

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
TE WHANGANUI-A-TARA ROHE**

EnvC

IN THE MATTER of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of an appeal under clause 14 of schedule 1 of the RMA

BETWEEN **JAMES WILLIAM BRIDGE** of Havelock North, Company Director

Appellant

AND

CENTRAL HAWKE'S BAY DISTRICT COUNCIL a territorial
authority constituted by the Local Government (Hawke's Bay
Region) Reorganisation Order 1989

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON PROPOSED
POLICY STATEMENT OR PLAN OR CHANGE OR VARIATION**

Dated this 27th day of June 2023

GASCOIGNE WICKS
LAWYERS
BLLENHEIM

Solicitor: Joshua S Marshall
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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON
PROPOSED POLICY STATEMENT OR PLAN OR CHANGE OR VARIATION**

Clause 14(1) of First Schedule, Resource Management Act 1991

To: The Registrar
Environment Court
Wellington

Name of Appellant

- 1 James William Bridge appeals against part of a decision of the Central Hawke's Bay District Council ("**CHBDC**" or the "**Council**") on the following plan:
- (a) the Proposed District Plan ("**PDP**")

Appellant's submission

- 2 The Appellant made a submission on that plan.

Trade competition

- 3 The Appellant is not a trade competitor for the purposes of section 308D of the Act.

Date on which notice of decision received by Appellant

- 4 The Appellant received notice of the decision on 25 May 2023.

Name of decision maker

- 5 The decision was made by the Council.

The decision

- 6 The part of the decision that the Appellant is appealing against is:
- (a) The strategic direction for the Rural Land Resource within the District as set by Policies RLR-P3 and RLR-P4
- (b) Provisions relating to the management of Natural Hazard risks, specifically, Objective NH-O3, Policy NH-P9, and Anticipated Environmental Result NH-AER1
- (c) Amendments made to Subdivision objective SUB-O2

- (d) The retention of Subdivision Policy SUB-P1
- (e) The minimum lot size for sites within the General Rural Zone as specified within subdivision standard SUB-S1
- (f) Subdivision assessment matters SUB-AM5 and SUB-AM6
- (g) The boundary setback requirements for buildings on sites within the General Rural Zone as set out in standard GRUZ-S5
- (h) The General Rural Zoning of land within the Coastal Environment at Pourerere (Sheet No. 29) where the zoning is not appropriate having regard to the existing environment and fails to appropriately provided for future growth.
- (i) The use of the zone name Large Lot Residential Zone (Coastal) in contravention of the requirements of the National Planning Standards.

Reasons for appeal

7 The reasons for the appeal are as follows:

Rural Land Resource – Strategic Direction

- (a) In relation to the strategic direction set by Policies RLR-P3 and RLR-P4, the decision rejected submissions by James Bridge that these policies should specifically related to the loss of highly productive land within the Rural Production Zone for the following reasons:
 - (i) The issue and objective that these policies are intended to give effect to is the loss of highly productive land;
 - (ii) The decision report indicates the importance of “the policy wording reflecting the rules and standards that flow from it”, as justification for introducing a policy that does not reflect the higher order issue and objective;
 - (iii) It is crucial to the integrity of the Plan that the policy wording reflects the issues and objectives, and that the rules and standards provide a means to achieve outcomes consistent with those issues, objectives and policies.
 - (iv) The generalisation of the policies to rural land generally is inconsistent with the associated issues and objectives and is not supported by other issues and objectives within the Proposed Plan.

Natural Hazards

- (b) Requiring 'any' increase in risk to be avoided, remedied or mitigated (NH-O3) is inconsistent with s6 of the RMA, which requires the management of significant risks from natural hazards. This is also inconsistent with the rules of the Plan which, appropriately, include several permitted activity rules which could result in a small increase in risk but the overall risk remains low, and no specific mitigation is necessary or appropriate.
- (c) Policy NH-P9 seeks to prevent any activity that might require natural hazard mitigation. This Policy fails to recognise that mitigation is an appropriate means of managing potential significant risks from natural hazards, in accordance with S106 of the RMA, and the restricted discretionary activity standards of the plan which appropriately provide for development in areas subject to natural hazard risks with appropriate mitigation measures.
- (d) NH-AER1 anticipates that all new development will be located outside areas at significant risk from natural hazards. This is inconsistent with the rules of the Plan which, appropriately, include several permitted activity rules. Accordingly, this is not an anticipated environmental result of the proposed plan.

Subdivision Provisions

- (e) Amendments made to Subdivision objective SUB-O2 have not addressed subdivision of land containing existing or consented activities that may not be anticipated by the relevant zone rules. The decision report states that the objective should be amended to refer to 'types of development', which could include permitted and consented developments, however this is not reflected in the final wording of the objective, which specifically refers to 'types of development intended **and** anticipated by the relevant zone provisions', thereby excluding consented developments which may fall outside the types of development anticipated by the zone provisions.
- (f) Subdivision Policy SUB-P1 directs Council to establish standards for minimum lot sizes for each zone. The hearings Panel have determined that this Policy is appropriate as it provides an important link between OBJ-O2 and the standards within the Plan. The setting of minimum lot sizes is a means by which the objectives and policies of the plan can be

given effect to, and is not a policy as such. Further, it is inappropriate for a policy to infer that strict compliance with a Rule is the only means of achieving the overall intent of the objectives of the Plan. While it is reasonable to assume that the minimum lot sizes provide certainty as to the size of lot that will be accepted as being suitable for the range of land uses anticipated within a zone, there will inevitably be instances where smaller lots are suitable for the intended (or consented) development. The setting of minimum lot sizes is therefore one method which can be used to assist in achieving this objective.

- (g) The minimum lot size for sites within the General Rural Zone as specified within subdivision standard SUB-S1 is not supported by the Objectives and Policies of the Plan. The one issue identified within the Plan relating to the Rural Land Resource is the “Incremental Loss of Highly Productive Land” (RLR-I1). In response to this issue, the rural areas within the District have been separated into a Rural Production Zone, encompassing the areas of Highly Productive Land, and a General Rural Zone. Reinstating the 4000m² minimum lot size in the General Rural Zone will allow land owners to subdivide off the less productive land within their farm holdings to support investment in continuing and enhancing productive rural activities on the more versatile land. The reporting planners s42A report confirmed that there is low demand for lifestyle subdivision within the General Rural Zone, and in particular, noted that there was insufficient demand to justify the inclusion of farm park subdivision provisions. For similar reasons, there is insufficient demand for lifestyle sites within the General Rural Zone of Central Hawke’s Bay to justify increasing the minimum lot size to 20 ha, and restricting the creation of lifestyle sites to one every three years. Allowing more than one such site to be created at the same time will facilitate well-planned clustering of new lifestyle sites in a manner that minimises potential reverse sensitivity effects on the balance farm and therefore would also assist in avoiding ad-hoc/sporadic rural-residential development across the District.
- (h) SUB-AM5(4) and SUB-AM6(7) refer to the NZ Fire Service Firefighting Water Supplies Code of Practice. It is inappropriate for the plan to refer to this document as it is not publicly available. If there are specific aspects of this code of practice that are important and relevant to applications for subdivision consent, those should be included within the plan.

General Rural Zone – Building Setbacks

- (i) The decision rejected the submission by James Bridge requesting that a reduced setback of 5m be applied to sites comprising 2.5 ha or less within the General Rural Zone, and instead provided for a reduced setback only on sites less than 4000m² created or applied for before 28 May 2021. The reason provided for allowing a reduced setback was the potential for significant development constraint on those smaller sites, while the reason provided for not allowing reduced setbacks between lots of 2.5 ha or less relates to reverse sensitivity issues adjacent to primary production sites.
- (j) Under the subdivision rules of the General Rural Zone, any new lots of between 2500m² and 2.5ha will be created as lifestyle sites, and therefore will not be intended for use for primary production activities. Allowing a reduced setback between lifestyle sites (i.e., sites of less than 2.5ha) will allow development to be located further away from any adjoining land used for primary production activities (i.e., sites larger than 2.5ha). Further, the Plan provides for the creation of new lifestyle sites of less than 4000m², which would be subject to the same potential development constraints as those smaller sites already created and/or applied for.

Zoning

- (k) The General Rural Zoning of land within the Coastal Environment at Pourerere (Sheet No. 29) where the zoning is not appropriate having regard to the existing environment and fails to appropriately provided for future growth.
- (l) The General Rural Zoning is inconsistent with national direction including the Zone Descriptions in the Zone Framework Standard of the National Planning Standards.

Consistency with National Planning Standards

- (m) The use of the zone name Large Lot Residential Zone (Coastal):
 - (i) Is contrary to the requirements of and purpose of the National Planning Standards which is to provide national consistency, and in particular, to address the inconsistency in naming conventions around the country; and

- (ii) Allowing variations to zone names to be introduced will undermine the purpose of, and may ultimately set a precedent that prevents the consistent implementation of, the National Planning Standards in accordance with their intended purpose.

Relief

8 The Appellant seeks the following relief:

- (a) The amendments as set out in Schedule A to this notice; or
- (b) Other equivalent relief.

Attached documents

9 The following documents are attached to this notice:

- (a) a copy of the Appellant's submission (Schedule B);
- (b) a copy of the relevant part of the decision (Schedule C);
- (c) any other documents necessary for an adequate understanding of the appeal (Schedule D);
- (d) a list of names and addresses of persons to be served with a copy of this notice (Schedule E).



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Joshua S Marshall

Solicitor for Appellant

Date: 27 June 2023

Address for service of Appellant:

Gascoigne Wicks, 79 High Street, Blenheim 7201, PO Box 2, Blenheim 7240

Telephone: 03 578 4229

Email: jmarshall@gwlaw.co.nz

Contact person: Joshua S Marshall, Solicitor

Note to Appellant*Appeals other than in relation to freshwater planning instruments*

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B) of the Act, may consider only the question of law raised.

Appeals in relation to freshwater planning instruments

You may appeal only if—

- you addressed in your submission or further submission the provision or matter that is the subject of your appeal; and
- the relevant regional council rejected a recommendation of the freshwater hearings panel and decided an alternative solution which resulted in—
 - (a) the provision or matter being included in the freshwater planning instrument; or
 - (b) the provision or matter being excluded from the freshwater planning instrument.

If a regional council decides to reject a recommendation of the freshwater hearings panel that is outside the scope of submissions, you may appeal to the Environment Court in respect of that decision or the alternative solution proposed by the council if you made a submission.

Notes for all appeals

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Act.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The

notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (*see form 38*).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Act.

You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (*see form 38*).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Schedule A – Amendments Sought to Plan

Schedule A

RLR-P3

To minimise fragmentation of the District's rural land resource through directing lifestyle subdivision to the Rural Lifestyle Zone and limiting lifestyle subdivision in the ~~General Rural Zone and, particularly, in the Rural Production Zone.~~

RLR-P4

To provide for non-primary production activities that complement the resources of the rural area, provided they do not compromise primary production, ~~particularly in the Rural Production Zone and associated rural character and amenity in all rural zones, recognising that some non-primary production activities have an operational or functional need to locate in a rural area.~~

NH-O3

Any **significant** ~~increase in risk to people, property, infrastructure and the environment from the effects of natural hazards should be avoided, remedied or mitigated, reflecting the level of risk posed by the hazard.~~

NH-P9

~~To ensure that subdivision, land use activities or other new development is located and designed so natural hazard mitigation activities are not required.~~

NH-AER1

~~Where practicable, new building development is located outside of areas at significant risk from natural hazards. Where development and associated land use activities are already established within an **area at significance risk from** natural hazards area, mitigation minimises risk to people and property.~~

SUB-O2

Lots created by subdivision are physically suitable for the types of development **either** intended ~~and~~, anticipated by the relevant zone provisions, **or provided for by a land use consent.**

SUB-P1

~~To establish standards for minimum lot sizes for each zone in the District to deliver lots that are of an appropriate size and shape to accommodate those activities reasonably anticipated within the zone, and to provide for a range of lot sizes.~~

SUB-S1 Minimum Net Site Area

General Rural Zone

9. ~~20 hectares~~**4000m²**

And consequential amendments to remove lifestyle site subdivision rules relating to the General Rural Zone

SUB-AM 5

4. ~~The provisions of the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008.~~

SUB-AM 6

~~7. The provisions of the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008 with respect to the width of the legal road, right of way, vehicle access lot or vehicle access leg is sufficient for fire appliances to access the lot(s)~~

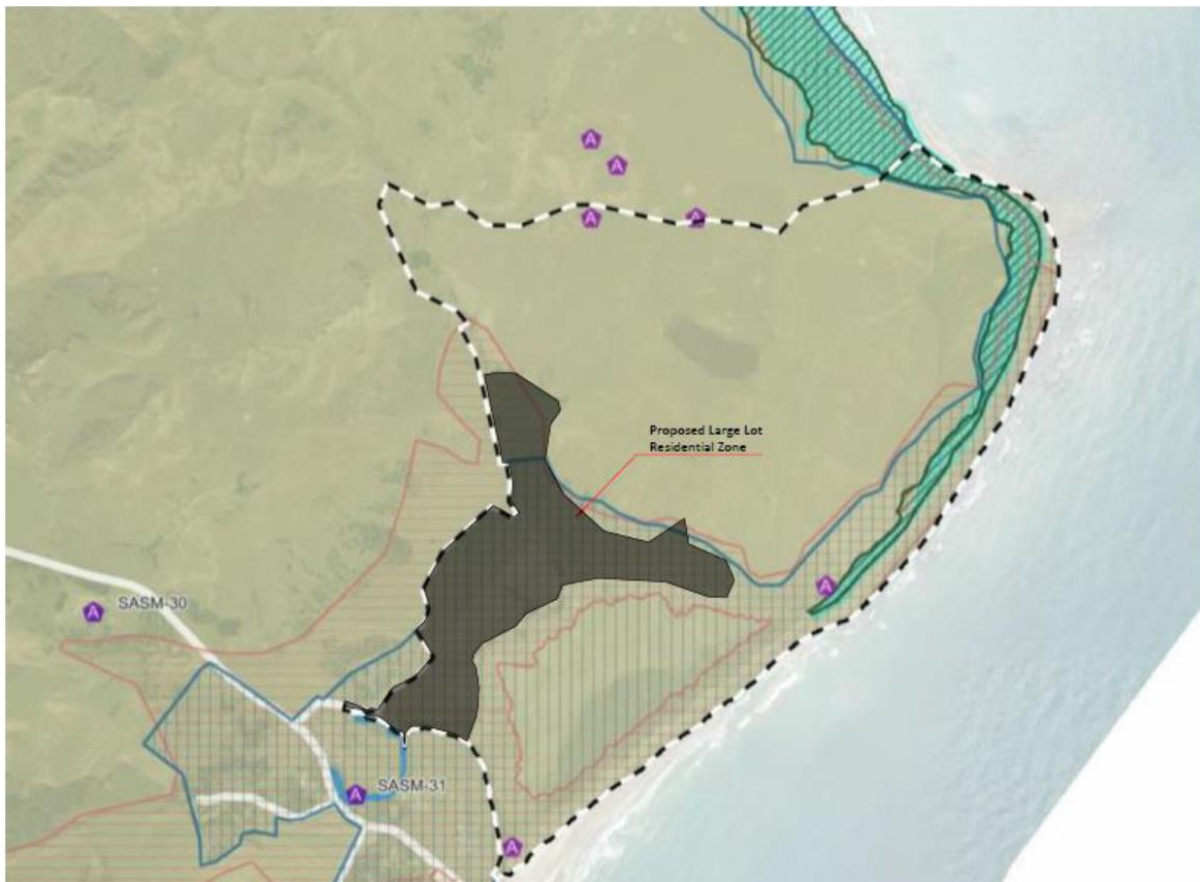
GRUZ-S5 Setback from Neighbours

Residential Activities adjacent to an existing plantation forest on an adjoining site	1. Minimum setback of buildings from an existing plantation forest on an adjoining site is 40m.
All Other Activities (excluding Accessory Buildings) and Accessory Buildings and Structures (Primary Production)	2. Minimum setback of buildings for an activity from internal boundaries is 15m, <u>except as between sites of 2.5 ha or less where the minimum setback is 5m.</u> Farm and domestic water storage tanks up to 2m in height are exempt from this standard.
Accessory Buildings Accessory Buildings and Structures (Primary Production)	3. Minimum setback of buildings for an activity from internal boundaries is 5m. Farm and domestic water storage tanks up to 2m in height are exempt from this standard.
Artificial Crop Protection Structures	4. Minimum setback from internal boundaries of 5m. 5. Minimum setback from the nearest part of a residential dwelling on a separate site is 15m

<p>Sites created before 28 May 2021 and less than 4000m² net site area</p> <p>Where a subdivision consent application to create a site is lodged with Council before 28 May 2021, and accepted under section 88 of the RMA 1991 and thereafter granted</p>	<p>6. Minimum setback of buildings for a residential activity from internal boundaries is 5m.</p> <p>7. Minimum setback of buildings for all other activities from internal boundaries is 10m.</p>
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Planning Map – Sheet No. 29

Amend zoning of land identified to Large Lot Residential



Zone Name – Large Lot Residential (Coastal)

Amend all instances to: Large Lot Residential (Coastal)

Schedule B – Copy of Appellant’s submission and further submission (with relevant submissions opposed or supported)

If not attached, copies may be obtained, on request, from the appellant



Proposed District Plan submission form



Clause 6 of the First Schedule, Resource Management Act 199.

Feel free to add more pages to your submission to provide a fuller response.

To: Central Hawke's Bay District Council			
1. Submitter details			
Full Name	Last Bridge	First James	
Company/Organisation (if applicable)			
Contact Person (if different)			
Email Address			
Address			Postcode
Phone	Mobile	Home	Work
2. This is a submission on the Proposed District Plan for Central Hawke's Bay			
3. <input type="checkbox"/> I could <input checked="" type="checkbox"/> I could not – gain an advantage in trade competition through this submission (Please tick relevant box)			
If you could gain an advantage in trade competition through this submission please complete point 4 below:			
4. <input type="checkbox"/> I am <input type="checkbox"/> I am not – directly affected by an effect of the subject matter of the submission that:			
(a) adversely affects the environment; and (b) does not relate to trade competition or the effects of trade competition. (Please tick relevant box if applicable)			
Note: If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.			
5. <input checked="" type="checkbox"/> I wish <input type="checkbox"/> I do not wish – to be heard in support of my submission in person (Please tick relevant box)			
6. <input type="checkbox"/> I will <input checked="" type="checkbox"/> I will not – consider presenting a joint case with other submitters, who make a similar submission, at a hearing. (Please tick relevant box)			
7. Do you wish to present your submission via Zoom? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
8. Please complete section below (insert additional boxes per provision you are submitting on):			
The specific provision of the plan that my submission relates to:			
Refer to attached document			
Do you: <input type="checkbox"/> Support <input type="checkbox"/> Oppose <input type="checkbox"/> Amend (Please tick relevant box)			
What decision are you seeking from Council?			
Reasons: Refer to attached document			
Please note: All submissions will be treated as public documents and will be made available on Council's website. However, you may request that your contact details (but not your name) be withheld. If you want your contact details withheld, please let us know by ticking this box. <input checked="" type="checkbox"/>			



Provision Number	Support / Oppose / Support in Part / Oppose in Part	Reasons	Relief Sought ¹
<p>Definitions:</p> <p>CLEARANCE</p> <p>in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line:</p> <ul style="list-style-type: none"> a. application of chemicals b. application of seed of exotic pastures c. burning d. changes to soils, hydrology, or landforms e. drainage f. drilling or excavation discharge of toxic substances g. mob-stocking h. overplanting 	Oppose	The definition as drafted is very broad. Innocuous activities such as driving a quad bike resulting in crushed vegetation could be considered vegetation clearance. The Regional Plan provides a clear definition of clearance, and for consistency it is suggested that the existing definition in that plan be adopted.	<p>Amend to:</p> <p>Clearance means the cutting, burning, clearing or destruction (including destruction by spraying) of trees, shrubs or plants but excluding pasture grasses, forest thinning's, agricultural and horticultural crops and noxious weeds covered by the Regional Plant Pest Management Strategy prepared under the Biosecurity Act 1993. It excludes the normal maintenance of legally established structures, roads, tracks, railway lines and river beds.</p> <p>Clearance only occurs when 5m² or more of shrubs or plants, or 5 or more trees are affected.</p>

¹ The relief sought is as specified in this column or working and map notations that achieve the same or similar outcome.

<p>Definitions:</p> <p>INDIGENOUS VEGETATION</p> <p>vegetation or ground cover that are indigenous in or endemic to any of the ecological districts of which the Central Hawke’s Bay District is part. Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance.</p>	<p>Oppose</p>	<p>The definition should be amended to exclude areas dominated by exotic species.</p>	<p>Amend to:</p> <p>Indigenous Vegetation means a plant community in which species indigenous to that part of New Zealand are important in terms of coverage, structure and/or species diversity. For these purposes, coverage by indigenous species or number of indigenous species shall exceed 30% of the total area or total number of species present, where structural dominance is not attained. Where structural dominance occurs (that is indigenous species are in the tallest stratum and are visually conspicuous) coverage by indigenous species shall exceed 20% of the total area.</p>
<p>RLR-P3</p> <p>To limit the amount of further fragmentation of the District’s rural land resource through limiting lifestyle subdivision, particularly in the Rural Production Zone</p>	<p>Oppose in Part</p>	<p>The issue and objective that this policy is intended to give effect to is the loss of highly productive land. The generalisation of the policy to rural land generally is inconsistent with the associated issues and objectives, and is not supported by other issues and objectives identified within the Proposed Plan.</p>	<p>Amend to:</p> <p>To limit the amount of further fragmentation of the District’s highly productive rural land resource through limiting lifestyle subdivision within the Rural Production Zone.</p>

<p>RLR-P4</p> <p>To provide for a wide range of activities to establish, which complement the resources of the rural area, provided that they do not compromise the primary production role and associated amenity of the rural land resource, particularly in the Rural Production Zone.</p>	<p>Oppose in Part</p>	<p>The issue and objective that this policy is intended to give effect to is the loss of highly productive land. The generalisation of the policy to rural land generally is inconsistent with the associated issues and objectives, and is not supported by other issues and objectives identified within the Proposed Plan.</p>	<p>Amend to:</p> <p>To provide for a wide range of activities to establish, which complement the resources, provided that they do not compromise the primary production role and associated amenity of the highly productive rural land resource within the Rural Production Zone.</p>
<p>RE-R1</p> <p>Small Scale Renewable Energy Generation Activities</p> <p>Permitted where the following conditions are met:</p> <ul style="list-style-type: none"> a. Limited to one wind turbine per site. 	<p>Support in Part</p>	<p>The definition of Small Scale Renewable Energy Generation Activities includes generation using solar, wind, hydro and biomass energy resource, however the rule as drafted only provides for wind generation though limiting permitted activities to one wind turbine per site. The rule should be expanded to specifically provide for other types of small scale renewable energy generation activities, to be consistent with policy RE-P4 (to provide for small-scale renewable electricity generation activities).</p>	<p>Amend permitted activity conditions to:</p> <ul style="list-style-type: none"> a. <u>In the case of wind generation</u>, limited to one wind turbine per site b. Compliance with... <p>Or other appropriate amendments to explicitly provide for all types of renewable energy generation activities as anticipated by Policy RE-P4.</p>

<p>TRAN-S1 Vehicle Parking</p> <p>Table 1 – Car Parking Spaces</p> <p>Residential Units/Minor Residential Units – 2 parks per unit</p>	<p>Oppose</p>	<p>Requiring 2 parks for each residential unit and each minor residential unit is excessive, and inconsistent with policy TRAN-P6 which promotes alternative means of transport and less reliance on vehicle-based transport systems.</p> <p>This rule is also inconsistent with the NPS-UD. While the NPS-UD legally doesn't apply to CHB, it is still sensible to have regard to it and the Council has done so in other parts of the Proposed Plan. Further, if the district has sufficient growth in the future, the NPS-UD may come to apply.</p> <p>Clause 3.38(1) of the NPS-UD states:</p> <p>If the district plan of a tier 1, 2, or 3 territorial authority contains objectives, policies, rules, or assessment criteria that have the effect of requiring a minimum number of car parks to be provided for a particular development, land use, or activity, the territorial authority must change its district plan to remove that effect, other than in respect of accessible car parks.</p>	<p>Amend to:</p> <p>1 park per unit (can include parks within garages or carports).</p>
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<p>TRAN-S5 Vehicle Access</p> <p>Table 2 – Minimum Legal Widths of Private Access – Urban and Rural Environments – Residential Units & Home Businesses</p> <p>Table 3 – Minimum Legal Widths of Private Access – Rural Environments – Commercial, Industrial & Other Activities</p>	<p>Oppose in Part</p>	<p>Requiring a 20m legal access width of 20m is excessive.</p> <p>Providing 3m pedestrian access on both sides of the road in rural areas is unnecessary.</p> <p>Providing parking and loading bays on the roadside is inconsistent with the character of rural areas, and inconsistent with Policy TRAN-P1 requiring off-street parking, access and loading facilities to be provided within sites. The large lot sizes required in rural environments will be sufficient to allow parking and loading to be accommodated within sites without the need for dedicated on-road parking.</p>	<p>Amend for private access serving 21-200 sites to require a maximum legal width of 15m, pedestrian access of either 3m on one side or 1.5m on each side, and, in all instances within Table 3, remove the requirement for parking and loading bays within the access.</p> <p>Include a note stating that pedestrian access in rural areas can be provided on the grass verge and that the formation of footpaths is not necessary or appropriate in rural areas.</p>
<p>NH-O3</p> <p>Any increase in risk to people, property, infrastructure and the environment from the effects of natural hazards is avoided.</p>	<p>Oppose</p>	<p>This objective is inconsistent with s6 of the RMA, which requires the management of significant risks from natural hazards. It is not possible to achieve this objective without prohibiting any new development in the district. An 'avoid' objective is inappropriate.</p>	<p>Delete this objective or amend the wording to refer to 'significant risks from natural hazards, to align with s. 6 of the RMA'.</p>

<p>NH-P7</p> <p>To adopt and promote an avoidance approach to new development located within areas of significant natural hazard risk, rather than mitigation or remedial measures.</p>	<p>Oppose</p>	<p>See reasons for opposing NH-O3</p>	<p>Delete this policy.</p>
<p>NH-P9</p> <p>To ensure that subdivision, land use activities or other new development is located and designed to avoid the need for further natural hazard mitigation activities.</p>	<p>Oppose</p>	<p>Mitigation is an appropriate means of managing potential significant risks from natural hazards, in accordance with s106 of the RMA.</p>	<p>Delete this policy.</p>
<p>NH-AER1</p> <p>New building development is located outside of identified natural hazard risk areas. Where building development is already within a hazard area, the risk of the hazard is reduced and/or mitigated.</p>	<p>Oppose in Part.</p>	<p>There are, appropriately, several permitted activity rules that provide for new building development within identified natural hazard risk areas. Accordingly, this is not an anticipated environmental result of the proposed plan.</p>	<p>Amend to:</p> <p>Where building development is located within a natural hazard area, the significant risk of the hazard is reduced and/or mitigated.</p>

<p>SUB-O2</p> <p>Lots created by subdivision are physically suitable for a range of land use activities allowed by the relevant rules of the District Plan.</p>	<p>Oppose</p>	<p>New lots created by subdivision need not be suitable to accommodate the range of activities able to be undertaken with the relevant zone, provided they are suitable for their intended use, and that intended use is either provided for as a permitted activity within that zone, or the required land use consent is obtained in conjunction with the subdivision consent.</p> <p>Where there is no predetermined intended use, the relevant minimum lot size requirements should be sufficient to ensure that the lot is suitable for a range of activities.</p> <p>This is consistent with proposed assessment criteria SUB-AM1(1).</p>	<p>Amend to:</p> <p>Lots created by subdivision are physically suitable for their intended use which is not prohibited in the relevant zone.</p>
<p>SUB-P1</p> <p>To establish standards for minimum lot sizes for each zone in the District.</p>	<p>Oppose</p>	<p>The setting of standards for minimum lot sizes is a means by which the objectives and policies of the plan are given effect to, and not a policy as such.</p>	<p>Delete this policy.</p>

<p>SUB-R1(1)(b) SUB-R4(1)(b) SUB-R5(1)(c)</p> <p>The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <ul style="list-style-type: none"> i. HH-SCHED2. ii. SASM-SCHED3. iii. ECO-SCHED5. iv. ONL or ONF in NFL-SCHED6. v. CE-SCHED7. 	<p>Oppose in Part</p>	<p>Defaulting to a Discretionary activity for all subdivisions of sites containing the listed sites or areas is inappropriate, particularly where the proposed additional lot(s) occupy a small area within a large farm property, and that area will not be affected by the subdivision.</p>	<p>Amend to:</p> <ul style="list-style-type: none"> b. The subdivision will not result in any new vehicle access to or future building platforms within any of the sites or areas identified in the following: <ul style="list-style-type: none"> i. HH-SCHED2. ii. SASM-SCHED3 iii. ECO-SHED5 iv. ONL or ONF within NFL-SCHED6 v. CE-SCHED7
<p>SUB-AM5(4) SUB-AM6(7)</p> <p>The provisions of the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008.</p>	<p>Oppose</p>	<p>It is inappropriate to reference the NZ Fire Service Firefighting Water Supplies Code of Practice as this document is not publicly available. If there are specific aspects of this code of practice that Council considers important and relevant to applications for subdivision consent, these should be included within the plan to provide clarity and certainty to potential applicants as to what will be expected by Council in regards to these criteria.</p>	<p>Delete</p>

<p>SUB-AM5(7) SUB-AM6(6)</p> <p>The provisions of the Code of Practice for Urban Land Subdivision (New Zealand Standard NZS 4404: 2004).</p>	<p>Support in Part</p>	<p>It would be more appropriate to refer to the current version of this standard, being NZS4404:2010.</p>	<p>Amend to refer to NZS4404:2010.</p>
<p>SUB-S1(9)</p>	<p>Oppose</p>	<p>The introduction of a minimum lot size of 20ha in the General Rural Zone is not supported by the Objectives and Policies of the Proposed Plan. The rules of the plan should give effect to those objectives and policies.</p>	<p>Amend the minimum lot size for the General Rural Zone to 4000m², and make consequential amendments to the Plan to remove specific reference to lifestyle sites within General Rural Zone in the Plan.</p>
<p>SUB-S2</p>	<p>Oppose</p>	<p>The minimum lot size for Rural Lifestyle sites of 4000m² is excessive. The minimum size required for lifestyles sites created under the rules for conservation lots is 2500m², confirming that a smaller lot size is sufficient to accommodate lifestyle development within rural areas. If lifestyle site provisions are to remain, the minimum site area should be reduced to 2500m² within the General Rural zone to be consistent with the conservation lot provisions.</p>	<p>Amend SUB-S2(1) as follows: Minimum net site area for Lifestyle Lot – 2500m².</p>

<p>GRUZ-S5(2)</p> <p>Minimum setback of building for an activity from internal boundaries is 15m.</p>	<p>Oppose in Part</p>	<p>Small rural lots are often clustered to reduce impacts on productive farming activities. A 15m setback from boundaries between smaller sized lots is not required to mitigate potential adverse effects associated with the development and use of small rural lots.</p>	<p>Amend to:</p> <p>Minimum setback of buildings for an activity from internal boundaries is 15m <u>except as between sites of 2.5ha or less where the minimum setback is 5m. ...</u></p>
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<p>District Plan Maps – Sheet No 29</p>	<p>Oppose in Part</p>	<p>The zoning of land as proposed on Sheet No 29 does not reflect the existing developed and consented environment in this location: in particular, the General Rural zoning of the land area identified in Figure 1 (see Appendix A) which includes a consented subdivision area is inappropriate.</p> <p>Detailed consideration of the appropriate zoning of this land is included in Appendix A.</p> <p>It is noted that the approved “21-lot, large lot residential subdivision at Pourerere” is specifically referred to in the Council’s s32 Report relating to the Coastal Environment.</p> <p>The s32 report indicates that no consideration has been given to the expansion of coastal settlement zones beyond the development areas that existed prior to submissions closing on the draft plan, including the large lot residential subdivision on the submitter’s land, which was approved by Council after that date.</p> <p>In failing to identify appropriate locations for coastal settlement expansion, the future expansion of existing coastal settlements provided for by Policy CE-P4 will, by necessity, be</p>	<p>Amend the zoning of the land area identified in Figure 1 from GRUZ – General Rural Zone to LLRZ – Large Lot Residential.</p>
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		directed to the General Rural Zoned areas of the Coastal Environment. Provision should be made for a moderate extent of extension of the zoned large lot residential area at Pourerere.	
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<p>Zone name for LLRZ – Large Lot Residential Zone (Coastal).</p>	<p>Oppose</p>	<p>The use of the zone name is inconsistent with the Zone Framework Standard of the National Planning Standards 2019.</p> <p>Direction 1 in that standard states “a district plan, ... must only contain the zones listed in table 13...”</p> <p>Direction 2 states “if an existing zone in a plan is consistent with the description of a zone in table 13, that existing zone must use that zone name ... and associated zone colour”</p> <p>Direction 3 states an additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes meet all of the following:</p> <ul style="list-style-type: none"> a. Are significant to the district, region or county; b. Are impractical to be managed through another zone; c. Are impractical to be managed through a combination of special layers. <p>The zone “Large Lot Residential Zone (Coastal)” does not meet the direction 3 exemption criteria: particular b. since</p>	<p>Delete “(Coastal)” from all instances of the term “Large Lot Residential Zone (Coastal)” in the plan.</p>
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		there is no "Large Lot Residential Zone" in the plan.	
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<p>Extent of LLRZ zoning for coastal settlement generally</p>	<p>Oppose</p>	<p>The zoning for coastal settlements is inappropriate and doesn't reflect the plan's policies or good planning practice.</p> <p>Parts of coastal settlements are currently zoned LLRZ while the rest are zoned GRUZ. Not only is this inconsistent with the existing environment at the site, it doesn't reflect in the plan future growth.</p> <p>The plan will have a life span of at least ten years and the zoning should reflect that.</p> <p>It is also inconsistent with policy CE-P3 to "avoid sprawling or sporadic subdivision and development of the coastal environment area." By confining the zoning in the plan to a subsection of the existing settlements, any future development of the settlements will necessarily have to be by ad hoc consenting in the GRUZ zone. By having no future direction in the plan zoning, this will encourage sporadic development.</p>	<p>Extend zoning for coastal settlements to LLRZ and account for future growth.</p>
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APPENDIX A

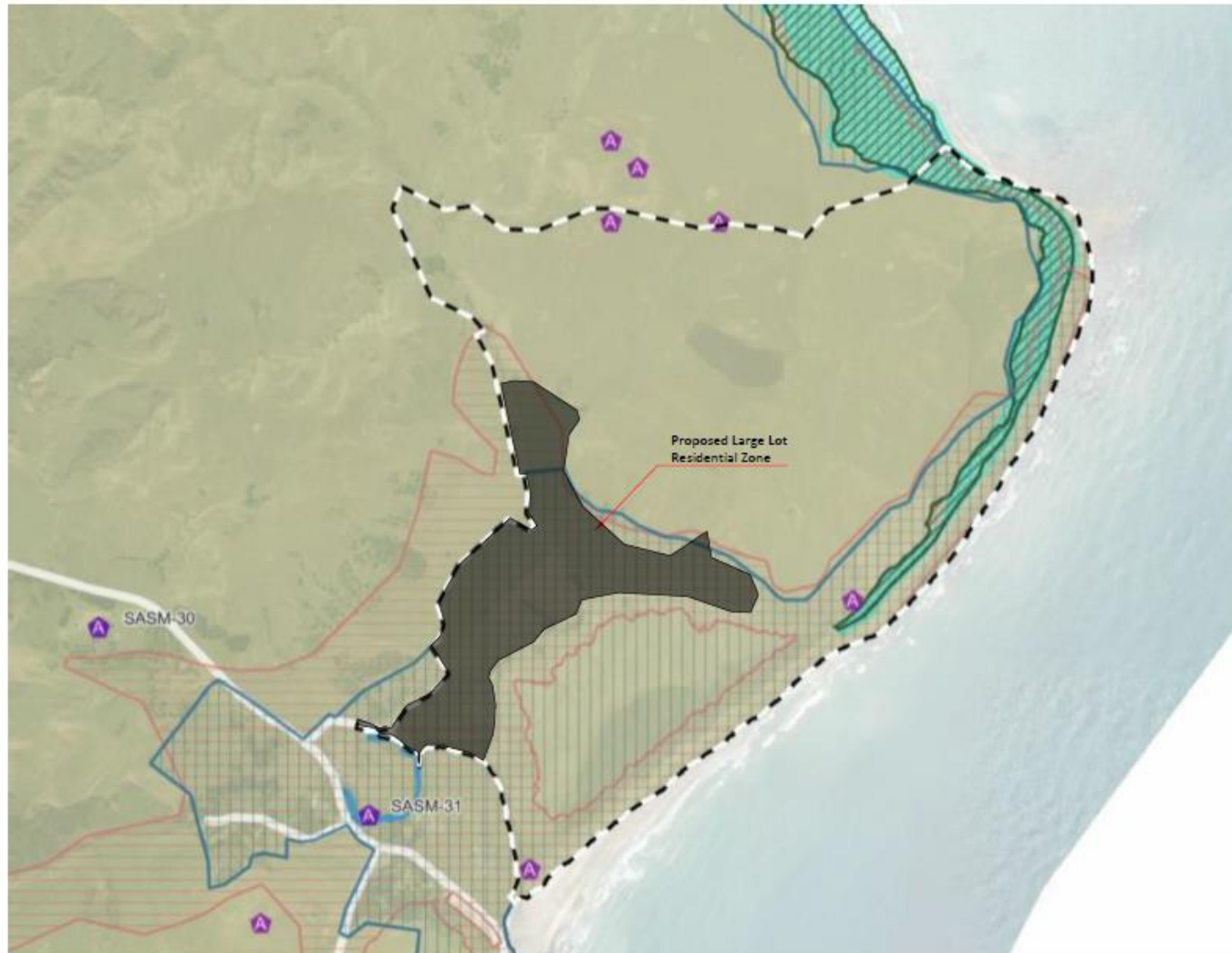


Figure 1: Indicative location of proposed Large Lot Residential Zone

As noted above, under the Zone Framework Standard of the National Planning Standards 2019, the zone matching the description in Table 13 of the standard must be used (unless the strict criteria in direction 3 are met). Accordingly, the descriptions of the various zones specified in the standard which may be relevant have been considered in the following table:

Option	Comment
<p>General rural zone</p> <p><i>Described in the National Planning Standards as:</i></p> <p><i>Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.</i></p>	<p>Under the Operative District Plan there is no distinction between the general rural areas and rural lifestyle areas, with large lot residential development provided for throughout the rural zone. Under the Proposed District Plan specific zones for different land uses within the current Rural Zone are proposed. A large part of the land area identified as ‘Proposed Large Lot Residential Zone’ in Figure 1 above is intended to be developed and used primarily for residential activities. The land is not intended to be used predominantly for primary production activities, and although the land will be used for an activity that is acknowledged as being complimentary to the anticipated activities within this zone, the future use of this area of land does not meet the description of the General rural zone.</p>
<p>Rural lifestyle zone</p> <p><i>Described in the National Planning Standards as:</i></p> <p><i>Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.</i></p>	<p>The introduction of a rural lifestyle zone in this location has been considered, and while this zoning would be more appropriate having regard to the consented and intended use of this land, the small site sizes proposed (and in part approved) do not lend themselves to primary production activities.</p>

<p>Settlement zone</p> <p><i>Described in the National Planning Standards as:</i></p> <p><i>Areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments.</i></p>	<p>The consented and intended future development and use of this land would meet the description of the Settlement Zone under the National Planning Standards, however the Proposed District Plan has determined that the areas to which this zone should be applied contain a mixture of social, recreational and retail services. The settlement zone has accordingly not been applied to the Pourerere community, which lacks retail services. It is therefore not considered to be the appropriate zoning for the subject land area.</p>
<p>Large lot residential zone</p> <p><i>Described in the National Planning Standards as:</i></p> <p><i>Areas used predominantly for residential activities and buildings such as detached houses on lots larger than those of the Low density residential and General residential zones, and where there are particular landscape characteristics, physical limitations or other constraints to more intensive development.</i></p>	<p>The size and intended use of the consented and proposed future development on this land is consistent with the description of the large lot residential zone within the National Planning Standards. The Proposed District Plan provides for a large lot residential zone encompassing a small portion of the established residential development within Pourerere. Providing for additional land within the Large Lot Residential Zone within the wider Pourerere settlement area will give effect to Policy CE-P4 of the Proposed District Plan, and ensure that future growth in this area is able to be directed to an appropriate location, providing for clustered large lot residential development that will minimise the effects on the surrounding rural and coastal environments.</p>

Schedule C – Relevant part of decision

If not attached, copies may be obtained, on request, from the appellant



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell Tim Aitken
Kate Taylor
Pip Burne [in part]

TOPIC 3A

Rural Environment: Strategic Direction & General Matters

REPORT DATED:

4 May 2023

DATE OF HEARING:

15 to 16 June 2022

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4 Key Issue 2 – Strategic Direction – Rural Land Resource

4.1 Proposed Plan provisions

- 4.1.1 This section of this report addresses submissions relating to the RLR – Rural Land Resource chapter contained within the Strategic Direction section of the PDP. The RLR chapter sets out the strategic direction for sustainable management of the rural land resource of Central Hawke’s Bay; in particular, the recognition of the District’s significant concentration of highly productive land.
- 4.1.2 Not all the submissions relating to this chapter were addressed under Key Issue 2. Other submissions relating to provisions in this chapter were addressed in other sections of this report, where they were specific to a particular issue/activity – for example, submissions seeking inclusion of specific references to ‘rural industry’, and submissions addressing lifestyle site subdivision provisions, were addressed in the relevant key issues contained in Panel Reports 3B and 3C.

4.2 Submissions

- 4.2.1 This section of this report addresses 54 submission points and 22 further submission points relating to the RLR – Rural Land Resource chapter.
- 4.2.2 Many submissions were in support and sought provisions be retained. Several submissions sought amendments to objectives and policies and one submission sought a new policy.

4.3 Reporting planner’s recommendations (s42A report)

General Strategic Direction

- 4.3.1 Several submissions support the retention of the RLR – Rural Land Resource chapter: for example, The Surveying Company supported the general strategic direction around the protection of highly productive soils. The reporting planner accepted these submissions insofar as the chapter was retained, but subject to recommended amendments in response to submissions on specific provisions.

Issues

- 4.3.2 Several submissions support the retention of Issues RLR-I1 as proposed. Hort NZ sought an amendment to include reverse sensitivity within the list in the explanation. The reporting planner agreed the amendment sought would be appropriate, with slightly different wording, and recommended the following new fifth point:

RLR-I1 Incremental Loss of Highly Productive Land

Land fragmentation and development that leads to the incremental and irreversible loss of highly productive land for primary production.

Explanation

In New Zealand highly productive land is under pressure from a range of competing uses. In particular, highly productive land is becoming increasingly fragmented, mostly as a result of rural subdivision. Rural subdivision is where a single parcel of rural land is divided into two or more parcels. The resulting smaller land parcels can often prevent the use of land for many types of primary production therefore affecting that particular piece of land’s versatility.

There has been a history of ad hoc subdivision of small lifestyle blocks within the Central Hawke's Bay District for many years. Many of these blocks are located on highly productive and versatile land or soils. Although some lifestyle blocks do continue to be productive in terms of agricultural or horticultural product, more often than not they become un-productive and their productive potential is lost forever.

Land fragmentation can result in a loss of versatility and the productive capability of rural land, mostly through:

1. Land use change from primary production to non-primary production (lifestyle development, urban development, unrelated industrial/commercial developments etc).
2. Property values in traditional primary production areas increasing to the point that productive land uses become unprofitable.
3. Productive land uses becoming unprofitable because small lot sizes limit management options.
4. Degradation of soil ecosystem services/functions.

5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established primary production activities in the vicinity (reverse sensitivity).

The District Plan therefore seeks to limit the amount of fragmentation of the District's highly productive land over time, and manage land use change and development of highly productive land to maintain the productive capacity of this scarce and valuable resource for current and future generations.

Objectives

- 4.3.3 **Objective RLR-O1.** The reporting planner did not recommend any amendments to RLR-O1, noting all submitters sought its retention.
- 4.3.4 **Objective RLR-O2.** Submitters all generally supported retention of Objective RLR-O2, but a number of them sought minor amendments to the wording.
- 4.3.5 The reporting planner did not agree with Hatuma Lime that the objective should be broadened to reference 'lawfully established activities (such as quarries)'. In her view, the focus of the RLR – Rural Land Resource objectives was on protecting the productive capacity of the District's rural land resource and its primary production role, and that broadening the objective to cover all lawfully established activities would significantly dilute that strategic direction. The planner also did not consider the relief sought to be necessary because lawfully established activities had existing use rights pursuant to s10 of the RMA, nor did she consider there was any reason to single out quarries.
- 4.3.6 The reporting planner did not support the Pork Industry Board's request to replace the reference to the 'rural land resource' with the word 'environment' but to avoid ambiguity in the reading of the objective, the reporting planner recommended the words 'and associated amenity' be placed within brackets.
- 4.3.7 The reporting planner considered replacing the words 'not compromised by' with the words 'protected from' (as requested by Silver Fern Farms) was an appropriate amendment as this better clarified the intent that inappropriate subdivision, use and development should be avoided, and 'protection' was more in keeping with terminology used in sections 6 & 7 of the RMA.
- 4.3.8 The reporting planner recommended Objective RLR-O2 be amended as follows:

RLR-O2 The primary production role (and associated amenity) of the District's rural land resource is retained, and is **protected from** ~~not compromised by~~ inappropriate subdivision, use and development.

- 4.3.9 The reporting planner did not recommend making any changes to **Objectives RLR-O3 and RLR-O4**, noting all submissions supported their retention.

Policies

- 4.3.10 **Policy RLR-P1.** The reporting planner did not recommend making any changes to Policy RLR-P1, noting all submissions supported its retention.
- 4.3.11 **Policy RLR-P2.** The submitters all generally supported retention of Policy RLR-P2, but Silver Fern Farms sought to amend the policy so that the avoidance of unplanned urban expansion onto the District's highly productive land be confined to the Rural Production Zone, and that the words 'where other feasible options exist' be deleted as they considered the wording superfluous.

4.3.12 The report planner agreed that whether other feasible options exist or not, the conversion of highly productive land to urban uses should be preceded by formal planning processes (e.g. structure planning and rezoning) and the amended wording more accurately reflected the approach in the PDP. The planner recommended the policy be amended, as follows:

RLR-P2 To avoid unplanned urban expansion onto the District's highly productive land in the Rural Production Zone where other feasible options exist.

4.3.13 **Policy RLR-P3.** The submitters all generally supported retention of Policy RLR-P3, but some submitters sought amendments to the wording of the policy. The reporting planner recommended the policy be amended to better reflect the approach in the PDP to lifestyle subdivision. The planner recommended the following wording:

RLR-P3 To limit ~~the amount of~~ further fragmentation of the District's rural land resource through limiting lifestyle subdivision in the General Rural Zone, and particularly in the Rural Production Zone, and directing lifestyle site subdivision primarily to the Rural Lifestyle Zone.

4.3.14 **Policy RLR-P4.** The submitters all generally supported retention of Policy RLR-P4, but some sought various amendments. The reporting planner considered that the focus of the policy on managing activities that did not compromise the primary production role of the rural land resource was relevant to all rural land, not just highly productive land and therefore did not consider it added anything to the policy to specifically reference the two zones. The reporting planner agreed with Transpower that some 'non- primary production' activities required a rural location (such as the National Grid). The accompanying rules and standards in the PDP recognised this, and therefore there was merit to ensuring the policy better reflected this. The reporting planner also agreed with Hort NZ that reference to 'associated amenity of the rural land resource' was better described as 'rural character'.

4.3.15 Given the above, the reporting planner recommended amending the policy in line with the wording sought by Transpower, but also adopting some of the wording sought by Hort NZ, as follows:

RLR-P4 To provide for a wide range of activities to establish, which complement the resources of the rural area, provided that they do not unduly compromise ~~the~~ primary production ~~role~~ and associated rural character and amenity ~~of the rural land resource~~, particularly in the Rural Production Zone, recognising that some non-primary production activities have an operational or functional need to locate in a rural area.

4.3.16 **Policy RLR-P5.** Submitters all generally supported retention of Policy RLR-P5. As it was relevant to all rural land, the reporting planner did not consider it added anything to the policy to specifically reference the General Rural Zone and Rural Production Zone, as sought by Hatuma Lime and Te Mata Mushrooms. The reporting planner therefore recommended Policy RLR-P5 remain unchanged.

4.3.17 **New Policy.** HTST sought the inclusion of a new policy:

RLR-PX Tangata whenua recognise the need for an economically sustainable rural environment which has access to reliable stored water resources to ensure the productive capacity of the land is maintained.

4.3.18 The reporting planner did not recommend the insertion of this policy, as she considered it was unclear about which resource management issue it was addressing, or the linkages between issue, objectives, policies and methods.

Principal Reasons

4.3.19 The reporting planner did not consider there was anything to be gained by amending the Principal Reasons in the RLR – Rural Land Resource chapter as sought by Hort NZ to clarify the intent to prevent small holdings in the rural environment where they were for non-primary production purposes. The reporting planner accepted that some horticulture did occur on existing small

holdings, but noted the subdivision provisions in the PDP acted to prevent the creation of large numbers of small holdings overall to address continued uncontrolled fragmentation of the rural land resource. The reporting planner therefore recommended to reject this submission.

Anticipated Environmental Results

- 4.3.20 Hort NZ and Silver Fern Farms sought amendments to the wording of Anticipated Environmental Result RLR-AER4. RLR-AER4 recognised that the provisions of the PDP were anticipated to result in a diversity of primary production and related activities in the rural area. However, the reporting planner agreed the wording could be misconstrued as anticipating a diversity of any and all types of activities. The reporting planner recommended the following amendment:

RLR-AER4 ~~Activities in the rural area are primarily primary production and related activities diversity of activity in the rural area.~~

4.4 Evidence to the hearing

- 4.4.1 In relation to Key Issue 2, Ms Rhea Dasent's evidence for Federated Farmers supported the s42A report recommendations.
- 4.4.2 Ms Pauline Whitney's evidence for Transpower supported the s42A report recommendation to amend Policy RLR-P4, including the proposed reference to operational or functional need.
- 4.4.3 Ms Lynette Wharfe, for Hort NZ, generally supported the s42A report recommendations but sought amendments to RLR-I1, RLR-P3, and RLR-P4. These changes related to the reference to "New sensitive" activities in RLR-I1, the use of the terms "limit" and "limiting" in RLR-P3 and the use of the term "a wide range of" activities in LRL-P4. Ms Wharfe sought amendments to the wording of these provisions and provided tracked changes for the amendments sought. Ms Wharfe also provided a track changed version of the RLR chapter, which included an amendment to RLR-O4 to change "residential living" to "residential activities" to align with the definitions.
- 4.4.4 The evidence of Ms Claire Price for Hatuma Lime was generally supportive of the recommendations in the s42A report. Her evidence sought a further amendment to RLR-I1 to protect both primary production activities and other existing lawfully established activities from reverse sensitivity. In relation to RLR-O2 (S98.007), Ms Price's evidence was that given the recommendation that this submission point be rejected as it was in the wrong place in the policy framework, that reference to protect lawfully established uses be inserted into GRUZ-P7.
- 4.4.5 The evidence of Ms Price for Te Mata Mushrooms was generally supportive of the recommendations in the s42A report. Her evidence sought a further amendment to RLR-I1 to protect both primary production activities and other existing lawfully established activities from reverse sensitivity. In relation to RLR-O2, Ms Price sought changes to RPROZ-O4 to recognise intensive primary production activities to satisfy the relief sought in S102.063 while retaining RLR-O2 as recommended in the s42A report.
- 4.4.6 Mr Stephen Daysh, for HTST, Tukituki Water and Water Holdings, provided evidence in relation to the new policy being sought by HTST. His evidence set out the context for the requested policy and linkages between the issue, objectives, policies and methods. Mr Daysh's view was that it was critical that the Rural Environment section of the PDP included a clear policy supporting and linking water storage activities to the maintenance of productive outputs from high quality land resources. Mr Daysh's evidence proposed a rewording of the new policy so that it applied more generally to the rural environment:

RLR-PX - To provide for an economically sustainable rural environment which has access to reliable stored water resources to ensure the productive capacity of the land is maintained.

- 4.4.7 A s32AA evaluation was appended to Mr Daysh’s evidence.
- 4.4.8 The evidence of Mr Steven Tuck for Silver Fern Farms addressed the request of the submitter to add references to ‘rural industry’ to some RLR strategic provisions. Mr Tuck supported the s42A report recommendation to amend RLR-P4.
- 4.4.9 The legal submission on behalf of submitter James Bridge sought amendments to RLR-P3 to refer to ‘highly productive rural land’ rather than ‘rural land’ generally, to limit the application of the policy to the scope of the relevant objective RLR-O3. Likewise, the legal submission sought that RLR-P4 apply to ‘highly productive rural land resource’ rather than ‘rural land resource’ generally.

4.5 Post hearing information

- 4.5.1 The reporting planner’s right-of-reply of 5 August 2022 addressed RLR-I1. While the reporting planner did not change her position regarding recommending additional wording for the explanation supporting Issue RLR-I1, she revised her recommendation to clarify that both primary production activities and existing lawfully established activities should be protected from reverse sensitivity, agreeing with the wording sought by Claire Price in her planning evidence for Hatuma Lime and Te Mata Mushrooms. The reporting planner recommended the following additional wording (in shaded dark grey) for the explanation of Issue RLR-I1:

5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established activities and primary production activities in the vicinity (reverse sensitivity).

- 4.5.2 In relation to RLR-P3, in the right-of-reply, the reporting planner confirmed her position that RLR-P3 should not be limited to the ‘highly productive rural land resource’ as sought by James Bridge (S105.003). The reporting planner revised her recommendation on the wording of RLR-P3 to avoid repetition of “limit/limiting” and improve the grammar of the policy:

To limit ~~the amount of~~ further fragmentation of the District’s rural land resource through ~~limiting restricting~~ lifestyle subdivision **in the General Rural Zone, and particularly in the Rural Production Zone, and directing lifestyle site subdivision primarily to the Rural Lifestyle Zone’**

- 4.5.3 In relation to RLR-P4 the reporting planner revised her recommendation on the wording of Policy RLR-P4, essentially retaining the wording, but revising the structure:

To provide for a wide range of **activities** to establish, **in the rural area:**

1. which complement the **resources** of the rural area;
2. provided that they do not **unduly compromise the** primary production ~~role~~ and associated **rural character and amenity of the rural land resource**, particularly in the Rural Production Zone,
3. while recognising that some non-**primary** production activities have an operational or functional need to locate in a rural area.

- 4.5.4 In relation to the new policy sought by HTST, the reporting planner noted that Council’s legal counsel provided advice confirming there was proper basis for the Panel to determine there was scope to consider the merits of the relief now sought. However, the reporting planner did not consider that maintaining the productive capacity of the District’s rural land resource (Objective RLR-O1) required access to water and did not consider it necessary to have the policy requested by the submitter in order to achieve Objective RLR-O1. The reporting planner was concerned that such a policy (as currently worded) could inadvertently be used to claim that highly productive land was not highly productive due to having a lack of reliable stored water. The reporting planner did not change her position recommending that the submission on this point be rejected, but provided policy wording if the Panel was of a mind to include a policy of this nature.

RLR-PX To recognise the value of reliable stored water resources and associated water storage infrastructure, where it provides increased water availability and security for water users, in

4.6 Evaluation and findings

Issues

- 4.6.1 The Panel generally agrees with the reporting planner’s recommended amendment to RLR-I1 (as per the 5 August right-of-reply) to include reverse sensitivity within the list in the explanation to the issue and for this to refer to existing lawfully established activities as well as primary production activities. However, the Panel considers the addition of ‘reverse sensitivity’ in brackets at the end of the additional sentence could create confusion and consider it is not needed. Therefore, the Panel recommends the following amendment to RLR-I1:

RLR-I1 Incremental Loss of Highly Productive Land

Land fragmentation and development that leads to the incremental and irreversible loss of highly productive land for primary production.

Explanation

...

Land fragmentation can result in a loss of versatility and the productive capability of rural land, mostly through:

1. Land use change from primary production to non-primary production (lifestyle development, urban development, unrelated industrial/commercial developments etc).
2. Property values in traditional primary production areas increasing to the point that productive land uses become unprofitable.
3. Productive land uses becoming unprofitable because small lot sizes limit management options.
4. Degradation of soil ecosystem services/functions.

5. New sensitive activities establishing on rural land, with the potential to compromise or constrain the operation of existing lawfully established activities and primary production activities in the vicinity.

The District Plan therefore seeks to limit the amount of fragmentation of the District's highly productive land over time, and manage land use change and development of highly productive land to maintain the productive capacity of this scarce and valuable resource for current and future generations.

Objectives

- 4.6.2 **Objective RLR-O2.** The Panel agrees with the reporting planner that replacing the words ‘not compromised by’ with the words ‘protected from’ as requested by Silver Fern Farms is an appropriate amendment as it better clarifies the intent that inappropriate subdivision, use and development should be avoided, and ‘protection’ is more in keeping with terminology used in sections 6 and 7 of the RMA. The Panel does not consider the objective should be broadened to reference ‘lawfully established activities (such as quarries)’ as the term ‘primary production’ includes quarries: this Objective is focused on the importance of the District’s land resource to primary production in the District. Neither does the Panel consider that ‘rural land resource’ should be replaced with ‘environment’, but to avoid ambiguity in the reading of the objective, the Panel agrees that brackets be placed around ‘and associated amenity’. The Panel recommends the following amendment:

RLR-O2 The primary production role (and associated amenity) of the District's rural land resource is retained, and is **protected from** ~~not compromised by~~ inappropriate subdivision, use and development.

- 4.6.3 **Objective RLR-O4.** All submissions on RLR-O4 were in support, although the Panel agrees with Ms Wharfe in her evidence for Hort NZ that replacing “residential living” with “residential activities” would ensure better alignment with the defined terms used in the PDP. However, the Panel considered ‘activities’ would be duplicative in that it would be used twice in the same clause, and therefore the objective should read:

RLR-O4 Residential ~~living~~ and other activities that are unrelated to primary production are directed to locations zoned for those purposes and that are not situated on highly productive land.

Policies

- 4.6.4 **Policy RLR-P2.** The Panel agrees with the reporting planner’s recommendation that RLR-P2 be amended, considering that the revised wording would provide greater certainty and would more accurately reflect the approach in the PDP. The Panel therefore recommends RLR-P2 be amended as follows:

RLR-P2 To avoid unplanned urban expansion onto the District’s highly productive land in the Rural Production Zone ~~where other feasible options exist.~~

- 4.6.5 **Policy RLR-P3.** The Panel agrees that an amendment to RLR-P3 would provide greater clarity and avoid the repetition of ‘limit’/‘limiting’ as sought by Silver Fern Farms S116.011 and Hort NZ S81.041. However, the Panel considers the wording of this policy could be more tightly worded than that recommended by the reporting planner, and recommends it be amended as follows:

RLR-P3 To ~~minimise limit the amount of further~~ fragmentation of the District’s rural land resource through directing limiting lifestyle subdivision to the Rural Lifestyle Zone and limiting lifestyle subdivision in the General Rural Zone and, particularly, in the Rural Production Zone.

- 4.6.6 **Policy RLR-P4.** The Panel agrees with the reporting planner that an amendment to RLR-P4 would ensure that the policy better reflects that some activities require a rural location and agrees that ‘associated amenity of the rural land resource’ is better described as ‘rural character’. The Panel consider the wording could be improved by restructuring and tightening and replacing a ‘wide range of activities’ with ‘non-primary production activities’ would better reflect what the policy is trying to achieve. The Panel therefore recommends RLR-P4 be amended as follows:

RLR-P4 To provide for ~~non-primary production a wide range of~~ activities ~~to establish, which that~~ complement the resources of the rural area, provided ~~that~~ they do not compromise ~~the~~ primary production ~~role and associated amenity of the rural land resource~~, particularly in the Rural Production Zone, and associated rural character and amenity in all rural zones, recognising that some non-primary production activities have an operational or functional need to locate in a rural area.

- 4.6.7 **Policy RLR-P5.** The Panel agrees with the reporting planner that the policy is relevant to all rural land and it does not add anything to specifically refer to the General Rural Zone and Rural Production Zone. The Panel therefore recommends that Policy RLR-P5 remains unchanged.

- 4.6.8 **New Policy.** HTST sought a new policy be included relating to reliable stored water resources and productive capacity of the land. Through the planning evidence of Stephen Daysh, this new policy was sought to be worded as:

RLR-PX To enable an economically sustainable rural environment which has access to reliable stored water resources to ensure the productive capacity of the land is maintained

- 4.6.9 In the opinion of the Panel, a policy recognising the importance of access to stored water resources for primary production is appropriate, inasmuch as a policy that, for example, recognises the importance of the provision of infrastructure in relation to urban form and development. Infrastructure, which would include water storage and distribution, is a land use in of itself. While the Panel accepts that the diversion and/or take of water is a regional council responsibility under the RMA, the infrastructure involved with water storage (and its distribution) is a land use and it is therefore appropriately recognised and addressed as a district-level matter.

- 4.6.10 The Panel acknowledges the concerns of the reporting planner that “such a policy (as currently worded in the evidence of Mr Daysh) could inadvertently be used to claim that highly productive

land is not highly productive due to having a lack of reliable stored water”⁴. She was apprehensive that this could then be used as an argument in support of fragmentation via subdivision, or loss of productive land through covering it with inappropriate development.

- 4.6.11 The Panel, however, notes that this concern does not take into account the evidence that climate change may make primary production more difficult to maintain due to more extensive droughts⁵. It therefore is a direct relevance to Strategic objective RLR-01: “The productive capacity of the District’s rural land resource, particularly the District’s highly productive land, is maintained.” We also consider there is adequate direction in the PDP on the prevention of further fragmentation of the rural land resource (for example, RLR-O2, RLR-03, RLR-P3).
- 4.6.12 The Panel agrees with the reporting planner that reliable stored water resources and associated infrastructure would enable the productive capacity of land to be enhanced, in line with Policy POL LW1(k) of the Hawke’s Bay Regional Policy Statement. Accordingly, the Panel considers it is appropriate for the PDP to recognise the importance of such land uses in contributing to rural development and economic wellbeing, based as it is on primary production derived from the District’s land resource. It is also appropriate to recognise it as a strategic level issue in the PDP, given its broad relevance to the use of the District’s land resources and to the economic and social wellbeing of the District.
- 4.6.13 Thus, the Panel consider that it is appropriate for the PDP to have a policy that recognises the strategic importance of stored water resources for both maintaining and enhancing the productive capacity of the District’s land resource.
- 4.6.14 The Panel also considers the NPS-HPL, which came into force on 17 October 2022, is of relevance to this matter. In particular, it observes that public or community rural water storage infrastructure, including distribution systems, are exempt from the restrictions on the use and development of highly productive land as specified infrastructure (being strategic infrastructure).
- 4.6.15 Accordingly, the Panel accepts the recommended wording of the reporting planner, albeit with some minor changes to simplify the wording and to exclude reference to freshwater values (which is a regional issue), as follows:

RLR-PX **To recognise the value of reliable stored water resources and associated infrastructure where it provides increased water availability and security for water users, in maintaining and enhancing the productive capacity of the rural land resource.**

Principal Reasons

- 4.6.16 The Panel agrees with the reporting planner that the Principal Reasons would not be improved by the inclusion of text clarifying the intent to prevent small holdings in the rural environment only where they are for non-primary production purposes. The PDP contains subdivision provisions to prevent the creation of large numbers of small holdings overall, whatever their use or purpose, to address continued uncontrolled fragmentation of the rural land resource. The Panel therefore recommends retaining the Principal Reasons unchanged and rejecting Hort NZ’s submission on this point.

⁴ From the *Response to Submitter Evidence where there is a Disagreement*, attached to the reporting planner’s right-of-reply

⁵ For example, climate change scientist Dr James Renwick has identified that “Drought risk is likely to increase most in eastern regions, including Hawke’s Bay, where a doubling or tripling of the risk is likely by the end of the century.” (*Climate Change and its Implications for the Ruataniwha Water Storage Scheme*, report prepared for the Hawke’s Bay Regional Investment Company Limited, May 2013)

Anticipated Environmental Results

- 4.6.17 The Panel agrees that the wording of RLR-AER4 could be interpreted as anticipating an outcome where there is a diversity of all types of activities, including non-primary production activities, in the rural area, which is not a strategic objective of the PDP. The Panel agrees with the recommendation of the reporting planner and recommends the following amendment (replacing 'primarily' with 'predominantly' to avoid duplicative wording):

RLR-AER4 **Activities in the rural area are predominantly primary production and related activities** ~~diversity of activity in the rural area.~~

5 Key Issue 3 – Functional Need for a Rural Location

5.1 Proposed Plan provisions

- 5.1.1 Key Issue 3 addresses submissions relating to Policies GRUZ-P7 and RPROZ-P7 and to Assessment Matters GRUZ-AM8 and RPROZ-AM9 in the Rural Zone chapters, seeking to incorporate text around the functional or operational need for a rural location.

5.2 Submissions

- 5.2.1 Hort NZ sought to amend Policies GRUZ-P7 & RPROZ-P7 and Assessment Matters GRUZ-AM8 & RPROZ-AM9 to incorporate text around the functional or operational need for a rural location. The Ministry of Education supported retention of GRUZ-AM8 and RPROZ-AM9 as proposed.

5.3 Reporting planner’s recommendations (s42A report)

- 5.3.1 The reporting planner agreed with Hort NZ that the policy direction in the General Rural Zone and Rural Production Zone focused on ensuring activities with no direct relationship with primary production were directed to other more appropriate zones, but that the policies should more clearly articulate an allowance for non-primary production activities located in the rural zones where they had the functional or operational need for a rural location.
- 5.3.2 The reporting planner considered that adding the additional text to the relevant assessment matters in the respective rural zones also ensured the policy direction clearly flowed through to the zone provisions and the matters to be considered when assessing applications. The reporting planner recommended the following amendments:

GRUZ-P7	To ensure incompatible activities do not locate in the General Rural Zone where the activity will : <ol style="list-style-type: none">1. will undermine the primary productive purpose and predominant character of the General Rural Zone;2. will constrain the establishment and use of land for primary production; and/or3. will result in reverse sensitivity and/or lead to land use conflict; and/or4. does not have a functional or operational need for a rural location.
RPROZ-P7	To ensure activities do not locate in the Rural Productive Zone where the activity: <ol style="list-style-type: none">1. has no functional or operational need for a rural location and will be inconsistent with the primary productive purpose and predominant character of the Rural Productive Zone;3. will constrain the establishment and use of land for primary production;4. exhibits no exceptional or unusual features that would differentiate it from possible later applications, which in combination would lead to incremental creep of urban activities and/or sporadic urban activities onto the highly productive land of the District; and/or5. will result in reverse sensitivity and/or leads to land use conflict.
GRUZ-AM8	Community Facilities and Educational Facilities <ol style="list-style-type: none">1. ...2. ...3. ...4. ...5. ...6. The functional or operational need to locate in the General Rural Zone.
RPROZ-AM9	Community Facilities and Educational Facilities <ol style="list-style-type: none">1. ...2. ...3. ...4. ...5. ...6. The functional or operational need to locate in the Rural Production Zone.

5.4 Evidence to the hearing

- 5.4.1 Ms Lynette Wharfe provided evidence in relation to Hort NZ’s submission on the matters raised in Key Issue 3 and concurred with the reporting planner’s recommendations in the s42A report but noted that she would consider it more appropriate for the new clause recommended to be added to RPROZ-P7 to be a standalone clause.

5.5 Post hearing information

- 5.5.1 The reporting planner’s right-of-reply of 5 August 2022 addressed the amendments to RPROZ-P7 sought by Hort NZ through the evidence of Lynette Wharfe. The reporting planner considered that splitting the recommended criterion (1) into two separate criteria would expand the scope of the policy beyond what was sought in the Hort NZ submission and it would be inappropriate to agree with the change now sought. The reporting planner did not change her position from that in the s42A report.

5.6 Evaluation and findings

- 5.6.1 The Panel agrees that policies GRUZ-P7, RPROZ-P7 and assessment matters GRUZ-AM8 and RPROZ-AM9 should more clearly articulate an allowance for non-primary production activities locating in the rural zones where they have the functional or operational need for a rural location. The Panel therefore agrees with the reporting planner’s recommendation, with a minor amendment to the wording to improve the structure of the list. The Panel recommends the following amendments to Policies GRUZ-P7, RPROZ-P7 and assessment matters GRUZ-AM8 and RPROZ-AM9:

GRUZ-P7	To ensure incompatible activities do not locate in the General Rural Zone where the activity will : <ol style="list-style-type: none">1. undermines the primary productive purpose and predominant character of the General Rural Zone;2. constrains the establishment and use of land for primary production; and/or3. results in reverse sensitivity and/or lead to land use conflict; and/or4. <u>does not have a functional or operational need for a rural location.</u>
RPROZ-P7	To ensure activities do not locate in the Rural Productive Zone where the activity: <ol style="list-style-type: none">1. <u>has no functional or operational need for a rural location;</u>2. will be is inconsistent with the primary productive purpose and predominant character of the Rural Productive Zone;3. will constrains the establishment and use of land for primary production;4. exhibits no exceptional or unusual features that would differentiate it from possible later applications, which in combination would lead to incremental creep of urban activities and/or sporadic urban activities onto the highly productive land of the District; and/or5. will results in reverse sensitivity and/or leads to land use conflict.
GRUZ-AM8	Community Facilities and Educational Facilities <ol style="list-style-type: none">1. ...2. ...3. ...4. ...5. ...6. <u>The functional or operational need to locate in the General Rural Zone.</u>
RPROZ-AM9	Community Facilities and Educational Facilities <ol style="list-style-type: none">1. ...2. ...3. ...4. ...5. ...6. <u>The functional or operational need to locate in the Rural Production Zone.</u>



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell
Tim Aitken
Kate Taylor
Pip Burne [in part]

TOPIC 3B

**Rural Environment: Rural Zones, Rural Noise, Rural
Subdivision**

REPORT DATED:

4 May 2023

DATE OF HEARING:

15 to 16 June 2022

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Accessory Buildings Accessory Buildings and Structures (Primary Production)	3. Minimum setback of buildings for an activity from internal boundaries is 5m. Farm and Domestic water storage tanks up to 2m in height are exempt from this standard.
Sites created before 28 May 2021 and less than 4000m² net site area Where a subdivision consent application to create a site is lodged with Council before 28 May 2021, and accepted under section 88 of the RMA 1991 and thereafter granted	4. Minimum setback of buildings for a residential activity from internal boundaries is 5m. 5. Minimum setback of buildings for all other activities from internal boundaries is 10m.

GRUZ-S5 Setback from Neighbours	
...	6. ...
...	7. ...
...	8. ...
Sites created before 28 May 2021 and less than 4000m² net site area Where a subdivision consent application to create a site is lodged with Council before 28 May 2021, and accepted under section 88 of the RMA 1991 and thereafter granted	9. Minimum setback of buildings for a residential activity from internal boundaries is 5m. 10. Minimum setback of buildings for all other activities from internal boundaries is 10m.

RLZ-S4 Setback from Roads and Rail Network	
Accessory Buildings and Structures (associated with Primary Production) Activities	3. Minimum setback of any building(s) from road boundaries is 5m. 4. Minimum setback of stockyards and stock loading ramps/races fronting roads that are classified as Arterial or Primary Collector Roads is 20m. 5. Minimum setback of any building(s) from the Rail Network Boundary is 5m.

RLZ-S5 Setback from Neighbours	
...	
...	
Sites created before 28 May 2021 and less than 4000m² net site area Where a subdivision consent application to create a site is lodged with Council before 28 May 2021, and accepted under section 88 of the RMA 1991 and thereafter granted	3. Minimum setback of buildings for a residential activity from internal boundaries is 5m. 4. Minimum setback of buildings for all other activities from internal boundaries is 10m.

5 Key Issue 7 – General Rural Zone Rules, Standards, Assessment Matters not addressed elsewhere

5.1 Proposed Plan provisions

5.1.1 This section addresses submissions relating to the rules, standards, assessment matters, and principal reasons in the General Rural Zone.

- 5.1.2 Not all the submissions relating to these provisions are grouped under Key Issue 7. Other submissions relating to these provisions are addressed in other sections of this report, where they were specific to a particular issue/land use activity.

5.2 Submissions

- 5.2.1 This section of this report addresses 26 submission points and 7 further submission points relating to the rules, standards, assessment matters, and principal reasons in the General Rural Zone.
- 5.2.2 Submissions sought various amendments to several rules and standards. Submissions were in support of assessment matters and principal reasons.

5.3 Reporting planner's recommendations

Rule GRUZ-R1 Residential Activities

- 5.3.1 The reporting planner noted a good level of support for retention of Rule GRUZ-R1 in terms of the graduated approach to allowing more dwellings in the General Rural Zone the bigger the property.
- 5.3.2 The reporting planner did not support adding GRUZ-AM5 to the list of matters in Rule GRUZ-R1(2) as sought by Hort NZ on the basis it was not in keeping with the rule framework adopted in the PDP.
- 5.3.3 Other submissions seeking amendments to this rule were addressed elsewhere in this report.

Rule GRUZ-R3 Primary Production Activities

- 5.3.4 There was a high level of support for retention of Rule GRUZ-R3 as notified. The Egg Producers Federation, however, sought that the rule also specifically reference 'free-range poultry farming'. The reporting planner considered that 'free range poultry farming' falls within the definition of 'primary production activity' without needing to be separately defined and did not consider the term was necessary in Rule GRUZ-R3.
- 5.3.5 Other submissions seeking amendments to this rule were addressed elsewhere in this report.

Rule GRUZ-R9 Commercial Activities not otherwise provided for

- 5.3.6 The Pork Industry Board sought deletion of Rule GRUZ-R9, based on a concern that commercial activities were broadly defined and were sensitive activities that could conflict with, and generate reverse sensitivity issues for, primary production activities. They considered a permitted activity rule for commercial activities was therefore not appropriate in this zone. The reporting planner did not agree that commercial activities were necessarily sensitive activities and was of the view that the permitted activity limits in Rule GRUZ-R9 worked together to ensure that the type and scale of permitted commercial activities was likely to complement the predominant primary production role of the General Rural Zone, rather than generate reverse sensitivity concerns. The reporting planner therefore recommended that Rule GRUZ-R9 be retained.
- 5.3.7 Other submissions seeking amendments to this rule were addressed in Key Issues 16, 18 and 20.

Rule GRUZ-R18 Any other activity not otherwise provided for

5.3.8 There was only one submission on this default rule, in support of retention of Rule GRUZ-R18 as notified.

Standard GRUZ-S1 Activity Threshold

5.3.9 The Pork Industry Board and Hort NZ both sought deletion of the activity thresholds pertaining to ‘restaurants’ in Standard GRUZ-S1. They were concerned that such activities were sensitive activities and can have potential reverse sensitivity effects for legitimate rural activities. The reporting planner considered that provision for small-scale restaurants with a gross floor area limited to 100m² and maximum capacity of 40 customers, was reasonable and can be complementary in the rural environment – noting that such activities would also have to comply with the 15m setback from neighbours (Standard GRUZ-S5). Retention of the ‘restaurants’ activity threshold specifically recognised the different characteristics of restaurants, as distinct from other commercial activities. The reporting planner recommended that Standard GRUZ-S1(5), (6) and (7) relating to ‘restaurants’ be retained as notified.

Standard GRUZ-S4 Setback from Roads and Rail Network

5.3.10 The reporting planner agreed with Hort NZ that reference to ‘Accessory Buildings associated with Primary Production Activities’ in Standard GRUZ-S4 should be replaced with ‘Ancillary Buildings and Structures (Primary Production)’ to be more consistent with the terminology used and specifically defined in the PDP. The planner recommended the following amendment:

GRUZ-S4 Setback from Roads and Rail Network	
Residential Activities (including accessory buildings)	<ol style="list-style-type: none"> 1. Minimum setback of any building(s) from road boundaries is 5m. 2. Minimum setback of any building(s) from the Rail Network Boundary is 5m.
Seasonal Workers Accommodation	<ol style="list-style-type: none"> 3. Minimum distance of any building(s) from road boundaries is 15m.
Ancillary Buildings and Structures (Primary Production) Accessory Buildings associated with Primary Production Activities	<ol style="list-style-type: none"> 4. Minimum setback of any building(s) from road boundaries is 5m. 5. Minimum setback of stockyards and stock loading ramps/races fronting roads that are classified as Arterial or Primary Collector Roads is 20m. 6. Minimum setback of any building(s) from the Rail Network Boundary is 5m.
All Other Buildings (including Post-Harvest Facilities)	<ol style="list-style-type: none"> 7. Minimum setback of any building(s) from road boundaries is 20m, except that: <ol style="list-style-type: none"> a. buildings less than 10m² in gross floor area, and buildings used by Emergency Service Activities, may be located within the above setbacks from road boundaries. 8. Minimum setback of any building(s) from the Rail Network Boundary is 5m.

5.3.11 The reporting planner did not agree with Federated Farmers’ submission seeking to delete clauses 5 and 6 of GRUZ-S4 relating to the 20m setback from arterial roads applying to stockyards and stock loading ramps/races, and the 5m setback from the Rail Network. In the reporting planner’s view, the 20m setback for stockyards and stock loading ramps/races was not about the activity and its acceptability in a rural environment, but about recognising that these facilities were often adjacent to the road, and the 20m setback ensured that any loading or unloading happens within the site, and not within the road reserve of higher traffic volume ‘Arterial’ or ‘Primary Collector Roads’. A setback of 20m provided for the safety and efficiency of the road network. The planner also noted that existing facilities have existing use rights.

5.3.12 In relation to the 5m setback from the rail corridor, the reporting planner considered a 5m setback appropriate, being the same as that applied to road boundaries in the General Rural Zone.

5.3.13 There was one other submission on this standard from CHBDC, that was not specific to this provision. This was addressed as part of the Transport topic in Panel Report 7.

Standard GRUZ-S5 Setback from Neighbours

5.3.14 The reporting planner noted support for the exemption of domestic water storage tanks up to 2m in height from the setback standards.

5.3.15 In relation to the submission of Hort NZ seeking to alter the reference to ‘Accessory Buildings’ to instead refer to ‘Ancillary Buildings and Structures associated with Primary Production Activities’, the reporting planner considered the reference to ‘Accessory Buildings’ was important to retain, as the buildings referred to in this standard were not just those that were ancillary to primary production activities, but accessory buildings for all activities (including those buildings accessory to residential activities) within the General Rural Zone. To provide clarification that the reference includes ‘Ancillary Buildings and Structures (Primary Production)’ the reporting planner recommended an amendment to GRUZ-S5 (refer full set of recommended amendments below).

5.3.16 The reporting planner did not support the amendment sought by the Egg Producers Federation to give effect to Policy GRUZ-P5, considering the matter was clearly and specifically provided for in Standard GRUZ-S11 Setback from Existing Intensive Primary Production Activities, which imposes a 200m setback "from any buildings or enclosure housing animals reared intensively, or other organic matter and effluent storage treatment and utilisation associated with intensive primary production activities".

5.3.17 The Surveying Company considered the 15m setback from neighbours was too great. They compared the setback requirement with the setback requirements proposed for papakāinga housing in the PDP, which was 5m for residential buildings and 10m for accessory buildings (refer Standard PKH-S7). They also considered that a reduced setback from neighbours would allow for more productive rural land to be retained. In the reporting planner’s view, a 5m setback from an internal rural boundary in the General Rural Zone was not conducive to avoiding sensitive activities locating close to and potentially compromising primary production activities. The reporting planner was of the view that papakāinga housing multi-unit development could be differentiated from a residential dwelling in the General Rural Zone and did not support the amendments sought by The Surveying Company.

5.3.18 In terms of the amendment sought by James Bridge to apply a reduced 5m setback for sites comprising 2.5ha or less in Standard GRUZ-S5, the reporting planner agreed with Hort NZ that greater setbacks from primary production sites should be retained in order to ensure that reverse sensitivity issues adjacent to primary production sites were addressed. However, the reporting planner noted her recommendation in Key Issue 6 to include exceptions in the Rural Zones of the Proposed Plan to allow small sites created under the previous (currently operative) District Plan to apply a reduced side yard setback.

5.3.19 The reporting planner recommended Standard GRUZ-S5 be amended as follows:

GRUZ-S5 Setback from Neighbours	
Residential Activities adjacent to an existing plantation forest on an adjoining site	1. Minimum setback of buildings from an existing plantation forest on an adjoining site is 40m.

All Other Activities (excluding Accessory Buildings and Ancillary Buildings and Structures (Primary Production))	2. Minimum setback of buildings for an activity from internal boundaries is 15m. Farm¹ and d Domestic water storage tanks up to 2m in height are exempt from this standard.
Accessory Buildings Ancillary Buildings and Structures (Primary Production)	3. Minimum setback of buildings for an activity from internal boundaries is 5m. Farm² and d Domestic water storage tanks up to 2m in height are exempt from this standard.
Sites created before 28 May 2021 and greater than 4000m² net site area Where a subdivision consent application to create a site is lodged with Council before 28 May 2021, and accepted under section 88 of the RMA 1991 and thereafter granted	4. Minimum setback of buildings for a residential activity from internal boundaries is 5m. 5. Minimum setback of buildings for all other activities from internal boundaries is 10m.

Standard GRUZ-S8 Transport (Access, Parking, Loading)

- 5.3.20 The submission from FENZ on Standard GRUZ-S8 was the only submission relating to this provision and was in support.

Assessment Matter GRUZ-AM1, GRUZ-AM5, GRUZ-AM11, GRUZ-AM13, and GRUZ – Principal Reasons

- 5.3.21 The submissions on Assessment Matters GRUZ-AM1, GRUZ-AM5, GRUZ-AM11 & GRUZ-AM13 and GRUZ – Principal Reasons, were the only submissions relating to these provisions, and were all in support.

5.4 Evidence to the hearing

- 5.4.1 In her evidence for Federated Farmers, Ms Rhea Dasent accepted the s42A report recommendation in relation to the Setback from Roads and Rail Network provisions.
- 5.4.2 Hort NZ made a number of submissions and further submissions that were addressed in Key Issue 7. Ms Wharfe’s comments in relation to assessment matters and provisions for restaurants were as per those in the RPROZ as discussed under Key Issue 6. In regard to dwelling setbacks Ms Wharfe supported a setback for residential activities of 15m in the General Rural Zone and a more focussed set of provisions for sites created before May 2021 to enable small sites to accommodate a residential dwelling (considering it would be more appropriate that the change was limited to sites less than 4000m²).
- 5.4.3 The legal submission made on behalf of James Bridge sought a reduced setback for sites of 2.5ha or less. The submission cited concerned that the combination of standards and lot size could leave permitted lots with no permitted building platform, particularly where lots were not square. In addressing the concerns noted in the s42A report relating to setbacks from primary production the legal submissions noted the standard being sought would only apply to boundaries “between sites of 2.5ha or less” and such sites were unlikely to be primary production sites.

5.5 Post hearing information

- 5.5.1 In her 5 August 2022 right-of-reply, the reporting planner addressed GRUZ-R1, GRUZ-S1, and GRUZ-S5. Having considered the evidence of Lynette Wharfe for Hort NZ on GRUZ-R1 and GRUZ-

¹ Inserted as a clause 16(2), First Schedule, RMA amendment – refer S121.224 Federated Farmers relating to equivalent Standard RPROZ-S6, addressed in Key Issue 6 above

² As above

S1 and legal submissions for James Bridge on GRUZ-S5, the reporting planner did not change her position from that set out in the s42A report.

5.6 Evaluation and findings

Rule GRUZ-R1 Residential Activities

- 5.6.1 The Panel agrees with the reporting planner that adding Assessment Matter GRUZ-AM5 to the list of matters in Rule GRUZ-R1(2) for Restricted Discretionary activities is not in keeping with the rule framework adopted in the PDP as they relate to broad matters rather than the infringement of a standard. The Panel does not consider it necessary to reference the assessment matters where an activity defaults to Discretionary and consider this is adequately dealt with in the “Note” that sits in the front of the Assessment Matters sections in the various chapters across the PDP stating, “For Discretionary Activities, Council’s assessment is not restricted to these matters, but it may consider them (among other factors)”.
- 5.6.2 The Panel recommends GRUZ-R1 is retained as notified (with amendments as a result of other submissions addressed in Key Issues 18 and 20).

Rule GRUZ-R3 Primary Production Activities

- 5.6.3 The Panel agrees with the reporting planner that it is not necessary to include a separate term for ‘free range poultry farming’ as sought by the Egg Producers Federation nor have separate inclusion of ‘free range poultry farming’ in Rule GRUZ-R3. It falls within the definition of ‘primary production activity’ without needing to be separately defined or provided for.
- 5.6.4 The issue of ‘intensive primary production’ is addressed in Key Issue 13.

Rule GRUZ-R9 Commercial Activities not otherwise provided for

- 5.6.5 The Panel agrees with the reporting planner that commercial activities are not necessarily sensitive activities and the permitted activity limits in Rule GRUZ-R9 work together to limit the type and scale of permitted commercial activities so that those activities permitted by the rule are likely to complement the predominant primary production role of the General Rural Zone, rather than generate reverse sensitivity concerns. The Panel agrees it is appropriate to make some limited provision for general commercial activities in this zone as GRUZ-R9 does.
- 5.6.6 The Panel recommends that Rule GRUZ-R9 be retained, subject to recommended amendments that are addressed in Key Issues 16, 18 and 20.

Standard GRUZ-S1 Activity Threshold

- 5.6.7 In relation to submissions seeking to delete the activity thresholds pertaining to ‘restaurants’ in GRUZ-S1, the Panel considers that provision for small scale restaurants is reasonable and can be complementary in the rural environment. Retention of the ‘restaurants’ activity threshold specifically recognises the different characteristics of restaurants, as distinct from other commercial activities. The Panel agrees with the reporting planner and recommends that Standard GRUZ-S1(5), (6) and (7) relating to ‘restaurants’ be retained, as notified. The Panel considers that the scale of the permitted activity in the PDP is small and the impact on highly productive land at this scale would be de minimis. Anything larger would be required to be assessed through a resource consent application. The Panel notes that, as identified in Ms Davidson’s legal submissions in Hearing Stream 6 (9 November 2022) and the reporting planner’s

right-of-reply for Hearing Stream 6 (9 December 2022), the wider issue of whether commercial activities may be inconsistent with the NPS-HPL may need to be revisited at a later date.

Standard GRUZ-S4 Setback from Roads and Rail Network

- 5.6.8 Federated Farmers (S121.194) seeks the deletion of clauses 5 & 6 of GRUZ-S4. The Panel agrees with the reporting planner that the 20m setback for stockyards and stock loading ramps/races should remain. However, the Panel agrees with Federated Farmers that ‘accessory buildings associated with primary production activities’ (now referred to as ‘accessory buildings and structures (primary production)’ as a result of another submission) do not require a 5m setback. The Panel does not consider it appropriate to delete the setback in its entirety but considers that a setback of 3m is sufficient to enable access and maintenance of buildings without encroaching on the road or rail corridor.
- 5.6.9 The Panel recommends a change to the terminology around accessory/ancillary buildings associated with primary production to be consistent with the recommendation on the definition of ‘Ancillary Buildings and Structures (Primary Production)’ as addressed in Key Issue 1, which is recommended to be changed to ‘accessory building’ to be consistent with the National Planning Standards.
- 5.6.10 The Panel therefore recommends accepting S121.194 and S81.126 in part and making the following amendments:

GRUZ-S4 Setback from Roads and Rail Network	
Residential Activities (including accessory buildings)	<ol style="list-style-type: none"> 1. Minimum setback of any building(s) from road boundaries is 5m. 2. Minimum setback of any building(s) from the Rail Network Boundary is 5 m.
Seasonal Workers Accommodation	<ol style="list-style-type: none"> 3. Minimum distance of any building(s) from road boundaries is 15m.
<u>Accessory Buildings and Structures (Primary Production)- Accessory Buildings associated with Primary Production Activities</u>	<ol style="list-style-type: none"> 4. Minimum setback of any building(s) from road boundaries is 5m. 5. Minimum setback of stockyards and stock loading ramps/races fronting roads that are classified as Arterial or Primary Collector Roads is 20m. 6. Minimum setback of any building(s) from the Rail Network Boundary is 3m.
All Other Buildings (including Post-Harvest Facilities)	<ol style="list-style-type: none"> 7. Minimum setback of any building(s) from road boundaries is 20m, except that: <ol style="list-style-type: none"> a. buildings less than 10m² in gross floor area, and buildings used by Emergency Service Activities, may be located within the above setbacks from road boundaries. 8. Minimum setback of any building(s) from the Rail Network Boundary is 5m.

Standard GRUZ-S5 Setback from Neighbours

- 5.6.11 The Panel agrees with the reporting planner that an exemption for farm water storage tanks would be consistent with the exemption for domestic water storage tanks and appropriate as they are similar in scale and effect.

- 5.6.12 The Panel also agrees with the reporting planner that the reference to ‘Accessory Buildings’ should be retained but there is merit in clarifying that it includes ‘Accessory Buildings and Structures (Primary Production)’ in addition.
- 5.6.13 The Panel agrees with the reporting planner that the 15 m setback is appropriate and should not be reduced as sought by The Surveying Company or James Bridge. The Panel notes that, as identified by the reporting planner in the right-of-reply, there are options for developers in situations where a lesser setback may be appropriate, including through applying for a land use consent to reduce setback requirements between sites when applying for subdivision consent. There is also the Deemed Permitted Boundary Activity option (s87BA of the RMA) where written approval from the affected neighbour is obtained.
- 5.6.14 The Panel agrees with the reporting planner that it is not necessary to include a 200m setback from primary production or free-range poultry farming as this is clearly addressed in GRUZ-S11.
- 5.6.15 The Panel agrees with the reporting planner that, as for RPROZ-S6 (Key Issue 6), a reduced setback would be appropriate for those sites less than 4000m² created before 28 May 2021 given the substantial change from the 5m setback in the Operative District Plan and the potential for significant development constraint.
- 5.6.16 The Panel recommends the following amendments (incorporating amendments from Key Issue 6 and noting the term ‘internal boundaries’ has been retained as per Reports 2A Urban Environment and 6C Miscellaneous):

GRUZ-S5 Setback from Neighbours	
Residential Activities adjacent to an existing plantation forest on an adjoining site	6. Minimum setback of buildings from an existing plantation forest on an adjoining site is 40m.
All Other Activities (excluding Accessory Buildings and Accessory Buildings and Structures (Primary Production))	7. Minimum setback of buildings for an activity from internal boundaries is 15m. Farm³ and d Domestic water storage tanks up to 2m in height are exempt from this standard.
Accessory Buildings Accessory Buildings and Structures (Primary Production)	8. Minimum setback of buildings for an activity from internal boundaries is 5m. Farm⁴ and d Domestic water storage tanks up to 2m in height are exempt from this standard.
Sites created before 28 May 2021 and less than 4000m² net site area Where a subdivision consent application to create a site is lodged with Council before 28 May 2021, and accepted under section 88 of the RMA 1991 and thereafter granted	9. Minimum setback of buildings for a residential activity from internal boundaries is 5m. 10. Minimum setback of buildings for all other activities from internal boundaries is 10m.

³ Inserted as a clause 16(2), First Schedule, RMA amendment – refer S121.224 Federated Farmers relating to equivalent Standard RPROZ-S6, addressed in Key Issue 6 above

⁴ As above

9 Key Issue 11 – Subdivision Provisions Specific to the Rural Zones

9.1 Proposed Plan provisions

- 9.1.1 This section addresses submissions relating to subdivision in the General Rural Zone, Rural Production Zone and Rural Lifestyle Zone. All other submissions addressing provisions in the SUB – Subdivision chapter of the PDP were addressed as part of Hearings Stream 5.
- 9.1.2 Under the ODP, subdivision in the Rural Zone is currently a Controlled Activity down to a minimum lot size of 4000m² in the ODP (subject to performance standards around general matters such as lot dimensions, property access, and servicing). The approach taken to rural subdivision in the PDP has been directed at preserving the lower level of fragmentation on the Ruataniwha Plains and stopping any further fragmentation of versatile land around the urban centres in terms of sustainable management of this resource for current and future generations. Subdivision provisions in the PDP were therefore significantly different, with larger minimum lot size thresholds, and differing controls for rural lifestyle subdivision across the three rural zones:
1. Rural Lifestyle Zone (RLZ) – provides extensively for rural lifestyle subdivision;
 2. General Rural Zone (GRUZ) – essentially provides for the creation of one lifestyle lot every 3 years with a complying balance lot of 20ha or more; and
 3. Rural Production Zone (RPROZ) – essentially only provides for the creation of a lifestyle lot where it was around an existing dwelling, and where there was also amalgamation with an adjoining site combining to achieve a complying balance lot of 12ha or more (i.e. the net number of sites remains the same).

9.2 Submissions

- 9.2.1 This section of this report addresses 35 submission points and 8 further submission points relating to subdivision provisions in the General Rural, Rural Production, and Rural Lifestyle Zones.

9.3 Reporting planner's recommendations

Standard SUB-S1(8), (9) & (10) Minimum Net Site Area Requirements

- 9.3.1 In her s42A report, the reporting planner outlined the PDP approach to subdivision in the rural zones and the background and reasons for the new provisions (which shall not be repeated here). Given this rationale, the reporting planner did not consider it appropriate to reduce the minimum lot sizes for the General Rural Zone or Rural Production Zone (e.g. to 10,000m² and 4,000m² respectively), or to revert back to the 4000m² minimum lot size currently applying across the entire rural area of the District in the ODP, as variously sought by Regeneration Holdings, Riverfield Holdings, and John McLennan.
- 9.3.2 Based on the advice of LandVision, and to provide general alignment with the neighbouring Hastings District Plan, the reporting planner considered that it was appropriate and prudent to retain the 20ha and 12ha minima for the General Rural Zone and Rural Production Zone set out in Standard SUB-S1(9) & (10) respectively, as notified. The reporting planner considered that these areas appropriately give effect to the objectives and policies of the relevant zones, whereas the reduced lot sizes sought would not. The reporting planner considered it appropriate to assess the effects of any subdivision proposal where these minimums were not met, on a case-by-case basis as a Discretionary Activity (as per Rule SUB-R1(3)).

- 9.3.3 The reporting planner did not support providing an exemption for existing lots within the Rural Production Zone that were less than 20ha to further subdivide to create an additional lot of not less than 2ha, every 3 years, as sought by Kevin Williams. Given that there were considerable lots within the Rural Production Zone that were less than 20ha in size, she considered that such an approach would enable significant levels of fragmentation to continue on the District’s finite highly productive land resource, which would undermine the PDP’s strategic direction and policy framework applying to the protection of this resource for current and future generations.
- 9.3.4 In terms of the submissions of Livingston Properties and HTST, and supported by NHMT, the reporting planner considered there was some merit in considering a reduction in the minimum net site area requirement for the Rural Lifestyle Zone. The reporting planner considered that a reduction in the ‘minimum’ net site area requirement in the Rural Lifestyle Zone, along with the introduction of an ‘average’, can be an appropriate way to provide for rural living more efficiently without compromising natural resources and amenity values, to provide for more variety in living situations, and potentially facilitates the more flexible provision of public open space. As highlighted by the submitters, a minimum site size of 2,500m² was consistent with the permitted activity standards in the Regional Resource Management Plan for onsite wastewater disposal.
- 9.3.5 The reporting planner therefore recommended Standard SUB-S1(9) & (10) be retained as notified, but that Standard SUB-S1(8) be amended, as follows:

SUB-S1 Minimum Net Site Area (excluding Lifestyle Sites and Conservation Lots).	
Rural Lifestyle Zone	8. 2,500m², with a minimum 4000m ² average.
General Rural Zone	9. 20 hectares <i>Note: standards for subdivisions involving the creation of Lifestyle Sites in the General Rural Zone are in found in SUB-S2 below.</i>
Rural Production Zone	10. 12 hectares <i>Note: standards for subdivisions involving the creation of Lifestyle Sites in the Rural Production Zone are in found in SUB-S2 below.</i>

- 9.3.6 In relation to Gerard Pain’s submission, the reporting planner noted that a Discretionary activity status for subdivision that does not comply with the minimum net site areas above, enables assessment of subdivision applications on a case-by-case basis, whereby an applicant has the opportunity to present a case for the granting of consent.

Lifestyle Site subdivision - Rule SUB-R5

- 9.3.7 The reporting planner did not consider it appropriate to delete Rule SUB-R5 and revert back to the rural subdivision rules currently applying across the entire rural area of the District in the ODP, as sought by Thomas Collier and James Bridge.
- 9.3.8 The reporting planner also did not support removal of the condition limiting lifestyle subdivision in the General Rural Zone (outside of the Coastal Environment Area) to a site once every 3 years, as sought by Hort NZ and IA & PD Waldrom. Without this ‘limitation’, she considered there would be no differentiation from what can occur currently under the ODP rules, and therefore there would be little control over the quantity and speed at which land fragmentation could occur within the General Rural Zone into the future. She noted that the subdivision rules in the PDP work collectively and in tandem with each other, and the amendment sought would effectively circumvent the application of the minimum net site areas set out in Standard SUB-S1, rendering them ineffective.

- 9.3.9 The reporting planner also did not support increasing the quantity of lifestyle lots provided for in Rule SUB-R5 from 1 lot per 3-year cycle, to 5 lots per 3-year cycle, as sought by The Surveying Company as this would significantly reduce any gains through the ability to manage the quantity and speed at which land fragmentation could occur within the General Rural Zone into the future. Although noting the potential for the 3-year aspect of the rule to result in unintended consequences as suggested by The Surveying Company, the reporting planner did not believe this would be a significant risk in practice and noted SUB-AM13 allows consideration of this potential.
- 9.3.10 The reporting planner agreed with Surveying the Bay that the 3-year period should only apply to titles from which lifestyle sites were previously created, as she considered that this makes practical sense, in that the first lifestyle site subdivided from a property should logically then trigger the first 3-year standdown period. The reporting planner recommended an amendment to Rule SUB-R5 accordingly (refer recommended amendment below).
- 9.3.11 With respect to the submissions seeking a more restrictive activity status for rural lifestyle subdivision in the Rural Production Zone (Hort NZ and Silver Fern Farms), the reporting planner agreed that the Rural Production Zone warrants greater protection from land fragmentation given the significance of the District’s highly productive land as a valuable and finite resource, but considered the current controlled activity status for complying rural lifestyle subdivision provides clear messaging to landowners about what type of rural lifestyle subdivision was anticipated and deemed acceptable in the zone, and that defaulting to discretionary enables full consideration of the adverse effects on the environment for those rural lifestyle subdivisions that do not comply with the controlled activity conditions.
- 9.3.12 The reporting planner considered that a non-complying activity status where a rural lifestyle subdivision in the Rural Production Zone was unable to comply could signal that such subdivision was not anticipated within the Rural Production Zone, but was comfortable with discretionary status on the basis that consideration under s104 RMA requires full regard to be had to the effects of the proposal and its ‘fit’ with relevant objectives and policies in the same way as non-complying status, albeit without the additional threshold test applying.
- 9.3.13 The reporting planner recommended that Rule SUB-R5 be retained, with an amendment to clause 1(a) as follows:

SUB-R5 Subdivision to create a Lifestyle Site(s) (not in association with the creation of a Conservation Lot)		
General Rural Zone (outside of the Coastal Environment Area)	1. Activity Status: CON: Where the following conditions are met: a. Limited to: i. Only one lifestyle site can be created. ii. A site is only eligible to be subdivided to create a lifestyle site 3 years after the subject title was created, and then once every 3 years after that once every 3 years, and at least 3 years has elapsed from the date the subject title was created. iii. The minimum site area for the balance lot is 20 hectares. b. Compliance with SUB-S2(1) and SUB-S2(2). c. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following: i. HH-SCHED2. ii. SASM-SCHED3. iii. ECO-SCHED5. iv. ONL or ONF in NFL-SCHED6. v. CE-SCHED7. d. Compliance with: i. SUB-S4(1); ii. SUB-S5;	2. Activity status where compliance with condition SUB-R5(1)(d) is not achieved: RDIS Matters over which discretion is restricted: a. SUB-AM1. b. SUB-AM2 c. SUB-AM3. d. SUB-AM4. e. SUB-AM5. f. SUB-AM6. g. SUB-AM7. h. SUB-AM8. i. SUB-AM9. j. SUB-AM10. k. SUB-AM11. l. SUB-AM12. m. SUB-AM13.
		3. Activity status where compliance with conditions SUB-R5(1)(a), SUB-R5(1)(b)

	<ul style="list-style-type: none"> iii. SUB-S6; iv. SUB-S7; v. SUB-S8; and vi. SUB-S9. <p>e. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> f. SUB-AM1. g. SUB-AM2. h. SUB-AM3. i. SUB-AM4. j. SUB-AM5. k. SUB-AM6. l. SUB-AM7. m. SUB-AM8. n. SUB-AM9. o. SUB-AM10. p. SUB-AM11. q. SUB-AM13. 	<p>and/or SUB-R5(1)(c) is not achieved: DIS</p> <p>4. Activity status where compliance with condition SUB-R5(1)(e) is not achieved: NC</p>
<p>Rural Production Zone</p>	<p>5. Activity Status: CON: Where the following conditions are met:</p> <p>a. Limited to:</p> <ul style="list-style-type: none"> i. The lifestyle site is based around an existing residential unit on a site that has a net site area less than 12 hectares. ii. No additional sites are created (amalgamation of the balance lot is required). iii. The newly amalgamated sites are adjoining and combine to a net site area greater than 12 hectares. iv. The newly amalgamated lot contains no more than two residential units. <p>b. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S2(3) and SUB-S2(4) <p>c. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <ul style="list-style-type: none"> i. HH-SCHED2. ii. SASM-SCHED3. iii. ECO-SCHED5. iv. ONL or ONF in NFL-SCHED6. v. CE-SCHED7. <p>d. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(1); ii. SUB-S5; iii. SUB-S6; iv. SUB-S7; v. SUB-S8; and vi. SUB-S9. <p>e. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> f. SUB-AM1. g. SUB-AM2. h. SUB-AM3. i. SUB-AM4. j. SUB-AM5. k. SUB-AM6. l. SUB-AM7. m. SUB-AM8. n. SUB-AM9. o. SUB-AM10. p. SUB-AM11. q. SUB-AM13. 	<p>6. Activity status where compliance with condition SUB-R5(5)(d) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. SUB-AM1. b. SUB-AM2. c. SUB-AM3. d. SUB-AM4. e. SUB-AM5. f. SUB-AM6. g. SUB-AM7. h. SUB-AM8. i. SUB-AM9. j. SUB-AM10. k. SUB-AM11. l. SUB-AM12. m. SUB-AM13. <p>7. Activity status where compliance with conditions SUB-R5(5)(c) is not achieved: DIS</p> <p>8. Activity status where compliance with conditions SUB-R5(5)(a) and/or SUB-R5(5)(b) and/or SUB-R5(5)(e) is not achieved: NC</p>

General Rural Zone (Coastal Environment Area)	9. Activity Status: DIS Where the following conditions are met: a. Compliance with: i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network.	10. Activity status where compliance with condition SUB-R5(9)(a) is not achieved: NC
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Lifestyle Site subdivision - Standard SUB-S2

- 9.3.14 The reporting planner considered there was some merit in considering a reduction in the minimum net site area requirement for lifestyle sites in the General Rural Zone as contained in Standard SUB-S2(1), as sought by James Bridge, noting the 2500m² minimum size required for lifestyles sites created under the rules for conservation lots, the adequacy of a 2,500m² size for a lifestyle development to be able to comply with the associated bulk and location standards applying still fully in this zone, and the consistency of a minimum site size of 2,500m² with the permitted activity standards in the Regional Resource Management Plan for onsite wastewater disposal.
- 9.3.15 The reporting planner also considered there was merit in considering an increase in the maximum net site area requirement for lifestyle sites in the Rural Production Zone as contained in Standard SUB-S2(4), as sought by The Surveying Company. The reporting planner accepted that as a lifestyle site in this zone was anticipated to be created around an existing dwelling, a maximum size of 1ha was reasonable to support the existing features that many rural properties have 'including effluent fields, garages and sheds, existing planting and physical features.
- 9.3.16 On that basis, the reporting planner recommended Standard SUB-S2 be amended, as follows:

SUB-S2 Lifestyles Sites (not in association with the creation of a Conservation Lot)	
General Rural Zone	1. Minimum net site area for Lifestyle Lot – 2500m² 4000m² . 2. Maximum net site area for Lifestyle Lot – 2.5 hectares.
Rural Production Zone	3. Minimum net site area for Lifestyle Lot – 2500m ² . 4. Maximum net site area for Lifestyle Lot – 1 hectare 4000m² .

Assessment Matters SUB-AM11, SUB-AM12 & SUB-AM13

- 9.3.17 The reporting planner noted there was considerable support for retention of Assessment Matters SUB-AM11, SUB-AM12 and SUB-AM13 as proposed. However, there were some minor amendments sought by Silver Fern Farms, Hort NZ, and the Pork Industry Board.
- 9.3.18 The reporting planner agreed with Silver Fern Farms that there was merit in referencing existing rural industry in Assessment Matters SUB-AM11, SUB-AM12 & SUB-AM13. As already stated, inclusion of 'rural industry' as a separately defined and anticipated activity was addressed separately in Key Issues 15 & 16 in Panel Report 3C. However, there was long-standing existing rural industry located in the rural areas of Central Hawke's Bay (such as Silver Fern Farms) that warrant consideration in terms of the potential for new development in the vicinity of these rural industries to create or exacerbate the potential for reverse sensitivity. The reporting planner also agreed that 'avoidance' of reverse sensitivity effects was also a legitimate consideration to be reflected in Assessment Matters SUB-AM12 & SUB-AM13, in addition to consideration of ability to 'mitigate'/'manage' such effects. However, she did not support the additional wording sought by this submitter relating to restrictive covenants and/or consent notices in Assessment Matter SUB-AM12(3)(b).

- 9.3.19 The reporting planner agreed with Federated Farmers that ‘rural production activity’ was not a defined term in the PDP and use of this term in Assessment Matter SUB-AM13 should revert to the defined term ‘primary production activity’.
- 9.3.20 In regard to Assessment Matter SUB-AM13(2)(c), this assessment matter responds to the requirement in the zone provisions for new sensitive activities to be setback 200m from existing intensive primary production activities (refer Standards GRUZ-S11, RPROZ-S12 & RLZ-S6), and the requirement for new intensive primary production activities to be setback 200m from existing property boundaries (refer Rules GRUZ-R14(1)(a)(ii) & RPROZ-R14(1)(a)(ii)). The reporting planner agreed with the Pork Industry Board in this respect, that the assessment matter should refer to intensive primary production activities.
- 9.3.21 The reporting planner did not support the deletion of item 7 of Assessment Matter SUB-AM13 as sought by Regeneration Holdings, considering this matter important in terms of signalling that subdivision in the General Rural Zone with the intention to ‘set up’ future lifestyle site subdivisions, was not endorsed.
- 9.3.22 The reporting planner recommended that Assessment Matters SUB-AM11, SUB-AM12 and SUB-AM13 be amended as follows:

SUB-AM11 Sites in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing horticultural, ~~or~~ intensive primary production, or rural industry activities

1. The design of the subdivision to ensure that, as a consequence of the development it will accommodate, reverse sensitivity effects will not be created or exacerbated. In particular, in assessing the development, the following factors will be considered:
 - a. The scale, design, and location of the development such that the number of sites and potential house sites adjoining the above activities is minimised.
 - b. The location of the house sites which will avoid any potential for reverse sensitivity effects.
 - c. The ability of the development to include methods which will mitigate against reverse sensitivity effects being created or exacerbated ~~experienced~~.
 - d. The registration of restrictive covenants and/or consent notices (where they are offered) against the certificate of title(s) for any site where reverse sensitivity effects are likely to result from activities operated in compliance with the provisions of the District Plan, which cannot otherwise be adequately avoided or mitigated by other conditions of consent, and which are necessary to achieve the relevant objectives, policies and anticipated environmental outcomes for the zone, particularly those relating to reverse sensitivity effects.

SUB-AM12 Lifestyle Sites in the Rural Production Zone

1. Maximum area exceeded

The Council will have regard to whether one or more of the following factors apply in deciding whether the use of an area of land greater than 4000m² for a lifestyle site is appropriate:

 - a. Enabling minimum yard requirements for Rural Production Zone lifestyle sites to be met.
 - b. Position of topographical features, such as rivers, drains, hills, terraces, or roads forming physical boundaries for the lifestyle site(s).
 - c. Site configuration, where due to the shape of the site before subdivision the excess land incorporated within the lifestyle site(s) could not be effectively utilised as part of the amalgamated balance.
 - d. Provision of the continued utilisation of existing accessory buildings, gardens, and other facilities such as effluent fields, water supply points or accessways relating to the house.
 - e. Soil quality, where the soil of the land incorporated within the lifestyle site is not identified as Class 1 or 2 (as defined in the New Zealand Land Inventory Worksheets) and is of a lesser quality than the soil of the amalgamated balance.
 - f. Provision for buffer areas (greater than the minimum yard requirements) to avoid or mitigate reverse sensitivity where specific site characteristics and the nature of adjoining

land uses are likely to generate the potential for complaints about adjoining primary production **or rural industry** activities.

2. Balance area smaller than 12 hectares

In deciding whether a Rural Production Zone lifestyle site subdivision creating an amalgamated balance area of less than 12ha is appropriate, the Council will have regard to whether any of the following factors apply:

- a. The amalgamated site has a greater potential for sustained independent production in accordance with the Rural Production Zone policies than either of the sites involved in the amalgamation had prior to the subdivision.
- b. An amalgamated site of less than 6ha will not generally be considered to have any potential under (a) above unless it contains existing capital improvements for an intensive horticultural land use.

3. Amalgamated sites not adjoining

In deciding whether a Rural Production Zone lifestyle site subdivision creating an amalgamation of titles not adjoining, the Council will have regard to whether any of the following factors apply:

- a. The titles are positioned in a manner that allows them to be effectively used together for sustained independent production in accordance with Rural Production Zone policy.
- b. The likelihood of a successful application being made to subdivide the titles in the future on the basis that they cannot effectively be used together is low.

SUB-AM13

Subdivisions within the General Rural Zone and Rural Production Zone – Lifestyle Sites

1. That the location and shape of the lifestyle site enables the balance site to be farmed efficiently and effectively. The Council will also take into account the ability to **avoid, mitigate or** manage any potential reverse sensitivity effects generated from the lifestyle site, within the subject site itself, the balance area of the property and with adjoining properties.
2. The ability to **avoid or** mitigate any actual or potential reverse sensitivity effects where specific site characteristics and/or the nature of surrounding or existing land uses are likely to generate the potential for complaints about lawfully established activities. The Council will take into account the following factors (but is not restricted to these):
 - a. Railway lines and whether access to a lifestyle site or rural site is sought via a private level crossing (Note: this requires the formal approval of Kiwirail Holdings Ltd);
 - b. Any new access, upgraded access, or additional sites accessing a state highway (Note: this requires the formal approval of Waka Kotahi NZ Transport Agency);
 - c. Any lifestyle site proposed within 400 metres of an existing rural **industry or primary** production activity **including intensive primary production**;
 - d. Any rural airstrip; and
 - e. Any other nearby lawfully established activity, which a residential use of a lifestyle site is likely to be sensitive to, or incompatible with.
3. Methods to mitigate any potential reverse sensitivity effects. Landowner(s) associated with a lifestyle site subdivision application may offer the use of a 'No-Complaints Covenant' as a condition of consent, to help mitigate potential reverse sensitivity effects. This method is only available if the landowner(s) offers it; such covenants cannot be required by the Council.

Provision for Farm Park Developments

9.3.23 Surveying the Bay, The Surveying Company and James Bridge would like to see the PDP include 'farm park' subdivision provisions for the General Rural and Rural Lifestyle Zones, similar to the Hastings District Plan.

9.3.24 The submitters described the concept of a 'farm park' as providing for a cluster(s) of lifestyle sites within a working farm property. The idea was to provide flexibility for the 'balance' area to continue to operate as a working farm or to be set up as a conservation/recreation area. Owners of the lifestyle sites have exclusive use of their own site, but may also have access to communal land and amenities.

- 9.3.25 The reporting planner accepted that ‘farm parks’ can be an effective way of allowing for rural residential living whilst maintaining a working farm, but did not consider that there was evidence of any significant demand for such developments in the CHBD at this time, to warrant adopting a raft of additional special provisions.
- 9.3.26 A subdivision consent for a farm park development in the General Rural Zone or the Rural Lifestyle Zone can still be applied for under the current subdivision rules in the PDP, and assessed on their merits, on a case-by-case basis, as a Discretionary Activity.
- 9.3.27 The reporting planner did not consider there was any substantial benefit in incorporating a set of specific ‘farm park’ subdivision provisions for the General Rural Zone or Rural Lifestyle Zone in the PDP, at this time.

Building Platform Standards – Standard SUB-S4(1) Rural Zones

- 9.3.28 The reporting planner noted there was overall support for retention of the building platform standard (Standard SUB-S4(1)) applying in the General Rural Zone, Rural Production Zone, and Rural Lifestyle Zone in the PDP, as a method to assist in managing reverse sensitivity effects.
- 9.3.29 In addition to the building platform requirement, however, the Pork Industry Board sought a 400m setback from an intensive primary production activity for any building platform for new lifestyle sites (except where the building platform was on the same site as the intensive primary production activity). This request was on the basis that upon erection of a residential dwelling, an existing intensive primary production activity would (unreasonably) then be required to meet more restrictive light and noise standards.
- 9.3.30 In the reporting planner’s view, inclusion of such a setback in the building platform standard (Standard SUB-S4(1)) was unnecessary, as there was already a setback requirement in the respective zone provisions. The setbacks apply a 200m setback for any new sensitive activities from existing intensive primary production activities in the General Rural Zone (Standard GRUZ-S11), Rural Production Zone (Standard RPROZ-S12), and Rural Lifestyle Zone (Standard RLZ-S6).
- 9.3.31 Such matters were also covered in Assessment Matter SUB-AM13 above, as well as assessment matters more generally, in these zones in the PDP, around addressing reverse sensitivity matters related to lifestyle subdivision (Assessment Matters SUB-AM11 & SUB-AM12).
- 9.3.32 On this basis, the reporting planner recommended retention of Standard SUB-S4(1) as notified.

9.4 Evidence to the hearing

- 9.4.1 Mr Nick Wakefield spoke on behalf of The Surveying Company at the hearing, addressing amendments they were seeking to Rule SUB-R5, the maximum lot size for a lifestyle section in the Rural Production Zone, the provision for Farm Park development, and amendments to SUB-S7 relating to conservation lots. Mr Wakefield considered SUB-R5 to be too restrictive for the District and sought more opportunity for subdivision while ensuring larger lots which were economically productive were maintained. Mr Wakefield raised concerns that the rule not allowing lifestyle subdivision around existing dwellings if a property was larger than 12ha will see blocks of land between 12ha and 24ha being restricted in their potential productive use. Mr Wakefield considered there would be a market for Farm Parks and questioned why council would not wish to allow such development.
- 9.4.2 Legal submissions on behalf of James Bridge sought amendments to SUB-S2, noting the requested amendment was supported in the s42A report.

- 9.4.3 In her evidence for Hort NZ, Ms Lynette Wharfe did not agree with the s42A report assessment that a controlled activity status for subdivision was appropriate in the Rural Production Zone. Ms Wharfe considered the rule framework needs to enable a full evaluation of the effects of the subdivision and the ability to decline the application if it was shown to contribute to fragmentation of land or limit the use of land for primary production purposes.
- 9.4.4 The evidence of Mr Steve Tuck for Silver Fern Farms addressed its requested amendment to SUB-AM12. Mr Tuck considered a direct reference to registering a consent notice or covenant would make the matter an explicit consideration and clarify how a proponent could address any concerns about reverse sensitivity caused by ad-hoc piecemeal lifestyle site subdivision, and associated Plan integrity matters.
- 9.4.5 In his evidence for HTST, Mr Stephen Daysh supported the s42A recommendation to amend SUB-S1(8) to provide for 2,500m², with a minimum 4,000m² average in the Rural Lifestyle Zone.
- 9.4.6 Mr Philip McKay presented evidence for Livingston Properties. Mr McKay agreed with the amended wording recommended in the s42A report in relation to SUB-S1(8) to provide for a 2,500m² minimum net site area, with a minimum 4000m² average in the Rural Lifestyle Zone.
- 9.4.7 The submitter statement for Surveying the Bay addressed provision for Farm Park development, identifying benefits of farm parks but recognising demand may not be such to warrant the inclusion of specific provision in the PDP at this time.

9.5 Post hearing information

- 9.5.1 In her 5 August 2022 right-of-reply, the reporting planner considered Rule SUB-R5 in light of submitter evidence. Having considered the evidence of Lynette Wharfe for Hort NZ, the reporting planner did not change her position from that in the s42A report. The reporting planner also considered SUB-AM12(3)(b) and the evidence of Steven Tuck for Silver Fern Farms but did not change her position from that in the s42A report.

9.6 Evaluation and findings

Standard SUB-S1(8), (9) & (10) Minimum Net Site Area Requirements

- 9.6.1 The Panel agrees that the PDP establishes clear differentiation between the Rural Production Zone, General Rural Zone and Rural Lifestyle Zone – which collectively acts to direct rural lifestyle subdivision to the Rural Lifestyle Zones, in keeping with the strategic direction in the PDP to protect the District’s valuable productive land for current and future generations (particularly the District’s highly productive land which is of regional, if not national, significance).
- 9.6.2 The Panel agrees with the reporting planner that, given the objectives the PDP is seeking to achieve, it would not be appropriate to reduce the minimum lot sizes for the General Rural Zone or Rural Production Zone (e.g. to 10,000m² and 4,000m² respectively), or to revert back to the 4000m² minimum lot size currently applying across the entire rural area of the District in the ODP.
- 9.6.3 The Panel also agrees with the reporting planner that it is appropriate and prudent to retain the 20ha and 12ha minimums for the General Rural Zone and Rural Production Zone set out in Standard SUB-S1(9) & (10) respectively, as notified. These areas appropriately give effect to the objectives and policies of the relevant zones, whereas the reduced lot sizes sought would not.
- 9.6.4 Similarly, the Panel agrees with the reporting planner in not supporting an exemption for existing lots within the Rural Production Zone that are less than 20ha to further subdivide to create an additional lot of not less than 2ha, every 3 years, as sought by Kevin Williams. Given that there

are considerable lots within the Rural Production Zone that are less than 20ha in size, such an approach would enable significant levels of fragmentation to continue on the District's finite highly productive land resource, which would undermine the PDP's strategic direction and policy framework applying to the protection of this resource for current and future generations.

- 9.6.5 The Panel also agrees with the reporting planner that there is some merit in a reduction in the minimum net site area requirement for the Rural Lifestyle Zone. The Rural Lifestyle Zone has been specifically developed to provide sustainable opportunities for rural living on land that has lower productive potential, and that is close to the main townships. The Panel agrees with the reporting planner's recommendation to reduce the 'minimum' net site area requirement in the Rural Lifestyle Zone and introduce an 'average'. The Panel agrees this is an appropriate way to provide for rural living more efficiently without compromising natural resources and amenity values, to provide for more variety in living situations, and potentially facilitates the more flexible provision of public open space.
- 9.6.6 On that basis, the Panel recommends Standard SUB-S1(9) & (10) be retained as notified, but that Standard SUB-S1(8) be amended, as follows:

SUB-S1 Minimum Net Site Area (excluding Lifestyle Sites and Conservation Lots).	
Rural Lifestyle Zone	8. 2,500m², with a minimum 4000m² average.
General Rural Zone	9. 20 hectares <i>Note: standards for subdivisions involving the creation of Lifestyle Sites in the General Rural Zone are in found in SUB-S2 below.</i>
Rural Production Zone	10. 12 hectares <i>Note: standards for subdivisions involving the creation of Lifestyle Sites in the Rural Production Zone are in found in SUB-S2 below.</i>

- 9.6.7 The Panel agrees with the reporting planner that a Discretionary activity status for subdivision that does not comply with the minimum net site areas above allows for exceptions as sought by Gerard Pain. It enables assessment of subdivision applications on a case-by-case basis, whereby an applicant has the opportunity to present a case for the granting of consent. The Panel therefore agrees with the reporting planner's recommendation to accept Gerard Pain's submission S28.001 in part and reject S28.002 (as the resource consent process is separate from the plan making process).

Lifestyle Site Subdivision

- 9.6.8 The Panel notes that although the PDP is generally well aligned with the NPS-HPL, there are some areas, such as the creation of lifestyle sites in conjunction with the creation of a conservation lot, that may not be consistent with the NPS-HPL. As outlined in the legal submissions of Ms Davidson, no submitter sought deletion or significant tightening of the conservation lot rules and there is no scope to address this inconsistency at this stage. The Panel has confined itself to considering amendments that it has the scope to recommend.

Rule SUB-R5

- 9.6.9 The Panel does not support the submissions seeking to delete Rule SUB-R5 and revert back to the rural subdivision rules currently applying across the entire rural area in the ODP. The Panel agrees with the reporting planner that the proposed rules limiting lifestyle lots to 1 lot per 3-year cycle would allow landowners in the General Rural Zone to have some ability to create new titles whilst ensuring the General Rural Zone retains its focus, providing for and supporting primary

production in the District. The Panel therefore agrees with the reporting planner’s recommendation to amend the wording of Rule SUB-R5 so that the 3-year period only applies to titles from which lifestyle sites were previously created.

9.6.10 The Panel agrees with the reporting planner that a controlled activity status is appropriate for complying rural lifestyle subdivision in the Rural Production Zone given the very limited range of circumstances that would fall within the controlled activity category (SUB-R5(5)(a)(i)-(iv).

9.6.11 In relation to the activity status where a rural lifestyle subdivision in the Rural Production Zone is unable to comply, the Panel considers that a non-complying activity status as sought by Silver Fern Farms would be appropriate to align with the strategic direction and zone policy framework in the PDP, particularly Objective RPROZ-O2 which refers to protecting the resource from fragmentation.

9.6.12 The Panel recommends the following amendments to SUB-R5:

SUB-R5 Subdivision to create a Lifestyle Site(s) (not in association with the creation of a Conservation Lot)			
General Rural Zone (outside of the Coastal Environment Area)	<p>1. Activity Status: CON: Where the following conditions are met:</p> <p>a. Limited to:</p> <p>iv. Only one lifestyle site can be created.</p> <p>v. A site is only eligible to be subdivided to create a lifestyle site 3 years after the subject title was created, and then once every 3 years after that once every 3 years, and at least 3 years has elapsed from the date the subject title was created.</p> <p>vi. The minimum site area for the balance lot is 20 hectares.</p> <p>b. Compliance with SUB-S2(1) and SUB-S2(2).</p> <p>c. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <p>i. HH-SCHED2.</p> <p>ii. SASM-SCHED3.</p> <p>iii. ECO-SCHED5.</p> <p>iv. ONL or ONF in NFL-SCHED6.</p> <p>v. CE-SCHED7.</p> <p>d. Compliance with:</p> <p>i. SUB-S4(1);</p> <p>ii. SUB-S5;</p> <p>iii. SUB-S6;</p> <p>iv. SUB-S7;</p> <p>v. SUB-S8; and</p> <p>vi. SUB-S9.</p> <p>e. Compliance with:</p> <p>i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and</p> <p>ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network.</p> <p>Matters over which control is reserved:</p> <p>f. SUB-AM1.</p> <p>g. SUB-AM2.</p> <p>h. SUB-AM3.</p> <p>i. SUB-AM4.</p> <p>j. SUB-AM5.</p> <p>k. SUB-AM6.</p> <p>l. SUB-AM7.</p> <p>m. SUB-AM8.</p> <p>n. SUB-AM9.</p> <p>o. SUB-AM10.</p> <p>p. SUB-AM11.</p> <p>q. SUB-AM13.</p>	<p>2. Activity status where compliance with condition SUB-R5(1)(d) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. SUB-AM1.</p> <p>b. SUB-AM2.</p> <p>c. SUB-AM3.</p> <p>d. SUB-AM4.</p> <p>e. SUB-AM5.</p> <p>f. SUB-AM6.</p> <p>g. SUB-AM7.</p> <p>h. SUB-AM8.</p> <p>i. SUB-AM9.</p> <p>j. SUB-AM10.</p> <p>k. SUB-AM11.</p> <p>l. SUB-AM12.</p> <p>m. SUB-AM13.</p>	
		<p>3. Activity status where compliance with conditions SUB-R5(1)(a), SUB-R5(1)(b) and/or SUB-R5(1)(c) is not achieved: DIS</p>	
		<p>4. Activity status where compliance with condition SUB-R5(1)(e) is not achieved: NC</p>	

<p>Rural Production Zone</p>	<p>5. Activity Status: CON: Where the following conditions are met:</p> <p>a. Limited to:</p> <ul style="list-style-type: none"> i. The lifestyle site is based around an existing residential unit on a site that has a net site area less than 12 hectares. ii. No additional sites are created (amalgamation of the balance lot is required). iii. The newly amalgamated sites are adjoining and combine to a net site area greater than 12 hectares. iv. The newly amalgamated lot contains no more than two residential units. <p>b. Compliance with:</p> <ul style="list-style-type: none"> ii. SUB-S2(3) and SUB-S2(4) <p>c. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <ul style="list-style-type: none"> vi. HH-SCHED2. vii. SASM-SCHED3. viii. ECO-SCHED5. ix. ONL or ONF in NFL-SCHED6. x. CE-SCHED7. <p>d. Compliance with:</p> <ul style="list-style-type: none"> vii. SUB-S4(1); viii. SUB-S5; ix. SUB-S6; x. SUB-S7; xi. SUB-S8; and xii. SUB-S9. <p>e. Compliance with:</p> <ul style="list-style-type: none"> iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> f. SUB-AM1. g. SUB-AM2. h. SUB-AM3. i. SUB-AM4. j. SUB-AM5. k. SUB-AM6. l. SUB-AM7. m. SUB-AM8. n. SUB-AM9. o. SUB-AM10. p. SUB-AM11. q. SUB-AM13. 	<p>6. Activity status where compliance with condition SUB-R5(5)(d) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. SUB-AM1. b. SUB-AM2. c. SUB-AM3. d. SUB-AM4. e. SUB-AM5. f. SUB-AM6. g. SUB-AM7. h. SUB-AM8. i. SUB-AM9. j. SUB-AM10. k. SUB-AM11. l. SUB-AM12. m. SUB-AM13. <p>7. Activity status where compliance with conditions SUB-R5(5)(a) and/or SUB-R5(5)(c) is not achieved: DIS</p> <p>8. Activity status where compliance with conditions <u>SUB-R5(5)(a)</u> and/or SUB-R5(5)(b) and/or SUB-R5(5)(e) is not achieved: NC</p>
<p>General Rural Zone (Coastal Environment Area)</p>	<p>9. Activity Status: DIS Where the following conditions are met:</p> <p>b. Compliance with:</p> <ul style="list-style-type: none"> iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. 	<p>10. Activity status where compliance with condition SUB-R5(9)(a) is not achieved: NC</p>

Standard SUB-S2

- 9.6.13 The Panel agrees with the reporting planner that there is merit in reducing the minimum net site area requirement for lifestyle sites in the General Rural Zone as contained in Standard SUB-S2(1), as sought by James Bridge.
- 9.6.14 The Panel agrees that the 2500m² minimum size required for lifestyles sites created under the rules for conservation lots supports the contention that a smaller lot size is sufficient to accommodate lifestyle development within rural areas. 2,500m² is sufficient for a lifestyle development to be able to still fully comply with the associated bulk and location standards applying in this zone and ensure reverse sensitivity issues for existing primary production activities on adjoining sites are appropriately managed.

- 9.6.15 The Panel also agrees with the reporting planner’s recommendation that the maximum net site area requirement for lifestyle sites in the Rural Production Zone as contained in Standard SUB-S2(4) be increased. As a lifestyle site in this zone is anticipated to be created around an existing dwelling, a maximum size of 1ha is reasonable to support the existing features that many rural properties have ‘including effluent fields, garages and sheds, existing planting and physical features.
- 9.6.16 The Panel therefore recommends Standard SUB-S2 be amended, as follows, with a clarification in the title to make it clear it relates to the General Rural Zone and Rural Production Zone:

SUB-S2 Lifestyles Sites in General Rural Zone and Rural Production Zone (not in association with the creation of a Conservation Lot)	
General Rural Zone	<ol style="list-style-type: none"> 1. Minimum net site area for Lifestyle Lot – 2500m²4000m². 2. Maximum net site area for Lifestyle Lot – 2.5 hectares.
Rural Production Zone	<ol style="list-style-type: none"> 3. Minimum net site area for Lifestyle Lot – 2500m². 4. Maximum net site area for Lifestyle Lot – 1 hectare4000m².

Assessment Matters SUB-AM11, SUB-AM12 & SUB-AM13

- 9.6.17 The Panel agrees with the reporting planner that there is merit in referencing existing rural industry in Assessment Matters SUB-AM11, SUB-AM12 & SUB-AM13 and that ‘avoidance’ of reverse sensitivity effects is also a legitimate consideration to be reflected in Assessment Matters SUB-AM12 & SUB-AM13, in addition to consideration of ability to ‘mitigate’/‘manage’ such effects. The Panel also agrees with the reporting planner that reference to restrictive covenants and/or consent notices in Assessment Matter SUB-AM12(3)(b) would not add value in the context of the Assessment Matters.
- 9.6.18 The Panel agrees that as ‘rural production activity’ is not a defined term in the PDP the use of the term ‘primary production activity’ in SUB-AM13 would be more appropriate, as sought by Federated Farmers.
- 9.6.19 In relation to SUB-AM13(2)(c) the Panel agrees with the reporting planner that the assessment matter should refer to intensive primary production activities as sought by the Pork Industry Board.
- 9.6.20 In relation to the deletion of SUB-AM13(7) as sought by Regeneration Holdings, the Panel agrees with the reporting planner that it is not appropriate to delete this matter as it is important in terms of signalling that subdivision in the General Rural Zone with the intention to ‘set up’ future lifestyle site subdivisions, is not endorsed.
- 9.6.21 On the basis of the above, the Panel recommends that Assessment Matters SUB-AM11, SUB-AM12 and SUB-AM13 be amended as follows:

SUB-AM11	<p>Sites in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing horticultural, or intensive primary production, or rural industry activities</p> <ol style="list-style-type: none"> 1. The design of the subdivision to ensure that, as a consequence of the development it will accommodate, reverse sensitivity effects will not be created or exacerbated. In particular, in assessing the development, the following factors will be considered: <ol style="list-style-type: none"> a. The scale, design, and location of the development such that the number of sites and potential house sites adjoining the above activities is minimised. b. The location of the house sites which will avoid any potential for reverse sensitivity effects. c. The ability of the development to include methods which will mitigate against reverse sensitivity effects being created or exacerbatedexperienced.
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- d. The registration of restrictive covenants and/or consent notices (where they are offered) against the certificate of title(s) for any site where reverse sensitivity effects are likely to result from activities operated in compliance with the provisions of the District Plan, which cannot otherwise be adequately avoided or mitigated by other conditions of consent, and which are necessary to achieve the relevant objectives, policies and anticipated environmental outcomes for the zone, particularly those relating to reverse sensitivity effects.

SUB-AM12 Lifestyle Sites in the Rural Production Zone

1. Maximum area exceeded

The Council will have regard to whether one or more of the following factors apply in deciding whether the use of an area of land greater than 4000m² for a lifestyle site is appropriate:

- a. Enabling minimum yard requirements for Rural Production Zone lifestyle sites to be met.
- b. Position of topographical features, such as rivers, drains, hills, terraces, or roads forming physical boundaries for the lifestyle site(s).
- c. Site configuration, where due to the shape of the site before subdivision the excess land incorporated within the lifestyle site(s) could not be effectively utilised as part of the amalgamated balance.
- d. Provision of the continued utilisation of existing accessory buildings, gardens, and other facilities such as effluent fields, water supply points or accessways relating to the house.
- e. Soil quality, where the soil of the land incorporated within the lifestyle site is not identified as Class 1 or 2 (as defined in the New Zealand Land Inventory Worksheets) and is of a lesser quality than the soil of the amalgamated balance.
- f. Provision for buffer areas (greater than the minimum yard requirements) to **avoid or** mitigate reverse sensitivity where specific site characteristics and the nature of adjoining land uses are likely to generate the potential for complaints about adjoining primary production **or rural industry** activities.
- a. ...

SUB-AM13 Subdivisions within the General Rural Zone and Rural Production Zone – Lifestyle Sites

1. That the location and shape of the lifestyle site enables the balance site to be farmed efficiently and effectively. The Council will also take into account the ability to **avoid, mitigate or** manage any potential reverse sensitivity effects generated from the lifestyle site, within the subject site itself, the balance area of the property and with adjoining properties.
2. The ability to **avoid or** mitigate any actual or potential reverse sensitivity effects where specific site characteristics and/or the nature of surrounding or existing land uses are likely to generate the potential for complaints about lawfully established activities. The Council will take into account the following factors (but is not restricted to these):
 - a. Railway lines and whether access to a lifestyle site or rural site is sought via a private level crossing (Note: this requires the formal approval of Kiwirail Holdings Ltd);
 - b. Any new access, upgraded access, or additional sites accessing a state highway (Note: this requires the formal approval of Waka Kotahi NZ Transport Agency);
 - c. Any lifestyle site proposed within 400 metres of an existing rural **industry or primary** production activity **including intensive primary production**;
 - d. Any rural airstrip; and
 - e. Any other nearby lawfully established activity, which a residential use of a lifestyle site is likely to be sensitive to, or incompatible with.
3. Methods to mitigate any potential reverse sensitivity effects. Landowner(s) associated with a lifestyle site subdivision application may offer the use of a 'No-Complaints Covenant' as a condition of consent, to help mitigate potential reverse sensitivity effects. This method is only available if the landowner(s) offers it; such covenants cannot be required by the Council.

Provision for Farm Park Developments

- 9.6.22 While the Panel sees some merit in the concept of Farm Park Developments, given that they would currently fall to a Discretionary Activity status the Panel does not see value at this point in time in developing an additional set of provisions for farm parks. Therefore, the Panel agrees with the reporting planner's recommendation that the submissions seeking the inclusion of farm park subdivision provisions in the General Rural and Rural Lifestyle Zones be rejected.

Building Platform Standards – Standard SUB-S4(1) Rural Zones

- 9.6.23 The Panel agrees with the reporting planner that there is no need for an additional setback requirement as sought by the Pork Industry Board. This is unnecessary in SUB-S4(1) as it is already addressed in the respective zone provisions. The Panel recommends the retention of SUB-S4(1) as notified.



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell
Tim Aitken
Kate Taylor
Pip Burne

TOPIC 6C

Miscellaneous

REPORT DATED

4 May 2023

DATE OF HEARING

15 to 17 November 2022

PART B – EVALUATION

2 Key Issue 1 – Minor matters (not addressed by other s42A reports)

2.1 Proposed plan provisions

2.1.1 This section addresses various submissions across several different parts of the PDP.

2.2 Submissions

2.2.1 There were 9 submission points and 1 further submission on general matters not addressed by other S42A reports. These submissions covered a range of minor matters, in summary they related to:

- Support for PDP;
- Provision of a new permitted activity rule throughout zones to provide for ‘construction of buildings and structures’;
- Review bylaws to amend references to zone names;
- Request to seal Pagets Road;
- Reference to updated version of regulations;
- Amendment to Schedule of Community Facilities;
- Provision of a new permitted activity rule for camping grounds in the Rural Lifestyle Zone and Settlement Zone, and
- Deleting reference to ‘coastal’ in LLRZ – Large Lot Residential Zone (Coastal).

2.3 Reporting planner’s recommendations (s42A report)

Submissions in support of PDP

2.3.1 Submission S87.006 by R & D Christiansen supported a broad range of PDP provisions and also raised some concerns about matters not directly addressed by the District Plan. No amendments were sought. The reporting planner recommended accepting the submission. The reporting planner also recommended accepting S66.001 by Woolworths New Zealand Limited in support of the general direction of the PDP.

Provision of a new ‘Permitted Activity’ rule throughout the zones to provide for ‘construction of buildings and structures’

2.3.2 Centralines’ submission S90.052 noted there was no specific rule providing for the ‘physical construction of structures and buildings’ and sought this be provided for as a permitted activity. The reporting planner considered that construction activities were anticipated as part and parcel of the broader activity that was provided for and the rule framework clearly anticipated construction activities as part of exercising the right to undertake the land use activity. Therefore, the reporting planner recommended the submission be rejected.

Review Bylaws to amend references to zone names

- 2.3.3 S8.001 by S Bayley sought a review of the Council bylaws to clarify how the rules applied for the new zone names. The reporting planner noted that the 'Keeping of Animals, Poultry and Bees' (Part 13) Bylaw and the 'Livestock Management in Public Places' (Part 5) Bylaws make specific reference to zones which did not align with the proposed new zones in the PDP. She advised that both bylaws were due to be reviewed in 2023. The reporting planner recommended that the submission be rejected as reviewing bylaws was a Local Government Act matter and responding to this submission was outside the scope of decisions on the PDP.

Request to seal Pagets Road

- 2.3.4 On the basis that this submission point could not be considered as part of the PDP process, the reporting planner recommended S19.001 Mountain View Farms which sought road sealing works be rejected.

Reference to updated version of regulations

- 2.3.5 Centralines sought additional provisions across the PDP to note that, where reference is made to regulations, such as the Electricity (Hazards from Trees) Regulations 2003, that the applicable rule applies also to any updated version of that regulation.
- 2.3.6 The reporting planner advised that rules, including conditions and standards, must be able to provide certainty for Plan users and therefore where regulations are referenced within a rule/condition/ standard it was important that they were defined or unlikely to change. Providing reference to as yet unpublished new versions within a rule or standard may result in unintended consequences. For this reason, the PDP generally avoided referencing regulations in the Rules and Standards and where it did it referenced a specific version; e.g., Rule EW-R1. In other provisions such as Assessment Matters or Other Methods, reference to updated provisions may be appropriate.
- 2.3.7 The reporting planner advised that the Panel may wish to make a decision on this once they had considered all plan provisions. However, the reporting planner considered that reference to other versions may be acceptable in those instances where regulations were not included in a rule or standard.
- 2.3.8 The reporting planner therefore recommended that S90.053 Centralines be accepted in part.

Amend schedule of community facilities

- 2.3.9 The Central Hawke's Bay Aeroclub submission S80.001 requested an amendment to Schedule SCHED8 – 'Schedule of Identified Community Facilities' to include the 'Waipukurau Aerodrome' to District Amenities. The reporting planner noted that the Central Hawke's Bay Aeroclub was a volunteer organisation that had owned and operated the aerodrome for 88 years. It included a local clubroom, airfield and small area of surrounding farmland and its premises were often used to support local community emergency services (fire, ambulance and rescue helicopter practice and emergency response), local flight training, and numerous community events and fundraisers. The reporting planner recommended the submission be accepted and the following amendment to Schedule SCHED8 – 'Schedule of Identified Community Facilities' be made:

Unique Identifier	Site Identifier	Location	Map Reference
CF-66	Waipukurau Aerodrome	2327 State highway 2 (Takapau Road)	xx

Provide new permitted activity rule for ‘camping grounds’ in the RLZ- Rural Lifestyle Zone and SETZ - Settlement Zone

2.3.10 The NZMCA sought ‘Permitted Activity’ status for camping grounds throughout the District. This matter was addressed in other hearing streams and this report addressed the submission point in relation to the RLZ – Rural Lifestyle Zone and the SETZ – Settlement Zone. The reporting planner did not consider a permitted activity status appropriate, given the potential for adverse effects from such activities, and the potential for reverse sensitivity, but did support a restricted discretionary activity status in the Rural Lifestyle Zone and Settlement Zone. The reporting planner recommended the submission be accepted in part, with the following amendments made:

RLZ-RXX Camping grounds	
<p>1. Activity Status: RDIS</p> <p><u>Where the following conditions are met: N/A</u></p> <p>a. <u>Compliance with:</u></p> <ul style="list-style-type: none"> i. <u>RLZ-S2;</u> ii. <u>RLZ-S3;</u> iii. <u>RLZ-S4;</u> iv. <u>RLZ-S5;</u> v. <u>RLZ -S6;</u> vi. <u>RLZ-S7;</u> vii. <u>RLZ-S8</u> viii. <u>RLZ-S9</u> ix. <u>RLZ-S10</u> x. <u>RLZ-S11;</u> xi. <u>RLZ-S12;</u> xii. <u>RLZ-S13; and</u> xiii. <u>RLZ-S14</u> <p><u>Matters over which discretion is restricted:</u></p> <p>b. <u>Assessment matters (where relevant to the infringed standard(s):</u></p> <ul style="list-style-type: none"> i. <u>RLZ-AM1.</u> ii. <u>RLZ-AM2.</u> iii. <u>RLZ-AM3.</u> iv. <u>RLA-AM4.</u> v. <u>RLZ-AM5.</u> vi. <u>RLZ-AM10.</u> vii. <u>RLZ-AMXX.</u> <p>c. <u>Assessment matters in the following chapters:</u></p> <ul style="list-style-type: none"> i. <u>TRAN – Transport.</u> ii. <u>LIGHT – Light.</u> iii. <u>NOISE – Noise.</u> 	<p>2. Activity status where compliance not achieved: DIS</p>

Assessment Matters

RLZ-AMX Camping Grounds

1. The size of the camping ground, number of camp sites/accommodation units, carparks, and scale of buildings to ensure that they are consistent with the surrounding character and amenity and, where located within the identified coastal environment area, the natural character of the coastal environment.
2. Whether the design and appearance of the development of the site harmonises with the surrounding natural features and landscape, in particular the character of the coastal environment.
3. Whether the location of the camping ground will give rise to reverse sensitivity effects, particularly in terms of primary production and associated activities.
4. Whether the proposed land use will have an adverse effect on any cultural values or heritage values of the area.

5. The design of infrastructure to ensure it is of a standard capable of servicing the camping ground, assuming 100% capacity.
6. Whether the activity is or will be located in an identified natural hazard area, considering the health and safety of camp users and the long- term viability of safe access and egress to the site.
7. The proximity of the camping ground to the coastal margin and the susceptibility of the site to coastal erosion and coastal inundation both in the short and long-term, considering the health and safety of camp users and the long- term viability of safe access and egress to the site.
8. Whether the activity will make a positive contribution to the social and economic well-being of the local community.
9. The proximity to any wahi tapu, wahi taonga and sites of significance identified in SASM-SCHED3 and on the Planning Maps.
10. Effects on areas of high natural character identified in CE-SCHED7, or on any outstanding natural landscape or feature, or significant amenity feature identified in NFL-SCHED6.

SETZ-R16 Camping grounds	
<p>1. Activity Status: DISDIS</p> <p>Where the following conditions are met: N/A</p> <p>a. <u>Compliance with:</u></p> <ol style="list-style-type: none"> i. <u>SETZ-S2;</u> ii. <u>SETZ-S3;</u> iii. <u>SETZ-S4;</u> iv. <u>SETZ-S5;</u> v. <u>SETZ-S6;</u> vi. <u>SETZ-S8;</u> vii. <u>SETZ-S9;</u> viii. <u>SETZ-S10;</u> ix. <u>SETZ-S11;</u> x. <u>SETZ-12;</u> xi. <u>SETZ-13; and</u> xii. <u>SETZ-14</u> <p><u>Matters over which discretion is restricted:</u></p> <p>b. <u>Assessment matters (where relevant to the infringed standard(s):</u></p> <ol style="list-style-type: none"> i. <u>SETZ-AM1.</u> ii. <u>SETZ -AM2.</u> iii. <u>SETZ-AM3.</u> iv. <u>SETZ-AM4.</u> v. <u>SETZ-AM9</u> <p>c. <u>Assessment matters in the following chapters:</u></p> <ol style="list-style-type: none"> i. <u>TRAN – Transport.</u> ii. <u>LIGHT – Light.</u> iii. <u>NOISE – Noise.</u> 	<p>2. Activity status where compliance not achieved: N/A DIS</p>

Delete reference to 'Coastal' in 'LLRZ- Large Lot Residential Zone (Coastal)'

- 2.3.11 S105.025 James Bridge opposed the reference to 'Coastal' in the 'LLRZ - Large Lot Residential Zone (Coastal)' and seeks it be deleted. The reporting planner recommended that the submission be rejected. In the reporting planner's view, the Large Lot Residential (Coastal) Zone met the requirements of the National Planning Standards, with the inclusion of the term 'Coastal' providing clarity to plan users and particularly those living in the CHB community, who identify these areas as coastal settlements.

2.4 Evidence to the hearing

- 2.4.1 No evidence was presented at the hearing on this key issue.

2.5 Post hearing information

- 2.5.1 The reporting planner's right-of-reply did not address this issue.

2.6 Evaluation and findings

Submissions in support of PDP

- 2.6.1 Submission S87.006 by R & D Christiansen supported a broad range of PDP provisions and also raised some concerns about matters not directly addressed by the District Plan. No specific amendments were sought. The Panel agrees with the reporting planner and recommends accepting the submission in part. The Panel also agrees with the reporting planner and recommends accepting S66.001 by Woolworths in support of the general direction of the PDP.

Provision of a new 'Permitted Activity' rule throughout the zones to provide for 'construction of buildings and structures'

- 2.6.2 Centralines' submission S90.052 noted there is no specific rule providing for the 'physical construction of structures and buildings' and sought this be provided for as a permitted activity. The Panel agrees with the reporting planner that construction activities are anticipated as part and parcel of the broader activity that is provided for and the rule framework clearly anticipates construction activities as part of exercising the right to undertake the land use activity. Therefore, the Panel agrees with the reporting planner and recommends the submission be rejected.

Review Bylaws to amend references to zone names

- 2.6.3 The Panel agrees with the reporting planner and recommend that the submission be rejected as reviewing bylaws is a Local Government Act matter and responding to this submission is outside the scope of decisions on the PDP.

Request to seal Pagets Road

- 2.6.4 The Panel agrees that this submission point cannot be considered as part of the PDP process and the request for road sealing works be rejected.

Reference to updated version of regulations

- 2.6.5 Centralines sought additional provisions across the PDP to note that where reference is made to regulations, such as the Electricity (Hazards from Trees) Regulations 2003, that the applicable rule applies also to any updated version of that regulation.
- 2.6.6 The Panel agrees with the reporting planner that reference to other versions may be acceptable in those instances where regulation is not included in a rule or standard, but where certainty is required in respect of a rule/standard, then the reference should be to a specifically dated version. Accordingly, the Panel agree with the reporting planner that S90.053 Centralines be accepted in part.

Amend Schedule of Community Facilities

- 2.6.7 The Central Hawke's Bay Aeroclub submission S80.001 requested an amendment to Schedule SCHED8 – 'Schedule of Identified Community Facilities' to include the 'Waipukurau Aerodrome' to District Amenities.
- 2.6.8 It is noted that Commissioner Aitken was recused from the Panel's deliberations on this matter.
- 2.6.9 The Panel agrees with the reporting planner that the Aeroclub be included on the Schedule SCHED8 – 'Schedule of Identified Community Facilities'.

Provide new permitted activity rule for ‘Camping Grounds’ in the RLZ- Rural Lifestyle Zone and SETZ - Settlement Zone

- 2.6.10 The NZMCA submitted and sought a ‘Permitted Activity’ status for camping grounds throughout the District. This matter was addressed in other hearing streams; this report therefore addressed the submission point in relation to the RLZ – Rural Lifestyle Zone and the SETZ – Settlement Zone.
- 2.6.11 The Panel agrees with the reporting planner that permitted activity status is not appropriate, given the potential for adverse effects, but supported a restricted discretionary activity status in the Rural Lifestyle Zone and Settlement Zone for camping grounds, and recommends such an amendment.

Delete reference to ‘Coastal’ in ‘LLRZ- Large Lot Residential Zone (Coastal)’

- 2.6.12 S105.025 James Bridge opposed the reference to ‘Coastal’ in the ‘LLRZ - Large Lot Residential Zone (Coastal)’ and seeks it be deleted.
- 2.6.13 The Panel agrees with the reporting planner and recommends that the submission be rejected. As it would apply to most coastal settlement, the Large Lot Residential Zone meets the requirements of the National Planning Standards to apply to such areas: the inclusion of the term ‘Coastal’ provides clarity to plan users and particularly those living in the CHB community, who identify these areas as coastal settlements.

3 Key Issue 2 – Part A Introduction (not addressed by other s42A reports)

3.1 Proposed plan provisions

- 3.1.1 This section of the report addresses submissions relating to Part A Introduction that are not addressed by other s42A reports.

3.2 Submissions

- 3.2.1 There were 12 submission points and 5 further submissions that relate to ‘Part A- Introduction’ (not addressed by other S42A reports).
- 3.2.2 Of these submissions 10 were in support of this section of the PDP. One submission seeks amendment to the PDP to ensure National Policy Statements are given effect to.

3.3 Reporting planner’s recommendations (s42A report)

General Support for Part A / Opposing matters raised by Forest and Bird

- 3.3.1 The reporting planner recommended the support for the PDP by Chorus (S117.001, 002, 024), Spark (S118.001, 002, 024), Vodafone (S119.001, 002, 024), and S79.015 Transpower (S79.015) be accepted.
- 3.3.2 Forest & Bird made a general further submission opposing all relief sought by Chorus/Spark/Vodafone on the basis that any amendments and decisions sought by these submitters would result in continued loss of indigenous biodiversity in Hawke’s Bay. No relief was sought by Forest & Bird in regard to these submission points. The reporting planner did not consider the further submission to be relevant in this context.



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell
Tim Aitken
Kate Taylor
Pip Burne

TOPIC 6A

Maps and Rezoning Requests

REPORT DATED

4 May 2023

DATE OF HEARING

15 and 17 November 2022

18 Rezoning Request 16 – North of Pourerere

18.1 Submissions

18.1.1 James Bridge (S105.024) sought to zone the land identified on the map in Figure 1 of their submission from 'General Rural Zone' to 'Large Lot Residential Zone'.

18.2 Reporting planners' recommendations (s42A report)

18.2.1 The reporting planners considered the proposed zoning of the land as General Rural Zone is the most appropriate and recommended the submission be rejected. The reporting planners noted several factors including the presence of LUC 3 land and inconsistency with the NPS-HPL, the presence of the 'Tsunami Hazard (Near Source Inundation Extent)' overlay, the sensitivity of the coastal environment and coastal hazards, and the lack of a logical and clearly defensible boundary.

18.3 Evidence to the hearing

18.3.1 Mr Joshua Marshall provided legal submissions and spoke at the hearing for James Bridge. Mr Marshall suggested that the land requested to be rezoned can be divided into three categories:

- Existing Subdivision Land (20 residential lots each around 5,000m² plus a communal lot) – Consent no RM180160/RM180160A;
- Proposed Subdivision Land (48 residential allotments subject to an application for resource consent); and
- The remainder of the land not currently subdivided or subject to a consent application for subdivision.

18.3.2 Mr Marshall submitted that the Existing Subdivision Land is already residential in nature and the zoning should reflect the consented subdivision. Written statements were provided by Mr Steve Goodman and Ms Angela McFlynn in relation to this area.

18.3.3 Steve Goodman (Goodman Rural) gave evidence for James Bridge that lots 1-21 DP 571994 adjoining Pourerere are individually too small for agricultural or horticultural production and combined (6ha) would be uneconomic for pastoral farming because of the small scale. Mr Goodman also provided reasons as to why horticultural production would not be viable.

18.3.4 Angela McFlynn gave planning evidence for James Bridge that if the land comprising lots 1-21 DP 571994 were zoned Large Lot Residential instead of General Rural there would be no difference in the range of activities that would be permitted on the land, noting development rights are restricted by covenants on the titles. Ms McFlynn provided a comparison of building setback rules and a copy of the covenant and registered society rules.

18.4 Post hearing information

18.4.1 The reporting planners considered this matter in the right-of-reply of 9 December 2022. The reporting planners noted several factors, including:

- Reducing setback distances for future buildings from boundaries could result in reverse sensitivity effects which have not been addressed;
- Applying the Large Lot Residential Zone could allow for further subdivision of the lots;
- Spot zoning of this nature does not represent good planning practice;

- The rezoning request does not overcome the identification of the land as LUC 3 and classification as highly productive land under the NPS-HPL;
- The submitter has not provided an assessment against the NZCPS, and
- A Structure Plan has not been provided in accordance with Policy UD10.2 of the RPS.

18.4.2 The reporting planners did not change their recommendation to reject the rezoning request across all three categories of Mr Bridge's land.

18.5 Evaluation and findings

18.5.1 The Panel agrees with the reporting planners that the proposed zoning of the land as General Rural Zone is the most appropriate and recommends the submission be rejected. The Panel agrees with the reasons given by the reporting planners, noting in particular the presence of LUC 3 land and inconsistency with the NPS-HPL, the presence of the 'Tsunami Hazard (Near Source Inundation Extent)' overlay, the sensitivity of the coastal environment and coastal hazards, and the potential for further subdivision of existing lots if the land was rezoned. The Panel agrees that the existence of smaller lots, as approved by the subdivision consent, should not be used as a driver for rezoning the land to Large Lot Residential Zone.

18.5.2 The Panel also took into account that clause 3.10(4) of the NPS-HPL directs that the size of a landholding in which the highly productive land occurs is not of itself a determinant of a permanent or long-term constraint, sufficient to exempt the land from the restrictions on subdivision under the NPS-HPL.

19 Rezoning Request 17 – Extension of Large Lot Residential Zone Areas

19.1 Submissions

- 19.1.1 James Bridge (S105.026) sought to ‘Extend zoning for coastal settlements to LLRZ [Large Lot Residential Zone] and account for future growth’.

19.2 Reporting planners’ recommendations (s42A report)

- 19.2.1 The reporting planners recommended the submission be rejected, noting several factors including the unclear nature of the physical extent of the extension sought, an absence of demonstrated demand, and the need to consider the NPS-HPL. The reporting planners did not consider the existence of approved coastal residential subdivisions necessarily acts as justification for rezoning land to Large Lot Residential Zone.

19.3 Evidence to the hearing

- 19.3.1 Mr Joshua Marshall provided legal submissions and spoke at the hearing for James Bridge. Mr Marshall submitted that the territorial authority has a duty to plan for the future when allocating zoning and the district plan as currently proposed for coastal settlements does not meet Council’s legal obligations.

19.4 Post hearing information

- 19.4.1 This request was not addressed in the right-of-reply and no additional information has been received.

19.5 Evaluation and findings

- 19.5.1 The Panel agrees with the reporting planners that this submission should be rejected. The extent of the requested rezoning is unclear from the submission and evidence has not been provided to establish what demand (if any) exists for additional housing in the coastal areas in the short to medium term. No justification in terms of the NZCPS policies for the coastal environment was provided. The Panel agrees that the presence of coastal residential subdivisions within the General Rural Zone does not necessarily act as justification for rezoning land to Large Lot Residential Zone.



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell
Tim Aitken
Kate Taylor
Pip Burne

TOPIC 5D

Subdivision (General)

REPORT DATED

4 May 2023

DATE OF HEARING

7 and 8 September 2022

6 Key Issue 5 – Objectives

6.1 Proposed plan provisions

6.1.1 This key issue addresses the Subdivision objectives.

6.2 Submissions

6.2.1 There were 26 submission points and 9 further submission points that sought that the objectives be retained or amended.

6.3 Reporting planner’s recommendations (s42A report)

Objective SUB-O1

6.3.1 Kāinga Ora (S129.067) generally supported Objective SUB-O1 but sought some minor changes and requested that it be amended by deleting ‘and High Natural Character Areas’ from SUB-O1(2). This relief relates to Kāinga Ora’s submission in relation to the ECO – Ecosystems and Indigenous Biodiversity chapter (S129.062), where they opposed reference to the term ‘high natural character areas’ because it was not defined in the PDP, and they consider it is unclear to what degree the plan should have regard to it within an RMA context.

6.3.2 The s42A Coastal Environment Report for Hearing Stream 1 (Section 8.3, pages 30-31) states the following in relation to the reasons and the process for identifying Areas of High Natural Character in Schedule CE-SCHED7 in the PDP:

8.3 Analysis

CE-SCHED7

- 8.3.1 Section 6(a) of the RMA identifies the preservation of the natural character of the coastal environment (including the coastal marine area), and its protection from inappropriate subdivision, use, and development, as a matter of national importance that must be recognised and provided for.
- 8.3.2 Further, section 75 of the RMA requires District Plans to give effect to the NZCPS (section 75(3)(b)). In preserving the natural character of the coastal environment and its protection from inappropriate subdivision, use and development, Policy 13 of the NZCPS requires:
- ‘assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character’ (Policy 13(1)(c)), and
 - ‘ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions’ (Policy 13(1)(d)).
- 8.3.3 Policy 13 also recognises that ‘natural character is not the same as natural features and landscapes or amenity values’.
- 8.3.4 In reviewing the District Plan, Central Hawke’s Bay District Council commissioned John Hudson of Hudson Associates – a suitably qualified landscape architect – to carry out an expert natural character assessment of the District’s coastal environment. As part of that assessment, Mr Hudson adopted the following methodology²:
- Research relevant background information, aerial photography, technical research and site visits
 - Mapping of the physical extent of the Coastal Environment
 - Mapping the Coastal Environment Sectors based on their distinguishing characteristics
 - Describing the characteristics of these sectors and ranking these on a seven-point scale
 - Drafting the Assessment Report using a defined assessment matrix to evaluate the specific factors within each Coastal Sector
 - Identifying areas of High and Outstanding Natural Character
- 8.3.5 Policy 13 of the NZCPS does not specifically define natural character, however clause (2) does identify a number of matters that could be considered under ‘natural character’. When determining the level of natural character, Mr Hudson’s assessment adopted the following commonly used definition:
- ‘The degree of natural character within an area depends on:*
- 1) *The extent to which the natural elements, patterns and processes occur;*
 - 2) *The nature and extent of modification to the ecosystem and landscape/seascape*
- The highest degree of natural character (greatest naturalness) occurs where there is least modification. The effect of different types of modification upon natural character varies with context and may be perceived differently by different parts of the community.’*
- 8.3.6 Mr Hudson’s assessment report outlines the assessment matrix he used, as follows:
- ‘The assessment matrix used for the Central Hawke’s Bay Coastal Environment references a number of other assessment matrices undertaken by other practices, including work undertaken by Boffa Miskell Limited for the Natural Character Assessment of the Thames Coromandel Coastal Environment for the Waikato Regional Council and also their assessment for the Horowhenua District Council. The CHB evaluation will rank each of the seven identified natural character components against a 7-point scale (Very High, High, High-Moderate, Moderate, Moderate-Low, Low, and Very Low) to determine the*

extent of modification that has occurred. An expert interpretation and weighting will then take place based on the combined scores of each coastal sector.⁴⁸

8.3.7 Nine (9) Coastal Sectors were identified (listed below), with work sheets for each containing an identification map and aerial photograph. The natural character rankings for each feature within each Coastal Sector are indicated on the maps in Mr Hudson's report, while the 'Assessment Worksheets' contain a discussion about each and a short summary of the natural character values associated with that Coastal Sector and the threats to key characteristics.

- Sector 1 Huarau - Taupata
- Sector 2 Waimoana - Kairakau
- Sector 3 Paonui Point - Pourerere
- Sector 4 Aramoana - Te Angiangi
- Sector 5 Pohutapapa - Blackhead
- Sector 6 Porangahau
- Sector 7 Mt Pleasant
- Sector 8 Whangaehu
- Sector 9 Collection of individual Settlements along the coast
- Sector 10 Overall length of coast which is neither High nor Very High Natural Character

8.3.8 Mr Hudson concluded that there are no areas of outstanding natural character, but that much of the District's coastline has (at least) high natural character values. He assessed the coastal settlement areas and remaining balance of the coastal environment as having moderate-low natural character.

*'The coastal environment has natural character ranging from a Moderate-Low to Very High ranking due to a combination of its key characteristics which are perceptions of ruggedness, clear visibility of its exposed underlying geomorphology, expressiveness of its formative processes, dominance of natural processes, higher biodiversity values in regenerating areas and limited human modification. Where settlements occur, these are confined in extent and located in recessed bays where beaches and road ends occur along the coast. They are sufficiently small to not affect the overall perception of the key coastal characteristics. Threats to these characteristics are screening of natural landform and exposed underlying geomorphology through pine plantations, drainage and earthworks in dune areas, buildings in dune areas and buildings on or along the top of the coastal escarpments.'*⁴⁹

8.3.9 The PDP has adopted the results of Mr Hudson's natural character assessment, including the incorporation of those areas identified as having 'high' or 'very high' natural character on the planning maps, and development of an accompanying 'Schedule of Areas of High Natural Character in the Coastal Environment' (Schedule CE-SCHED7).

8.3.10 I consider the independent assessment by a suitably qualified expert, and subsequent inclusion of the areas of high natural character identified in that assessment within the PDP (maps and Schedule CE-SCHED7), as robustly responding to section 6(a) of the RMA and giving effect to the NZCPS (Policy 13) as required by section 75(3)(b) of the RMA. Given this, I do not support deletion of Schedule CE-SCHED7 and associated mapping.

6.3.3 The reporting planner concurred with the conclusion of the reporting officer in the s42A Coastal Environment Report, that the independent assessment by a suitably qualified expert and subsequent inclusion of HNCAs identified in that assessment within the PDP (maps and Schedule CESCHED7), robustly responded to s6(a) of the RMA and gave effect to the NZCPS (Policy 13), as required by s75(3)(b) of the RMA. For these reasons, the reporting planner did not support deletion of 'High Natural Character Areas' from Objective SUB-O1(2). However, the reporting planner supported deleting the word 'that' in the first line of Objective SUB-O1, as follows:

SUB-O1 Subdivision of land ~~that~~ is consistent with the objectives and policies of the relevant zones and district-wide matters in the District Plan, including those relating to:
[...]

Objective SUB-O2

6.3.4 James Bridge requested that Objective SUB-O2 be amended so that lots created by subdivision were physically suitable for 'their intended use which is not prohibited in the relevant zone'. While the reporting planner supported reference to 'intended', she did not consider that reference to the intended use not being prohibited in the zone is appropriate. In the reporting planner's opinion, it was more relevant for the lots created to be physically suitable for the types of development that was intended and anticipated by the zone provisions relevant to where the subdivision was.

6.3.5 Kāinga Ora sought changes to the wording of Objective SUB-O2 to reflect that where subdivision and land use consents were sought concurrently, the outcomes were well understood and deemed acceptable for the zone through approval of land use consent. They supported the imposition of minimum lot size requirements for vacant lot subdivision to ensure they were of sufficient size to accommodate anticipated land use activities on resulting allotments.

6.3.6 Kāinga Ora requested that the objective be amended to distinguish between 'vacant' lot subdivisions and other (non-vacant) lot subdivisions. The reporting planner considered it likely

the submitter was referring to ‘non-vacant’, as the subdivision of land with buildings and structures already on it was already addressed (e.g., subdivision under the Unit Titles Act 2010). In the reporting planner’s opinion, there was no need to distinguish between the two types of subdivision, as the purpose of the objective was for new lots created (whether vacant or not) were physically suitable for the types of development intended and anticipated by the relevant zone provisions.

- 6.3.7 Kāinga Ora also requested that the word ‘lot’ be changed to ‘allotment’. The reporting planner noted that, under the PDP, ‘Lot(s)’ has the same meaning as ‘Allotment’, so either term may be used without any implications. The term ‘lot’ has been used consistently throughout the SUB – Subdivision chapter, so her preference was to retain it in Objective SUB-O2.
- 6.3.8 The reporting planner concurred with James Bridge and Kāinga Ora, that the wording of the objective could be improved so that it was not so rigid as to only refer to lots being suitable for a range of land use activities allowed by the relevant rules of the PDP. The reporting planner therefore supported amending the objective so that it referred to ‘types of development’, which could include consented developments. The reporting planner therefore considered that Objective SUB-O2 should be amended as follows:

SUB-O3 ~~The provision of appropriate services~~ **and network utilities are provided** to subdivided lots, ~~in anticipation of the likely effects of land use activities on those lots, so as to ensure~~ **that are compatible with the anticipated purpose, character and amenity of each zone, and provide for** the health and safety of people and communities, ~~and the maintenance or enhancement of amenity values.~~

Objective SUB-O3

- 6.3.9 Chorus, Spark and Vodafone (\$117.058, \$118.0.58, \$119.058) requested that Objective SUB-O3 be amended by deleting ‘services’ and replacing it with ‘network utilities’. FENZ requested that Objective SUB-O3 be retained (\$57.066) but that the words ‘and network utilities’ be added after ‘services’ (FS15.001). Centralines (\$90.031) requested that the words ‘and infrastructure’ be added to the objective after ‘services’.
- 6.3.10 Kāinga Ora (\$120.069) generally supported the intent of Objective SUB-O3 but considered that it should be amended to read as an objective, as follows:

SUB-O3 The provision of appropriate services to subdivided lots **are provided for**, ~~in anticipation of the likely effects of land use activities on those lots, so as to ensure the health and safety of people and communities, and the maintenance or enhancement of amenity values.~~

- 6.3.11 ‘Services’ is defined in Part 01B – Interpretation of the PDP as:

SERVICE	means:
	(a) any water supply system
	(b) any stormwater collection and disposal system
	(c) any sewage collection, treatment and disposal system
	(d) any trade waste collection and disposal system
	(e) any works to avoid, remedy or mitigate natural hazards
	(f) any landscaping, including planting of vegetation
	(g) any provisions of access to land in the subdivision (including roads, cycleways, pedestrian accessways, service lanes, private access, street lighting and associated works)
	and in each case includes any necessary or incidental work. ‘services’ has a corresponding meaning.

- 6.3.12 With regard to the above definition of ‘service’, the reporting planner concurred with the submitters that limiting the objective to ‘services’ was too narrow, as it excluded network utilities such as electricity, telecommunications, roading and gas, which were also important to support

land use activities and ensure the health and safety of people and communities. The reporting planner did not support Centralines' request to replace 'services' with 'infrastructure', as there was no definition of that term in the PDP. The reporting planner did not support Kāinga Ora's request to delete all words after 'subdivided lots' as that removed from the objective the reasons for providing appropriate services to subdivided lots.

- 6.3.13 Given the above, the reporting planner considered that Objective SUB-O3 should be amended as follows:

SUB-O3 ~~The provision of a~~Appropriate services **and network utilities are provided** to subdivided lots, in anticipation of the likely effects of land use activities on those lots, so as to ensure **that are compatible with the anticipated purpose, character and amenity of each zone, and provide for** the health and safety of people and communities, ~~and the maintenance or enhancement of amenity values.~~

Objective SUB-O4

- 6.3.14 Chorus, Spark, Vodafone, Silver Fern Farms, Hatuma Lime, Waka Kotahi and Centralines all requested that Objective SUB-O4 be retained as notified.
- 6.3.15 Transpower sought an amendment to SUB-O4 to give effect to the NPS-ET but did not specify how it should be amended. Kāinga Ora opposed Transpower's submission point.
- 6.3.16 Pork Industry Board requested that Objective SUB-O4 be amended so that it referred to 'primary production' as well as network utilities.
- 6.3.17 Kāinga Ora requested that the objective be amended as follows:

SUB-O4 Reverse sensitivity effects of subdivision **and resulting new activities** on existing lawfully established activities (including network utilities) are ~~avoided~~ **remedied** where practicable, or mitigated ~~where avoidance is not practicable.~~

- 6.3.18 The reporting planner noted that Objective SUB-O4 relates to Policies SUB-P16 and SUB-P17. As the policies provide more focus on how the objective is to be achieved, the reporting planner considered it unnecessary to add more of the same detail into Objective SUB-O4. Policy SUB-P16 also specifically referred to potential reverse sensitivity effects of sensitive activities establishing near primary production. The reporting planner concurred with Kāinga Ora that the objective should be amended to recognise that it was the land use activities that occur on the land subdivided that had the potential to cause reverse sensitivity effects. However, the reporting planner did not support the submitter's request to include reference to remediation, as that would be required when there was a reverse sensitivity effect, and the intention of the objective was to first avoid where practicable, otherwise mitigate, so remediation was not required.
- 6.3.19 The reporting planner noted that Chapter 3.5 of the Hawke's Bay RPS includes the following objectives in relation to the effects of conflicting land use activities:

OBJECTIVES

- OBJ 16** For future activities, the avoidance or mitigation of off site impacts or nuisance effects arising from the location of conflicting land use activities.
- OBJ 17** For existing activities (including their expansion), the remedy or mitigation of the extent of off site impacts or nuisance effects arising from the present location of conflicting land use activities.
- OBJ 18** For the expansion of existing activities which are tied operationally to a specific location, the mitigation of off site impacts or nuisance effects arising from the location of conflicting land activities adjacent to, or in the vicinity of, areas required for current or future operational needs.

6.3.20 The reporting planner noted that Objective OBJ 16 of the RPS was for future activities to avoid or mitigate off site impacts or nuisance effects arising from the location of conflicting land use activities. In her opinion, Objective SUB-04 was consistent with this RPS objective.

6.3.21 On that basis, the reporting planner considered that Objective SUB-04 should be retained, but amended as follows:

SUB-04 Reverse sensitivity effects of subdivision **and its resulting future land use activities** on existing lawfully established activities ~~(including network utilities)~~ are avoided where practicable, or mitigated where avoidance is not practicable.

Objective SUB-05

6.3.22 FENZ requested that Objective SUB-05 be retained as notified.

6.3.23 Forest and Bird (S75.025) opposed Objective SUB-05, as they considered the policy should be changed to deter subdivision on grounds wider than where ecological effects cannot be mitigated (for example, also where there was risk from climate change.), as they considered this would lead to poor decision-making and “path dependency”. They considered it would also mean any managed retreat or move out of risky areas would be more difficult in future. The submitter requested that the policy be amended as follows:

SUB-05 Avoidance of subdivision in localities where there is a significant risk from natural hazards, **particularly where these risks are likely to increase as a result of climate change**, ~~unless these can be mitigated without significant adverse effects on the environment.~~

6.3.24 Kāinga Ora (S129.071) generally supported the intent of the objective, but sought the following amendments to reflect that subdivision in areas of natural hazards may be appropriate where mitigation was proposed:

SUB-05 ~~Avoidance of s~~Subdivision in localities where there is a significant risk from natural hazards **should be minimised**, unless these **risks** can be mitigated without significant adverse effects on the environment.

6.3.25 The Introduction to the NH – Natural Hazards chapter of the PDP states the following in relation to natural hazards:

Section 106 of the RMA specifies when a consent authority may refuse to grant subdivision in certain circumstances, as follows:

106 Consent authority may refuse subdivision consent in certain circumstances

- (1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—
 - (a) there is a significant risk from natural hazards; or
 - (b) *[Repealed]*
 - (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.
- (1A) For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of—
 - (a) the likelihood of natural hazards occurring (whether individually or in combination); and
 - (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and
 - (c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).
- (2) Conditions under subsection (1) must be—
 - (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and
 - (b) of a type that could be imposed under [section 108](#).

6.3.26 The reporting planner did not support Forest and Bird’s request to amend Objective SUB-05 to include reference to climate, as reporting planner considered it was unnecessary, as sections 6(h) and 106 of the RMA refer only to ‘significant risks from natural hazards’, and the identification of

some natural hazards (e.g. coastal hazards) would have already included the likely effects of climate change.

- 6.3.27 The reporting planner did not support the amendments to Objective SUB-O5 sought by Kāinga Ora, as she considered that, in accordance with section 106 of the RMA, it was appropriate and lawful for the Council to not grant consent to subdivisions (i.e. in relation to ‘avoidance’) where they were in locations subject to significant risk from natural hazards, and where material damage from the hazards on land or structures, including in relation to the likely subsequent use of the land, cannot be mitigated or remedied.
- 6.3.28 However, the reporting planner considered that, pursuant to cl16(2) of the First Schedule of the RMA, that the wording of Objective SUB-O5 should be amended to better reflect section 106 of the RMA, as follows:

SUB-O5 Avoidance of subdivision in localities where there is a significant risk **of material damage** from natural hazards **on land or structures, including in relation to any likely subsequent use of the land**, ~~unless these can~~ **that cannot be remedied or** mitigated without significant adverse effects on the environment.

6.4 Evidence to the hearing

- 6.4.1 Tom Anderson provided evidence on behalf of Chorus, Spark and Vodafone, generally in support of the reporting planner’s recommendations, but raised the question whether the recommendation in the s42A report to delete the reference to network utilities was out of scope.

6.5 Post hearing information

- 6.5.1 The reporting planner’s right-of-reply agreed with Mr Anderson that there was no scope within the submission to delete including network utilities in SUB-O4. The reporting planner changed her position and recommended that Objective SUB-O4 be amended as follows in response to the relevant submission points:

SUB-O4 Reverse sensitivity effects of subdivision and its resulting future land use activities on existing lawfully established activities (including network utilities) were avoided where practicable, or mitigated where avoidance was not practicable.

6.6 Evaluation and findings

Objective SUB-O1

- 6.6.1 Kāinga Ora (S129.067) generally supported Objective SUB-O1 but sought some minor changes and requested that it be amended by deleting ‘and High Natural Character Areas’ from SUB-O1(2). This relates Kāinga Ora’s submission in relation to the ECO – Ecosystems and Indigenous Biodiversity chapter (S129.062).
- 6.6.2 The Panel agrees with the reporting planner that the independent assessment by a suitably qualified landscape expert and subsequent inclusion of the areas of high natural character identified in that assessment within the PDP (maps and Schedule CESCHED7), robustly responds to s6(a) of the RMA and gave effect to the NZCPS (Policy 13), as required by s75(3)(b) of the RMA. For these reasons, the reporting planner did not support deletion of ‘High Natural Character Areas’ from Objective SUB-O1(2). However, the Panel agrees with the reporting planner and supports deleting the word ‘that’ in the first line of Objective SUB-O1, as follows:

SUB-O1 Subdivision of land ~~that~~ is consistent with the objectives and policies of the relevant zones and district-wide matters in the District Plan, including those relating to:
[...]

- 6.6.3 In relation to Objective SUB-O1, the Panel had regard to the introduction of the NPS-HPL, which came into effect on 17 October 2022. In particular, we had regard as to whether the objective is consistent with the NPS in relation to protecting highly productive land from inappropriate subdivision.
- 6.6.4 On this matter, we were grateful for the advice of the Council’s legal counsel, Asher Davidson, who provided a memorandum on the implications of the NPS-HPL for the PDP process, dated 9 November 2022. In her opinion, she considered “the Council’s approach of having regard to the draft NPS in its drafting has meant that there is a very high degree of consistency between the NPS-HPL and the PDP. Reading the officer’s recommended version of the RPROZ and Subdivision sections through the NPS-HPL ‘lens’ demonstrates the close match between what the NPS and the RPROZ seek to achieve (paragraph 31).
- 6.6.5 The Panel concurs with Ms Davidson’s opinion that there is a high degree of consistency between the direction of the NPS-HPL and that of the PDP in regard to the management of the District’s highly productive land. Specifically, in relation to the management of subdivision, Objective SUB-O1 seeks to have the subdivision of land be consistent with the objectives and policies of the relevant zones, including, inter alia, “those relating to safeguarding the rural land resource of CHB from appropriate subdivision (RLR – Rural Land Resource provisions of the PDP)”. Having regard to the provisions of the Rural Land Resource section of the PDP’s Strategic Direction, which include, for example, the objective that “the District’s highly productive land is protected from further fragmentation” (Objective RLR-O3), the Panel was satisfied that the direction of the PDP’s subdivision provisions were not inconsistent with the NPS-HPL. Objective SUB-O2.
- 6.6.6 James Bridge requested that Objective SUB-O2 be amended so that lots created by subdivision are physically suitable for ‘their intended use which is not prohibited in the relevant zone’.
- 6.6.7 Kāinga Ora sought changes to the wording of Objective SUB-O2 to reflect that where subdivision and land use consents are sought concurrently, the outcomes are well understood and deemed acceptable for the zone through approval of land use consent. They support the imposition of minimum lot size requirements for vacant lot subdivision to ensure they are of sufficient size to accommodate anticipated land use activities on resulting allotments.
- 6.6.8 The Panel agrees with the reporting planner that the wording of the objective can be improved so that it is not so rigid as to only refer to lots being suitable for a range of land use activities allowed by the relevant rules of the PDP. The Panel therefore agrees with the reporting planner and supports amending the objective so that it refers to ‘types of development’, which could include permitted and consented developments. Objective SUB-O2 should be amended as follows:

SUB-O3 ~~The provision of a~~Appropriate services **and network utilities are provided** to subdivided lots, ~~in anticipation of the likely effects of land use activities on those lots, so as to ensure~~ **that are compatible with the anticipated purpose, character and amenity of each zone, and provide for** the health and safety of people and communities, ~~and the maintenance or enhancement of amenity values.~~

Objective SUB-O3

- 6.6.9 Chorus, Spark and Vodafone (S117.058, S118.0.58, S119.058) requested that Objective SUB-O3 be amended by deleting ‘services’ and replacing it with ‘network utilities’. FENZ requested that Objective SUB-O3 be retained (S57.066) but that the words ‘and network utilities’ be added after ‘services’ (FS15.001). Centralines (S90.031) requested that the words ‘and infrastructure’ be added to the objective after ‘services’.
- 6.6.10 The Panel was guided by the definition of ‘Services’ in Part 01B – Interpretation of the PDP which is:

SERVICE	means: (h) any water supply system (i) any stormwater collection and disposal system (j) any sewage collection, treatment and disposal system (k) any trade waste collection and disposal system (l) any works to avoid, remedy or mitigate natural hazards (m) any landscaping, including planting of vegetation (n) any provisions of access to land in the subdivision (including roads, cycleways, pedestrian accessways, service lanes, private access, street lighting and associated works) and in each case includes any necessary or incidental work. 'services' has a corresponding meaning.
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6.6.11 The Panel agrees with the reporting planner that limiting the objective to 'services' is too narrow, as it excludes network utilities such as electricity, telecommunications, roading and gas, which are also important to support land use activities and ensure the health and safety of people and communities.

6.6.12 Given the above, the Panel agrees with the reporting planner and considers that Objective SUB-03 should be amended as follows:

SUB-03 ~~The provision of appropriate services~~ **and network utilities are provided** to subdivided lots, ~~in anticipation of the likely effects of land use activities on those lots, so as to ensure that are compatible with the anticipated purpose, character and amenity of each zone, and provide for~~ the health and safety of people and communities, ~~and the maintenance or enhancement of amenity values.~~

Objective SUB-04

6.6.13 Transpower sought an amendment to SUB-04 to give effect to the NPS-ET but did not specify how it should be amended. Kāinga Ora opposed Transpower's submission point.

6.6.14 The Pork Industry Board requested that Objective SUB-04 be amended so that it referred to 'primary production' as well as network utilities.

6.6.15 Kāinga Ora requested that the objective be amended as follows:

SUB-04 Reverse sensitivity effects of subdivision **and resulting new activities** on existing lawfully established activities (including network utilities) are ~~avoided~~ **remedied** where practicable, or mitigated where ~~avoidance is not practicable.~~

6.6.16 The Panel agrees with the reporting planner and considers that Objective SUB-04 should be retained, but amended as follows:

SUB-04 Reverse sensitivity effects of subdivision **and its resulting future land use activities** on existing lawfully established activities ~~(including network utilities)~~ are avoided where practicable, or mitigated where avoidance is not practicable.

Objective SUB-05

6.6.17 Forest and Bird (S75.025) opposed Objective SUB-05, as they consider the policy should be changed to deter subdivision on grounds wider than where ecological effects cannot be mitigated (in particular, where there was risk from climate change), as they consider this would lead to poor decision-making. They considered it would also mean any managed retreat or move out of risky areas would be more difficult in future.

6.6.18 Kāinga Ora (S129.071) generally supported the intent of the objective but sought amendments to reflect that subdivision in areas of natural hazards may be appropriate where mitigation is proposed.

- 6.6.19 The Panel notes that Section 106 of the RMA specifies when a consent authority may refuse to grant subdivision in certain circumstances, as outlined in paragraph 6.3.25 above, and consider that Objective SUB-05 provides guidance on when to apply s106 RMA.
- 6.6.20 However, the Panel agrees with the reporting planner and considers that, pursuant to cl 16(2) of the First Schedule of the RMA, that the wording of Objective SUB-O5 should be amended to better reflect the wording of section 106 of the RMA, as follows:

SUB-O5 Avoidance of subdivision in localities where there is a significant risk **of material damage** from natural hazards **on land or structures, including in relation to any likely subsequent use of the land**, ~~unless these can~~ **that cannot be remedied or** mitigated ~~without significant adverse effects on the environment.~~

7 Key Issue 6 – Policies

7.1 Proposed plan provisions

7.1.1 This key issue addresses the Subdivision Policies.

7.2 Submissions

7.2.1 There were 48 submission points and 14 further submission points that sought to retain, amend or delete policies, and 1 submission point sought the inclusion of a new definition of ‘Regionally Significant Infrastructure/ Strategic Infrastructure’ in the PDP.

7.3 Reporting planner’s recommendations (s42A report)

Policy SUB-P1

7.3.1 James Bridge requested the deletion of Policy SUB-P1, as he considered that “the setting of standards for minimum lot sizes was a means by which the objectives and policies of the plan are given effect to”. Kāinga Ora requested that the policy be amended to support subdivision with minimum lot sizes for residential development that complies with the bulk and location standards or was otherwise approved in accordance with a land use consent.

7.3.2 Policy SUB-P1 relates to Objective SUB-O2, which the reporting planner recommended be amended as follows:

SUB-O2 Lots created by subdivision are physically suitable for ~~the types of a range of land use activities~~ **development intended and anticipated** allowed by the ~~relevant zone provisions~~ relevant rules of the District Plan.

7.3.3 The reporting planner noted that the purpose of the Policy SUB-P1 was to support the inclusion of standards for minimum and maximum lot sizes for each zone within the SUB – Subdivision chapter. It therefore provided an important link between Objective SUB-O2 and the standards. For that reason, the reporting planner did not support James Bridge’s request to delete the policy.

7.3.4 Kāinga Ora sought amendments to Policy SUB-P1 so that the policy supports subdivision of a range of lot sizes in accordance with land use consents or lawfully established activities. This could, for example, relate to seeking smaller lots associated with the subdivision of a higher density residential development that had been granted land use consent (e.g., a unit title subdivision of an existing apartment building pursuant to the Unit Titles Act 2010), or it could relate to subdividing off a parcel of land with an existing activity on it, such as a residential dwelling. In the reporting planner’s opinion, while subdividing an existing activity or building in the urban environment was unlikely to be problematic, the creation of lots around existing activities in the rural environment (such as subdividing off existing residential dwellings), may have adverse environmental effects and/or be contrary to the objectives and policies of the PDP, such as the further fragmentation of the District’s highly productive land resource.

7.3.5 The reporting planner observed that most land developers applied for a resource consent to undertake a land development that was not provided for as a permitted or Controlled Activity under the PDP provisions, would usually apply for subdivision consent at the same time. She considered this had the benefit of ensuring that all relevant matters for the development and subdivision were considered together, which could overcome unforeseen issues that could arise

later if subdivision followed the completion of the development. It also avoided the time and expense associated with lodging a separate resource consent application later.

- 7.3.6 As such, the reporting planner did not support Kāinga Ora’s request to amend the policy, as it was considered unnecessary, and the general nature of the changes requested were already captured in the amendments the reporting planner had recommended be made to Objective SUB-O2.

Policy SUB-P2

- 7.3.7 Forest & Bird (\$75.026) supported the legal and physical protection SNAs and other areas. However, they considered that this policy needed to be amended to be clear that protection of those areas, when areas around them were being subdivided, was mandatory. Forest & Bird requested that Policy P2 be amended as follows:

SUB-P2 To provide for subdivision of land to create in-situ Lifestyle Sites ~~in conjunction with the~~ **where** legal and physical protection **is provided** in perpetuity ~~of for~~ areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including Significant Natural Areas identified in ECO-SCHED5), sites and areas of significance to Māori (identified in SASM-SCHED3), and historic heritage items (identified in HH-SCHED2).

- 7.3.8 The reporting planner noted that Objective SUB-O1(2) was for subdivision of land that was consistent with the objectives and policies of the relevant zones and district-wide matters in the PDP, including those relating to the protection of SNAs, areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- 7.3.9 As part of giving effect to Objective SUB-O1, the reporting planner noted that Policy SUB-P2 was to allow the creation of in-situ Lifestyle Sites in conjunction with the legal and physical protection in perpetuity of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including SNAs identified in ECO-SCHED5). She stated that the intention of Policy SUB-P2 was to give an incentive to landowners to provide for the legal and physical protection of these areas in perpetuity.
- 7.3.10 The reporting planner also noted that Rule SUB-R7 was a method relating to Policy SUB-P2. The rule allowed the creation of one lifestyle lot in association with the creation of a Conservation Lot that protects a minimum area of 5000m² of significant indigenous vegetation and/or significant habitats of indigenous fauna (including SNAs listed in ECO-SCHED 5). A second lifestyle lot could be created under the rule if the total area of the feature to be created was 9 hectares or more. The rule stated that the whole of the feature within the Conservation Lot(s) must be physically and legally protected in perpetuity. Therefore, the reporting planner noted that the incentive provided to landowners by Rule SUB-R7 to legally and physically protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna in perpetuity was to allow them to create one or two lifestyle sites in addition to what they could otherwise do under other subdivision rules (noting that subdivision for Lifestyle Sites in the rural zones was significantly limited under the rules of the PDP).
- 7.3.11 The reporting planner concurred with Forest and Bird that the protection of these areas was generally required for any subdivision that occurs around them, and that was reflected in Objective SUB-O1 (which referred to the objectives and policies of the ECO – Ecosystems and Indigenous Biodiversity chapter). However, the reporting planner did not support Forest and Bird’s request to amend the wording of Policy SUB-P2, as she considered it would remove the intention of the policy, which was for the legal and physical protection of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna to be provided for in perpetuity, in conjunction with the creation of in-situ Lifestyle Sites.

- 7.3.12 The reporting planner did, however, consider that it would be appropriate to make a minor amendment to the policy (under I16(2) of the First Schedule of the RMA) to better reflect the intention of the policy and the method (Rule SUB-R7) that supports it, as follows:

SUB-P2 To ~~provide for~~ **allow the** subdivision of land to create **additional** in-situ Lifestyle Sites **where it is** in conjunction with the legal and physical protection in perpetuity of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including Significant Natural Areas identified in ECO-SCHED5), sites and areas of significance to Māori (identified in SASM-SCHED3), and historic heritage items (identified in HH-SCHED2).

Policy SUB-P3

- 7.3.13 Kāinga Ora requested that Policy SUB-P3 be amended to ensure provisions enabling the creation of lots were sufficiently flexible.
- 7.3.14 While the reporting planner concurred with amending the policy to include reference to ‘special purpose’ lots, she did not support the deletion of a reference to size, as the policy supported Rule SUB-R3 on subdivision for special purposes, which provided for the creation of ‘lots of any size’ for public works, network utilities, renewable electricity generation activities, reserves, roads, and access as a Controlled Activity, subject to compliance with standards. Rule SUB-R3 was also very specific about what the lots created were for, so the reporting planner did not support Kāinga Ora’s request to include the words ‘such as’, as that implied that the creation of lots for other types of special purposes was supported by the subdivision provisions.
- 7.3.15 The reporting planner considered that the wording of the policy should be amended so it aligns better with Rule SUB-R3, and supported including a reference to ‘for special purposes’, as follows:

SUB-P3 To **provide for** ~~allow~~ the creation of lots of ~~any various sizes and dimensions~~ **for special purposes** for public works, network utility operations, renewable electricity generation, reserves and access.

Policy SUB-P4

- 7.3.16 Kāinga Ora generally supported the intent of Policy SUB-P4 but requested that it be deleted and re-written in a way they consider would be clearer. Waka Kotahi supported this change. HBRC requested that the policy be amended to include ‘cyclists’. The reporting planner noted that the amendment sought by Kāinga Ora includes reference to cyclists. The reporting planner supported the amendment to the policy as sought by Kāinga Ora.

Policy SUB-P5

- 7.3.17 Kāinga Ora requested that Policy SUB-P5 be amended to include ‘accessways’ in addition to the current reference in the policy to ‘subsidiary roads’ to recognise that jointly owned access lots could assist in minimising vehicle accesses onto higher order roads. The reporting planner concurred that accessways may also be a way of avoiding an increase in the number of direct access crossings onto arterial roads for traffic safety purposes. The reporting planner therefore supported the requested amendment to the policy.

Policy SUB-P6

- 7.3.18 Chorus, Vodafone and Spark requested that Policy SUB-P6 be amended to refer to requiring all new lots or buildings to be connected to a telecommunications network, in addition to reticulated systems for water supply, wastewater and stormwater. Federated Farmers opposed this, as they note that it would be difficult for landowners/subdividers in the rural areas to achieve this, which could prevent farm subdivision. Kāinga Ora and FENZ requested that the policy be retained as notified.

- 7.3.19 The reporting planner recognised that telecommunications, including fibre broadband services, were part of infrastructure that provides for the health and safety, and economic and social wellbeing of future lot occupants, but that telecommunications networks may not be available for lots to connect to outside the urban environment. As such, the reporting planner concurred with Chorus, Vodafone and Spark that the policy should be amended to include connection to a telecommunications network, but only where one was available.
- 7.3.20 The reporting planner noted that Policy SUB-P6 did not include reference to new lots being connected to a power supply where available. The reporting planner considered that if the policy was to be amended to include telecommunications, it would seem appropriate and reasonable to amend the policy to also include connection to a power supply. The reporting planner noted that there were no submissions seeking this change, so there was no scope within submissions to make it. However, the reporting planner would invite comment from Transpower and the further submitters (Federated Farmers, Kāinga Ora and FENZ), on the merits of including it and the appropriate process for doing that.
- 7.3.21 Subject to receiving feedback from submitters, the reporting planner recommended that the policy be amended under cl16(2) of the First Schedule of the RMA as follows:

SUB-P6 To ensure upon subdivision or development, that all new lots or buildings are provided with a connection to a reticulated water supply, reticulated public sewerage system, reticulated stormwater system, **telecommunications network and power supply network**, where such adequate reticulated systems and networks are available.

Policy SUB-P7

- 7.3.22 Kāinga Ora requested that Policy SUB-P7 be amended so that alternative means of servicing only be sought where public infrastructure was not available or easily accessible for lots to connect to. FENZ did not support the amendments sought by Kāinga Ora and they offered alternative wording.
- 7.3.23 To achieve consistency with the wording of other policies, including Policy SUB-P6, the reporting planner concurred with both submitters that it would be appropriate to replace the word 'sites' with the word 'lots' and that the wording of the policy should be amended for clarification. As such, the reporting planner recommended that the policy be amended as follows:

SUB-P7 To ensure that where ~~sites~~ **new lots** are ~~not connected~~ **unable to connect** to a **reticulated** public water supply, wastewater disposal or stormwater disposal system, ~~suitable provision can be made on each lot for an alternative~~ **method of** water supply, ~~or method of wastewater disposal~~ **and/or** stormwater disposal **is provided for each lot with sufficient capacity to support development reasonably anticipated within the zone, and** which ~~can and~~ protects the health and safety of residents and ~~avoids~~ or mitigates adverse effects on the environment.

Policy SUB-P8

- 7.3.24 Kāinga Ora requested that Policy SUB-P8 be amended to recognise that character and amenity values were likely to evolve over time as household demographics change and as development occurred under the PDP provisions. Hort NZ opposed Kāinga Ora's submission, as they considered that retention of rural character was important in the rural environment, to ensure effects of subdivision did not adversely affect primary production activities.
- 7.3.25 The reporting planner noted that Policy SUB-P8 applies to subdivision broadly, across the whole District, and it was not related only to subdivision associated with development of new households. The reporting planner therefore concurs with Hort NZ that the policy also needs to be appropriate for subdivision in the rural environment, as well as in the urban environment.

- 7.3.26 The reporting planner considered that it was appropriate that subdivision design, which included the shape and size of lots, and associated earthworks, services, and location of building platforms, was undertaken in a way that was consistent with the purpose, character and amenity values supported and envisaged by the zone provisions. The reporting planner did not support the wording requested by Kāinga Ora, as subdivision design may not solely relate to a ‘planned built form’, but the reporting planner recommended that the policy be amended to better reflect what was considered its intention was, as follow:

SUB-P8 To encourage innovative subdivision design consistent with the maintenance of **purpose, character and amenity values supported and envisaged by the zone provisions.**

Policy SUB-P9

- 7.3.27 HBRC requested that Policy SUB-P9 be amended to refer specifically to ‘native’ plantings in order to improve the region’s biodiversity outcomes. Kāinga Ora requested that the wording ‘plantings’ be deleted and the words “where appropriate’ be added at the beginning of the policy.
- 7.3.28 The reporting planner noted that the purpose of the policy was ‘to encourage’ the incorporation of public open space and plantings within subdivisions generally. While it may not be so relevant or possible to provide them within small subdivisions, it may be for larger ones.
- 7.3.29 The reporting planner did not consider it was necessary to limit plantings to natives but supports including a reference to ‘particularly natives’.
- 7.3.30 The reporting planner did not support Kāinga Ora’s request to add “where appropriate’ at the beginning of the policy, as the policy simply encourages subdivisions, generally, to provide public open spaces and plantings – it was not a mandatory direction. There were no subdivision rules or standards associated with the policy, so there was no requirement for these things to be done in relation to any subdivision. Therefore, in the reporting planner’s opinion, there was no need to first consider whether it was appropriate to provide encouragement.
- 7.3.31 Given the above, the reporting planner recommended that Policy SUB-P9 be amended as follows:

SUB-P9 To encourage the incorporation of public open space and plantings **(particularly natives)** within subdivision design for amenity purposes.

Policy SUB-P10

- 7.3.32 Kāinga Ora requested that Policy SUB-P10 be re-written, including adding the qualifier ‘where appropriate’ and to reflect that new accessways and linkages may not always be possible or practicable to provide through subdivision.
- 7.3.33 HBRC requested that the policy be amended, as follows, to include the word ‘cycling’ in addition to pedestrian and amenity linkages, to reflect the CHBDC’s commitment and contribution to the Hawke’s Bay Regional Land Transport Plan (RLTP), which sought a reduction in the use of private vehicles by 20%:

SUB-P10 To provide pedestrian, **cycling** and amenity linkages where useful linkages can be achieved or further developed.

- 7.3.34 The reporting planner observed that Chapter 3.1B Managing the Built Environment, in the Hawke’s Bay RPS, included an objective, a policy and an anticipated environmental result for the region relating to transport infrastructure within development and providing good, safe connectivity within urban development areas, and to surrounding areas, by a variety of transport modes, including motor vehicles, cycling, pedestrians and public transport, and provision for easy and safe transfer between modes of transport.

7.3.35 The reporting planner therefore considered that amending Policy SUB-P10 would be consistent with giving effect to the RPS. The reporting planner generally concurred with both submitters (Kāinga Ora and HBRC), that the policy should be amended to include cycling linkages, and to recognise that it may not always be possible or practicable to provide or further develop pedestrian, cycling and amenity linkages, such as within rural zones where they do not generally exist or were needed. However, given the above objective and policies of the RPS, the reporting planner considered that the policy should do more than just encourage subdivision design that promotes connectivity and linkages. For those reasons, the reporting planner considered that the policy should be amended to read as follows:

SUB-P10 To provide **or further develop** pedestrian, **cycling** and amenity linkages **between subdivisions and their surrounding areas where it is consistent with the zone, and where opportunities exist** ~~where useful linkages can be achieved or further developed.~~

Policy SUB-P11

7.3.36 Kāinga Ora sought to amend Policy SUB-P11 to recognise that allowing some flexibility could provide opportunity for innovation in achieving improved urban development outcomes. The reporting planner concurred that the wording could be improved, but preferred the following recommended amended wording:

SUB-P11 To ensure that roads **and any vehicle access to lots** ~~provided within a subdivision~~ **are appropriately designed and constructed to allow for safe and efficient traffic movements likely to be generated from development of the lots** ~~sites are suitable for the activities likely to establish within the subdivision and are compatible with the design and construction standards of roads in the District which the site is required to be connected to.~~

Policy SUB-P12

7.3.37 Chorus, Vodafone and Spark requested that Policy SUB-P12 be amended so that it only applied to Residential Zones and Commercial and Mixed-Use Zones, as they considered that undergrounding of reticulation of energy and telecommunication lines to protect visual amenities was inefficient in less visually sensitive areas.

7.3.38 Centralines requested that the policy be amended so that it only applied where undergrounding of electricity distribution infrastructure was technically and commercial feasible, so there was room for flexibility. They advised that there was a high cost to underground electricity distribution infrastructure in rural areas, and only 6.8% of their infrastructure was underground.

7.3.39 Kāinga Ora requested deletion of the words ‘physical effects’ in the policy and for the policy to ‘promote’ underground reticulation. They also requested deletion of the words ‘in order to protect the visual amenities of the area’.

7.3.40 The reporting planner noted that Policy NU-P4 in the NU – Network Utilities chapter encouraged the undergrounding of appropriate network utilities in new areas of development within the General Residential, Rural Lifestyle, Large Lot Residential and Settlement Zones and the systematic replacement of existing overhead services with underground reticulation where it was technically and commercially viable, as follows:

NU-P4 Manage the effects of network utilities on the environment by:
 [...]

3. encouraging the progressive undergrounding of appropriate network utilities in new areas of development within the General Residential, Rural Lifestyle, Large Lot Residential and Settlement Zones and the systematic replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services within these areas, where this is technically and commercially viable;

 [...]

- 7.3.41 The reporting planner, however, considered that Policy SUB-P12 did not align well with Policy NU-P4, and as the matter of undergrounding of network utilities was already addressed in Policy NU-P4, the reporting planner considered that Policy SUB-P12 should be deleted, as it was unnecessary. She considered that Policy NU-P4 also better aligned with the amendments that the submitters had requested be made to Policy SUB-P12.

Policy SUB-P13

- 7.3.42 Kāinga Ora requested that Policy SUB-P13 be amended to reflect that subdivision in areas of natural hazards may be appropriate where mitigation was proposed. FENZ requested that the policy be retained as notified.
- 7.3.43 As already discussed above, the reporting planner considered that there was no need to differentiate between vacant and non-vacant lot subdivision. The reporting planner also had recommended earlier that Objective SUB-O5 be amended in response to submissions, as follows:

SUB-O5 Avoidance of subdivision in localities where there is a significant risk of material damage from natural hazards on land or structures, including in relation to any likely subsequent use of the land, unless these can that cannot be remedied or mitigated ~~without significant adverse effects on the environment.~~

- 7.3.44 The reporting planner considered that Policy SUB-P13 as notified, was consistent with Objective SUB-O5 (as it was recommended it be amended), and considered that Policy SUB-P13 should be retained, as notified, as follows:

SUB-P13 To ensure that land being subdivided, including any potential structure on that land, is not subject to significant risk of material damage by the effects of natural hazards, including flooding, inundation, erosion, subsidence or slippage and earthquake faults.

Policy SUB-P14

- 7.3.45 Forest and Bird requested that Policy SUB-P14 be amended so that all adverse effects were avoided. Kāinga Ora requested that the policy be deleted, as they considered it was more appropriately suited to land use provisions than subdivision.
- 7.3.46 The reporting planner noted that the intention of Policy SUB-P14 was to recognise that effects of mitigation measures used to manage significant risk from natural hazard may themselves have significant adverse environmental effects. For example, the filling of land which may interfere with the functioning of natural flood plains and ponding areas. Under the 'Rules' heading of the Subdivision chapter, the following was stated:

Rules

It is important to note that in addition to the provisions in this chapter, zone chapters and a number of other Part 2: District-Wide Matters chapters also contain provisions that may be relevant for certain subdivisions, including TRAN – Transport, HH – Historic Heritage, ECO – Ecosystems & Indigenous Biodiversity, and PA – Public Access.

In particular, earthworks facilitating provision of access and building platforms have the potential to result in adverse effects and are to be managed. Provisions relating to earthworks are contained in the EW – Earthworks chapter and may generate a requirement for land use consent.

- 7.3.47 The reporting planner stated that it was clear that provisions of other chapters of the PDP relating to land use activities, including earthworks, that may be required to mitigate natural hazard risks for subdivisions, would apply. Given this, the reporting planner was satisfied that Policy SUB-P14 was not necessary and should be deleted, as any potential adverse environmental effects associated with those activities would be addressed under the provisions of other PDP chapters.

Policy SUB-P15

- 7.3.48 Policy SUB-P15 was to ensure that earthworks associated with constructing vehicle access, building platforms or services on land being subdivided did not detract from the visual amenities of the area or have significant adverse environmental effects, such as dust, or result in the modification, damage or destruction of heritage items, archaeological sites or sites and areas of significance to Māori, cause natural hazards, or increase the risk of natural hazards occurring.
- 7.3.49 HNZPT supported Policy SUB-P15 while Kāinga Ora requested that it be amended to refer to 'result in adverse visual effects' rather than 'detract from the visual amenities of the area'.
- 7.3.50 For the same reasons the reporting planner has given above in relation to her recommendation to delete Policy SUB-P14, the reporting planner considered that Policy SUB-P15 should also be deleted, as any adverse effects associated with earthworks for subdivisions would be addressed under the rules and standards of the EW – Earthworks chapter, as well as other chapters (e.g. HH – Historic Heritage, ECO – Ecosystems & Indigenous Biodiversity, and NH – Natural Hazards) and it was therefore unnecessary.

Policy SUB-P16

- 7.3.51 Policy SUB-P16 was to avoid where practicable, or otherwise mitigate, potential reverse sensitivity effects of sensitive activities (particularly residential and lifestyle development) established near primary production or industrial activities and existing public works. Hort NZ requested that the policy be retained as notified, but Silver Fern Farms and Pork Industry Board requested that it be amended to include reference to 'rural industry' and 'intensive primary production activities', respectively. Kāinga Ora requested that the policy be deleted as they considered reverse sensitivity related to land use activity and should be managed through the relevant zone provisions.
- 7.3.52 The reporting planner concurred with Kāinga Ora that subdivision itself did not have reverse sensitivity effects, as it was the establishment of sensitive land use activities on lots created by subdivisions that could have potential reverse sensitivity effects on existing, lawfully established activities located near them.
- 7.3.53 The reporting planner observed that Policy SUB-P16 relates to Objective SUB-O4 (discussed earlier in this report), Rules SUB-R5 and SUB-R7, and Assessment Matters SUB-AM11, SUB-AM12 and SUB-AM13, which relate to reverse sensitivity effects of subdivision and the future land use activities resulting from it on existing lawfully established activities, where new lots were created in the Rural Lifestyle Zone and Lifestyle Sites in the General Rural Zone and Rural Production Zone, including where they adjoin any sites used for existing horticultural or intensive primary production activities. She also noted that Policy SUB-P16 also relates to Rules SUB-R1, R3, R4, R5, R6 and R7 and Assessment Matters SUB-AM7, SUB-AM17 and SUB-AM18, in relation to subdivision to create new lots within 100m of the State Highway Network, and subdivisions with building platforms and/or vehicle access within the National Grid Subdivision Corridor and/or in proximity of the Gas Transmission Network.
- 7.3.54 The reporting planner considered that Policy SUB-P16 (as well as Objective SUB-O4) was important to give effect to Objective OBJ 16 of the RPS, which was for future activities to avoid or mitigate off-site impacts or nuisance effects arising from the location of conflicting land use activities.
- 7.3.55 The reporting planner also supported the reasons given by Silver Fern Farms (FS8.037) for retaining Policy SUB-P16, insofar as subdivision influences land uses on new lots and it was a convenient point to address potential reverse sensitivity effects associated with intensification and land use change from sensitive activities establishing near existing lawfully established

activities. She stated that it could be difficult to impose effective controls later, after a subdivision has been consented, particularly if sensitive activities (e.g. residential activities) were allowed to establish on the new lots as a permitted activity. The reporting planner concurred with Silver Fern Farms that there were measures that could be applied at the subdivision consent stage to mitigate potential reverse sensitivity effects, such as consideration of subdivision density, lot size and configuration, the location of building platforms in relation to lot boundaries, and various other matters that may be subject to consent notices registered under s221 of the RMA.

- 7.3.56 Given these reasons, the reporting planner did not support Kāinga Ora's request to delete Policy SUB-P16.
- 7.3.57 Silver Fern Farms requested that the policy be amended to include reference to 'rural industry', in addition to primary production, industrial activities and existing public works. The reporting planner noted that there was no definition of rural industry in the PDP, but Silver Fern Farms had requested (submission point S116.004, relevant to the Rural Environment under Hearing Stream 3) that a new definition of 'rural industry' be added to the PDP.
- 7.3.58 While 'rural industry' was captured under the wider definition of 'industrial activity', the reporting planner considered that amending Policy SUB-P16 to include reference to it would provide further clarification for plan users (given its broader reference business undertaken in the rural environment, which could include contractor and service depots, as well as industry). Its inclusion she considered would also reflect amendments recommended to be made to some Assessment Matters in the Subdivision chapter by the Reporting Officer in response to submissions for Hearing Stream 3: Rural Topic.
- 7.3.59 As Kāinga Ora has requested the deletion of Policy SUB-P16 in its entirety, the reporting planner considered that there was scope to amend the policy by replacing the words 'public works' with the words 'network utilities'.
- 7.3.60 On the basis of the above, the reporting planner recommended that Policy SUB-P16 be amended as follows:

SUB-P16	To avoid where practicable, or otherwise mitigate, potential reverse sensitivity effects of sensitive activities (particularly residential and lifestyle development) establishing near existing primary production activities (including intensive primary production activities), rural industries, or industrial activities and/or existing public works network utilities.
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Policy SUB-P17

- 7.3.61 Centralines supported Policy SUB-P17 but requested that the reference to 'regionally significant infrastructure' in the policy be replaced with the following definition for 'regionally significant infrastructure' or 'strategic infrastructure':
- Regionally Significant Infrastructure / Strategic Infrastructure:**
[...] the electricity transmission network and electricity distribution networks;
[...] renewable electricity generation activities.
- 7.3.62 Hort NZ supported in part Centralines' submission point but requested that 'regionally significant infrastructure' be replaced with the definition of 'strategic infrastructure' from the RPS.
- 7.3.63 The reporting planner noted that the PDP did not include any definition of 'Regionally Significant Infrastructure', which was referred to in Policy SUB-P17, but it includes the definition of 'Nationally Significant Infrastructure' [these two terms were also the subject of consideration in our report on Hearing Stream 7, Network Utilities].
- 7.3.64 In addition to the reference to 'regionally significant infrastructure' in Policy SUB-P17, the reporting planner noted there was a reference in the PDP to 'nationally significant infrastructure'

in Policy ECO-P9 in the ECO – Ecosystems and Indigenous Biodiversity chapter. There was reference to ‘regionally significant infrastructure’ in Policy SUB-P18 (discussed below) and there were also references to ‘regionally and nationally significant infrastructure’ in Assessment Matters NFL-AM2 and CE-AM2, in the NFL – National Features and Landscapes chapter and the CE – Coastal Environment chapter respectively.

- 7.3.65 The reporting planner noted that there was no definition of ‘regionally significant infrastructure’, ‘nationally significant infrastructure’, ‘strategic infrastructure’, or ‘infrastructure’ in the National Planning Standards.
- 7.3.66 Centralines and Hort NZ did not request that the definition of ‘nationally significant infrastructure’ in the PDP be amended. Rather, they sought the inclusion of a new definition of ‘regionally significant infrastructure’ or ‘strategic infrastructure’.
- 7.3.67 The reporting planner noted the RPS definition of ‘strategic infrastructure’ was much broader than the definition of ‘nationally significant infrastructure’ in the PDP. The RPS definition includes ‘strategic transport networks’, ‘strategic telecommunications and radiocommunications facilities’ and ‘other strategic network utilities’. Only ‘strategic transport networks’ was defined in the RPS.
- 7.3.68 The reporting planner pointed out that Policy ECO-P9 referred specifically to the definition of ‘nationally significant infrastructure’. There were submissions from the Department of Conservation, NHMT, Transpower and Forest and Bird requesting that this policy be retained as notified, and there were no submissions requesting amendment or deletion of Policy ECO-P9 (as outlined in the Natural Environment - Ecosystems & Indigenous Biodiversity s42A report, dated 31 January 2022). For that reason, the reporting planner considered that it was appropriate to retain the definition of ‘nationally significant infrastructure’.
- 7.3.69 The reporting planner also noted that the RPS definition of ‘strategic infrastructure’ includes some infrastructure that was not located within the CHB District (for example, Hawke’s Bay Regional Airport, Port of Napier and the Omarunui Regional Landfill) and was therefore not relevant to regional infrastructure in the CHB District context.
- 7.3.70 If the definition of ‘nationally significant infrastructure’ was retained, the reporting planner considered it appropriate that a new definition of ‘regionally significant infrastructure’ be included in the Part 01B – Interpretation chapter of the PDP. That would, in the reporting planner’s opinion, have the benefit of overcoming the need to amend the wording in Assessment Matters NFL-AM2 and CE-AM2, it would align with the wording in Policies SUB-P17 and SUB-P18, and it would provide a definition that was more tailored to the District, while being consistent with the RPS definition. The reporting planner considered that the new definition should read as follows:

<u>REGIONALLY SIGNIFICANT INFRASTRUCTURE</u>	<p><u>means necessary services and installations which are of greater than local significance, including:</u></p> <ul style="list-style-type: none"> (a) <u>transport networks of regional significance, including State Highways and arterial roads (as defined in the District Plan, the Regional Land Transport Strategy and the State Highway Classification System), and the rail network;</u> (b) <u>the electricity transmission network and electricity distribution networks;</u> (c) <u>strategic telecommunications and radiocommunications facilities</u> (d) <u>public or community renewable electricity generation activities;</u> (e) <u>pipelines and gas facilities used for the transmission and distribution of natural and manufactured gas;</u> (f) <u>public or community sewage treatment plants and associated reticulation and disposal systems;</u> (g) <u>public water supply intakes, treatment plants and distributions systems;</u> (h) <u>public or community rural water storage infrastructure, including distribution systems;</u> (i) <u>public or community drainage systems, including stormwater systems;</u> (j) <u>flood protection schemes;</u> (k) <u>any railway (as defined in the Railways Act 2005).</u>
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7.3.71 In response to Transpower submission points S79.074 and S79.075 under Key Issue 1: National Grid Subdivision Corridor and Gas Transmission Network, the reporting planner recommended that Policy SUB-P17 be amended.

Policy SUB-P18

7.3.72 Waka Kotahi requested that Policy SUB-P18 be retained as notified. Kāinga Ora requested that the policy be amended by deleting the word ‘that’ and replacing ‘affect’ with ‘result in significant adverse effects on’, in relation to the maintenance, operation and upgrading of regionally significant infrastructure and other network utilities. Waka Kotahi (FS16.31) supported Kāinga Ora’s submission as it considered that the threshold test in this policy should be reconsidered.

7.3.73 In response to Transpower submission points S79.074 and S79.075 under Key Issue 1: National Grid Subdivision Corridor and Gas Transmission Network, the reporting planner recommended that Policy SUB-P18 be deleted, on the basis of changes recommended to be made to Policy SUB-P17 in response to those submission points.

7.4 Evidence to the hearing

7.4.1 Pauline Whitney provided planning evidence on behalf of Transpower at the hearing and recommended amendments to the policies.

7.4.2 Tom Anderson provided planning evidence on behalf of Chorus, Spark and Vodafone at the hearing and sought amendments to some policies.

7.4.3 Michael Campbell provided planning evidence on behalf of Kāinga Ora at the hearing and sought amendment to the policies.

7.4.4 Steve Tuck provided evidence on behalf of Silver Fern Farms at the hearing, generally in support of the s42A recommendations.

7.5 Post hearing information

7.5.1 The reporting planner’s right-of-reply addressed Policy SUB-P1 and Policy SUB-P8 which were opposed by Kāinga Ora. The reporting planner did not change their position and did not support the amendments to Policy SUB-P1 and SUB-P8.

7.5.2 The right-of reply addressed Policy SUB-P10, and on reflection the reporting planner changed her position and recommended amending Policy SUB-P10 to read:

SUB-P10 To provide or further develop pedestrian, cycling and amenity linkages between subdivisions and their surrounding areas where it is consistent with the objective and policies of the zone, and where opportunities exist where useful linkages can be achieved or further developed.

7.5.3 Policy SUB-P17 was also addressed in the right-of-reply and the reporting planner agreed with the submission from Chorus, Spark and Vodafone and changed her position and recommended that clause (c) of the definition of Regionally Significant Infrastructure be amended as follows:

REGIONALLY SIGNIFICANT INFRASTRUCTURE	<p>means necessary services and installations which are of greater than local significance, including:</p> <p>(a) transport networks of regional significance, including State Highways and arterial roads (as defined in the District Plan, the Regional Land Transport Strategy and the State Highway Classification System), and the rail network;</p> <p>(b) the electricity transmission network and electricity distribution networks;</p> <p>(c) strategic telecommunications and radiocommunications facilities</p> <p>[...]</p>
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7.6 Evaluation and findings

Policy SUB-P1

7.6.1 The purpose of the Policy SUB-P1 is to support the inclusion of standards for minimum and maximum lot sizes for each zone within the SUB – Subdivision chapter. It therefore provides an important link between Objective SUB-O2 and the standards. For that reason, the Panel agrees with the reporting planner in not supporting Mr James Bridge’s request to delete the policy. Kāinga Ora sought amendments to Policy SUB-P1 so that the policy supports subdivision of a range of lot sizes in accordance with land use consents or lawfully established activities. The Panel agrees in part with Kāinga Ora and recommends the policy be amended as follows:

SUB-P1 To establish standards for minimum lot sizes for each zone in the District to deliver lots that are of an appropriate size and shape to accommodate those activities reasonably anticipated within the zone, and to provide for a range of lot sizes.

Policy SUB-P2

7.6.2 Forest & Bird (S75.026) supported the legal and physical protection of SNAs, sites of significance to Māori, and historic heritage items. However, they consider that this policy needs to be amended to be clear that protection of these areas when areas around them are being subdivided, is mandatory

7.6.3 The Panel agrees with the reporting planner that the protection of these areas is generally required for any subdivision that occurs around them, and that is reflected in Objective SUB-O1 (which refers to the objectives and policies of the ECO – Ecosystems and Indigenous Biodiversity chapter). However, the Panel does not support Forest and Bird’s request to amend the wording of Policy SUB-P2, as it would remove the intention of the policy, which is for the legal and physical

protection of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna to be provided for in perpetuity, in conjunction with the creation of in-situ Lifestyle Sites.

7.6.4 The Panel does, however, consider that it would be appropriate to make a minor amendment to the policy (under cl16(2) of the First Schedule of the RMA) to better reflect the intention of the policy and the method (Rule SUB-R7) that supports it, as follows:

SUB-P2 To ~~provide for~~ **allow the** subdivision of land to create in-situ Lifestyle Sites **where it is** in conjunction with the legal and physical protection in perpetuity of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including Significant Natural Areas identified in ECO-SCHED5), sites and areas of significance to Māori (identified in SASM-SCHED3), and historic heritage items (identified in HH-SCHED2).

7.6.5 The Panel consider the effect of the introduction of the NPS-HPL (which came into force on 17 October 2022) in regard to Policy SUB-P2, noting that Policy 6 of the NPS: “The rezoning and development of highly productive land as rural lifestyle is avoided, except as provided in this National Policy Statement.” On this matter, the Panel was grateful for the advice of the Council’s legal counsel, Ms Davidson, who provides overarching legal advice on the implications of the NPS for the PDP process in her memorandum dated 9 November 2022.

7.6.6 Prima facie, Policy SUB-P2 does not appear consistent with Policy 6 of the NPS-HPL and its associated policies, 3.7 and 3.10. We observe, however, that, firstly, Policy SUB-P2 does not result in the rezoning of highly productive land for rural lifestyle purposes: it simply leads to the potential for a lifestyle lot subdivision within the RPROZ and GRUZ if undertaken in parallel with the protection of significant indigenous biodiversity on land. Secondly, we took into account that Policy 3.9 of the NPS provides for a limited range of exceptions to where the use or development of highly productive land is inappropriate, including where –

- (c) it is, or is for a purpose associated with, a matter of national importance under s6 of the Act: ...
- (e) it is for the purpose of protecting, maintaining, restoring, or enhancing indigenous biodiversity.

7.6.7 The purpose of Policy SUB-P2 is to incentivise the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, which is in accordance with s6(c) as a matter of national importance, and consistent with the purpose of protecting, maintaining, restoring, or enhancing indigenous biodiversity.

7.6.8 On this aspect, Ms Davidson advised as follows:

(c) Provision for creation of lifestyle sites in conjunction with creation of a conservation lot does not appear to be consistent with the NPS-HPL. Conservation lots are essentially a trade-off between protecting significant natural areas or heritage items and allowing development of lifestyle lots not otherwise provided for. The NPS allows for ‘use or development’ where it is for the purpose of protecting, maintaining etc biodiversity or is otherwise associated with a matter of national importance under s 6 RMA, but the same does not apply for subdivision. As no submitter sought deletion or significant tightening of the conservation lot rules, there is no scope to address this apparent inconsistency now, but it does provide additional reasons to reject submissions seeking to provide for additional lots (e.g., The Surveying Company, S50.010). [paragraph 30]

7.6.9 Taking these points into account, we find that Policy SUB-P2 does not appear to be inconsistent with the direction of the NPS-HPL in regard to subdivision for rural lifestyle purposes in the RPROZ where it is undertaken to promote the protection of significant indigenous biodiversity. We also observe that there is no scope to delete or tighten this Policy as no submitter sought such changes.

Policy SUB-P3

- 7.6.10 Kāinga Ora requested that Policy SUB-P3 be amended to ensure provisions enabling the creation of lots are sufficiently flexible.
- 7.6.11 While the Panel concurs with amending the policy to include reference to ‘special purpose’ lots, the Panel does not support the deletion of a reference to size, as the policy supports Rule SUB-R3 on subdivision for special purposes, which provides for the creation of ‘lots of any size’ for public works, network utilities, renewable electricity generation activities, reserves, roads, and access as a Controlled Activity, subject to compliance with standards.
- 7.6.12 The Panel considers that the wording of the policy should be amended so it aligns better with Rule SUB-R3, and support including a reference to ‘for special purposes’, as follows:

SUB-P3 To ~~provide for~~ allow the creation of lots of ~~any various sizes and dimensions~~ for special purposes for public works, network utility operations, renewable electricity generation, reserves and access.

Policy SUB-P4

- 7.6.13 Kāinga Ora generally supported the intent of Policy SUB-P4 but requested that it be deleted and re-written in a way they consider will be clearer. Waka Kotahi supported this change. HBRC requested that the policy be amended to include cyclists. The Panel supports the amendment to the policy as sought by Kāinga Ora but considers the wording be amended as follows:

SUB-P4 To integrate subdivision with the existing land transport network in an efficient manner ~~which reflects expected traffic levels and the safe and convenient management of vehicles and pedestrians that~~ provides for the safety and convenience of vehicles, cyclists and pedestrians.

Policy SUB-P5

- 7.6.14 Kāinga Ora requested that Policy SUB-P5 be amended to include ‘accessways’ in addition to the current reference in the policy to ‘subsidiary roads’ to recognise that jointly owned access lots can assist in minimising vehicle accesses onto higher order roads. The Panel concurs that accessways may also be a way of avoiding an increase in the number of direct access crossings onto arterial roads for traffic safety purposes. The Panel therefore supports the requested amendment to the policy.

Policy SUB-P6

- 7.6.15 Chorus, Vodafone and Spark requested that Policy SUB-P6 be amended to refer to requiring all new lots or buildings to be connected to a telecommunications network, in addition to reticulated systems for water supply, wastewater and stormwater. Federated Farmers opposed this, as they note that it will be difficult for landowners/subdividers in the rural areas to achieve this, which could prevent farm subdivision. Kāinga Ora and FENZ requested that the policy be retained as notified.
- 7.6.16 The Panel agrees with the telecommunication submitters and the reporting planner that telecommunications, including fibre broadband services, are part of infrastructure that provides for the health and safety, and economic and social wellbeing of future lot occupants, but that telecommunications networks may not be available for lots to connect to outside the urban environment. The Panel also agrees with the reporting planner that the supply of power is also an importance service. However, in terms of telecommunications, there are options where future lot owners need not physically connect with a telecommunications network, but could connect via other means. The Panel considers this should be a market driven choice, left to future lot owners to determine. In regard to power supply, the Panel does not consider there is scope to include reference to power supply in this policy, as no submitter sought this

amendment, and it could not be considered to be a minor correction under cl16 of Schedule 1 RMA.

- 7.6.17 For these reasons, the Panel recommends that the wording of policy SUB-P6 be unchanged from as notified as follows:

SUB-P6 To ensure upon subdivision or development, that all new lots or buildings are provided with a connection to a reticulated water supply, reticulated public sewerage system, reticulated stormwater system, where such adequate reticulated systems and networks are available.

Policy SUB-P7

- 7.6.18 Kāinga Ora requested that Policy SUB-P7 be amended so that alternative means of servicing only be sought where public infrastructure was not available or easily accessible for lots to connect to. FENZ did not support the amendments sought by Kāinga Ora and they offered alternative wording.
- 7.6.19 To achieve consistency with the wording of other policies, including Policy SUB-P6, the Panel concurs with both submitters that it would be appropriate to replace the word 'sites' with the word 'lots' and that the wording of the policy should be amended for clarification. The Panel also agrees that the policy can be simplified, and recommends that the policy be amended as follows:

SUB-P7 To ensure **an alternative method of water supply, wastewater disposal and stormwater disposal is provided for each new lot, where they are unable to connect to reticulated supplies or disposal systems** ~~that where sites new lots are not connected unable to connect to a reticulated public water supply, wastewater disposal or stormwater disposal system, suitable provision can be made on each lot for an alternative method of water supply, or method of wastewater disposal and/or stormwater disposal is provided for each lot with sufficient capacity to support development reasonably anticipated within the zone, and which can and protects the health and safety of residents and avoids or mitigates adverse effects on the environment.~~

Policy SUB-P8

- 7.6.20 Kāinga Ora requested that Policy SUB-P8 be amended to recognise that character and amenity values are likely to evolve over time as household demographics change and as development occurs under the PDP provisions. Hort NZ opposed Kāinga Ora's submission, as they considered that retention of rural character is important in the rural environment to ensure effects of subdivision do not adversely affect primary production activities.
- 7.6.21 The Panel considers that it is appropriate that subdivision design, which includes the shape and size of lots, and associated earthworks, services, and location of building platforms is undertaken in a way that is consistent with the purpose, character and amenity values supported and envisaged by the zone provisions. The Panel does not support the wording requested by Kāinga Ora, as subdivision design is not solely related to a 'planned built form'. The Panel also considers that the word 'innovative' should be deleted as it does not add anything and is not mentioned elsewhere in the PDP. The Panel recommends that the policy be amended to better reflect what is considered its intention is, as follow:

SUB-P8 To encourage ~~innovative~~ subdivision design consistent with the ~~maintenance of~~ **purpose, character and amenity values supported and envisaged by of the zone provisions.**

Policy SUB-P9

- 7.6.22 HBRC requested that Policy SUB-P9 be amended to refer specifically to 'native' plantings in order to improve the region's biodiversity outcomes, while Kāinga Ora requested that the wording 'plantings' be deleted and the words "where appropriate" be added at the beginning of the policy.

- 7.6.23 The Panel agrees with the reporting planner and does not consider it is necessary to limit plantings to natives, but supports including a reference to ‘particularly natives’.
- 7.6.24 The Panel also agrees with the reporting planner in not supporting Kāinga Ora’s request to add “where appropriate’ at the beginning of the policy, as the policy simply encourages subdivisions, generally, to provide public open spaces and plantings. There are no subdivision rules or standards associated with the policy, so there is no requirement for these things to be done in relation to any subdivision.
- 7.6.25 Given the above, the Panel agrees with the reporting planner and recommends that Policy SUB-P9 be amended as follows:

SUB-P9 To encourage the incorporation of public open space and plantings **(particularly natives)** within subdivision design for amenity purposes.

Policy SUB-P10

- 7.6.26 Kāinga Ora requested that Policy SUB-P10 be re-written, including adding the qualifier ‘where appropriate’ and to reflect that new accessways and linkages may not always be possible or practicable to provide through subdivision.
- 7.6.27 HBRC requested that the policy only be amended, as follows, to include the word ‘cycling’ in addition to pedestrian and amenity linkages, to reflect the CHBDC’s commitment and contribution to the Hawke’s Bay Regional Land Transport Plan (RLTP), which seeks a reduction in the use of private vehicles by 20%.
- 7.6.28 The Panel agrees with the reporting planner and considers that Policy SUB-P10 is largely consistent with giving effect to the RPS. The Panel agrees with the reporting planner that the policy should be amended to include cycling linkages, and to recognise that it may not always be possible or practicable to provide or further develop pedestrian, cycling and amenity linkages, such as within rural zones where they do not generally exist or are needed. The Panel considers that the policy should be amended as follows:

SUB-P10 To provide **or further develop** pedestrian, **cycling** and amenity linkages **between subdivisions and their surrounding areas where it is consistent with the zone, and where opportunities exist** ~~where useful linkages can be achieved or further developed.~~

Policy SUB-P11

- 7.6.29 Kāinga Ora sought to amend Policy SUB-P11 to recognise that allowing some flexibility could provide opportunity for innovation in achieving improved urban development outcomes. The Panel concurs that the wording could be improved, but prefer the following amended wording:

SUB-P11 To ensure that roads **and any vehicle access to lots** ~~provided within a subdivision~~ **are appropriately designed and constructed to allow for safe and efficient traffic movements** ~~sites are suitable for the activities likely to establish within the subdivision and are compatible with the design and construction standards of roads in the District which the site is required to be connected to.~~

Policy SUB-P12

- 7.6.30 Chorus, Vodafone and Spark requested that Policy SUB-P12 be amended so that it only applies to Residential Zones and Commercial and Mixed-Use Zones (that is, urban zones), as they consider that undergrounding of reticulation of energy and telecommunication lines to protect visual amenities is inefficient in less visually sensitive areas.
- 7.6.31 Centralines requested that the policy be amended so that it only applies where undergrounding of electricity distribution infrastructure is technically and commercially feasible, so there is room

for flexibility. They advise that there is a high cost to underground electricity distribution infrastructure in rural areas, and only 6.8% of their existing infrastructure is underground.

- 7.6.32 Kāinga Ora requested deletion of the words ‘physical effects’ in the policy and for the policy to ‘promote’ underground reticulation. They also requested deletion of the words ‘in order to protect the visual amenities of the area’.
- 7.6.33 The Panel agrees with the reporting planner and considers that Policy SUB-P12 does not align well with Policy NU-P4, and, as the matter of undergrounding of network utilities is already addressed in Policy NU-P4, the Panel agrees that Policy SUB-P12 should be deleted, as it is unnecessary. Policy NU-P4 also better aligns with the amendments that the submitters have requested be made to Policy SUB-P12.

Policy SUB-P13

- 7.6.34 Kāinga Ora requested that Policy SUB-P13 be amended to reflect that subdivision in areas of natural hazards may be appropriate where mitigation is proposed. FENZ requested that the policy be retained as notified.
- 7.6.35 The Panel agrees with the reporting planner and considers that Policy SUB-P13 as notified, is consistent with Objective SUB-O5 (as recommended it be amended), and considers that Policy SUB-P13 should be retained, as notified.

Policy SUB-P14

- 7.6.36 Forest and Bird requested that Policy SUB-P14 be amended so that all adverse effects are avoided. Kāinga Ora requested that the policy be deleted, as it considered it is more appropriately suited to land use provisions than subdivision.
- 7.6.37 The intention of Policy SUB-P14 is to recognise that effects of mitigation measures used to manage significant risk from natural hazard may themselves have significant adverse environmental effects. The Panel considers that it is clear that provisions of other chapters of the PDP relating to land use activities, including earthworks, that may be required to mitigate natural hazard risks for subdivisions, will apply. Given this, the Panel agrees with the reporting planner and is satisfied that Policy SUB-P14 is not necessary and should be deleted, as any potential adverse environmental effects associated with those activities will be addressed under the provisions of other PDP chapters.

Policy SUB-P15

- 7.6.38 Policy SUB-P15 is to ensure that earthworks associated with constructing vehicle access, building platforms or services on land being subdivided does not detract from the visual amenities of the area or have significant adverse environmental effects, such as dust, or result in the modification, damage or destruction of heritage items, archaeological sites or sites and areas of significance to Māori, cause natural hazards, or increase the risk of natural hazards occurring.
- 7.6.39 For the same reasons as the Panel has given above in relation to the recommendation to delete Policy SUB-P14, the Panel agrees with the reporting planner and considers that Policy SUB-P15 should also be deleted, as any adverse effects associated with earthworks for subdivisions will be addressed under the rules and standards of the EW – Earthworks chapter, as well as other chapters (e.g. HH – Historic Heritage, ECO – Ecosystems & Indigenous Biodiversity, and NH – Natural Hazards) and it is therefore unnecessary.

Policy SUB-P16

- 7.6.40 Policy SUB-P16 is to avoid where practicable, or otherwise mitigate, potential reverse sensitivity effects of sensitive activities (particularly residential and lifestyle development) establishing near primary production or industrial activities and existing public works. Hort NZ requested that the policy be retained as notified, but Silver Fern Farms and Pork Industry Board requested that it be amended to include reference to 'rural industry' and 'intensive primary production activities', respectively. Kāinga Ora requested that the policy be deleted as they consider reverse sensitivity relates to land use activity and should be managed through the relevant zone provisions.
- 7.6.41 The Panel agrees with the reporting planner that the policy could benefit with some additional clarification, and recommends that Policy SUB-P16 be amended as follows:

SUB-P16 To avoid where practicable, or otherwise mitigate, potential reverse sensitivity effects of sensitive activities (particularly residential and lifestyle development) establishing near **existing** primary production **activities (including intensive primary production activities), rural industries,** ~~or~~ industrial activities and ~~/or~~ existing ~~public works~~ **network utilities.**

Policy SUB-P17

- 7.6.42 Centralines supported Policy SUB-P17 but requested that the reference to 'regionally significant infrastructure' in the policy be replaced with the following definition for 'regionally significant infrastructure' or 'strategic infrastructure':
- Regionally Significant Infrastructure / Strategic Infrastructure:**
[...] the electricity transmission network and electricity distribution networks;
[...] renewable electricity generation activities.
- 7.6.43 The PDP does not include any definition of 'Regionally Significant Infrastructure', which is referred to in Policy SUB-P17, but it includes the definition of 'Nationally Significant Infrastructure'.
- 7.6.44 The reporting planner noted that there is no definition of 'regionally significant infrastructure', 'nationally significant infrastructure', 'strategic infrastructure', or 'infrastructure' in the National Planning Standards.
- 7.6.45 In our report on Hearing Stream 7, the Panel agrees that the definition of 'nationally significant infrastructure' should be retained. On that basis, the Panel agrees with the reporting planner and considers it appropriate that a new definition of 'regionally significant infrastructure' be included in the Part 01B – Interpretation chapter of the PDP. That would, have the benefit of overcoming the need to amend the wording in Assessment Matters NFL-AM2 and CE-AM2, it would align with the wording in Policies SUB-P17 and SUB-P18, and it would provide a definition that is more tailored to the District, while being consistent with the RPS definition. The Panel agrees with the reporting planner considers that the new definition should read as follows:

<u>REGIONALLY SIGNIFICANT INFRASTRUCTURE</u>	<p><u>means necessary services and installations which are of greater than local significance, including:</u></p> <ul style="list-style-type: none"> (l) <u>transport networks of regional significance, including State Highways and arterial roads (as defined in the District Plan, the Regional Land Transport Strategy and the State Highway Classification System), and the rail network;</u> (m) <u>the electricity transmission network and electricity distribution networks;</u> (n) <u>telecommunications and radiocommunications facilities</u> (o) <u>public or community renewable electricity generation activities;</u> (p) <u>pipelines and gas facilities used for the transmission and distribution of natural and manufactured gas;</u> (q) <u>public or community sewage treatment plants and associated reticulation and disposal systems;</u> (r) <u>public water supply intakes, treatment plants and distributions systems;</u> (s) <u>public or community rural water storage infrastructure, including distribution systems;</u> (t) <u>public or community drainage systems, including stormwater systems;</u> (u) <u>flood protection schemes;</u> (v) <u>any railway (as defined in the Railways Act 2005).</u>
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7.6.46 In response to Transpower submission points S79.074 and S79.075 under Key Issue 1: National Grid Subdivision Corridor and Gas Transmission Network, the Panel agrees with the reporting planner and recommends that Policy SUB-P17 be amended.

Policy SUB-P18

7.6.47 Waka Kotahi requested that Policy SUB-P18 be retained as notified. Kāinga Ora requested that the policy be amended by deleting the word ‘that’ and replacing ‘affect’ with ‘result in significant adverse effects on’, in relation to the maintenance, operation and upgrading of regionally significant infrastructure and other network utilities. Waka Kotahi (FS16.31) supported Kāinga Ora’s submission as they consider that the threshold test in this policy should be reconsidered.

7.6.48 In response to Transpower submission points S79.074 and S79.075 under Key Issue 1: National Grid Subdivision Corridor and Gas Transmission Network, the Panel agrees with the reporting planner and has recommended that Policy SUB-P18 be deleted, on the basis of changes it is recommended be made to Policy SUB-P17 in response to those submission points.

8 Key Issue 7 – Rules

8.1 Proposed plan provisions

8.1.1 This key issue addresses the Subdivision rules.

8.2 Submissions

8.2.1 There were 26 submission points and 13 further submission points which sought to retain or amend rules in the PDP.

8.3 Reporting planner's recommendations (s42A report)

General

8.3.1 Forest and Bird (S75.028) opposed all rules in the SUB - Subdivision chapter, as they considered them too permissive. They requested that the rules be strengthened to protect SNAs and ONFLs (in particular), and to be consistent with the NZCPS, RMA, and the NPS-IB if one was notified.

8.3.2 The submitter did not identify any specific changes they would like made to the subdivision rules to strengthen them.

8.3.3 Rules SUB-R1(1)(b), SUB-R4(1)(b) and SUB-R5(1)(c) included standards that require land being subdivided to not contain areas on any part (or all) of the sites identified in ECO-SCHED5 and ONL or ONF in NFL-SCHED6. Where this standard was not complied with, a Discretionary Activity resource consent was required under Rules SUB-R1(3), SUB-R4(4) and SUB-R5(3).

8.3.4 Given this, the reporting planner considered that the subdivision rules were not permissive, but were appropriate, and they should be retained as notified (unless otherwise recommended to be amended in response to other submissions).

New Subdivision Rule (RX)

8.3.5 Kāinga Ora requested the addition of a new Controlled Activity rule for subdivision that was in accordance with an approved land use consent in the General Residential Zone, Commercial Zone, General Industrial Zone and Large Lot Residential Zone.

8.3.6 The new rule would enable developers to first obtain land use consent for a development, then apply separately/later for a Controlled Activity subdivision consent. A Controlled Activity could not be refused, but Council could impose conditions on the consent in relation to the matters over which the Council had reserved its control, which must be specified under the new rule.

8.3.7 The new rule would only apply to subdivisions related to sites with an approved land use consent, therefore, it would not apply to subdivision applications lodged concurrently with land use consent applications.

8.3.8 Under subdivision Rule SUB-R1(3), as notified, if a subdivision for a development did not comply with the minimum net site area requirements under Standard SUB-S1 in the Subdivision chapter, the application must be assessed as a Discretionary Activity. Under the requested new rule, the activity status would be Controlled.

8.3.9 The reporting planner considered that it would be inappropriate to provide for applications for subdivisions made after the approval of land use consents on a site as a Controlled Activity, as there may be issues associated with easements for services and/or connections to services, etc. which were problematic because of the nature and configuration of buildings already established

or consented, as the development may not have been designed appropriately, and it may not be possible to resolve issues only through the imposition of conditions on the subdivision consent. As Council could not decline a Controlled Activity application, it was possible that outcomes might not be appropriate, or they might be sub-standard and result in ongoing problems for landowners and Council in the future.

- 8.3.10 The reporting planner also considered that, given the more attractive Controlled Activity status for subdivision applications lodged after land uses were approved, there was likely to be less incentive for developers to apply for subdivisions and land use consents concurrently, particularly if the overall activity status of land use and subdivision consent applications combined would change (i.e. be more restrictive). For example, a land use consent application for a residential development in the General Residential Zone that did not comply with residential density Standard GRZ-S1 would be a Restricted Discretionary Activity under Rule GRZ-R1(2). If the associated subdivision did not comply with minimum net site area requirement under Standard SUB-S1, then the subdivision would be a Discretionary Activity under Rule SUB-R1(3). The effect of considering the subdivision and land use consent applications together would, in this case, result in both applications being assessed as discretionary activities, if the most restrictive activity status was applied under the bundling principle.
- 8.3.11 For the above reasons, the reporting planner did not support including the new Controlled Activity subdivision rule requested by Kāinga Ora.

Rule SUB-R1 Subdivisions not otherwise provided for

- 8.3.12 HNZPT supported Rule SUB-R1 and requested that it be retained as notified.
- 8.3.13 Thomas Collier preferred the current subdivision rules under the ODP and rejects Rule SUB-R1 of the PDP. He requested that the ODP rules be retained in their current format. He considered that the rules have been 'cut and pasted' from the Hastings District Plan, that CHB District did not have the same quality of soils as the Hastings District, and that the proposed subdivision rules would be a step backwards for the prosperity of the District. Mr Collier's submission appeared to be focussed on the subdivision of land in the rural area of the District. James Bridge supported Mr Collier's submission.
- 8.3.14 The reporting planner noted that Mr Collier (S107.002) (supported by Mr Bridge (FS4.2)) similarly requested that Rule SUB-R5 (relating to lifestyle site subdivision) be deleted and that the PDP provisions revert back to the subdivision rules currently applying across the entire rural area of the District in the ODP. The s42A report for the Rural Topic hearing (Volume 2) addressed this submission point.
- 8.3.15 Given, the Rural Topic s42A report recommendation to reject the request to delete Rule SUB-R5, the reporting planner also did not support deleting Rule SUB-R1 and retaining the ODP rule format.
- 8.3.16 James Bridge opposed the default Discretionary Activity status under Rule SUB-R1(3) in relation to subdivision on sites containing sites or areas identified in HH-SCHED2, SASM-SCHED3, ECO-SCHED5, ONF or ONL in NFL-SCHED6, and CE-SCHED7, particularly where they occupy a small area on a large farm property and would not be affected by the subdivision. He requested that SUB-R1(b) be amended so that it related to subdivision that would not result in any new vehicle access to, or future building platforms within, any of the sites or areas in the schedules listed.
- 8.3.17 HNZPT opposed James Bridge's submission and requested that Rule SUB-R1 be retained as notified. However, they suggested, as an alternative relief, that the rule be amended to specify the extent of the scheduled places or define a buffer area around each place, such that the

subdivision rules could then apply to the extent of the scheduled place, or the identified buffer area.

- 8.3.18 Rule SUB-R1 related to subdivision not otherwise provided for: for example, it related to the creation of lots in the various zones, including the GRUZ - General Rural Zone (20ha minimum net site size) and the RPROZ – Rural Production Zone (12ha minimum net site size), but excludes the creation of lifestyle sites, conservation lots, boundary adjustments, and subdivision for special purposes which were covered under the other subdivision rules.
- 8.3.19 While not stated explicitly in Mr Bridge’s submission, the reporting planner stated that it appears he considered that it was only the physical impacts of subdivision on the scheduled items, sites, areas or features (i.e., earthworks activities associated with the construction of new vehicle access and building platforms) that should be of concern and trigger a Discretionary Activity status. However, there may be other non-physical impacts that may adversely affect the cultural, metaphysical, historic heritage, ecological, or landscape values of the sites of areas that must be protected. For example, the boundaries of new lots could potentially bisect or separate an identified site or area into two or more different titles, which could impact the protection of their values.
- 8.3.20 The reporting planner therefore considered that it was important that Council could assess applications to subdivide land on which scheduled sites or areas were located (partially or fully), to ensure they were protected from potential physical and non-physical impacts, including those associated with development on the new lots that could occur as of right under the relevant zone provisions.
- 8.3.21 With regard to HNZPT’s suggestion, that Rule SUB-R1(1)(b) be amended to specify the extent of the scheduled places or define a buffer area around each place, while she considered that there was some merit in that approach, the reporting planner had no information or advice on what an appropriate buffer would be for each scheduled item, tree, site or area. Also, for certainty, she noted that whatever buffer was selected would need to be identified in the schedules and spatially defined in the PDP. The reporting planner therefore did not support that approach.
- 8.3.22 Rather than triggering a Discretionary Activity status, the reporting planner considered that a Restricted Discretionary Activity status would be more appropriate, such that the Council’s discretion would be restricted to certain matters, and not unlimited (as proposed). Given the focused nature of the relevant matters, the reporting planner considered that full discretion was unnecessary.
- 8.3.23 The SUB – Subdivision chapter currently includes the following assessment matter, SUB-AM16, relating to subdivision of land within ONLs and ONFs, SAFs, and the Coastal Environment (including identified areas of HNC):

SUB-AM16	Subdivision of land, including Lifestyle Sites within Outstanding Natural Landscapes and Features, Significant Amenity Features, and the Coastal Environment (including identified areas of High Natural Character)
1.	The design of the subdivision and the development it will accommodate, to ensure that it will not have adverse visual or landscape effects on the values of the feature, landscape or area (identified in ECO-SCHED5, NFL-SCHED6, and CE-SCHED7 of the District Plan) and will not detract from the natural character of the coastal environment. Reference will be made to the proposed nature and location of building platforms, roads and accessways, earthworks, landscaping, and planting. In particular, the development will be assessed in terms of its ability to achieve the following: <ol style="list-style-type: none">Be of a scale, design and location that is sympathetic to the visual form of the coastal environment or the natural character area, landscape, or feature, and will not dominate the landscape.Avoid large scale earthworks on rural ridgelines, hill faces and spurs.Be sympathetic to the local character, to the underlying landform and to surrounding visual landscape patterns.Be designed to minimise cuttings across hill faces and through spurs, and to locate boundaries so the fencing is kept away from visually exposed faces and ridges.

- e. Where planting is proposed, its scale, pattern and location is sympathetic to the underlying landform and the visual and landscape patterns of surrounding activities.
- f. Where necessary, for the avoidance or mitigation of adverse effects, any proposals to ensure the successful establishment of plantings.
- g. Be sympathetic to the natural science, perceptual and associational values (including for tangata whenua) associated with the natural character area, landscape, or feature.

8.3.24 Assessment matters relating to sites or areas identified in HH-SCHED2 and SASM-SCHED3 were included in Assessment Matters SUB-AM5(9) and SUB-AM6(15), which read as follows:

The protection of any historic heritage items or notable trees (listed in HH-SCHED2 and TREE-SCHED4), wāhi tapu, wāhi taonga, and sites of significance (listed in SASM-SCHED3), or risk to archaeological sites.

[Note: submission points relating to the Tangata Whenua / Mana Whenua chapter are addressed in our report on Hearing Stream 4]

8.3.25 There were no assessment matters in the SUB – Subdivision chapter relating generally to SNAs ECO-SCHED5.

8.3.26 Kāinga Ora (S129.112, S129.113) requested that Assessment Matters SUB-AM5(9) and SUB-AM6(15) be deleted in favour of a separate set of assessment matters which may be considered in cases where subdivision of land wholly or partially containing heritage items, archaeological sites, and sites of significance to Māori occurred. They (S129.123) also considered that, in relation to subdivision of land containing heritage items and/or sites of significance to Māori, this could be provided for under a Restricted Discretionary Activity framework with associated matters of discretion to ensure appropriate management of any potential adverse effects. Kāinga Ora requested that the following new assessment matter be added to the Subdivision chapter:

SUB-AMX Subdivision of land partly or wholly containing an identified heritage item, archaeological site, or site or area of significance to Māori

- 1. Whether subdivision will enable the establishment of land use activities likely to result in adverse effects on the heritage item, archaeological sites, or site of significance to Māori that would not otherwise be enabled without subdivision.**
- 2. Any relevant findings and/or recommendations of investigations carried out by a qualified archaeologist that are supplied with the application.**
- 3. Any relevant consultation and/or engagement with tangata whenua.**
- 4. Whether the subdivision will involve land disturbance that may have adverse effects on the heritage item, archaeological site, or site of significance to Māori.**
- 5. The degree to which adverse effects on the heritage item, archaeological site, and /or site of significance to Māori can be mitigated through subdivision or subsequent land use consents.**

8.3.27 HNZPT (FS7.031) and NHMT (FS5.090) supported Kāinga Ora’s request for a new assessment matter.

8.3.28 The reporting planner concurred with Kāinga Ora that it would be appropriate to delete the assessment matters in SUB-AM5(9) and SUB-AM6(15), and that a separate, new assessment matter should be included which could be referred to as a matter of discretion for the purpose of assessing a Restricted Discretionary Activity.

8.3.29 The new assessment matter requested by Kāinga Ora related only to heritage items, archaeological sites and areas of significance to Māori. In order to cover all sites or areas referred to under Rule SUB-R1(b) and Assessment Matters SUB-AM5(9) and SUB-AM6(15), the reporting planner recommended that the assessment matter should be amended to also relate to notable trees (identified in TREE-SCHED4), Significant Natural Areas (identified in ECO-SCHED5), wāhi tapu, and wāhi taonga (identified in SASM-SCHED3), in order to cover all matters under Rule SUB-R1(1)(b), as follows:

SUB-AMX Subdivision of land partly or wholly containing an identified heritage item (**identified in HH-SCHED2**), **notable tree (identified in TREE-SCHED4)**, **Significant Natural Area (identified in ECO-SCHED5)**, archaeological site, or **wāhi tapu, wāhi taonga, and** site or area of significance to Māori (**identified in SASM-SCHED3**).

1. Whether subdivision will enable the establishment of land use activities likely to result in adverse effects on the heritage item, **notable tree, significant natural area**, archaeological sites, **wāhi tapu, wāhi taonga** or site of significance to Māori that would not otherwise be enabled without subdivision.
2. Any **potential adverse effects (including cumulative effects) on each item, tree, area, or site, including but not limited to:** relevant
 - a. **Whether sufficient land is provided around the item, tree, area, or site to retain and protect its values;**
 - b. **Whether the subdivision will fragment the item, area, or site; and**
 - c. **whether the subdivision will involve land disturbance that may have adverse effects on the item, tree, area, or site, including building platforms and vehicle accessways.**
3. **Findings and/or recommendations of investigations from any impact assessment undertaken on the effects of the subdivision on the item, tree, area, or site that are** supplied with the application.
4. Any relevant consultation and/or engagement with tangata whenua **and/or Heritage New Zealand Pouhere Taonga, where appropriate.**
4. ~~Whether the subdivision will involve land disturbance that may have adverse effects on the heritage item, archaeological site, or site of significance to Māori.~~
5. The degree **Measures to which avoid or mitigate any** adverse effects on the **cultural, spiritual, indigenous biodiversity and/or heritage values of the item, tree, area, or site associated with the land being subdivided, including the provision of any protective covenants'** heritage item, archaeological site, and /or site of significance to Māori can be mitigated through subdivision or subsequent land use consents.

8.3.30 On the basis of the above, including the recommended new assessment matter, the reporting planner considered that Rule SUB-R1 should be amended as follows:

SUB-R1 Subdivision not otherwise provided for		
All Zones	1. Activity Status: CON Where the following conditions are met: a. Compliance with SUB-S1. b. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following: i. HH-SCHED2. ii. SASM-SCHED3. iii. ECO-SCHED5. iv. ONL or ONF within NFL-SCHED6. v. CE-SCHED7. c. Compliance with: i. SUB-S4(1); ii. SUB-S5; iii. SUB-S6; iv. SUB-S7; v. SUB-S8; and vi. SUB-S9. d. Compliance with: i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. Matters over which control is reserved: e. SUB-AM1. f. SUB-AM2. g. SUB-AM3. h. SUB-AM4.	2. Activity status where compliance with condition SUB-R1(1)(c) is not achieved: RDIS Matters over which discretion is restricted: a. SUB-AM1. b. SUB-AM2. c. SUB-AM3. d. SUB-AM4. e. SUB-AM5. f. SUB-AM6. g. SUB-AM7. h. SUB-AM8. i. SUB-AM9. j. SUB-AM10.
		3. Activity status where compliance with condition SUB-R1(1)(b) is not achieved: RDIS Matters over which discretion is restricted: a. SUB-AMXX.
		43. Activity status where compliance with condition SUB-R1(1)(a) and/or SUB-

<ul style="list-style-type: none"> i. SUB-AM5. j. SUB-AM6. k. SUB-AM7. l. SUB-AM8. m. SUB-AM9 n. SUB-AM10. 	<p>R1(1)(b) is not achieved: DIS</p> <p>54. Activity status where compliance with condition SUB-R1(1)(d) is not achieved: NC</p>
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8.3.31 Hatuma Lime sought amended provisions to enable consideration of reverse sensitivity effects on lawfully established activities, such as quarries, as part of Controlled Activity subdivisions in the General Rural Zone. It requested the addition of a new matter over which control was reserved under Rule SUB-R1, with reference to the following new Assessment Matter SUB-AM19 they have requested (S98.022):

SUB-AM19 Subdivision with building platforms and/or vehicle access within proximity of the Hatuma Lime Maharakeke Road quarry

1. Any actual and potential reverse sensitivity effects on the effective, and efficient operation of the Hatuma Lime quarry.

2. Conditions offered up by the applicant to ensure future owners of the new lots are aware of the extent of the Hatuma Lime Quarry.

8.3.32 Hort NZ (FS17.55) supported Hatuma Lime’s submission.

8.3.33 The reporting planner noted that Rule SUB-R1 related to subdivision not otherwise provided for (i.e. it related to the creation of lots in the various zones, including the GRUZ - General Rural Zone), and it excluded the creation of lifestyle sites which was covered under subdivision Rule SUB-R5. She also noted that, under General Rural Zone Rule GRUZ-R1, the number of residential units that could be located on each site was related to the size of the site, as follows:

- a. Limited to:
 - i. one residential unit per site with an area less than 20 hectares, and
 - ii. one additional residential unit (i.e. a total of two) per site with an area of between 20 hectares and less than 50 hectares, and
 - iii. two additional residential units (i.e. a total of three) per site with an area of between 50 hectares and less than 100 hectares, and
 - iv. three additional residential units (i.e. a total of four) per site with an area of 100 hectares or greater, and
 - v. one minor residential unit per site:
- b. limited to a maximum gross floor area of 100m² (exclusive of garages, and verandahs less than 20m²); and
- c. must share vehicle access with the principal residential unit on the site; and
- d. must be located no further than 50m from a principal residential unit on the site.

8.3.34 Accordingly, any new lots created in the General Rural Zone would need to comply with the minimum net site area requirement of 20 hectares under Standard SUB-S1(9). Where new lots were created within proximity of the Hatuma Lime Quarry, the reporting planner considered that landowners would have options in terms of available space to locate any residential units away from the quarry. The potential for reverse sensitivity effects on the quarry would also be limited by the restriction on the number of residential units that may be established on the lots under the General Rural Zone provisions.

8.3.35 In the reporting planner’s opinion, there was potential for reverse sensitivity effects to occur in relation to residential units establishing on smaller, lifestyle sites that may be subdivided under Rule SUB-R5 as a Controlled Activity. However, under that rule, a matter over which control was reserved was Assessment Matter SUB-AM13. This required the Council to take into account the ability to mitigate any actual or potential reverse sensitivity effects on existing rural industry (including Hatuma Lime Quarry).

- 8.3.36 Given the above, the reporting planner considered that there was no need to amend SUB-R1 to include a new matter of control that would require consideration of potential reverse sensitivity effects from building platforms and/or vehicle access within proximity of the Hatuma Lime Quarry on new lots created in the General Rural Zone.
- 8.3.37 Kāinga Ora (S129.090) requested that Rule SUB-R1(1)(a) be amended to require compliance with Standard SUB-S1 'or SUB-SXX'. Essentially, the effect of this amendment would be to split Standard SUB-S1 (which currently applies to Minimum Net Site Area (excluding Lifestyle Sites and Conservation Lots) into two standards, where SUB-S1 would be amended to only apply to 'Minimum Vacant Lot Size (Urban Zones)' and new Standard SUB-SXX would apply to 'Minimum Lot Size (Rural Zone)'. These matters were addressed (S129.098 and S129.099) under Key Issue 8: Standards below.
- 8.3.38 Kāinga Ora also requested that a new standard 'e' be added to Rule SUB-R1(1) which required that 'The land being subdivided was not located within an identified natural hazard area in the planning maps'. This was because they considered that, in alignment with the relevant objectives and policies within the NH - Natural Hazards chapter, subdivision which occurred in areas of natural hazards should be assessed as a Restricted Discretionary Activity.
- 8.3.39 Currently, a matter over which control was reserved for Controlled Activity subdivision applications under Rule SUB-R1(1)(h) was Assessment Matter SUB-AM4 Natural Hazards, as follows:

SUB-AM4 Natural Hazards

1. Whether the land, or any potential structure on that land, will be subject to material damage by erosion, falling debris, subsidence, slippage or inundation or other natural hazard event from any source.
2. Whether there are any methods/measures available to overcome or reduce the risk of any hazard(s), and whether these methods/measures may have adverse effects on the environment.
3. Adequacy of access during and after natural hazard events.
4. In assessing the above matters, the Council will have regard to the following:
 - a. Any information held on the Council's Natural Hazard registers and the Hawke's Bay Hazards Information Portal;
 - b. Information obtained by suitably qualified experts, whose investigations are supplied for subdivision applications; and
 - c. The objectives, policies, and methods in the NH – Natural Hazards chapter of the District Plan.

- 8.3.40 As a Controlled Activity, the application must be granted but may be subject to the imposition of consent conditions. The reporting planner stated that it was possible that a subdivision application may be on land subject to natural hazards and there were no adequate methods or measures available to overcome or reduce the risk of the hazard(s), or the methods/measures proposed may have adverse effects on the environment. In this situation, there would be no ability for Council to decline consent, and no conditions of consent that could be imposed that would appropriately or adequately address the risk of natural hazards.
- 8.3.41 The reporting planner referred us to the management of significant risks from natural hazards being listed in s6 of the RMA as a matter of national importance. She noted that s106 of the RMA provides that the Council could refuse a subdivision consent if there is a significant risk of natural hazard. The presence of natural hazards may lead to a requirement for site-specific technical assessments e.g., geotechnical assessments or flood modelling work, in support of a subdivision or development proposal.
- 8.3.42 The reporting planner advised that NH – Natural Hazards chapter of the PDP included Objectives NH-O2 and NH-O3 that were for the effects of natural hazards and the long-term effects of climate change on the community and the built environment to be minimized, and any increased risk to people, property, infrastructure and the environment from the effects of natural hazards was avoided. Policy NH-P5 was to control the activities that could occur in areas of significant

natural hazards, including subdivision of land. The SUB – Subdivision chapter included a number of relevant objective and policies.

- 8.3.43 The reporting planner indicated that the following natural hazard areas were identified on the PDP Planning Maps:
- Fault Hazard with Faultlines;
 - Fault Hazard with Fault Avoidance;
 - Flood Hazard (Flood Risk Areas); and
 - Tsunami Hazard (Near Source Inundation Extent).
- 8.3.44 The reporting planner concurred with Kāinga Ora, that the Council should have the ability to decline a subdivision consent application in circumstances where land being subdivided, including any potential structure on that land, was subject to significant risk of material damage by the effects of natural hazards and there were no appropriate mitigation measures available to manage that risk. The reporting planner therefore considered that subdivisions on land located within a Natural Hazard Area should be a Restricted Discretionary Activity, which could be declined (as opposed to a Controlled Activity). The reporting planner therefore considered that Rule SUB-R1(1) should be amended to include a new condition that required that ‘The land being subdivided was not located within a Natural Hazard area identified on the Planning Maps’. The reporting planner also considered that Restricted Discretionary Activity (RDIS) Rule SUB-R1(2) should be amended to also apply to applications where compliance with condition SUB-R1(1)(e) was not achieved.
- 8.3.45 Kāinga Ora (S129.124) requested that a new assessment matter relating to natural hazards be added to the PDP and referred to in Rule SUB-R1(2) as a matter over which discretion was restricted, as follows:

SUB-AMY Subdivision of land partly or wholly within an identified natural hazard area

1. Whether subdivision will enable the establishment of land use activities likely to result in increased risk associated with natural hazards to people, property, infrastructure, and the environment, that would not otherwise be enabled without subdivision.
2. Whether resulting allotments will be located partly or wholly within the natural hazard area.
3. Whether building platforms can be established in an area of the resulting allotment not subject to natural hazards.
4. Whether mitigations can be implemented through subdivision or subsequent land use consents to minimize risks associated with natural hazards.
5. Relevant objectives and policies within the NH – Natural Hazards chapter.

- 8.3.46 As referred to above, the Subdivision chapter already included Assessment Matter SUB-AM4 for natural hazards. The reporting planner considered that this assessment matter was fit for purpose and the new assessment matter requested by Kāinga Ora was unnecessary.
- 8.3.47 Kāinga Ora (S129.090) also requested that the activity status of subdivisions that did not comply with conditions SUB-R1(1)(b) and SUB-R1(1)(d) be amended so that they fall to be considered as Restricted Discretionary activities. The reporting planner recommended above, that, where compliance with condition SUB-R1(1)(b) was not achieved, a Restricted Discretionary Activity would be appropriate.
- 8.3.48 However, the reporting planner did not support amending the rule, so non-compliance with condition SUB-R1(1)(d) (i.e., relating to the National Grid Subdivision Corridor and the Gas Transmission Network) would trigger Restricted Discretionary Activity status. Under Rule SUB-R1 (as notified), where compliance with SUB-R1(1)(d) was not achieved, a Non-Complying Activity resource consent was required under Rule SUB-R1(4).

- 8.3.49 As the reporting planner advised under Key Issue 1 of this report, Standard SUB-S4(3) gave effect to Policies 10 and 11 of NPS-ET, and it as well as Standards SUB-S4(4) and (5) were directly related to achieving Objectives SUB-O4, NU-O1, NU-O2, NU-O3, and Policies SUB-P17, SUB-P18, NU-P1 and NU-P5 of the PDP.
- 8.3.50 While relating only to the urban environment, Objective OBJ UD1(c) of the Hawke’s Bay Regional Policy Statement (RPS), contained within the Hawke’s Bay Regional Resource Management Plan (RMMP) (operative on 28 August 2006), was for the “Establishment of compact and strongly connected urban form throughout the Region, that: [...] c) avoids, remedies or mitigates reverse sensitivity effects on existing strategic and other physical infrastructure in accordance with the objectives and policies in Chapter 3.5 and 3.13 of this plan”.
- 8.3.51 The reporting planner outlined that Objectives 32 and 33 in Chapter 3.13 of the RPS recognise the importance of the specific locational requirements of some regionally significant infrastructure and of its ongoing operation, maintenance and development to support the economic, social and/or cultural wellbeing of the region’s people and communities and provide for their health and safety. It was also for adverse effects on existing physical infrastructure arising from the location and proximity of sensitive land use activities to be avoided or mitigated. The reporting planner therefore also considered that Standard SUB-S4 gave effect to the objectives of the RPS.
- 8.3.52 Kāinga Ora (S129.102) requested that Standards SUB-S4(2), (3), (4) and (5) be deleted, as they consider they were likely to unnecessarily hinder development where potential adverse effects could otherwise be managed. Their submission was opposed by Transpower (FS18.21) and First Gas (FS3.016).
- 8.3.53 The reporting planner recommended Kāinga Ora’s request to delete Standards SUB-S4(2) to SUB-S4(5) be rejected. The reporting planner did not support Kāinga Ora’s request to amend the status of non-compliance with these standards under Rule SUB-R1(1)(d), from Non-Complying to Restricted Discretionary.

Rule SUB-R2 Subdivision to create freehold title from existing cross-lease title

- 8.3.54 Rule SUB-R2, as notified, has the very specific purpose of providing for freehold titles to be created from existing cross-lease titles as a Controlled Activity, subject to compliance with specified conditions.
- 8.3.55 Kāinga Ora (S129.091) requested that Rule SUB-R2 be amended so that it also provided for subdivision around existing buildings and development as a Controlled Activity: this would allow this type of subdivision to be separated from vacant lot subdivision. Kāinga Ora considered that standards typically applying to vacant lot subdivision were not necessarily relevant where the anticipated land use activity has already been established, either as of right or through a resource consent process. They requested that subdivision around existing buildings and developments that results in new non-compliances be assessed as a Restricted Discretionary Activity, and that the matters over which discretion was restricted were limited to Assessment Matters GRZ-AM1, GRZ-AM2, GRZ-AM3, GRZ-AM4 and GRZ-AM5, being assessment matters relating specifically to the GRZ – General Residential Zone.
- 8.3.56 While the matters of discretion would be restricted to General Residential Zone assessment matters, the amendments Kāinga Ora sought would mean that the rule would apply to all zones in the District, including the rural zones. The reporting planner gave the example whereby, under the amendments sought, an existing, lawfully established building in the General Rural Zone or Rural Production Zone could be subdivided from the parent lot as a Controlled Activity. Under Rule SUB-R2, there would be no requirement to comply with the minimum net site area limits for the zone under Standard SUB-S1, and there would be no matters of discretion applying that were

directly relevant to the rural zones. As such, any sized lot could be created around an existing building, which could be an implement shed or other accessory building, as well as a dwelling, provided that the building was established lawfully under the PDP rules prior to the subdivision.

- 8.3.57 As a result of subdivision, a new set of development rights would be created with each new lot. Under the example the reporting planner gave, the change sought by Kāinga Ora could lead to further fragmentation of the rural land resource and/or increase the number of sensitive residential activities that could establish within the rural zones. In the reporting planner's opinion, this was not consistent with the objectives and policies of the PDP, particularly for the rural zones, and it could lead to unintended environmental effects.
- 8.3.58 The reporting planner also considered that there were potential issues associated with the condition that Kāinga Ora proposes be added to the rule, which requires "any non-compliances with district-wide or zone rules were lawfully established prior to the subdivision, and the subdivision itself did not result in new or increased non-compliances with district-wide or zone rules". Such a condition would require an applicant and Council to be able to verify that the existing building or development to be subdivided was lawfully established. The reporting planner was also uncertain what was meant by 'did not result in new or increased non-compliances with the district-wide or zone rules', and whether this would apply only to the subdivision or to potential development that could occur on the new lot(s).
- 8.3.59 For the above reasons, the reporting planner did not support Kāinga Ora's request to amend Rule SUB-R2.

Rule SUB-R3 Subdivision for special purposes

- 8.3.60 Rule SUB-R3 applies to subdivision for special purposes in all zones, being limited to the creation of lots of any size for public works, network utilities, renewable electricity generation activities, reserves, roads, and access. Such subdivisions were a Controlled Activity, subject to compliance with specified conditions.
- 8.3.61 Kāinga Ora (S129.092) requested that, where compliance cannot be achieved with Condition SUB-R3(1)(c), relating to the requirement to comply with Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network, subdivisions should be assessed as a Restricted Discretionary Activity under Rule SUB-R3(3), instead of Non-Complying under Rule SUB-R3(4).
- 8.3.62 For the same reasons outlined above, in relation to Kāinga Ora's request to amend the activity status of subdivisions not complying with Standards SUB-S4(2) to SUB-S4(5) under Rule SUB-R1(1)(c) (under Rule SUB-R1), the reporting planner considered that a Non-Complying Activity status under Rule SUB-R3(4) should be retained for non-compliance with these standards under condition SUB-R3(1)(c).

Rule SUB-R4 Boundary Adjustments

- 8.3.63 Rule SUB-R4 provides for a boundary adjustment as a Controlled Activity, subject to compliance with specified conditions.
- 8.3.64 The Surveying Company (S50.002) requested that the definition of 'boundary adjustment' be amended to replace the word 'allotments' with 'Records of Title', to allow for a situation where the number of allotments was reduced to rationalise an existing record of title that comprises multiple lots. The reporting planner noted, however, that the definition of boundary adjustment in the PDP was taken from the National Planning Standards, and that, therefore, there was no ability to amend the definition as requested by the submitter.

- 8.3.65 For the same reasons given in his submission points on Rule SUB-R1, James Bridge (S105.015) opposed the default to Discretionary Activity status under Rule SUB-R4(4) where there was non-compliance with condition SUB-R4(1)(b) relating to the land being subdivided containing any part (or all) of the sites or areas identified in HH-SCHED2, SASM-SCHED3, ECO-SCHED5, ONL or ONF in NFL-SCHED6, and CE-SCHED7. He requested that condition SUB-R4(1)(b) be amended, so the subdivision must not result in any new vehicle access to or future building platforms within any of the sites or areas identified in the schedules.
- 8.3.66 As she advised in relation to Mr Bridge’s submission on Rule SUB-R1, the reporting planner noted that there may be other non-physical impacts that may adversely affect the cultural, metaphysical, historic heritage, ecological, or landscape values of the sites or areas that must be protected (in addition to physical effects associated with earthworks). For example, the boundaries of new lots could potentially bisect or separate an identified site or area into two or more different titles, which could impact the protection of their values. The reporting planner therefore did not support Mr Bridge’s request, as she considered it important that Council could assess applications to subdivide land on which scheduled sites or areas were located (partially or fully), to ensure they were protected from potential physical and non-physical impacts.
- 8.3.67 Kāinga Ora (S129.093) generally supported the rule but requested that condition SUB-R4(1)(a)(ii) be amended as follows:
- ii. No existing complying site is rendered non-complying, **and the boundary adjustment does not result in increases in any existing non compliances.**
- 8.3.68 The reporting planner concurred with Kāinga Ora that condition SUB-R4(1)(a)(ii) did not address the issue where an existing non-complying site was rendered more non-complying by a proposed boundary adjustment, but for clarity, the reporting planner considered that the wording would be more appropriately amended as set out below. The reporting planner also considered it appropriate that the rule be amended to clarify that it related to non-compliance with the relevant standards and not a Non-Complying Activity status.
- ii. No existing ~~complying~~ site **that complies with the relevant subdivision standards is rendered non-complying with the standards, and no existing site not complying with the relevant subdivision standards** is rendered **more** non-complying **with the standards, by the boundary adjustment.**
- 8.3.69 Kāinga Ora also opposed matter of control SUB-R4(1)(h), which referred to the “protection, maintenance or enhancement of natural features and landforms, significant natural area (ECO-SCHED5), historic heritage item (HH-SCHED2), or any identified wāhi tapu, wāhi taonga or site of significance (SASM-SCHED3)”. They considered that the matter was not relevant to boundary adjustments, particularly where land being subdivided complies with SUB-R4(1)(b). The reporting planner concurred with the submitter that, if compliance with condition SUB-R4(1)(b) was achieved, the matter of control was unnecessary.
- 8.3.70 Kāinga Ora also considered that matters arising from non-compliance with condition SUB-R4(1)(b) and SUB-R4(1)(d) (i.e., Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network) could be appropriately managed through a Restricted Discretionary Activity framework. Transpower opposed Kāinga Ora’s request to amend the activity status under Rule SUB-R4(5), from Non-Complying to Restricted Discretionary, for the same reasons given in relation to Kāinga Ora’s request to amend Rule SUB-R1 (as set out above). HNZPT did not oppose Kāinga Ora’s request to make non-compliance with condition SUB-R4(1)(b) a Restricted Discretionary Activity.
- 8.3.71 As she recommended, in relation to Kāinga Ora’s request to amend Rule SUB-R1, rather than triggering a Discretionary Activity status for non-compliance with condition SUB-R4(1)(b), the

reporting planner considered that a Restricted Discretionary Activity status would be more appropriate, such that the Council's discretion would be restricted to certain matters, being SUB-AM16 and new SUB-AMXX, and not unlimited (as notified). Given the focused nature of the relevant matters, the reporting planner considered that full discretion was unnecessary.

- 8.3.72 However, the reporting planner did not support Kāinga Ora's request to make subdivision that did not comply with Standards SUB-S4(2) to SUB-S4(5), under condition SUB-R4(1)(d), a Restricted Discretionary Activity, for the same reasons as she had in relation to Kāinga Ora's request to make an equivalent amendment to Rule SUB-R1.

Rule SUB-R5 Subdivision to create a Lifestyle Site(s) (not associated with the creation of a Conservation Lot)

- 8.3.73 Rule SUB-R5 provides the ability to create a Lifestyle Lot(s) that was not associated with the creation of a Conservation Lot as a Controlled Activity, subject to compliance with specified conditions.
- 8.3.74 Hatuma Lime (S98.023) requested that the rule be amended to enable consideration of reverse sensitivity effects on lawfully established activities (such as quarries). They requested that a new matter of control be added to Rule SUB-R5 which referred to a new Assessment Matter 'SUB-AM19'. In the reporting planner's opinion, there was potential for reverse sensitivity effects to occur in relation to residential units establishing on smaller, lifestyle sites that may be subdivided under Rule SUB-R5 as a Controlled Activity. However, she noted that, under Restricted Discretionary Activity Rule SUB-R5(2), Assessment Matter SUB-AM13 was referred to, which requires the Council to take into account the ability to mitigate any actual or potential reverse sensitivity effects on existing rural industry (including Hatuma Lime Quarry). The reporting planner therefore considered that there was no need to amend Rule SUB-R5(2) to include a new matter of control that would require consideration of potential reverse sensitivity effects from building platforms and/or vehicle access within proximity of the Hatuma Lime Quarry on new lots created in the General Rural Zone.
- 8.3.75 For the same reasons given in his submission points on Rules SUB-R1 and SUB-R4, James Bridge (S105.016) requested that condition SUB-R5(1)(b) be amended to only apply to subdivision not resulting in any new vehicle access to or future building platforms within any sites or areas identified in HH-SCHED2, SASM-SCHED3, ECO-SCHED5, ONL or ONF in NFL-SCHED6, and CE-SCHED7. The reporting planner considered that there may be other non-physical impacts that may adversely affect the cultural, metaphysical, historic heritage, ecological, or landscape values of the sites or areas that must be protected (in addition to physical effects associated with earthworks). The reporting planner therefore did not support Mr Bridge's request, as she considered it important that the Council could assess applications to subdivide land on which scheduled sites or areas were located (partially or fully) to ensure they were protected from potential physical and non-physical impacts.
- 8.3.76 Kāinga Ora (S129.094) considered that subdivision occurring in areas of natural hazards should be assessed as a Restricted Discretionary Activity, to recognise that subdivision could enable certain land use activities and Council should have an opportunity to decline applications where risks to people, property, infrastructure, and the environment were too great and cannot be sufficiently mitigated. They therefore request that a new condition be added to Rules SUB-R5(1)(a) and SUB-R5(5)(a) to require land being subdivided to not be located within an identified natural hazard area in the planning maps, and for Rules SUB-R5(2) and SUB-R5(6) to be amended to require a Restricted Discretionary Activity where compliance with the new condition was not achieved.
- 8.3.77 The reporting planner concurred with Kāinga Ora, that the Council should have the ability to decline a subdivision consent application in circumstances where land being subdivided, including

any potential structure on that land, was subject to significant risk of material damage by the effects of natural hazards and there were no appropriate mitigation measures available to manage that risk. The reporting planner therefore considered that subdivisions on land located within a Natural Hazard Area should be a Restricted Discretionary Activity. She therefore considered that Rules SUB-R5(1)(a) and SUB-R5(5)(a) should be amended to include a new condition that requires land being subdivided to not be located within an identified natural hazard area identified on the Planning Maps. The reporting planner also considered that Restricted Discretionary Activity Rules SUB-R5(2) and SUB-R5(6) should be amended to apply to applications where compliance with condition SUB-R1(1)(e) was not achieved.

- 8.3.78 Kāinga Ora (S129.094) questioned whether there were more effective means of achieving the desired outcomes under clauses SUB-R5(1)(a)(iii), SUB-R5(5)(a)(ii) and SUB-R5(5)(a)(iii). They opposed these provisions as notified and sought alternative wording, but neither offered any alternative wording nor provide any details about their concerns with the clauses.
- 8.3.79 Clause SUB-R5(1)(a)(ii) limits the creation of lifestyle sites in the General Rural Zone (outside the Coastal Environment Area) to a site that was 'only eligible to be subdivided to create a lifestyle site once every 3-years, and at least 3-years has elapsed from the date the subject title was created'. Clauses SUB-R5(5)(a)(ii) and SUB-R5(5)(a)(iii) relate to the creation of lifestyle sites in the Rural Production Zone, which require that 'no additional sites were created (amalgamation of the balance lot was required)', and 'the newly amalgamated sites were adjoining and combine to a net site area greater than 12 hectares'.
- 8.3.80 In response to a submission point from Surveying the Bay (S94.003) on clause SUB-R5(1)(a)(ii), the s42A report on the Rural Topic (Volume 2) concurred with Surveying the Bay, that the 3-year period should only apply to titles from which lifestyle sites were previously created. The reporting officer considered that this made practical sense, as the first lifestyle site subdivided from a property should logically then trigger the 3-year standdown period. On that basis, the reporting officer recommended that Rule SUB-R5(1)(a)(iii) be amended as follows:
- ii. A site is only eligible to be subdivided to create a lifestyle site **3 years after the subject title was created, and then once every 3 years after that** ~~once every 3 years, and at least 3 years has elapsed from the date the subject title was created.~~
- 8.3.81 The reporting planner supported the reporting officer's recommended amendment to clause SUB-R5(1)(a)(ii), as it clarified what it intended.
- 8.3.82 In relation to clauses SUB-R5(5)(a)(ii) and SUB-R5(5)(a)(iii), the ability to create lifestyle sites in the Rural Production Zone was more restrictive than in the General Rural Zone. This related to the Rural Production Zone warranting greater protection from land fragmentation, given the significance of the District's highly productive land as a valuable and finite resource. It was particularly consistent with Objective RPROZ-O2 (which was for the rural land resource to be protected from fragmentation, and from being compromised by inappropriate building and development, including ad hoc urban expansion), and Policy RPROZP8 (which was to avoid residential and rural lifestyle subdivision that results in fragmentation of land within the Rural Production Zone and/or which limited the use of land for primary productive purposes). The clauses were also supported by Objective SUB-O1(1), which was to safeguard the rural land resource of CHBD from inappropriate subdivision (RLR – Rural Land Resource provisions of the PDP).
- 8.3.83 The reporting planner did not support the deletion of clauses SUB-R5(5)(a)(ii) and SUB-R5(5)(a)(iii), as it would be contrary to the objective and policy framework of the PDP.
- 8.3.84 Kāinga Ora considered that matters and/or effects arising from non-compliance with clauses SUB-R5(1)(c) and SUB-R5(1)(d) could be appropriately managed through a Restricted Discretionary

Activity framework. Rather than triggering a full Discretionary Activity status for non-compliance with SUB-R5(1)(c) and SUB-R5(5)(c), the reporting planner considered that a Restricted Discretionary Activity status would be more appropriate, such that the Council's discretion would be restricted to certain matters, and not unlimited (as proposed). Given the focused nature of the relevant matters, the reporting planner considered that full discretion was unnecessary.

- 8.3.85 The reporting planner did not support Kāinga Ora's request to make subdivision that did not comply with Standards SUB-S4(2) to SUB-S4(5), under SUB-R5(1)(d) and SUB-R5(5)(e) (being the requirement for a subdivision to comply with Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network), a Restricted Discretionary Activity, for the same reasons as set out above in relation to Kāinga Ora's request to make an equivalent amendment to Rules SUB-R1 and SUB-R4.

Rule SUB-R6 Subdivision to create Conservation Lots in association with the protection of: [...]

- 8.3.86 Rule SUB-R6 provides for subdivision to create Conservation Lots in association with the protection of an area of significant indigenous vegetation and/or significant habitats of indigenous fauna (including sites listed in ECO-SCHED6), historic heritage items listed in HH-SCHED2, wāhi tapu, wāhi taonga or site or area of significance listed in SASM-SCHED3. Such subdivision was a Controlled Activity, subject to compliance with specified conditions.
- 8.3.87 Kāinga Ora (S129.095) considered that potential effects arising from non-compliance SUB-R6(1)(b) (being the requirement for a subdivision to comply with Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network) could be appropriately managed through a Restricted Discretionary Activity framework. Transpower (FS18.19) opposed Kāinga Ora's submission point.
- 8.3.88 For the same reasons as set out above, in relation to their request to make an equivalent amendment to Rules SUB-R1, SUB-R4 and SUB-R5, the reporting planner did not support Kāinga Ora's requested amendments to Rule SUB-R6.

Rule SUB-R7 Subdivision to create a Lifestyle Site(s) in association with the creation of a Conservation Lot

- 8.3.89 Rule SUB-R7 provides for subdivision to create a Lifestyle Lot(s) in association with the creation of a Conservation Lot, subject to compliance with specified conditions, including the protection of an area of significant indigenous vegetation and/or significant habitats of indigenous fauna (including sites listed in ECO-SCHED6), historic heritage items listed in HH-SCHED2, wāhi tapu, wāhi taonga or site or area of significance listed in SASM-SCHED3.
- 8.3.90 HNZPT (S55.063) supported the rule but requested that SUB-R7(1)(a)(iv) and SUB-R7((b)(ii) be amended so that the whole feature to be protected within the Conservation Lot would be physically and legally protected in perpetuity, including the setting of any historic heritage feature. Kāinga Ora (FS23.72) opposed this submission point.
- 8.3.91 The reporting planner concurred with HNZPT that it was appropriate for the setting of any historic heritage feature to be considered when providing for the physical and legal protection of the feature in perpetuity under the conditions in SUB-R7(1)(a)(iv) and SUB-R7(b)(ii). This was consistent with Assessment Matter SUB-AM15(2), being a matter over which control was reserved under SUB-R7(1)(q).
- 8.3.92 Kāinga Ora (S129.096) considered that potential effects arising from non-compliance with SUB-R7(1)(e) (being the requirement for a subdivision to comply with Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network) could

be appropriately managed through a Restricted Discretionary Activity framework. For the same reasons as set out above, in relation to their request to make an equivalent amendment to Rules SUB-R1, SUB-R4, SUB-R5 and SUB-R6, the reporting planner did not support Kāinga Ora's requested amendments to Rule SUB-R7.

- 8.3.93 Kāinga Ora also considered that, in alignment with relevant objectives and policies within the NH – Natural Hazards chapter, subdivision which occurs in areas of natural hazards should be assessed as a Restricted Discretionary Activity. The reporting planner concurred with Kāinga Ora, and agreed that the Council should have the ability to decline a subdivision consent application in circumstances where land being subdivided, including any potential structure on that land, was subject to significant risk of material damage by the effects of natural hazards and there were no appropriate mitigation measures available to manage that risk. The reporting planner therefore considered that subdivisions on land located within a Natural Hazard Area should be a Restricted Discretionary Activity. The reporting planner therefore considered that a new clause SUB-R7(1)(f) should be added to the rule, that requires that 'The land being subdivided was not located within a Natural Hazard area identified on the Planning Maps'. The reporting planner also considered that Restricted Discretionary Activity (RDIS) Rule SUB-R7(3) should be amended to also apply to applications where compliance with SUB-R1(1)(f) was not achieved.
- 8.3.94 The Surveying Company (S50.010) requested that, after the first and second lots were created (where, for the second lifestyle site a 9-ha conservation area was required), a third, and successive conservation lots, should be provided for in conjunction with conservation areas, where a minimum 6 ha of conserved area was physically and legally protected for each additional site, as follows:
- 1st Lot – 1 ha of protected conservation area;
 - 2nd Lot – 9 ha of protected conservation area; and
 - 3rd and successive Lots – additional 6 ha of conservation area.
- 8.3.95 The Surveying Company requested the ability to subdivide additional conservation lots (more than two), as they consider the cost of fencing and maintaining the conservation areas would become prohibitive if the conservation area was large. They requested that the rule be amended to provide for more than two Lifestyle Lots in conjunction with Conservation Lots, and that existing QEII covenants not be excluded from this rule.
- 8.3.96 In response, the reporting planner stated that the intention of Rule SUB-R7 was (as referred to in Policy SUB-P2) to provide for the creation of in-situ Lifestyle Sites in conjunction with the legal and physical protection in perpetuity of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including Significant Natural Areas identified in ECO-SCHED5), sites and areas of significance to Māori (identified in SASM-SCHED3), and historic and heritage items (identified in HH-SCHED2). She stated that the purpose of the rule was to provide some benefit and incentive for owners of sites with these features to protect minimum areas of them, and that it is not intended to generally provide additional subdivision rights. She also noted that it was also not intended to include areas that were already protected under existing QEII covenants, but observed that new conservation areas proposed to be protected using such covenants would be eligible for the creation of in-situ lifestyle sites under Rule SUB-R7.
- 8.3.97 For these reasons, the reporting planner therefore did not support the Surveying Company's request to amend the rule, and considered that the creation of numerous lifestyle sites would not be consistent with, and would potentially be contrary to, the objectives and policies of the General Rural Zone and Rural Production Zone.

8.3.98 On the basis of the assessment of the matters raised by submitters in above, the reporting planner recommended the following amendments be made to the SUB – Subdivision chapter rules:

[Note: Some other amendments have been made to the following rules as a result of recommendations in the s42A report for Hearing Stream 3, which are not shown below, but are include in the tracked changes version of the SUB – Subdivision chapter appended to this report]

SUB-R1 Subdivision not otherwise provided for		
All Zones	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <ol style="list-style-type: none"> a. Compliance with SUB-S1. b. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following: <ol style="list-style-type: none"> i. HH-SCHED2. ii. SASM-SCHED3. iii. ECO-SCHED5. iv. ONL or ONF within NFL-SCHED6. v. CE-SCHED7. c. Compliance with: <ol style="list-style-type: none"> i. SUB-S4(1); ii. SUB-S5; iii. SUB-S6; iv. SUB-S7; v. SUB-S8; and vi. SUB-S9. d. Compliance with: <ol style="list-style-type: none"> i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. e. <u>The land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u> <p>Matters over which control is reserved:</p> <ol style="list-style-type: none"> f. SUB-AM1. g. SUB-AM2. h. SUB-AM3. i. SUB-AM4. j. SUB-AM5. k. SUB-AM6. l. SUB-AM7. m. SUB-AM8. n. SUB-AM9 o. SUB-AM10. 	<p>2. Activity status where compliance with condition SUB-R1(1)(c) <u>and/or SUB-R1(1)(e)</u> is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> a. SUB-AM1. b. SUB-AM2. c. SUB-AM3. d. SUB-AM4. e. SUB-AM5. f. SUB-AM6. g. SUB-AM7. h. SUB-AM8. i. SUB-AM9. j. SUB-AM10. <p><u>3. Activity status where compliance with condition SUB-R1(1)(b) is not achieved: RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <ol style="list-style-type: none"> a. <u>SUB-AM16.</u> b. <u>SUB-AMXX.</u> <p><u>34.</u> Activity status where compliance with condition SUB-R1(1)(a) <u>and/or SUB-R1(1)(b)</u> is not achieved: DIS</p> <p><u>45.</u> Activity status where compliance with condition SUB-R1(1)(d) is not achieved: NC</p>

SUB-R4 Boundary adjustments		
All Zones	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <ol style="list-style-type: none"> a. Limited to: <ol style="list-style-type: none"> i. No site area is changed by more than 10% of its original area. ii. No existing complying site <u>that complies with the relevant subdivision standards is rendered non-complying with the standards, and no existing site not complying with the relevant subdivision standards</u> 	<p>2. Where compliance with condition SUB-R4(1)(a) is not achieved: SUB-R1 applies</p> <p>3. Activity status where compliance with condition SUB-R4(1)(c) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> a. SUB-AM1. b. SUB-AM2. c. SUB-AM3. d. SUB-AM4. e. SUB-AM5.

	<p>is rendered more non-complying with the standards, by the boundary adjustment.</p> <p>iii. No dwelling is severed from its existing site.</p> <p>b. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <p>i. HH-SCHED2.</p> <p>ii. SASM-SCHED3.</p> <p>iii. ECO-SCHED5.</p> <p>iv. ONL or ONF in NFL-SCHED6.</p> <p>v. CE-SCHED7.</p> <p>c. Compliance with:</p> <p>i. SUB-S4(1);</p> <p>ii. SUB-S5;</p> <p>iii. SUB-S6;</p> <p>iv. SUB-S7;</p> <p>v. SUB-S8; and</p> <p>vi. SUB-S9.</p> <p>d. Compliance with:</p> <p>i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and</p> <p>ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network.</p> <p>Matters over which control is reserved:</p> <p>e. Legal and physical access to and from lots affected by the boundary adjustment.</p> <p>f. Whether each lot has connections to services.</p> <p>g. Whether the lots are of sufficient size, design, and layout to provide for the existing or permitted activity development potential resulting from the reconfigured layout.</p> <p>h. Protection, maintenance or enhancement of natural features and landforms, significant natural area (ECO-SCHED5), or any identified wāhi tapu, wāhi taonga or site of significance (SASM-SCHED3).</p> <p>i. The relationship of the proposed lots within the site and their compatibility with the pattern of adjoining subdivision or land use activities.</p>	<p>f. SUB-AM6.</p> <p>g. SUB-AM7.</p> <p>h. SUB-AM8.</p> <p>i. SUB-AM9.</p> <p>j. SUB-AM10.</p> <p>4. Activity status where compliance with condition SUB-R4(1)(b) is not achieved: RDIS</p> <p><u>Matters over which discretion is restricted:</u></p> <p>a. <u>SUB-AM16.</u></p> <p>b. <u>SUB-AMXX.</u></p> <p>5. Activity status where compliance with condition SUB-R4(1)(d) is not achieved: NC</p>
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SUB-R5 Subdivision to create a Lifestyle Site(s) (not in association with the creation of a Conservation Lot)

<p>General Rural Zone (outside of the Coastal Environment Area)</p>	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <p>a. Limited to:</p> <p>i. Only one lifestyle site can be created.</p> <p>ii. A site is only eligible to be subdivided to create a lifestyle site once every 3 years, and at least 3 years has elapsed from the date the subject title was created.</p> <p>iii. The minimum site area for the balance lot is 20 hectares.</p> <p>b. Compliance with SUB-S2(1) and SUB-S2(2).</p>	<p>2. Activity status where compliance with condition <u>SUB-R5(1)(f) and/or</u> SUB-R5(1)(d) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. SUB-AM1.</p> <p>b. SUB-AM2</p> <p>c. SUB-AM3.</p> <p>d. SUB-AM4.</p> <p>e. SUB-AM5.</p> <p>f. SUB-AM6.</p> <p>g. SUB-AM7.</p> <p>h. SUB-AM8.</p> <p>i. SUB-AM9.</p> <p>j. SUB-AM10.</p>
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	<p>c. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <ul style="list-style-type: none"> i. HH-SCHED2. ii. SASM-SCHED3. iii. ECO-SCHED5. iv. ONL or ONF in NFL-SCHED6. v. CE-SCHED7. <p>d. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(1); ii. SUB-S5; iii. SUB-S6; iv. SUB-S7; v. SUB-S8; and vi. SUB-S9. <p>e. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>f. <u>The land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u></p> <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> g. SUB-AM1. h. SUB-AM2 i. SUB-AM3. j. SUB-AM4. k. SUB-AM5. l. SUB-AM6. m. SUB-AM7. n. SUB-AM8. o. SUB-AM9. p. SUB-AM10. q. SUB-AM11. r. SUB-AM13. 	<ul style="list-style-type: none"> k. SUB-AM11. l. SUB-AM12. m. SUB-AM13. <p><u>3. Activity status where compliance with condition SUB-R5(1)(c) is not achieved: RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <ul style="list-style-type: none"> a. <u>SUB-AM16.</u> b. <u>SUB-AMXX.</u> <p>34. Activity status where compliance with conditions SUB-R5(1)(a); <u>and/or</u> SUB-R5(1)(b) <u>and/or</u> SUB-R5(1)(c) is not achieved: DIS</p> <p>45. Activity status where compliance with condition SUB-R5(1)(e) is not achieved: NC</p>
Rural Production Zone	<p>56. Activity Status: CON</p> <p>Where the following conditions are met:</p> <p>a. Limited to:</p> <ul style="list-style-type: none"> i. The lifestyle site is based around an existing residential unit on a site that has a net site area less than 12 hectares. ii. No additional sites are created (amalgamation of the balance lot is required). iii. The newly amalgamated sites are adjoining and combine to a net site area greater than 12 hectares. iv. The newly amalgamated lot contains no more than two residential units. <p>b. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S2(3) and SUB-S2(4). <p>c. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <ul style="list-style-type: none"> i. HH-SCHED2. ii. SASM-SCHED3. iii. ECO-SCHED5. 	<p>67. Activity status where compliance with condition SUB-R5(5)(d) <u>and/or</u> <u>SUB-R5(f)</u> is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. SUB-AM1 b. SUB-AM2 c. SUB-AM3. d. SUB-AM4. e. SUB-AM5. f. SUB-AM6. g. SUB-AM7. h. SUB-AM8. i. SUB-AM9. j. SUB-AM10. k. SUB-AM11. l. SUB-AM12. m. SUB-AM13. <p><u>8. Activity status where compliance with condition SUB-R5(5)(c) is not achieved: RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <ul style="list-style-type: none"> a. <u>SUB-AM16.</u> b. <u>SUB-AMXX.</u>

	<ul style="list-style-type: none"> iv. ONL or ONF in NFL-SCHED6. v. CE-SCHED7. <p>d. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(1); ii. SUB-S5; iii. SUB-S6; iv. SUB-S7; v. SUB-S8; and vi. SUB-S9. <p>e. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>f. <u>The land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u></p> <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> g. SUB-AM1. h. SUB-AM2 i. SUB-AM3. j. SUB-AM4. k. SUB-AM5. l. SUB-AM6. m. SUB-AM7. n. SUB-AM8. o. SUB-AM9. p. SUB-AM10. q. SUB-AM11. r. SUB-AM12. s. SUB-AM13. 	<p>79. Activity status where compliance with conditions SUB-R5(5)(a) and/or SUB-R5(5)(e) is not achieved: DIS</p> <p>810. Activity status where compliance with conditions SUB-R5(5)(b) and/or SUB-R5(5)(e) is not achieved: NC</p>
General Rural Zone (Coastal Environment Area)	<p>911. Activity Status: DIS</p> <p>Where the following conditions are met:</p> <p>a. Compliance with:</p> <ul style="list-style-type: none"> i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. 	<p>4012. Activity status where compliance with condition SUB-R5(9)(a) is not achieved: NC</p>

SUB-R7 Subdivision to create a Lifestyle Site(s) in association with the creation of a Conservation Lot

General Rural Zone	1. Activity Status: CON	2. Activity status where compliance with conditions SUB-R7(1)(a) and/or SUB-R7(1)(b) is not achieved: SUB-R5 applies
Rural Production Zone	<p>Where the following conditions are met:</p> <p>a. One lifestyle lot can be created, where the Conservation Lot is associated with the protection of:</p> <ul style="list-style-type: none"> i. minimum 5000m² of an area of significant indigenous vegetation and/or significant habitats of indigenous fauna (including sites listed in ECO-SCHED5), or ii. historic heritage items listed in HH-SCHED2 that cannot, or is not intended to be used for, a residential activity, or iii. wāhi tapu, wāhi taonga or site or area of significance listed in SASM-SCHED3, and iv. the whole of the feature within the Conservation Lot₁ 	<p>3. Activity status where compliance with condition SUB-R7(1)(d) <u>and/or SUB-R7(1)(f)</u> is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. SUB-AM1. b. SUB-AM2. c. SUB-AM3. d. SUB-AM4. e. SUB-AM5. f. SUB-AM6. g. SUB-AM7. h. SUB-AM8. i. SUB-AM9. j. SUB-AM10.

	<p><u>including the setting of any historic heritage feature</u>, will be physically and legally protected in perpetuity.</p> <p>b. A second lifestyle lot can be created where:</p> <p>i. the total area of the feature to be protected is 9 hectares or more, and</p> <p>ii. the whole of the feature within the Conservation Lot, <u>including the setting of any historic heritage feature</u> will be physically and legally protected in perpetuity.</p> <p>c. Compliance with SUB-S3.</p> <p>d. Compliance with:</p> <p>i. SUB-S4(1);</p> <p>ii. SUB-S5;</p> <p>iii. SUB-S6;</p> <p>iv. SUB-S7;</p> <p>v. SUB-S8; and</p> <p>vi. SUB-S9.</p> <p>e. Compliance with:</p> <p>i. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and</p> <p>ii. SUB-S4(4) and SUB-S4(5) Gas Transmission Network.</p> <p>f. <u>That land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u></p> <p>Matters over which control is reserved:</p> <p>g. SUB-AM1.</p> <p>h. SUB-AM2</p> <p>i. SUB-AM3.</p> <p>j. SUB-AM4.</p> <p>k. SUB-AM5.</p> <p>l. SUB-AM6.</p> <p>m. SUB-AM7.</p> <p>n. SUB-AM8.</p> <p>o. SUB-AM9.</p> <p>p. SUB-AM10.</p> <p>q. SUB-AM15.</p>	<p>k. SUB-AM11.</p> <p>l. SUB-AM12.</p> <p>m. SUB-AM13.</p> <p>4. Activity status where compliance with condition SUB-R7(1)(c) is not achieved: DIS</p> <p>5. Activity status where compliance with condition SUB-R7(1)(e) is not achieved: NC</p>
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8.4 Evidence to the hearing

- 8.4.1 Claire Price provided planning evidence on behalf of Hatuma Lime at the hearing and sought amendments to Rules SUB-R1 and SUB-R5.
- 8.4.2 Pauline Whitney provided planning evidence on behalf of Transpower at the hearing and sought provision of a specific National Grid rule.
- 8.4.3 Dean Raymond provided planning evidence on behalf of Heritage New Zealand and agreed with the reporting planner that the setting of any historic heritage feature should not be added to SUB-R7.
- 8.4.4 Michael Campbell provided evidence on behalf of Kāinga Ora at the hearing, and recommended further changes to enable subdivision round an approved land use consent, a reduction in the minimum lot size to 300m² for the General Residential zone, and removal of noise provisions relating to the State Highway.

8.5 Post hearing information

- 8.5.1 The reporting planner's right-of-reply addresses Rule SUB-R1 and SUB-R5 and the planner has not changed their position as a result of the evidence presented by Hatuma Lime.
- 8.5.2 The right-of-reply provided commentary on Rule SUB-R7 and the submission from HNZPT, and, in order to achieve consistency in the approach adopted for heritage items, the reporting planner changed her position and recommended that the submission point be rejected and Rule SUB-R7(1)(a)(iv) and SUB-R7(1)(b)(ii) be retained as notified.

8.6 Evaluation and findings

General

- 8.6.1 Forest and Bird (S75.028) opposed all rules in the SUB - Subdivision chapter, as they considered them too permissive. They requested that the rules be strengthened to protect SNAs and ONFLs (in particular), and to be consistent with the NZCPS, RMA, and the NPS-IB if one is notified (the Panel notes that no NPS-IB has yet been notified). No specific changes were outlined in their submission.
- 8.6.2 The Panel agrees with the reporting planner and considers that the subdivision rules are not permissive, but are appropriate, and should be retained as notified other than those changes, we have recommended in response to other submissions).

New Subdivision Rule (RX)

- 8.6.3 Kāinga Ora requested the addition of a new Controlled Activity rule for subdivision that is in accordance with an approved land use consent in the General Residential Zone, Commercial Zone, General Industrial Zone and Large Lot Residential Zone.
- 8.6.4 The Panel agrees with the reporting planner and does not support including the new Controlled Activity subdivision rule requested by Kāinga Ora for the reasons she outlined in her report.

Rule SUB-R1 Subdivisions not otherwise provided for

- 8.6.5 Kāinga Ora (S129.112, S129.113) requested that Assessment Matters SUB-AM5(9) and SUB-AM6(15) be deleted in favour of a separate set of assessment matters which may be considered in cases where subdivision of land wholly or partially containing heritage items, archaeological sites, and sites of significance to Māori occurs. They (S129.123) also considered that the subdivision of land containing heritage items and/or sites of significance to Māori could be provided for under a Restricted Discretionary Activity framework with associated matters of discretion to ensure appropriate management of any potential adverse effects.
- 8.6.6 The Panel agrees with the reporting planner that it would be appropriate to delete the assessment matters in SUB-AM5(9) and SUB-AM6(15), and that a separate, new assessment matter should be included which could be referred to as a matter of discretion for the purpose of assessing a Restricted Discretionary Activity.
- 8.6.7 The Panel notes, however, that the new assessment matter requested by Kāinga Ora relates only to heritage items, archaeological sites and areas of significance to Māori. In order to cover all sites or areas referred to under Rule SUB-R1(b) and Assessment Matters SUB-AM5(9) and SUB-AM6(15), the Panel agrees with the reporting planner recommends that the assessment matter should be amended to also relate to notable trees (identified in TREE-SCHED4), Significant Natural Areas (identified in ECO-SCHED5), wāhi tapu, and wāhi taonga (identified in SASM-SCHED3), in order to cover all matters under Rule SUB-R1(1)(b), as follows:

SUB-AMX Subdivision of land partly or wholly containing an identified heritage item (identified in HH-SCHED2), notable tree (identified in TREE-SCHED4), Significant Natural Area (identified in ECO-SCHED5), archaeological site, or wāhi tapu, wāhi taonga, and site or area of significance to Māori (identified in SASM-SCHED3).

1. Whether subdivision will enable the establishment of land use activities likely to result in adverse effects on the heritage item, notable tree, significant natural area, archaeological sites, wāhi tapu, wāhi taonga or site of significance to Māori that would not otherwise be enabled without subdivision.
2. Any potential adverse effects (including cumulative effects) on each item, tree, area, or site, including but not limited to: relevant
 - a. Whether sufficient land is provided around the item, tree, area, or site to retain and protect its values;
 - b. Whether the subdivision will fragment the item, area, or site; and
 - c. whether the subdivision will involve land disturbance that may have adverse effects on the item, tree, area, or site, including building platforms and vehicle accessways.
3. Findings and/or recommendations of investigations from any impact assessment undertaken on the effects of the subdivision on the item, tree, area, or site that are is supplied with the application.
4. Any relevant consultation and/or engagement with tangata whenua and/or Heritage New Zealand Pouhere Taonga, where appropriate.
4. Whether the subdivision will involve land disturbance that may have adverse effects on the heritage item, archaeological site, or site of significance to Māori.
5. The degree Measures to which avoid or mitigate any adverse effects on the cultural, spiritual, indigenous biodiversity and/or heritage values of the item, tree, area, or site associated with the land being subdivided, including the provision of any protective covenants heritage item, archaeological site, and /or site of significance to Māori can be mitigated through subdivision or subsequent land use consents.

8.6.8 On the basis of the above, including the recommended new assessment matter, the Panel agrees with the reporting planner and considers that Rule SUB-R1 should be amended as follows:

SUB-R1 Subdivision not otherwise provided for		
All Zones	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <ul style="list-style-type: none"> o. Compliance with SUB-S1. p. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following: <ul style="list-style-type: none"> vi. HH-SCHED2. vii. SASM-SCHED3. viii. ECO-SCHED5. ix. ONL or ONF within NFL-SCHED6. x. CE-SCHED7. q. Compliance with: <ul style="list-style-type: none"> vii. SUB-S4(1); viii. SUB-S5; ix. SUB-S6; x. SUB-S7; xi. SUB-S8; and xii. SUB-S9. r. Compliance with: <ul style="list-style-type: none"> iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> s. SUB-AM1. t. SUB-AM2. u. SUB-AM3. v. SUB-AM4. w. SUB-AM5. x. SUB-AM6. y. SUB-AM7. 	<p>2. Activity status where compliance with condition SUB-R1(1)(c) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> k. SUB-AM1. l. SUB-AM2. m. SUB-AM3. n. SUB-AM4. o. SUB-AM5. p. SUB-AM6. q. SUB-AM7. r. SUB-AM8. s. SUB-AM9. t. SUB-AM10. <p><u>3. Activity status where compliance with condition SUB-R1(1)(b) is not achieved: RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <p><u>a. SUB-AMXX.</u></p> <p>4.3. Activity status where compliance with condition SUB-R1(1)(a) and/or SUB-R1(1)(b) is not achieved: DIS</p>

z. SUB-AM8.
aa. SUB-AM9
bb. SUB-AM10.

54. Activity status where compliance with condition SUB-R1(1)(d) is not achieved: NC

8.6.9 The Panel agrees with the reporting planner’s recommendation to reject Kāinga Ora’s request to delete Standards SUB-S4(2) to SUB-S4(5) as we do not support Kāinga Ora’s request to amend the status of non-compliance with these standards under Rule SUB-R1(1)(d), from Non-Complying to Restricted Discretionary. Non-Complying activity status is appropriate given the special values of these resources.

Rule SUB-R2 Subdivision to create freehold title from existing cross-lease title

8.6.10 Rule SUB-R2, as notified, has the very specific purpose of providing for freehold titles to be created from existing cross-lease titles as a Controlled Activity, subject to compliance with specified conditions.

8.6.11 Kāinga Ora (S129.091) requested that Rule SUB-R2 be amended so that it also provides for subdivision around existing buildings and development as a Controlled Activity to allow this type of subdivision to be separately processed from vacant lot subdivision. Kāinga Ora considers that standards typically applying to vacant lot subdivision are not necessarily relevant where the anticipated land use activity has already been established, either as of right or through a resource consent process. They requested that subdivision around existing buildings and developments that results in new non-compliances be assessed as a Restricted Discretionary Activity, and that the matters over which discretion is restricted are limited to Assessment Matters GRZ-AM1, GRZ-AM2, GRZ-AM3, GRZ-AM4 and GRZ-AM5, being assessment matters relating specifically to the GRZ – General Residential Zone.

8.6.12 While the matters of discretion would be restricted to General Residential Zone assessment matters, the amendments sought by Kāinga Ora would mean that the rule would apply to all zones in the District, including the rural zones. For example, as the reporting planner noted, under the amendments sought, an existing, lawfully established building in the General Rural Zone or Rural Production Zone could be subdivided from the parent lot as a Controlled Activity. Under Rule SUB-R2, there would be no requirement to comply with the minimum net site area limits for the zone under Standard SUB-S1, and there would be no matters of discretion applying that are directly relevant to the rural zones. As such, any sized lot could be created around an existing building, which could be an implement shed or other accessory building, as well as a dwelling, provided that the building was established lawfully under the PDP rules prior to the subdivision. This could lead to further fragmentation of the rural land resource and/or increase the number of sensitive residential activities that could establish within the rural zones. In the reporting planner’s opinion, this is not consistent with the objectives and policies of the PDP, particularly for the rural zones, and it could lead to unintended environmental effects. The Panel considers this would be inconsistent with the strategic direction for the District’s rural land resources.

8.6.13 The Panel also considers that there are potential issues associated with the condition that Kāinga Ora proposes be added to the rule, which requires that “any non-compliances with district-wide or zone rules were lawfully established prior to the subdivision, and the subdivision itself does not result in new or increased non-compliances with district-wide or zone rules”. Such a condition would require the applicant and Council to be able to verify that the existing building or

development to be subdivided was lawfully established, which could be problematic. We were also unclear what is meant by ‘does not result in new or increased non-compliances with the district-wide or zone rules’, and whether this would apply only to the subdivision or to potential development that could occur on the new lot(s).

- 8.6.14 For the above reasons, the Panel recommends rejecting Kāinga Ora’s request to amend Rule SUB-R2.

Rule SUB-R3 Subdivision for special purposes

- 8.6.15 Rule SUB-R3 applies to subdivision for special purposes in all zones, being limited to the creation of lots of any size for public works, network utilities, renewable electricity generation activities, reserves, roads, and access. Such subdivisions are a Controlled Activity, subject to compliance with specified conditions.
- 8.6.16 Kāinga Ora (S129.092) requested that where compliance cannot be achieved with Condition SUB-R3(1)(c) (relating to the requirement to comply with Standards SUB-S4(2) to SUB-S4(5), National Grid Subdivision Corridor and the Gas Transmission Network), subdivision proposals should be assessed as a Restricted Discretionary Activity under Rule SUB-R3(3), instead of non-complying under Rule SUB-R3(4).
- 8.6.17 The Panel disagrees with this request, as we consider that a Non-Complying Activity status under Rule SUB-R3(4) is appropriate and should be retained for non-compliance with these standards under condition SUB-R3(1)(c).

Rule SUB-R4 Boundary Adjustments

- 8.6.18 Rule SUB-R4 provides for boundary adjustment as a Controlled Activity, subject to compliance with specified conditions.
- 8.6.19 The Panel agrees with the reporting planner that the definition of boundary adjustment in the PDP is taken from the National Planning Standards, and therefore there is no ability to amend the definition as requested by The Surveying Company (S50.002).
- 8.6.20 In relation to Mr Bridge’s submission on Rule SUB-R1, the Panel agrees with the reporting planner that there may be other non-physical impacts that may adversely affect the cultural, metaphysical, historic heritage, ecological, or landscape values of the sites of areas that must be protected (in addition to physical effects associated with earthworks). The Panel considers it important that Council could assess applications to subdivide land on which scheduled sites or areas are located (partially or fully), to ensure they are protected from potential physical and non-physical impacts. We therefore recommend to reject Mr Bridge’s submission on this matter.
- 8.6.21 Kāinga Ora (S129.093) requested to amend condition SUB-R4(1)(a)(ii) as follows:
- ii. No existing complying site is rendered non-complying, and the boundary adjustment does not result in increases in any existing non compliances.**
- 8.6.22 The Panel agrees that it is appropriate to make an amendment, they also agree with the reporting planner that the wording would be more appropriately amended as set out below:
- ii. No existing ~~complying~~ site that complies with the relevant subdivision standards is rendered non-complying with the standards, and no existing site not complying with the relevant subdivision standards is rendered more non-complying with the standards, by the boundary adjustment.**
- 8.6.23 The Panel concurs with Kāinga Ora’s opposition to matter of control SUB-R4(1)(h), which refers to the “protection, maintenance or enhancement of natural features and landforms, significant

natural area (ECO-SCHED5), historic heritage item (HH-SCHED2), or any identified wāhi tapu, wāhi taonga or site of significance (SASM-SCHED3)", as this matter is not relevant to boundary adjustments, particularly where land being subdivided complies with SUB-R4(1)(b). The Panel therefore recommends deleting SUB-R4(1)(h).

- 8.6.24 The Panel disagrees with Kāinga Ora that matters arising from non-compliance with condition SUB-R4(1)(b) and SUB-R4(1)(d) (relating to the National Grid Subdivision Corridor and the Gas Transmission Network) could be appropriately managed through a Restricted Discretionary Activity framework. The Panel considers that such non-compliances warrant Non-Complying Activity status in line with the PDP policies for these critical energy supplies, as well as the policies of the NPS-ET.
- 8.6.25 In relation to Kāinga Ora's request to amend Rule SUB-R4(4), the Panel agrees that, rather than triggering a full Discretionary Activity status for non-compliance with condition SUB-R4(1)(b), any subdivision proposed in a Scheduled Site or Area, the Panel agrees that a Restricted Discretionary Activity status would be more appropriate, as the matters of discretion could and should be readily restricted to those set out in SUB-AM16 and new SUB-AMXX, and not unlimited (as notified).
- 8.6.26 The Panel does not agree with Kāinga Ora's request to make subdivision that does not comply with Standards SUB-S4(2) to SUB-S4(5), under condition SUB-R4(1)(d), a Restricted Discretionary Activity, for the same reasons as set out above in relation to their request to make an equivalent amendment to Rule SUB-R1 (refer paragraph 8.6.24).

Rule SUB-R5 Subdivision to create a Lifestyle Site(s) (not associated with the creation of a Conservation Lot)

- 8.6.27 Rule SUB-R5 provides the ability to create a Lifestyle Lot(s) (not associated with the creation of a Conservation Lot) as a Controlled Activity, subject to compliance with specified conditions.
- 8.6.28 Hatuma Lime (S98.023) requested that the rule be amended to enable consideration of reverse sensitivity effects on lawfully established activities (such as quarries). They requested that a new matter of control be added to Rule SUB-R5 which referred to a new Assessment Matter 'SUB-AM19' that they sought to be added.
- 8.6.29 The Panel agrees that reverse sensitivity effects are a potential matter that should be considered in relation to lifestyle sites that may be subdivided under Rule SUB-R5 Controlled Activity. Under Rule SUB-R5(2), there is reference to Assessment Matter SUB-AM13 that would require the Council to take into account the ability to mitigate any actual or potential reverse sensitivity effects on any nearby lawfully established activity, which a residential use of a lifestyle site is likely to be sensitive to, or incompatible with: this would include existing rural industry such as Hatuma Lime Quarry. The Panel therefore considers that there is no need to amend Rule SUB-R5(2) to include a new matter of control that would require consideration of potential reverse sensitivity effects from building platforms and/or vehicle access within proximity of the Hatuma Lime Quarry on new lots created in the General Rural Zone.
- 8.6.30 For the same reasons given in his submission on Rules SUB-R1 and SUB-R4, James Bridge (S105.016) requested that condition SUB-R5(1)(b) be amended to only apply to subdivision not resulting in any new vehicle access to or future building platforms within any sites or areas identified in HH-SCHED2, SASM-SCHED3, ECO-SCHED5, ONL or ONF in NFL-SCHED6, and CE-SCHED7. For the reasons the reporting planner set out, the Panel does not support Mr Bridge's request, as we consider it important that Council could assess applications to subdivide land on which scheduled sites or areas are located (partially or fully), to ensure they are protected from potential physical and non-physical impacts.

- 8.6.31 Kāinga Ora (S129.094) considered that subdivision occurring in areas of natural hazards should be assessed as a Restricted Discretionary Activity, to recognise that subdivision enables land use that could exacerbate the risks from those hazards and that Council should have an opportunity to decline applications where risks to people, property, infrastructure, and the environment are too great and cannot be sufficiently mitigated.
- 8.6.32 The Panel agrees with Kāinga Ora, that the Council should have the ability to decline a subdivision consent application in circumstances where land being subdivided, including any potential structure on that land, is subject to significant risk of material damage by the effects of natural hazards and there are no appropriate mitigation measures available to manage that risk. The Panel therefore recommends that subdivisions on land located within a Natural Hazard Area should be a Restricted Discretionary Activity. The Panel therefore considers that Rules SUB-R5(1)(a) and SUB-R5(5)(a) should be amended to include a new condition that requires land being subdivided to not be located within an identified natural hazard area identified on the Planning Maps. The Panel also recommends that Restricted Discretionary Activity Rules SUB-R5(2) and SUB-R5(6) should be amended to apply to applications where compliance with condition SUB-R1(1)(e) is not achieved.
- 8.6.33 Kāinga Ora (S129.094) also questioned whether there are more effective means of achieving the desired outcomes under clauses SUB-R5(1)(a)(iii), SUB-R5(5)(a)(ii) and SUB-R5(5)(a)(iii). They opposed these provisions as notified but did not offer any alternative wording. They also provided no details about their concerns are with the clauses.
- 8.6.34 Clause SUB-R5(1)(a)(ii) limits the creation of lifestyle sites in the General Rural Zone (outside the Coastal Environment Area) to a site that is ‘only eligible to be subdivided to create a lifestyle site once every 3-years, and at least 3-years has elapsed from the date the subject title was created’.
- 8.6.35 In response to a submission point from Surveying the Bay (S94.003) on clause SUB-R5(1)(a)(ii), the Panel concurs with Surveying the Bay that the 3-year period should only apply to titles from which lifestyle sites were previously created (refer to Panel Report 2). The Panel considers that this makes practical sense, as the first lifestyle site subdivided from a property should logically then trigger the 3-year standdown period. On that basis, we recommend that Rule SUB-R5(1)(a)(iii) be amended as follows:
- ii. A site is only eligible to be subdivided to create a lifestyle site **3 years after the subject title was created, and then once every 3 years after that** ~~once every 3 years, and at least 3 years has elapsed from the date the subject title was created.~~
- 8.6.36 In relation to clauses SUB-R5(5)(a)(ii) and SUB-R5(5)(a)(iii), the ability to create lifestyle sites in the Rural Production Zone is more restrictive than in the General Rural Zone as the Rural Production Zone warrants greater protection from land fragmentation, given the significance of the District’s highly productive land as a valuable and finite resource. This approach is consistent with Objective RPROZ-O2 (which is for the rural land resource to be protected from fragmentation, and from being compromised by inappropriate building and development, including ad hoc urban expansion), and with Policy RPROZP8 (which is to avoid residential and rural lifestyle subdivision that results in fragmentation of land within the Rural Production Zone and/or which limits the use of land for primary productive purposes). The clauses are also supported by Objective SUB-O1(1), which is to safeguard the rural land resource of Central Hawkes Bay District from inappropriate subdivision (RLR – Rural Land Resource provisions of the PDP).
- 8.6.37 For these reasons, the Panel therefore does not support the deletion of clauses SUB-R5(5)(a)(ii) and SUB-R5(5)(a)(iii) as requested by Kāinga Ora, as it would be contrary to the objective and policy framework of the PDP.

- 8.6.38 For the same reasons as for its submission on Rules SUB-R1 to R4 above, Kāinga Ora considered that matters and/or effects arising from non-compliance with clauses SUB-R5(1)(c) and SUB-R5(1)(d) could be appropriately managed through a Restricted Discretionary Activity consent process. The Panel concurs, and recommends that a Restricted Discretionary Activity status would be more appropriate, such that the Council's discretion would be restricted to certain matters, and not unlimited (as proposed).
- 8.6.39 The Panel does not agree with Kāinga Ora's request to make subdivision that does not comply with Standards SUB-S4(2) to SUB-S4(5), under SUB-R5(1)(d) and SUB-R5(5)(e) (being the requirement for a subdivision to comply with Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network), a Restricted Discretionary Activity, for the same reasons as set out above in relation to their request to make an equivalent amendment to Rules SUB-R1 and SUB-R4.

Rule SUB-R6 Subdivision to create Conservation Lots in association with the protection of Scheduled sites

- 8.6.40 Rule SUB-R6 provides for subdivision to create Conservation Lots in association with the protection of an area of significant indigenous vegetation and/or significant habitats of indigenous fauna (including sites listed in ECO-SCHED6), historic heritage items listed in HH-SCHED2, wāhi tapu, wāhi taonga or site or area of significance listed in SASM-SCHED3. Such subdivision is a Controlled Activity, subject to compliance with specified conditions.
- 8.6.41 Kāinga Ora (S129.095) considered that potential effects arising from non-compliance SUB-R6(1)(b) (being the requirement for a subdivision to comply with Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network) could be appropriately managed through a Restricted Discretionary Activity framework. Transpower (FS18.19) opposed Kāinga Ora's submission point.
- 8.6.42 For the same reasons as set out above, in relation to Kāinga Ora's request to make an equivalent amendment to Rules SUB-R1, SUB-R4 and SUB-R5, the Panel does not support Kāinga Ora's requested amendments to Rule SUB-R6.

Rule SUB-R7 Subdivision to create a Lifestyle Site(s) in association with the creation of a Conservation Lot

- 8.6.43 Rule SUB-R7 provides for subdivision to create a Lifestyle Lot(s) in association with the creation of a Conservation Lot, subject to compliance with specified conditions, including the protection of an area of significant indigenous vegetation and/or significant habitats of indigenous fauna (including sites listed in ECO-SCHED6), historic heritage items listed in HH-SCHED2, wāhi tapu, wāhi taonga or site or area of significance listed in SASM-SCHED3.
- 8.6.44 HNZPT (S55.063) supported the rule but requested that SUB-R7(1)(a)(iv) and SUB-R7((b)(ii) be amended so that the whole feature to be protected within the Conservation Lot would be physically and legally protected in perpetuity, including the setting of any historic heritage feature. Kāinga Ora (FS23.72) opposed this submission point.
- 8.6.45 The Panel concurs with HNZPT that it is appropriate for the setting of any historic heritage feature to be considered when providing for the physical and legal protection of the feature in perpetuity under the conditions in SUB-R7(1)(a)(iv) and SUB-R7(b)(ii). This would be consistent with Assessment Matter SUB-AM15(2), being a matter over which control is reserved under SUB-R7(1)(q).

- 8.6.46 Kāinga Ora (S129.096) considered that potential effects arising from non-compliance with SUB-R7(1)(e) (being the requirement for a subdivision to comply with Standards SUB-S4(2) to SUB-S4(5) relating to the National Grid Subdivision Corridor and the Gas Transmission Network) could be appropriately managed through a Restricted Discretionary Activity framework. For the same reasons as set out above (in relation to Kāinga Ora's request to make an equivalent amendment to Rules SUB-R1, SUB-R4, SUB-R5 and SUB-R6), the Panel does not support Kāinga Ora's requested amendments to Rule SUB-R7.
- 8.6.47 Kāinga Ora also considers that, in alignment with relevant objectives and policies within the NH – Natural Hazards chapter, subdivision which occurs in areas of natural hazards should be assessed as a Restricted Discretionary Activity. The Panel concurs with Kāinga Ora, and accordingly recommends a new clause SUB-R7(1)(f) be added to the rule to require that 'the land being subdivided is not located within a Natural Hazard area identified on the Planning Maps'. We also recommend that Restricted Discretionary Activity (RDIS) Rule SUB-R7(3) should be amended to also apply to applications where compliance with SUB-R1(1)(f) is not achieved.
- 8.6.48 The Surveying Company (S50.010) requested that, after the first and second lots are created (where, for the second lifestyle site a 9-ha conservation area is required), a third, and then successive conservation lots should be provided for in conjunction with conservation areas, where a minimum 6 ha of conserved area is physically and legally protected for each additional site, as follows:
- 1st Lot – 1 ha of protected conservation area;
 - 2nd Lot – 9 ha of protected conservation area; and
 - 3rd and successive Lots – additional 6 ha of conservation area.
- 8.6.49 The Surveying Company requested the ability to subdivide additional conservation lots, as they consider the cost of fencing and maintaining the conservation areas would become prohibitive if the conservation area is large and additional lots would help support such costs. They requested that the rule be amended to provide for more than two Lifestyle Lots in conjunction with Conservation Lots, and that existing QEII covenants not be excluded from this rule.
- 8.6.50 As the reporting planner noted, the intention of Rule SUB-R7 is (as referred to in Policy SUB-P2) to provide for the creation of in-situ Lifestyle Sites in conjunction with the legal and physical protection in perpetuity of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including SNAs identified in ECO-SCHED5), sites and areas of significance to Māori (identified in SASM-SCHED3), and historic and heritage items (identified in HH-SCHED2). The purpose of the rule is to provide some benefit and incentive for owners of sites with these features to protect such areas. It is also intended conservation areas proposed to be protected using QE II covenants would be eligible for the creation of in-situ lifestyle sites under Rule SUB-R7.
- 8.6.51 As outlined above, the reporting planner did not support the Surveying Company's request to amend the rule, as she considered that the creation of numerous lifestyle sites would not be consistent with, and would potentially be contrary to, the objectives and policies of the General Rural Zone and Rural Production Zone.
- 8.6.52 The Panel does not fully agree with the reporting planner on this matter. While the NPS-HPL does not support widening the ability to further subdivide land in the Rural Production Zone for Lifestyle purposes, the same level of constraint does not apply to the General Rural Zone. Given the scarcity of significant indigenous biodiversity in the District, the Panel considers that it is appropriate to incentivise landowners to protect such areas and that the costs of such protection in terms of the relatively small loss of productive land through lifestyle subdivision is outweighed by the imperative to protect significant indigenous biodiversity, a s6(c) matter of national

importance. Such subdivision would assist in supporting landowners for the costs involved in the permanent protection of such areas. The Panel further considers that the scarcity of significant indigenous biodiversity in the District is such that the risk of large-scale lifestyle subdivision in the General Rural Zone would be very low.

8.6.53 Accordingly, for the reasons set out above, the Panel recommends the following amendment(s) be made to the SUB – Subdivision chapter provisions:

[Note: Some other amendments have been made to the following rules as a result of recommendations in the Panel Report for Hearing Stream 3, which are not shown below, but are include in the tracked changes version of the SUB – Subdivision chapter appended to this report]

SUB-R1 Subdivision not otherwise provided for		
All Zones	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <p>p. Compliance with SUB-S1.</p> <p>q. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <p>vi. HH-SCHED2.</p> <p>vii. SASM-SCHED3.</p> <p>viii. ECO-SCHED5.</p> <p>ix. ONL or ONF within NFL-SCHED6.</p> <p>x. CE-SCHED7.</p> <p>r. Compliance with:</p> <p>vii. SUB-S4(1);</p> <p>viii. SUB-S5;</p> <p>ix. SUB-S6;</p> <p>x. SUB-S7;</p> <p>xi. SUB-S8; and</p> <p>xii. SUB-S9.</p> <p>s. Compliance with:</p> <p>iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and</p> <p>iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network.</p> <p>t. <u>The land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u></p> <p>Matters over which control is reserved:</p> <p>u. SUB-AM1.</p> <p>v. SUB-AM2.</p> <p>w. SUB-AM3.</p> <p>x. SUB-AM4.</p> <p>y. SUB-AM5.</p> <p>z. SUB-AM6.</p> <p>aa. SUB-AM7.</p> <p>bb. SUB-AM8.</p> <p>cc. SUB-AM9.</p> <p>dd. SUB-AM10.</p>	<p>2. Activity status where compliance with condition SUB-R1(1)(c) <u>and/or SUB-R1(1)(e)</u> is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>k. SUB-AM1.</p> <p>l. SUB-AM2.</p> <p>m. SUB-AM3.</p> <p>n. SUB-AM4.</p> <p>o. SUB-AM5.</p> <p>p. SUB-AM6.</p> <p>q. SUB-AM7.</p> <p>r. SUB-AM8.</p> <p>s. SUB-AM9.</p> <p>t. SUB-AM10.</p> <p><u>3. Activity status where compliance with condition SUB-R1(1)(b) is not achieved: RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <p><u>a. SUB-AM16.</u></p> <p><u>b. SUB-AMXX.</u></p> <p><u>34.</u> Activity status where compliance with condition SUB-R1(1)(a) <u>and/or SUB-R1(1)(b)</u> is not achieved: DIS</p> <p><u>45.</u> Activity status where compliance with condition SUB-R1(1)(d) is not achieved: NC</p>

SUB-R4 Boundary adjustments		
All Zones	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <p>j. Limited to:</p> <p>iv. No site area is changed by more than 10% of its original area.</p> <p>v. No existing complying site <u>that complies with the relevant</u></p>	<p>2. Where compliance with condition SUB-R4(1)(a) is not achieved: SUB-R1 applies</p> <p>3. Activity status where compliance with condition SUB-R4(1)(c) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p>

	<p><u>subdivision standards is rendered non-complying with the standards, and no existing site not complying with the relevant subdivision standards</u> is rendered <u>more</u> non-complying <u>with the standards, by the boundary adjustment.</u></p> <p>vi. No dwelling is severed from its existing site.</p> <p>k. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <p>vi. HH-SCHED2. vii. SASM-SCHED3. viii. ECO-SCHED5. ix. ONL or ONF in NFL-SCHED6. x. CE-SCHED7.</p> <p>l. Compliance with:</p> <p>vii. SUB-S4(1); viii. SUB-S5; ix. SUB-S6; x. SUB-S7; xi. SUB-S8; and xii. SUB-S9.</p> <p>m. Compliance with:</p> <p>iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network.</p> <p>Matters over which control is reserved:</p> <p>n. Legal and physical access to and from lots affected by the boundary adjustment.</p> <p>o. Whether each lot has connections to services.</p> <p>p. Whether the lots are of sufficient size, design, and layout to provide for the existing or permitted activity development potential resulting from the reconfigured layout.</p> <p>q. Protection, maintenance or enhancement of natural features and landforms, significant natural area (ECO-SCHED5), or any identified wāhi tapu, wāhi taonga or site of significance (SASM-SCHED3).</p> <p>r. The relationship of the proposed lots within the site and their compatibility with the pattern of adjoining subdivision or land use activities.</p>	<p>k. SUB-AM1. l. SUB-AM2. m. SUB-AM3. n. SUB-AM4. o. SUB-AM5. p. SUB-AM6. q. SUB-AM7. r. SUB-AM8. s. SUB-AM9. t. SUB-AM10.</p> <p>4. Activity status where compliance with condition SUB-R4(1)(b) is not achieved: <u>RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <p>c. <u>SUB-AM16.</u> d. <u>SUB-AMXX.</u></p> <p>5. Activity status where compliance with condition SUB-R4(1)(d) is not achieved: NC</p>
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SUB-R5 Subdivision to create a Lifestyle Site(s) (not in association with the creation of a Conservation Lot)

<p>General Rural Zone (outside of the Coastal Environment Area)</p>	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <p>s. Limited to:</p> <p>iv. Only one lifestyle site can be created.</p> <p>v. A site is only eligible to be subdivided to create a lifestyle site once every 3 years, and at least 3 years has elapsed from</p>	<p>2. Activity status where compliance with condition <u>SUB-R5(1)(f) and/or</u> SUB-R5(1)(d) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>n. SUB-AM1. o. SUB-AM2 p. SUB-AM3. q. SUB-AM4. r. SUB-AM5.</p>
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	<p>the date the subject title was created.</p> <ul style="list-style-type: none"> vi. The minimum site area for the balance lot is 20 hectares. <p>t. Compliance with SUB-S2(1) and SUB-S2(2).</p> <p>u. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following:</p> <ul style="list-style-type: none"> vi. HH-SCHED2. vii. SASM-SCHED3. viii. ECO-SCHED5. ix. ONL or ONF in NFL-SCHED6. x. CE-SCHED7. <p>v. Compliance with:</p> <ul style="list-style-type: none"> vii. SUB-S4(1); viii. SUB-S5; ix. SUB-S6; x. SUB-S7; xi. SUB-S8; and xii. SUB-S9. <p>w. Compliance with:</p> <ul style="list-style-type: none"> iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>x. <u>The land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u></p> <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> y. SUB-AM1. z. SUB-AM2 aa. SUB-AM3. bb. SUB-AM4. cc. SUB-AM5. dd. SUB-AM6. ee. SUB-AM7. ff. SUB-AM8. gg. SUB-AM9. hh. SUB-AM10. ii. SUB-AM11. jj. SUB-AM13. 	<ul style="list-style-type: none"> s. SUB-AM6. t. SUB-AM7. u. SUB-AM8. v. SUB-AM9. w. SUB-AM10. x. SUB-AM11. y. SUB-AM12. z. SUB-AM13. <p><u>3. Activity status where compliance with condition SUB-R5(1)(c) is not achieved: RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <ul style="list-style-type: none"> c. <u>SUB-AM16.</u> d. <u>SUB-AMXX.</u> <p><u>34.</u> Activity status where compliance with conditions SUB-R5(1)(a), <u>and/or</u> SUB-R5(1)(b) <u>and/or</u> SUB-R5(1)(c) is not achieved: DIS</p> <p><u>45.</u> Activity status where compliance with condition SUB-R5(1)(e) is not achieved: NC</p>
Rural Production Zone	<p><u>56.</u> Activity Status: CON</p> <p>Where the following conditions are met:</p> <p>t. Limited to:</p> <ul style="list-style-type: none"> v. The lifestyle site is based around an existing residential unit on a site that has a net site area less than 12 hectares. vi. No additional sites are created (amalgamation of the balance lot is required). vii. The newly amalgamated sites are adjoining and combine to a net site area greater than 12 hectares. viii. The newly amalgamated lot contains no more than two residential units. 	<p><u>67.</u> Activity status where compliance with condition SUB-R5(5)(d) <u>and/or</u> <u>SUB-R5(f)</u> is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> n. SUB-AM1 o. SUB-AM2 p. SUB-AM3. q. SUB-AM4. r. SUB-AM5. s. SUB-AM6. t. SUB-AM7. u. SUB-AM8. v. SUB-AM9. w. SUB-AM10. x. SUB-AM11. y. SUB-AM12. z. SUB-AM13.

	<ul style="list-style-type: none"> u. Compliance with: <ul style="list-style-type: none"> ii. SUB-S2(3) and SUB-S2(4). v. The land being subdivided does not contain any part (or all) of the sites or areas identified in the following: <ul style="list-style-type: none"> vi. HH-SCHED2. vii. SASM-SCHED3. viii. ECO-SCHED5. ix. ONL or ONF in NFL-SCHED6. x. CE-SCHED7. w. Compliance with: <ul style="list-style-type: none"> vii. SUB-S4(1); viii. SUB-S5; ix. SUB-S6; x. SUB-S7; xi. SUB-S8; and xii. SUB-S9. x. Compliance with: <ul style="list-style-type: none"> iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. y. <u>The land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u> <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> z. SUB-AM1. aa. SUB-AM2 bb. SUB-AM3. cc. SUB-AM4. dd. SUB-AM5. ee. SUB-AM6. ff. SUB-AM7. gg. SUB-AM8. hh. SUB-AM9. ii. SUB-AM10. jj. SUB-AM11. kk. SUB-AM12. ll. SUB-AM13. 	<p><u>8. Activity status where compliance with condition SUB-R5(5)(c) is not achieved: RDIS</u></p> <p><u>Matters over which discretion is restricted:</u></p> <ul style="list-style-type: none"> c. <u>SUB-AM16.</u> d. <u>SUB-AMXX.</u> <p>79. Activity status where compliance with conditions SUB-R5(5)(a) and/or SUB-R5(5)(e) is not achieved: DIS</p> <p>810. Activity status where compliance with conditions SUB-R5(5)(b) and/or SUB-R5(5)(e) is not achieved: NC</p>
General Rural Zone (Coastal Environment Area)	<p><u>911.</u> Activity Status: DIS</p> <p>Where the following conditions are met:</p> <ul style="list-style-type: none"> b. Compliance with: <ul style="list-style-type: none"> iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. 	<p>1012. Activity status where compliance with condition SUB-R5(9)(a) is not achieved: NC</p>

SUB-R7 Subdivision to create a Lifestyle Site(s) in association with the creation of a Conservation Lot

<p>General Rural Zone</p> <p>Rural Production Zone</p>	<p>1. Activity Status: CON</p> <p>Where the following conditions are met:</p> <ul style="list-style-type: none"> r. One lifestyle lot can be created, where the Conservation Lot is associated with the protection of: <ul style="list-style-type: none"> v. minimum 5000m² of an area of significant indigenous vegetation and/or significant habitats of indigenous fauna (including sites listed in ECO-SCHED5), or 	<p>2. Activity status where compliance with conditions SUB-R7(1)(a) and/or SUB-R7(1)(b) is not achieved: SUB-R5 applies</p> <p>3. Activity status where compliance with condition SUB-R7(1)(d) <u>and/or SUB-R7(1)(f)</u> is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> n. SUB-AM1. o. SUB-AM2.
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	<ul style="list-style-type: none"> vi. historic heritage items listed in HH-SCHED2 that cannot, or is not intended to be used for, a residential activity, or vii. wāhi tapu, wāhi taonga or site or area of significance listed in SASM-SCHED3, and viii. the whole of the feature within the Conservation Lot, <u>including the setting of any historic heritage feature</u>, will be physically and legally protected in perpetuity. <p>s. <u>In the Rural Production Zone, A</u> second lifestyle lot can be created where:</p> <ul style="list-style-type: none"> iii. the total area of the feature to be protected is 9 hectares or more, and iv. the whole of the feature within the Conservation Lot, <u>including the setting of any historic heritage feature</u> will be physically and legally protected in perpetuity. <p>t. <u>In the General Rural Zone, additional lifestyle lots may be created provided the conditions in s(iii) and (iv) are met.</u></p> <p>u. Compliance with SUB-S3.</p> <p>v. Compliance with:</p> <ul style="list-style-type: none"> vii. SUB-S4(1); viii. SUB-S5; ix. SUB-S6; x. SUB-S7; xi. SUB-S8; and xii. SUB-S9. <p>w. Compliance with:</p> <ul style="list-style-type: none"> iii. SUB-S4(2) and SUB-S4(3) National Grid Subdivision Corridor; and iv. SUB-S4(4) and SUB-S4(5) Gas Transmission Network. <p>x. <u>That land being subdivided is not located within a Natural Hazard area identified on the Planning Maps.</u></p> <p>Matters over which control is reserved:</p> <ul style="list-style-type: none"> y. SUB-AM1. z. SUB-AM2 aa. SUB-AM3. bb. SUB-AM4. cc. SUB-AM5. dd. SUB-AM6. ee. SUB-AM7. ff. SUB-AM8. gg. SUB-AM9. hh. SUB-AM10. ii. SUB-AM15. 	<ul style="list-style-type: none"> p. SUB-AM3. q. SUB-AM4. r. SUB-AM5. s. SUB-AM6. t. SUB-AM7. u. SUB-AM8. v. SUB-AM9. w. SUB-AM10. x. SUB-AM11. y. SUB-AM12. z. SUB-AM13. <p>4. Activity status where compliance with condition SUB-R7(1)(c) is not achieved: DIS</p> <p>5. Activity status where compliance with condition SUB-R7(1)(e) is not achieved: NC</p>
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9 Key Issue 8 – Standards

9.1 Proposed plan provisions

9.1.1 This key issue addresses the subdivision standards.

9.2 Submissions

9.2.1 There were 18 submission points and 9 further submission points that sought to either retain, or amend the Subdivision Standards in the PDP, or sought that new standards be added.

9.3 Reporting planner’s recommendations (s42A report)

Standard SUB-S1 Minimum Net Site Area (excluding Lifestyle Sites and Conservation Lots)

SETZ – Settlement Zone

9.3.1 The Surveying Company (S50.011) did not support the minimum lot size of 600m² for the SETZ – Settlement Zone under Standard SUB-S1 where public sewerage reticulation was available. They considered that 600m² was not conducive to supporting growth in the Settlement Zone (especially Ōtāne) as:

- At 600m² it would limit subdivision of many of these lots which were historically between 800-1000m²;
- A minimum lot size of 400-500m² was more appropriate for township/lower density residential development; and
- There did not seem to be any rationale behind why 600m² has been reached as the appropriate minimum lot size in the s32 reports provided as part of the PDP.

9.3.2 The Surveying Company requested that the minimum lot size in the Settlement Zone be reduced to 450m² net (to allow for driveways as part of the gross lot area).

9.3.3 The reporting planner advised the hearing that, as part of preparing the PDP, a review was undertaken of the average lot sizes for Ōtāne and the other townships in the Township Zone in the ODP (now within the SETZ – Settlement Zone in the PDP). The existing average lot size in Ōtāne was identified as being 1358.96m².

9.3.4 The average lot size of the other rural townships of Pōrangahau, Takapau, Ongaonga and Tikokino were identified as follows:

Township	Average (m ²)
Pōrangahau	1066.12
Takapau	1545.96
Ongaonga	1609.42
Tikokino	2983.65

9.3.5 Performance Standard 6.11.1(iii) of the ODP restricts the minimum net site area of the non-serviced towns (Ongaonga and Tikokino) to a minimum of 1000m². This was in line with the provisions of the HRRMP which allows minimum site size in non-reticulated areas of 1000m² where more than primary sewage treatment was provided on site.

9.3.6 For the serviced townships of Pōrangahau, Ōtāne and Takapau, the ODP has a minimum net site area of 350m² in the Township Zone, with a further option to reduce sites to 150m² for residential units with a gross floor area less than 60m². The Council considered that this density of development had potential to significantly alter the character of the townships that was

appreciated and desired by the community, evident in the feedback through the Council's 'Project Thrive'.

- 9.3.7 Given the above, for the PDP, the Council considered that a minimum lot size of 600m² for the serviced towns in the Settlement Zone, including Ōtāne, would still allow for and encourage infill development, but at a size that would retain the open and rural character of the townships. Regard was given to a subdivision granted by the Council in 2017/2018 (known as 'Tiffen Park') for 26 lots on a block of land in Ōtāne (bound by White Road, and Knorp, Bell and Dee Streets), ranging in size from 850m² to 3300m², which suggested that the market was looking for lots larger than 350m² in the township.
- 9.3.8 For the above reasons, the reporting planner did not support The Surveying Company's request to reduce the minimum net site size from 600m² to 450m² in the Settlement Zone, and particularly Ōtāne, under Standard SUB-S1(1) of the PDP.

GRUZ – General Rural Zone

- 9.3.9 James Bridge (S105.021) considered that the introduction of a minimum lot size of 20ha in the General Rural Zone (under Standard SUB-S1(9)) was not supported by the Objectives and Policies of the PDP, and suggested the rules of the PDP should give effect to those objectives and policies. He requested that the minimum lot size for the General Rural Zone be reduced to 4000m² (being the current minimum lot size for the Rural Zone in the ODP) and that consequential amendments be made to the PDP to remove specific reference to lifestyle sites within the General Rural Zone.
- 9.3.10 Hort NZ (FS17.59) opposed James Bridge's submission point, as they considered that a lot size of 4000m² in the General Rural Zone may allow for fragmentation and potential reverse sensitivity effects. They requested that the submission point be rejected.
- 9.3.11 The reporting planner noted that Standard SUB-S1(9) specifies a minimum net site area for subdivision in the General Rural Zone of 20ha (excluding subdivisions involving the creation of lifestyle sites).
- 9.3.12 The s42A report for the Rural Topic (Hearing Stream 3) considered submission points requesting a reduction in the minimum lot sizes for the General Rural Zone, as well as the Rural Production Zone, and stated the following:

Given the above, I do not consider it appropriate to reduce the minimum lot sizes for the General Rural Zone or Rural Production Zone (e.g. to 10,000m² and 4,000m² respectively), or to revert back to the 4000m² minimum lot size currently applying across the entire rural area of the District in the Operative District Plan, as variously sought by Regeneration Holdings, Riverfield Holdings, and John McLennan. Based on the advice of LandVision, and general alignment with the neighbouring Hastings District Plan, I consider that it is appropriate and prudent to retain the 20ha and 12ha minimums for the General Rural Zone and Rural Production Zone set out in Standard SUB-S1(9) & (10) respectively, as notified. These areas appropriately give effect to the objectives and policies of the relevant zones, whereas the reduced lot sizes sought would clearly not. I consider it appropriate to assess the effects of any subdivision proposal where these minimums are not met, on a case-by-case basis as a Discretionary Activity (as per Rule SUB-R1(3)).¹

- 9.3.13 The reporting planner concurred with this recommendation, for the reasons they gave, and on that basis, recommended that Standard SUB-S1(9) be retained as notified.

Net Site Area / Vacant Lot

- 9.3.14 Kāinga Ora (S129.098) requested that 'Net Site Area' be replaced with 'Vacant Lot Size' in the standard, to clarify the relationship between the creation of vacant sites through subdivision, and

¹ [1] Paragraph 9.3.13, page 92 of the section 42A report (Volume 2) on the Rural Topic.

the establishment of reduced lot sizes that were deemed acceptable through an approved land use consent for multi-unit development.

- 9.3.15 Kāinga Ora did not provide any definition of 'Vacant Lot', but it was inferred that it would apply to new lots created with no existing buildings or structures on them.
- 9.3.16 The reporting planner noted that the reason for specifying a minimum net site area under Standard SUB-S1 was to ensure that the lot size provided was exclusive of any legal access to another site, or to any part of a rear site, and to any site subject to a designation that may be taken or acquired under the Public Works Act 1981(PWA). Without these exclusions, she considered it would be possible for a lot to meet the minimum lot size requirement, but for there to be less or insufficient land remaining available to develop in the way provided for under the PDP provisions.
- 9.3.17 If Standard SUB-S1 was amended to only apply to vacant lot subdivision, as sought by Kāinga Ora, the reporting planner stated there would be no minimum lot size standard for non-vacant lots that a subdivider would need to comply with under Rule SUB-R1.
- 9.3.18 Currently, where a subdivision did not comply with Standard SUB-S1(a) (which requires compliance with Standard SUB-S1), a Discretionary Activity resource consent was required under Rule SUB-R1(3). The reporting planner stated that the amendment requested by Kāinga Ora would therefore overcome the need to apply for a Discretionary Activity resource consent to subdivide an existing multi-unit development after the development was constructed, but only if compliance with the other conditions specified under the SUB-R1 for a Controlled Activity was achieved.
- 9.3.19 As a Controlled Activity, an application could not be refused, but conditions of consent could be imposed by the Council. Consideration of the application and the imposition of any conditions of consent would be reserved only to the Assessment Matters SUB-AM1 to SUB-AM10. Under SUB-AM1, there would be the ability for the Council to consider the proposed lot sizes and dimensions.
- 9.3.20 A problem the reporting planner had with what was requested by Kāinga Ora was the potential for there to be a situation where the proposed subdivision of an existing multi-unit development cannot provide appropriate servicing or access arrangements for individual titles within the confines of the existing layout of the development, particularly for services or access that may need to be vested in Council. For example, if a proposed lot could not meet the minimum lot size requirement, there might be insufficient space to enable access to services for maintenance that was free of buildings.
- 9.3.21 The reporting planner had a concern that, as a Controlled Activity, if there were issues that could not be appropriately resolved or mitigated, the Council could not refuse consent or impose conditions that would frustrate the consent. This could result in a situation where Council must accept an unsatisfactory outcome that could create on-going problems for the Council and for future owners of the lots/unit titles.
- 9.3.22 For the above reasons, the reporting planner recommended that the references to 'net site area' in Standard SUB-S1 be retained as notified.

General Residential Zone minimum net site area

- 9.3.23 Kāinga Ora (S129.098) requested that Standard SUB-S1(1) be amended, so that the minimum net site area for lots in the General Residential Zone, where public sewerage reticulation was available, was 300m², instead of 350m².

9.3.24 The s42A Reporting Officer's right of reply for Hearing Stream 2 (Urban Environment) assessed Kāinga Ora's submission (S129.171) which requested that the minimum net site area for each residential unit in the GRZ – General Residential Zone be reduced from 350m² to 300m² under Standard GRZ-S1(2)(a) to assist in accommodating two dwellings on a site as a permitted activity, and advised/recommended the following in response to that submission point:

70. *Amending the minimum net site area as requested would provide greater opportunity for infill development to occur as a permitted activity in the GRZ – General Residential Zone. However, Waipukurau and Waipawa are not 'urban environments' under the NPS-UD (as per Hastings and Napier) and I am uncertain what implications there may be for Council's reticulated services if the increased density was permitted. The residential development capacity analysis undertaken by Veros for the ISP was based on the Proposed Plan density and subdivision provisions as notified, which provide for a minimum net site area of 350m² per dwelling and a minimum lot size of 350m² in the General Residential Zone.*

71. *Retaining the requirement for developments not complying with Standard GRZ-S1(2)(a), to be assessed as a restricted discretionary activity (under Rule GRZ-R1(2)) on a case-by-case basis, also provides the opportunity for potential adverse environmental effects (including effects on Council reticulated services and potential cumulative environmental effects) to be considered, and conditions of consent imposed as appropriate if consent is granted.*

72. *Given this uncertainty, I consider that Standard GRZ-S1(2)(a) should be retained as notified.*

9.3.25 For the same reasons outlined above, was the reporting planner recommended that Kāinga Ora's submission point (S129.098) request to reduce the minimum net site area for lots in the General Residential Zone from 350m² to 300m² be rejected and that Standard SUB-S1(1) be retained as notified.

LLRZ - Large Lot Residential Zone (Coastal)

9.3.26 The Surveying Company (S50.012) submitted that they could not understand why there was little difference between the minimum net site size for lots in the LLRZ – Large Lot Residential Zone (Coastal), where public sewerage reticulation was available (i.e. 800m²), and for lots where public sewerage reticulation was not available (i.e. 1000m²). The submitter requested that the minimum net site size for lots in the zone be changed to 600m² where public sewerage reticulation was available.

9.3.27 The ODP provides for the following coastal settlements within the Township Zone, which are now within the Large Lot Residential Zone (Coastal) in the PDP:

- Blackhead Beach;
- Kairākau Beach;
- Mangakuri Beach;
- Pourerere Beach; and
- Te Paerahi Beach.

9.3.28 The reporting planner advised that community feedback on the Council's Coastal Discussion Document (November 2013), and consultation undertaken as part of the development of the 'CHB Coastal Strategy' in 2007, indicated that the community valued the existing small scale and remote quality of the coastal settlements and there was general recognition that the existing settlements were at capacity.

9.3.29 The 'Initial Section 32 Scoping Report – CHB District Plan Review 2017' (Scoping Paper), prepared by Sage Planning (HB) Limited (56-59) identified the following issues in relation to the coastal townships:

- Larger lot sizes in the township zones, particularly in the character areas.

- The PDP did not recognise any distinction between the activities provided for in townships in the rural and coastal zones.
- The performance standards relating to the coastal townships are currently the same as the rural townships. There may be benefits in adopting different provisions in the Plan for the coastal townships that reflect the coastal setting and the sensitive coastal environment.

9.3.30 The reporting planner advised that the existing coastal settlements located within the Large Lot Residential Zone (Coastal), have limited vacant land available for future growth. Te Paerahi was the only settlement that has a reticulated wastewater system, although there was a community wastewater system that services part of the Kairākau Beach settlement. As such, development within the settlements, except Te Paerahi, was constrained by the need for larger sites of 1000m² (or 1500m² in Mangakuri) under Standard SUB-S1(7) of the PDP, to provide for on-site waste disposal servicing. The average site size across the coastal settlements was approximately 800m² (refer to the maps in Appendix C of the s42A report, showing the average lot sizes for each settlement), which was reflected in the minimum lot size for reticulated sites under Standard SUB-S1(6). As identified above, the reporting planner noted that there was a high level of community support for maintaining the existing small scale and remote quality of the coastal settlements.

9.3.31 For these reasons, the reporting planner did not support reducing the minimum net site area for lots in the Large Lot Residential Zone (Coastal) under Standard SUB-S1(6), from 800m² to 600m², and recommended that the standard be retained as notified.

Standard SUB-S2 Lifestyles Sites (not in association with the creation of a Conservation Lot)

9.3.32 Kāinga Ora (S129.100) generally supported Standard SUB-S2, but requested that the words ‘net site area’ be deleted and replaced with ‘lot size’ in SUB-S2(1) to SUB-S2(4). They also requested that the title of the standard be amended to refer to ‘Minimum Lot Size for Lifestyle Sites (not in association with the creation of a Conservation Lot)’.

9.3.33 As advised above, in relation to Kāinga Ora’s request to make the same amendment to Standard SUB-S1, the reporting planner noted that the reason for specifying a minimum net site area under Standard SUB-S2 was to ensure that the lot size provided was exclusive of any legal access to another site, or to any part of a rear site, and to any site subject to a designation that may be taken or acquired under the PWA. Without these exclusions, it would be possible for a lot to meet the minimum lot size requirement, but for there to be less or insufficient land remaining available to develop in the way provided for under the PDP provisions.

9.3.34 However, the reporting planner considered that it would be appropriate to amend the title of Standard SUB-S2, so that it was clear that the standard referred to ‘minimum net site area for’ Lifestyle Sites (not in association with the creation of a Conservation Lot), as was currently included in the title for Standard SUB-S1. The reporting planner considered this amendment could be made as cl16(2) of the First Schedule to the RMA provides that a local authority may make an amendment, without using the process in the First Schedule, to its proposed policy statement or plan to alter any information, where such an alteration was of minor effect, or may correct any minor errors. The reporting planner considered that these amendments could be regarded as ‘minor changes with no real substantive effect’.

9.3.35 The reporting planner therefore recommended that Standards SUB-S2(1) to SUB-S2(4) be retained as notified.

SUB-S3 Lifestyle Sites in association with the creation of a Conservation Lot

- 9.3.36 Kāinga Ora (S129.101) requested that the title of Standard SUB-S3 be amended to refer to 'Minimum Lot Size for Lifestyle Sites in association with the creation of a Conservation Lot' for clarification.
- 9.3.37 For the reasons outlined above, the reporting planner did not support adopting the words 'minimum lot size', but recommended that the title of Standard SUB-S3 be amended to refer to 'minimum net site area for', as was currently included in the title for Standard SUB-S1. The reporting planner considered that this change could be made pursuant to cl16(2) of the First Schedule to the RMA as a minor correction.

SUB-S4 Building Platform

- 9.3.38 The Surveying Company (S50.001) sought clarification of whether a building platform of 30m x 30m was a platform or a shape factor. They questioned whether the building platform just needs to be shown or did it need to be flat and available for building on all parts of the area. The submitter requested that a definition of 'building platform' be provided. The submitter did not offer any wording for a new definition.
- 9.3.39 Standard SUB-S4 includes specific requirements in relation to building platforms on lots created within the General Rural Zone, Rural Production Zone, Rural Lifestyle Zone, and on land within the National Grid Subdivision Corridor and on land containing the Gas Transmission Network. The Hearing was advised that the purpose of the standard was to ensure Council that there was at least one area on the site (being a minimum area of 30m²) that was stable, that could be used by future owners to accommodate a dwelling with vehicle manoeuvring area and any accessory buildings on it, in compliance with the performance standards and performance criteria for the zone where it was located. There was no definition of 'building platform' in the PDP and Standard SUB-S4 did not specify that the building platform must be flat.
- 9.3.40 In the reporting planner's opinion, there was no need to include a definition of 'building platform' in the PDP, as it was considered that it was sufficiently clear from Standard SUB-S4 what must be provided.

Standard SUB-S9 Road Widening

- 9.3.41 Standard SUB-S9 related to land in all zones, where the existing road frontage was subject to a road widening designation. Where the Council did not (for whatever reason) intend to immediately acquire the parcel of land affected, the parcel must be held in conjunction with the adjoining land (being subdivided) until such time as the Council requires that parcel of land. This was to be achieved by way of a Consent Notice to be registered on the parcel of land, which was required under Standard SUB-S9(2). Kāinga Ora (S129.107) considered that a consent notice was not necessarily the best method to achieve the outcomes, and they requested that SUB-S9(2) be amended, by deleting that requirement.
- 9.3.42 The submitter did not specify any other method(s) they considered would be an appropriate alternative to the one specified in the standard, and that would provide sufficient certainty for the Council and future landowners. The reporting planner therefore recommended that Standard SUB-S9(2) be retained as notified.

New Standards

Telecommunications

- 9.3.43 Chorus (S117.064), Spark (S118.064) and Vodafone (S119.064) requested the addition of the following new standard to ensure that, in all zones, telecommunications are provided at the time of subdivision. They also requested that the new standard was referenced in Rules SUB-1, SUB-R3, SUB-R5, SUB-R7.

<u>SUB-SX Telecommunications</u>	
<u>All Zones</u>	<u>All new lots must be able to connect to a telecommunications network.</u>

- 9.3.44 Federated Farmers (FS25.45, FS25.46, FS25.47) opposed the submission points from Chorus, Spark and Vodafone and noted that in rural areas, where infrastructure was scarce, it would be difficult for the landowner/subdivider to connect to a telecommunications network and could prevent farm subdivision. They considered that it should be up to telecom providers to construct towers or aerials for better rural coverage, not for the landowner/subdivider. James Bridge (FS4.5, FS4.7, FS4.9) also opposed the submission points from Chorus, Spark and Vodafone, as he considered that requiring provision of telecommunications services at the time of subdivision would result in unnecessary additional costs to developers, particularly where mobile services are readily available, and are increasingly relied on as a more cost-effective sole means of accessing telecommunications services in households. He requested that the submission points be rejected.
- 9.3.45 The submission points from Chorus, Vodafone and Spark related to their submission points (S117.061, S119.061, S118.061 respectively) requesting that Policy SUB-P6 be amended so that it referred to ensuring that all new lots or building are provided with a connection to a telecommunications network, as well as to a reticulated water supply, public sewerage system and stormwater system, where such adequate reticulated systems and networks are available. The reporting planner's recommendation in response to those submission points (under Key Issue 6 above) was to amend Policy SUB-P6 as requested by Chorus, Vodafone and Spark. This recommendation was based on telecommunications, including fibre broadband services, were part of infrastructure that provided for the health and safety, and economic and social wellbeing of future lot occupants, but that telecommunications networks may not be available for lots to connect to outside the urban environment.
- 9.3.46 The reporting planner therefore considered it appropriate to include a new standard in support of the amendment to Policy SUB-P6.
- 9.3.47 The reporting planner concurred with Federated Farmers and James Bridge that it would be unreasonable to require new lots created in areas to connect to a telecommunications network if there was no telecommunications network available to connect to, particularly outside the urban zones.
- 9.3.48 The reporting planner noted that the Proposed Porirua District Plan only required the provision of fibre optic cable connections to the legal boundary of allotments. The reporting planner stated that she was aware that mobile phone services are replacing traditional telephone land lines, and so the telecommunications network was likely to comprise fibre optic cable.
- 9.3.49 While the reporting planner supported the inclusion of a new standard, they do not support the wording of the standard requested by Chorus, Vodafone and Spark, as it requires that new lots in all zones 'must be able to' connect to a telecommunications network, irrespective of whether

there was a network available to connect to. Also, where a network was available, the standard did not require an actual connection to be provided to the legal boundary of each new lot.

- 9.3.50 Chorus, Vodafone and Spark requested that the new standard be added to Rules SUB-R1, SUB-R3, SUB-R5 and SUB-R7. Rule SUB-R3 applies to subdivision for special purposes, being lots of any size for public works, network utilities, renewable electricity generation activities, reserves, roads, and access. While some lots created for special purposes may be used for activities that require telecommunications services, most of them (particularly for reserves, roads and access) would not. The reporting planner therefore considered that the new standard should only require new lots to be connected to the telecommunications network that may be used for any activity which would require telecommunications services.
- 9.3.51 In addition to telecommunications, the reporting planner considered it appropriate and reasonable to include connection to a power supply under the new standard. The reporting planner noted that there were no submissions seeking this, so there was no scope within submissions to include it.
- 9.3.52 The reporting planner therefore recommended that the following new standard be included in the SUB – Subdivision chapter, and that the new standard be referenced as a condition to be met under Rules SUB-R1(1)(c), SUB-R3(1)(b), SUB-R5(1)(d), SUB-R5(6)(d), and SUB-R7(1)(d).

<u>SUB-SXX Telecommunications and Power Supply</u>	
<u>All Zones</u>	1. <u>All new lots within the General Residential Zone, Commercial Zone, General Industrial Zone and within other zones where a telecommunication network and/or power supply is available to connect to, and which may be used for any activity that will require telecommunications services and/or a power supply, shall be connected to the telecommunications network and/or power supply at the legal boundary of the lots.</u>

Minimum Lot Sizes (Rural Zones)

- 9.3.53 In conjunction with Kāinga Ora’s request (S129.098) to amend Standard SUB-S1 to only refer to minimum vacant lot sizes for the urban zones, which was unlikely to be appropriate for rural zones, Kāinga Ora (S129.098 and S129.99) sought the addition of a new Standard SUB-SXX which would set out minimum lot size requirements for the rural zones. Hort NZ (FS17.58) supported in part Kāinga Ora’s submission point and they sought to ensure that the minimum lots are retained for the Rural zones. They requested that the submission point be accepted to include minimum lots in the Rural Zones.
- 9.3.54 On the basis of her recommendation to reject Kāinga Ora’s request to amend Standard SUB-S1 to only apply to minimum vacant lot sizes for the urban zones, the reporting planner recommended that their request for a separate new standard for minimum lot sizes for the rural zones be rejected.
- 9.3.55 On the basis of the assessment of the matters raised by submitters in Section 11.3 above, the reporting planner recommended the following amendment(s) be made to the SUB – Subdivision chapter provisions:

SUB-S2 Minimum Net Site Area for Lifestyles Sites (not in association with the creation of a Conservation Lot)

SUB-S3 Minimum Net Site Area for Lifestyles Sites in association with the creation of a Conservation Lot

<u>SUB-SXX Telecommunications and Power Supply</u>	
<u>All Zones</u>	2. <u>All new lots within the General Residential Zone, Commercial Zone, General Industrial Zone and within other zones where a telecommunication network and/or power supply is available to connect to, and which may be used for any activity that will require telecommunications services and/or a power supply, shall be connected to the telecommunications network and/or power supply at the legal boundary of the lots.</u>

9.4 Evidence to the hearing

- 9.4.1 Paul McGimpsey presented evidence on behalf of Fire and Emergency New Zealand and supported SUB-S5 Water Supply.
- 9.4.2 Graeme Roberts provided evidence on behalf of First Gas at the hearing and supported SUB-S4 Building Platforms.
- 9.4.3 Michael Campbell provided evidence on behalf of Kāinga Ora at the hearing and sought to reduce the density restrictions that apply to the residential zones.

9.5 Post hearing information

- 9.5.1 The planners right-of-reply addressed Kāinga Ora submission in response to Standard SUB-S1 and the reporting planner did not change their positions from what was set out in the s42A report.

9.6 Evaluation and findings

Standard SUB-S1 Minimum Net Site Area (excluding Lifestyle Sites and Conservation Lots)

SETZ – Settlement Zone

- 9.6.1 The Panel agrees with the reporting planner and does not support The Surveying Company's request to reduce the minimum net site size from 600m² to 450m² in the Settlement Zone, and particularly Ōtāne, for the reasons outlined in the s42A report. The Panel considers that 600m² is consistent with the CHB Integrated Spatial Plan.

GRUZ – General Rural Zone

- 9.6.2 The Panel agrees with the reporting planner's recommendation that the minimum lot size should not be reduced to 4000m² and that 20ha should be retained. The 20ha lot size gave effect to the objectives and policies of the relevant zone, whereas the reduced lot sizes sought would clearly not.

Net Site Area / Vacant Lot

- 9.6.3 The Panel agrees with the reporting planner's recommendation that references to 'net site area' are retained as the submission by Kāinga Ora has not provided any definition for 'vacant lot'.

General Residential Zone minimum net site area

- 9.6.4 The Panel agrees with the reporting planner's recommendation that the minimum net site area for lots in the General Residential Zone, where there is public sewerage reticulation, be retained at 350m² and not reduced to 300m². Amending the standard would allow for greater infill

development and there is uncertainty in the capacity of Council’s reticulated services to provide for this level of development.

LLRZ – Large Lot Residential

- 9.6.5 The Panel agrees with the reporting planner and does not support reducing the minimum net site area for lots in the Large Lot Residential Zone (Coastal) under Standard SUB-S1(6), from 800m² to 600m² as community feedback has indicated a high level of support for maintaining the existing small scale and remote quality of the coastal settlements.

Standard SUB-S2 Lifestyles Sites (not in association with the creation of a Conservation Lot)

- 9.6.6 Kāinga Ora requested that the words ‘net site area’ be deleted and replaced with ‘lot size’ in SUB-S2(1) to SUB-S2(4). They also requested that the title of the standard be amended to refer to ‘Minimum Lot Size for Lifestyle Sites (not in association with the creation of a Conservation Lot)’.
- 9.6.7 The Panel agrees with the reporting planner that it would be appropriate to amend the title of Standard SUB-S2, so that it is clear that the standard refers to ‘minimum net site area for’ Lifestyle Sites (not in association with the creation of a Conservation Lot), as is currently included in the title for Standard SUB-S1. This amendment could be made as a minor correction under cl16(2) of the First Schedule to the RMA.
- 9.6.8 The Panel agrees with the reporting planner that Standards SUB-S2(1) to SUB-S2(4) be retained as notified.

SUB-S4 Building Platform

- 9.6.9 The Panel disagrees with the reporting planner and considers that ‘building platform’ is a term that should be defined in the PDP. This would be consistent with the practice of defining terms that have a specific use and purpose in a District Plan.
- 9.6.10 The Panel recommends the following definition:

Building Platform

means land that is suitable and practical for accommodating a residential unit, or other intended building, and vehicle manoeuvring, having regard to soil conditions, gradient, access, natural hazards, indigenous vegetation and habitat, amenity, health and safety

New Standards

Telecommunications

- 9.6.11 Chorus (S117.064), Spark (S118.064) and Vodafone (S119.064) requested the addition of a new standard to ensure that, in all zones, telecommunications are provided at the time of subdivision.
- 9.6.12 The Panel disagrees with the reporting planner’s recommendation that a new standard should be included. The Panel considers that the PDP should remain as notified as it enables alternative choices and market driven decisions in terms of the provision of power and telecommunications to new sites, particularly in more distance/remote rural areas. In areas in which there is existing reticulation or network services in power and telecommunications, the Panel considers that there would be a strong market imperative to provide lots with access to such services.

Minimum Lot Sizes (Rural Zones)

- 9.6.13 In conjunction with their request (S129.098) to amend Standard SUB-S1, to only refer to minimum vacant lot sizes for the urban zones, which is unlikely to be appropriate for rural zones, Kāinga Ora (S129.098 and S129.99) sought the addition of a new Standard SUB-SXX which sets out minimum lot size requirements for the rural zones
- 9.6.14 The Panel agrees with the reporting planner's recommendation that, given the previous recommendation to reject Kāinga Ora's request to amend Standard SUB-S1 to only apply to minimum vacant lot sizes for the urban zones, the Panel recommends the request for a separate new standard for minimum lot sizes for the rural zones be rejected.

10 Key Issue 9 – Assessment matters

10.1 Proposed plan provisions

10.1.1 This key issue addresses the subdivision assessment matters.

10.2 Submissions

10.2.1 There were 27 submission points and 13 further submission points in regard to the assessment matters for subdivision in the PDP.

10.3 Reporting planner's recommendations (s42A report)

Assessment Matter SUB-AM1 Lot Size and Dimensions

10.3.1 Kāinga Ora (S129.108) opposed inclusion of Assessment Matter SUB-AM1(4) as they considered it did not sufficiently provide for a range of housing types and/or acknowledge the evolving natural of character and amenity values. They requested that SUB-AM1(4) be deleted.

10.3.2 The reporting planner considered that it was appropriate that Council be able to assess the effects of proposed lot sizes and dimensions that do not achieve the minimum net lot size requirements under the subdivision standards, to ensure that subdivisions are consistent with the purpose, character and amenity values supported and envisaged by the relevant zone provisions.

10.3.3 The reporting planner therefore recommended that Assessment Matter SUB-AM1 be retained as notified.

Assessment Matter SUB-AM3 Building Platforms and New Assessment Matter SUB-AMY

10.3.4 Kāinga Ora (S129.110) supported Assessment Matter SUB-AM3 but considered that a separate assessment matter was required to manage subdivision in natural hazard areas.

10.3.5 Kāinga Ora's request (S129.124) to include a new assessment matter for subdivision of land partly or wholly within an identified natural hazard area was addressed earlier in this report under Key Issue 7: Rules, in which the reporting planner recommended that the submission point be rejected, on the basis that the Subdivision chapter already includes Assessment Matter SUB-AM4 for natural hazards, and the new assessment matter requested by Kāinga Ora was unnecessary.

10.3.6 However, the reporting planner concurred with the submitter that clause 2 of Assessment Matter SUB-AM3 could be deleted, as any building platforms located on land subject to natural hazards, including any methods/measures to overcome or reduce the risk of any hazards, would be assessed in relation to Assessment Matter SUB-AM4.

10.3.7 The reporting planner therefore recommended that clause 2 of Assessment Matter SUB-AM3 be deleted.

Assessment Matter SUB-AM5 Water Supply, Wastewater Disposal, Stormwater Disposal

10.3.8 James Bridge (S105.019) supported in part Assessment Matter SUB-AM5(7) but requested that it be amended to refer to the current version of this standard, being NZS4404:2010.

10.3.9 Under Key Issue 2 of this report, both the reporting planner and the Panel recommended that SUB-AM5(7) be deleted.

Assessment Matter SUB-AM6 Property Access

- 10.3.10 James Bridge (S105.020) supported in part Assessment Matter SUB-AM6(6) but requested that it be amended to refer to the current version of this standard, being NZS4404:2010. Waka Kotahi (S78.029) supports Assessment Matter SUB-AM6 and requested that it be retained as notified.
- 10.3.11 Under Key Issue 2 of this report, both the reporting planner and the Panel already recommended that SUB-AM6(6) be deleted.

Assessment Matter SUB-AM7 Subdivision resulting in the creation of new sites within 100m of the State Highway Network

- 10.3.12 Waka Kotahi (S78.030) supported Assessment Matter SUB-AM7 and requested that it be retained as notified.
- 10.3.13 Kāinga Ora (S129.114) opposed Assessment Matter SUB-AM7 to the extent that they considered was likely to unnecessarily constrain and/or hinder urban development. They requested that this assessment matter be deleted, and consequential amendments made to the provisions in the subdivision chapter to reflect this change.
- 10.3.14 The reporting planner advised that Assessment Matter SUB-AM7 ensured that subdivision consent applications for the creation of new lots within 100m of the State Highway Network are assessed in relation to potential effects of traffic noise generated from the road network on activities that may be developed on the new lots, such as residential activities. It also required applications to be assessed with regard to reverse sensitivity effects of potential future activities on the proposed lots on the State Highway Network, which could adversely affect the Network's efficient use and operation. Applications would be assessed with regard to the suitability of any proposed measures to mitigate noise and vibration effects, including the location of building platforms on the lots.
- 10.3.15 The reporting planner noted that Objectives 32 and 33 in Chapter 3.13 of the RPS recognised the importance of the specific locational requirements of regionally significant infrastructure, and its ongoing operation, maintenance and development to support the economic, social and/or cultural wellbeing of the region's people and communities and provided for their health and safety. It also sought that the adverse effects on existing physical infrastructure arising from the location and proximity of sensitive land use activities were avoided or mitigated.
- 10.3.16 She also noted that State Highways fall within the definition of 'Nationally Significant Infrastructure' in the PDP and fall within the definition of 'Strategic Transport Network' in the RPS.
- 10.3.17 Given the national, regional and local significance of the State Highway Network to the economic, social and/or cultural wellbeing of the region's people and communities, and their health and safety, the reporting planner considered that it was appropriate, and consistent with the objectives of the RPS, for applications to subdivide land close to the network, to be assessed for their potential reverse sensitivity effects on the network, and the potential for noise and vibration generated from the network to adversely affect the health and safety of people occupying sensitive activities that may establish on the new lots.
- 10.3.18 It was noted that, as an outcome of Hearing Stream 2: Urban Environment, in relation to Noise, the Reporting Officer recommended, as an effective method for ensuring sensitive activities are not exposed to excessive noise when located adjacent to the State Highway, that Standard NOISE-S3 be amended as set out below:

NOISE-S3 Noise sensitive activities within 100m of State Highways and the Rail Network within:

- **50m of a State Highway with a speed limit of less than 70km/h; or**
- **100m of a State Highway with a speed limit of 70km/hr or more (measured from the nearest painted edge of the carriageway); or**
- **100m of Rail Network Boundary**

General	<ol style="list-style-type: none">1. The following Minimum External Sound Insulation Level Standards applies to all habitable rooms within any building that contains a noise sensitive activity within 100 metres of the sealed edge of a State Highway or the Rail Network Boundary, either:<ol style="list-style-type: none">a. Provide a design report prepared by an acoustic specialist prior to construction of the habitable spaces-rooms, demonstrating that road-traffic/rail network sound levels will not exceed 40 dB $L_{Aeq(24hr)}$ inside all habitable spaces-rooms; orb. Provide a design report prepared by an acoustic specialist prior to construction of the habitable room/s, demonstrating that road-traffic/rail network sound levels will not exceed 57 dB $L_{Aeq(24hr)}$ outside the most affected part of the building exterior.2. The following applies to all buildings that contains a noise sensitive activity within 100 metres of the sealed edge of a State Highway or the Rail Network Boundary:<ol style="list-style-type: none">a. Where new habitable rooms with openable windows are proposed, a positive supplementary source of fresh air ducted from outside is required at the time of fit-out. The supplementary source of air is to achieve compliance with the Building Act to ensure adequate ventilation and fresh air.
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10.3.19 The Officer's recommended changes to Standard NOISE-S3 were in response to submission points S129.140, FS23.177 Kāinga Ora, and FS16.38 Waka Kotahi. They would introduce a new setback for noise sensitive activities within 50m of a State Highway with a speed limit of less than 70 km/h. The Panel accepts these recommended changes.

10.3.20 The Panel also recommends that that the word 'site(s)' be replaced with the word 'lot(s)', which it considers more appropriate/accurate, and could be made as a minor change under cl 16(2) of the First Schedule of the RMA.

10.3.21 In light of these recommendations, the reporting planner recommended that Assessment Matter SUB-AM7 be retained but amended to reflect the above recommendations, as follows:

SUB-AM7 Subdivision resulting in the creation of new ~~sites-lots~~ within:

- ~~100~~**50m** of the State Highway Network **with a speed limit of less than 70km/h; or**
- **100m of the State Highway Network with a speed limit of 70km/h or more (measured from the nearest painted edge of the carriageway).**

1. The potential adverse effects of noise generated from the road network.
2. The potential adverse effects of ~~site lot~~ development on the efficient use and operation of the State Highway network and the suitability of any mitigation measures relating to noise and vibration to enable the continued operation of the network.
3. Whether any consultation with the NZ Transport Agency has occurred and the outcome of that consultation.
4. Whether a consent notice with regard to reverse sensitivity effects on the State Highway network is proposed.
5. Whether any proposed building platform or development should be restricted to parts of the ~~site lot(s)~~.
6. Whether there are any special topographical features or ground conditions which may mitigate effects on the operation of the State Highway network

Assessment Matter SUB-AM8 General

10.3.22 Waka Kotahi (S78.031) and Centralines (S90.037) supported Assessment Matter SUB-AM8 and requested that it be retained as notified.

10.3.23 Chorus (S117.065), Spark (S118.065) and Vodafone (S119.065) requested that a new matter was added to Assessment Matter SUB-AM8 requiring applicants and decision-makers to consider the effects resulting from the site not being connected to a telecommunications network, as follows:

SUB-AM8 General

1. Any potential cumulative effects that may occur as a result of the subdivision.
2. Potential constraints to the development of the site, such as the National Grid Subdivision Corridor or stormwater drains, and the ability for any resulting adverse effects to be avoided, remedied, or mitigated.
3. The potential effects from a proposed subdivision or development of land on the safe and efficient operation of network utilities.
4. The provision of electricity to the site boundary for any urban zone (GRZ – General Residential Zone, COMZ – Commercial Zone, GIZ – General Industrial Zone), to be confirmed by the electricity network utility as a condition of consent.
- 5. The provision of telecommunications to each site.**

10.3.24 Forest and Bird (FS9.493) opposed Chorus’ submission point. James Bridge (FS4.6, FS4.10, FS4.8) opposed the requested from Chorus, Spark and Vodafone to amend the assessment matter, as he considered requiring provision of telecommunications services at the time of subdivision would result in unnecessary additional costs to developers, particularly where mobile services were readily available, and were increasingly relied on as a more cost-effective sole means of accessing telecommunications services in households.

10.3.25 In response to the submission points from Chorus, Vodafone and Spark (S117.064, S118.064, S119.064), the reporting planner recommended that a new Standard SUB-SXX Telecommunications be added to the SUB – Subdivision chapter. The reporting planner therefore concurred with those submitters that it was also appropriate to add a new clause to Assessment Matter SUB-AM8, to assess how telecommunications to each site would be provided where all new lots within subdivisions in the General Residential Zone, Commercial Zone, General Industrial Zone and other zones would not be connected (at the legal boundary of each lot) to the telecommunication network, where a network was available to connect to. However, the reporting planner considered that the new clause should be amended to refer to ‘The alternative provision of telecommunications to each site’.

10.3.26 Kāinga Ora (S129.115) opposed Assessment Matter SUB-AM8, as they considered it provided Council with unlimited discretion to consider and assess Restricted Discretionary activities. They requested that SUB-AM8(2) and SUB-AM8(3) be deleted, and SUB-AM8(1) be amended as follows:

SUB-AM8 General

1. Any potential cumulative effects that may occur as a result of the subdivision **arise from multiple non-compliances to standards.**

10.3.27 For Discretionary Activities, the reporting planner noted that Council’s assessment was not restricted to the Assessment Matters in the SUB – Subdivision chapter, but Council may consider them. Therefore, the assessment matters are not necessarily limited to the assessment of matters listed for Restricted Discretionary Activities.

10.3.28 The reporting planner did not support Kāinga Ora’s request to amend SUB-AM8(1) as, for example, where a subdivision did not comply with condition SUB-R1(1)(a) in relation to the minimum net site area, and a Discretionary Activity resource consent was required under Rule SUB-R1(3), the Council could consider the cumulative effects of land fragmentation from non-compliance with the relevant minimum net site area required under Standard SUB-S1. In that case, cumulative adverse effects could occur in relation to the finite land resource where there was non-compliance with that one standard. Therefore, amending the matter to only apply to ‘multiple non-compliances’, would not capture this situation. Also, it was unclear to the reporting planner how many non-compliances would comprise ‘multiple non-compliances’.

10.3.29 The reporting planner did not support Kāinga Ora’s request to delete SUB-AM8(2), as the purpose of the assessment matter was to enable Council to assess if new lots created could be developed in a way anticipated under the relevant provisions of the PDP, without being significantly physically constrained (e.g., by the need to provide vehicle access and/or building platforms that

comply with the standards for subdivision within the National Grid Subdivision Corridor, or could achieve the minimum setback of future buildings and structures from stormwater drains or other waterbodies being part of the Regional Council's river control and drainage scheme, etc). The reporting planner noted that the assessment matter also provides an opportunity for Council to consider the imposition of conditions on the subdivision consent to avoid, remedy or mitigate adverse effects.

Assessment Matter SUB-AM10 Easements

- 10.3.30 Kāinga Ora (S129.117) opposed Assessment Matter SUB-AM10 as they considered there are other pieces of legislation and tools available to Council and utility providers to ensure access and protection of services. They requested that the assessment matter be amended.
- 10.3.31 The reporting planner considered that it was reasonable for Council to assessment the need for easements to be provided over lots within a subdivision in favour of Council and/or other network utility providers to ensure they have suitable access to enable the maintenance, repair or replacement of those services or access. If there were other tools or methods available, they may still be proposed by the Applicant and considered by Council under this assessment matter, as the purpose of the assessment matter was to consider whether there was a need for easements.
- 10.3.32 The reporting planner therefore recommended that Assessment Matter SUB-AM10 be retained as notified.

Assessment Mater SUB-AM11 Sites in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing horticultural or intensive primary production activities

- 10.3.33 Kāinga Ora (S129.118) opposed references to restrictive covenants and/or consent notices within Assessment Matter SUB-AM11 and requested the following amendments:

SUB-AM11 Sites in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing horticultural or intensive primary production activities

1. The design of the subdivision to ensure that, as a consequence of the development it will accommodate, reverse sensitivity effects will not be created or exacerbated. In particular, in assessing the development, the following factors will be considered:
 - a. The scale, design, and location of the development such that the number of sites and potential house sites adjoining the above activities is minimised.
 - b. The location of the house sites ~~which will avoid~~ **minimise** any potential for reverse sensitivity effects.
 - c. The ability of the development to include methods which will mitigate against reverse sensitivity effects being experienced.
 - d. ~~The registration of restrictive covenants and/or consent notices (where they are offered) against the certificate of title(s) for any site where reverse sensitivity effects are likely to result from activities operated in compliance with the provisions of the District Plan, which cannot otherwise be adequately avoided or mitigated by other conditions of consent, and which are necessary to achieve the relevant objectives, policies and anticipated environmental outcomes for the zone, particularly those relating to reverse sensitivity effects.~~

- 10.3.34 Silver Fern Farms (FS8.040) and Hort NZ (FS17.62) opposed Kāinga Ora's submission point, as they considered reverse sensitivity effects in the rural zones was an appropriate consideration, and the legitimate role of restrictive covenants and/or consent notices as methods to prevent reverse sensitivity effects arising.
- 10.3.35 The reporting planner advised that Objective OBJ 16 of the Hawke's Bay Regional Policy Statement (RPS) states the following:

OBJ 16 For future activities, the avoidance or mitigation of offsite impacts or nuisance effects arising from the location of conflicting land use activities.

- 10.3.36 The RPS recognises that, where different land uses are located adjacent to each other, there was always the potential for conflict. This was particularly the case where, for example, there was residential development adjacent rural activities. The proximity of these land uses to one another could cause conflict, predominantly in relation to odour, smoke, dust, noise and agrichemical spray drift.
- 10.3.37 The reporting planner therefore considered that it was appropriate and important for Council to be able to assess potential reverse sensitivity effects associated with sensitive activities establishing on new lots within the Rural Lifestyle Zone and new lifestyle sites within the General Rural Zone and Rural Production Zone, where they are on land adjoining existing primary production activities. This was consistent with Objective OBJ 16 of the RPS, as well as Objective SUB-O4 and Policy SUB-P16 of the PDP.
- 10.3.38 However, to achieve consistency with the wording of Policy SUB-P16 (as a consequence of the amendments recommended be made to the policy in response to submission points under Key Issue 7: Policies), the reporting planner recommended that the heading of SUB-AM11 be amended to read: 'Lots in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Production Zone and Rural Production Zone, which adjoin any site used for existing primary production activities, including intensive primary production activities, rural industry and industrial activities'. The reporting planner also recommended that the wording of SUB-AM11(1)(b) be amended to read: 'The location of the house sites which would avoid where practicable, or otherwise mitigate, any potential for reverse sensitivity effects'.
- 10.3.39 Assessment Matter SUB-AM11(1)(d) only related to the registration of restrictive covenants and/or consent notices 'where they are offered' by applicants. The reporting planner therefore considered that they are a legitimate matter that the Council could consider when offered as part of a subdivision consent application. However, the reporting planner recommended that the wording be amended to clarify that it was 'where they are offered by the applicant'.
- 10.3.40 On the basis of the above, the reporting planner recommended that Assessment Matter SUB-AM11 be retained, but amended as follows:

SUB-AM11 ~~Sites~~ **Lots** in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing ~~horticultural or~~ **primary production activities, including** intensive primary production activities, **rural industry and industrial activities**

1. The design of the subdivision to ensure that, as a consequence of the development it will accommodate, reverse sensitivity effects will not be created or exacerbated. In particular, in assessing the development, the following factors will be considered:
 - a. The scale, design, and location of the development such that the number of sites and potential house sites adjoining the above activities is minimised.
 - b. The location of the house sites which will avoid **where practicable, or otherwise mitigate** any potential for reverse sensitivity effects.
 - c. The ability of the development to include methods which will mitigate against reverse sensitivity effects being experienced.
 - d. The registration of restrictive covenants and/or consent notices (where they are offered **by the applicant**) against the certificate of title(s) for any site where reverse sensitivity effects are likely to result from activities operated in compliance with the provisions of the District Plan, which cannot otherwise be adequately avoided or mitigated by other conditions of consent, and which are necessary to achieve the relevant objectives, policies and anticipated environmental outcomes for the zone, particularly those relating to reverse sensitivity effects.

Assessment Matter SUB-AM14 Sites for Special Purposes

- 10.3.41 Assessment Matter SUB-AM14 related to assessing application to create lots for Special Purposes under Rule SUB-S3, being limited to the creation of lots of any size for public works, network utilities, renewable electricity generation activities, reserves, roads and access.
- 10.3.42 Kāinga Ora (S129.119) opposed the reference to restrictive covenants and/or consent notices within Assessment Matter SUB-AM14. They requested that the assessment matter be amended as follows:

SUB-AM14	Sites for Special Purposes
1.	Whether the lot is of sufficient area and dimensions to facilitate the intended use of the site.
2.	A Consent Notice may be registered on the Certificate of Title to any special purpose site, pursuant to section 221 of the RMA, requiring enforcement of a condition that, in the event that the site is no longer required for a special purpose, the site be amalgamated with an adjoining site, unless it is a fully complying lot for the respective zone.

- 10.3.43 FENZ (S57.080) requested that the assessment matter be retained as notified, as they considered the ability for Council to register a Consent Notice on the Record of Title would ensure that, where the land use was proposed to change, the lot would be required to be fully compliant with the rules of the respective zone.
- 10.3.44 We were advised by the reporting planner that Assessment Matter SUB-AM14 matches Special Assessment Criteria 30.1.8.2(1) of the Hastings District Plan, which applies to Sites for Special Purposes. This includes the ability for Council to require a consent notice to be registered on the Certificate of Title pursuant to s221 of the RMA.
- 10.3.45 Given the limited circumstances in which sites for special purposes could be created, the reporting planner considered that it was appropriate to retain SUB-AM14(2) to ensure that, when the site was no longer required for its special purpose, it was amalgamated with an adjoining site, unless it was a fully compliant sized site for the respective zone.
- 10.3.46 The reporting planner therefore recommended that Assessment Matter SUB-AM14 be retained as notified.

Assessment Matter SUB-AM16 Subdivision of land, including Lifestyle Sites within Outstanding Natural Landscapes and Features, Significant Amenity Features, and the Coastal Environment (including identified areas of High Natural Character)

- 10.3.47 Kāinga Ora (S129.120) sought amendments to SUB-AM16, consistent with its submission points requesting removal of reference to 'Significant Amenity Features', and 'High Natural Character Areas'. They also request that the word 'development' in SUB-AM16(1)(a) be replaced with 'subdivision'.
- 10.3.48 In response to Kāinga Ora's submission point (S129.067), requesting deletion of the reference to areas of High Natural Character in Objective SUB-O1(2), the reporting planner recommended the following under Key Issue 5: Objectives of this report:
- "I concur with the conclusion of the reporting officer in the s42A Coastal Environment Report, that the independent assessment by a suitably qualified expert and subsequent inclusion of the areas of high natural character identified in that assessment within the PDP (maps and Schedule CESCHED7), robustly responds to section 6(a) of the RMA and gives effect to the New Zealand Coastal Policy Statement 2010 (Policy 13), as required by section 75(3)(b) of the RMA. For these reasons, I do not support deletion of 'High Natural Character Areas' from Objective SUB-O1(2).
- 10.3.49 For the same reasons given above, the reporting planner did not support deleting the reference to 'High Natural Character Areas' in Assessment Matter SUB-AM16.

10.3.50 With respect to the request to remove the reference to Significant Amenity Features (SAFs), in response to submissions requesting the deletion of provisions relating to SAFs, the Reporting Officer for the s42A report on Natural Environment – Natural Features and Landscapes advised the following:

As part of the Landscape Assessment carried out by Council's landscape expert (John Hudson of Hudson Associates), eleven natural features were identified and assessed as having significant landscape amenity values, and have been subsequently mapped and scheduled in the PDP as 'Significant Amenity Features'. The Landscape Assessment Report summarises these as follows:

'There are a number of areas that rank highly in terms of the assessment factors, however may not qualify as Outstanding. This is typically due to the level of modification which provides clear evidence of human intervention such as ongoing grazing, or reduced values in terms of natural science or perceptual values. These areas may be identified as Significant Amenity Landscapes, being worthy of recognition but not reaching the level required to be assessed as Outstanding.'

In that sense, the SAFs identified in the Landscape Assessment Report have been assessed as such against the same set of criteria as ONFs [Outstanding Natural Features], and whilst not worthy of recognition as 'outstanding', they are clearly distinguishable from normal rural landscapes.

In considering significant amenity landscapes, landscapes which contribute to amenity and the quality of the environment are given recognition under sections 7(c) and (f) of the RMA which require particular regard to 'the maintenance and enhancement of amenity values' and 'the maintenance and enhancement of the quality of the environment'. Such landscapes contribute to people's appreciation of the pleasantness, aesthetic coherence and cultural or recreational attributes of an area, as well as those which contribute to the functioning of ecosystems. They may also relate to very specific values or associations – such as with sites of historic events or cultural meaning, or areas associated with particular recreational activities – within rural areas. They may therefore include sites or locations that are important for local communities, but which are too modified to qualify for protection under section 6(b) of the Act.

Unlike outstanding natural features and landscapes, there is no presumption that landscapes which contribute to amenity and environmental quality will be retained in their current state (i.e. 'protected'). They may continually change as land uses and settlement patterns modify and evolve over time. However, the intent is to carefully manage that change to ensure that the overall amenity and environmental quality of the area is maintained or enhanced. A number of District Councils throughout New Zealand have included provisions for 'Amenity Landscapes' (or similar) in their district plans to manage land uses in those areas.

As outlined above, in the case of the Central Hawke's Bay District, the PDP has included these as 'Significant Amenity Features'. While there are no rules specifically applying to SAFs within the PDP, the approach in the PDP is to identify, map and schedule them, and to 'have regard' to them through the provision of 'assessment matters' to be applied in the event that a development proposal or activity triggers the need for a resource consent where it happens to be located within an SAF.

In my view, if particular landscapes are sensitive to landscape change, under higher pressure, or valued higher by the local community, they should be identified in the District Plan and spatially identified on the Planning Maps to provide a high level of certainty about their location and extent. Therefore, I am satisfied that the inclusion of 'Significant Amenity Features' in the PDP is appropriate, and I remain of the view that the PDP takes a measured and reasonable approach to such features (mapped and scheduled, with policies but no rules, only assessment matters) in enabling due regard to the maintenance and enhancement of amenity values and the quality of the environment in keeping with section 7(c) and section 7(f) of the RMA.

10.3.51 As advised by the Reporting Officer above, there are no rules specifically applying to SAFs in the PDP, and the approach of the PDP was to identify, map and schedule them. Regard was only given to SAFs through the provision of assessment matters for specific types of resource consent, including SUB-AM16, to be applied in the event that a subdivision triggers the need for a resource consent where it happens to be located within a SAF. The reporting planner concurred with the Reporting Officer, that the PDP "takes a measured and reasonable approach to such features (mapped and scheduled, with policies but no rules, only assessment matters) in enabling due regard to the maintenance and enhancement of amenity values and the quality of the environment in keeping with section 7(c) and section 7(f) of the RMA".

- 10.3.52 On the basis of the above, the reporting planner recommended that the reference to SAFs in Assessment Matter SUB-AM16 be retained as notified.
- 10.3.53 The reporting planner concurred with Kāinga Ora, that the word ‘development’ in the assessment matter, should be replaced with ‘subdivision’.

Assessment Matter SUB-AM17 Subdivisions with building platforms and/or vehicle access within the National Grid Subdivision Corridor

- 10.3.54 Consistent with its submission points relating to Standard SUB-S4, Kāinga Ora (S129.121) requested that Assessment Matter SUB-AM17 be deleted. Transpower (FS18.22) opposed Kāinga Ora’s submission point.
- 10.3.55 As advised, in relation to her analysis of submission points on Standard SUB-S4, under Key Issue 8: Standards, the reporting planner advised that the Standard gave effect to Policies 10 and 11 of NPS-ET, and it was directly related to achieving Objectives SUB-O4, NU-O1, NU-O2, NU-O3, and Policies SUB-P17, SUB-P18, NU-P1 and NU-P5 of the PDP. In her opinion, these standards, including Standard SUB-S4(2), give effect to Policies 10 and 11 of NPS-ET, and are directly related to achieving Objectives SUB-O4, NU-O1, NU-O2, NU-O3, and Policies SUB-P17, SUB-P18, NU-P1 and NU-P5 of the PDP.
- 10.3.56 The reporting planner advised that Objectives 32 and 33 in Chapter 3.13 of the RPS recognise the importance of the specific locational requirements of some regionally significant infrastructure and of its ongoing operation, maintenance and development to support the economic, social and/or cultural wellbeing of the region’s people and communities and provide for their health and safety. It was also for adverse effects on existing physical infrastructure arising from the location and proximity of sensitive land use activities to be avoided or mitigated. The reporting planner therefore also considered that Standard SUB-S4 gave effect to the objectives of the RPS.
- 10.3.57 Given the relationship between Standard SUB-S4 and Assessment Matter SUB-AM17, the reporting planner recommended that the assessment matter be retained as notified.

Assessment Matter SUB-AM18 Subdivisions with building platforms and/or vehicle access within proximity of the Gas Transmission Network

- 10.3.58 Consistent with its submission points relating to Standard SUB-S4, Kāinga Ora (S129.122) requested that Assessment Matter SUB-AM18 be deleted. First Gas (FS3.017) opposed Kāinga Ora’s submission point, as they considered the setback from the Gas Transmission Network under Standard SUB-S4 was required from a reverse sensitivity effects management perspective, and the assessment matter was appropriate for Council to assess applications that do not meet the minimum setback.
- 10.3.59 For the same reasons given above, in relation to the recommendation to retain Assessment Matter SUB-AM17 as notified, the reporting planner recommended that Assessment Matter SUB-AM18 be retained as notified.

New Assessment Matters

- 10.3.60 Hatuma Lime (S98.022) sought amended provisions to enable consideration of reverse sensitivity effects on lawfully established activities (such as quarries) as part of Controlled Activity subdivisions in the General Rural Zone. They requested that a new Assessment Matter be added to the Subdivision chapter to that effect. Hort NZ (FS17.61) supported Hatuma Lime’s submission point, but requested that the new assessment matter apply to all rural zones.

- 10.3.61 Given the recommendation to reject Hatuma Lime’s submission point (S98.021) under Key Issue 7: Rules (requesting that Rule SUB-R1 be amended to include a new matter of control that would require consideration of potential reverse sensitivity effects from building platforms and/or vehicle access within proximity of the Hatuma Lime Quarry on new lots created in the General Rural Zone), the reporting planner recommended that their request to add an associated new assessment matter also be rejected.
- 10.3.62 In relation to Kāinga Ora’s request (S129.123) to provide for subdivision of land containing heritage items and/or sites of significance to Māori as a Restricted Discretionary Activity, with associated matters of discretion to ensure appropriate management of potential adverse effects, Kāinga Ora (S129.123) requested the addition of a new assessment matter to the Subdivision chapter. HNZPT (FS7.031) and NHMT (FS5.090) supported Kāinga Ora’s request for a new assessment matter.
- 10.3.63 The reporting planner addressed this submission point already, under Key Issue 7: Rules. She recommended that the new assessment matter requested by Kāinga Ora be amended to also relate to notable trees (identified in TREE-SCHED4), Significant Natural Areas (identified in ECO-SCHED5), wāhi tapu, and wāhi taonga (identified in SASM-SCHED3), to cover all matters under Rule SUB-R1(1)(b).
- 10.3.64 On the basis of the assessment of the matters raised by submitters in Section 12.3 above, the reporting planner recommended the following amendment(s) are made to the SUB – Subdivision chapter provisions:

SUB-AM3 Building Platforms

1. The local ground conditions and suitability of the site for a building, and whether development on the site should be restricted to parts of the site.
2. ~~Where a parcel of land may be subject to inundation, whether there is a need to establish minimum floor heights for buildings in order to mitigate potential damage to them.~~
3. The positioning and scale of the building platform to facilitate meeting the setback standards applying in the respective zone for buildings.

SUB-AM7 Subdivision resulting in the creation of new ~~sites~~ lots within:

- ~~100~~**50m** of the State Highway Network **with a speed limit of less than 70km/h; or**
- **100m of the State Highway Network with a speed limit of 70km/h or more (measured from the nearest painted edge of the carriageway).**

1. The potential adverse effects of noise generated from the road network.
2. The potential adverse effects of ~~site~~ lot development on the efficient use and operation of the State Highway network and the suitability of any mitigation measures relating to noise and vibration to enable the continued operation of the network.
3. Whether any consultation with the NZ Transport Agency has occurred and the outcome of that consultation.
4. Whether a consent notice with regard to reverse sensitivity effects on the State Highway network is proposed.
5. Whether any proposed building platform or development should be restricted to parts of the ~~site~~ lot(s).
6. Whether there are any special topographical features or ground conditions which may mitigate effects on the operation of the State Highway network

SUB-AM8 General

1. Any potential cumulative effects that may occur as a result of the subdivision.
2. Potential constraints to the development of the site, such as the National Grid Subdivision Corridor or stormwater drains, and the ability for any resulting adverse effects to be avoided, remedied, or mitigated.
3. The potential effects from a proposed subdivision or development of land on the safe and efficient operation of network utilities.
4. The provision of electricity to the site boundary for any urban zone (GRZ – General Residential Zone, COMZ – Commercial Zone, GIZ – General Industrial Zone), to be confirmed by the electricity network utility as a condition of consent.
- 5. The alternative provision of telecommunications to each site.**

SUB-AM11 ~~Sites~~ **Lots** in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing ~~horticultural~~ or **primary production activities**, **including** intensive primary production activities, **rural industry and industrial activities**

1. The design of the subdivision to ensure that, as a consequence of the development it will accommodate, reverse sensitivity effects will not be created or exacerbated. In particular, in assessing the development, the following factors will be considered:
 - a. The scale, design, and location of the development such that the number of sites and potential house sites adjoining the above activities is minimised.
 - b. The location of the house sites which will avoid **where practicable, or otherwise mitigate** any potential for reverse sensitivity effects.
 - c. The ability of the development to include methods which will mitigate against reverse sensitivity effects being experienced.
 - d. The registration of restrictive covenants and/or consent notices (where they are offered **by the applicant**) against the certificate of title(s) for any site where reverse sensitivity effects are likely to result from activities operated in compliance with the provisions of the District Plan, which cannot otherwise be adequately avoided or mitigated by other conditions of consent, and which are necessary to achieve the relevant objectives, policies and anticipated environmental outcomes for the zone, particularly those relating to reverse sensitivity effects.

SUB-AM16 Subdivision of land, including Lifestyle Sites within Outstanding Natural Landscapes and Features, Significant Amenity Features, and the Coastal Environment (including identified areas of High Natural Character)

1. The design of the subdivision and the development it will accommodate, to ensure that it will not have adverse visual or landscape effects on the values of the feature, landscape or area (identified in ECO-SCHED5, NFL-SCHED6, and CE-SCHED7 of the District Plan) and will not detract from the natural character of the coastal environment. Reference will be made to the proposed nature and location of building platforms, roads and accessways, earthworks, landscaping, and planting. In particular, the ~~development~~ **subdivision** will be assessed in terms of its ability to achieve the following:

10.4 Evidence to the hearing

- 10.4.1 Claire Price presented expert planning evidence on behalf of Hatuma Lime at the hearing and sought additional assessment criteria.
- 10.4.2 Pauline Whitney presented expert planning evidence on behalf of Transpower and made minor amendments to SUB-AM17.
- 10.4.3 Tom Anderson presented expert planning evidence on behalf of Chorus, Spark and Vodafone and sought amendments to SUB-AM8.
- 10.4.4 Paul McGimpsey presented expert planning evidence on behalf of Fire and Emergency New Zealand and generally supported the planners' recommendations in the s42A.
- 10.4.5 Graeme Roberts provided expert planning evidence on behalf of First Gas at the hearing, seeking that SUB-AM18 be retained as notified.
- 10.4.6 Michael Campbell provided evidence on behalf of Kāinga Ora at the hearing and sought to reduce the density restrictions that apply to the residential zones.

10.5 Post hearing information

- 10.5.1 The planners right-of-reply addresses the submission from FENZ on SUB Assessment Matters SUB-AM5(4) and SUB-AM6(7). The reporting planner agrees with FENZ that deleting Assessment Matter SUB-AM5(4), which referred to the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008, would reduce Council's ability to adequately consider the fire risk in

relation to subdivision consent application was greatly reduced. The reporting planner has changed their position and SUB-AM5(4) should be retained as notified. For the same reasons, the reporting planner has changed their position that the reference to NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008 in SUB-AM6(7) should be retained.

- 10.5.2 The planners right of reply addresses the submission from Kāinga Ora on Assessment Matter SUB-AM7 and did not change their position.
- 10.5.3 The planner's right of reply addressed the submission from Transpower on Assessment Matter SUB-AM17 and did not change her position.

10.6 Evaluation and findings

Assessment Matter SUB-AM1 Lot Size and Dimensions

- 10.6.1 Kāinga Ora (S129.108) opposed inclusion of Assessment Matter SUB-AM1(4) as they considered it does not sufficiently provide for a range of housing types and/or acknowledge the evolving natural of character and amenity values. They requested that SUB-AM1(4) be deleted.
- 10.6.2 The Panel agrees with the reporting planner and considers that it is appropriate that Council be able to assess the effects of proposed lot sizes and dimensions that do not achieve the minimum net lot size requirements under the subdivision standards, to ensure that subdivisions are consistent with the purpose, character and amenity values supported and envisaged by the relevant zone provisions.
- 10.6.3 The Panel therefore recommends that Assessment Matter SUB-AM1 be retained as notified.

Assessment Matter SUB-AM3 Building Platforms and New Assessment Matter SUB-AMY

- 10.6.4 Kāinga Ora (S129.110) supported Assessment Matter SUB-AM3 but considered that a separate assessment matter is required to manage subdivision in natural hazard areas.
- 10.6.5 Kāinga Ora's request (S129.124) to include a new assessment matter for subdivision of land partly or wholly within an identified natural hazard area was addressed earlier in this report under Key Issue 7: Rules, in which the Panel has agreed with the reporting planner and recommends that the submission point be rejected, on the basis that the Subdivision chapter already includes Assessment Matter SUB-AM4 for natural hazards, and the new assessment matter requested by Kāinga Ora is unnecessary.
- 10.6.6 However, the Panel concurs with the submitter that clause 2 of Assessment Matter SUB-AM3 could be deleted, as any building platforms located on land subject to natural hazards, including any methods/measures to overcome or reduce the risk of any hazards, would be assessed in relation to Assessment Matter SUB-AM4.
- 10.6.7 The Panel recommends that clause 2 of Assessment Matter SUB-AM3 be deleted.

Assessment Matter SUB-AM5 Water Supply, Wastewater Disposal, Stormwater Disposal

- 10.6.8 James Bridge (S105.019) supported in part Assessment Matter SUB-AM5(7) but requested that it be amended to refer to the current version of this standard, being NZS4404:2010.
- 10.6.9 Under Key Issue 2 of this report, both the reporting planner and the Panel recommended that SUB-AM5(7) be deleted.

Assessment Matter SUB-AM6 Property Access

- 10.6.10 James Bridge (S105.020) supported in part Assessment Matter SUB-AM6(6) but requested that it be amended to refer to the current version of this standard, being NZS4404:2010. Waka Kotahi (S78.029) supports Assessment Matter SUB-AM6 and requested that it be retained as notified.
- 10.6.11 Under Key Issue 2 of this report, both the reporting planner and the Panel already recommended that SUB-AM6(6) be deleted.

Assessment Matter SUB-AM7 Subdivision resulting in the creation of new sites within 100m of the State Highway Network

- 10.6.12 Waka Kotahi (S78.030) supported Assessment Matter SUB-AM7 and requested that it be retained as notified.
- 10.6.13 Kāinga Ora (S129.114) opposed Assessment Matter SUB-AM7 to the extent that they considered was likely to unnecessarily constrain and/or hinder urban development. They requested that this assessment matter be deleted, and consequential amendments made to the provisions in the subdivision chapter to reflect this change.
- 10.6.14 The reporting planner advised that Assessment Matter SUB-AM7 ensures that subdivision consent applications for the creation of new lots within 100m of the State Highway Network are assessed in relation to potential effects of traffic noise generated from the road network on activities that may be developed on the new lots, such as residential activities. It also requires applications to be assessed with regard to reverse sensitivity effects of potential future activities on the proposed lots on the State Highway Network, which could adversely affect the Network's efficient use and operation. Applications would be assessed with regard to the suitability of any proposed measures to mitigate noise and vibration effects, including the location of building platforms on the lots.
- 10.6.15 It was noted that, as an outcome of Hearing Stream 2: Urban Environment, in relation to Noise, the Reporting Officer recommends, as an effective method for ensuring sensitive activities are not exposed to excessive noise when located adjacent to the State Highway, that Standard NOISE-S3 be amended as set out below:

NOISE-S3 Noise sensitive activities within 100m of State Highways and the Rail Network within:

- 50m of a State Highway with a speed limit of less than 70km/h; or
- 100m of a State Highway with a speed limit of 70km/hr or more (measured from the nearest painted edge of the carriageway); or
- 100m of Rail Network Boundary

General	<p>3. The following Minimum External Sound Insulation Level Standards applies to all habitable rooms within any building that contains a noise sensitive activity within 100 metres of the sealed edge of a State Highway or the Rail Network Boundary, either:</p> <ul style="list-style-type: none"> c. Provide a design report prepared by an acoustic specialist prior to construction of the habitable spaces rooms, demonstrating that road-traffic/rail network sound levels will not exceed 40 dB $L_{Aeq(24hr)}$ inside all habitable spaces rooms; or d. Provide a design report prepared by an acoustic specialist prior to construction of the habitable room/s, demonstrating that road-traffic/rail network sound levels will not exceed 57 dB $L_{Aeq(24hr)}$ outside the most affected part of the building exterior. <p>4. The following applies to all buildings that contains a noise sensitive activity within 100 metres of the sealed edge of a State Highway or the Rail Network Boundary:</p> <ul style="list-style-type: none"> b. Where new habitable rooms with openable windows are proposed, a positive supplementary source of fresh air ducted from outside is required at the time of fit-out. The supplementary source of air is to achieve compliance with the Building Act to ensure adequate ventilation and fresh air.
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- 10.6.16 The Officer’s recommended changes to Standard NOISE-S3 were in response to submission points S129.140, FS23.177 Kāinga Ora, and FS16.38 Waka Kotahi. They would introduce a new setback for noise sensitive activities within 50m of a State Highway with a speed limit of less than 70 km/h. The Panel accepted these recommended changes.
- 10.6.17 The Panel also recommended that the word ‘site(s)’ be replaced with the word ‘lot(s)’, which is considered more appropriate/accurate, and can be made as a minor change under cl16(2) of the First Schedule of the RMA.
- 10.6.18 In light of these recommendations, the Panel agrees with the reporting planner and recommends that Assessment Matter SUB-AM7 be retained but amended to reflect the above recommendations, as follows:

SUB-AM7 Subdivision resulting in the creation of new ~~sites~~ **lots** within:

- ~~100~~**50m** of the State Highway Network **with a speed limit of less than 70km/h; or**
- **100m of the State Highway Network with a speed limit of 70km/h or more (measured from the nearest painted edge of the carriageway).**

1. The potential adverse effects of noise generated from the road network.
2. The potential adverse effects of ~~site~~ **lot** development on the efficient use and operation of the State Highway network and the suitability of any mitigation measures relating to noise and vibration to enable the continued operation of the network.
3. Whether any consultation with the NZ Transport Agency has occurred and the outcome of that consultation.
4. Whether a consent notice with regard to reverse sensitivity effects on the State Highway network is proposed.
5. Whether any proposed building platform or development should be restricted to parts of the ~~site~~ **lot(s)**.
6. Whether there are any special topographical features or ground conditions which may mitigate effects on the operation of the State Highway network

Assessment Matter SUB-AM8 General

- 10.6.19 Waka Kotahi (S78.031) and Centralines (S90.037) supported Assessment Matter SUB-AM8 and requested that it be retained as notified.
- 10.6.20 Chorus (S117.065), Spark (S118.065) and Vodafone (S119.065) requested that a new matter was added to Assessment Matter SUB-AM8 requiring applicants and decision-makers to consider the effects resulting from the site not being connected to a telecommunications network.
- 10.6.21 In response to the submission points from Chorus, Vodafone and Spark (S117.064, S118.064, S119.064), the reporting planner recommended that a new Standard SUB-SXX Telecommunications be added to the SUB – Subdivision chapter. The reporting planner therefore concurred with those submitters that it is also appropriate to add a new clause to Assessment Matter SUB-AM8, to assess how telecommunications to each site will be provided where all new lots within subdivisions in the General Residential Zone, Commercial Zone, General Industrial Zone and other zones will not be connected (at the legal boundary of each lot) to the telecommunication network, where a network is available to connect to. However, the Panel considers that the new clause should be amended to refer to ‘The options for these provision of telecommunications to each site’.
- 10.6.22 Kāinga Ora (S129.115) opposed Assessment Matter SUB-AM8, as they considered it provides Council with unlimited discretion to consider and assess Restricted Discretionary activities. They request that SUB-AM8(2) and SUB-AM8(3) be deleted, and SUB-AM8(1) be amended as follows:

SUB-AM8 General

1. Any potential cumulative effects that may occur as a result of the subdivision **arise from multiple non-compliances to standards.**

- 10.6.23 For Discretionary Activities, the reporting planner noted that Council’s assessment was not restricted to the Assessment Matters in the SUB – Subdivision chapter, but Council may consider

them. Therefore, the assessment matters are not necessarily limited to the assessment of matters listed for Restricted Discretionary Activities.

- 10.6.24 The Panel does not support Kāinga Ora's request to amend SUB-AM8(1) as, for example, where a subdivision does not comply with condition SUB-R1(1)(a) in relation to the minimum net site area, and a Discretionary Activity resource consent is required under Rule SUB-R1(3), the Council could consider the cumulative effects of land fragmentation from non-compliance with the relevant minimum net site area required under Standard SUB-S1. In that case, cumulative adverse effects could occur in relation to the finite land resource where there is non-compliance with that one standard. Therefore, amending the matter to only apply to 'multiple non-compliances', would not capture this situation.
- 10.6.25 The Panel does not support Kāinga Ora's request to delete SUB-AM8(2), as the purpose of the assessment matter is to enable Council to assess if new lots created could be developed in a way anticipated under the relevant provisions of the PDP, without being significantly physically constrained (e.g., by the need to provide vehicle access and/or building platforms that comply with the standards for subdivision within the National Grid Subdivision Corridor, or could achieve the minimum setback of future buildings and structures from stormwater drains or other waterbodies being part of the Regional Council's river control and drainage scheme , etc.

Assessment Matter SUB-AM10 Easements

- 10.6.26 Kāinga Ora (S129.117) opposed Assessment Matter SUB-AM10 as they considered there are other pieces of legislation and tools available to Council and utility providers to ensure access and protection of services. They requested that the assessment matter be amended.
- 10.6.27 The Panel agrees with the reporting planner and considers that it is reasonable for the Council to assessment the need for easements to be provided over lots within a subdivision in favour of Council and/or other network utility providers to ensure they have suitable access to enable the maintenance, repair or replacement of those services or access. If there are other tools or methods available, they may still be proposed by the Applicant and considered by Council under this assessment matter, as the purpose of the assessment matter is to consider whether there is a need for easements.
- 10.6.28 The Panel recommends that Assessment Matter SUB-AM10 be retained as notified.

Assessment Mater SUB-AM11 Sites in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing horticultural or intensive primary production activities

- 10.6.29 Kāinga Ora (S129.118) opposed references to restrictive covenants and/or consent notices within Assessment Matter SUB-AM1.
- 10.6.30 Silver Fern Farms (FS8.040) and Hort NZ (FS17.62) opposed Kāinga Ora's submission point, as they considered reverse sensitivity effects in the rural zones is an appropriate consideration, and the legitimate role of restrictive covenants and/or consent notices as methods to prevent reverse sensitivity effects arising.
- 10.6.31 The Panel agrees with the reporting planner and recommended that Assessment Matter SUB-AM11 be retained, but amended as follows:

SUB-AM11 ~~Sites~~ **Lots** in the Rural Lifestyle Zone, and Lifestyle Sites in the General Rural Zone and Rural Production Zone, which adjoin any site used for existing ~~horticultural or~~ **primary production activities, including** intensive primary production activities, **rural industry and industrial activities**

2. The design of the subdivision to ensure that, as a consequence of the development it will accommodate, reverse sensitivity effects will not be created or exacerbated. In particular, in assessing the development, the following factors will be considered:
 - e. The scale, design, and location of the development such that the number of sites and potential house sites adjoining the above activities is minimised.
 - f. The location of the house sites which will avoid where practicable, or otherwise mitigate any potential for reverse sensitivity effects.
 - g. The ability of the development to include methods which will mitigate against reverse sensitivity effects being experienced.
 - h. The registration of restrictive covenants and/or consent notices (where they are offered by the applicant) against the certificate of title(s) for any site where reverse sensitivity effects are likely to result from activities operated in compliance with the provisions of the District Plan, which cannot otherwise be adequately avoided or mitigated by other conditions of consent, and which are necessary to achieve the relevant objectives, policies and anticipated environmental outcomes for the zone, particularly those relating to reverse sensitivity effects.

Assessment Matter SUB-AM14 Sites for Special Purposes

- 10.6.32 Assessment Matter SUB-AM14 relates to assessing application to create lots for Special Purposes under Rule SUB-S3, being limited to the creation of lots of any size for public works, network utilities, renewable electricity generation activities, reserves, roads and access.
- ~~10.6.33~~ Kāinga Ora (S129.119) opposed the reference to restrictive covenants and/or consent notices within Assessment Matter SUB-AM14.
- 10.6.34 FENZ (S57.080) requested that the assessment matter be retained as notified, as they considered the ability for Council to register a Consent Notice on the Record of Title will ensure that, where the land use is proposed to change, the lot will be required to be fully compliant with the rules of the respective zone.
- 10.6.35 We were advised by the reporting planner that Assessment Matter SUB-AM14 matches Special Assessment Criteria 30.1.8.2(1) of the Hastings District Plan, which applies to Sites for Special Purposes. This includes the ability for Council to require a consent notice to be registered on the Certificate of Title pursuant to section 221 of the RMA.
- 10.6.36 Given the limited circumstances in which sites for special purposes can be created, the reporting planner considers that it is appropriate to retain SUB-AM14(2) to ensure that, when the site is no longer required for its special purpose, it is amalgamated with an adjoining site, unless it is a fully compliant sized site for the respective zone.
- 10.6.37 The Panel agrees with the reporting planner and recommends that Assessment Matter SUB-AM14 be retained as notified.

Assessment Matter SUB-AM16 Subdivision of land, including Lifestyle Sites, within Outstanding Natural Landscapes and Features, Significant Amenity Features, and the Coastal Environment (including identified areas of High Natural Character)

- 10.6.38 Kāinga Ora (S129.120) sought amendments to SUB-AM16, consistent with its submission points requesting removal of reference to 'Significant Amenity Features', and 'High Natural Character Areas'. They also request that the word 'development' in SUB-AM16(1)(a) be replaced with 'subdivision'.
- 10.6.39 In response to Kāinga Ora's submission point (S129.067), requesting deletion of the reference to areas of High Natural Character in Objective SUB-O1(2), the reporting planner recommended the following under Key Issue 5: Objectives of this report:

"I concur with the conclusion of the reporting officer in the s42A Coastal Environment Report, that the independent assessment by a suitably qualified expert and subsequent inclusion of the areas of high natural character identified in that assessment within the PDP (maps and Schedule CESCHED7), robustly responds to section 6(a) of the RMA and gives effect to the New Zealand Coastal Policy Statement 2010 (Policy 13), as required by section 75(3)(b) of the RMA. For these reasons, I do not support deletion of 'High Natural Character Areas' from Objective SUB-O1(2).

10.6.40 For the same reasons given above, the Panel agrees with the reporting planner and does not support deleting the reference to 'High Natural Character Areas' in Assessment Matter SUB-AM16.

10.6.41 With respect to the request to remove the reference to Significant Amenity Features (SAFs), in response to submissions requesting the deletion of provisions relating to SAFs, the Reporting Officer for the s42A report on Natural Environment – Natural Features and Landscapes advised the following:

As part of the Landscape Assessment carried out by Council's landscape expert (John Hudson of Hudson Associates), eleven natural features were identified and assessed as having significant landscape amenity values, and have been subsequently mapped and scheduled in the PDP as 'Significant Amenity Features'. The Landscape Assessment Report summarises these as follows:

'There are a number of areas that rank highly in terms of the assessment factors, however may not qualify as Outstanding. This is typically due to the level of modification which provides clear evidence of human intervention such as ongoing grazing, or reduced values in terms of natural science or perceptual values. These areas may be identified as Significant Amenity Landscapes, being worthy of recognition but not reaching the level required to be assessed as Outstanding.'

In that sense, the SAFs identified in the Landscape Assessment Report have been assessed as such against the same set of criteria as ONFs [Outstanding Natural Features], and whilst not worthy of recognition as 'outstanding', they are clearly distinguishable from normal rural landscapes.

In considering significant amenity landscapes, landscapes which contribute to amenity and the quality of the environment are given recognition under sections 7(c) and (f) of the RMA which require particular regard to 'the maintenance and enhancement of amenity values' and 'the maintenance and enhancement of the quality of the environment'. Such landscapes contribute to people's appreciation of the pleasantness, aesthetic coherence and cultural or recreational attributes of an area, as well as those which contribute to the functioning of ecosystems. They may also relate to very specific values or associations – such as with sites of historic events or cultural meaning, or areas associated with particular recreational activities – within rural areas. They may therefore include sites or locations that are important for local communities, but which are too modified to qualify for protection under section 6(b) of the Act.

Unlike outstanding natural features and landscapes, there is no presumption that landscapes which contribute to amenity and environmental quality will be retained in their current state (i.e. 'protected'). They may continually change as land uses and settlement patterns modify and evolve over time. However, the intent is to carefully manage that change to ensure that the overall amenity and environmental quality of the area is maintained or enhanced. A number of District Councils throughout New Zealand have included provisions for 'Amenity Landscapes' (or similar) in their district plans to manage land uses in those areas.

As outlined above, in the case of the Central Hawke's Bay District, the PDP has included these as 'Significant Amenity Features'. While there are no rules specifically applying to SAFs within the PDP, the approach in the PDP is to identify, map and schedule them, and to 'have regard' to them through the provision of 'assessment matters' to be applied in the event that a development proposal or activity triggers the need for a resource consent where it happens to be located within an SAF.

In my view, if particular landscapes are sensitive to landscape change, under higher pressure, or valued higher by the local community, they should be identified in the District Plan and spatially identified on the Planning Maps to provide a high level of certainty about their location and extent. Therefore, I am satisfied that the inclusion of 'Significant Amenity Features' in the PDP is appropriate, and I remain of the view that the PDP takes a measured and reasonable approach to such features (mapped and scheduled, with policies but no rules, only assessment matters) in enabling due regard to the maintenance and enhancement of amenity values and the quality of the environment in keeping with section 7(c) and section 7(f) of the RMA.

10.6.42 As advised by the Reporting Officer above, there are no rules specifically applying to SAFs in the PDP, and the approach of the PDP is to identify, map and schedule them. Regard is only given to

SAFs through the provision of assessment matters for specific types of resource consent, including SUB-AM16, to be applied in the event that a subdivision triggers the need for a resource consent where it happens to be located within a SAF. The reporting planner concurred with the Reporting Officer, that the PDP “takes a measured and reasonable approach to such features (mapped and scheduled, with policies but no rules, only assessment matters) in enabling due regard to the maintenance and enhancement of amenity values and the quality of the environment in keeping with section 7(c) and section 7(f) of the RMA”.

- 10.6.43 On the basis of the above, the Panel agrees with the reporting planner and recommends that the reference to SAFs in Assessment Matter SUB-AM16 be retained as notified.
- 10.6.44 The Panel also agrees with the reporting planner and concurs with Kāinga Ora, that the word ‘development’ in the assessment matter, should be replaced with ‘subdivision’.

Assessment Matter SUB-AM17 Subdivisions with building platforms and/or vehicle access within the National Grid Subdivision Corridor

- 10.6.45 Consistent with its submission points relating to Standard SUB-S4, Kāinga Ora (S129.121) requested that Assessment Matter SUB-AM17 be deleted. Transpower (FS18.22) opposed Kāinga Ora’s submission point.
- 10.6.46 As advised, in relation to her analysis of submission points on Standard SUB-S4, under Key Issue 8: Standards, the reporting planner advised that the Standard gives effect to Policies 10 and 11 of NPS-ET, and it is directly related to achieving Objectives SUB-O4, NU-O1, NU-O2, NU-O3, and Policies SUB-P17, SUB-P18, NU-P1 and NU-P5 of the PDP. In her opinion, these standards, including Standard SUB-S4(2), give effect to Policies 10 and 11 of NPS-ET, and are directly related to achieving Objectives SUB-O4, NU-O1, NU-O2, NU-O3, and Policies SUB-P17, SUB-P18, NU-P1 and NU-P5 of the PDP.
- 10.6.47 The reporting planner advised that Objectives 32 and 33 in Chapter 3.13 of the RPS recognise the importance of the specific locational requirements of some regionally significant infrastructure and of its ongoing operation, maintenance and development to support the economic, social and/or cultural wellbeing of the region’s people and communities and provide for their health and safety. It is also for adverse effects on existing physical infrastructure arising from the location and proximity of sensitive land use activities to be avoided or mitigated. The reporting planner therefore also considered that Standard SUB-S4 gives effect to the objectives of the RPS.
- 10.6.48 Given the relationship between Standard SUB-S4 and Assessment Matter SUB-AM17, the Panel agrees with the reporting planner and recommends that the assessment matter be retained as notified.

Assessment Matter SUB-AM18 Subdivisions with building platforms and/or vehicle access within proximity of the Gas Transmission Network

- 10.6.49 Consistent with its submission points relating to Standard SUB-S4, Kāinga Ora (S129.122) requested that Assessment Matter SUB-AM18 be deleted. First Gas (FS3.017) opposed Kāinga Ora’s submission point, as they considered the setback from the Gas Transmission Network under Standard SUB-S4 is required from a reverse sensitivity effects management perspective, and the assessment matter is appropriate for Council to assess applications that do not meet the minimum setback.
- 10.6.50 For the same reasons given above, in relation to the recommendation to retain Assessment Matter SUB-AM17 as notified, the Panel agrees with the reporting planner and recommends that Assessment Matter SUB-AM18 be retained as notified.

New Assessment Matters

- 10.6.51 Hatuma Lime (S98.022) sought amended provisions to enable consideration of reverse sensitivity effects on lawfully established activities (such as quarries) as part of Controlled Activity subdivisions in the General Rural Zone. They requested that a new Assessment Matter be added to the Subdivision chapter to that effect.
- 10.6.52 The Panel disagrees with the reporting planner and considers that a new Assessment Matter is appropriate to manage any reserve sensitivity effects. The Panel recommends the following Assessment Matter:

SUB-AMXX Subdivision with building platforms and/or vehicle access within proximity of the Hatuma Lime Maharakeke Road quarry

1. Any actual and potential reverse sensitivity effects on the effective, and efficient operation of the Hatuma Lime quarry.

- 10.6.53 In relation to Kāinga Ora's request (S129.123) to provide for subdivision of land containing heritage items and/or sites of significance to Māori as a Restricted Discretionary Activity, with associated matters of discretion to ensure appropriate management of potential adverse effects, Kāinga Ora (S129.123) requested the addition of a new assessment matter to the Subdivision chapter. HNPT (FS7.031) and NHMT (FS5.090) supported Kāinga Ora's request for a new assessment matter.
- 10.6.54 The reporting planner addressed this submission point already, under Key Issue 7: Rules. She recommended that the new assessment matter requested by Kāinga Ora be amended to also relate to notable trees (identified in TREE-SCHED4), SNAs (identified in ECO-SCHED5), wāhi tapu, and wāhi taonga (identified in SASM-SCHED3), to cover all matters under Rule SUB-R1(1)(b).
- 10.6.55 The Panel notes that in the reporting planners right-of-reply she has included a new Assessment Matter SUB-AM20 but has not discussed why this assessment matter is included, this was an oversight and the Assessment Matter addresses the concerns raised by Kāinga Ora.



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell
Tim Aitken
Kate Taylor
Pip Burne

TOPIC 5C

Natural Hazards and Climate Change

REPORT DATED

4 May 2023

DATE OF HEARING

7 and 8 September 2022

- 3.6.5 Federated Farmers sought the inclusion of a definition for ‘Significant Natural Risk Area’ and Hort NZ ‘Areas of Significant Natural Hazard Risk’ to cover areas identified as falling within the mapped hazard overlay areas. The Panel agrees with the reporting planner that such a definition would inappropriately limit the term to only apply to those hazard areas mapped in the PDP when those mapped areas are not exclusively the only areas of potentially significant natural risk. The Panel does not, therefore, recommend the inclusion of any additional definitions.

4 Key Issue 2 – Natural Hazard Objectives & Policies

4.1 Proposed Plan provisions

- 4.1.1 Key Issue 2 addresses submissions relating to the objectives and policies in the Natural Hazards chapter.

4.2 Submissions

- 4.2.1 There were 52 submission points and 39 further submission points on the objectives and policies in the NH – Natural Hazards chapter of the PDP. These generally supported retention of the objectives and policies or sought amendments. One submitter (James Bridge) sought the deletion of Objective NH-O3, and Policies NH-P7 & NH-P9.

4.3 Reporting planner’s recommendations (s42A report)

Objective NH-O2

- 4.3.1 There was considerable support in the submissions for retention of Objective NH-O2 as notified. However, Kāinga Ora sought amendments to refer to ‘significant adverse effects’ in terms of natural hazards, and to delete reference to ‘the long-term effects’ in respect of climate change, as providing clearer policy direction and to guide subsequent provisions.
- 4.3.2 The reporting planner considered that this objective would benefit from better alignment with ss6(h) and 7(i) of the RMA in terms of minimising ‘significant risks of natural hazards’ and ‘the effects of climate change’ (both imminent and longer term).
- 4.3.3 Federated Farmers sought to amend Objective NH-O2 to reference ‘vulnerable activities’ to clearly differentiate simple uninhabited farm buildings, for example, that had different risk profiles from ‘vulnerable activities’ which were at higher risk. The reporting planner considered that the effects of natural hazards and climate change on farm buildings and structures and associated earthworks could still cause property damage and risk to people and did not consider it appropriate to limit the objective to only the community and ‘vulnerable activities’. However, the reporting planner considered the reference in Objective NH-O2 to ‘the built environment’ was unnecessary and could be deleted as ‘risks to the community’ was sufficiently broad.
- 4.3.4 As a result of the above, the reporting planner recommended Objective NH-O2 be amended as follows:

NH-O2 The ~~significant risks from effects of~~ natural hazards and the ~~long term~~ effects of climate change on the community ~~and the built environment~~ are minimised.

Objective NH-O3

- 4.3.5 Whilst there was support for retention of Objective NH-O3, there were a number of submitters who sought amendments to it (Kāinga Ora, Federated Farmers and Hort NZ) and one sought its deletion or amendment (James Bridge).
- 4.3.6 The reporting planner agreed with the submitters that the wording of Objective NH-O3 was unlikely to be achievable without effectively prohibiting new development, and the response to a risk should be based on the level of risk, with a focus on the level of risk posed by the hazard rather than avoiding 'any' increase in risk.
- 4.3.7 The reporting planner also noted the reference in the further submission from Silver Fern Farms to Section 3.12 Natural Hazards of the RPS, which contemplates natural hazard remediation and mitigation measures, not just avoidance.
- 4.3.8 The reporting planner recommended that Objective NH-O3 be amended as follows, as per the wording sought by Hort NZ:

NH-O3	Any increase in risk to people, property, infrastructure and the environment from the effects of natural hazards is should be avoided, remedied or mitigated, reflecting the level of risk posed by the hazard.
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Policies in general

- 4.3.9 NHMT sought that the policy section be redrafted to more fully and accurately reflect the history, relationships and whakapapa of Māori in the rohe. The submitter sought the inclusion of wording relating to working with mana whenua to develop, apply, monitor and enforce holistic river management practices, and that this should be drafted collaboratively with the mana whenua of the District.
- 4.3.10 The reporting planner did not consider the outcome sought by the submitter was able to be achieved through amendments or re-writing of this section of the PDP, noting river management and flood protection schemes were a regional council function. The reporting planner did not recommend any changes as a result of the submission.

Policy NH-P5

- 4.3.11 There was considerable support for the retention of Policy NH-P5 but Kāinga Ora and Federated Farmers sought amendments.
- 4.3.12 The reporting planner agreed with Kāinga Ora that the term 'manage' was more appropriate than 'control' in relation to the activities specifically listed and would better align with s6(h) of the RMA.
- 4.3.13 The reporting planner also agreed with Federated Farmers that referring to 'areas of significant natural hazard risk' was unclear, and using the words 'areas at significant risk from natural hazards', was more appropriate and would better align with s6(h). This amended wording should be carried through where the same terminology was used in Policies NH-P7 (further addressed below) and NH-P8, as a consequential amendment.
- 4.3.14 The reporting planner did not support the amendments sought to relate the policy only to 'habitable' buildings and to delete 'earthworks' from the list of activities to be managed. In the reporting planner's view, erection of 'non-habitable' buildings and structures and earthworks, in areas at significant risk from natural hazards, could also cause property damage and impact on the health and safety of people.
- 4.3.15 The reporting planner recommended that Policy NH-P5 be amended as follows:

NH-P5	To manage/control the activities that can occur in areas of significant natural hazard -risk <u>from natural hazards</u> , including: <ol style="list-style-type: none"> 1. the erection of new buildings or structures, or alterations to existing buildings or structures; 2. earthworks; 3. subdivision of land; and 4. the establishment of new vulnerable activities.
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4.3.16 And that Policy NH-P7 & NH-P8 be similarly amended for consistency, as a cl16 RMA minor amendment.

Policy NH-P7

4.3.17 There was considerable support for retention of Policy NH-P7, but Woolworths sought more clarification to be provided of the types of activities that could be appropriate, in particular within the relatively permissive Commercial Zone.

4.3.18 James Bridge sought deletion of Policy NH-P7, deeming the policy inconsistent with s6 of the RMA, which requires the management of significant risks from natural hazards, and inappropriate as it was not possible to achieve this policy without prohibiting any new development in the district.

4.3.19 As was recommended for Objective NH-O2 and Policy NH-P5 above, the reporting planner recommended a consequential amendment to the wording of the policy to more appropriately refer to ‘areas at significant risk from natural hazards’ to clarify the intent of the policy, and to be more consistent with s6(h) of the RMA. A similar amendment was recommended for NH-P8.

4.3.20 The reporting planner did not support deletion of the policy, which gave effect to Objective NH-O2 and, in particular, to Objective NH-O3 (as they were recommended to be amended). However, the reporting planner agreed with Woolworths and James Bridge that the policy implied all new development should be avoided, and supported clarifying that the policy applied to the types of new development that were at significant risk from natural hazards, and that the approach adopted was one of ‘avoidance’ in preference to mitigation or remedial measures.

4.3.21 The reporting planner did not support the use of the term ‘hazard sensitive activities’ as this would also require defining, and the PDP already outlined the activities considered to be most vulnerable to risk from natural hazards, being ‘vulnerable activities’ and ‘BIC 4 structures with post-disaster functions’ (including ‘major hazardous facilities’), which were already defined or specified in the PDP.

4.3.22 The reporting planner recommended that Policy NH-P7 be amended as follows:

NH-P7	To adopt and promote an avoidance approach to <u>the establishment of new vulnerable activities, and BIC 4 structures with post-disaster functions (including major hazardous facilities) new development</u> located within areas of significant natural hazard -risk <u>from natural hazards, where there is no functional or operational need to locate in these areas</u> , rather than mitigation or remedial measures.
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Policy NH-P9

4.3.23 There was considerable support for retention of Policy NH-P9, but Kāinga Ora sought amendments for clarification, and Federated Farmers sought amendments to ensure the focus was on land use change or development that would increase risk and not inadvertently capture low risk land use like farming.

4.3.24 James Bridge sought deletion of Policy NH-P9 on the basis that mitigation was an appropriate means of managing potential significant risks from natural hazards in accordance with s106 of the RMA, and that the focus on ‘avoidance’ was inappropriate.

4.3.25 The reporting planner did not support deletion of the policy, considering the policy assists in giving effect to Objective NH-O2 in terms of seeking to minimise risks from natural hazards, and Objective NH-O3 in terms of seeking to avoid any increase in risk from the effects of natural hazards. If a proposal necessitates further natural hazard mitigation activities, then it was clearly not minimising risks and implied that there was increasing risk as a result. The reporting planner agreed with Kāinga Ora that this could be clarified through amended wording.

4.3.26 The reporting planner recommended that Policy NH-P9 be amended as follows:

NH-P9 To ensure that subdivision, land use activities or other new development is located and designed **so as not to necessitate to avoid the need for further** natural hazard mitigation activities **in order to minimise risks associated with natural hazards to people, property, and infrastructure.**

4.3.27 In terms of Federated Farmers' submission, the reporting planner did not consider it appropriate to limit application of the policy solely to 'vulnerable activities' and considered interpretation of the policy would be clearer with the amended wording recommended above, which would largely address the remaining concerns of the submitter.

4.4 Evidence to the hearing

4.4.1 In her planning evidence for Transpower, Ms Pauline Whitney concurred with the s42A report recommendations relating to the Natural Hazards provisions.

4.5 Post hearing information

4.5.1 The reporting planner's right-of-reply did not address any matters relating to natural hazards, and no additional information was provided.

4.6 Evaluation and findings

Objective NH-O2

4.6.1 The Panel agrees with the reporting planner's recommendation, in response to Kāinga Ora's submission, to amend NH-O2 such that the wording is better aligned with RMA s6(h) and s7(i). The Panel also agrees with the reporting planner that it is not appropriate to limit NH-O2 to 'vulnerable activities' as sought by Federated Farmers, but that the objective could be improved by deleting the unnecessary reference to 'built environment'. The Panel recommends the following amendment:

NH-O2 The **significant risks from effects of** natural hazards and the **long-term** effects of climate change on the community **and the built environment** are minimised.

Objective NH-O3

4.6.2 Kāinga Ora, Federated Farmers, Hort NZ, and James Bridge raised issues with the wording of NH-O3 and the reporting planner agreed that the objective as worded is unlikely to be achievable. The Panel agrees with the reporting planner that the objective should be reworded and reflect that the response to a risk should be based on the level of risk. This would also more closely give effect to the RPS. The Panel recommends NH-O3 be amended as follows:

NH-O3 Any increase in risk to people, property, infrastructure and the environment from the effects of natural hazards **is should be avoided, remedied or mitigated, reflecting the level of risk posed by the hazard.**

Policies in general

- 4.6.3 The Panel agrees with the reporting planner and does not recommend any changes as a result of the submission by NHMT which sought that the policy section be redrafted to more fully and accurately reflect the history, relationships and whakapapa of Māori in the rohe. No specific changes have been sought and the Panel notes that there will be ongoing discussions between iwi and Council in line with the Panel's broader recommendations that fall outside the scope of this Plan review (as noted in our report on Hearing Stream 4, Tangata Whenua).

Policy NH-P5

- 4.6.4 The Panel agrees with the reporting planner's recommended amendments to NH-P5 to address Kāinga Ora's concerns around the term 'control' and Federated Farmers' concerns about the unclear nature of the term 'areas of significant natural hazard risk'. The Panel agrees that the policy should not only relate to 'habitable' buildings but property in general, and it is appropriate to include earthworks, noting that the rules (NH-R2) provide for BIC 1 buildings as a permitted activity in the Flood Hazard Area and Fault Avoidance Area which would include non-habitable farm buildings. The earthworks rules also provide for certain earthworks as a permitted activity. The policy would appropriately form part of the consideration when any resource consent process is triggered in an area identified as being at risk from natural hazards.

- 4.6.5 The Panel recommends the following amendments:

NH-P5	To manage/control the activities that can occur in areas of significant natural hazard -risk from natural hazards , including: 1. the erection of new buildings or structures, or alterations to existing buildings or structures; 2. earthworks; 3. subdivision of land; and 4. the establishment of new vulnerable activities.
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- 4.6.6 In addition, the Panel also recommends similarly amending Policy NH-P7 & NH-P8 to refer to "areas at significant risk from natural hazards" as a consequential amendment (to ensure consistency).

Policy NH-P7

- 4.6.7 The Panel agrees with the recommended amendments of the reporting planner, to bring the wording more closely in line with s6(h), clarify the intent of the policy, and clarify that the policy applies to the types of new development that are at significant risk from natural hazards, and that the approach adopted is one of 'avoidance' in preference to mitigation or remedial measures. The Panel recommends the following amendment:

NH-P7	To adopt and promote an avoidance approach to the establishment of new vulnerable activities, and BIC 4 structures with post-disaster functions (including major hazardous facilities) new development located within areas of significant natural hazard -risk from natural hazards, where there is no functional or operational need to locate in these areas , rather than mitigation or remedial measures.
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Policy NH-P9

- 4.6.8 The Panel agrees with the recommended amendments of the reporting planner, with some changes to further clarify the wording of the policy. The Panel agrees it would not be appropriate to limit the policy solely to 'vulnerable activities'. The Panel recommends the following amendment:

NH-P9	To ensure that subdivision, land use activities or other new development is located and designed so to avoid the need for further natural hazard mitigation activities are not required .
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6 Key Issue 4 – Natural Hazard Assessment Matters, Methods & Anticipated Environmental Results

6.1 Proposed Plan provisions

6.1.1 Key Issue 4 addresses submissions on the Natural Hazards assessment matters, methods and anticipated environmental results.

6.2 Submissions

6.2.1 There were 11 submission points and 7 further submission points that supported or sought amendments to assessment matters, methods, and anticipated environmental results in the NH – Natural Hazards chapter of the PDP.

6.3 Reporting planner’s recommendations (s42A report)

Assessment Matter NH-AM4

6.3.1 Submissions on this provision supported retention of Assessment Matter NH-AM4. However, Kāinga Ora considered that matter (1)(j) was sufficiently addressed through matters (1)(a) through to (1)(i) and sought that it be deleted. The reporting planner agreed that matter (1)(j) adds little to any assessment and is unnecessary, and therefore recommended Assessment Matter NH-AM4 be amended as follows:

NH-AM4	Natural Hazards
	<p>1. The effects of the occurrence of the identified natural hazard and the consequences of the natural hazard on the proposed activity will need to be assessed. In making this risk assessment the following factors will need to be considered:</p> <ul style="list-style-type: none">a. The extent to which public safety can be achieved. In assessing the proposal, regard will be had to methods of ensuring public safety such as early warning systems, emergency management contingency plans, escape routes and any other mitigation techniques.b. Assessment of the probability, magnitude and consequences of the cumulative natural hazards that affect the proposal.c. The type, scale, and distribution of any potential effects from the cumulative natural hazards that affect the proposal.d. The extent to which verifiable new information from a suitably qualified professional demonstrates that any land within an area identified on the District Planning Maps or held in Central Hawke’s Bay District Council or Hawke’s Bay Regional Council databases (i.e. GIS or web-based portal) as potentially subject to a natural hazard is not under threat from the hazard concerned or that the hazard is negligible.e. The potential risk to life, and economic and built environment risk associated with the proposed activity.f. The health and safety of potential property owners and/or occupants of the building(s).g. The effects on the community including physical, economic, and cumulative effects.h. The nature and type of land-use activity proposed and its potential maximum occupancy.i. Whether the proposal will result in consequences to other properties or infrastructure as a result of the natural hazard occurring.j. An overall assessment of whether the risk of natural hazards is significant or not.

Assessment Matter NH-AM5

6.3.2 Submissions on this provision supported retention of Assessment Matter NH-AM5. The reporting planner agreed with Kāinga Ora regarding a minor amendment to the title of the Assessment Matter for clarification purposes, and recommended Assessment Matter NH-AM5 be amended as follows:

1. The activity will be assessed in terms of its potential effects on public works and network utilities. Factors to be considered are the proximity of the activity to stop banks, high voltage lines, telecommunication facilities and other network utilities and public works, and the extent to which the activity may interfere with the safe and efficient operation or maintenance of those works and utilities.

Method NH-M1

- 6.3.3 Federated Farmers sought that the natural hazard mapping be adjusted according to any landowner submissions, and that landowners be informed as to what natural hazards are present on their property and to what extent. Federated Farmers requested that Council discuss with landowners to ensure hazard areas were ground-truthed, took site specific factors into account and landowners understand the impact that these areas will have on their farming practices.
- 6.3.4 Federated Farmers sought that Method NH-M1 was amended to indicate that Council will pay for site-specific investigations. The reporting planner noted that Method NH-M1 only identified that a site-specific investigation may be required and considered this was the responsibility of the applicant as part of any ‘assessment of environment effects’ (AEE) required in support of a resource consent application. Therefore, the reporting planner did not support the amendment of Method NH-M1 as sought by Federated Farmers.
- 6.3.5 The reporting planner considered the s35(5)(j) duty to keep records of natural hazards to the extent that the local authority considered appropriate for the effective discharge of its functions did not extend to initiating site-specific investigations in order to facilitate individual landowner developments.

Anticipated Environmental Result NH-AER1

- 6.3.6 The reporting planner agreed with the amendments sought by Kāinga Ora to Anticipated Environmental Result NH-AER1. The reporting planner considered the amended wording better aligned with s6(h) of the RMA, reflecting that certain activities and types of development may be appropriate to be located within areas of natural hazards where the risk was not significant.
- 6.3.7 The reporting planner recommended the following amendment:

NH-AER1 ~~Where practicable, new building development is located outside of identified natural hazard risk areas at significant risk from natural hazards. Where building development and associated land use activities are already established is already within a natural hazard area, the risk of the hazard is reduced and/or mitigated~~ **mitigations are employed to minimise risk to people and property.**

- 6.3.8 The reporting planner also considered the amendments recommended above go some way towards addressing the issues raised in James Bridge’s submission which sought to amend the wording to more accurately reflect that there are permitted activity rules in the PDP that provide for new building development within identified natural hazard risk areas where the risk was not considered significant.

6.4 Evidence to the hearing

- 6.4.1 No evidence was presented on matters covered in Key Issue 4.

6.5 Post hearing information

- 6.5.1 The reporting planner’s right-of-reply did not address any matters relating to natural hazards, and no additional information was provided.

6.6 Evaluation and findings

Assessment Matter NH-AM4

- 6.6.1 The Panel agrees with the reporting planner and Kāinga Ora that matter (1)(j) is unnecessary and sufficiently addressed through other matters. The Panel recommends NH-AM4(1)(j) be deleted.

Assessment Matter NH-AM5

- 6.6.2 The Panel agrees with the reporting planner and Kāinga Ora that a minor amendment to the title of NH-AM5 would provide greater clarity and recommends the following:

NH-AM5 Effects on Public Works and Network Utilities

Method NH-M1

- 6.6.3 The Panel agrees with the reporting planner that any site-specific investigation as part of an application would be at the applicant's cost and does not support the amendment sought by Federated Farmers to indicate that Council will pay for site-specific investigations.

Anticipated Environmental Result NH-AER-1

- 6.6.4 The Panel agrees with the amendment recommended by the reporting planner in response to Kāinga Ora and James Bridge's submissions, with a minor change to the wording to improve clarity of the provision. This would better align with s6(h) of the RMA and reflect that certain activities and types of development may be appropriate to be located within areas of natural hazards where the risk is not significant. The Panel recommends the following amendment:

NH-AER1 Where practicable, new building development is located outside of identified natural hazard risk areas at significant risk from natural hazards. Where building development and associated land use activities are already established is already within a natural hazard area, the risk of the hazard is reduced and/or mitigated mitigation minimises risk to people and property.

7 Key Issue 5 – Appendix NH-APP1 Building Importance Category

7.1 Proposed Plan provisions

- 7.1.1 Key Issue 5 addresses submissions relating to building importance categories and examples provided in Appendix NH-APP1 Building Importance Categories.

7.2 Submissions

- 7.2.1 There were 8 submission points and 5 further submission points relating to building importance categories and examples provided in Appendix NH-APP1 Building Importance Categories.
- 7.2.2 Several submissions were in support, while submissions by Federated Farmers and Chorus, Spark and Vodafone sought amendments.

Schedule D – Other documents necessary for adequate understanding of the appeal

Not applicable.

Schedule E – Persons to be served with a copy of this notice

Name	Address for Service
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Riverfield Holdings Ltd	<i>Contact details withheld. Council has undertaken to serve original submitter on its behalf</i>
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