

Upper Hutt City Council

Proposed Plan Change 42: Pinehaven and Mangaroa Flood Hazard Extents

Council Right of Reply

James Beban and Brett Osborne (consultant planners)
10/20/2017

1. A number of issues have been raised in the hearing by the submitters and the Commissioner. This right of reply responds to these matters which were confirmed as Annexure 1 of Minute 2 from the Commissioner dated 2nd October 2017. Specifically, this right of reply responds to the following points:

Resource Management Act matters

- A. Applicability of Section 6(h) of the Act;
- B. Ability to impose rules in the Stream Bed (legal jurisdiction) under Sections 13 & 31;
- C. The consistency of the proposed rules with Regional rules (section 75 of the Act);
- D. Section 104D Gateway test

District Plan matters

- E. Appropriateness of the flood modelling for land use planning purposes;
- F. Purpose of the maps;
- G. Objectives, policies and rules linkages;
- H. Policy direction and discretionary activity status;
- I. Amendments to the proposed objectives and policies;
- J. Guildford Block (Southern Growth Area) Existing District Plan Provisions and the Plan Change Process;
- K. Guildford Block and the Pinehaven Catchment Overlay;
- L. Justification for the 20m² addition size for Pinehaven Stream;
- M. Non-regulatory options.

Other Related matters

- N. Notice of requirement process (Pinehaven Structure Works);
- O. Amendments to the Section 42a report;
- P. Pinehaven Floodplain management process;
- Q. Number of properties in the Mangaroa Flood Hazard Extent;
- R. Percentage properties in the Erosion Hazard Area and not in the Flood Hazard Extent;
- S. Conclusion.

APPENDICES

- 1 DLA Piper email (s6(h) of the RMA).**
- 2 DLA Piper email (Legal jurisdiction)**
- 3 Summary policy and rule table with activity status**
- 4 Rule matrix table**
- 5 DLA Piper Email (discretionary activity and avoidance policy)**
- 6 Section 32AA (RMA) report of recommended changes and strikethroughs**
- 7 Guildford Block & Pinehaven Catchment Overlay Map**

ANNEXURE 1 CROSS REFERENCES

For ease of reference, the questions in Annexure 1 of Minute 2 from the commissioner have been cross referenced against the relevant sections of this Right of Reply (“RoR”) in the following table.

Annexure 1 Question	Response reference	
	RoR Section	RoR Appendix
1	N	
2	P	
3	I	6
4	G	4
5	G	3
6	A	1
7	H	5
8	Q	
9	R	
10	O	
11	O	
12	C	
13	Michael Law evidence	
14	Michael Law evidence	
15	Michael Law evidence	
16	B	2
17	K	
18	J	7
19	Michael Law evidence	
20	M	
21	Michael Law evidence	

RESOURCE MANAGEMENT ACT MATTERS

A. Application of Section 6 (h)

2. We can confirm that Section 6 (h) is not applicable to this proposal as the plan change was notified prior to this provision becoming operative, in accordance with Schedule 2, Clause 6 of the Resource Legislation Amendment Act 2017. This is confirmed by DLA Piper in the email attached in Appendix 1.

3. We would however note that while Section 6 (h) does not apply to this plan change, this does not mean that Council is unable to include planning provisions in the District Plan to address natural hazards. The reasons for this are as follows:
 - (a) Under Section 5 of the Act, sustainable management of resources requires providing for the health and safety of people and communities.

 - (b) Section 31(1) (b) of the Act requires Councils to control any actual or potential effects of the use, development, or protection of land, including for the purpose of—
 - (i) the avoidance or mitigation of natural hazards

 - (c) The District Plan must give effect to a regional policy statement pursuant to s75(3)(c) of the RMA. The Wellington Regional Policy Statement requires a risk-based approach to be undertaken to natural hazards, including 1:100 year flood hazards.

4. We are therefore of the view that while Section 6(h) does not apply to this plan change, Council still has a statutory requirement to implement land use planning practices to address the 1 in 100 year flood hazard in the Pinehaven and Mangaroa River catchments.

B. Ability to impose rules in the Stream Bed (legal jurisdiction) under Sections 13 and 31

5. Following the submission from Mr Jefferies (#23), the Commissioner requested the following:
 - (a) Can the High Court case supplied by Mr Jefferies, be provided to Council lawyers (DLA Piper) for comment and to see whether their advice on 4 July around the applicability of rules to the streambed still apply; and
 - (b) What function under Section 31 of the Act are these rules intended to address.
6. DLA Piper has reviewed the High Court Decision supplied by Mr Jefferies. In short, DLA Piper has confirmed that their advice remains unchanged and they provide their reasons for this in Appendix 2.
7. In terms of the function of Section 31, the proposed earthworks rules specifically seek to address the natural hazard risk that can arise from earthworks within the identified stream and river corridors (s31(1)(b)(i)). Uncontrolled earthworks in these high risk areas could result in the diversion of flood flows, or the blocking of flood flows which could increase the flood risk to properties in the immediate area of the works and downstream. It is therefore considered appropriate that earthworks within these identified extents are controlled.
8. We would also like to reiterate that the respective stream and river corridors, as delineated on the proposed District Plan maps, extend beyond the bed of both the Pinehaven Stream and the Mangaroa River. This is due to the stream and river corridors being mapped based on the hazard that they represent, as opposed to the physical beds or banks of either the Pinehaven Stream or the Mangaroa River.

C. The consistency of the proposed rules with Regional rules (section 75 of the Act)

9. The Commissioner has sought guidance around the consistency of the proposed provisions against Section 75 (4) of the Act which states:

A district plan must not be inconsistent with—

 - (a) a water conservation order; or
 - (b) a regional plan for any matter specified in section 30(1).

10. Section 30 (1) outlines the functions of regional councils. Section 31 (1)(c) identifies the following:

the control of the use of land for the purpose of—

- (i) soil conservation:*
- (ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:*
- (iii) the maintenance of the quantity of water in water bodies and coastal water:*
- (iiia) the maintenance and enhancement of ecosystems in water bodies and coastal water:*
- (iv) the avoidance or mitigation of natural hazards:*

11. Section 31 (b) of the Act outlines the functions of territorial authorities. This section states:

The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—

- (i) the avoidance or mitigation of natural hazards; and*
- (ii) [Repealed]*
- (iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
- (iii) the maintenance of indigenous biological diversity:*

12. The purpose of outlining these two sections of the Act is to show that for each council, there is a common function to control the use of land for the purposes of managing natural hazards.

13. The relevant regional plan that is applicable to this proposal is the Regional Freshwater Plan. Under this plan, there are a number of objectives, policies and rules that seek to control the effects of activities in the bed of a stream or river. Proposed Plan Change 42 (PC42) proposes to introduce objectives, policies and rules that apply to the Stream and River Corridor during a 1 in 100 year flood extent. The delineated Stream and River Corridors therefore include the bed of both Pinehaven Stream and Mangaroa River.

14. The proposed objectives and policies under PC42 are consistent with the Regional Freshwater Plan. The proposed objectives and policies seek to take a risk-based approach to the management of the flood risk from the Pinehaven Stream and the Mangaroa River.
15. Relevant Regional Freshwater Plan objectives are 4.1.9 and 4.1.10, and relevant associated policies are 4.2.18, 4.2.19, 4.2.20, 4.2.21, and 4.2.22. These objectives and policies seek to “mitigate the risk or effects associated with flooding to an acceptable level” and to allow for the maintenance of the existing flood mitigation structures. Given this direction in the Regional Freshwater Management Plan, the proposed objectives and policies are considered to be consistent with this document.
16. It is acknowledged that some differences exist between the comparative rules of the proposed provisions and the Regional Freshwater Plan; this is particularly in relation to earthworks. Under the Regional Freshwater Plan a number of rules (Rule 22, Rule 28 and Rule 38) have a low level of permitted bed disturbance works. These permitted standards of stream disturbance in many instances have been set based on ecological and water quality effects (which is an identified function under Section 30 (1)(c)), not natural hazards. Under the proposed plan change, these earthworks would be non-complying for the Mangaroa River and the Pinehaven Stream (the exception is flood mitigation works, where they would be permitted under both the proposed Plan Change and the Regional Freshwater Plan).
17. It is our view, the differing activity statuses do not mean that the proposed rules are inconsistent with the Regional Freshwater Plan. It is not uncommon for District Council provisions to overlap with the regional plan provisions, and for there to be differing consent activity status (for example works on erosion prone land need consent from both the local council and the regional council under the Regional Soils Plan). It is our view that while there are some differences in activity status between the plans for earthworks, the two sets of provisions can stand together as the proposed Plan Change focussed on identified high risk flooding areas, which is not addressed in the Regional Freshwater Plan.

18. It is our view that provisions need to be considered holistically when comparing the proposed provisions against the Regional Freshwater Plan. It is considered that given the high level of consistency with the objectives and policies of the two documents, and some consistency between the rules, that overall the proposed provisions are not inconsistent with the Regional Freshwater Plan.
19. However, should the Commissioner form a different view on this matter, then the following amendments (blue highlight) could be made to the proposed earthwork rules in Table 23.1. These amendments would effectively exclude the bed of the stream or river from consideration, meaning that there would be no overlap between the District Plan and the Regional Freshwater Plan.

Earthworks within the Pinehaven Flood Hazard Extent (excluding those associated with flood protection works, works in the bed of the stream as covered by the rules in the Regional Plans, and network utilities identified as permitted activities), which are within the overflow path or stream corridor.

Earthworks within the River Corridor of the Mangaroa Flood Hazard Extent (excluding those associated with network utilities that are otherwise identified as a Permitted Activity and works in the bed of the river as covered by the rules in the Regional Plan).

D. Section 104D Gateway test

20. A question was asked around the gateway test under Section 104D and non-complying activities. In essence, the question was how does the gateway test work in relation to avoidance policy.
21. For reference, under Section 104D, a consent authority can grant an application for a non-complying activity providing the application satisfies one of the following criteria:
- a) the adverse effects of the activity on the environment will be minor; or*
 - b) the application is for an activity that will not be contrary to the objectives and policies of the relevant plan,*

22. Generally it is accepted that if an activity is occurring in an area where an “avoid objective and policy” is applicable (for example the stream or river corridor) then the development would be contrary to the objectives and policies of the District Plan and fail one of the tests of the gateway test.

23. Consent could still however be granted if it is demonstrated that the effects of the activity on the environment would be minor. However, given the non-complying status applies to numerous activities including dwellings, additions to buildings and accessory buildings there would need to be exceptional circumstances to why such an activity would be approved to be located in a high hazard area.

E. Appropriateness of the flood modelling for land use planning purposes

24. A number of the submitters raised concerns regarding the accuracy of the flood hazard maps. This matter is addressed in the right of reply by Mr Law and Mr Christensen and will not be repeated here other than to note:

- The methodology used for the modelling for both Pinehaven and Mangaroa represents best practice at a catchment scale;
- The methodology used is nationally recognised and accepted; and
- The flood hazard maps are fit for purpose.

25. Given the evidence-in-chief from both Mr Christensen and Mr Law, it is our view that the flood hazard maps are fit for purpose for land use planning.

26. We acknowledged that on individual property scale there may be some variation between the modelled extents at a catchment level and the modelled extents at an individual property level. As explained in the right of reply by Mr Law and Mr Christensen this is a limitation of the model. However, we would like to provide some clarity around what this variation means in a land use planning context.

27. If an applicant was to undertake a subdivision in a flood hazard extent as identified in the District Plan, resource consent would be required. If as part of the resource consent application the applicant decided to provide site specific modelling, which showed that on a property level, their building platforms were not in a flood hazard extent, then this would be taken into account as part of the decision making process. The site specific modelling would be sent to GWRC to confirm that it was accurate. If it was considered to be accurate, then this would be accepted and the application

would likely be approved (subject to all other effects such as amenity values, servicing, traffic also being considered acceptable).

28. Essentially, if resource consent applicants want to produce detailed site specific modelling to more accurately define the flood hazard extents on their respective properties, then the process allows for this information to be considered to inform the resulting decision.

F. Purpose of the District Plan maps

29. The purpose of the District Plan Flood Hazard Maps is identified in paragraph 42 of the evidence-in-chief of Mr Law, and I concur with his assessment. The District Plan Flood Hazard Maps are essentially zone maps, to which specific objectives, policies and rules apply. To work as zone maps, they must identify a definitive geographic boundary so there is certainty to the District Plan users as to whether their proposed activity is located within or outside the flood hazard extent. Further, the flood hazard extents are also defined by their hazard type, such as 'Overflow Path' or 'Ponding'. This is an important purpose of the flood hazard maps as it allows users to then determine the applicable provisions within the district plan, assess the activity status, and whether a resource consent is required. They are illustrated for this purpose, leaving the hydraulic and hydrological details from the flood model (such as various water velocities and depths) to other informative maps by GWRC.
30. In this regard, it is important to note that the District Plan maps do not delineate the full flood hazard extent. This is instead illustrated in the aforementioned GWRC flooding maps, as a result of their respective functions and purposes.
31. It is proposed that the District Plan maps delineate the flood hazard extent that is greater than 0.1m in depth. The proposed objectives, policies and rules apply to this mapped extent. This is consistent with the District Plan maps purpose to act as flooding zone maps to control development, in accordance with the proposed objectives, policies and rules. It is considered that the water that is less than 0.1m in depth represents an insignificant risk. Mr Law, Mr Christensen, and GWRC agree with this, and as such a Resource Management regulatory response is not required. It is considered that these small flood depths are best

addressed through other mechanism such as the Building Act 2004 and therefore does not need to be mapped in the District Plan.

32. It is important to note that the Pinehaven Floodplain Management Plan will continue to delineate the full flood hazard extent (i.e it will continue to show the water that is less than 0.1m in depth). This is due to the different purpose that these maps fulfil, as earlier described.
33. It is understood that the submitters would like the District Plan maps to be presented in a similar way to Hamilton City Council maps. These maps use the terms, low, medium and high hazard for the various mapped extents. The proposed Upper Hutt City District Plan maps would use the terms Ponding, Overflow Path and Stream or River Corridor.
34. There is no national direction on the terminology that should be used within District Plans to identify the various components that comprise of a Flood Hazard Extent. The terminology that has been used in the District Plan is consistent with the approach that is recommended for the Wellington Region by the Greater Wellington Regional Council. Given the Resource Management Act 1991 encourages regional consistency, we consider that it is appropriate that we retain the proposed terminology within the District Plan.
35. We would however like to reiterate, that while the terms differ from the Hamilton District Council maps, the intent is largely the same. The ponding area represents a low hazard area, whereas the overflow and stream and river corridors represent the high hazard area. Within each of these areas, there are applicable objectives, policies and rules that control development relative to the risk that arises from the flood hazard.

G. Objectives, policies, and rules linkages

36. The Commissioner has sought clarification or further information on several matters in relation to the linkages between the proposed objectives, policies and rules. These included:
 - (a) Updating Appendix 1 that was presented in Mr Osborne's opening statement to include activity status, alongside the proposed rules.
 - (b) Prepare a matrix showing hazard risk, activity and consent category;

- (c) Clarification around how the rule pertaining to the erosion hazard setback applies.
37. Appendix 1 has been updated to include activity status (this is attached in Appendix 3). This Appendix shows that there are strong linkages between the consent activity status and the proposed policy direction, i.e. the lower level activity status aligns with the least restrictive policies and the higher level consent activity status align with the more restrictive policies.
38. A matrix for both the Pinehaven Catchment and the Mangaroa River has been prepared showing the consent activity status of activities relative to the hazard area of the flood hazard extents (Appendix 4). The differing consent categories have been colour coded as follows:
- (a) Green - Permitted Activities
 - (b) Yellow - Controlled Activities
 - (c) Orange - Restricted Discretionary
 - (d) Red - Discretionary Activity
 - (e) Burgundy - Non-complying
39. While this matrix provides a useful visualisation of the escalation of the rules for the various hazard areas, it needs to be recognised that a number of the rules have standards that can affect how the provisions escalate. These escalations are summarised in the notes below the table.
40. The matrix demonstrates that as the hazard increases, there then generally is a corresponding increase in the consent activity status.
41. Clarification has been sought around how the proposed rules in the Erosion Hazard Area apply. The Erosion Hazard Area only applies to the Mangaroa River Catchment. This area is identified as the portion of land that could suffer from erosion from the Mangaroa River.
42. Under the proposed plan change, there are a specific set of rules that apply to the Erosion Hazard Area. Essentially, all buildings, subdivision, and earthworks within the Erosion Hazard Area are Restricted Discretionary activities. As part of the matters Council has restricted its discretion to, a report by a suitability qualified and experienced person is required to determine the erosion risk to the

proposed building platform or area of works. This is an information requirement under Chapter 1.8.10.

43. It is important to note that the outcome of this report does not change the consent category for this work. The consent remains a Restricted Discretionary Activity regardless of whether the report identifies a significant risk or no risk to the development. However, obviously the findings of the report would affect the outcome of the resource consent application.

H. Policy Direction and Discretionary Activity Status:

44. The Commissioner has sought clarification around whether it is appropriate to have a Discretionary Activity consent status with an “avoid policy”. We have sought clarification on this matter from DLA Piper (Appendix 5). This advice confirms that generally “avoid policy” would be associated with a non-complying activity status. We however note the statement towards the end of the advice: *“...while the obvious response is that an ‘avoid’ policy is likely to be accompanied by a restrictive activity status, there may be things in the context of the other provisions that make it more appropriate to have it as a discretionary activity.”*
45. In terms of this plan change there are some contextual matters that make a Discretionary Activity status more appropriate for the overflow paths, even though they are associated with an “avoid policy”. These are as follows:
 - (a) While for the purposes of the plan change the Overflow Paths are categorised as a high hazard area, they have a lower hazard than either the stream of river corridor. On this basis, the Discretionary Activity status recognises this lower hazard risk, when compared to activities in the stream or river corridors, which are non-complying activities.
 - (b) In the Pinehaven Catchment, the overflow paths are largely constrained to the legal road, with only isolated areas on private property. As such, given the limited area of Overflow Path upon which residential development could occur on in the Pinehaven Catchment, a Discretionary Activity classification was considered more appropriate (essentially it is extremely unlikely that further residential development is likely to occur in an overflow path in Pinehaven).

(c) The Mangaroa River catchment is a rural catchment, with a large floodplain and large properties. As such, it was considered that there is more ability for overflow paths to “breathe” within the context of an individual site (as they are larger). The discretionary activity status assists with this recognition, while still ensuring a full assessment of the relevant effects can be undertaken.

46. However, if the Commissioner was of the view that the best way to achieve the intent of the “avoid policy” was to have a Non-Complying Activity status for the identified Discretionary Activities in the Overflow Path, then we would not oppose this change.

I. Amendments to the proposed objectives and policies

47. Following the hearing on PC42, we would like to recommend several changes to the proposed District Plan provision. These changes are shown in Appendix 6, with the associated reasoning for the change noted alongside in accordance with the requirements of s32AA of the RMA. The reasons for these amendments are as follows:

- (a) Improving the linkages between objectives and policies;
- (b) Improving the workability of the proposed rules;
- (c) Responding to matters raised in the submissions; and
- (d) Amendment of definitions to improve their clarity and a new definition of Finishing Floor Level which provides greater certainty to the users of the District Plan.

The proposed amendments have also been updated within the proposed changes to the relevant District Plan chapters as strikethroughs and attached to Appendix 6.

J. Guildford Block (Southern Growth Area) Existing District Plan Provisions and the Plan Change Process

48. The Guildford Block is identified in the Upper Hutt 2016-2043 Land Use Strategy as a future area that could accommodate residential housing. Currently, this block of land is largely situated in the Rural Hill Zone of the District Plan. The permitted activity standards allow for one dwelling per site, while two or more

dwellings on a site are a Non-Complying Activity. In terms of the subdivision standard, the District Plan has a minimum net site area requirement of 20 hectares. As such, the current District Plan standards only allow for a low density, rural typology of housing on the site.

49. In terms of vegetation clearance provisions, there are no overlays on the Guildford Block that specifically protect vegetation. However, through the virtue of this block of land being considered to be a non-urban environmental allotment, (Rule 27A.10) removal of indigenous vegetation shall not occur if:
- a) *Within any area set aside by statute or covenant for protection and preservation, or*
 - b) *Within 10m of any water body (including wetland), including within the water body itself, or,*
 - c) *If the area to be cleared contains indigenous vegetation or fauna identified as rare or threatened as identified in Schedule 27A.16*
 - d) *If the area to be cleared is contained wholly or partly within more than 1ha of contiguous indigenous vegetation with a canopy height of 4m or greater.*
50. Given these rules, it is expected that a number of areas of vegetation on the Guildford Block would require resource consent to remove under the existing planning provisions.
51. The earthworks provisions limit earthworks on land with a slope angle of less than 28 degrees to 150m² per 12 month period per site. Earthworks on land with a slope angle of 28 degrees or greater, or over 150m², requires resource consent as a restricted discretionary activity.
52. The purpose of detailing these existing District Plan rules is to show that under the current planning provisions, the development potential of the Guildford Block is considerably constrained. This means that if this area is to be developed for residential housing as signalled in the Upper Hutt 2016-2043 Land Use Strategy, then it would be required to go through the plan change process (likely to be a structure plan).

53. Before identifying the likely plan change process for the Guildford Block, it needs to be noted that under PC42 a new overlay (Pinehaven Catchment Overlay) is proposed over the majority of this land. The extent to which the Pinehaven Catchment Overlay applies to the Guildford Block is shown in Appendix 7. While this map was produced to inform Upper Hutt 2016-2043 Land Use Strategy, it also provides a useful illustration for this proposed plan change.
54. The Pinehaven Catchment Overlay requires hydraulic neutrality for any new buildings or subdivision within its confines. This is supported through the policy framework and associated rules.
55. Turning to the likely process for the Guildford Block to be developed, as previously identified, this would require a plan change. Under s31(1), it would need to be demonstrated that the proposed rezoning would:
- a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
 - b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - (i) *identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) *summarising the reasons for deciding on the provisions;*
56. This would require an evaluation of the proposal against the existing objectives of the District Plan. If PC42 proceeds, this would include proposed objective 9.3.4 which states:
- To control subdivision within the upper areas of the Pinehaven Catchment Overlay to ensure that peak stormwater runoff during both a 1 in 10-year and 1 in 100-year event does not exceed the existing run off and therefore minimise the flood risk to people and property within the Flood Hazard Extent.*
57. If this objective (or the corresponding policy or rules) were proposed to be changed in the plan change, then the full implications of the change would need

to be addressed in the s.32 report. This includes the effects on the flood flows downstream from the Guildford Block.

58. The Commissioner asked a question as to whether any plan change for the Guildford Block could be rejected if the downstream effect was determined to be significant. In short, yes the plan change could be recommended for rejection by Council, or rejected by a Commissioner. The reason for this is due to the objectives of the plan change needing to be considered against the purpose of the Act. This includes the need to provide for the health and safety of people and their community.
59. It has also been queried around whether the flood hazard maps could be amended under the Guildford Block Plan Change, if the downstream effects were significant. Again, the answer to this is yes. However, this would be subject to the Schedule 1 process (like this proposed plan change has been) and the associated scrutiny this would entail. There would need to be extremely robust justification to support any increase in flood flows from the site within the s.32 report for Guildford Block Plan Change, and would need to give due consideration to the Pinehaven Flood Management Plan, the proposed objectives and policies under this Plan Change, the provisions of the Regional Policy Statement, and the requirements of Section 5 and 6(h) of the Act.

K. Guildford Block and Pinehaven Catchment Overlay

60. Concern has been raised that PC42 does not adequately deal with upper catchment runoff from the Guildford Block. Particular reference has been made to Policy 9.4.10 stating it does not address subdivision within the upper catchment area or the effects that would have on flooding within the Pinehaven catchment.
61. That statement is incorrect. The PC42 'Pinehaven Catchment Overlay' captures the upper catchment areas of Pinehaven Stream which includes all the land that drains to Pinehaven Stream. The PC42 structure is to capture subdivision and development within the Pinehaven Catchment Overlay in order to control the runoff associated with such activities and ensure it does not increase downstream flood risk. Subdivision is captured through the zone chapters 18 & 19 and development in the city-wide Chapter 33 of the operative District Plan.

62. The policy framework comprises a direct linkage of objectives, policies and rules. In the case of subdivision in the Pinehaven Catchment Overlay any subdivision would require a Resource Consent as a Restricted Discretionary Activity under Rule 19.28. The standards include a requirement for the provision of a hydraulic neutrality report in accordance with the details at Chapter 1.8.11 to achieve hydraulic neutrality.
63. The hydraulic neutrality report is inserted as an information requirement under 1.8.11 to ensure that Council can reject an application under s88(3) if the required report is not provided (rather than try to assess an application in the absence of that information). Any failure meet hydraulic neutrality would elevate the activity to a Non-Complying Activity status, as identified in Table 19.1. This would require the application of the gateway test directly against the specific policy (19.4.10), which expressly states hydraulic neutrality is to be achieved. The hydraulic neutrality report provides two options for assessing neutrality dependent on the scale of the proposal. This comprises either a full catchment hydrological situation and hydraulic analysis using the GWRC baseline information, or a site based assessment for less comprehensive development. A reduction of the flood flow to 80% of the pre-development flows is sought under these assessments.
64. Therefore any of the Guildford land located within the Pinehaven catchment is subject to the requirement of a resource consent for either subdivision or development that must demonstrate hydraulic neutrality. The council can approve or refuse such applications in accordance with section 104 of the Act and its associated sub-sections.

L. Justification for the 20m² addition size in Pinehaven Catchment

65. The Commissioner has asked a question justifying why 20m² additions to a dwelling were permitted, while 21m² additions are a Non-complying Activity. By way of clarification, this rule applies to the ponding area in the Pinehaven Flood Hazard Extent. In the Overflow Path all building additions are Discretionary activities (regardless of size) and in the stream corridor they are non-complying activities (regardless of size).

66. By further clarification, when an addition in the ponding area is greater than 20m² in area, then it elevates to a Restricted Discretionary Activity, not Non-complying, as was indicated in the question.
67. The rationale for the 20m² floor area is as follows:
- (a) The Pinehaven Stream catchment is an established suburban environment and there is an expectation that people will want to modify and upgrade their respective dwellings. The proposed floor area allows for modest alterations to be undertaken to a dwelling, while still ensuring that the flood risk is appropriately addressed.
 - (b) A 20m² floor area (approximately 4.5m by 4.5m, or, 3m by 6.5m) also allows for the construction of a single garage or other small accessory building, which would have a low consequence if inundated;
 - (c) Larger additions or accessory buildings have the potential to affect the location or flow of flood waters. This is recognised in the restricted discretionary matters which state:
 - i. Building floor level;
 - ii. Building location within the site;
 - iii. Building floor area; and
 - iv. Effect of displacement of flood waters from the site.
 - (e) The Hutt City Council has a 20m² limit to additions to dwelling in the Hutt River flood hazard extent. The proposed size limit is therefore consistent with the adjacent territorial authority and maintains regional consistency.
 - (f) Council's Flood Expert has confirmed that 20m² allows for an appropriate level of additions to buildings, without significant affecting the flood hazard extents.

M. Non-Regulatory Options

68. The Commissioner has requested whether there is a non-regulatory option available to improve the understanding of the flood hazard maps with the community. There is the ability to produce some information sheets as a non-regulatory option to assist the community with understanding of flood hazard modelling and the associated flood hazard maps.

69. There is the ability to produce a UHCC specific information sheet on the flood hazard extents. This information sheet could be prepared in conjunction with GWRC and could assist the local community around understanding the flood hazard extents as denoted in the District Plan.
70. Alternatively, or additionally, there is also the ability to support GWRC in producing information sheets around flood modelling and the inputs that develop a flood hazard map. This information could assist the local community around understanding the how flood hazard maps are developed.

OTHER RELATED MATTERS

N. Notice of Requirement Process (Pinehaven Structure Works)

71. The Notice of Requirement process for the structural upgrades to Pinehaven Stream is still at its early stage and is being prepared by an external consultant. However, our understanding of the project to date is as follows:
 - (a) The Notice of Requirement will cover the structure works associated with the Pinehaven Stream flood management, including channel widening, increasing bridge heights, and increasing culvert sizes;
 - (b) The Notice of Requirement is proposed to be lodged in February 2018;
 - (c) The Upper Hutt City Council will be the Requiring Authority;
 - (d) It is our understanding that the majority of the works would be within the Stream Corridor as identified on the Flood Hazard Maps;
 - (e) The majority of the works would be undertaken in the lower catchment of the Pinehaven Stream (the stretch below the Pinehaven Domain); and
 - (f) The Notice of Requirement process will be publicly notified and all parties will have an opportunity to lodge a submission.
72. The funding for the Pinehaven Structural works is 50% payable by Upper Hutt City Council and 50% payable by Greater Wellington Regional Council. This funding agreement is confirmed via a signed and agreed Memorandum of Understanding being these two parties.
73. In the Upper Hutt Long Term Plan (2015 – 2025) \$5.8 million of funding for the Pinehaven Stream Structural works is identified. The funding for these works over this time period is allocated as follows:

2015 - 2016	2016 - 2017	2017 - 2018	2018 – 2025
\$170,000	\$564,000	\$577,000	\$4.49 million

74. The 2017 – 2018 Upper Hutt Annual Plan allocates \$250,000 for the proposed upgrade. It is noted in the annual plan that the tendering process has delayed the design phase for these works.

O. Amendments to the Section 42A report

75. The Commissioner identified that there was a need to complete the analysis to the submission by Vaughn Allan in paragraph 258 of the s.42 report. This assessment is undertaken below:

Submitter: Vaughn Allan (9) suggests the following change to the proposed policies and supporting explanations:

- Policy 9.3.3 explanation: *The natural hazard constraints should be considered and areas subject to high hazards are **avoided restricted***
- Policy 9.4.4: *To **avoid restrict** subdivision where building platform would be located within high hazard areas of the identified Flood Hazard Extents and Erosion Hazard Areas.*
- Policy 9.4.4 explanation: *High hazard areas of the Flood Hazard Extents or Erosion Hazard Areas are **avoided restricted...***
- Policy 14.4.3: ***Avoid restrict** development within high hazard areas of the identified Flood Hazard Extents and Erosion Hazard Areas.*

Analysis: The proposed amendment to the term “restricted/restrict” in place of “Avoid/avoided” is inconsistent with the wording of the RPS and its policy direction. Policy 29 of the RPS requires the avoidance of “*inappropriate subdivision and development in areas at high risk from natural hazards*”. The proposed wording for the identified policies (9.3.3, 9.4.4 and 14.4.3) deliberately uses the word ‘avoid’ to ensure that it is consistent with Policy 29 of the RPS. It also ensures a consistent terminology within the plan change and in particular the relevant objective (9.2.3). It also sets the framework to ensure that development is generally avoided in high-hazard areas, as the flood hazard presents a threat to life and property. The term “restrict” is not as strong as avoid

and implies that some form of development may be undertaken in this area. This is not the intent that the objective, policy or rule framework is seeking to achieve.

Recommendation: This report recommends that the submission of Vaughn Allan (9) is rejected in relation to the above matters.

76. The Commissioner has sought clarification around whether there was clerical error in the rule wording in paragraph 313 of the s.42a report. We can confirm that there is a typographical error. The word “and” should read “any”. As such, the sentence in green should be corrected as follows.

This report recommends that the submissions of Powerco (7) and Transpower (24) are accepted in relation to this matter. It is recommended that the wording of the proposed matters of discretion under Rule 30.13(a) are amended to as follows:

Except in the case of cabinets, where located within an identified Flood Hazard Extent:

- *Whether The extent to which the utility or network utility structure will be adversely impacted during a flood event;*
- *Where proposed to cross a river or stream, the extent to which whether the Network Utility Structure will adversely contribute to blockages or obstructing flood flows;*
- *Whether The extent to which the utility will adversely impact the flood hazard area, exacerbating the effect on people and property on adjacent sites and/or adversely affect the function of the flood hazard extent.*
- *The extent to which locating the Network Utility Structure within the Flood Hazard Extent will provide any local, regional or national benefit.*

P. Pinehaven Floodplain Management Process

77. The Commissioner has sought some clarification around the Pinehaven Floodplain Management Process. This has been clarified in Ms Westlake’s evidence. However, to summarise, the Pinehaven Floodplain Management Plan was undertaken under the Local Government Act 2002. That process differs from the current PC42 process, which has been undertaken under the Resource

Management Act 1991, as it contemplates a land use planning exercise. The final recommendations in the form of the Pinehaven Floodplain Management Plan went through a series of Greater Wellington committee's as follows:

- (a) Hearing Panel – 7 April 2016;
- (b) Hutt Valley Flood Management Subcommittee – Confirmation of hearing panel recommendations – 5 May 2016;
- (c) Hutt Valley Flood Management Subcommittee – 14 June 2016;
- (d) Greater Wellington Regional Council Environment Committee – 21 June 2016;
- (e) Full GWRC Council – 29 June 2016 (where it was approved and adopted).

78. In terms of Upper Hutt City Council, the Directors report to the Upper Hutt Policy Committee which was held on 7 September 2016 noted that the Pinehaven Floodplain Management Plan had been adopted by Greater Wellington Regional Council. This was recorded in the minutes of this meeting. These minutes were confirmed at the full Council meeting held on 21 September 2016.

Q. Number of Properties in the Mangaroa Flood Hazard Extent

79. The Commissioner has sought some clarification around the number of properties in the Mangaroa Flood Hazard Extent. We can confirmed that there are:

- (a) 222 rateable units which intersect the Mangaroa Flood Hazard Extent; and
- (b) 265 legal parcels which intersect the Mangaroa Flood Hazard Extent.

R. Percentage of the Erosion Hazard Area which is not contained within The Flood Hazard Extent

80. The Commissioner has sought some clarification around the percentage of properties which are in the Erosion Hazard Area and which are not contained within the Flood Hazard Extent. We have calculated this from the internal Council GIS system. Based on these calculations, the Mangaroa Erosion Hazard Area is 199.4060ha in size. Within this, the amount of land NOT contained in ANY flood hazard extent is 43.7441ha. This represents 21.94% of the total Erosion Hazard Area.

81. In terms of the number of properties that are located only within the Erosion Hazard Area and any other flood hazard extent, then this totals 19 properties. These properties are largely located in the lower reaches of the Mangaroa River and are identified below:

- 22, 24, 26, 28, 30, 32, 34, 36, 38 and 72 Maymorn Road
- 159 Parkes Line Road; and
- 2, 4, 6, 8, 10, 14, 24a, and 26 Beechwood Way

S. Conclusion

82. It is our view that the proposed plan change is the most appropriate way to achieve the purpose of the Act in relation to the addressing the flood hazard and the associated risk to people and property in the Pinehaven Stream and Mangaroa River Catchment.

83. We consider that the proposed plan maps are fit for purpose and are able to be used for land use planning purposes.

84. We consider that the risk-based approach proposed within the proposed Plan Change gives effect to the Regional Policy Statement and ensures that the risk from the flood hazards are appropriately addressed.

85. We are therefore of the opinion that the Commissioner can recommend the proposed plan change for approval.



Brett Osborne
Senior Consultant Planner



James Beban
Senior Consultant Planner

Appendix 1: DLA Piper email (s6(h) of the RMA).



James Beban <james@urbanedgeplanning.co.nz>

RLAA transitional provisions - PC42

Anderson, Kerry <kerry.anderson@dlapiper.com>

Wed, Sep 27, 2017 at 4:57 PM

To: Ike Kleynbos <Ike.Kleynbos@uhcc.govt.nz>

Cc: Angela Bell <Angela.Bell@uhcc.govt.nz>, James Beban <james@urbanedgeplanning.co.nz>, Brett Osborne <brett@urbanedgeplanning.co.nz>

Hi Ike

I can confirm that you are correct.

Where a Plan Change:

- has been publicly notified, but
- has not proceeded to the stage at which no further appeal is possible,

before 19 April 2017, the Plan Change is determined as if the RLAA had not been enacted. Schedule 2, clause 13 of the RLAA is where this is set out.

As the Plan Change was notified on 8 March 2017 and you are currently hearing the Plan Change, it is the RMA, without the amendments that commenced on 19 April 2017, that is applicable. This means that when considering section 6 of the RMA, the decision made applies it as if it does not have (h) added to it.

Let me know if you need anything further on this.

Regards

Kerry Anderson

Partner

T +64 4 474 3255

F +64 4 472 7429

M +64 27 538 6622

E kerry.anderson@dlapiper.com

 <http://www.dlapiper.com/en/n>

 <http://www.dlapiper.com/~media/Images/Other/2015/ESCPleadingindividual.JPG>

DLA Piper New Zealand
www.dlapiper.com

From: Ike Kleynbos [mailto:Ike.Kleynbos@uhcc.govt.nz]
Sent: Wednesday, 27 September 2017 10:54 a.m.
To: Anderson, Kerry
Cc: Yardley, Megan; Angela Bell; 'James Beban'; Brett Osborne
Subject: RLAA transitional provisions - PC42
Importance: High

Hi Kerry,

We are currently in the hearing for PC42. The commissioner as asked to please confirm the transitional provisions in the RLAA, and their relevance to the plan change.

We understand that in the case that a plan change or otherwise is publicly notified prior to the new provisions taking effect, that proposal should be treated as though the 'standard' RMA provision only apply. PC42 was publicly notified on 8 March 2017, so we believe that the suite of provisions which have 'immediate legal effect' do not apply to the plan change.

Of particular relevance is the change to s6 (h), relating to natural hazards. Could you please confirm that this section does not apply to the proposed plan change?

A response as soon as practical is appreciated. I will be in the hearing, but please feel free to call 04 527 2859 and leave a voicemail message.

Many thanks,

Ike Kleynbos
Policy Planner

Upper Hutt City Council | 838 – 842 Fergusson Drive, Private Bag 907, Upper Hutt 5140, New Zealand
D: +64 4 527 2859 | T: +64 4 527 2169 | E: ike.kleynbos@uhcc.govt.nz | W: www.upperhuttcity.com | F:
[www.fb.com/upperhuttcitycouncil](https://www.facebook.com/upperhuttcitycouncil)

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Appendix 2: DLA Piper email (Legal jurisdiction)



James Beban <james@urbanedgeplanning.co.nz>

RE: PC42 - Commissioner legal questions

Anderson, Kerry <kerry.anderson@dlapiper.com>

Wed, Sep 27, 2017 at 5:46 PM

To: Ike Kleynbos <Ike.Kleynbos@uhcc.govt.nz>

Cc: James Beban <james@urbanedgeplanning.co.nz>, Brett Osborne <brett@urbanedgeplanning.co.nz>, Helen Ellams <Helen.Ellams@uhcc.govt.nz>, Angela Bell <Angela.Bell@uhcc.govt.nz>

Hi Ike

Effectively Mr Jeffries is saying that riverbeds are controlled under section 13 and not section 9 and therefore, UHCC has no jurisdiction over those riverbeds.

The submission provided by Mr Jeffries does not change the advice set out in our letter of 4 July 2017. While he is correct that Regional Council's have jurisdiction over riverbeds under section 13 of the RMA, he has simply not considered that UHCC can *also* have jurisdiction over riverbeds under section 9 of the RMA (as long as the controls imposed relate to one of UHCC's function in section 31 of the RMA). In other words, the Regional Council having jurisdiction does not exclude UHCC *also* having jurisdiction (as can be seen from the descriptions of the functions of the different Council's under section 30 and 31 of the RMA) but it is likely that because of the slightly different functions of UHCC (versus the Regional Council), that the controls on riverbeds will be aimed at slightly different issues. The fact that section 13 matters and section 9 matters may 'cross over' is explicitly recognised in section 13(4) of the RMA – 'nothing in this section limits section 9'.

The case provided by Mr Jeffries also does not change the advice provided. This is because:

- The *Woolley* case referred to in the 4 July advice that we relied on is a Court of Appeal case. It takes precedence over the High Court decision Mr Jeffries relies on. The *Woolley* case is also later in time than Mr Jeffries case (May 2014 versus May 2013).
- The *Jeffries* case was a Regional Council enforcement case where abatement notices were issued for breach of section 13 of the RMA. It is not a direct finding on whether territorial authorities can make rules relating to riverbeds, but rather, a finding that a previous land use consent issued by UHCC did not authorise the dumping of fill into a riverbed. I accept that as part of that finding the Court makes the statement 'UHCC has no jurisdiction over riverbed matters. They belong to Regional Councils under section 13 of the RMA'. However, this comment is obiter and made in quite a different context. We do not know whether (for example) this is simply a comment that UHCC *at that time* had no jurisdiction because it had no rules addressing riverbeds (and or whether it is a broader comment than that). There is also no indication whether the issue (of section 9 jurisdiction) was even raised for the Court to comment on because it was not relevant to the issues at hand in that case. It does note that even if a consent was granted by UHCC Mr Jeffries would have still been in breach of section 13, unless he had consent from the Regional Council. It could be argued that this reflects the fact that both Councils may have a role in granting consents for works affecting riverbeds, but in that case only consent from UHCC was held and nothing from the Regional Council. This means section 13 would be breached.
- In my view, little weight can be placed on the comment in para 59 of the *Jeffries* case due to its factual differences to the issues in this Plan Change and the fact there is a higher authority from the Court of

Appeal that specifically states '...on the face of it, section 9(3) can apply to the use of a riverbed. The question is whether s13...overrides that in some way' and then 'section 13 does not purpose to restrict the application to section 9(3) to riverbeds'.

Please let me know if you need anything further.

Regards

Kerry Anderson

Partner

T +64 4 474 3255

F +64 4 472 7429

M +64 27 538 6622

E kerry.anderson@dlapiper.com

 <http://www.dlapiper.com/en/n>

 <http://www.dlapiper.com/~media/Images/Other/2015/ESCPleadingindividual.JPG>

DLA Piper New Zealand
www.dlapiper.com

From: Ike Kleynbos [<mailto:Ike.Kleynbos@uhcc.govt.nz>]
Sent: Wednesday, 27 September 2017 2:55 p.m.
To: Anderson, Kerry; Yardley, Megan
Cc: 'James Beban'; Brett Osborne; Helen Ellams; Angela Bell
Subject: RE: PC42 - Commissioner legal questions
Importance: High

[Quoted text hidden]

Appendix 3: Summary policy and rule table with activity status

Plan Change 42 Pinehaven and Mangaroa Flood Hazard Extents – Policy and Rule linkages

The policies and rules are contained in Chapter 9, 14, 17, 18, 19, 20, 23, 30, 33 and 34 of the District Plan.

It is important to note that changes have also been made to Chapters 1 and 2. The changes to Chapter 1 include information requirements that are referenced in various proposed rules. The changes to Chapter 2 include new definitions related to flood hazard that are important in the interpretation of the rules.

Chapter 1 and 2 changes
<p>Chapter 1: Information requirements</p> <p>1.8.10 Specific information accompanying applications for subdivision or development within the Erosion Hazard Area of Mangaroa River catchment</p> <p>1.8.11 Specific information accompanying applications for subdivision or development within the Pinehaven Catchment Overlay</p>
<p>Chapter 2: Definitions</p> <p>Erosion Hazard Area Flood Hazard Extent Flood Mitigation Works Hydraulic Neutrality Overflow Path Pinehaven Catchment Overlay Ponding Area River Corridor Stream Corridor</p>

Chapter 9
<p>Objectives:</p> <p>9.3.2 To control subdivision within identified Flood Hazard Extents and Erosion Hazard Area to ensure the risk from flood hazards to building platforms and access in high hazard areas are avoided and the flood risk to people and property can be appropriately mitigated in the lower hazard areas.</p> <p>9.3.3. To control earthworks within identified Flood Hazard Extents and Erosion Hazard Areas to ensure that the function of the floodplain is not reduced and unacceptable flood risk to people and property is avoided or mitigated.</p> <p>9.3.4 To control subdivision within the upper areas of the Pinehaven Catchment Overlay to ensure that peak stormwater runoff during both a 1 in 10-year and 1 in 100-year event does not exceed the existing run off and therefore minimise the flood risk to people and property within the Flood Hazard Extent.</p>

Policy	Rule to address policy	Activity Status
<p>Policy 9.4.4. To avoid subdivision where building platforms would be located within high hazard areas of the identified Flood Hazard Extents and Erosion Hazard Areas.</p>	Table 18.1 – Subdivision where building platform is in river corridor of Mangaroo FHE (Residential Zone)	Non-Complying
	Table 18.1 – Subdivision where building platform is within overflow path and stream corridor of Pinehaven FHE (Residential Zone)	Non-Complying
	Table 19.1 - Building platforms in overflow path or river corridor (Rural Zone)	Non-Complying
	Table 20.1 –Building platforms in overflow path or river corridor (Business Zone)	Non-Complying
<p>Policy 9.4.5. To control subdivision where building platforms would be located within lower hazard areas of identified Flood Hazard Extents and Erosion Hazard Areas by requiring mitigation to minimise the risk to people and property.</p>	Rule 18.37 – Subdivision within ponding area of Pinehaven FHE	Restricted Discretionary
	Rule 18.39 – Subdivision within ponding area or EHA with Mangaroo FHE	Restricted Discretionary
	Rule 19.29 – Subdivision within ponding area or EHA within Mangaroo FHE	Restricted Discretionary
	Rule 20.32 - Subdivision within the ponding area of the Pinehaven FHE	Restricted Discretionary
	Rule 20.33 - Subdivision within the Erosion Hazard Area of the Mangaroo Flood Hazard Extent	Restricted Discretionary
<p>Policy 9.4.6 Limit earthworks in the high hazard areas within identified Flood Hazard Extents and Erosion Hazard Areas to avoid an increase in risk from flood hazards to people and property.</p>	Rule 23.17 - Earthworks associated with the maintenance, upgrade or installation of network utilities within the identified Pinehaven and Mangaroo Flood Hazard Extents where earthworks are located within the legal road reserve.	Permitted Activity
	Rule 23.20 - All earthworks not associated with permitted building extensions (up to 20m ²) or flood mitigation works within the ponding	Restricted Discretionary

	area of the PFH Extent	
	Rule 23.22 - Earthworks within the Erosion Hazard Area of the Mangaroo Flood Hazard Extent	Restricted Discretionary
	Table 23.1 - Earthworks within Overflow Path of Mangaroo FHE	Discretionary
	Table 23.1 – Earthworks within the River Corridor of the Mangaroo Flood Hazard Extent (excluding those for a Permitted Activity).	Non-Complying
<p>Policy 9.4.7. To manage earthworks in the low hazard areas within identified Flood Hazard Extents and Erosion Hazard Areas to reduce the flood risk to people and property.</p>	Rule 23.15 - Earthworks within the ponding area of the Pinehaven Flood Hazard Extent which are directly required for the building platform	Permitted Activity
	Rule 23.16 - Earthworks within the Ponding Area of the Mangaroo Flood Hazard Extent, except in the Residential Zone.	Permitted Activity
	Rule 23.17 - Earthworks associated with the maintenance, upgrade or installation of network utilities within the identified Pinehaven and Mangaroo Flood Hazard Extents where earthworks are located within the legal road reserve.	Permitted Activity
	Rule 23.20 - All earthworks not associated with permitted building extensions (up to 20m ²) or flood mitigation works within the ponding area of the Pinehaven Flood Hazard Extent.	Restricted Discretionary
	Rule 23.21 - Earthworks within the ponding area (outside the EHA) of the Mangaroo FHE where permitted activity earthworks standards for zone not met or within the Residential Area.	Restricted Discretionary
	Rule 23.22 - Earthworks within the Erosion Hazard Area of the Mangaroo Flood Hazard Extent in all zones.	Restricted Discretionary

<p>Policy 9.4.8 Require earthworks within identified Flood Hazard Extents and Erosion Hazard Area to be designed to minimise erosion and loss of sediment from the area of work to streams and rivers</p>	<p>Rule 23.15 Earthworks within the ponding area of the Pinehaven Flood Hazard Extent which are directly required for the building platform</p>	<p>Permitted Activity</p>
	<p>Rule 23.16 - Earthworks within the Ponding Area of the Mangaroo Flood Hazard Extent, except in the Residential Zone.</p>	<p>Permitted Activity</p>
	<p>Rule 23.17 - Earthworks associated with the maintenance, upgrade or installation of network utilities within the identified Pinehaven and Mangaroo Flood Hazard Extents where earthworks are located within the legal road reserve.</p>	<p>Permitted Activity</p>
	<p>Rule 23.20 - All earthworks not associated with permitted building extensions (up to 20m²) or flood mitigation works within the ponding area of the Pinehaven Flood Hazard Extent.</p>	<p>Restricted Discretionary</p>
	<p>Rule 23.21 - Earthworks within the ponding area (outside the EHA) of the Mangaroo FHE where permitted activity earthworks standards for zone not met or within the Residential Area.</p>	<p>Restricted Discretionary</p>
	<p>Rule 23.22 - Earthworks within the Erosion Hazard Area of the Mangaroo Flood Hazard Extent</p>	<p>Restricted Discretionary</p>
<p>Policy 9.4.9 Enable earthworks within identified Flood Hazard Extents and Erosion Hazard Areas that are directly associated with specific and planned flood mitigation works or floodplain management that are designed to reduce the flood risk to people and property or maintain the function of the floodplain.</p>	<p>Rule 23.14 - Earthworks associated with flood mitigation works conducted by GWRC or UHCC within the Pinehaven or Mangaroo FHE</p>	<p>Permitted Activity</p>

<p>Policy 9.4.10 To ensure subdivision within the Pinehaven Catchment Overlay area is designed so that the stormwater runoff, during both a 1 in 10-year and 1 in 100-year event, from all new lots and future building areas shall be at a rate no greater than when compared to the pre-development situation.</p>	<p>Rule 18.38 – Subdivision with Pinehaven Catchment Overlay</p>	<p>Restricted Discretionary</p>
	<p>Rule 19.28 – Subdivision within the Pinehaven Catchment Overlay</p>	<p>Restricted Discretionary</p>
<p>Chapter 14</p>		
<p>Objectives:</p> <p>14.3.2. Identify Flood Hazard Extents and Erosion Hazard Areas in order to avoid or mitigate the risk to people and property and provide for the function of the floodplain.</p>		
<p>Policy 14.4.1 To identify and mitigate the potential adverse effects of natural hazards that are a potentially significant threat within Upper Hutt. (existing policy but amended description to reference Pinehaven and Mangaroa specifically).</p>		
<p>Policy 14.4.2 In areas of known susceptibility to natural hazards, activities and buildings are to be designed and located to avoid, remedy, or mitigate, where practicable, adverse effects of natural hazards on people, property and the environment.</p>	<p>Rule 33.2 – Additions and alterations or accessory buildings of up to 20m2 in ponding area of Pinehaven FHE</p>	<p>Permitted</p>
<p>Policy 14.4.3 Avoid development within high hazard areas of identified Flood Hazard Extents and Erosion Hazard Areas.</p>	<p>Table 33.1 – Buildings in river corridor of Mangaroa FHE</p>	<p>Non-Complying</p>
	<p>Table 33.1 – Buildings in overflow path of Mangaroa FHE</p>	<p>Discretionary</p>

	Table 33.1 – Any part of a building within an overflow path of the Pinehaven FHE	Discretionary
	Table 33.1 – Buildings, structures or fences within stream corridor of Pinehaven FHE (except where provided for as Controlled Activity)	Non-Complying
Policy 14.4.4 To control development (including buildings) within the lower hazard areas of identified Flood Hazard Extents and Erosion Hazard Areas by requiring mitigation to minimise the risk to people and property.	Rules 33.6 – New buildings, additions, alterations, and accessory buildings over 20m ² in ponding area of Pinehaven FHE.	Restricted Discretionary
	Rule 33.7 – Visitor accommodation or residential accommodation within Business Commercial Zone of Pinehaven FHE	Restricted Discretionary
	Rule 33.10 – In either the Ponding or EHA of Mangaroa FHE where any one or more occur; construction of new dwellings, additions and alterations, accessory buildings in the EHA, other permitted non-residential buildings, or caretaker accommodation in Business Industrial Zone.	Restricted Discretionary
Policy 14.4.5 Enable planned flood mitigation works within identified Flood Hazard Extents that decrease the flood risk to people and property or maintain the function of the floodplain.	It has been recommended to remove this policy as there is no corresponding rule framework	
Policy 14.4.6 Within the Pinehaven Flood Hazard Extent, reduce blockage potential from fences, buildings and driveways in high hazard areas through design controls on development.	Rule 33.3. – Driveways and bridges over the Pinehaven Stream.	Controlled
	Rule 33.8 – Fences in overflow path of Pinehaven FHE	Restricted Discretionary
	Table 33.1 – Building, structure or fence in stream corridor of Pinehaven FHE (except where provided for as Controlled Activity)	Non-Complying

<p>Policy 14.4.7 Development within the Pinehaven Catchment Overlay is designed to ensure that the peak stormwater runoff, during both a 1 in 10- year and 1 in 100-year event, shall be at a rate no greater than when compared to the pre-development situation.</p>	<p>Rule 33.9 – Buildings in Pinehaven Catchment Overlay must achieve hydraulic neutrality</p>	<p>Restricted Discretionary</p>
<p>Policy 14.4.8 Within the Mangaroo Flood Hazard Extent enable accesses positioned above the 1 in 100-year level to serve dwellings where located within the lower hazard areas and avoid locating accesses within high hazard areas to serve dwellings.</p>	<p>Rule 33.5 – Vehicle access in Ponding or EHA in Mangaroo FHE</p>	<p>Permitted</p>
	<p>Rule 33.11 – Vehicle accessways in Ponding or EHA in Mangaroo FHE that are lower than 1 in 100 year flood level.</p>	<p>Restricted Discretionary</p>
	<p>Table 33.1 – Vehicle access in Overflow Path</p>	<p>Discretionary</p>
<p>Table 33.1 – Vehicle access in River Corridor</p>	<p>Non-Complying</p>	
<p>Policy 14.4.9 Within the Mangaroo Flood Hazard Extent, enable non-habitable accessory buildings within the lower hazard areas.</p>	<p>Rule 33.4 – Accessory buildings in ponding area in Mangaroo FHE</p>	<p>Permitted</p>

Chapter 16

Objectives:

16.3.3. To recognise and provide for the sustainable, secure and efficient use, operation, maintenance and upgrading and development of network utilities within the City (existing policy, amended description to reference Pinehaven and Mangaroo flood hazard effect).

16.3.5 To ensure the continued operation of network utilities, and the development and operation of new network utilities, in flood hazard extents and to maintain the function of the floodplain to convey flood waters.

Policy	Rule to address policy	Activity Status
<p>Policy 16.4.18 Network utility structures crossing streams within identified Flood Hazard Extents must be installed in a way to avoid contributing to blockages or restricting flood flows or compromising flood mitigation works.</p>	<p>Rule 30.8a - Network utility structures (excluding cabinets) that cross a stream or river and are within an identified flood hazard extent must either be underground or above the 1 in 100 year flood level or attached to an existing crossing.</p>	<p>Permitted</p>
<p>Policy 16.4.19 To manage the design and location of network utilities in identified Flood Hazard Extents to ensure their resilience to the effects of events.</p>	<p>Rule 30.13 – Cabinets and network utility structures not otherwise listed in this table that do not meet all of the relevant standards.</p>	<p>Restricted Discretionary</p>
<p>Chapter 17</p>		
<p>Policy 17.4.1. To ensure that facilities using, manufacturing, storing or disposing of hazardous substances are located, constructed and operated in a manner that will not adversely affect the environment (existing policy, amended description to reference Pinehaven and Mangaroa flood hazard effect).</p>	<p>Rule 34.5 – Flood hazards included in matters of consideration for Discretionary Activities</p>	<p>Discretionary</p>

Appendix 4: Rule matrix table

Proposed Plan Change 42 – Rules Matrix

ACTIVITY STATUS:	Permitted	Controlled	Restricted Discretionary	Discretionary	Non-Complying
KEY:					

		TYPE OF ACTIVITY									
		Access construction, Bridge	Fence Construction	Building Extension		Establish Dwelling or Building	Subdivision	Network Utilities		Earthworks	
FLOOD HAZARD EXTENT	Ponding Area			Note 3 <20m ²	Note 3 >20m ²			Note 10	Note 11	Note 3 <20m ²	Note 3 >20m ²
	Overflow Path								Note 11		
	Stream Corridor	Note 9							Note 11		
	Pinehaven Catchment Overlay	<i>No Specific Rules</i>	<i>No Specific Rules</i>						Note 11	Note 3	

Note 3 – All residential works must relate to are directly related to a building platform. Any earthworks for flood mitigation works conducted by GWRC is a Permitted Activity in ANY Pinehaven flood hazard extent.

Note 4 – Must be contained to road reserve.

Note 9 – This only applies to bridges crossing the Pinehaven Stream.

Note 10 – When located above 1:100 year level or underground.

Note 11 – The type of activity status is based on the status of the network utility work in Chapter 30.

<i>Mangaroa Flood Hazard Extent</i>		TYPE OF ACTIVITY										
		Primary Access (Note 8)		Building Extension or Alteration		Establish Dwelling or Building		Subdivision	Network Utilities		Earthworks	
FLOOD HAZARD EXTENT	Ponding Area	Above 1:100	Below 1:100		Below 1:100		Below 1:100		Note 10	Note 11	Note 13	Note 5
	Overflow Path							Note 2		Note 11		
	River Corridor							Note 2		Note 11		
	Erosion Hazard Area	Above 1:100 (Note 14)	Below 1:100 (Note 14)					Note 1		Note 11		

Note 1 – The new allotments must contain no dwelling or non-residential building. Any earthworks for flood mitigation works conducted by GWRC is a Permitted Activity in ANY Mangaroa flood hazard extent.

Note 2 – This is only if the proposed building platform is located in the Overflow Path or River Corridor.

Note 5 – Is Restricted Discretionary when located in a Residential Zone, or when Permitted Standards are not met.

Note 6 – Must be contained to road reserve.

Note 12 – When located in a Rural Zone and below 1:100 year flood level, or the access is in Overflow Path, or does not comply with Standard 19.5.

Note 13 – Must meet Permitted Standard, or relate to network utility work, or relate to flood mitigation works by GWRC.

Note 14 – This is as notified. However, we recommend removing this for the reasons detailed in our Right of Reply and as addressed in Appendix 6 (s32AA).

Appendix 5: DLA Piper Email (avoidance policy)



James Beban <james@urbanedgeplanning.co.nz>

PC42 Hearing - Discretionary Activity status for Avoidance Policy

Anderson, Kerry <kerry.anderson@dlapiper.com>

Thu, Sep 28, 2017 at 5:57 PM

To: Ike Kleynbos <Ike.Kleynbos@uhcc.govt.nz>

Cc: James Beban <james@urbanedgeplanning.co.nz>, Brett Osborne <brett@urbanedgeplanning.co.nz>, Angela Bell <Angela.Bell@uhcc.govt.nz>

Hi Ike

As you will know from *King Salmon* the use of 'avoid' in a policy (with no other provisos) means do 'not allow' or 'prevent the occurrence of' (para 62). In other words, 'avoid' sends a clear signal that activities to be avoided will not be allowed.

Section 75 states that a district plan must state 'the rules (if any) to implement the policies'. The question therefore is whether a discretionary activity rule really implements the 'avoid' policy. On a plain reading it doesn't and at a practical level directive objectives and policies should usually be accompanied by a restrictive activity status, such as non-complying.

However, you do have to remember that the plan change test is a bit wider than that and involves an assessment of whether each proposed objective is the most appropriate (but not necessarily superior) way to achieve the purpose of the RMA and whether the policies, rule and other methods that implement those objectives are the most appropriate (in the sense of being suitable) to achieve the objectives. While this is an oversimplification of the tests set out in caselaw (eg, *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55) the plan change test focusses more on implementing the objectives than drilling down to each and every policy. *Rational Transport Society Inc v NZTA* [2012] NZRMA 298, at 46 stated that while each objective must be examined, it is not necessary that each objective individually be the most appropriate way of achieving the purpose of the RMA. This is because objectives may interrelate and have overlapping ways of achieving sustainable management of natural and physical resources. It is about the objectives as a whole being the most appropriate. I consider the same logic applies to policies – ie, the provisions need to be considered holistically as opposed to being considered in isolation without that contextual framework. In other words, while the obvious response is that an 'avoid' policy is likely to be accompanied by a restrictive activity status, there may be things in the context of the other provisions that make it more appropriate to have it as a discretionary activity. At this stage, I do not have a detailed enough understanding of the Plan Change to understand whether there are reasons that discretionary might be more appropriate.

Happy to discuss if useful.

Regards

Kerry Anderson

Partner

T +64 4 474 3255

F +64 4 472 7429

M +64 27 538 6622

E kerry.anderson@dlapiper.com

 <http://www.dlapiper.com/en/n>

 <http://www.dlapiper.com/~media/Images/Other/2015/ESCPleadingindividual.JPG>

DLA Piper New Zealand
www.dlapiper.com

From: Ike Kleynbos [<mailto:Ike.Kleynbos@uhcc.govt.nz>]
Sent: Thursday, 28 September 2017 3:45 p.m.
To: Anderson, Kerry
Cc: 'James Beban'; Brett Osborne; Angela Bell
Subject: PC42 Hearing - Discretionary Activity status for Avoidance Policy
Importance: High

[Quoted text hidden]

Appendix 6: Section 32AA (RMA) report of recommended changes
and strikethroughs

Key - - Notified amendments - Proposed amendments following hearing

AMENDMENT NO.	CHAPTER	PROVISION	REQUESTED CHANGE	REASONS FOR PROVISIONS AND AMENDMENTS TO PROVISIONS AS NOTIFIED
CHAPTER 2 – Definitions				
1	2	Amended definition – Flood Hazard Extent	<p>The area identified within the District Plan (Part 5) Hazard Maps. This identifies the area susceptible to the average flood return interval of 100 years (1 in 100-year flood), incorporating climate change to 2090. The Flood Hazard Extent comprises a High and Lower Hazard Area:</p> <p>High Hazard Area comprises the stream and river corridor, overflow paths and the Erosion Hazard Area</p> <p>Lower Hazard Area comprises the ponding area and some parts of the Erosion Hazard Area.</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to amend the definition of the Flood Hazard Extent to improve its clarity. In particular, the reference to the hazard areas has been removed as these were considered to complicate the definition.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment is largely administrative and seeks to clarify the definition of flood hazard extent. The proposed amendment does not change how the proposed methods to achieve the proposed objectives will be implemented.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>

2	2	Amended definition	<p>Ponding area</p> <p>The area defined on the District Plan Part 5 Hazard Maps comprising areas of still, shallow or slow moving water during a flood event.</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to amend the definition of the Ponding Area to improve its clarity. In particular, it is proposed to clarify that the ponding area by definition also includes shallow water, as this was one of the assessment criteria that was used to identify this hazard area.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment is largely administrative and seeks to clarify the definition of Ponding Area to assist with the communities understanding of this area. The proposed amendment does not change how the proposed methods to achieve the proposed objectives will be implemented.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
3	2	Add a new definition	<p>Finished Floor Level</p> <p>In relation to flood inundation the height as measured to the underside of floor joists for wooden structures or to the bottom of a concrete slab.</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to add a definition for finished floor level to improve the clarity for applying this term within the rule framework. This is consistent with the relevant Building Code requirements which would also apply for the subject works. It is also required for clarity and to provide certainty for the purposes of establishing where to measure the finished floor level from to determine a proposal's activity status including whether it is a Permitted Activity.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment seeks to clarify whether the minimum floor level is met and thus whether the activity would be permitted. This will assist communities understanding and is consistent with application by other territorial authorities such as KCDC, guidance by GWRC and the Building Code requirements. The proposed amendment does not change how the proposed methods to achieve the proposed objectives will be implemented.</p>

				The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.
4	14	Remove Policy	<p>14.4.5 Enable planned flood mitigation works within identified Flood Hazard Extents that decrease the flood risk to people and property or maintain the function of the floodplain.</p> <p>Flood mitigation works are undertaken to reduce the flood risk to people and property. This policy supports flood mitigation works as they are consistent with the purpose of providing for the continued function of the floodplain.</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to remove this policy from the plan change. The objectives and policies of Chapter 14 apply to the proposed rules within Chapter 33 which address development within the identified Flood Hazard Extent. Chapter 33 does not contain any rules pertaining to flood mitigation works. Rather the provisions pertaining to flood mitigation works are contained in Chapter 23, with the associated supporting policy in Chapter 9 (Policy 9.4.9). As such, policy 14.4.5 is a duplicated provision with no supporting rule framework in the corresponding Chapter 33 and thus is recommended to be deleted.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment is largely administrative and seeks to remove duplication from the District Plan and ensure the plan change does not result in a policy that has no supporting rule. The proposed amendment does not change how the proposed methods to achieve the proposed objectives will be implemented and avoids confusion and uncertainty for future users of the plan provisions.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
5	14	Amend Policy Numbers	<p>14.4.6 14.4.5</p> <p>14.4.7 14.4.6</p> <p>14.4.8 14.4.7</p> <p>14.4.9 14.4.8</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>The removal of Policy 14.4.5 results in the subsequent policies numbering needing amending.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p>

				<p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment is administrative.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
6	14	New objective	<p><u>To control buildings and activities within the upper areas of the Pinehaven Catchment Overlay to ensure that peak stormwater runoff during both a 1 in 10-year and 1 in 100-year event does not exceed the existing run off and therefore minimise the flood risk to people and property within the Flood Hazard Extent.</u></p> <p><u>Explanation</u></p> <p><u>Development in the Pinehaven Catchment Overlay needs to be controlled to ensure that stormwater runoff does not exacerbate the impact of flooding in the lower catchment. Most of the upper catchment is currently undeveloped and any new development has the potential to affect the land use and peak stormwater runoff. This objective seeks to ensure that the peak stormwater runoff does not increase, thereby increasing the flood risk downstream.</u></p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to add a new objective to Chapter 14. This new objective would support hydraulic neutrality for new buildings and activities in the Pinehaven Catchment Overlay. Under Chapter 9 there is a proposed objective (9.3.4) that seeks to control subdivision to ensure that hydraulic neutrality is achieved. This is then supported through the proposed policy and rule framework under Chapter 9.</p> <p>Under Chapter 14, the policy and rule framework to control buildings and activities in the Pinehaven Catchment Overlay to achieve hydraulic neutrality. However, this policy and rule framework is not linked to a specific objective such as that for subdivisions within the Pinehaven Catchment Overlay in Chapter 9. The proposed objective therefore ensures that there is a similar objective, policy and rule framework applying to new buildings in the Pinehaven Catchment Overlay as there is to subdivisions. This proposed objective strengthens the requirement to achieve hydraulic neutrality for buildings in the Pinehaven Catchment Overlay and is consistent with the approach for subdivisions.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposal adds an objective to the Plan Change. However, the purpose of this objective is to ensure that the purpose of the Act is better met in regard to hydraulic neutrality and structures, as well as to ensure that there is a consistent policy approach to subdivisions and buildings in the Pinehaven Catchment Overlay.</p> <p>The proposed objective does not change the intent of the plan change and no further methods are required to achieve this objective. The change improves the clarity and certainty for future users.</p> <p>The proposal amendment does not result in any additional costs that were</p>

				not considered within the original Section 32 assessment.
7	33	Amended Rule – Table 33.1	<p>Table 33.1</p> <p>Any building within the Pinehaven Catchment Overlay must achieve hydraulic neutrality for stormwater runoff.</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to amend this Rule in Table 33.1 so that it is in an appropriate format for a rule. The proposed provisions (standards for the rule) contain an appropriate elevation trigger for any activities that do not achieve hydraulic neutrality in the Pinehaven Catchment Overlay (that is resource consents would elevate to a non-complying activity status). As such, the wording of the rule within the table should be clarified to avoid confusion and allow the standards to determine the activity status.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment is largely administrative and seeks to ensure that the proposed rule is in an appropriate format. The proposed amendment does not change how the proposed methods to achieve the proposed objectives will be implemented.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>

8	33	Amended Rule – Table 33.1	<p>Table 33.1</p> <p>Within the Ponding Area or Erosion Hazard Area of the Mangaroo Flood Hazard Extent, the primary driveway or vehicle access serving the dwelling where below the 1 in 100 year flood level.</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to amend this proposed rule, and remove the reference to the Erosion Hazard Area. The purpose of the rule is to capture and assess activities comprising driveway accesses where they are below the 1 in 100 year flood level. The Erosion Hazard Area need not be included for this rule because it does not relate to water inundation levels (it is instead based on the erosion risk of the river bank) and importantly not all of the Erosion Hazard Area is within the Flood Hazard Extent. This is a different hazard and not one that is addressed by having a driveway or vehicle access above the 1:100 flood level. As such, if this rule was to remain as originally notified then it would result capturing activities (namely driveway accesses outside the flood hazard extent) that do not require assessment for flood depth reasons.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment improves the workability of the rule and ensures that the unintended consequence of capturing driveways that do not require assessment for flood depth reasons is avoided. The proposed amendment therefore improves how the proposed methods to achieve the proposed objectives will be implemented.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
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9	33	Amended Rule – Table 33.1	<p>Table 33.1</p> <p><i>Within either the Ponding Area or Erosion Hazard Area of the Mangaroa Flood Hazard Extent, where one or more of the following occurs;</i></p> <ul style="list-style-type: none"> • <i>the construction of new dwellings</i> • <i>the alteration and addition to existing dwellings</i> • <i>construction of otherwise permitted non-residential buildings;</i> • <i>residential accommodation for caretaker activities in the Business Industrial Zone</i> <p><i>which have a FFL below the 1 in 100 year flood level.</i></p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to amend this proposed rule, and remove the reference to the Erosion Hazard Area. The purpose of the rule is to capture and assess activities comprising finished floor levels below the 1 in 100 year flood level. The Erosion Hazard Area need not be included in this rule because it does not relate to water inundation levels (it is instead based on the erosion risk of the river bank) and importantly not all of the Erosion Hazard Area is within the Flood Hazard Extent. This is a different hazard and not one that is addressed by having a Finished Floor Level above the 1:100 flood level. As such, if this rule was to remain as originally notified then it would result capturing activities (namely finished floor levels outside the flood hazard extent) that do not require assessment for flood depth reasons.</p> <p>It is also noted that all buildings require resource consent under Table 33.1 as a Restricted Discretionary Activity and an appropriate assessment of the Erosion Hazard would be undertaken as part of this assessment. As such, by removing the Erosion Hazard Area from this rule, it does not create a gap in the proposed rule format.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment improves the workability of the rule and ensures that the unintended consequence of capturing buildings that do not require assessment for flood depth reasons in the Erosion Hazard Area is avoided. The proposed amendment therefore improves how the proposed methods to achieve the proposed objectives will be implemented.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
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10	33	33.9 Rule amendment	<p>Any building within the Pinehaven Catchment Overlay must achieve hydraulic neutrality for stormwater runoff.</p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to amend Rule 33.9 so that it is in an appropriate format for a rule and consistent with the proposed rule wording in Table 33.1. The proposed provisions (standards) contain an appropriate elevation for activities that do not achieve hydraulic neutrality in the Pinehaven Catchment Overlay (that is resource consents would elevate to a non-complying activity status). As such, the wording of the rule should be clarified to avoid confusion and allow the standards to determine the activity status.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment is largely administrative and seeks to ensure that the proposed rule is in an appropriate format. The proposed amendment does not change how the proposed methods to achieve the proposed objectives will be implemented.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
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11	33	33.11 Rule amendment	<p><i>Within the Ponding or Erosion Hazard Area of the Mangaroa Flood Hazard Extent, the primary driveway or vehicle access serving the dwelling where below the 1 in 100-year flood level is a Restricted Discretionary Activity.</i></p>	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>It is proposed to amend this Rule 33.11, and remove the reference to the Erosion Hazard Area. The purpose of the rule is to capture and assess activities comprising driveway accesses where they are below the 1 in 100 year flood level. The Erosion Hazard Area need not be included for this rule because it does not relate to water inundation levels (it is instead based on the erosion risk of the river bank) and importantly not all of the Erosion Hazard Area is within the Flood Hazard Extent. This is a different hazard and not one that is addressed by having a driveway or vehicle access above the 1:100 flood level. As such, if this rule was to remain as originally notified then it would result capturing activities (namely driveway accesses outside the flood hazard extent) that do not require assessment for flood depth reasons.</p> <p>The proposed amendment also ensures that Rule 33.11 is consistent with the rule wording in Table 33.1.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment improves the workability of the rule and ensures that the unintended consequence of capturing driveways that do not require assessment for flood depth reasons in the Erosion Hazard Area is avoided. The proposed amendment therefore improves how the proposed methods to achieve the proposed objectives will be implemented.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
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12	33	Amend Policy References	Numerous see the amended Chapter 33 for the correct references.	<p>REASON FOR THE PROPOSED AMENDMENT</p> <p>The removal of Policy 14.4.5 results in the policy references alongside the rules in Chapter 33 to be amended to ensure they reference the correct policy.</p> <p>EVALUATION OF THE PROPOSED AMENDMENT:</p> <p>The proposed amendment does not alter the objectives of the Plan Change or the consistency of the proposal with the purpose of the Act. The proposed amendment is administrative.</p> <p>The proposal amendment does not result in any additional costs that were not considered within the original Section 32 assessment.</p>
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For the purposes of the Plan, unless the context requires otherwise, the following definitions apply:

the Act	the Resource Management Act 1991 including any amendments thereto.
Access lot	any separate lot, owned in common undivided shares, and used primarily for access to one or more lots that have no legal frontage.
Accessory building	a building which is accessory to the main use of the site. On residential sites, this includes garages, carports, workshops, garden sheds, swimming pools, spa pools and glasshouses that are not used for commercial purposes other than home occupations. It also includes walls, fences and retaining walls defined as buildings. For the purposes of the Southern Hills Overlay Area, accessory buildings do not include any building in the Residential Zone or Residential Hill which exceeds 36m ² in floor area and/or 3 metres in height. (See definition of “building”)
Active recreation	recreation activities that are active in nature. It includes motorised activities and gun clubs which have an intermittent noise component but excludes all temporary events, such as organised competitive sporting events.
Activity	the use of a site including the construction, operation, maintenance, minor upgrading, replacement and refurbishment of buildings, structures, plant and equipment.
Allotment	has the same meaning as in section 218 of the Resource Management Act 1991.
Amenity values	has the same meaning as in section 2 of the Resource Management Act 1991.
Ancillary	in relation to an activity means an activity serving a supportive function to, and located on the same site as a primary activity, and which is small in scale.

Anemometer

means a mast and supporting sensors for the purpose of wind resource measurement. This includes guy wires and various meteorological instruments to be erected at varying heights, including:

- Anemometers to measure the average wind speed, wind gust speeds, turbulence intensity and wind shear;
- wind vanes to measure wind direction; and
- other meteorological instruments to measure temperature, air pressure, humidity and rainfall.

Antenna

means antenna as defined in the Resource Management (National Environmental Standard for Telecommunications Facilities) Regulations 2008.

An antenna does not include:

- Devices used in amateur radio configurations
- Devices used only for television reception; and
- Any other device not otherwise defined above that is less than 1.5m² in area

Advice note: The mountings of any antenna and any radiofrequency equipment or similar device shall not be included in the measurement of area or diameter of each antenna, provided that the radiofrequency unit or similar device is smaller in area or diameter than the antenna itself. Any antenna only need meet the area or diameter measurement, as appropriate to the type of antenna and the measurement is of each individual antenna and is not a cumulative measurement.

Boundary

the legal boundary of a site, unless otherwise specified.

Building

any structure whether temporary or permanent, movable or immovable, which, in addition to its ordinary and usual meaning, includes the following:

- Any structure of over 5m² in area with a height of more than 1.2m.
- Any fence or wall with a height of more than 2m.
- Any retaining wall with a height of more than 1.5m above the finished ground level.
- Any tank or pool, and any structural support:
 - (i) Which has a capacity of not less than 25,000 litres and is supported directly by the ground.
 - (ii) Which has a capacity of 2,000 litres or more and is supported at a height of more than 2.0 metres from the base of its structure.
 - (iii) Which has a capacity of 500 litres or more and is supported at a height of more than 4.0 metres from the base of its supporting structure.

This definition does not apply to network utilities as defined in this chapter.

Building improvement centres	are premises used for the storage, display and sale of goods and materials used in the construction, repair, alteration, improvement and renovation of buildings and includes building supply, electrical supply and plumbing supply centres, building recyclers and home and building display centres.
Cabinet	means a box-shaped structure which houses radio and telecommunication equipment, electrical equipment, equipment associated with the continued operation of network utilities and includes single transformers and associated switching gear distributing electricity at a voltage up to, and including, 110KV.
Cleanfill	an activity involving the depositing of exclusively inert, non decomposing material into or onto land, including materials such as clay, soil, rock, concrete or brick, that are free of combustible or putrescible components or hazardous substances or materials likely to create a hazardous leachate by means of biological or chemical breakdown.
Code of Practice for Civil Engineering Works	a document prepared by the Council which sets out performance criteria, standards and procedures for engineering works within Upper Hutt.
Commercial scale renewable energy generation activities	means the land, buildings, substations, turbines, structures, underground cabling earthworks, access tracks and roads associated with the generation of electricity from a renewable energy source and the operation of the renewable energy generation activity. It does not include: <ul style="list-style-type: none"> • Small scale wind turbines of less than 5kW • Community scale renewable energy generation activities • Any cabling required to link the wind energy facility to the point of entry into the electricity network, whether transmission or distribution in nature.
Commercial unit	any land or buildings designed to be self-contained for individual or separate commercial activities, companies or businesses.
Community care housing	special care housing used for the rehabilitation or care of any group of persons.
Community scale renewable energy generation	means renewable energy generation for the purpose of supplying electricity to a whole community which is not connected to the distribution network ('off grid'); or to supplying an immediate neighbourhood in an urban area with some export back into the distribution network.
Community facilities	any land or building used, or intended to be used, for public indoor or outdoor recreation, meetings, or social or cultural events, and includes the provision of information, advice and training associated with the use of the facility.

Comprehensive residential development

a residential development of at least three dwellings, on a site within a Residential (Centres Overlay) Area, at a density greater than the minimum net site area requirement for the Residential zone.

Note: A Comprehensive Residential Development may include an existing dwelling.

Conservation

the maintenance or enhancement of environmental and heritage values.

Construction and Commissioning activities:

in respect of renewable electricity generation activities includes those activities directly involved with the building and operation of a new renewable electricity generation activity. This includes site preparation, earthworks, quarrying, concrete batching, plant construction, road construction and widening, traffic generation, reservoir formation, clearance or inundation of vegetation, but specifically excludes investigative activities such as geological sampling, surveys and geotechnical investigations.

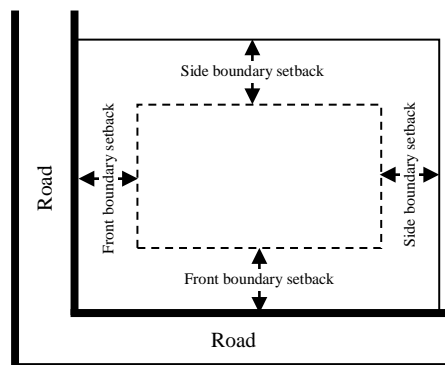
Activities associated with “construction and commissioning” includes rapid and temporary population increases and the associated effects on infrastructure and community facilities; the need to reroute or relocate network utilities and community facilities;; the need to construct new infrastructure including the system of electricity conveyance transmission (including substations) required to convey electricity to the distribution network and/or the national grid as provided for in the definition of ‘renewable electricity generation activity.

Contaminated site

a site at which hazardous substances are present above local background levels and are likely to pose an immediate or long-term hazard to human health or the environment.

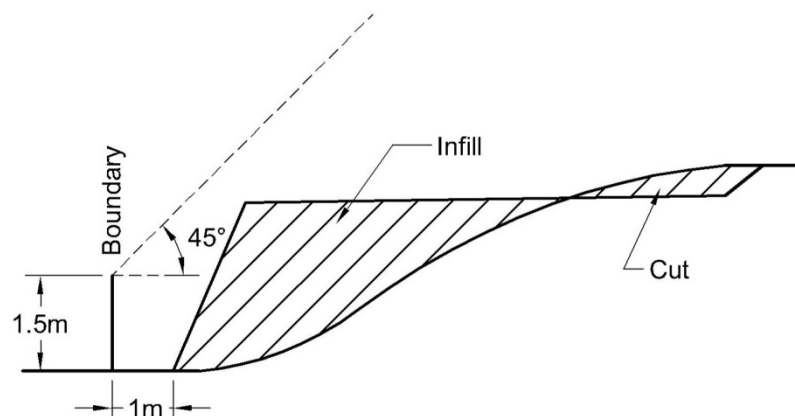
Corner lot

any site adjoining two or more contiguous roads with two or more contiguous frontages that each comply with the relevant subdivision standard (for the minimum frontage) of a corner lot in the relevant zone, but excludes any rear lot.



Corner lot

Council	the Upper Hutt City Council or any committee, subcommittee or person to whom the Council's powers, duties and discretions have been lawfully delegated.
Distribution network	For the purpose of Chapter 30A, has the same meaning as in the National Policy Statement for Renewable Electricity Generation and means a distributor's lines and associated equipment used for the conveyance of electricity on lines other than lines that are part of the national grid.
Distributor	for the purpose of Chapter 30A, has the same meaning as in the National Policy Statement for Renewable Electricity Generation and means a business engaged in distribution of electricity.
Dripline (of a tree)	the shape defined on the ground by a series of vertical lines formed around the outer most extent of the tree, branches and foliage.
Dwelling	a building or buildings, including detached habitable rooms, designed as self-contained accommodation for one or more persons on any site.
Early childhood centre	means premises used for the care or education of four or more children under the age of seven, including but not limited to Kindergartens, Playcentres, Kohanga Reo, Licensed Childcare Centres, Day Nurseries and Creches.
Earthworks	the removal, relocation or depositing of soil, earth or rock from, to or within a site, including quarrying or mining and the deposition of cleanfill, but excluding land disturbance resulting exclusively from domestic gardening and planting, cropping or drainage of land in connection with farming and forestry operations.
Earthworks plane	means a height control plane applied at the ground level at a boundary from a height of 1.5 metres above any point along that boundary and entering the site at an angle of 45°



Ecosystem	a dynamic complex of plant, animal and micro-organism communities and their non-living environment, interacting as a functional unit.
Effect	has the same meaning provided in section 3 of the Resource Management Act 1991.
Environment	has the same meaning provided in section 2 of the Resource Management Act 1991.
Erosion Hazard Area	<u>The area identified within the District Plan (Part 5) Hazard Maps that are at risk from erosion caused by the flood hazard.</u>
Esplanade reserve and esplanade strip	have the same meaning provided in section 2 of the Resource Management Act 1991.
External sound insulation level	<p>External sound insulation level means the standardised level difference (outdoor to indoor) and is a measure of the airborne sound insulation provided by the external building envelope (including windows, walls, ceilings and floors where appropriate) using insulation spectrum No.2 (A-weighted traffic noise spectrum) described in units of D2m,nT,w +Ctr as defined in the following Standard:</p> <p>ISO 717-1:2013 Acoustics - Rating of sound insulation in buildings and of building elements - Part 1: Airborne sound.</p> <p>The term “external sound insulation level” is used in this Plan primarily as a calculated value to demonstrate compliance with the stated minimum standard of acoustic isolation against sounds arising from outside the building. If field testing of built structures is employed to verify predictions, these tests shall be carried out using <i>ISO 140-5:1998 Acoustics - Measurement Of Sound Insulation In Buildings And Of Building Elements, Part 5: Field Measurements Of Airborne Sound Insulation Of Facade Elements And Facades</i>.</p>
Family flat	<p>a self-contained dwelling unit no more than 55m² in floor area, on the same property and in the same ownership as the principal dwelling (and not leased to another party), for the purpose of providing ancillary accommodation.</p> <p>Note: For clarity, a family flat which exceeds the 55m² limit will be considered as a dwelling and will be assessed against the appropriate rules.</p>
Farming activity	an activity with the primary purpose of commercially producing livestock or vegetative matter. It includes horticulture but does not include forestry, veterinary hospitals, boarding kennels, catteries, aviaries or farm products processing industries. It also includes the sale of goods produced on the site, except where sale takes place via access to a State Highway.

Finished Floor Level

In relation to flood inundation the height as measured to the underside of floor joists for wooden structures or to the bottom of a concrete slab.

Flood Hazard Extent

The area identified within the District Plan (Part 5) Hazard Maps. This identifies the area susceptible to the average flood return interval of 100 years (1 in 100-year flood), incorporating climate change to 2090. The Flood Hazard Extent comprises a High and Lower Hazard Area;

- High Hazard Area comprises the stream and river corridor, overflow paths and the Erosion Hazard Area.
- Lower Hazard Area comprises the ponding area and some parts of the Erosion Hazard Area.

Flood mitigation works

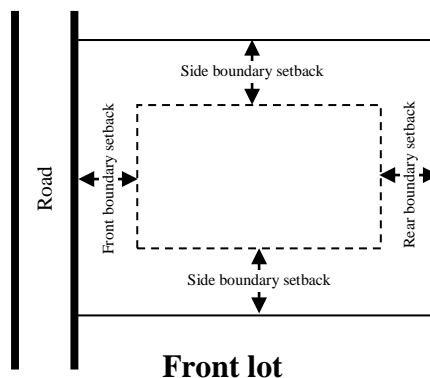
Work undertaken by local and regional authorities such as Greater Wellington Regional Council and Upper Hutt City Council or their nominated contractors where the primary purpose is to improve the ability and capacity of a stream or river to convey flood flows or reduce flooding across land, often in accordance with a relevant adopted Floodplain Management Plan.

Forestry

Soil conservation.
 Forest protection.
 Regulation of water.
 Production of timber or other forest products.
 Recreational, aesthetic or scientific purposes.
 It does not include forest products industries or on-site milling.

Front lot

any site abutting a road that complies with the relevant subdivision standard (for the minimum frontage) of a front lot in the relevant zone, but excludes any rear or corner lot.



Gang fortification

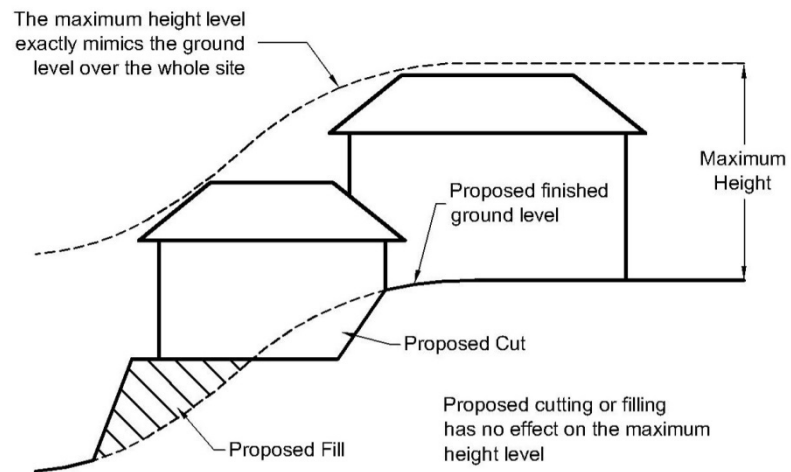
any building or site which is used by groups for accommodation as a base or headquarters, and which is typified by high fencing and other fortification.

Garden centre	any land and/or buildings used principally for the storage, display and sale of shrubs, plants, seedlings, and associated home garden supplies.
Ground level	the natural level of the ground before any excavation or filling has taken place. It also means the finished level of the ground after earthworks have been carried out in an approved subdivision.
Habitable building	any building where people live, work or may assemble, but does not include buildings associated with the storage or use of dangerous goods on the site.
Habitable room	a room used for activities normally associated with domestic living, but excludes any bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, clothes-drying room, or other space of a specialised nature occupied neither frequently nor for extended periods.
Hazardous substance	has the same meaning provided in section 2 of the Hazardous Substances and New Organisms Act 1996.
Home occupation	an occupation, art, craft, business, trade or profession which is ancillary to residential activities on a site.
Hydraulic neutrality	<u>the principle of managing stormwater runoff from all new lots or development areas through disposal or stored on-site and released at a rate that does not exceed the peak stormwater runoff when compared to the pre-development or subdivision situation.</u>
Indigenous vegetation	a plant community of any species or genetic variants of plants found naturally in New Zealand.
Indigenous vegetation clearance	<p>the removal, damage or destruction of indigenous vegetation, but excluding where such work is undertaken solely in relation to any one or more of the following:</p> <ul style="list-style-type: none"> • Clearance of diseased, dead or dying vegetation; • Clearance undertaken for the purpose of flood control undertaken or approved by local authorities; • Clearance where necessary to maintain or restore existing essential services or for emergency work to avoid injury to persons or damage to property; • Clearance of regenerating vegetation under the canopy of a plantation forest; • Clearance of indigenous vegetation that has been planted and managed specifically for the purposes of harvesting.

Industrial unit	any building or buildings or land designed to be self contained for individual or separate industrial activities, companies or businesses.
Intensive animal farming	any farming operation where animals are kept and/or fed in a building or outdoor enclosures, where the stocking density precludes the maintenance of pasture or vegetative ground cover.
Kaitiakitanga	has the same meaning provided in section 2 of the Resource Management Act 1991.
Kohanga reo	premises where pre-school children are taught and cared for in accordance with tikanga Maori (Maori customs).
Land	has the same meaning provided in section 2 of the Resource Management Act 1991.
Landscaping	the provision of tree and shrub planting, and may include ancillary lawn, rocks, paved areas or amenity features.
Large format retail	is a retail activity or activities, located within a standalone building or complex of buildings, where the gross floor area of each retail activity is no less than 750m ² .
Line	means 'line' as defined in Section 5 of the Telecommunications Act 2001 or Section 2 of the Electricity Act 1992.
Loading	the loading and unloading of a vehicle including adjusting, covering or tying its load.
Lot	has the same meaning as allotment.
Maintenance	as it applies to network utilities, means the replacement, repair or renewal of existing network utilities and where the effects of that utility remain the same or similar in character, intensity and scale, and excludes 'minor upgrading' and 'upgrading'.
Marae	customarily means the open space in front of a meeting house upon which various ceremonial occasions are centred, but for the purpose of the District Plan a marae also consists of a Maori meeting house and/or hall together with the associated area of open ground.
Mast	any pole, tower or similar structure which is fixed to the ground specifically designed to carry an antenna to facilitate the transmission of telecommunication and radiocommunication signals.

Maximum height

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

**Minor above ground line**

means a line that provides an above ground connection to a site, including any connection to a building within that site, from an existing or permitted new above ground line provided that no more than one new support structure is required for that connection.

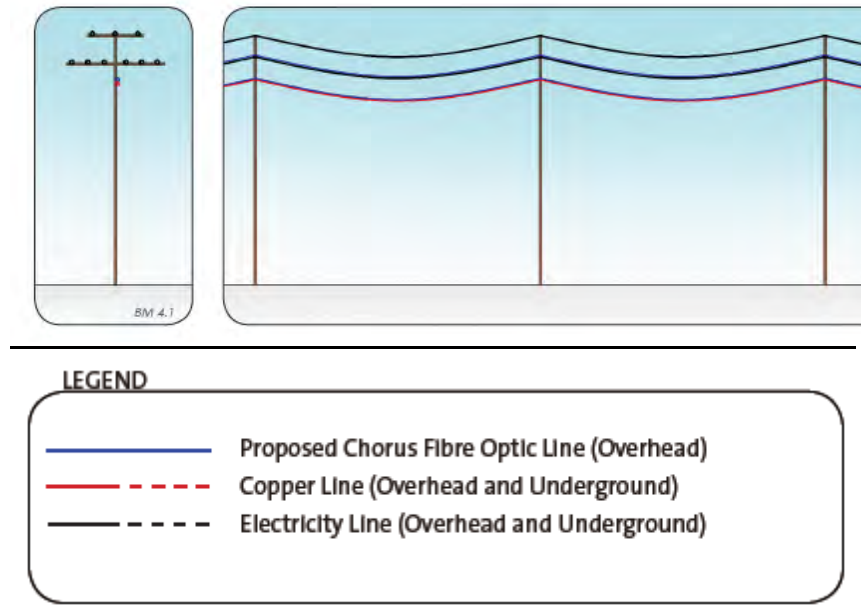
Minor upgrading

means an increase in the carrying capacity, efficiency or security of electricity and telecommunication lines, which utilise the existing or replacement support structures and includes:

- (1) the reconductoring of the line with higher capacity conductors; and
- (2) the resagging of conductors; and
- (3) the addition of longer and more efficient insulators; and
- (4) A support structure replacement within 5 metres of the support structure that is to be replaced; and
- (5) The addition of earthwires, which may contain telecommunication lines, earthpeaks and lightning rods; and
- (6) The addition of electrical or telecommunication fittings; and
- (7) Support structure replacement in the same location or within the existing alignment of the transmission line corridor; and
- (8) The replacement of existing cross arms, including with cross arms of an alternative design; and
- (9) An increase in tower height to achieve compliance with the clearance distances specified in NZECP34:2001; and
- (10) an increase in the height of replacement poles in the road reserve by a maximum of 1m, for the purpose of achieving road controlling authority clearance requirements, provided the permitted height in Rule 30.4 is not exceeded;
- (11) an increase in voltage of electricity lines from 11kV to no more than 33kV.and
- (12) the addition of a new overhead telecommunication fibre optic line provided that:

- (i) the maximum number of fibre optic lines on existing support structures does not exceed two lines;
- (ii) the diameter of new fibre optic lines does not exceed 25mm; and
- (iii) the location of the new fibre optic line is consistent with the following figure

Figure X: Location of new fibre optic line



Minor upgrading shall not include:

- (i) Any increase in the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage, or
- (ii) Any increase in any individual wire, cable, or other similar conductor to a diameter that exceeds 35mm, or
- (iii) The bundling together of any wire, cable, or other similar conductor so that the bundle exceeds 43mm in diameter, or
- (iv) The addition of any new circuits, lines or utility structures, where this results in an increase in the number of circuits, lines or utility structures except as provided for in (12) above.

Note: The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 applies to the existing National Grid, transmission lines that were operational, or able to be operated, on 14 January 2010.

Motor vehicle wrecking

any land and/or building used for the dismantling and storage of wrecked motor vehicles for private or commercial purposes.

Natural and physical resources

has the same meaning provided in section 2 of the Resource Management Act 1991.

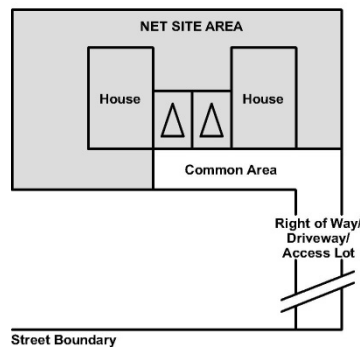
Net floor area

the superficial floor area of the actual room, rooms or spaces used for the particular activity and excludes areas such as hallways, ablutions, storage areas, stairwells and loading spaces.

Net site area

the area of a site excluding:

- Any access lot, driveway or right of way in the case of a rear lot.
- Any common area, access lot, driveway or right of way where there is more than one dwelling on a site.

**Network Utility**

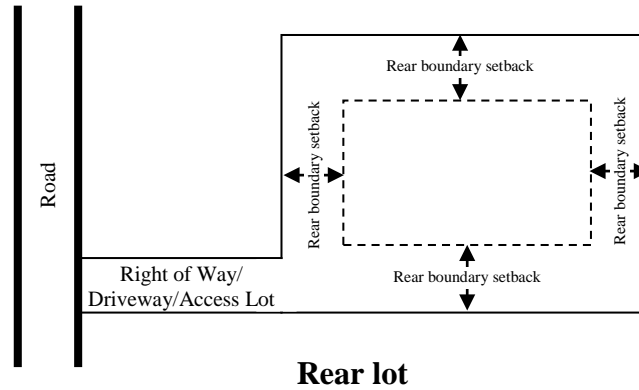
means any activity undertaken by a network utility operator as defined in s166 of the RMA, relating to:

- (i) Distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel or geothermal energy, or
- (ii) Telecommunication as defined in section 5 of the Telecommunications Act 2001; or radiocommunications as defined in section (2)(1) of the Radiocommunications Act 1989, or
- (iii) works as defined in section 2 of the Electricity Act 1992 for the conveyancing of electricity, or
- (iv) The distribution of water for supply including irrigation, or
- (v) Sewerage or drainage reticulation, or
- (vi) Construction and operation of roads and railway lines, or
- (vii) The operation of an airport as defined by the Airport Authorities Act 1966, or
- (viii) the provision of any approach control service within the meaning of the Civil Aviation Act 1990, or
- (ix) Undertaking a project or work described as a 'network utility operation' by regulations made under the Resource Management Act 1991 and includes:
 - Lighthouses, navigation aids, beacons, signal and trig stations and natural hazard emergency warning devices,
 - Meteorological services,
 - all associated structures; and
 - regionally significant network utilities

Network utility structure	means any structure associated with a network utility and includes, but is not limited to, pipes, valves, meters, regulator stations, support poles and towers for lines, transformers (other than pole mounted transformers), substations (other than overhead substations), compressor stations, pumping stations, navigational aids, meteorological installations, containers, cabinets, and similar structures. It does not include lines, antennas and masts.
Notional boundary	a line 20m from the façade of any rural dwelling or the legal boundary where this is closer to the dwelling.
Organised fireworks display	The public display of fireworks conducted by a suitably qualified person.
Outdoor living court	an area located on the net site area of a site set aside for outdoor activities in association with a dwelling.
<u>Overflow path</u>	<u>the area defined on the District Plan Part 5 Hazard Maps. The overflow paths are areas identified as conveying moving flood water across land during a flood event and may be fast and/or deep.</u>
Passive recreation	comprises all forms of informal recreational activity that are passive in nature, including the use of walkways, bridle paths and picnic areas, swimming and fishing activities, cycling and outdoor education. It excludes facilities for organised, competitive sports.
<u>Pinehaven Catchment Overlay</u>	<u>the area encompassing the upper sub-catchments of the Pinehaven stream catchment.</u>
Pest species of plant	Any species of plant that has been specifically identified as being a pest for the Wellington Region in the Wellington Regional Pest Management Strategy.
Places of assembly	land and/or buildings used for the public and/or private assembly of people primarily for worship, religious, educational, recreational, social and cultural purposes. This definition includes marae, churches and associated halls and grounds.
<u>Ponding area</u>	<u>the area defined on the District Plan Part 5 Hazard Maps comprising areas of still, <u>shallow</u>, or slow moving water during a flood event.</u>
Property	all of that land held in one ownership.

Rear lot

any site situated generally to the rear of another site, which does **not** comply with the relevant subdivision standard (for the minimum frontage) for a front or corner lot in the relevant zone. It also includes any site, the net site area of which is accessed from a road by an access strip (i.e. right of way, access leg or access lot) that is **less** than the relevant subdivision standard (for the minimum frontage) for a front or corner lot.

**Regionally significant network utilities**

includes:

- pipelines for the distribution or transmission of natural or manufactured gas or petroleum
- the National Grid, as defined by the National Policy Statement on Electricity Transmission
- facilities for the generation and transmission of electricity where it is supplied to the network, as defined by the Electricity Governance Rules 2003
- the local authority water supply network and water treatment plants
- the local authority wastewater and stormwater networks, systems and wastewater treatment plants
- the Strategic Transport Network, detailed in Appendix 1 to the Wellington Regional Land Transport Strategy 2010-2040

Regional park

land which is managed and administered by the Wellington Regional Council in accordance with a Regional Park management plan.

Renewable electricity generation

means generation of electricity from solar, wind, hydro, geothermal, biomass, tidal, wave, or ocean current sources.

Renewable electricity generation activities

has the same meaning as under the National Policy Statement for Renewable Electricity Generation and means the construction, operation and maintenance of structures associated with renewable electricity generation. This includes small and community-scale distributed renewable generation activities and the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid and electricity storage technologies associated with renewable electricity.

Renewable energy	is defined in section 2 of the Resource Management Act 1991
Relocated building	any building or other structure, over two years old or which has been occupied for more than two years, which is intended to be removed and re-erected on another site.
Residential	the use of land, buildings, or any other facility, for domestic living purposes by people living alone or in family or non-family groups, and includes dwelling units and accessory buildings.
Residential (Centres Overlay) Area	an area identified on the planning maps as a Residential (Centres Overlay) Area.
Restaurants	the use of land and/or buildings for the sale of food, mainly prepared on the premises, to the public. The food may be consumed on or off the premises. Cafes, coffee bars and take away food places are included. The premises may or may not be licensed under the Sale of Liquor Act.
Rest home	any nursing or convalescent home for aged and infirm persons or similar facility.
Retail	refers to any land, building or part of a building where goods, merchandise, equipment or services are sold, displayed or offered for sale or direct hire to the public. The definition does not include the sale and hire of motor vehicles, boats, caravans, motor homes and accessories and motor vehicle spare parts, home occupations, restaurants or service stations.
River Corridor	The area as defined on the District Plan (Part 5) Hazard Maps as 'River Corridor' comprising the open river channel and land immediately adjacent to the river.
Road	has the same meaning provided in section 43 of the Transit New Zealand Act 1989 and section 315 of the Local Government Act 1974.
Roading hierarchy	the classification of roads according to their intended function within the City's roading network (see Chapter 37).
Service station	any land and buildings where the predominant activity is the retail sale of motor vehicle fuels (including petrol, LPG, CNG and diesel) and may also include, as ancillary activities: <ul style="list-style-type: none"> • The mechanical repair and servicing of motor vehicles (other than panelbeating, trimming or spray painting, heavy engineering such as engine restoring and crankshaft grinding). • The sale or hire of any goods, including the

preparation and sale of food and beverages.

- Car wash facilities.
- The hire of light trailers and motor vehicles.

Setback	the minimum distance from a particular boundary of a site.
Sewage	liquid wastes (including matter in solution or suspension therein) discharged from residential premises, or wastes of the same character discharged from other premises.
Shape factor	a square with sides of the specified dimension which can be fitted within the net site area.
Sign	a device or facility that displays information and which is visible from outside the site. It includes sandwich boards, shop frontages and every advertising device or advertising matter.
Significant Exterior Alteration	In the Gateway Precinct of the Wallaceville Structure Plan Area, any horizontal or vertical extension to, or demolition of, a wall(s) or roof of a building and any recladding, repair or maintenance of a building, or the replacement of windows or doors (including their framing) where the new materials are not the same or similar in appearance to the existing materials. It does not include any works to existing, or installation of new, mechanical structures relating to ventilation, or means of ingress and egress for the building (including lift shafts).
Site	means: a. an area of land comprised in: i. a single computer freehold register; or ii. a single allotment for which a separate computer freehold register could be issued without further involvement of, or prior consent from, the Council; whichever is the smaller. b. an area of land comprised in two or more allotments: i. that are subject to a certificate issued under section 75(2) of the Building Act 2004, section 37(2) of the Building Act 1991, section 643(2) of the Local Government Act 1974, or any equivalent legislation; or ii. that cannot be transferred or leased independently of each other without the Council's prior consent. c. an area of land: i. comprised in two or more computer freehold registers; or ii. for which two or more separate computer freehold registers could be issued without further involvement of, or prior consent from, the Council;

where the land will be amalgamated into a single computer freehold register as part of the resource consent process.

- d. in the case of land that is subject to a unit title, cross-lease, or company lease development, the area of land comprising the original parcel that was subdivided, leased or licenced (as the case may be) to create the unit title, cross-lease or company lease development.

Site coverage

that portion of the net site area, expressed in percentage terms, which may be covered by buildings, including accessory buildings (excluding fences and retaining walls).

Stream corridor

the area as defined on the District Plan Part 5 Hazard Maps as 'Stream Corridor' comprising the open stream channel.

Small Scale Renewable Energy Generation

means small scale renewable energy generation development for the purpose of using or generating electricity on a particular site (single household or business premise) with or without exporting back into the distribution network.

Small scale wind turbines

means wind turbines that are capable of generating up to 10kW of electricity.

Solar Panel

means a panel exposed to radiation from the sun, used to heat water or, when mounted with solar cells, to produce electricity direct

Subdivision

has the same meaning provided in section 218 of the Resource Management Act 1991.

Tangata whenua

has the same meaning provided in section 2 of the Resource Management Act 1991.

Taonga

treasure or valued highly by Maori.

Temporary event

an organised event that is of a temporary nature, has a limited duration and that includes public entertainment events, cultural events and organised competitive sporting and recreational events, but excludes commercial promotional events.

Temporary renewable energy assessment and research structures

means structures for the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators and includes the following activities:

- Erecting an anemometer mast.
- Digging test pits, drilling boreholes, constructing investigation drives and removing samples to investigate geological conditions.
- Installing instruments into drill holes for monitoring groundwater levels and land movement.

- Erecting survey monuments and installing instruments to monitor land movement.
- Erecting telemetry stations for the transmission of instrument data.
- Installing microseismic stations to measure microseismic activity and ground noise.
- Erection of signs or notices giving warning of danger

Topsoil removal

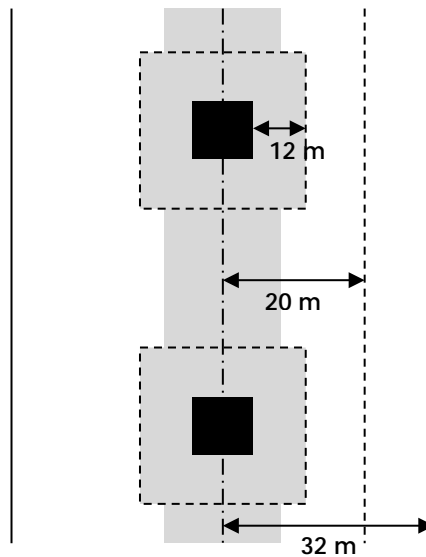
the removal, relocation or stockpiling of topsoil for purposes other than in conjunction with conventional domestic gardening or the planting, cropping or drainage of land in connection with farming and forestry operations.

Tourism facilities

land and/or structures used for ventures, features, events and services primarily intended to attract tourists, visitors and travellers.

Transmission line

has the same meaning as in section 3 of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.



■ = Tower support structure

Note: The measurement of setback distances from electricity transmission lines shall be taken from the centre line of the electricity transmission line and from the outer edge of any support structure. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span. The diagram above depicts setback distances.

Vehicle movement

a movement of a vehicle between a road and a site, with the number of movements per day being calculated over a 24 hour period as follows:

- 1 car to and from a site = 2 vehicle movements
- 1 truck to and from a site = 6 vehicle movements

1 truck and trailer to and from a site = 10 vehicle movements

**Urban
Environmental
Allotment**

urban environment allotment or **allotment** means an allotment within the meaning of section 218

- a. that is no greater than 4 000 m²; and
- b. that is connected to a reticulated water supply system and a reticulated sewerage system; and
- c. on which there is a building used for industrial or commercial purposes or as a dwelling house; and
- d. that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.

Upgrading

as it applies to network utilities, upgrading means the improvement or physical works that result in an increase in carrying capacity, operational efficiency, security or safety of existing network utilities but excludes:

- 'maintenance' (as it relates to network utilities); and
- 'minor upgrading'; and
- any other activity specifically otherwise provided for under Rule 30.1

Verandah

a permanent structure, constructed of weatherproof material, which is either cantilevered or supported on posts or pillars, which extends from a building facade, usually on the street frontage and at first floor level, and overhangs a footpath or other similar public pedestrian accessway or space.

**Visitor
accommodation**

any land or building or other facility used to provide accommodation for visitors and backpackers. It includes hotels, motels, hostels and camping grounds but excludes homestays covered by the rules relating to home occupations.

Waahi tapu

a place which is particularly sacred or spiritually meaningful to tangata whenua. It includes burial grounds, tribal altars and locations where significant events have taken place.

**Wallaceville
Structure Plan
Area**

The area of land defined in the Wallaceville Structure Plan Map (refer Chapter 39: Wallaceville)

Water body

has the same meaning provided in section 2 of the Resource Management Act 1991.

Water catchment	land managed and administered by the Wellington Regional Council for water supply purposes, protection and enhancement of native vegetation, forestry, and passive recreation uses, according to any management plan adopted by the Wellington Regional Council.
Warehouse	any building or part of a building, or land, where materials, articles or goods are stored. A warehouse may include offices and showrooms. Wholesale outlets may be included if incidental to, and a part of, the principal use of the site as a warehouse.
Wetland	has the same meaning provided in section 2 of the Resource Management Act 1991.
Yard oriented activities	are activities where the goods sold are sold in bulk and where internal retail (being retailing undertaken entirely from within a building but does not include goods stored outside under cover) does not occupy more than 20% of the area occupied by the activity. Yard oriented retailing is primarily for the sale of natural materials such as gravel, sand, shingle, rock, concrete, coal, fire wood and timber for construction purposes.

14 NATURAL HAZARDS

14.1 Background

The particular geology, hydrology and topography of the Hutt Valley make Upper Hutt vulnerable to a variety of natural hazards. Earthquakes and flooding are the most important natural hazards that threaten Upper Hutt's communities.

Natural hazards cannot be prevented, but the effects they have on people and the environment can be mitigated. Flood protection measures and land use planning are two ways to minimise risks.

The Council's function is to manage the actual and potential effects of the use, development or protection of land. This includes the use of controls to avoid, remedy, or mitigate the effects of natural hazards.

14.2 Resource Management Issues

14.2.1 *The potential damage, disruption and threats to the safety of the community and property as a result of activities located on or near an area prone to seismic hazard.*

Within Upper Hutt, the Wellington Fault occupies the north-western margin of the Upper Hutt/Te Marua basins. The north west side of the valley is the eroded fault scarp of the Wellington Fault. In many parts of Upper Hutt the exact location of the active fault is unknown. The level of accuracy ranges from +/-5m within Totara Park, to more than +/-50m between the Silverstream Bridge and south of Totara Park. The variation in accuracy is due to the lack of surface evidence like active faulting and other surface obstructions.

The adverse effects of earthquakes impact on both physical resources and people. Fault ruptures are the most obvious cause of damage but ground shaking is more widespread. The severity of the effect depends upon factors like distance from the fault, local topography, geological conditions and ground water conditions. Showing the active fault on the Planning Maps assists in identifying areas most likely to be affected by earthquakes.

A major earthquake in Upper Hutt is likely to damage resources and injure people. Buildings and infrastructure that straddle the fault may be severely damaged. The severity of damage in other areas of Upper Hutt will vary depending on the location. Conditions such as soil structure, ground water, and local topography as well as geological conditions will either attenuate or amplify the earthquake. There are also areas that may be prone to liquefaction and seismically induced slope failure.

14.2.2 *Inappropriate development and activities located within floodplains that may result in damage to infrastructure and property and the obstruction of flood flow paths.*

Upper Hutt is dissected by several tributary rivers which flow into the main Hutt River.

The area most at risk is the Hutt River floodplain. Recognising this, the Wellington Regional Council has undertaken protection works, such as stopbanks and river bank stabilisation. These stopbanks run parallel to the developed urban area from Totara Park to Trentham Memorial Park. During a large flood the stopbanks may be breached, causing severe damage and disruption to the City. The stopbanks have a maximum design flood capacity so that it is possible in a significant flood event that they could be overtopped or a breach could occur causing significant damage and disruption to the City.

In addition, the Heretaunga Flood Detention Embankment and outlet control structure (referred to as the Heretaunga Retention Dam) has been designed to reduce the frequency and severity of flooding in the downstream urban areas along the Heretaunga Drain. A line defining the predicted maximum extent of ponding behind the Heretaunga Dam has been identified on the Planning Maps. So that the ponding capacity of the Heretaunga Dam is not compromised, earthworks, buildings or structures should not be undertaken within the area encompassed by the Retention Line as shown on the Planning Maps.

Subdivision in the rural areas is likely to increase the potential for development close to rivers and will require careful consideration.

It is recognised that there are varying levels of risk within an identified Flood Hazard Extent. High hazard areas include stream and river corridors, overflow paths, designated building setback areas and erosion hazard areas. In these higher risk areas flood waters can be both deep and fast moving and the risk of erosion is high. In some cases, parts of the erosion hazard area may be less susceptible due to the characteristics of the location and thus represent a lower risk to people and property. Lower hazard areas within identified flood hazard extents predominately comprise ponding areas but can also include lower risk parts of the erosion hazard area. Development should avoid higher hazard areas, with sufficient mitigation applied to lower hazard areas.

Certain upstream activities can increase the frequency and magnitude of flood events. For example, removal of vegetation can result in increased water run off, sedimentation and debris blockages, thus creating significant risks.

14.2.3 *The need for on-going river management activities and development of flood protection works along the Hutt River.*

The Hutt River's water levels are subject to wide and sudden fluctuations. In order to avoid, remedy or mitigate the potential adverse effects of inundation, there is a need to manage activities on and near the Hutt River, and to provide for flood protection work.

14.2.4 *The existing community in the Pinehaven catchment are susceptible to flood hazards*

The Pinehaven Stream flows through an urbanised community. The development around the stream has limited the natural function of the stream and its floodplain. The stream corridor, overflow paths and land along the stream banks are the most sensitive areas to inappropriate development that can adversely affect the function of the floodplain and exacerbate the risk from flooding.

14.3 Objective
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14.3.1 *The avoidance, remedying or mitigation of the adverse effects of natural hazards on the environment.*

The Council has the responsibility under the Act to protect all aspects of the environment, not just people and property, from the adverse effects of natural hazards. Amenity values of an area and its ecological systems should also be protected against natural hazards.

It is not always feasible or practicable to avoid, remedy, or mitigate all potential effects of natural hazards at all times for all aspects of the environment. Some priority must be placed on human life and property, but preferably this can be achieved in conjunction with achieving other goals. The goal in managing the effects of natural hazards within the City, therefore, is the avoidance, remedying or mitigation of the adverse effects of natural hazards on the environment as appropriate to the circumstances, with priority on community protection.

14.3.2.

Identify Flood Hazard Extents and Erosion Hazard Areas in order to avoid or mitigate the risk to people and property and provide for the function of the floodplain.

The extent of the threat from flood hazards and erosion hazards must be identified within the Pinehaven Stream and Mangaroa River catchments. The types of hazards within an identified Flood Hazard Extent can vary, with high hazard areas and lower hazard areas that need to be considered when planning for future development.

High hazard areas within the Flood Hazard Extent comprise the stream and river corridor, overflow paths and the Erosion Hazard Area. These are characterised by areas of moving flood water which may also be deep or fast and includes areas most at risk to erosion during a flood event. These are identified on the Hazard Maps. Subdivision within high hazard areas should be avoided given the threat these areas represent to people and property.

Outside the high hazard areas, but still within the Flood Hazard Extent, are lower hazard areas generally comprising the ponding areas and some parts of the erosion hazard area. These areas are generally characterised by still or slow moving flood water and a lower risk of erosion. These areas are identified on the Hazard Maps. Subdivision or development may be possible in these areas subject to appropriate mitigation (such as raising the floor levels above the 1 in 100-year flood level).

All development should be undertaken in a manner that provides for the function of the floodplain to discharge flood waters and thereby ensure that the effects from flooding are not exacerbated on the site, adjacent properties or the wider environment.

14.3.3

To control buildings and activities within the upper areas of the Pinehaven Catchment Overlay to ensure that peak stormwater runoff during both a 1 in 10-year and 1 in 100-year event does not exceed the existing run off and therefore minimise the flood risk to people and property within the Flood Hazard Extent.

Development in the Pinehaven Catchment Overlay needs to be controlled to ensure that stormwater runoff does not exacerbate the impact of flooding in the lower catchment. Most of the upper catchment is currently undeveloped and any new development has the potential to affect the land use and peak stormwater runoff. This objective seeks to ensure that the peak stormwater runoff does not increase, thereby increasing the flood risk downstream.

14.4**Policies**

14.4.1

To identify and mitigate the potential adverse effects of natural hazards that are a potentially significant threat within Upper Hutt.

Adequate information is necessary to make informed decisions on developments that may be affected by natural hazards. The main objective relating to natural hazards is knowing where they can occur so that the effects can be avoided, or the appropriate management strategies can be put in place.

The Council will co-ordinate the provision of information identifying these hazards and the areas at risk. This can be used by developers, the community and the Council to consider the potential risks when making decisions on developments and deciding on possible mitigation measures where natural hazards are involved.

The Council will recognise the high and low hazard areas within the identified Pinehaven Stream and Mangaroa River Flood Hazard Extents.

High hazard areas comprise moving water that can also be deep and are the areas most at risk from erosion during a flood event. Accordingly, subdivision and development within high hazard areas should be avoided given the threat they have to people and property.

Lower hazard areas are generally characterised by still or slow moving flood water and a lower risk of erosion. In these areas, it may be possible to undertake development provided appropriate mitigation is implemented (for example floor levels above the 1 in 100-year flood extent or being setback from the stream or river bank).

Some parts of the identified Erosion Hazard Area within the Mangaroa Flood Hazard Extent may represent a lower risk depending on the characteristics of the site and its location in relation to the river. Where a site specific assessment identifies there is a lower threat then the erosion hazard may be considered a lower hazard area and assessed in accordance with the lower hazard policies.

14.4.2

In areas of known susceptibility to natural hazards, activities and buildings are to be designed and located to avoid, remedy, or mitigate, where practicable, adverse effects of natural hazards on people, property and the environment.

This policy lessens the risk factor by restricting developments in hazard prone areas. These controls include appropriate separation distances from a river or fault, or designing structures and site development to meet acceptable levels of safety. This also enables applicants to consider the potential risks when making decisions on developments.

The effects of permitting more intensive subdivision (and subsequent development and infrastructure) could be substantial and controls on subdivision can reduce these.

14.4.3***Avoid development within high hazard areas of identified Flood Hazard Extents and Erosion Hazard Areas.***

The high hazard areas present a threat to people and property as they can contain both fast and deep flowing water in a 1 in 100-year flood event, or are at risk of bank collapse which has the potential to damage buildings and threaten lives.

The policy provides directive for careful consideration of development within the high hazard areas, with a strong directive to avoid development in these high hazard areas.

14.4.4***To control development (including buildings) within the lower hazard areas of identified Flood Hazard Extents and Erosion Hazard Areas by requiring mitigation to minimise the risk to people and property.***

The policy recognises that there are lower hazard areas within the identified Flood Hazard Extent and some parts of the Erosion Hazard Areas. The lower hazard areas are characterised by still or slowly moving water and a lower risk of erosion. As such, development within these lower hazard areas can be appropriate provided measures are incorporated to mitigate the risk.

14.4.5***Enable planned flood mitigation works within identified Flood Hazard Extents that decrease the flood risk to people and property or maintain the function of the floodplain.***

Flood mitigation works are undertaken to reduce the flood risk to people and property. This policy supports flood mitigation works as they are consistent with the purpose of providing for the continued function of the floodplain.

14.4.5***Within the Pinehaven Flood Hazard Extent, reduce blockage potential from fences, buildings and driveways in high hazard areas through design controls on development.***

Driveway crossings and structures over the stream channel within the flood hazard extent can impede flood flows. The flood risk and damage to people and property can be exacerbated by blockages of debris accumulating against fences, buildings and driveways crossing the stream. The blockage potential is compounded by the character of the

catchment being urbanised and confined. This policy encourages fences, buildings and driveways to be appropriately designed.

14.4.6

Development within the Pinehaven Catchment Overlay is designed to ensure that the peak stormwater runoff, during both a 1 in 10-year and 1 in 100-year event, shall be at a rate no greater than when compared to the pre-development situation.

Development in the Pinehaven Catchment Overlay needs to be controlled to ensure that stormwater runoff does not exacerbate the impact of flooding in the lower catchment. The upper catchment is currently mostly undeveloped and any new development has the potential to increase peak stormwater runoff.

14.4.7

Within the Mangaroa Flood Hazard Extent enable accesses positioned above the 1 in 100-year level to serve dwellings where located within the lower hazard areas and avoid locating accesses when located within high hazard areas to serve dwellings.

This policy enables access way and driveways to dwellings in the Mangaroa Flood Hazard Extent to be above the 1 in 100-year flood level when located in the lower hazard areas. It discourages access routes being located in high hazard areas where access ways could be compromised and properties become isolated during a 1 in 100-year flood event. The policy encourages access ways to be safely located as they assist with evacuation, if required, during a flood event.

14.4.8

Within the Mangaroa Flood Hazard Extent, enable non-habitable accessory buildings within the lower hazard areas.

This policy recognises that the Mangaroa Flood Hazard Extent is predominantly rural. Rural activities are often supported by accessory buildings, therefore it is appropriate to provide for these in lower hazard areas where they are unlikely to present a blockage issue, or are less likely to be structurally compromised during a flood event.

14.5

Methods

14.5.1

District Plan provisions consisting of the following:

1. Control of the location, and design of subdivisions through standards for subdivision and building design to avoid or mitigate the risk from natural hazards.

2. Management of the location and use of buildings in close proximity to earthquake faults and areas susceptible to inundation.
3. Restriction of activities and structures within the river berms of the Hutt River.
4. Management of activities involving the removal of vegetation and earthworks located on unstable slopes.
5. Information on Planning Maps. These indicate the type and extent of the flooding and fault band hazards.

14.5.2 To maintain an up-to-date Hazard Register which will record areas and sites of known or potential hazards. The information will be used in the building consent process, as well as for land information memoranda, project information memoranda, and resource consent processes.

14.5.3 Information on liquefaction and slope failure hazards, which is held by the Council, will be supplied to persons applying for land information memoranda and project information memoranda.

14.5.4 The use of sections ~~72 – 76~~ ~~36~~ of the Building Act ~~1991~~ ~~2004~~ and compliance with the New Zealand Building Code in the Council's building consent process for the structural safety of buildings to withstand wind, inundation, earthquakes and unstable ground.

14.5.5 The continued civil defence emergency management role of the Council, and its staff, under the relevant legislation.

14.6 Anticipated environmental results and monitoring

The following results are expected to be achieved by the objective, policies and methods in this Chapter. The means of monitoring whether this Plan achieves the anticipated results are also set out below.

Anticipated environmental results	Monitoring indicators	Data source
<p>The avoidance, remedying, or mitigation of adverse environmental effects of natural hazards on communities, including mitigation measures in place in areas identified as being of high risk</p>	<p>Effectiveness of conditions of consents and methods used in managing adverse effects</p> <p>Development in areas subject to natural hazards</p> <p>Reduction of downstream effects caused by flooding events.</p> <p><u>Number of resource consent applications approved or declined in areas identified in the District Plan as being susceptible to natural hazards and whether these numbers change with time.</u></p> <p><u>The economic and insured costs from flood hazard events and whether these decrease in time, allowing for changes in inflation.</u></p> <p><u>The number of section 74 certificates imposed on the titles of properties at the time of building consent and whether these decrease in time.</u></p>	<p>Council complaints register</p> <p>Council resource consent records for compliance with conditions</p>
<p>Prevention of development which increases the level of risk in areas identified as being at high risk from natural hazards</p>	<p>Development in areas subject to natural hazards</p>	<p>Council and Wellington Regional Council records</p>
<p>Communities informed about, and prepared for, the occurrence of natural hazards</p>	<p>Consultation and community initiatives</p>	<p>Various</p>

33**RULES FOR FLOODING
AND FAULT BAND HAZARDS****Activities Table**Policies 14.4.1, 14.4.2, [14.4.3](#), [14.4.4](#), [14.4.5](#), [14.4.6](#), [14.4.7](#) [14.4.8](#)

33.1	Activities	All Zones
	Flood mitigation works undertaken or approved by a local authority	P
	Buildings and structures to be erected within the 1% (1 in 100 year) flood extent of the Hutt River, as shown on the Planning Maps.	D
	Any new habitable building or structure to be erected within the fault band identified on the Planning Maps.	D
Pinehaven Flood Hazard Extent and Pinehaven Catchment Overlay		
	<u>Within the ponding area of the Pinehaven Flood Hazard Extent the alteration and addition to existing buildings, or construction of accessory buildings are a Permitted Activity provided the gross floor area is less than 20m² and the proposal complies with the relevant zone standards for permitted activities.</u>	P
	<u>Driveways and bridges over the Pinehaven Stream</u>	C
	<u>Within the ponding area of the Pinehaven Flood Hazard Extent the construction of new buildings, or alteration and addition to existing buildings, including accessory buildings over 20m², that are not Permitted Activities.</u>	RD
	<u>Visitor accommodation or residential accommodation activities within the Commercial Business Zone of the Pinehaven Flood Hazard Extent.</u>	RD
	<u>Any part of a fence within an overflow path of the Pinehaven Flood Hazard Extent.</u>	RD
	<u>Any building within the Pinehaven Catchment Overlay. must achieve hydraulic neutrality for stormwater runoff.</u>	RD
	<u>Any part of a building within an overflow path of the Pinehaven Flood Hazard Extent.</u>	D
	<u>Within the Pinehaven Flood Hazard Extent, any Permitted, Controlled or Restricted Discretionary Activity which fails to comply with any of the relevant Permitted Activity conditions, Controlled or Restricted Discretionary Activity Standards or Terms and is not identified as a Discretionary Activity, is a Non-Complying Activity.</u>	NC
	<u>Any building, structure or fence within the stream corridor of the Pinehaven Flood Hazard Extent (except where provided for under the rule for driveways and bridges as a Controlled Activity).</u>	NC

Mangaroa Flood Hazard Extent	
Within the Ponding Area of the Mangaroa Flood Hazard Extent (outside the Erosion Hazard Area), the construction of a new, or alteration and addition to an existing, accessory building is a Permitted Activity where the proposal complies with the relevant zone standards for permitted activities.	P
Within the Ponding or Erosion Hazard Area within the Mangaroa Flood Hazard Extent, the primary driveway or vehicle access serving the dwelling is a Permitted Activity.	P
Within either the Ponding Area or Erosion Hazard Area of the Mangaroa Flood Hazard Extent, where one or more of the following occurs: <ul style="list-style-type: none"> • the construction of new dwellings • the alteration and addition to existing dwellings, • construction of accessory buildings in the Erosion Hazard Area • construction of otherwise permitted non-residential buildings • residential accommodation for caretaker activities in the Business Industrial Zone 	RD
Within the Ponding Area or Erosion Hazard Area of the Mangaroa Flood Hazard Extent, the primary driveway or vehicle access serving the dwelling where below the 1 in 100 year flood level.	RD
Within either the Ponding Area or Erosion Hazard Area of the Mangaroa Flood Hazard Extent, where one or more of the following occurs: <ul style="list-style-type: none"> • the construction of new dwellings; • the alteration and addition to existing dwellings; • construction of otherwise permitted non-residential buildings; or • residential accommodation for caretaker activities in the Business Industrial Zone; which have a FFL below the 1 in 100 year flood level	D
Within the Overflow Path of the Mangaroa Flood Hazard Extent, where one or more of the following occurs: <ul style="list-style-type: none"> • the construction of new dwellings; • the alteration and addition to existing dwellings; • construction of accessory buildings; or • construction of otherwise permitted non-residential buildings. 	D
Within an Overflow Path of the Mangaroa Flood Hazard Extent, the primary driveway or vehicle access serving the dwelling	D
Within the River Corridor of the Mangaroa Flood Hazard Extent, where one or more of the following occurs: <ul style="list-style-type: none"> • The primary driveway or vehicle access serving the dwelling is located in the River Corridor; • the construction of new dwellings; • the alteration and addition to existing dwellings; • construction of accessory buildings; • construction of otherwise permitted non-residential buildings; or • residential accommodation for caretaker activities in the Business Industrial Zone. 	NC
Note:	

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

- Key**
- P** Permitted activity which complies with standards for permitted activities specified in the Plan
 - C** **Controlled activity which complies with standards for controlled activities specified in the Plan**
 - RD** **Restricted Discretionary Activity**
 - D** Discretionary activity
 - NC** **Non-Complying Activity**

Standards for Permitted and Controlled Activities

33.2 ***Within the ponding area of the Pinehaven Flood Hazard Extent the alteration and addition to existing buildings, or construction of accessory buildings are a Permitted Activity provided the gross floor area is less than 20m² and the proposal complies with the relevant zone standards for permitted activities.***

Policies 14.4.23 and 14.4.4

- *Additions and alterations are not below the floor level of the existing building, and do not exceed 20m² in area.*
- *Must not be within the stream corridor or overflow path.*
- *Only one addition to the existing building following the date of notification of this plan change.*

33.3 ***Driveways and bridges over the Pinehaven Stream***

Policy 14.4.65

- *Only one crossing per property*
- *No fences (excluding required support rails) are to be constructed along the bridge crossing.*

Council may impose conditions over the following matters

- *Design of the crossing to avoid obstructing the stream corridor from conveying flood water.*

33.4 ***Within the Ponding Area of the Mangaroa Flood Hazard Extent (outside the Erosion Hazard Area), the construction of a new, or***

Policy 14.4.9.8

alteration and addition to an existing, accessory building is a Permitted Activity where the proposal complies with the relevant zone standards for permitted activities.

- The construction or additions and alterations are not within the river corridor, overflow path or Erosion Hazard Area
- The construction or additions and alterations comply with the relevant zone standards for permitted activities.

33.5

Within the Ponding or Erosion Hazard Area within the Mangaroa Flood Hazard Extent, the primary driveway or vehicle access serving the dwelling is a Permitted Activity.

Policy 14.4.8.7

- The access is above the 1 in 100-year flood level, and
- Does not cross an overflow path or river corridor

Restricted Discretionary Activities

33.6

Policy 14.4.4.

Within the ponding area of the Pinehaven Flood Hazard Extent the construction of new buildings, or alteration and addition to existing buildings, including accessory buildings over 20m², which are not Permitted Activities, are a Restricted Discretionary Activity.

Standards:

- The Finished Floor Level must be above the 1 in 100-year event level for residential activities, or;
- The Finished Floor Level above the 1 in 25-year event level if a commercial activity within the Business Commercial Zone.
- The buildings, additions or alterations must not be within the stream corridor or an overflow path.

Council will restrict its discretion to, and may impose conditions on:

- Building floor level.
- Building location within the site.
- Building floor area.
- Effect of displacement of flood waters from the site.

33.7

Visitor accommodation or residential accommodation activities within the Business Commercial Zone of the Pinehaven Flood Hazard Extent are a Restricted Discretionary Activity.

Policy 14.4.4

Standard:

- Activities must be in buildings with a Finished Floor Level above the 1 in 100-year event level.

Council will restrict its discretion to, and may impose conditions on:

- Where residential accommodation is proposed, the susceptibility of the activity to flood hazards and whether appropriate mitigation can be achieved

33.8

Any part of a fence within an overflow path of the Pinehaven Flood Hazard Extent.

Policy 14.4.6-5

Standard:

- The design of the fence must not obstruct the direction or route of the overflow path.

Council will restrict its discretion to, and may impose conditions on:

- Effect on the overflow path's ability to convey flood water along the identified route shown on the relevant hazard map.

33.9

Any building within the Pinehaven Catchment Overlay must achieve hydraulic neutrality for stormwater runoff.

Policy 14.4.7-6

Standards:

- Achieves hydraulic neutrality
- Provision of a report by a suitably qualified and experienced person providing an assessment of the ability for the site to achieve hydraulic neutrality in accordance with the requirements of 2.6.9E 1.8.11.

Council will restrict its discretion to, and may impose conditions on:

- To avoid, remedy or mitigate the effects of any increase in risk to people or property as a result of the peak runoff.
- Ability for the proposed development and proposed design to ensure peak flow of stormwater discharge will be no greater than

- pre-subdivision levels and thus achieve hydraulic neutrality.
- Mitigation measures proposed to achieve hydraulic neutrality.
- Effect on the Pinehaven Flood Hazard Extent.

33.10

Policies 14.4.4,
14.4.6 7

Within either the Ponding or Erosion Hazard Area of the Mangaroa Flood Hazard Extent, where one or more of the following occurs;

- ***the construction of new dwellings***
- ***the alteration and addition to existing dwellings,***
- ***construction of accessory buildings in the Erosion Hazard Area***
- ***construction of otherwise permitted non-residential buildings***
- ***residential accommodation for caretaker activities in the Business Industrial Zone***

Standards

- Finished Floor Level above the 1 in 100-year event level for:
 - the construction of new dwellings
 - the alteration and addition to existing dwellings,
 - construction of otherwise permitted non-residential buildings;
 - residential accommodation for caretaker activities in the Business Industrial Zone
- Building must not be located within an overflow path or river corridor.
- Where the proposal is located within the Erosion Hazard Area, provision of a report by a suitably qualified and experienced person is required to determine the erosion risk in accordance with the requirements of 2.6.9D 1.8.10.

Council will restrict its discretion to, and may impose conditions on:

- assessment of the appropriateness of the proposed building location in terms of area and position in relation to the flood hazard and erosion risk and any recommendations of the report required by 2.6.9D 1.8.10;
- Where residential accommodation is proposed, the susceptibility of the activity and whether appropriate mitigation can be achieved

33.11

Policy 14.4.6 7

Within the Ponding or Erosion Hazard Area of the Mangaroa Flood Hazard Extent, the primary driveway or vehicle access serving the dwelling where below the 1 in 100-year flood level is a Restricted Discretionary Activity.

Council will restrict its discretion to, and may impose conditions on:

- The suitability of the proposed access to facilitate evacuation during a 1 in 100 year flood event.

Matters for Consideration

33.212

Matters that may be relevant in the consideration of any Discretionary or Non-Complying Activity resource consent include the following:

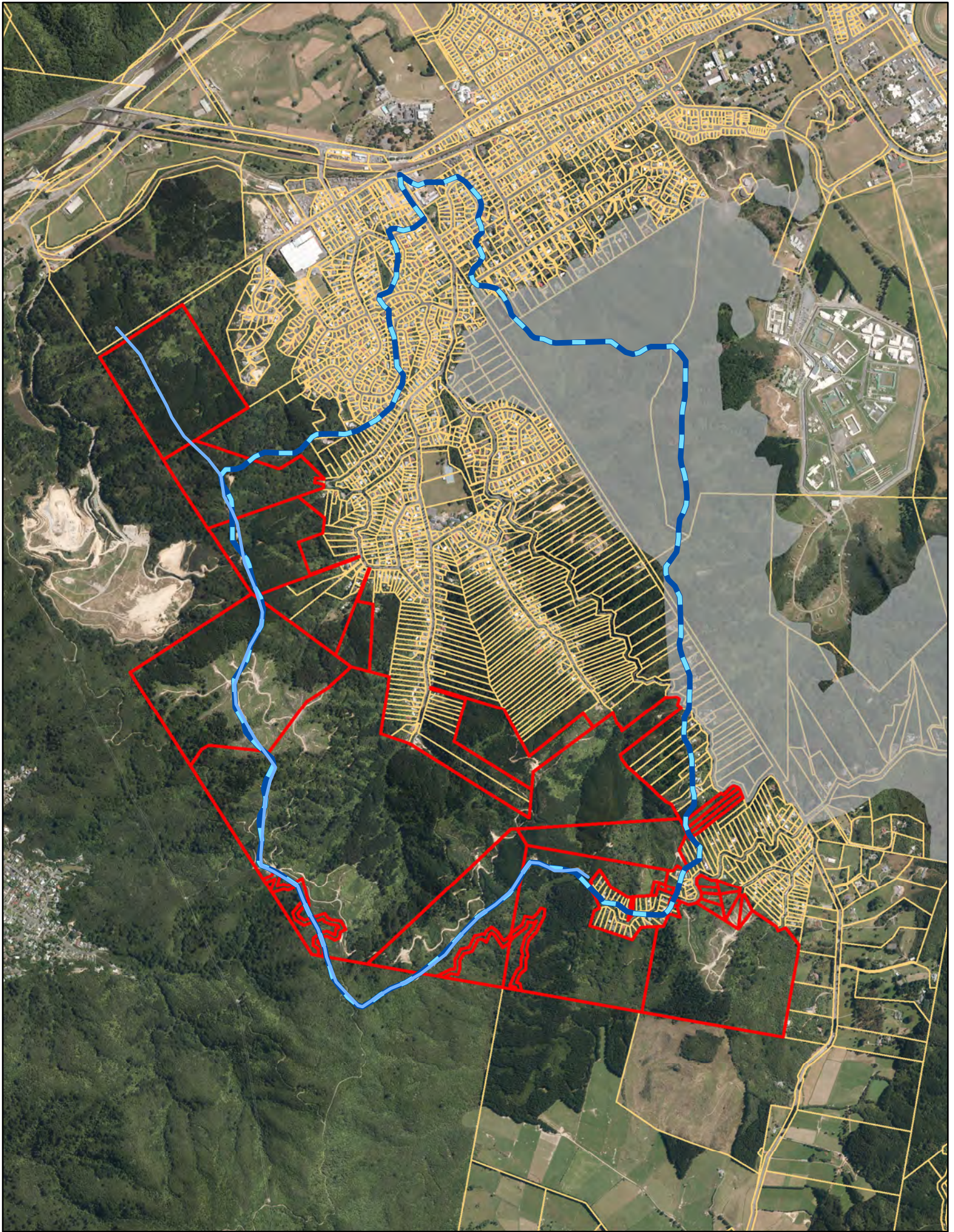
Flood hazards



- Whether the proposed development would increase the level of risk or jeopardise the safety of the occupants and other persons.
- The effects of any earthworks or infilling.
- In addition, where located within the Pinehaven Flood Hazard Extent:
 - Effect on the overflow path's ability to continue conveying flood water.
 - Any increase in risk to people or property as a result of the building location.
- In addition, where located within the Mangaroa Flood Hazard Extent:
 - Assessment of the appropriateness of the proposed building location and floor level in terms of area and position in relation to the flood hazard and erosion risk
 - Where residential accommodation is proposed, the susceptibility of the activity and whether appropriate mitigation can be achieved;
 - Assessment of the effect of the building on the function of the floodplain and whether it would unacceptably obstruct or divert floodwater flows within the Flood Hazard Extent.
- The suitability of the proposed access during a 1 in 100-year flood event, and its effect on obstructing or diverting overflow paths or floodwater flows within the Flood Hazard Extent

Buildings within the fault band

- The accuracy of information relating to the location of the fault.
- The potential effects of an earthquake in terms of the nature and scale of use proposed for the building.
- The extent to which the building complies with Clause B1 Structure of the New Zealand Building Code.
- The measures proposed to avoid, remedy or mitigate the effects of an earthquake.

Appendix 7: Guildford Block & Pinehaven Catchment Overlay Map



-  Pinehaven Stream Catchment
-  Guildford Block

Pinehaven Catchment over Guildford Land

