	171.29	Reject
Centuria Funds	175.9	Accept in part
Channel Infrastructure	178.21	Reject
Northpower	186.7	Accept in part

#### 8.7.1.10 NH-R9 Fences and Walls in Flood Hazard Areas

### Submission Information

896. Centuria Funds (175.9) supports NH-R9.

897. R Thurlow (108.3) seeks to amend NH-R9 to require fences and walls to be of materials and construction that can convey the 1 in 100-year event without diversion or impedance.

898. F Morgan (127.36) seeks to amend NH-R9 as follows:

*...e. The fences and walls are on land within Lot 2 Deposited Plan 95642.*

### Discussion

899. We acknowledge the support of NH-R9.

900. We agree with R Thurlow that the rule could be further clarified by specifying “without diversion or impedance”.

901. For the reason discussed previously, we do not support the amendments requested by F Morgan.

### Recommendation

902. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
R Thurlow	108.3	Accept
F Morgan	127.36	Reject
Centuria Funds	175.9	Accept in part

#### *8.7.1.11 NH-R10 New Buildings or Major Structures and extensions or alterations that increase the GFA of existing buildings in 100-year Flood Hazard Area*

### Submission Information

903. Centuria Funds (175.9) and The Ministry of Education (141.10) seek to retain NH-R10 as notified.

904. EQC (190.19) supports the notified restricted discretionary activity status of NH-R10.

905. A Disher (99.2) seeks that minimum ground levels should be required for land intimately associated with buildings to be outside the 1 in 100-year flood event.

906. C Bergstrom (62.8, 62.10, 62.11, 62.12) seeks to amend NH-R10 so that:

- Any new building or extension is a permitted activity if a 300mm freeboard is achieved and the maximum flood depth of the building site is no greater than 0.5m – 1.0m, or a combination of depth and flow rate where relevant (e.g., around major rivers);
- The non-compliance default status be amended to be restricted discretionary instead of discretionary;

- There are two separate rules, one for new buildings and one for extensions and alterations; and
- The “safe access” requirement in NH-R10.1(b) is deleted.

907. F Morgan (127.37) seeks to amend NH-R10 to be a permitted activity instead of a restricted discretionary activity, to delete clause NH-R10.2(a), and to add the following additional permitted standard:

*... 4. The buildings are on land within Lot 2 Deposited Plan 95642*

908. Hawthorne Geddes (188.29) considers that flood susceptible areas are generally more suited to commercial and industrial buildings and requiring 500mm freeboard is excessive.

909. M Schenkel (113.1) seeks to remove the provisions for the council to require approved flood mitigation measures for alterations to existing dwellings.

910. Fonterra (173.7) seeks to amend NH-R10 as follows:

*Activity Status: Restricted Discretionary*

*Where: ...*

*2. Except as provided for as a permitted activity under Rule NH-R5, For buildings or major structures that will not accommodate a vulnerable activity:*

*a. Are not subject to material damage in a 100-year flood event.*

*3. Except as provided for as a permitted activity under Rule NH-R5, No part of the building or major structure is enclosed in a manner that alters or diverts an overland flow path and causes flooding of another property.*

911. Waka Kotahi (180.21) seeks to amend NH-R10 to delete NH-R10.2 and matter of discretion 4 as follows:

*~~...2. For buildings or major structures that will not accommodate a vulnerable activity: a. Are not subject to material damage in a 100-year flood event. ...~~*

*Matters of discretion:*

*~~...4. Whether there is a functional need or operational need for the building, major structure or activity to be located within the Flood Hazard Area. ...~~*

912. Woolworths (185.4) requests that greater direction be provided on the evidence that would need to be provided to demonstrate the likelihood or potential for ‘material damage’.

913. Marsden Cove (170.23) seeks to amend NH-R10 by adding a new clause as follows:



*Unless:*

*c. the new buildings are located on land recently subdivided and which resulted in a consent notice addressing New Buildings or Major Structures in the 100-year Flood Hazard Area.*

914. Northpower (186.8) seeks to include a permitted activity exemption for infrastructure in NH-R10.

### Discussion

915. We acknowledge the support of NH-R10.
916. Due to a range of submissions, we have recommended deleting NH-R10, and including its provisions in various other rules (NH-R8 and NH-R9A as set out in the amended PC1 provisions). Also, in response to submission points on the clarity (or lack of) of this rule and its relationship with other rules, we recommend combining NH-R10 into NH-R9A to improve clarity and structure of the rule framework.
917. Notwithstanding the above paragraph, the following discussion addresses the issues raised by those submitters to the notified NH-R10 rule.
918. A Disher considers that where land is 'intimately associated' with the building is inundated in a 1% AEP, a Section 72 notice under the Building Act is likely to be applied to the certificate of title from the building consent process and is concerned about the ongoing implications for the owner. While we understand the rationale for the submitter's relief sought, it is unclear what constitutes land intimately associated to ensure it is a measurable standard which could be written into a rule. We do not recommend any changes.
919. We do not consider a permitted rule for new buildings in 100-year flood hazard area as requested by C Bergstrom and F Morgan is appropriate for the reason discussed previously. It is our view that the minimum freeboard requirements are consistent with the policy 7.1.2 NRPS.
920. We agree with C Bergstrom that the clarity of the rules and their application would be improved by separate rules for alterations and new buildings and recommend that NH-R10 be split into NH-R8 and NH-R9A as set out above.
921. We support the deletion of the safe access requirement in NH-R10 as requested by C Bergstrom. However, we consider it necessary to include it as a matter of discretion. This aligns with the NRPS which requires vehicular access to be assessed.
922. The deletion of the access requirement helps to address the concerns raised by Northpower. The reasons provided for the relief sought related to concerns that the access requirement would result in infrastructure being buried too deep to access safely. The provision of safe

vehicular access as a matter of discretion will enable assessment of whether this is necessary, and non-compliance will not result in defaulting to a discretionary activity.

923. With regard to F Morgan's submission point requesting a specific property to be exempt within the rule framework, I recommend that this be rejected for the reasons discussed previously.
924. We do not support the amendment request by M Schenkel as a key objective of PC1 is to build resilience and reduce natural hazard risk to existing development. We note that some amendments have been recommended to NH-R8, increasing the permitted threshold to allow alterations or extensions up to 30m<sup>2</sup> to existing buildings if the minimum freeboard requirement is achieved. However, if alterations/extensions do not achieve the minimum freeboard, it is considered appropriate to require a restricted discretionary consent to ensure natural hazard risk to existing development is not increased.
925. With regard to the Hawthorne Geddes submission, there are no minimum freeboard requirements for building that do not accommodate a vulnerable activity. Hawthorne Geddes also considers that the freeboard under NZS4404 4.3.5.2 should not be applied as it is an excessive application and goes beyond the requirements of sec.6h and s.106 which require the land to be free of the natural hazard. We consider that the notified freeboard requirements are consistent with 7.1.2 policy of the NRPS.
926. We do not support the amendments requested by Fonterra. Moving NH-R5 out of the general rules and creating NH-R9A improves clarity on the application of rules and the amendments suggested by the submitter are no longer necessary.
927. The submission points from Waka Kotahi, Woolworths, and F Morgan seek to delete the material damage clause due to the perceived difficulty in confirming with certainty as to whether a major structure / building would be subject to damage in a 100-year flood event. We accept that there is some level of subjectivity with assessing this clause (despite material damage being a defined term). We consider that the material damage and the overland flow path clauses are more suitable as a matter of discretion. This will allow the resource consent process to evaluate the proposed building/major structure in the context of its intended use and assess the risk and determine the appropriateness of the activity.
928. Regarding the deletion of matter of discretion 4 (functional and operational need) as sought by Waka Kotahi, for the reasons already explained, we consider this inappropriate.
929. We do not support the requested amendments by Marsden Cove. "Recently subdivided" is not a clear or measurable timeframe. We do not consider a rule of this nature appropriate due to the dynamic nature of flood hazard and influences of climate change – but have introduced a permitted activity framework.

930. We do not support the amendments sought by Northpower to NH-R10 as infrastructure activities are better addressed in the infrastructure specific rules as already set out.

### Recommendation

931. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
C Bergstrom	62.8	Reject
C Bergstrom	62.10	Reject
C Bergstrom	63.11	Accept in part
C Bergstrom	62.12	Accept in part
A Disher	99.2	Reject
F Morgan	127.37	Reject
M Schenkel	113.1	Reject
The Ministry of Education	141.10	Accept in part
Marsden Cove	170.23	Reject
Fonterra Limited	173.7	Reject
Centuria Funds	175.9	Accept in part
Waka Kotahi	180.21	Reject
Woolworths	185.4	Reject
Northpower	186.8	Reject
Hawthorne Geddes	188.29	Reject
EQC	190.19	Accept

#### *8.7.1.12 NH-R11 New Buildings or Major Structures or extensions or alterations that increase the GFA of existing buildings in 10 year Flood Hazard Area*

### Submission Information

932. Centuria Funds (175.9) and The Ministry of Education (141.11) seek to retain NH-R11 as notified.
933. EQC (190.20) supports the notified restricted discretionary activity status.
934. F Morgan (127.38) seeks to amend NH-R11 to a permitted activity, to delete clauses NH-R11.3 – 4, and to add the following clause:
935. Waka Kotahi (180.22) seeks to amend NH-R11 to delete NH-R11.3 and matter of discretion 4 as follows:

*...3. The buildings are on land within Lot 2 Deposited Plan 95642.*

~~...3. The building will not be subject to material damage in a 100-year flood event.~~

*Matters of discretion:*

~~4. Whether there is a functional need or operational need for the building, major structure or activity to be ...~~

936. Woolworths (185.6) requests that greater direction be provided on the evidence that would need to be provided to demonstrate the likelihood or potential for 'material damage'.
937. Northpower (186.9) seeks to include a permitted activity exemption for infrastructure in NH-R11.
938. NRC (133.14) requests that the matters of discretion for NH-R11 should include earthworks associated with the activity.
939. Marsden Cove (170.24) seeks to amend NH-R11 by adding a new clause as follows:

Unless:

5. The new buildings are located on land recently subdivided and which resulted in a consent notice addressing New Buildings or Major Structures in 10-year Flood Hazard Area.

Discussion

940. We acknowledge the support for NH-R11.
941. We acknowledge the concerns raised by F Morgan, Waka Kotahi, and Woolworths around the perceived difficulty in determining whether a major structure/building would be subject to damage in a 10-year flood event. Similar to the reasons discussed earlier, we consider material damage is more appropriate as a matter of discretion rather than a rule trigger and recommended that amendment.
942. We do not support the amendment requested by Waka Kotahi to delete the matter of discretion relating to functional and operational need. We have discussed the reason for this previously.
943. With regard to F Morgan's submission point to exempt a specific site from the rule framework we do not consider it appropriate for the reasons already discussed.
944. We agree with NRC that earthworks can exacerbate hazards or divert flood flows onto other sites. We agree that it is appropriate to add a matter of discretion related to earthworks.
945. We do not recommend any amendments in response to the Marsden Cove submission point for the reasons stated earlier.
946. Regarding Northpower's submission, we think that infrastructure activities are better addressed in the infrastructure specific rule and policies as previously discussed.

Recommendation

947. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
F Morgan	127.38	Accept in part
NRC	133.14	Accept
The Ministry of Education	141.11	Accept in part
Marsden Cove	170.24	Reject
Centuria Funds	175.9	Accept in part
Waka Kotahi	180.22	Accept in part
Woolworths	185.6	Accept in part
Northpower	186.9	Reject
EQC	190.20	Accept

### **NH Chapter Land Instability Rules**

#### **8.7.1.13 NH-R12 – Clearance of Exotic and Indigenous Vegetation (excluding pasture) in Areas of Moderate or High Susceptibility to Land Instability Hazards**

##### **Submission Information**

948. Hort NZ (46.3) and PF Olsen (109.10) support NH-R12.
949. Manulife Forest Management Ltd (**Manulife**, 66.1) supports NH-R12.3(j).
950. F Morgan (127.39) requests that NH-R12 be deleted.
951. Hawthorne Geddes (188.19) considers that NH-R12 is an imposition on landowners and should be reconsidered.
952. C Jenkins (50.4) requests that NH-R12 be amended to specify that trees may need to be cleared in high and moderate instability areas to reduce risk near houses or critical infrastructure.
953. Rayonier Matariki Forests (**Rayonier**, 100.1) seeks that NH-R12 be amended to ensure that plantation forestry activities are undertaken in accordance with the NES-PF whether or not they are permitted or require resource consents.
954. Waka Kotahi (180.23) requests that NH-R12 be amended to delete NH-R12.3(j) and matter of discretion 4.
955. M and L Dissanayake (184.13) request that the title of NH-R12 be amended as follows:
- NH-R12 - Clearance of Exotic and Indigenous Vegetation (excluding pasture) in Areas of Low, Moderate or High Susceptibility to Land Instability Hazards*
956. Firstgas (187.6) seeks to amend NH-R12.3(g) as follows:
- ...g. The operation, maintenance and repair, minor upgrading, or replacement of existing lawfully established infrastructure...*

## Discussion

957. We acknowledge the support of NH-R12.
958. In response to F Morgan, the submitter states that NH-R12 appears to be contradictory in that it allows vegetation clearance in urban areas but not in the RPROZ. We acknowledge this concern but note that section 76 of the RMA states that a rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if the tree(s) is described in a schedule in the plan. In our view the rule is consistent with the RMA requirements.
959. F Morgan also states that there is no reason why vegetation clearance should not have an acceptable level of risk and be a permitted activity. Vegetation clearance can affect the stability of a slope and is appropriate to manage this. Permitted thresholds and exemptions have been provided within NH-R12 to accommodate an appropriate level of risk. We do not recommend any amendments in response to this submission point.
960. With respect to the submission by Hawthorne Geddes we acknowledge that NH-R12 would create an additional consenting requirement. However, it is appropriate, in our view, to manage the risks that vegetation clearance can pose on land instability. We do not recommend any amendments in response to this submission point.
961. We acknowledge the concern raised by C Jenkins but find that no amendments are required as the proposed rule provides for those exemptions within NH-R12.3(a), (b), and (g).
962. We acknowledge the concern raised by Rayonier and agree that the relationship between the NES-PF and the District Plan provisions should be clear. We recommend minor amendments to the wording of NH-R12.3(i) to improve the clarity of the exemption. We also recommend that “forestry” be replaced with “plantation forestry” as that is a defined term in the WDP, and that the reference to the NES-PF be replaced with the NES-CF.
963. We support Waka Kotahi’s requested amendment to delete NH-R12.3(j) as it restates a statutory provision and is unnecessary to restate in the district plan. We note that EARTH-R3.2(i) contains a similar exemption and we recommend that this be deleted too - for consistency.
964. We do not support the amendment requested by Waka Kotahi to delete the matter of discretion relating to functional and operational need. We have previously addressed the reasons for this.
965. We do not support the amendment requested by M and L Dissanayake to apply NH-R12 to areas of low susceptibility to land instability hazards. PC1 does not address low susceptibility to land instability hazards, as we have already set out previously.

966. We support the amendment sought by Firstgas to include “repair” within NH-R12.3(g). In our view this provides greater clarity and is consistent with the amendments recommended to NH-R4 discussed above.

**Recommendation**

967. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below as set out in the amended PC1 provisions

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Hort NZ	46.3	Accept in part
C Jenkins	50.4	Reject
Manulife	66.1	Accept in part
Rayonier	100.1	Accept
PF Olsen	109.10	Accept in part
F Morgan	127.39	Reject
Waka Kotahi	180.23	Accept in part
M and L Dissanayake	184.13	Reject
Firstgas	187.6	Accept
Hawthorne Geddes	188.19	Reject

*8.7.1.14 NH-R13 – Extensions and Alterations to Buildings and Major Structures in Areas of Moderate or High Susceptibility to Land Instability Hazards*

**Submission Information**

968. EQC (190.21) supports NH-R13.

969. Waipapa Pine (120.17 and 120.19) supports NH-R13 but requests that it be amended to remove the 30m<sup>2</sup> GFA threshold where slope stability and land slide risks are unlikely, such as flat sites.

970. Hort NZ (46.4) seeks to add a new compliance standard as follows:

*Compliance Standard:*

*1. Crop protection structures and artificial crop protection structures are exempt from NH-R13*

971. M and L Dissanayake (184.14) request that the title of NH-R13 be amended as follows:

*NH-R12 - Extensions and Alterations to Buildings and Major Structures in Areas of Low, Moderate or High Susceptibility to Land Instability Hazards*

972. Waka Kotahi (180.24) seeks to include a new permitted rule standard within NH-R13 as follows:

*Activity Status: Permitted*

*Where:*

1. *The gross floor area does not increase by more than 30m<sup>2</sup> from what existed at [operative date]; and*
2. *The alteration or modification does not create a new vulnerable activity-; or*
3. *Is regionally significant infrastructure or critical infrastructure.*

973. The Ministry of Education (141.12) seeks to amend matter of discretion 3 in NH-R13 as follows

*...3. The functional need or operational need for the building or major structure ~~infrastructure~~ to locate within areas of high susceptibility to land instability hazards....*

974. Northpower (186.10) seeks to amend NH-R13 to provide for uninhabited buildings housing electrical and telecommunications infrastructure as a permitted activity.

### Discussion

975. We acknowledge the support for NH-R13.

976. We do not recommend any amendments in response to Waipapa Pine's submission point for the reasons set out previously.

977. We support the amendment requested by Hort NZ. This is consistent with the permitted exemption in NH-R5.1(c).

978. We do not support the amendment requested by M and L Dissanayake to apply NH-R13 to areas of low susceptibility to land instability hazards. In our view this is overly restrictive as it would impose additional consenting requirements in areas where there is limited risk of instability.

979. We do not support the amendment requested by Waka Kotahi to permit all regionally significant infrastructure and critical infrastructure. This is inconsistent with Policy 25 of the NZCPS, Policy 7.1.5 of the NRPS, and recommended Objective NH-O4B and Policy NH-P7 of PC1. Furthermore, infrastructure needs to be managed by the infrastructure-specific rules.

980. We support The Ministry of Education's requested amendment to the matters of discretion. We consider that this acknowledges that the rule is managing all buildings and major structures, not just infrastructure. However, we have recommended a minor amendment to this matter of discretion to include reference to areas of moderate susceptibility to land instability hazards.

981. In response to Northpower's request to provide for uninhabited buildings housing electrical and telecommunications infrastructure, there are specific rules (NH-R4 and NH-R7) and policies relating to new infrastructure which more appropriately apply to activities of this.



## Recommendation

982. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Hort NZ	46.4	Accept
Waipapa Pine	120.17 and 120.19	Accept in part
The Ministry of Education	141.12	Accept
Waka Kotahi	180.24	Reject
M and L Dissanayake	184.14	Reject
Northpower	186.10	Reject
EQC	190.21	Accept in part

### *8.7.1.15 NH-R14 – New habitable buildings in Areas of Moderate or High Susceptibility to Land Instability Hazards*

#### Submission Information

983. M and L Dissanayake (184.15) and EQC (190.22) support NH-R14.
984. The Ministry of Education (141.13) seeks to amend matter of discretion 3 in NH-R14 as follows:

*...3. The functional need or operational need for the building or major structure ~~infrastructure~~ to locate within areas of high susceptibility to land instability hazards....*

985. Hawthorne Geddes (188.11) requests that the reference to “certificate” be removed from NH-R14.1.
986. A Lydiard and S Hirst (158.3) request that NH-R14 not apply to areas with a lower risk of instability.

#### Discussion

987. We acknowledge the support for NH-R14.
988. We note that as a result of amendments recommended to shift NH-R5 to NH-R13A as discussed earlier, NH-R14 is redundant. We consider that the rules could be streamlined and simplified by combining NH-R14 into NH-R13A. This still retains the original intent of the rule but provides for a more efficient rule structure. This removes the need to refer to an expert’s report within the rule and simply defaults to a restricted discretionary activity status where the permitted standards are not complied with.
989. We support The Ministry of Education’s requested amendment to the matters of discretion. However, we have recommended a minor amendment to this matter of discretion to include reference to areas of moderate susceptibility to land instability hazards.

990. We support the amendment sought by Hawthorne Geddes.
991. We acknowledge the concerns raised by A Lydiard and S Hirst. The proposed mapping is intended to identify areas with a high or moderate susceptibility to instability hazards. In these areas where the moderate or high susceptibility to land instability hazards mapping does not apply (i.e., areas with a lower risk of instability) then the proposed land use rules would not apply. We do not recommend any changes to the proposed rules in response to this submission point but note that we have included a permitted activity rule framework.

### Recommendation

992. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
The Ministry of Education	141.13	Accept in part
A Lydiard and S Hirst	158.3	Reject
M and L Dissanayake	184.15	Accept in part
Hawthorne Geddes	188.11	Accept
EQC	190.22	Accept in part

### **NH Chapter Mining Subsidence Rules**

#### **8.7.1.16 NH-R15 – Extensions and Alterations to Existing Buildings and Major Structures in Mining Subsidence Hazard Areas 1-3**

### Submission Information

993. The Ministry of Education (141.14) supports NH-R15.
994. Northpower (186.11) seeks to amend NH-R15 to provide for uninhabited buildings housing electrical and telecommunications infrastructure as a permitted activity.
995. Waka Kotahi (180.25) seeks to delete matter of discretion 2 as follows:

*2. The functional need or operational need for the activity to locate within Mining Subsidence Hazard Areas.*

### Discussion

996. We acknowledge the support of NH-R15.
997. We do not recommend any amendments in response to Northpower's submission point for the reasons set out previously.
998. We do not support the amendment requested by Waka Kotahi to delete the matter of discretion relating to functional and operational need. We have set out the reasons for this previously.

999. Also see the Council's RoR in terms of additional reasons for amending rule NH-R15.

#### Recommendation

1000. We recommend that the Council **accept** or **reject** the submission points as set out below detailed below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
The Ministry of Education	141.14	Accept
Waka Kotahi	180.25	Reject
Northpower	186.11	Reject

#### *8.7.1.17 NH-R16 – New Buildings and Major Structures in Mining Subsidence Hazard Areas 2 and 3*

#### Submission Information

1001. Northpower (186.12) seeks to amend NH-R16 to include a permitted activity exemption for infrastructure.

#### Discussion

1002. We do not recommend any amendments in response to Northpower's submission point for the reasons set out previously.

1003. Also see the Council's RoR in terms of additional reasons for amending rule NH-R16.

#### Recommendation

1004. We recommend that the Council **reject** the submission point below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
Northpower	186.12

#### *8.7.1.18 NH-R17 – New Buildings and Major Structures in Mining Subsidence Hazard Area 1*

#### Submission Information

1005. Northpower (186.13) seeks to amend NH-R17 to include a permitted activity exemption for infrastructure.

#### Discussion

1006. We do not recommend any amendments in response to Northpower's submission point for the reasons set out previously.

## Recommendation

1007. We recommend that the Council **reject** the submission point below and retain NH-R17 as notified.

Submitter	Submission # and Point #
Northpower	186.13

## ***Subdivision Chapter Rules***

### ***8.7.1.19 SUB-R2A – Subdivision of land within or containing an area of moderate or high susceptibility to land instability hazards***

#### Submission Information

1008. F Morgan (127.17) and EQC (190.25) support SUB-R2A.

1009. Quality Developments (149.4) requests that SUB-R2A be amended to add an exemption specific to PREC17 or alternative relief with a similar effect.

1010. Nine submitters<sup>140</sup> request that SUB-R2A.1(a) be amended to use the same wording from SUB-R2E.1 which does not refer to “boundary adjustments”, and instead refers to situations where “no additional sites are created”.

1011. A Barrell (9.1) requests that SUB-R2A be amended so that in the case of subdivision of land within or containing an area of moderate or high susceptibility to land instability hazards, the requirements of the rule only apply to the areas where there is land instability risk. Where any new proposed site does not include areas of medium or high instability, the submitter seeks that the rule requirements should not apply to that site.

1012. Five submitters<sup>141</sup> request that SUB-R2A is amended as follows:

*Activity Status: Controlled*

*Where:*

*Either*

*1. Subdivision is undertaken for:*

*a. Boundary adjustment; or*

*b. The creation of esplanade strips or esplanade reserves; or*

*c. The provision for network utilities.*

*Or*

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<sup>140</sup> Commercial Centres (143.9), Classic Builders (144.9), Blampied (145.6), DC Group (146.9), Hika Ltd (147.8), Quality Developments (149.9), Regeneration (151.7), Moureeses (152.7), and Jackson Hikurangi Ltd (153.5).

<sup>141</sup> Hurupaki Holdings (166.19), Onoke Heights (167.19), Totara Estate (168.18), TMB (169.14), and Kāinga Ora (171.33).

2. Each allotment shall contain a 100m<sup>2</sup> minimum building area and access to the building area located outside of the moderate or high instability area identified on the District Plan Hazard Maps.

Matters of control:

...5. The extent to which the proposed building area and access avoid the identified hazard...

Activity Status when compliance not achieved: Restricted Discretionary

Where:

1. A site suitability report prepared by a suitably qualified and experienced person which confirms and demonstrates that:
  - a. A minimum 100m<sup>2</sup> building area within each site is suitable to construct a building, ~~either:~~
    - ~~i. In accordance with NZS 3604/2011; or~~
    - ~~ii. With specific engineering design of foundations.~~
  - b. Access to the building area within each site is suitable to construct.

### Discussion

1013. We acknowledge the support for SUB-R2A.

1014. We support the exemption requested by Quality Developments for the reasons set out previously.

1015. We support the intent of the amendment requested by several submitters to amend SUB-R2A.1(a) to refer to situations where “no additional sites are created” instead of “boundary adjustments”. However, we note that the WDP enables development on “allotments” rather than “sites” in some cases<sup>142</sup> and therefore consider that the rule should refer to situations where “no new sites or allotments are created”.

1016. In response to A Barrell and the five submitters seeking amendments to the rule standards and the matters of control, we acknowledge the concerns raised and agree that a new controlled activity rule should be included to enable subdivisions where identified building platforms and access are not located within the instability hazard area. As we understand it, this is consistent with the original intent of the proposed rule as discussed in the section 32 evaluation report.<sup>143</sup>

1017. We recommend that the amendments requested by the five submitters are generally accepted with minor amendments to the wording and with a requirement for the building platforms and access to be located at least 10m away from the mapped instability hazard areas. The 10m setback stems from the +/-10m margin of error on the land instability GIS

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<sup>142</sup> Refer to rule RPROZ-R7 in the Rural Production Zone as an example.

<sup>143</sup> See pages 112 – 113 of PC1 Section 32 Evaluation Report.

maps. The 10m setback also manages risk associated with the land intimately connected with a building.

1018. We support amendments to the restricted discretionary rule standards in SUB-R2A to delete them so that subdivision is simply either controlled or restricted discretionary. The matters of discretion in SUB-R2A are sufficient to address the instability hazard risk.

1019. Also see the Council’s RoR in terms of additional reasons for amending rule SUB-R2A.

### **Recommendation**

1020. We recommend that the Council **accept** or **accept in part** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
A Barrell	9.1	Accept in part
F Morgan	127.17	Accept in part
Commercial Centres	143.9	Accept in part
Classic Builders	144.9	Accept in part
Blampied	145.6	Accept in part
DC Group	146.9	Accept in part
Hika Ltd	147.8	Accept in part
Quality Developments	149.4	Accept
Quality Developments	149.9	Accept in part
Regeneration	151.7	Accept in part
Moureeses	152.7	Accept in part
Jackson Hikurangi Ltd	153.5	Accept in part
Hurupaki Holdings	166.19	Accept in part
Onoke Heights	167.19	Accept in part
Totara Estate	168.18	Accept in part
TMB	169.14	Accept in part
Kāinga Ora	171.33	Accept in part
EQC	190.25	Accept in part

#### ***8.7.1.20 SUB-R2C – Subdivision of land within or containing Mining Subsidence Hazard Area 1***

### **Submission Information**

1021. Nine submitters<sup>144</sup> request that SUB-R2C.1 be amended to use the same wording from SUB-R2E.1 which does not refer to “boundary adjustments”, and instead refers to situations where “no additional sites are created”.

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<sup>144</sup> Commercial Centres (143.9), Classic Builders (144.9), Blampied (145.6), DC Group (146.9), Hika Ltd (147.8), Quality Developments (149.9), Regeneration (151.7), Moureeses (152.7), and Jackson Hikurangi Ltd (153.5).

## Discussion

1022. We support the intent of the amendment requested by several submitters to amend SUB-R2C.1 to refer to situations where “no additional sites are created” instead of “boundary adjustments” but consider that the rule should refer to situations where “no new sites or allotments are created” for the reasons discussed above.

## Recommendation

1023. We recommend that the Council **accept in part** the submission points below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
Commercial Centres	143.9
Classic Builders	144.9
Blampied	145.6
DC Group	146.9
Hika Ltd	147.8
Quality Developments	149.9
Regeneration	151.7
Moureeses	152.7
Jackson Hikurangi Ltd	153.5

### *8.7.1.21 SUB-R2D – Subdivision of Land within or containing a Coastal Erosion or Coastal Flooding Hazard Area(s)*

#### Submission Information

1024. EQC (190.26) supports SUB-R2D.

1025. Nine submitters<sup>145</sup> request that SUB-R2D.1(a) be amended to use the same wording from SUB-R2E.1 which does not refer to “boundary adjustments”, and instead refers to situations where “no additional sites are created”.

1026. NRC (133.17) and DOC (177.22) request that SUB-R2D be amended to make it clear that where the criteria of the discretionary activity status are not met then that activity becomes a non-complying activity.

1027. Northpower (186.14) requests that SUB-R2D be amended to add a matter of discretion related to the location of infrastructure services when considering subdivision applications to ensure ground levels are not raised burying existing services deeper and creating ongoing issues.

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<sup>145</sup> Commercial Centres (143.9), Classic Builders (144.9), Blampied (145.6), DC Group (146.9), Hika Ltd (147.8), Quality Developments (149.9), Regeneration (151.7), Moureeses (152.7), and Jackson Hikurangi Ltd (153.5).

1028. Marsden Cove (170.26) opposes SUB-R2D and considers that the provisions should allow for landform modification to reduce and/or eliminate the risk associated with CFHA0, CFHA1, and CFHA2.

1029. Kāinga Ora (171.34) seeks to amend SUB-R2D as follows:

*Activity Status: Controlled*

*Where:*

- ~~2. Building platforms are not proposed to be located within~~ Each allotment shall contain a building area located outside of the CEHA0, CEHA1, CEHA2, CFHA0, CFHA1 or CFHA2 identified on the District Plan Hazard Maps.

*Matters of control:*

- ~~2. The location of building platforms, and accessways.~~ The extent to which the proposed building area and access avoid the identified hazard.

*Activity Status when compliance not achieved: Restricted Discretionary*

*...Matters of discretion:*

1. The risk of adverse effects on people, property and the environment including risk to public health and safety, and any cumulative effects.
2. Any increase in the risk from the coastal hazard or creation of a new hazard as a result of future buildings or major structures within proposed building area.
3. The extent to which sea-level rise, including a high projection sea level rise, and its potential impact have been considered in the location and design of the proposed building area.
4. The degree to which the building or major structure is likely to be subject to damage from erosion and/or inundation including the risk of material damage.

*Activity status when compliance not achieved: Discretionary*

## Discussion

1030. We support the intent of the amendment requested by several submitters to amend SUB-R2D.1(a) to refer to situations where “no additional sites are created” instead of “boundary adjustments” but consider that the rule should refer to situations where “no new sites or allotments are created” for the reasons discussed in paragraph 950 above.

1031. We support the amendment sought by NRC and DOC to clarify the activity status is non-complying where compliance is not achieved with the discretionary activity status requirements.

1032. We acknowledge the intent of Northpower’s submission point but note that SUB-R2D does not have any matters of discretion. However, having reviewed the submission it is clear to us, based on other submission points made, the term “discretion” was meant to be “control”. While there are matters of control which include the design and layout of infrastructure, they do not address the concern of Northpower. We recommend an amendment to SUB-R2D to include the same matter of a discretion recommended to be added to SUB-R2E (8) relating



to the accessibility of underground services, in response to this submission point. For consistency as a consequence of adding it to SUB-R2D, the same matter needs to be included in SUB-R2E as a matter of “control”.

1033. It is unclear what amendments Marsden Cove is seeking to achieve their relief. There are no earthworks rules proposed to apply within the CFHA0, CFHA1, and CFHA2 areas. If landform modification is proposed as part of a subdivision to reduce risk, then that would be considered and assessed as part of the application. We do not recommend any amendments to SUB-R2D in response to this submission point.

1034. We generally support the amendments requested to the controlled activity standards and matters of control requested by Kāinga Ora. In our opinion these amendments improve the clarity and consistency of the provisions. With regard to the request to change “building platform” to “building area” we support this change as building area is a defined term and recommend the same amendment is made other rules.

1035. We recommend minor amendments to the wording of SUB-R2D.3 to improve consistency with SUB-R2A.3.

1036. Also see the Council’s RoR in terms of additional reasons for amending rule SUB-R2D.

### Recommendation

1037. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
NRC	133.17	Accept
Commercial Centres	143.9	Accept in part
Classic Builders	144.9	Accept in part
Blampied	145.6	Accept in part
DC Group	146.9	Accept in part
Hika Ltd	147.8	Accept in part
Quality Developments	149.9	Accept in part
Regeneration	151.7	Accept in part
Moureeses	152.7	Accept in part
Jackson Hikurangi Ltd	153.5	Accept in part
Marsden Cove	170.26	Reject
Kāinga Ora	171.34	Accept in part
DOC	177.22	Accept
Northpower	186.14	Accept
EQC	190.26	Accept in part

### 8.7.1.22 SUB-R2E – Subdivision of land within or containing a Flood Hazard Area(s)

#### Submission Information

1038. Three submitters<sup>146</sup> support SUB-R2E.

1039. Four submitters<sup>147</sup> request that SUB-R2E is amended as follows:

*Activity Status: Controlled*

*Where:*

~~1. No additional sites are created; or~~

~~2. No additional capacity is created for residential units that could be constructed as a permitted activity on the site in accordance with the underlying zone provisions; or~~

~~3. Undertaken for the purpose of the creation of esplanade strips or esplanade reserve.~~

1. Subdivision is undertaken for:

a. Boundary adjustment; or

b. The creation of esplanade strips or esplanade reserves; or

c. The provision for network utilities.

2. Each allotment shall contain a building area and access to the building area located outside of the flood hazard area identified on the District Hazard Maps.

#### Discussion

1040. We acknowledge the support for SUB-R2E.

1041. We generally support the amendments requested to the controlled activity status relating to boundary adjustments, esplanade strips, and network utilities to improve clarity and consistency with other proposed subdivision provisions. We recommend that the rule refer to situations where “no new sites or allotments are created” instead of “boundary adjustment” for the reasons discussed previously.

1042. We do not support the requested additional controlled activity standard which provides for subdivision if building platforms locate outside of the flood hazard area identified on the planning maps. The submitters consider that the proposed rule unnecessarily restricts subdivision of land which may contain a small area of flood hazard. The submitters also consider the rule does not provide for the appropriate consideration of a site-specific assessment, resulting in unnecessary costs to landowners and developers.

1043. In our view it is appropriate for flooding to have a somewhat different policy framework than the other hazards due to NRPS direction. Policy 7.1.2 (f) of the NRPS requires that new

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<sup>146</sup> F Morgan (127.18), Marsden Cove (170.27), and EQC (190.27).

<sup>147</sup> Hurupaki Holdings (166.20), Onoke Heights (167.20), Totara Estate (168.19), and Kāinga Ora (171.35).

subdivision plans identify that building platforms will not be subject to inundation and / or material damage in a 100-year flood event. The intention of this policy is to provide flexibility for new subdivision, within flood hazard areas by allowing an applicant to demonstrate through an engineer's report that building platforms will not be subject to material damage in a 100-year flood event. The policy direction for coastal hazard is slightly different, where policy 7.1.3 (b) requires subdivision plans to identify that building platforms are located outside high-risk coastal hazard areas.

1044. We do not agree with the reasons provided by the submitters as subdivision is already a restricted discretionary activity through the Three Waters Chapter in the WDP, meaning there is no change to the overall activity status. Applying a restricted discretionary activity status rather than a controlled activity status will not impact the consent application fees and a detailed report from a suitably qualified and experienced person would still be required through the information requirements rules under both scenarios.
1045. We consider that SUB-R2E and SUB-R2F provides for site specific assessment and reflects the dynamic nature of flood hazards. Rule SUB-R2F requires demonstration that building areas will not be subject to inundation in a 100-year event. Reference to the event (rather than the mapped hazard area), is an important component of the flooding rule due to the dynamic nature of flooding and the scale of the flood mapping.
1046. We consider a controlled activity standard for creation of new allotments inappropriate as subdivision is a crucial point for decision making about where (and where not) development should go. Therefore, a higher level of scrutiny should be applied at subdivision stage, allowing council the ability to decline consent if it is not satisfied with the level of risk associated with flood hazards.
1047. Also see the Council's RoR in terms of additional reasons for amending rule SUB-R2E.

**Recommendation**

1048. We recommend that the Council **accept in part** the submission points below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
F Morgan	127.18
Hurupaki Holdings	166.20
Onoke Heights	167.20
Totara Estate	168.19
Marsden Cove	170.27
Kāinga Ora	171.35
EQC	190.27

### 8.7.1.23 SUB-R2F – Subdivision of Land within or containing a Flood Hazard Area(s)

#### Submission Information

1049. F Morgan (127.19) supports SUB-R2F.

1050. R Thurlow (108.7) supports the 200mm maximum in SUB-R2F.1(c).

1051. EQC (190.28) requests that SUB-R2F be amended to reflect that the flood hazard management areas are based on 1%- and 10%-year AEP rather than the “100 year” wording used in the proposed provision.

1052. Northpower (186.15) requests that a matter of discretion be added to SUB-R2F relating to the location of infrastructure services when considering subdivision applications to ensure ground levels are not raised burying existing services deeper and creating ongoing issues.

1053. NRC (133.18) requests that SUB-R2F.1(a) be amended as follows:

*...a. All proposed sites are capable of containing a complying 100m<sup>2</sup> building platform that will not be inundated or subject to material damage in a 100-year flood event ~~or subject to material damage~~; ...*

1054. NRC (133.19) also requests that SUB-R2F be amended so it applies a more stringent activity status for subdivisions that create building platforms in 10-year flood areas / high-risk natural hazard areas.

1055. Hawthorne Geddes (188.28) opposes the use of building platform level and floor level where it relates to a site-specific flood assessment and/or the purpose of freeboard and considers that a building platform clear of the 1 in 100-year event should allow the floor structure to sit within the freeboard allowance.

1056. Four submitters<sup>148</sup> request that SUB-R2F be amended as follows:

*Activity Status: Restricted Discretionary*

*Where:*

*1. Compliance with rule SUB-R2E is not achieved. A a site suitability report prepared by a suitably qualified and experience professional confirms and demonstrates that:*

- a. All proposed sites allotments are capable of containing ~~a complying~~ 100m<sup>2</sup> building platform that will not be inundated in a 100 year flood event or subject to material damage; and*
- b. ~~Newly created sites are located and designed so that they do not divert flood flow onto other properties or otherwise result in any increase in flood hazard beyond the site; and~~*

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<sup>148</sup> Hurupaki Holdings (166.21), Onoke Heights (167.21), Totara Estate (168.20), and Kāinga Ora (171.36).

## Discussion

1057. We acknowledge the support for SUB-R2F.
1058. We agree with the submitters that there are some workability issues with SUB-R2E and SUB-R2F. Accordingly, we recommend combing these rules so that where the controlled activity standard of SUB-R2E is not achieved it is clear that assessment is required as a restricted discretionary activity. On this basis as shown in the track change version of the PC1 provisions SUB-R2F is show as deleted.
1059. We acknowledge the intent of the changes sought by EQC. However, we consider that the proposed wording is more consistent with the NRPS and do not recommend changes in response to this submission point for the reasons set out previously.
1060. We support the amendment sought by Northpower to include a new matter of discretion protecting existing infrastructure.
1061. We support NRC's requested amendment to the structure of SUB-R2F.1(a) to improve clarity.
1062. We do not support NRC request for a more stringent activity status as we consider that the rule is stringent enough. The rule requires that building areas are not subject to inundation or material damage in a 100-year event and where this is not achieved the activity would be non-complying. Areas subject to inundation in a 10-year event would be subject to inundation in a 100-year event as this is the more extreme event. We therefore do not consider it necessary to reference the 10-year event as the 100-year event covers inundation potential in a 10-year event. We consider SUB-R2F is consistent with method 7.1.7(2)(a) of the NRPS.
1063. In regard to the four submitters, we agree that SUB-R2F.1(b) would be more efficient and effective as a matter of discretion rather than a rule trigger due to the difficulty in confirming compliance. We also consider that SUB-R2F.1(c) functions better as a matter of discretion and is duplicated by matter of discretion 4.
1064. In our view deleting SUB-R2F.1(c) and retaining matter of discretion 4 gives effect to Policy 7.1.1(d) of the NRPS to assess flood hazard risk to vehicular access routes for proposed new lots but does not require a non-complying consent where this is not achieved.
1065. With regard to the Hawthorne Geddes submission, it is unclear exactly what amendment the submitter is seeking and why the changes should be made.

## Recommendation

1066. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
R Thurlow	108.7	Reject
F Morgan	127.19	Accept in part
NRC	133.18	Reject
NRC	133.19	Accept
Hurupaki Holdings	166.21	Accept in part
Onoke Heights	167.21	Accept in part
Totara Estate	168.20	Accept in part
Kāinga Ora	171.36	Accept in part
Northpower	186.15	Accept
Hawthorne Geddes	188.28	Reject
EQC	190.28	Reject

### ***Earthworks Chapter Rules***

#### ***8.7.1.24 EARTH-RAA Any activity requiring a restricted discretionary activity consent in this chapter***

##### **Submission Information**

1067. Four submitters<sup>149</sup> support EARTH-RAA.

##### **Discussion**

1068. We acknowledge the support for EARTH-RAA.

##### **Recommendation**

1069. We recommend that the Council **accept** the submission points below and retain EARTH-RAA as notified.

Submitter	Submission # and Point #
Waipapa Pine	120.7
The Fuel Companies	138.12
Fonterra	173.8
Waka Kotahi	180.30

#### ***8.7.1.25 EARTH-R3 Earthworks (other than earthworks associated with subdivision) in Areas of Moderate or High Susceptibility to Land Instability Hazards***

##### **Submission Information**

1070. Three submitters<sup>150</sup> support EARTH-R3.

1071. Manulife (66.2) supports EARTH-R3.2(g) as notified.

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<sup>149</sup> Waipapa Pine (120.7), Fuel Companies (138.12), Fonterra (173.8), and Waka Kotahi (180.30).

<sup>150</sup> The Ministry of Education (141.15), Northpower (186.16), and EQC (190.31).

1072. Waipapa Pine (120.8) seeks to amend EARTH-R3 to exclude earthworks on land where slope stability and land slide risks are unlikely, such as flat sites.

1073. Five submitters<sup>151</sup> seek to amend EARTH-R3 as follows:

*Activity Status: Permitted*

*Where:*

1. The earthworks are consistent with the recommendations of an approved site-specific assessment prepared by a suitably qualified expert; or

~~4.2.~~ The earthworks meet the specified thresholds:

a. Do not exceed a total volume of 30m<sup>3</sup> of material disturbed or removed greater than 0.5m in depth within each 10-year period from [operative date] a 12 month period within a contiguous area of moderate or high susceptibility; or

b. Do not exceed a total area of 4250m<sup>2</sup> of material disturbed or removed greater than 0.5m in depth within each 10-year period from [operative date] a 12 month period within a contiguous area of moderate or high susceptibility to land instability hazards in a site; and...

1074. Hawthorne Geddes (188.16 and 188.17) states that the permitted standards are too restrictive.

1075. M and L Dissanayake (184.16) seek to insert a new permitted standard and amend EARTH-R3.1(c) as follows:

c. The maximum face height of any cut and/or fill faces does not exceed 0.9m from ground level within an area of low, or moderate susceptibility to land instability hazards;

~~e.d.~~ The maximum face height of any cut and/or fill faces does not exceed 0.5m from ground level within an area of moderate or high susceptibility to land instability hazards;

1076. M Aylward (65.3, 65.4, 65.5, and 65.6) seeks to amend EARTH-R3 as follows:

*Activity Status: Permitted*

*Where:*

1. The earthworks meet the specified thresholds:

a. Do not exceed a total volume of 30m<sup>3</sup> 100m<sup>3</sup> per individual area within a property of material disturbed or removed within each 10-year period from [operative date] within a contiguous area of moderate or high susceptibility to land instability hazards in a site; and

b. Do not exceed a total area of 450m<sup>2</sup> 300m<sup>2</sup> in residential zones and 4000m<sup>2</sup> in rural zones of material disturbed or removed within each 10-year period from [operative date] within a contiguous area of moderate or high susceptibility to land instability hazards in a site; and

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<sup>151</sup> Hurupaki Holdings (166.22), Onoke Heights (167.22), Totara Estate (168.21), TMB (169.15), and Kāinga Ora (171.37).

- c. *The maximum face height of any cut and/or fill faces does not exceed 0.5m from ground level within an area of moderate or high susceptibility to land instability hazards;*

OR

2. *The earthworks are associated with:*
- a. *The construction of new driveways or impermeable areas where cut or fill depths do not exceed ~~0.3m~~ 1.0m; ...*
- ...f. *Earthworks related to rural production activities in the Rural Production Zone and Rural Lifestyle Zone.*

1077. F Morgan (127.22) seeks to insert a new clause 1(d) as follows:

1. *The earthworks meet the specified thresholds:*

...d. *The earthworks are on land within Lot 2 Deposited Plan 95642...*

1078. Waka Kotahi (180.31) seeks to amend matter of discretion 1(a) as follows:

- a. *The effects on the stability of land, infrastructure, and structures.*

1079. Peter Ferguson (53.2) seeks to add a permitted rule exemption for driveways when excavated less than 0.9m when passing through such identified areas of land instability.

1080. Firstgas (187.7) seeks to amend EARTH-R3.2(e) as follows:

- e. *The operation, maintenance and repair, minor upgrading, or replacement of existing lawfully established infrastructure:*

1081. Fonterra (173.9) seeks to amend EARTH-R3.2(f) to include reference to the Fonterra Kauri Milk Processing SRIZ – Ancillary Irrigation Farms.

1082. Rayonier (100.1) request to amend EARTH-R3 to ensure plantation forestry activities are undertaken in accordance with the NES-PF whether or not they are permitted or require resource consents.

### Discussion

1083. We acknowledge the submissions in support of EARTH-R3.

1084. We do not recommend any amendments in response to Waipapa Pine's submission point for the reasons provided within the discussion on NH-R5 set out earlier in this report.

1085. In response to submissions<sup>152</sup> seeking to insert an additional permitted criteria where the earthworks are consistent with the recommendations of an approved site- specific assessment, we refer to the discussion in earlier sections of this report on this matter.

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<sup>152</sup> Hurupaki Holdings, Onoke Heights, Totara Estate, TMB, and Kāinga Ora.



1086. A number of submitters seek changes to various permitted rule thresholds in EARTH-R3.

We consider the thresholds as proposed are largely reasonable and proportionate as they were developed with geotechnical input balancing risk and practicality, but some changes are recommended in the RoR. In our view, larger scale earthworks, are more appropriately managed as a restricted discretion activity under this rule due to the level of hazard risk.

1087. In response to five submitters<sup>153</sup> requesting changes to the permitted earthworks thresholds:

- The thresholds for volume, area and cut/fill height in (a), (b) and (c) were developed with technical input and discussions to work in conjunction with each other to manage the instability risk of uncontrolled earthworks. Therefore, we do not support splitting apart EARTH-R3.1(a) and (b) with the use of conjunction “or” and reliance on depth of excavation.
- We agree to shortening the period within which permitted earthworks are considered from 10 years to 12 months. The reasons for this are set out in the RoR.
- We acknowledge the requests to enable a larger total area of earthworks under EARTH-R3.1(b) to enable a permitted pathway for earthworks to establish of a standard residential unit and to enable gardening. However, we do not consider a restricted discretionary activity status to be onerous in this case because consent would already be required under NH-R13A.

1088. In response to the submission by M Alyward:

- We do not support increasing the total volume and areas of earthworks in EARTH-R3.1(a) –(b) for to the reasons discussed in the preceding paragraphs.
- We do not agree with the request to include the Rural Lifestyle Zone (**RLZ**) in the exemption under EARTH-R3.2(f). Given that RLZ enables smaller site sizes there is a concern about risk to other properties. The permitted earthworks thresholds under the rule sufficient to enable necessary earthworks related to small-scale rule production activities. We note separate exemptions are provided for earthworks related to driveways, tracks 4m or less wide, and for plantation forestry.
- We support the intent for the submission to increase the driveway cut/fill depth exemption threshold, noting the driveway exemption threshold is not tied to a total area limit unlike general permitted earthworks under EARTH-R3.1. As set out in the section 42A report, technical advice provided as part of the section 32

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<sup>153</sup> Hurupaki Holdings, Onoke Heights, Totara Estate, TMB, and Kāinga Ora.

evaluation report<sup>154</sup>, cut/fill heights over 0.5m carries a higher risk of triggering landslides as even small changes can have dramatic impacts on susceptible slopes. Accordingly, we accept a conservative cut/fill depth limit of 0.5m is appropriate and as a matter of efficiency to streamline the rule with the cut/fill threshold in EARTH-R3.1(c).

1089. With regard to the submission by P Ferguson we consider an amended driveway cut/fill threshold of 0.5m is appropriate for the reasons discussed above.
1090. Hawthorne Geddes submission is concerned there are no permitted general earthworks provisions in areas of high stability. EARTH-R3.1 sets out permitted standards for areas of moderate and high susceptibility to land instability hazards. The rule framework does not apply to areas of low susceptibility to land instability hazards. With regard to the permitted standards, we do not recommend any changes for the reasons discussed in paragraphs above.
1091. The structure of the proposed plan change does not support distinguishing different thresholds for areas of moderate and high susceptibility to land instability hazards as requested by the submission by M and L Dissanayake. In areas where land instability hazards are present the proposed rules are designed to trigger a site-specific assessment whenever the activity exceeds permitted rule standards. In areas of low susceptibility to land instability hazards the rules do not apply.
1092. We do not support F Morgan's request to include specific reference to Lot 2 DP 95642 within EARTH-R3 for the reasons provided previously.
1093. We support the amendment requested by Waka Kotahi to include the effects on the stability of infrastructure as a matter of discretion in 1(a). Although infrastructure is generally already captured by the definition of structure, we consider the requested amendment would improve clarity.
1094. We accept the request by Firstgas to amend EARTH-R3.2(e) for the reasons set out in previously.
1095. The District Plan in rule SRIZ-R1 applies RPROZ provisions to the Fonterra Kauri Milk Processing SRIZ – Ancillary Irrigation Farms. Therefore, we accept the request by Fonterra to amend EARTH-R3.2(f) to include the Fonterra Kauri Milk Processing SRIZ – Ancillary Irrigation Farms due to their specialised and narrow scope as a rural production activity.

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<sup>154</sup> WDC (2023). Plan Change PC1: Natural Hazards. Section 32 Evaluation Report, page 97.

1096. We acknowledge the concern raised by Rayonier and agree that the relationship between the NES-PF and the District Plan provisions should be clear. We recommend minor amendments to the wording of EARTH-R3.2(g) to improve the clarity of the exemption. We also recommend that “forestry” be replaced with “plantation forestry” as that is a defined term in the WDP, and that the reference to the NES-PF be replaced with the NES-CF.

### Recommendation

1097. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Peter Ferguson	53.2	Accept in part
M Aylward	65.3	Reject
M Aylward	65.4	Reject
M Aylward	65.5	Accept in part
M Aylward	65.6	Accept
Manulife	66.2	Accept in part
Rayonier	100.1	Accept
Waipapa Pine	120.8	Reject
F Morgan	127.22	Reject
The Ministry of Education	141.15	Accept in part
Hurupaki Holdings	166.22	Reject
Onoke Heights	167.22	Reject
Totara Estate	168.21	Reject
TMB	169.15	Reject
Kāinga Ora	171.37	Reject
Fonterra	173.9	Accept
Waka Kotahi	180.31	Accept
M and L Dissanayake	184.16	Reject
Northpower	186.16	Accept in part
Firstgas	187.7	Accept
Hawthorne Geddes	188.16 and 188.17	Reject
EQC	190.31	Accept in part

#### 8.7.1.26 EARTH-R4 Earthworks in Mining Subsidence Hazard Areas 2 and 3

### Submission Information

1098. Northpower (186.17) supports EARTH-R4.

1099. Hawthorne Geddes (188.11) requests that the reference to “certificate” be removed from EARTH-R4.

1100. The Ministry of Education (141.16) requests that matter of discretion 3 in EARTH-R4 be amended as follows:

3. *The functional need or operational need for the earthworks infrastructure to be located within Mining Hazard Areas.*

1101. Waka Kotahi (180.32) seeks to delete matter of discretion 3 in EARTH-R4 as follows:

~~3. The functional need or operational need for infrastructure to be located within Mining Hazard Areas.~~

### Discussion

1102. We acknowledge the support for EARTH-R4 and support the amendment sought by Hawthorne Geddes.

1103. We acknowledge The Ministry of Education's requested amendment to the matter of discretion and refer to the discussion in NH-R5, but recommend a minor change to the requested wording to refer to the "*functional need or operational need for the activity*" rather than just earthworks.

1104. We do not support the amendment requested by Waka Kotahi to delete the matter of discretion relating to functional and operational need for the reasons we have set out previously.

### Recommendation

1105. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
The Ministry of Education	141.16	Accept
Waka Kotahi	180.32	Reject
Northpower	186.17	Accept in part
Hawthorne Geddes	188.11	Accept

## 8.7.1.27 EARTH-R5 Earthworks in Mining Subsidence Hazard Area 1

### Submission Information

1106. Northpower (186.18) supports EARTH-R5.

1107. The Ministry of Education (141.17) requests that matter of discretion 3 in EARTH-R5 be amended as follows:

~~3. The functional need or operational need for the earthworks infrastructure to be located within Mining Hazard Areas.~~

1108. Waka Kotahi (180.33) seeks to delete matter of discretion 4 in EARTH-R5 as follows:

~~3. The functional need or operational need for infrastructure to be located within Mining Hazard Areas.~~

## Discussion

1109. We acknowledge the support for EARTH-R5.
1110. We support The Ministry of Education's requested amendment to the matter of discretion for the reasons discussed above.
1111. We do not support the amendment requested by Waka Kotahi to delete the matter of discretion relating to functional and operational need for the reasons discussed previously.

## Recommendation

1112. We recommend that the Council **accept, accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Northpower	186.18	Accept in part
The Ministry of Education	141.17	Accept
Waka Kotahi	180.33	Reject

## ***CE Chapter Coastal Hazard Area Rules***

### ***8.7.1.28 General Coastal Hazard Rules***

#### Submission Information

1113. NRC (133.21) seeks to retain the proposed finished floor levels in the coastal hazard land use rules.
1114. C Bergstrom (62.10) seeks that WDC adopts a similar framework to Taupo District Council for its flood and coastal flood hazard areas and rules. C Bergstrom also considers that the 500mm freeboard should be changed to 300mm throughout the flood and coastal flood rules.
1115. Hawthorne Geddes (188.12) seeks that there should be no minimum floor level requirement for non-habitable buildings to align with the Building Code minimum finished floor level which only applies to habitable dwellings and communal habitable buildings.
1116. Three submitters<sup>155</sup> seek that the rules related to coastal hazards are added to the new NH Chapter where the associated objectives and policies are contained, not in the CE Chapter.
1117. Waka Kotahi (180.38) seeks to remove reference to major structures in CH-R7 – CH-R11.
1118. Channel (178.25) seeks to amend Rule CE-R1.9 as follows:

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<sup>155</sup> Otaika Valley (157.10), L Gelder and D Wallace (140.4), and Channel Infrastructure (178.22).

*The CE- CEHA and the CE-CFHA rules of this chapter apply to any site or portion of a site subject to a Coastal Erosion Hazard Overlay or a Coastal Flooding Hazard Overlay, except where the activity is related to the primary function of and within the Marsden Point Energy Precinct, in which case Rule CE-R1.4 applies.*

### Discussion

1119. For the reason set out in previously, we recommend C Bergstrom submission is rejected.

1120. We do not agree with the amendments sought by Hawthorne Geddes, as the minimum floor levels in the coastal hazard rules are consistent with the requirements of Method 7.1.7. of the NRPS, which stipulates minimum freeboard requirement for habitable and non-habitable buildings.

1121. We do not support the request to relocate the coastal hazard rules to the NH Chapter. Locating the coastal hazard rules in the CE Chapter is consistent with the direction of the National Planning Standards which requires:<sup>156</sup>

*“If provisions relating to natural hazards are addressed (except coastal hazards), they must be located in the Natural hazards chapter. If the district has a coastline, a Coastal environment chapter must be provided that: sets out provisions for implementing the local authorities functions and duties in relation to the coastal environment, including coastal hazards.”*

1122. Regarding Waka Kotahi’s submission, we do not recommend accepting the amendments sought for the reasons discussed previously.

1123. We do not support Channel’s request to exempt the MPEP from the proposed CH rules for the reasons we have already set out previously.

### Recommendation

1124. We recommend that the Council **accept** or **reject** the submission points as set out below and as set out in the amended PC1 provisions, noting that amendments have been recommended in response to other submission points.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
C Bergstrom	62.10	Reject
NRC	133.21	Accept
L Gelder and D Wallace	140.4	Reject
Otaika Valley	157.10	Reject
Channel Infrastructure	178.17 and 178.22	Reject
Channel Infrastructure	178.25	Reject
Waka Kotahi	180.38	Reject
Hawthorne Geddes	188.12	Reject

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<sup>156</sup> Mandatory directions 10 and 28 of section 7 of the National Planning Standards.

8.7.1.29 CH-R1

**Submission Information**

1125. Channel (178.26) seek to amend CH-R1 as follows:

*The rules below apply where ~~an area site is subject to~~ is a mapped coastal hazard area (CEHA0, CEHA1, CEHA2, CFHA0, CFHA1, and CFHA2) and are in addition to the other rules in the Coastal Environment Chapter, the Natural Hazards Chapter and underlying zone, unless otherwise stated. In the event of any conflict between activity classification rules then the most restrictive activity classification rule shall apply. No rules apply to that part of a site affected by CEHA3 or CFHA3.*

1126. NRC (133.20) seek to ensure coastal hazard land use rules apply to all land within mapped coastal hazard areas (except CHEA3 and CHFA3), not just land in the coastal environment overlay.

**Discussion**

1127. We support the changes suggested by Channel, noting that other changes have been recommended to CH-R1 as a consequence of other submissions as discussed previously.

1128. In relation to NRC’s submission, we acknowledge that some confusion is caused due to some coastal hazard areas sitting outside the CE overlay. We recommend that CE Chapter Issues section is amended to clarify that the CH provisions apply to all land within mapped coastal hazard areas.

1129. Also see the Council’s RoR in terms of additional reasons for amending rule CH-R1.

**Recommendation**

1130. We recommend that the Council **accept** the submission points below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
NRC	133.20
Channel Infrastructure	178.26

8.7.1.30 CH-R2 Any activity requiring a restricted discretionary activity consent in this chapter

**Submission Information**

1131. Three submitters<sup>157</sup> seek to retain CH-R2 as notified.

**Discussion**

1132. We acknowledge the support of CH-R2 as notified.

**Recommendation**

1133. We recommend that the Council **accept** the submission points below and retain CH-R2 as notified.

<b>Submitter</b>	<b>Submission # and Point #</b>
Waipapa Pine	120.23
Channel Infrastructure	178.27
Waka Kotahi	180.34

8.7.1.31 CH-R3 Minor Buildings and General Public Amenities

**Submission Information**

1134. Channel (178.27) and Waka Kotahi (180.34) seek that CH-R3 is retained as notified.

1135. The Fuel Companies (138.10) seek to amend CH-R3 as follows:

***CH-R3 – Minor Buildings, underground structures and General Public Amenities***

*Activity Status: Permitted*

*Notes:*

- 1. Minor buildings, any underground structures and General Public Amenities are exempt from rules CH-R7 – CH-R12.*
- 2. This rule includes any earthworks associated with the above activities.*

1136. Waipapa Pine (120.24) seeks to amend CH-R3 to add a new note as follows:

- 2. This rule includes any earthworks associated with the above activities.*

1137. The Telecommunications Companies (40.2) seek to amend note 1 within CH-R3 as follows:

- 1. Minor Buildings ~~and~~, General Public Amenities and telecommunications poles, antennas, lines and cabinets including any ancillary earthworks are exempt from rules CH-R7 – CH-R12.*

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<sup>157</sup> Channel Infrastructure (178.27), Waka Kotahi (180.34), and Waipapa Pine (120.23).



## Discussion

1138. We acknowledge the support for CH-R3.
1139. We support the amendment requested by The Fuel Companies to include reference to underground structures for the reasons discussed previously.
1140. With regard to the amendment requested by The Fuel Companies and Waipapa Pine to exempt earthworks associated with the activities, we do not consider this necessary as the coastal hazard chapter does not contain any specific rules managing earthworks in coastal hazard areas.
1141. In response to The Telecommunications Companies, we consider that all infrastructure should be assessed under the infrastructure specific rules.

## Recommendation

1142. We recommend that the Council **accept**, **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
The Telecommunications Companies	40.2	Reject
Waipapa Pine	120.24	Reject
The Fuel Companies	138.10	Accept in part
Channel Infrastructure	178.27	Accept
Waka Kotahi	180.34	Accept

### *8.7.1.32 CH-R4 Operation, Maintenance, and Minor Upgrading of Existing Infrastructure*

#### Submission Information

1143. Six submitters<sup>158</sup> seek to retain CH-R4 as notified.
1144. Firstgas (187.8) seeks to amend the title of CH-R4 as follows:

***CH-R4 – Operation, Maintenance and Repair, and Minor Upgrading of Existing Infrastructure***

1145. Transpower (161.16) seek to amend CH-R4 as follows:

*...2. No other Coastal Hazard Area rules apply to activities regulated by this rule.*

#### Discussion

1146. We acknowledge the support for CH-R4.

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<sup>158</sup> Te Whatu Ora (159.22), Kāinga Ora (171.27), Northpower (186.19), Channel Infrastructure (178.28), Waka Kotahi (180.35), and Waipapa Pine (120.25).

1147. We support the inclusion of “repair” requested by Firstgas as repairing existing infrastructure is consistent with the other permitted activities in CH-R4.

1148. We support the amendment requested by Transpower to include an additional note (relabelled “Compliance Standards”. This aligns with the intent of the rule framework and provides greater clarity.

### **Recommendation**

1149. We recommend that the Council **accept** or **accept in part** the submission points set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.25	Accept in part
Te Whatu Ora	159.22	Accept in part
Transpower	161.16	Accept in part
Kāinga Ora	171.27	Accept in part
Channel Infrastructure	178.28	Accept in part
Waka Kotahi	180.35	Accept in part
Northpower	186.19	Accept in part
Firstgas	187.8	Accept

### **8.7.1.33 CH-R5 - Non habitable Buildings and Major Structures**

#### **Submission Information**

1150. Waipapa Pine (120.25) supports CH-R5.

1151. Northpower (186.20) seeks to amend CH-R5 to provide for uninhabited buildings housing electrical or telecommunications equipment as a permitted activity.

1152. Waka Kotahi (180.36) seeks to amend CH-R5 to add a new clause d as follows:

*...d. is regionally significant infrastructure or critical infrastructure.*

1153. Golden Bay (136.5) seeks to amend the left-hand column stating the relevant zones where CH-R5 applies and insert additional matters of discretion as set out below:

#### **Rural Production and Strategic Rural Industries Zones**

*Matters of discretion:*

*...5. The functional or operational need for the activity to locate within the coastal hazard area.*

*6. Recommendations, proposed conditions, and remediation or mitigation measures to determine appropriate site specific floor levels as a result of a site specific flooding assessment.*

1154. Ohawini Bay (41.1) seeks to remove the limited floor area on non-habitable buildings within the property at 1 Taiwa Road, Ohawini Bay.

1155. Hort NZ (46.5) seeks to amend CH-R5 as follows:

*b. Is associated with ~~farming~~ primary production and located within the Rural Production Zone, with a gross floor area less than 100m<sup>2</sup>*

### Discussion

1156. In reviewing the submissions on CH-R5 a potential conflict with rules CH-R7 – CH-R15 was identified. Rule CH-R5 seeks to provide permitted pathways for buildings associated with farming and crop protection structures in the RPROZ. However, other rules within C-R7 – CHR15 do not include these exemptions. Where there is conflict in the rules, the most restrictive would apply, essentially defeating the purpose of having the permitted pathway for buildings associated with farming and crop protection structures provided for under CH-R5. Accordingly, we have recommend deleting CH-R5 and replacing it with CH-R5A and CH-R5B which provide specific exemptions for farm buildings and crop protection structures and exempting them from the other CH rules.
1157. In response to Northpower’s submission, in our view infrastructure activities are better addressed through the infrastructure specific rules as we have already addressed previously.
1158. We do not support the amendment requested by Waka Kotahi to permit all regionally significant infrastructure and critical infrastructure. This is inconsistent with Policy 25 of the NZCPS, Policy 7.1.5 of the NRPS and recommended Objective NH-O4B and Policy NH-P7 of PC1.
1159. In relation to Golden Bay’s request to include the SRIZ, it is unclear why this change is sought as the 30m<sup>2</sup> exemption is provided for in other buildings rules and in order for the 100m<sup>2</sup> exemption to apply, the activity would have to be associated with farming. The only SRIZ site affected by coastal hazards is the Portland Quarry and it is our understanding that activities undertaken on the site would not meet the definition of farming. We do not recommend amendments in response to this submission.
1160. We support Golden Bay’s requested matters of discretion as they provide for consideration of operational/functional needs and for the ability to determine the site-specific risks and potential recommendations from a site suitability report. We recommend a minor amendment to remove reference to floor levels so that the matter is broader.
1161. We do not support Ohawini Bay’s suggested amendments, as having no limit on GFA could result in significant increase in risk. Allowing large scale buildings to be built would mean significant cost/investment into the development by the property owner where risk of damage due to natural hazards is high. Additionally, buildings with a large GFA could increase the risk for other properties due to the potential to displace water.

1162. In our view 30m<sup>2</sup> is an appropriate threshold for a consent trigger as the risk associated with a small building is acceptable and aligns with the exemptions in the Building Act. Additionally, it is not appropriate to exempt a specific site in the rule framework.

1163. We do not support the amendment requested by Hort NZ for the reasons set out previously.

### Recommendation

1164. We recommend that the Council **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Ohawini Bay	41.1	Reject
Hort NZ	46.5	Reject
Waipapa Pine	120.25	Accept in part
Golden Bay	136.5	Accept in part
Waka Kotahi	180.36	Reject
Northpower	186.20	Reject

#### 8.7.1.34 CH-R6 New Infrastructure

##### Submission Information

1165. Four submitters<sup>159</sup> support CH-R6.

1166. DOC (177.23) seeks to amend CH-R6 from a Restricted Discretionary Activity to a Discretionary Activity.

1167. Firstgas (187.9) seeks to amend CH-R6 to add the following exclusion:

*Rule CH-R6 does not apply to pipelines for distribution of natural gas at a maximum operating pressure below 2,000 kilopascals.*

1168. Transpower (161.17) seeks amend CH-R6 to amend the title, delete matters of discretion 4 and 5(b), and to add an additional note as follows:

##### ***CH-R6 – New and more than minor upgrading of Infrastructure***

*Matters of discretion:*

~~4. Any reverse sensitivity issues.~~

5. *The risk of adverse effects on people, property and the environment including:*

~~b. Impacts on landscape and cultural values, and on public access.~~

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<sup>159</sup> Channel Infrastructure (178.29), Marsden Cove (170.29), EQC (190.32), and Waipapa Pine (120.25).

Notes:

...3. No other Coastal Hazard Area rules apply to activities regulated by this rule.

1169. Waka Kotahi (180.37) seeks to amend CH-R6 to delete matters of discretion 1, 4, 5(b), and 10 as shown below:

*Matters of discretion:*

~~1. The functional or operational need of the infrastructure to locate on land subject to the coastal hazard.~~

~~4. Any reverse sensitivity issues.~~

~~5. The risk of adverse effects on people, property and the environment including:~~

~~b. Impacts on landscape and cultural values, and on public access.~~

~~10. Where relevant, and particularly in the case of roading infrastructure, natural hazard risk to vehicular access and evacuation routes and the ability to maintain emergency access.~~

### Discussion

1170. We acknowledge the support for CH-R6.

1171. DOC's concern with the restricted discretionary status is that the application would proceed non-notified unless special circumstances exist. We do not support amending the activity status to discretionary as the natural hazards chapter is purely concerned with hazard risk which is essentially a technical assessment.

1172. In response to Firstgas, we acknowledge the intent of the submission point and can see merit in permitting underground structures within coastal flood hazard areas for the reasons discussed previously. It is unclear from the submission (and the geospatial data available on the submitter's website) the extent of distribution pipelines within coastal hazard areas and whether these are entirely underground or if there are above ground components. We do not recommend any amendments in response to this submission.

1173. We generally support the amendments sought by Transpower for the following reasons:

- Amending the title to include "more than minor upgrades" will improve the clarity of the rule.
- Deleting the matter of discretion 4 relating to reverse sensitivity and matter of discretion 5(b) relating to landscape values and public access is appropriate, but we consider cultural values should be retained for the reasons discussed in paragraph 617.

- Including the requested note aligns with the intent of the rule framework and provides greater clarity. We recommend minor amendments to the wording of this note to improve consistency with the note in CH-R3.

1174. We do not support Transpower's and Waka Kotahi's requested deletion of matter of discretion 1 relating to functional and operational need. The matter is intended to be an enabling matter that allows decision-makers to factor in the functional or operational need to locate in a hazard area (as per the amended wording).

1175. We support the deletion of matter of discretion 10 as requested by Waka Kotahi as we agree that it duplicates matter of discretion 8.

1176. Also see the Council's RoR in terms of additional reasons for amending rule CH-R6.

### Recommendation

1177. We recommend that the Council **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
Waipapa Pine	120.25	Accept in part
Transpower	161.17	Accept in part
Marsden Cove	170.29	Accept in part
DOC	177.23	Reject
Channel Infrastructure	178.29	Accept in part
Waka Kotahi	180.37	Accept in part
Firstgas	187.9	Reject
EQC	190.32	Accept in part

#### *8.7.1.35 CH-R7 New Buildings and Major Structures in the CEHA1*

### Submission Information

1178. DOC (177.24), EQC (190.33), and NRC (133.23) support NH-R7.

### Discussion

1179. We acknowledge the submissions in support of CH-R7.

### Recommendation

1180. We recommend that the Council **accept** the submission points below and retain CH-R7 as notified, noting that amendments have been recommended in response to other submission points.

Submitter	Submission # and Point #
NRC	133.23
DOC	177.24
EQC	190.33

*8.7.1.36 CH-R8 Alterations and Modifications to Existing Buildings and Major Structures in the CEHA1*

**Submission Information**

1181. DOC (177.25), EQC (190.34), and NRC (133.24) support NH-R8.

**Discussion**

1182. We acknowledge the support for CH-R8.

**Recommendation**

1183. We recommend that the Council **accept** the submission points below and retain CH-R8 as notified, noting that amendments have been recommended in response to other submission points.

<b>Submitter</b>	<b>Submission # and Point #</b>
NRC	133.24
DOC	177.25
EQC	190.34

*8.7.1.37 CH-R9 - New Buildings and Major Structures, and Alterations and Modifications to Existing Buildings and Major Structures in the CEHA2*

**Submission Information**

1184. DOC (177.26) and EQC (190.35) support CH-R9.

1185. Northpower (186.22) seeks to include a permitted activity exemption for infrastructure.

**Discussion**

1186. We acknowledge the support for CH-R9.

1187. In response to Northpower’s submission, we consider that any infrastructure should be assessed under the infrastructure specific rules as we have set out previously. We do not consider it appropriate to include an exemption in CH-R9.

**Recommendation**

1188. We recommend that the Council **accept** or **reject** the submission points as set out below and retain CH-R9 as notified, noting that amendments have been recommended in response to other submission points.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
DOC	177.26	Accept
Northpower	186.22	Reject
EQC	190.35	Accept

### 8.7.1.38 CH-R10 - New Buildings and Major Structures in the CFHA0 and CFHA1

#### Submission Information

1189. Waipapa Pine (120.25) supports CH-R10.
1190. Marsden Cove (170.28 and 170.30) supports CH-R10 in part but seeks to amend CH-R10 to permit new habitable buildings where the finished floor level achieves 500mm above the maximum water level in a 1 in 100-year flood event. The submitter also seeks justification on the use of 1.2m sea level rise scenario.
1191. Golden Bay (136.6) seeks to insert a new criterion for the restricted discretionary activity status, add additional matters of discretion, and amend the activity status when compliance not achieved as follows:

*Activity Status when compliance not achieved: Restricted Discretionary*

*...3. Within the Strategic Rural Industries Zone, the building or major structure has been subject to a site specific flood assessment and recommended floor levels have been provided to ensure the building is resilient to a 1% AEP flood event.*

*Matters of discretion:*

*...8. The functional or operational need for the activity to locate within the flood hazard area.*

*9. Recommendations, proposed conditions, and remediation or mitigation measures to determine appropriate site specific floor levels as a result of a site specific flooding assessment.*

*Activity Status when, compliance is not achieved, and the activity is not Restricted Discretionary:*

*Non-complying Discretionary*

1192. Northpower (186.23) seeks to amend CH-R10 to provide for uninhabited buildings housing electrical or telecommunications equipment to be a permitted activity.
1193. EQC (190.36) seeks that the status for new buildings and major structures in the CFHA0 and CFHA1 which do not comply with the permitted standards should be non-complying rather than having a restricted discretionary pathway.

#### Discussion

1194. We acknowledge the support for CH-R10.
1195. In response to the Marsden Cove submission, we do not support permitting new habitable buildings in CFH0 and CFHA1 as these zones are considered higher risk under the NRPS. The NZCPS seeks to ensure new use or development will not increase the risk of social and economic loss or harm. We consider that a restricted discretionary activity status aligns with the policy direction of the NRPS and NZCPS.



1196. We note that the 1.2m sea level rise scenario is consistent with the mapping assumption for the medium projection 100-year timeframe. The NRPS requires at least a 1m sea level rise projection to be used for calculating minimum freeboard however this was informed by the sea-level projections of the 2013 IPCC 5th Assessment Report. The NRPS directs that the appropriate sea-level rise allowance is reviewed regularly at no longer than 10-year intervals, taking into account national guidance and the best available information on the likely effects of climate change on Northland.
1197. We agree with the intent of Golden Bay’s submission that the rule framework should include the ability to provide a more nuanced approach to floor levels where a site-specific flooding assessment has been carried out. However, we consider that the existing rule framework provides for site specific recommendations.
1198. We support Golden Bay’s requested additional matters of discretion as these are consistent with NH-P2 and provide for the ability to determine the site-specific risks and potential recommendations from a site suitability report. We recommend a minor amendment to remove reference to floor levels so that the matter is broader.
1199. We support Golden Bay’s requested amendment to the activity status as we agree that a discretionary status is better aligned with the objective and policy intent, particularly for activities that do not involve vulnerable activities, and there is no NRPS direction to specifically class these activities as non-complying.
1200. In response to Northpower’s submission, we consider that any infrastructure should be assessed under the infrastructure specific rules as we have previously discussed.
1201. We do not support EQC’s requested amendment to change the activity status to non-complying where the permitted standards are not achieved. We acknowledge that there are risks associated with new development in the CFHA0 and CFHA1 but consider that these can be appropriately assessed and managed through the proposed activity statuses.
1202. Also see the Council’s RoR in terms of additional reasons for amending rule CH-R10.

**Recommendation**

1203. We recommend that the Council **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.25	Accept in part
Golden Bay	136.6	Accept in part
Marsden Cove	170.28 and 170.30	Reject
Northpower	186.23	Reject
EQC	190.36	Reject

8.7.1.39 CH-R11 – Alterations or Modifications to Existing Buildings and Major Structures in the CFHA0, CFHA1, CFHA2

**Submission Information**

1204. Marsden Cove (170.31) and Waipapa Pine (120.25) support CH-R11.

1205. Northpower (186.24) seeks to include a permitted activity exemption for infrastructure.

1206. Golden Bay (136.7) seeks to amend CH-R11 to include two new matters of discretion as set out below:

*8. The functional or operational need for the activity to locate within the flood hazard area.*

*9. Recommendations, proposed conditions, and remediation or mitigation measures to determine appropriate site specific floor levels as a result of a site specific flooding assessment.*

1207. Foodstuffs (163.11) seeks to amend CH-R11 to add a new matter of discretion as set out below:

*8. Recommendations, proposed conditions, and remediation or mitigation measures of the site-specific assessment.*

**Discussion**

1208. We acknowledge the support for CH-R11.

1209. In response to Northpower’s submission, we consider that any infrastructure should be assessed under the infrastructure specific rules as previously set out.

1210. We support the matters of discretion requested by Golden Bay and Foodstuffs but recommend minor amendments to improve clarity and consistency with other similar provisions.

1211. Also see the Council’s RoR in terms of additional reasons for amending rule CH-R11.

**Recommendation**

1212. We recommend that the Council **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.25	Accept in part
Golden Bay	136.7	Accept in part
Foodstuffs	163.11	Accept in part
Marsden Cove Ltd	170.31	Accept in part
Northpower	186.24	Reject

#### 8.7.1.40 CH-R12 New Buildings and Major Structures in the CFHA2

##### Submission Information

1213. Waipapa Pine (120.25) supports CH-R12.

1214. Marsden Cove (170.32) opposes CH-R12 and request that provision is made within the rule to allow for post subdivision completion documentation to be referenced in place of the superseded hazard maps, to reflect the amended landform under a previously authorised consent.

1215. Golden Bay (136.8) seeks to amend CH-R12 to include new matters of discretion as set out below:

*8. The functional or operational need for the activity to locate within the flood hazard area.*

*9. Recommendations, proposed conditions, and remediation or mitigation measures to determine appropriate site specific floor levels as a result of a site specific flooding assessment.*

1216. Northpower (186.25) seek to amend CH-R12 to provide for uninhabited buildings housing electrical or telecommunications equipment to be a permitted activity.

1217. EQC (190.37) seeks to amend CH-R12 to include a further matter of compliance where buildings that create new vulnerable activities are a restricted discretionary activity.

##### Discussion

1218. We acknowledge the support for CH-R12.

1219. Marsden Cove considers that land use consent should not be required if coastal hazards have been satisfactorily addressed under a previous subdivision and where the land use activity complies with the consent notice requirements. As discussed already, we have recommended a permitted activity pathway where prescribed conditions have been satisfied. The submitter will need to determine if that permitted activity pathway addresses their concerns or not.

1220. We support the amendments requested by Golden Bay but consider that the wording of the matter of discretion should be consistent across the coastal hazard rules and therefore recommend a minor amendment to remove reference to floor levels so that the matter is broader.

1221. In response to Northpower's submission, we consider that any infrastructure should be assessed under the infrastructure specific rule (CH-R4 and CH-R6) so do not consider it appropriate to include an exemption in CH-R12.

1222. We acknowledge the concern raised by EQC but note that the permitted standards still restrict the building to 30m<sup>2</sup> GFA and consider the risk associated with this size is tolerable in the CFHA2. We do not recommend any amendments in response to this submission point.

1223. Also see the Council's RoR in terms of additional reasons for amending rule CH-R12.

### Recommendation

1224. We recommend that the Council **accept in part** or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.25	Accept in part
Golden Bay	136.8	Accept in part
Marsden Cove	170.32	Accept in part
Northpower	186.25	Reject
EQC	190.37	Reject

### *8.7.1.41 CH-R13 Changes in use to accommodate a vulnerable activity within existing buildings*

#### Submission Information

1225. Waipapa Pine (120.25) supports CH-R13.

1226. EQC (190.38) seeks that any changes in use to accommodate a vulnerable activity within existing buildings should be non-complying rather than discretionary in CEHA0, CEHA1, CFHA0, or CFHA1.

#### Discussion

1227. We acknowledge the support for CH-R13.

1228. We support the requested amendment to amend the activity status to non-complying as this aligns with rules SUB-R2D, CH-R7, and CH-R8.

1229. We recommend a minor amendment to the rule wording to improve readability.

#### Recommendation

1230. We recommend that the Council **accept** or **accept in part** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.25	Accept in part
EQC	190.38	Accept

### 8.7.1.42 CH-R14 New Hard Protection Structures

#### Submission Information

1231. DOC (177.27) and Waipapa Pine (120.25) support CH-R14.
1232. Hawthorne Geddes (188.13) stated that the CH rule relating to new hard protection structures should be deleted.
1233. Northpower (186.26) seeks to include a permitted activity in CH-R14 where hard protection structures are required to protect infrastructure.
1234. Channel (178.30) seeks to amend CH-R14 to provide for new hard protection structures as a restricted discretionary activity with appropriate matters of discretion that closely reflect the requirements of CH-REQ1.
1235. Waka Kotahi (180.39) seeks to amend CH-R14 as follows:

*Activity Status: Discretionary*

*Where:*

- 1. The hard protection structure is for the purpose of protecting subdivision, infrastructure or development existing on [operative date].*

#### Discussion

1236. We acknowledge the support for CH-R14.
1237. We support Waka Kotahi's requested amendment. The term "development" was intended to be an encompassing term. Accordingly, including infrastructure is not inconsistent with the intent of the rule and aligns with Policy 27 of the NZCPS in our opinion.
1238. For the reasoning set out in the RoR (pages 53 and 54) in relation to the submissions by Channel and Northpower, we accept their submissions in part.
1239. It is our recommendation that New Hard Protection Structures in all zones and Development Areas be a discretionary activity.

#### Council

1240. We recommend that the Council **accept in part**, and/or **reject** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.25	Accept in part
DOC	177.27	Accept in part
Channel Infrastructure	178.30	Accept in part
Waka Kotahi	180.39	Accept in part
Northpower	186.26	Accept in part
Hawthorne Geddes	188.13	Reject

### 8.7.1.43 CH-R15 New Buildings and Major Structures and Additions to Existing Buildings and major Structures in CEHA0

#### Submission Information

1241. DOC (177.28), EQC (190.39), and Waipapa Pine (120.25) support CH-R15.

1242. Northpower (186.27) seeks to include a discretionary activity for alterations to existing major infrastructure.

#### Discussion

1243. We acknowledge the support for CH-R15.

1244. It is unclear what exactly Northpower are seeking and why this amendment is required as no reason was provided for relief sought. We consider it unnecessary to include a discretionary activity for alterations as CH-R6 manages new infrastructure and CH-R4 provides for the operation, maintenance and repair, and minor upgrading of existing infrastructure as a permitted activity.

1245. Also see the Council's RoR in terms of additional reasons for amending rule CH-R15.

#### Recommendation

1246. We recommend that the Council **accept** or **reject** the submission points as set out below and as set out in the amended PC1 provisions, noting that amendments have been recommended in response to other submission points.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.25	Accept
DOC	177.28	Accept
Northpower	186.27	Reject
EQC	190.39	Accept

## 8.8 Information Requirement Rules

1247. This section addresses submissions received on the proposed information requirement rules.

Topic headings for the submissions assessed under this section are as follows:

- NH: General amendments to NH Chapter Information Requirements
- NH-REQ1 Information Requirement - Flood Hazard
- NH-REQ2 Information Requirement – Site Suitability Report for Activities in Areas of Moderate or High Susceptibility to Land Instability Hazards
- NH-REQ3 Information Requirement – Site Suitability Report for Activities in Mining Subsidence Hazard Areas

- CH-REQ1 Information Requirement

## **General Amendments to NH Chapter Information Requirements**

### **Submission Information**

1248. Eight submitters<sup>160</sup> seek to amend Note 2 within rules NH-R9, NH-R10, and NH-R11 as follows:

2. *Where the activity is not undertaken in accordance with an approved site-specific assessment,*  
*Applications shall comply with information requirement NH-REQ1.*

1249. Six submitters<sup>161</sup> seek to amend Note 2 within rules NH-R12, NH-R13, and NH-R14 as follows:

2. *Where the activity is not undertaken in accordance with an approved site-specific assessment,*  
*Applications shall comply with information requirement NH-REQ2.*

### **Discussion**

1250. We acknowledge the intent of these submission points and agree that in some cases it may not be necessary or appropriate to require the full extent of the notified information requirement rules to be complied with.
1251. We agree with the submitters and recommend that amendments are made to the rules in the NH, EARTH, and CH Chapters to clarify that land use consent applications do not necessarily need to comply with the information requirement rules. However, subdivision consent applications under SUB-R2A – SUB-R2F must comply with relevant information requirement rules. We find that it is necessary to require the full level of detail prescribed in the information requirement rules for subdivisions as subdivision is a crucial point for decision making re site suitability vis-à-vis natural hazards.
1252. We recommend that Note 1 in the General Rules Section of the NH Chapter be amended to clarify that for any application for a land use resource consent under the NH Chapter rules a site suitability report, engineer's assessment, or other further information to an appropriate level of detail may be required to assess hazard risk, and that Information Requirement Rules inform the level of detail that may be required.

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<sup>160</sup> Te Whatu Ora (159.25), Kāinga Ora (171.30), University of Auckland (156.13), Foodstuffs (163.8), Hurupaki Holdings (166.15), Onoke Heights (167.15), Totara Estate (168.15), and TMB (169.11).

<sup>161</sup> University of Auckland (156.13), Foodstuffs (163.8), Hurupaki Holdings (166.15), Onoke Heights (167.15), Totara Estate (168.15), and TMB (169.11). Note that Foodstuffs submission only relates to NH-R13 and NH-R14.

## Recommendation

1253. We recommend that the Council **accept** the submission points as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
University of Auckland	156.13
Te Whatu Ora	159.25
Foodstuffs	163.8
Hurupaki Holdings	166.15
Onoke Heights	167.15
Totara Estate	168.15
TMB	169.11
Kāinga Ora	171.30

## ***NH-REQ1 – Information Requirement – Flood Hazard***

### Submission Information

1254. Five submitters<sup>162</sup> support NH-REQ1.

1255. NRC (133.16) requests comprehensive amendments to NH-REQ1 as set out in Appendix 1 of their submission.

### Discussion

1256. We acknowledge the support of NH-REQ1.

1257. We generally support the amendments requested by NRC as these will assist in providing more specificity, detail, and direction for applicants and decision makers. However, we have recommended significant changes to this Information Requirement in relation to other submissions relating to the permitted activity framework.

## Recommendation

1258. We recommend that the Council **accept** the submission points below as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>
Waipapa Pine	120.20
NRC	133.16
Centuria Funds	175.11
DOC	177.29
Waka Kotahi	180.26
EQC	190.23

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<sup>162</sup> Waipapa Pine (120.20), Centuria Funds (175.11), DOC (177.29), Waka Kotahi (180.26), and EQC (190.23).



## ***NH-REQ2 – Information Requirement – Site Suitability Report for Activities in Areas of Moderate or High Susceptibility to Land Instability Hazards***

### **Submission Information**

1259. Centuria Funds (175.11) and EQC (190.24) support NH-REQ2.

1260. Waka Kotahi (180.27) supports clause 5 of NH-REQ2.

1261. I Paniora (78.1) requests the removal of NH-REQ2.

1262. Four submitters<sup>163</sup> request the deletion of the note in NH-REQ2 as follows:

*~~Note: The report should be informed by the requirements set out by the WDC Engineering Standards for assessments specifically in areas of medium and high susceptibility to land instability hazards.~~*

1263. The Hawthorne Geddes (188.20 and 188.21) submission includes feedback on the initial draft Land Instability Chapter. As part of their initial feedback, they stated:

- The requirement for topographic survey in consideration of medium and high stability hazard land is not necessary, and
- LIR-REQ4.1(d) (now NH-REQ2.4) should be deleted or simplified it to state that demonstrable stability analysis must be provided, supported by field data for soil conditions or back analysis.

### **Discussion**

1264. We acknowledge the support of NH-REQ2.

1265. In response to I Paniora, we understand that the submitter considers that the proposed PC1 objectives are better achieved through a permitted rule framework that does not require an additional resource consent beyond what can be achieved through the subdivision and building consent process. We have addressed this earlier in this report and agree with a permitted activity as set out.

1266. We acknowledge the rationale of the submitters seeking deletion of the note within NH-REQ2. We find that the “note” is appropriate as it references to the WDC EES which the council does use in its assessment. Moreover, the WDC EES contains relevant information on site suitability reports that would be useful for applicants.

1267. We understand that Hawthorn Geddes provided feedback on the early draft version of the Natural Hazards Chapters which were released for feedback in March 2022 and that their

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<sup>163</sup> Hurupaki Holdings (166.18), Onoke Heights (167.18), Totara Estate (168.17), and TMB (169.13).

original submission is the same as what was provided through that process. The requirements in NH-REQ2, and the aspects that the submitter’s initial feedback commented on, have been amended since that early feedback version.

1268. Notwithstanding the above, we have recommended changes to this Information Requirement in relation to other submissions relating to the permitted activity framework.

**Recommendation**

1269. We recommend that the Council **accept in part** or **reject** the submission points below as set out below and as set out in the amended PC1 provisions.

Submitter	Submission # and Point #	Accept/Reject
I Paniora	78.1	Accept in part
Hurupaki Holdings	166.18	Accept in part
Onoke Heights	167.18	Accept in part
Totara Estate	168.17	Accept in part
TMB	169.13	Accept in part
Centuria Funds	175.11	Accept in part
Waka Kotahi	180.27	Accept in part
Hawthorne Geddes	188.20 and 188.21	Reject
EQC	190.24	Accept in part

***NH-REQ3 – Information Requirement – Site Suitability Report for Activities in Mining Subsidence Hazard Areas***

**Submission Information**

1270. Waka Kotahi (180.28) seeks to amend NH-REQ3.1(c) as follows:

*c) An assessment of the extent to which the proposed activity and proposed ~~or future~~ structures are geotechnically appropriate to the relevant Mining Subsidence Hazard Area.*

**Discussion**

1271. We agree with the requested amendment as the inclusion of “future” is hypothetical and lacks specificity.

1272. We note that we have recommended other changes to the Information Requirement rule in relation to other submissions relating to the permitted activity framework.

**Recommendation**

1273. We recommend that the Council **accept** the submission points below as set out below and as set out in the amended PC1 provisions.

Submitter	Submission # and Point #
Waka Kotahi	180.28

## ***CH-REQ1 – Information Requirement***

### **Submission Information**

1274. Five submitters<sup>164</sup> support CH-REQ1.

1275. NRC (133.22) requests comprehensive amendments to CH-REQ1 as set out in Appendix 2 of their submission.

1276. The Hawthorne Geddes (188.14) submission includes their feedback on the initial draft Coastal Hazards Chapter. As part of their initial feedback, they stated:

- CH-REQ1.1 (now CH-REQ1.2) needs to be amended to recognise that historic reports, while limited in their relevance associated with the progression of climate change, remain a viable source of reference and should be allowed to be used.
- The reference to coastal hazard professional needs to be amended.
- Either a clearly defined expectation should be associated with including tsunami hazard assessment of “risk and effects” in this requirement or it should be removed from the assessment list.

### **Discussion**

1277. We acknowledge the support of CH-REQ1.

1278. We generally support the amendments requested by NRC as these will assist in providing more specificity, detail, and direction for applicants and decision makers.

1279. We understand that Hawthorn Geddes provided feedback on the early draft version of the Natural Hazards Chapters which were released for feedback in March 2022; and that the original submission is the same as that provided through that process. The requirements in CH-REQ1 have been amended since that early feedback version.

### **Recommendation**

1280. We recommend that the Council **accept in part** or **reject** the submission points below as set out below and as set out in the amended PC1 provisions.

<b>Submitter</b>	<b>Submission # and Point #</b>	<b>Accept/Reject</b>
Waipapa Pine	120.26	Accept in part
NRC	133.22	Accept in part
The Fuel Companies	138.11	Accept in part

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<sup>164</sup> Waipapa Pine (120.26), The Fuel Companies (138.11), DOC (177.29), Waka Kotahi (180.40), and EQC (190.40).

DOC	177.29	Accept in part
Waka Kotahi	180.40	Accept in part
Hawthorne Geddes	188.14	Reject
EQC	190.40	Accept in part

## 9 Part 2 of the RMA

1281. Section 32(1)(a) of the RMA requires assessment of whether the objectives of a plan change are the most appropriate way for achieving the purpose of the RMA. Section 72 of the Act also states that the purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of the RMA. In addition, section 74(1) provides that a territorial authority must prepare and change its district plan in accordance with the provisions of Part 2.
1282. Section 6 of the RMA sets out a number of matters of national importance that must be recognised and provided for. We find that PC1 recognises and provides for (h) - the management of significant risks from natural hazards.
1283. We also find that PC1 appropriately addresses and satisfies, to the extent it is required to, Sections 7 and 8 of the RMA
1284. Finally, in terms of section 5 of the RMA, we find that PC1 is consistent with the purpose of the Act as it enables the comprehensive and efficient growth of the area in a way that will provide for the the management of significant risks from natural hazards to enable the social, economic and cultural wellbeing of people and communities.

## 10 Recommendations

1285. Having considered all of the submissions, presentations, evidence and legal submissions before us, and for the reasons we have set out above, we recommend that, pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, the Council approve Proposed Plan Change 1 – Natural Hazards to the Whangārei District Plan subject to the amendments recommended in this report.
1286. We recommend that the Council **accept, accept in part, or reject** the submissions to PC1 consistent with our recommendations above.
1287. The summary reasons for the recommendation decision are that PC1:
- a) will assist the Council in achieving the purpose of the RMA;
  - b) is consistent with the provisions of Part 2 of the RMA;
  - c) gives effect to the higher order documents; is supported by the necessary evaluation in accordance with section 32 RMA and no further section 32AA evaluation is required; and
  - d) will better assist the effective implementation of the Whangārei District Plan.

## 11 Appendices and Attachments

<b>Attachment 1</b>	<b>Appearances at the hearing and tabled evidence</b>
<b>Attachment 2</b>	<b>Link to the Council's Right of Reply documents</b>
<b>Attachment 3</b>	<b>Recommended Plan Provisions Track Changed Version</b>
<b>Attachment 4</b>	<b>Recommended Plan Provisions Clean Version</b>
<b>Attachment 5</b>	<b>Recommended Amendments to the Planning Maps</b>



Greg Hill - Chairman

2 October 2024

## Attachment 1

### 12 Names and roles (title) of the Council team, who appeared at the hearing.

Robert Burgoyne - Planner

Natalie Dey – Planner

Vita Strohush – Planner

Jen Smith (T+T) - Review and response to instability submissions

Jon Rix (T+T) - Technical Reviewer for flooding submission responses

Ashley Middleton – Support Assistant – District Plan

### 13 List of all submitters (and their experts and legal) who appeared at the hearing

Submitter Name	Experts who appeared
Fire and Emergency New Zealand	Graeme Roberts – Planner
Laura Gelder and Dean Wallace	-
Hika Limited	Emma Miller – Planner Brett Hood – Planner
Quality Developments	Emma Miller – Planner Brett Hood – Planner
Jackson Hikurangi Limited	Emma Miller – Planner Brett Hood – Planner
Moureeses Trust No 2	Emma Miller – Planner Brett Hood – Planner
DC Group	Emma Miller – Planner Brett Hood – Planner
Commercial Centres NZ Limited	Emma Miller – Planner Brett Hood – Planner
Otaika Valley Free Range Eggs Limited	Emma Miller – Planner Brett Hood – Planner
Regeneration Holdings	Emma Miller – Planner Brett Hood – Planner Callum Sands - Engineering
Northpower	Caroline Sharp - Legal

	<p>Mike Gibbs – Corporate evidence and Northpower Representative</p> <p>Shaun Brown – Engineering evidence and Northpower Representative</p> <p>Brett Hood – Planner</p>
The Telecommunications Companies	<p>Chris Horne – Planner</p> <p>Graeme McCarrison - Planner</p>
Carl Anton Bergstrom	-
Channel Infrastructure Limited	<p>Ebony Ellis – Legal</p> <p>Riann Elliot - Environmental Health and Safety Manager</p> <p>Teresa Calmeyer – planner</p>
Northland Regional Council	<p>Justin Murfitt – Planner</p> <p>Matt De Boer - Hydrology</p>
Freddrick Arnold Morgan	-
Murray Steedman	-
Racheal Steedman	-
Samit Sharma	-
DJ Robertson and TL Baxter	-
Max Haag	-
John Schwartfeger	
Marsden Cove Limited	<p>Gray Hopper - Director - Marsden Cove Limited</p> <p>Leigh Hooper - Director - Marsden Cove Limited</p> <p>Kaaren Joubert – Planner</p> <p>James Greenwood – Engineer</p>
Metlifecare Retirement Villages Limited	<p>David Badham – Planner</p> <p>Matthew Packard - Engineering</p>
Foodstuffs North Island	<p>David Badham – Planner</p> <p>Jonathan Williamson – Hydrology</p>
Te Whatu Ora – Health New Zealand	<p>David Badham – Planner</p> <p>Melissa McGrath - Planner</p> <p>Jefferey Garnham - Corporate</p>

The University of Auckland	John Carter - Head of Planning and Development David Badham – Planner David Ouwejan – Geotechnical Engineer
Hurupaki Holdings Limited	Melissa McGrath – Planner Aaron Holland – Geotechnical Engineer
Onoke Heights Limited	Melissa McGrath – Planner Aaron Holland – Geotechnical Engineer
Totara Estate Developments Limited Partnership	Melissa McGrath – Planner Aaron Holland – Geotechnical Engineer
TMB Limited	Melissa McGrath – Planner Aaron Holland – Geotechnical Engineer
Kāinga Ora	David Badham – Planner Brendon Ligget – Planner Stuart Bracey – Manager
Alan Douglas Le Clus	-
Garry Desmond Martin	-
Ursula Buckingham	-
Derek Slatter	-
John Andrew Glenie	-
David & Jane Garrick	-
Blair Johnston	-
Peter Hans Topzand	-
Talbot John Robinson	-
Clyde Stevens	-
Charmain Weston	-
Marian and Leonard Dissanayake	-
Fonterra Limited	Suzanne O'Rourke - National Environmental Policy Manager Graeme Mathieson – Planner
HKRS Holdings Ltd	Evan Cook
Vanessa Hall	-
John Leigh Calder	-



Ian Fox	-
Ohawini Bay Limited	-
Campbell Challenger Family Trust	-
Michael & Petrina Hodgson	-
Malcolm Andrew Aylward	-
<b>Tabled Statements</b>	
Golden Bay Cement	
Liam Watson	
The Fuel Companies	
Transpower	
Greg Bracey	
Gary Martin	
Woolworths	
Ministry of Education	
Whangarei District Council Infrastructure	

## Attachment 2

Link to the Council's Right of Reply documents

<https://www.wdc.govt.nz/Services/Planning/District-Plan/District-Plan-changes/Current-plan-changes/PC1#section-3>

# Attachment 3

Recommended Plan Provisions Track Changed Version

# Attachment 4

Recommended Plan Provisions Clean Version

# Attachment 5

## Recommended Amendments to the Planning Maps