

BEFORE THE INDEPENDENT HEARINGS PANEL

IN THE MATTER OF: An application for subdivision consent, pursuant to section 11 of the Resource Management Act 1991 (**RMA or the Act**) for a 55-lot subdivision (48 rural residential allotments)

AND

IN THE MATTER OF: A hearing by Central Hawke's Bay District Council

SUPPLEMENTARY STATEMENT FROM RYAN O'LEARY – PLANNING

Dated 13 July 2023

EXECUTIVE SUMMARY

1. I was author of the report pursuant to s 42A(1) of the RMA for the purpose of assisting the Hearing Commissioners in evaluating and deciding the application. I reaffirm my commitment to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023.
2. This report recognised the potential positive effects of the proposal and that it would provide a logical extension to a previous 20-lot rural lifestyle subdivision, being previous Stages 1 and 2 of RM180160 and RM180160A.
3. However, this report highlighted the extent to which the statutory framework has changed since Stages 1 and 2 obtained subdivision consent in 2020. The key 'new' statutory provisions introduced include:
 - a The **NPS-HPL** (17 October 2022) introduced directive policies in relation to prioritisation, use, development and protection of highly productive land.
 - b The Central Hawke's Bay Proposed District Plan (**PDP**) (25 May 2023) introduces a new strategic direction for the *Rural Land Resource*. Objectives and policies introduced on highly productive land have a large degree of alignment with the NPS-HPL.
 - c The PDP also has a changed emphasis in the way subdivision of rural land is to be managed more broadly, prioritising production land use and limiting rural lifestyle development. Further, the management of rural character is addressed through policies GRUZ-P1, P2 and P4, P5, P7, P8 and P10. The predominance of the farming landscape over a built one (rural lifestyle) is further reinforced through associated performance standards that require minimum lot sizes of 2500m² on the basis that a 20ha balance lot is created. Rural lifestyle subdivision is "limited" in terms of scale and intensity.

4. The primary differences between the Planning Evidence of myself and Ms Foster relate to:
 - a The application of the NPS-HPL;
 - b Whether the proposal is consistent with the objectives and policies of the PDP,
 - c Landscape Effects under the PDP; and
 - d Weighting of the PDP.

NPS-HPL

5. As we heard at great length yesterday, Clause 3.8(1)(a) of the NPS-HPL is central to whether the applicant meets to exception to the obligation to 'avoid' (not allow) subdivision of highly productive land (Policy 7).
6. Clause 3.8(1)(a) requires (emphasis added): "***the applicant demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term***", Ms Foster relies on the evidence of Mr Goodman that the proposal will satisfy clause 3.8(1)(a). I agree with Mr Wiffin that this requires retaining the productive "potential" of the subject land. I consider that Mr Goodman has provided an assessment based on the "existing productive value" of the land and has sought to off-set this on the remaining farm. The applicant does not demonstrate to clause 3.8(1)(a) is satisfied and therefore, I consider subdivision should be avoided under Policy 7 of the NPS-HPL.
7. Policy 8 of the NPS-HPL sets out to protect highly productive land from inappropriate use and development and clause 3.9 confine those matters deemed appropriate (and conversely inappropriate). The use of highly productive land for land-based primary production is not prioritised in accordance with Policy 4. The proposal does not fit within any of the specified exemptions under clause 3.10 of the NPS-HPL.
8. I consider that the NPS-HPL sets a deliberately high bar in achieving its single objective, that: "*Highly productive land is protected for use in land-based primary production, both now and for future generations*".

PROPOSED DISTRICT PLAN PROVISIONS

9. Ms Foster considers that the PDP provides a deliberate distinction in the policy framework between the *Rural Production Zone* and the General Rural Zone. In her view, highly productive land as framed in the *Strategic Direction* (RLR) within the PDP must only be considered as land within the Rural Production Zone. Informing her view, she draws on the Decisions Version titled:

Panel Report 3A: Rural Environment – Rural Strategic Direction & General Matters dated 4 May 2023).

10. I do not agree with Ms Foster on this point. I provide the following primary reasons:
- a The PDP pre-dated the NPS-HPL but was prepared to have a high-degree of alignment with it. Council’s Lawyer, Ms Asher Davidson, presented to the Panel a Legal Memorandum (dated 9 November) on the implications of the NPS-HPL for the PDP. After firstly setting out the NPS-HPL definition of highly productive land in the memorandum Ms Davidson then noted (in paragraph 8) under the heading “**Land Affected**” (emphasis added):

In preparing the PDP, there was a deliberate decision to seek to include the District’s LUC 1, 2 and 3 land within the RPROZ. This is evident on Attachment B which shows the land use classifications overlaid on the PDP zones. While there will be exceptions either way (and in particular, some GRUZ land includes areas of HPL), a rule of thumb is therefore that any land within the notified RPROZ will be HPL and subject to the NPS-HPL.
 - b The “*exceptions either way*” referred to by Ms Davidson are, by my reading, that there is highly productive land present in the General Rural Zone not captured by the Rural Production Zone; and, there is land within the Rural Production Zone that is not highly productive land by definition (LUC 1, 2 or 3). This is clear in Appendix B of Ms Davidson’s legal memorandum.
 - c The extracts highlighted by Ms Foster in paragraphs 82 to 87 of her evidence should, in my opinion, be viewed in context. The Panel was tasked with deciding whether to include definitions and/or maps for highly productive land in relation to Horticulture NZ’s submission (S81.033). The decision requested from the submitter was to “*Add a new definition for 'Highly Productive Land', which should clarify the spatial scope and include LUC 1, 2 and 3*”.
 - d After receiving this legal memorandum, the Panels finding (at 3.1.14) was that “*the use of LUC 1 to 3 class soils aligned generally with the approach of the PDP and therefore reliance could be made on the definitions in the NPS-HPL rather than introducing a separate definition in the PDP*”.
 - e On plain reading of the *Rural Land Resource* provisions, I consider that those provisions related to highly productive land are intended to apply **beyond** the Rural Production Zone. This is clear by the use of the words “particularly in the Rural Production Zone” (RLR-01). The *Rural Land Resource* contains 3 zones. Given that Rural Lifestyle Zone land is excluded from the definition of highly productive land, the two zones of relevance are – the Rural

Production Zone and the General Rural Zone. In contrast, where policies are directed to solely the Rural Production Zone this is clearly specified (RLR-P1, RLR-P2).

- f Greater clarity is also provided in the *Strategic Direction for Urban Form and Development*. UFD-O2 seeks to: “Retain and protect highly productive land in the District from urban development, **particularly in the Rural Production Zone**”. As is recorded in *Panel Report 2A Urban Environment (including Urban Form & Development, Urban Zones, Activity Management, & Intensification) dated 4 May 2023*, the **underlined** words were those recommended by the s42A Officer and agreed to by the Panel. The Panel summarised the reporting planner recommendation as follows (emphasis added):

7.3.4 The reporting planner concurred with Silver Fern Farms (S116.017) that Objective UFD-O2 should be amended so that it only referred to ‘highly productive land’ and the word ‘valuable’ is deleted. She also agreed that, while highly productive land was particularly located within the Rural Production Zone, there may be other areas where it exists.

11. I do not agree with Ms Foster that the PDP frames highly productive land as only land within the Rural Production Zone. I consider that the Proposal remains contrary to RLR-01 and RLR-03 (which relate to highly productive land) for the reasons previously outlined in my s42A Report.
12. Lastly, I consider that policy RLR-P1 simply supports the spatial definition of the Rural Production Zone, identifying the highly productive land within it as a single zone. As this application site is not within the Rural Production Zone I disagree with Ms Foster assertion that RLR-P1 is relevant (paragraph 11 (h) of Ms Fosters Evidence).

LANDSCAPE EVIDENCE

13. As outlined in paragraphs 68 and 69 of Ms Foster’s evidence, she considers the correct ‘*frame of reference*’ in assessing effects on rural amenity is not a comparison between bare farmland and the Proposal, but rather, a comparison on the proposed lot sizes against the 4000m² (ODP) and 2500m² (PDP) zone standards, interspersed within the existing environment (e.g. subdivision Stages 1 and 2) and proposed open space areas.
14. Whilst I do not disagree with Ms Foster in relation to the ODP, I disagree with respect to the PDP.
15. I consider that the PDP involves a significant change in emphasis overlooked by Ms Foster and in Ms Whitby’s evidence. When read in totality, the PDP therefore contemplates quite a difference rural lifestyle subdivision to the 48-lots proposed. Objectives RLR-O2, RLR-O3, RLR-O4, RLR-P3, GRUZ-O1, GRUZ-O2, GRUZ-O3 and GRUZ-O4; and, policies GRUZ-P4, and GRUZ-P8 signal a very different approach to the Operative District Plan. In particular, RLR-O4 directs

residential and other activities unrelated to primary production to locations zoned for those purposes. GRUZ-O2 seeks that the predominant character of the *General Rural Zone* is maintained.

16. Further qualifiers are included to the intent of this policy as being: an overall low-density built form; a predominance of primary production activities; a landscape within which the natural environment (including farming landscapes) predominates over a built one; and, an environmental contrast and clear distinction between town and country (lack of urban infrastructure such as footpaths and lighting). GRUZ-P8, seeks to *“limit residential and rural lifestyle subdivision that results in fragmentation of the rural land and/or that restricts the use of rural land for productive purposes”*. I consider that the proposal is contrary to these provisions.
17. When Ms Foster addresses RLR-02 at paragraph 88 of her evidence, she states that this policy *“does not seek an avoidance outcome”*. Whilst this is true, I consider that Ms Foster misses that point that RLR-02 is conjunctive and seeks for the primary production role and associated amenity of the rural land resource to be retained **and** is protected from inappropriate subdivision, use and development. Here, the primary production role and amenity it not retained; and, I consider that the statutory framework to ‘limit’ (RLR-P3) the scale and intensity of rural lifestyle subdivision under the PDP re-frames (in comparison to the ODP) what is considered to be appropriate or inappropriate subdivision, use or development.
18. I consider that the proposal is contrary to RLR-02. The primary production role of the rural land resource and associated amenity is precisely the matter sought to be retained. Limits to the scale and intensity of possible subdivision achieve this objective.
19. The “Anticipated Environmental Results” for the General Rural Zone outline further that:

The District Plan also provides for larger subdivision lot sizes in the rural zones, and limits on the provision for residential and rural lifestyle subdivision, to avoid further fragmentation of the District's finite soil resource. Residential and rural lifestyle lots that are unrelated to primary production activities are better located in the General Residential Zone, Large Lot Residential Zone (Coastal), Settlement Zone, and Rural Lifestyle Zone, where amenity and servicing expectations are more likely to be met.
20. At paragraph 4.326 to 4.27 of my s42A Report I further explain my view with respect to the PDP’s deliberate approach to limiting the scale, intensity and frequency of subdivision. In my opinion, Rural lifestyle development of this nature in the rural area is precisely the type of development the PDP directs against.

21. Overall, I disagree with Ms Foster that the Proposal is consistent with the provisions of the PDP. I consider that, when correctly framed against the policy direction of the PDP, the proposed subdivision is at odds with the above objectives and policies of the PDP. I generally agree that the proposal is consistent with the objectives and policies of the ODP.

WEIGHTING AND THE PROPOSED DISTRICT PLAN

22. Ms Foster considers that the proposal is consistent with the objectives and policies of the PDP and that, in any case, she considers that the orthodox approach is to give *little weight* to the PDP given there is an outstanding appeal on the land/provisions by Mr Bridge. This appeal is by Mr Bridge and relates to relevant provisions of the *Strategic Direction – RLR and General Rural Zone; and*, is seeking a rezoning of this site to Large-Lot Residential.
23. I accept that Mr Bridge is entitled to that appeal process. However, the panel must decide what weight to give to give the PDP provisions. Counsel for Mr Harris and the Council have addressed the Panel on this point. I remain of the view that greater weight should be given to the PDP for the reasons given in in paragraph 4.109 to 4.111 of my s42A Report. However, I correct my statement in paragraph 4.111 of my s42A Report and confirm my view that the PDP has a high-degree of alignment with (but does not “give effect to”) the NPS-HPL. This is helpfully clarified in paragraphs 27 to 32 of Ms Davidsons Legal memorandum (9 November 2022) as part of the Proposed District Plan Hearing (Stream 6). As the PDP does not give (full) effect to the NPS-HPL, the PDP does not have complete coverage. I consider that the Panel has recourse to the provisions of the NPS-HPL and Part 2 of the Act (as per *Davidson*).

RECOMMENDATION

24. In considering the proposal’s ‘fit’ with the policy framework, I undertook an appraisal of the relevant provisions. Where policies are expressed in more directive terms, I have given more weight than those that are phrased more generically.

25. In considering the application under s 104 of the Act, subject to Part 2, I conclude that:
- a. The subdivision will dominate the rural valley floor and compromise the productive role and associated amenity of the zone in light of the relevant objectives and policies of the PDP. Rural lifestyle development of this nature in the rural area is precisely the type of development the PDP directs against.
 - b. I have carefully considered the positive effects of the proposal enabled by the proposed subdivision and consider that the proposed subdivision would provide a logical extension to the existing rural lifestyle development.
 - c. I consider that the NPS-HPL directs that the subdivision should be avoided (Policy 8) and the proposal will offend the policy direction of the NPS-HPL (Policies 6 and 7) and Proposed District Plan (e.g. 'the strategic fit') to such an extent that it amounts to inappropriate use or development. In my view, the proposal is contrary to many of the NPS-HPL's directive policies and offends the policy direction of the Proposed District Plan to such an extent that resource consent should be **declined**.
 - d. Although the proposal is generally consistent with the Operative District Plan ('**ODP**') provisions, I consider that the Proposed District Plan represents a significant policy shift and that greater weight should be given to the strategic direction of the Proposed District Plan, which has been the subject of recent hearings and decisions.
 - e. I consider that the proposal will not be consistent with the sustainable management purpose of the RMA.

RESPONSE TO MS FOSTER'S ADDRESS TO THE PANEL

Consent Triggers

26. In her address to the Panel, Ms Foster notes (paragraph 6) that consent is not required due to the presence of highly productive soils. She agrees that it is a consideration but not a trigger. This is inconsistent with Mr Davies who confirmed in his Opening Submissions that land use consent is sought for the open space areas. These require land use consent under **GRUZ-R10(1)(a)** as Community facilities are only permitted activities where not located within Class 1, 2 or 3 soils as identified by the New Zealand Land Resource Inventory. The land use consent is required as a **Discretionary Activity**.

More than Minor Landscape Effects

27. In paragraph 13 of Ms Foster Statement, Ms Foster is critical of myself and Ms Ryder's for focussing on 'more than minor effects'. I agree with Ms Foster that there is no applicable threshold test (s104D RMA). I say this in paragraph 4.4 b of the s42A Report. Where this phrasing is used in the s42A report it quantifies that scale of effect (more than minor) and then continues to say "*and is not sufficiently mitigated*". The difference in opinion between Ms Ryder and Ms Whitby on the level of mitigation required is the primary issue here.

Refinement of Landscape Conditions

28. I agree with Ms Foster and Ms Ryder that conditions related to landscaping matters need refinement. I consider this is best undertaken through expert caucusing by the Planners for the Applicant and Council following the hearing, with appropriate technical input as required.

RESPONSE TO MR DAVIES LEGAL SUBMISSIONS

Large Lot Residential vs Rural Lifestyle

29. Mr Davies makes that case at Paragraphs 53 to 60 of his Legal Submissions that the lots proposed are 'Residential' lots and not 'Lifestyle sites'. He bases this on the National Planning Standards definition of "Large-lot Residential Zone". As such, he submits that the policies (and presumably the objectives) which seek to 'discourage' (the PDP says '*limit*') rural lifestyle subdivisions are not applicable.
30. By my interpretation, the proposed use of land is correctly identified as a "Lifestyle site", defined in the PDP as: "*a site created and used for rural residential living in the RPROZ – Rural Production Zone and the GRUZ – General Rural Zone*". Therefore, I maintain my opinion that the Proposal offends the *Strategic Direction* for the *Rural Land Resource* and the *General Rural Zone* in relation to rural lifestyle sites.

31. In the event that I am wrong and Mr Davies is correct, I would consider the following objective and policy to be of particular relevance for the Panel:

Strategic Direction - Urban Form and Development.

UFD-O2 Retain and protect highly productive land in the District from urban development, particularly in the Rural Production Zone.

UFD-P2 To avoid urban development onto valuable highly productive land in the District, particularly in the Rural Production Zone, by directing it to identified General Residential, Settlement, Town Centre, and General Industrial Zones.

32. As is clear from the above language, these provisions are strongly directive. Highly productive land is to be retained and protected from urban development (UFD-O2). Urban Development of valuable highly productive land is to be avoided by directing urban development to other zones (UFD-P2), notably Large-lot Residential is not included in this policy. I consider that the proposal would then be at odds with the *Strategic Direction - Urban Development and Form*.

Setbacks and Permitted Activity Standards

33. Under the PDP the minimum setback standard (GRUZ-S5) in the General Rural Zone is 15m for residential buildings. Mr Davies notes that these matters have been appealed by Mr Bridge. He says (at paragraph 16) that in any event, the subdivision consent seeks to reflect the setbacks contained in the Operative District Plan.
34. Since the PDP had legal effect CHBDC has received applications with Stages 1 and 2 for Deemed Permitted Boundary Activity (DPBA's) applications for non-compliances with this standard. I consider that a condition is necessary to regulate this to prevent an outcome not contemplated by Ms Whitby or Ms Ryder.

QUESTIONS FROM COMMISSIONERS

Regional Council Consents and Natural Wetland

35. Commissioner Wilson queried whether written confirmation was provided by the Hawke's Bay Regional that they agreed with the Applicant's Ecologist, Mr Nicolas Singers that wetland ID #7476 is not a wetland under the NPS-FM. I attach a copy of this email to this statement. Below is an image from the HBRC online Wetland Inventory GIS portal which indicates natural wetlands on neighbouring site's but not the subject land.



Drainage of Water and Constructed Wetland

36. The relevant Rule under the Regional Resources Management Plan is quoted below. I note that I have not visited the portion of the site where drainage is now proposed and the applicant may be best placed to respond on whether consents are required from the Regional Council.

6.6.2 DRAINAGE WATER - DISCHARGES TO LAND/WATER

Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
32 Discharge of drainage water (gravity flow systems) Refer POL 71, 72, 79	The diversion and discharge of drainage ¹⁰¹ water into water or onto or into land, from a gravity flow system (without pumping).	Permitted ¹⁰²	<ul style="list-style-type: none"> a. There shall be no adverse flooding effects on any property owned or occupied by another person, as a result of any discharge from the drainage activity. b. The discharge shall not cause any scouring or erosion of any land or any water course beyond the point of discharge. c. The activity shall not adversely affect any wetland¹⁰³. d. The discharge shall not cause the natural temperature of any receiving water to be changed by more than 3°C from normal seasonal water temperature fluctuations, after reasonable mixing. e. Any discharge of water arising from a drainage system shall be to the same catchment¹⁰⁴ as that to which the water would naturally flow. f. Any suspended solids in the discharge shall comply with Policy 72. 		

Extension to Coastal Settlements

37. The Panel asked Mr Davies whether he was aware of any reason Council did not initiate an extension of the existing coastal settlements under the PDP.

38. There is some discussion of this recorded in the PDP's Coastal Environment Section 32 Topic Report, dated May 2021. Paragraph 3.1.2 refers to the 'Coastal Zone Discussion Document – District Plan Review', CHBDC, November 2013, where it explains:

This document was released for public discussion as part of the rolling District Plan review. It identified and sought feedback from the community on a range of issues

relating to Coastal Townships and Identity, Coastal Landscapes, Growth & Services in Coastal Townships, Cultural Issues, Climate Change and Natural Hazards.

27 submissions were received in response to the discussion document, including submissions from Heritage New Zealand, Hawke's Bay Regional Council and Hawke's Bay Federated Farmers. The submissions indicated a general acknowledgement of the fragility of the coastal environment; some support for constraining/limiting development in coastal settlements & limiting commercial and industrial activities; providing more regulation around earthworks; recognition/protection of sites of heritage and cultural significance in the coastal environment; and protection of the natural character and amenity of the coastal area.

39. Paragraph 3.4.2 of the Section 32 Report then outlines:

There were no other submissions to the Draft District Plan specifically applying to subdivision within the coastal settlements or to the extent of the Coastal Settlements Zone boundaries. The Zone extents of the coastal settlements, and the subdivision rules and minimum lot sizes etc for the Coastal Settlements Zone therefore remained unchanged following feedback on the Draft District Plan.

RESPONSE TO SUBMITTERS

Mr Harris

40. Mr Harris provided the panel with a useful insight into his 'real world' experiences on reverse sensitivity effects. Having faced these issues with Stages 1 and 2 he is concerned they will inevitably exacerbate with additional residents from this subdivision. These effects impact his farm activities/practices; his business; and, have a personal toll.
41. The applicant has offered a no complaints covenant to be imposed and provide physical separation through the 'buffer' areas around the periphery of the site. Mr Harris does not consider these measures sufficient. In my experience, a non-complaints covenant is usually an appropriate means to manage the potential effects for rural dwellers. Holiday-makers, in Mr Harris' opinion, potentially brings different characteristics with heightened expectations whilst on holiday for quiet, sensitivity to rural activities, etc. I suspect also, that these dwellings will also experience potentially periods of vacancy.
42. Ultimately, I agree with the applicant that these effects can be mitigated. However, I note that cl 3.8 (2)(b) refers to territorial authorities must take measures to avoiding these effects, if possible, or otherwise mitigate them. I wonder whether there is greater opportunity for the applicant to consider further conditions to either avoid or mitigate these effects, particularly through the use of the Incorporated Society.

CONDITIONS

43. I consider that it would be most efficient for the Applicant and Council to caucus on some of the draft consent conditions. This will assist in outlining what conditions are agreed and narrow the areas of disagreement. I do have the following main comments on conditions:

Landscape conditions:

44. I agree there is room for refinement but note that there is still substantive disagreement on the necessity of matters.

Productive Land Drainage Plan

45. The PLDP is to be certified by Council at s224 stage and subsequently implemented. However, there are no obligations for on-going monitoring, maintenance and remediating drainage failures, a matter which requires an enduring solution beyond the subdivision having been given effect to. The constructed wetland need to be incorporated into condition and staging needs to be clarified.

Pedestrian Connection to the beach:

46. I consider it appropriate to ensure that the beach access track is provided and maintained to a suitable standard for its effective use.

Footpath width

47. Mr Rossiter seeks a 2m wide footpath and the applicant maintains only a 1.5m path is sufficient for this stage.

Flooding

48. Mr Hodson considers that the conditions on overland flowpaths should remain.

Earthworks

49. I consider a condition on earthworks is necessary to ensure excess soil is not stockpiles further on highly productive land and/or compromising any other consent condition.

Certification Conditions

50. Mr Davies have sought to remove a certification process from the proposed condition set. I consider that Council's involvement in certification and monitoring is necessary to ensure independence as well as the necessary rigour in certifying that conditions will be met. The Panel heard that Mr Bridge has had an unsatisfactory compliance history including abatement notices

from both CHBDC and HBRC. I consider Council's involvement is important, necessary and is an any case standard practice/efficient.

Pest Management Strategy

51. Dr Hicks mentioned benefit of additional signage for education purposes would assist when viewed from the beach.

Interventions on Pourere Road to vehicle slow-speed

52. Ms Foster (para 38) considers these should be paid for by Council, noting that these are relatively simple and low-cost interventions. However, I consider this is appropriate to be a consent condition, given the need for such measures are related to the implementation of the subdivision consent.
53. Mr Boaretto suggested moving the traffic sign (speed limit) away from the Pourere Rd intersection. In my opinion this should also be met by the applicant

Tsunami Risk

54. The Incorporated Society must have an Emergency Response Plan relevant to all allotments in response to an emergency event, including a tsunami.

Attachment 1: Hyperlinks to documents referred to:

Documents	Hyperlink
Coastal Environment Section 32 Topic Report, dated May 2021	Microsoft Word - Section 32 Coastal Environment Report (May 2021).docx (chbdc.govt.nz)
Rural Environment Section 32 Topic Report, dated May 2021	Microsoft Word - Section 32 Rural Environment Report (May 2021).docx (chbdc.govt.nz)
Panel Report 6A: Maps & Rezoning Requests, dated 4 May 2023	Final-Panel-Report-6A-Mapping-and-rezoning.pdf (chbdc.govt.nz)
Panel Report 3B: Rural Environment - Rural Zones, Noise and Subdivision, dated 4 May 2023	Final-Panel-Report-3B-Rural-Zones-Noise-Subdivn.pdf (chbdc.govt.nz)
Panel Report 2A Urban Environment (including Urban Form & Development, Urban Zones, Activity Management, & Intensification) dated 4 May 2023	Final-Panel-Report-2A-Urban-Environment.pdf (chbdc.govt.nz)
James Bridge Notice of Appeal	James-William-Bridge-Notice-of-Appeal.pdf (chbdc.govt.nz)
Legal Submissions for Central Hawke's Bay District Council in relation to the National Policy Statement on Highly Productive Land 2022, Asher Davidson, dated 9 November 2022	Submissions-re-NPSHPL.pdf (chbdc.govt.nz)

Attachment 2: Email from HBRC on Wetland

Ryan O'Leary

From: Sophia Edmead <Sophia.Edmead@hbrc.govt.nz>
Sent: Thursday, 15 June 2023 3:01 pm
To: Ryan O'Leary
Subject: RE: 220003 25 Punwaitai Rd - Wetlands discussion
Attachments: FW: Subdivision at Punawaitai, Pourerere

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Ryan,

Thanks for the email – I've done a bit of digging and can confirm that HBRC agreed that wetland ID #7476 was not a wetland (see email attached). This was before my involvement in the project and the ecological report does not look to have been saved on our consents file (this was a pre-app stage). However I did find the following notes about that specific wetland:

- 26/3/2021 - In regards to wetland #7476 - James engaged Nicolas Singers who confirmed on 26/3 in his desk top assessment this was not a wetland with the other 2 wetlands not assessed and remain on the inventory,
- 1/4/2021 – confirmation was sent to James confirming HBRC agreed with Mr Singers findings and also advised #7476 wetland was removed from our inventory,

The above matches up with the date on the ecological report that you provided me below. I also note that on our internal wetland mapping system, ID #7476 has been identified as 'not a wetland' under the NPSFM 2020 definition according to the NJD Singers 2021 report. Our ecologists are likely to have a copy of the report if you would like me to chase it up to check it matches the one you have been provided.

We also have a publicly available wetlands map here: <https://www.hbrc.govt.nz/environment/farmers-hub/essential-freshwater-package-farmers-guide/wetland-management/>. I do note there are a number of caveats to this map and if an area is not identified on this map, this does not necessarily mean that one does not exist. The 'wetland' in question has been removed from this map.

Hope the above helps, happy to discuss further with you if you have any more questions.

I will respond to your other email today or tomorrow.

Thanks,
Sophia



Sophia Edmead
Team Leader Consents
06 835 9200 | 027 258 9212

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Enhancing Our Environment Together | Te Whakapakari Tahī | Tō Tātau Taiao



From: Ryan O'Leary <roleary@propertygroup.co.nz>
Sent: Wednesday, 14 June 2023 4:36 pm
To: Sophia Edmead <Sophia.Edmead@hbrc.govt.nz>
Subject: 220003 25 Punwaitai Rd - Wetlands discussion

Do not click links or open attachments unless you are certain the content is safe. If this email claims to be from a HBRC staff member, do not click on any links or attachments and contact the ServiceDesk immediately.

Hi Sophia,

As discussed, I attach:

1. Link to proposed plans: <https://www.chbdc.govt.nz/assets/Document-Library/Resource-Consents/RM-220003-Punawaitai/RM-220003-Plans.pdf>
2. The applicant's commentary on the NPS-FM: [RM-220003-Response-to-Question-13.pdf \(chbdc.govt.nz\)](#)
3. Wetland delineation letter: <https://www.chbdc.govt.nz/assets/Document-Library/Resource-Consents/RM-220003-Punawaitai/RM-220003-Letter-to-HBRC-re-Wetland-Delineation.pdf>
4. Wetland Inventory information: <https://www.chbdc.govt.nz/assets/Document-Library/Resource-Consents/RM-220003-Punawaitai/RM-220003-Wetlands-Inventory-Information.pdf>
5. Applicant's response on <https://www.chbdc.govt.nz/assets/Document-Library/Resource-Consents/RM-220003-Punawaitai/RM-220003-Response-to-Question-13.pdf>

Kind regards

Ryan O'Leary
Planning Manager – Central



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Attachment 3: Map referred to as Appendix B – Legal Counsel submissions from Asher Davidson, Dated 9 November 2022

Land Use Classifications and Proposed District Plan Zones in Central Hawke's Bay

