BEFORE THE PROPOSED KAPITI COAST DISTRICT PLAN HEARINGS PANEL

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF The Proposed Kapiti Coast District Plan

CLOSING STATEMENT BY REPORTING OFFICER TO MATTERS RAISED DURING CHAPTER 5: LIVING ENVIRONMENT HEARING
23 & 24 MAY 2016

1.0 Introduction

1.1 I have considered the evidence, summary statements and submissions of submitters during the course of this Hearing and make the following comments in response

1.2 Section 2.0 of this response focuses on the specific issues raised by submitters in relation to Chapter 5 provisions. To aid clarity I have grouped this section of my response into key themes. Section 3.0 of this response responds to specific questions raised by the Panel that are not addressed in the responses under Section 2.0. Section 4.0 provides a summary of the key changes recommended after the consideration of evidence.

1.3 Late evidence was provided by Submitter 89 A Hazelton (legal submissions) and Submitter 345 House Movers (evidence tabled on the day). This timing of this evidence meant that I did not have time to consider the evidence as part of my opening statement for the hearing. As a result, and at the direction of the Panel, I include a response to the key issues raised in the evidence presented within Section 2.0 of this response.

1.4 The following submitters tabled evidence, summary statements, letters/emails which I considered as part of my opening statement:

- 451/FS29 – Rob Crozier & Joan Allin
- 473 – Southcombe Architects
- 155 – Mr D Jessup.

I have recommended some further changes in response to Submitters 451 and 473 in this response – refer Section 4.0.

1.5 Submitter 447 Kiwirail Holdings Limited could not attend the hearing, however they advised that their issues in terms of Chapter 5 were the same as those identified in their evidence for the Chapter 7 (Rural) hearing. The key amendment sought is to add additional wording to the last clause of the new recommended Section 1.3A Structure Plans to be included in Chapter 1 of the PDP in response to Submission 447.5 KiwiRail Holdings Limited. I have addressed this request in Section 2.0 of this response.

1.6 I acknowledge and accept the support provided for my report recommendations on submissions in the correspondence provided for the Panel by Submitter 457 NZ Transport Agency. I do not propose any further amendments as a result of this submitter correspondence in support of the Section 42A report recommendations.

2.0 Issues Relating to Specific Provisions

2.1 This section deals with the specific issues raised by submitters. I have grouped the issues raised by theme where possible.

Status of activities if permitted activity standards breached

2.2 **Submitter 441 Greater Wellington Regional Council** reiterated their concerns about the status of activities where certain permitted activity standards are breached being unclear. I commented on this issue in my opening statement, and after further consideration of the evidence, I maintain the opinion expressed in the s42A report. Although I acknowledge the submitter's concern, which is related to the structure of the rule tables across the PDP and

their inter-relationships, I have not recommended any further amendments as part of this response. I do however consider that guidance on PDP rule navigation could be a matter that could form part of any supporting guidance material that is developed in the future to help support the PDP's usability and implementation.

Future Urban Structure Plan Areas and reverse sensitivity issues

2.3 In response to my Section 42A report recommendations for submission points **447.5 and 447.6 KiwiRail Holdings Ltd**, the submitter seeks some further additional wording to the new section '1.3A Structure Plans' recommended to be added to Chapter 1 in response to the submission concerns. The submitter contends that the additional wording (identified as follows in bold italics and underline), will help to guide readers of the PDP and illustrate examples of reverse sensitivity effects/areas of concern:

> *"protection, safety and access requirements of existing Network Utility Infrastructure, including consideration of potential reverse sensitivity effects* ***such as glare, dust, stormwater, building up to boundaries, vegetation, access, amenity****."*

2.4 I have considered this request and in my opinion the additional words suggested by the submitter are not critical to assisting plan users or increasing the understanding of the plan. I acknowledge that they do provide examples of the potential reverse sensitivity effects that may be relevant for consideration in the development of a structure plan, however potential reverse sensitivity effects will vary according to the activity and will depend on the nature/type of network utility infrastructure that is within or near a structure plan area. I have therefore not recommended any further changes in response to this request, however if the Panel are of a different mind, I would recommend that noise be added to the list of examples potential reverse sensitivity effects.

Waikanae Beach rezoning request

2.5 The Panel asked several questions following the presentation by **Submitter 89 A Hazelton** concerning the request for Waikanae Beach to be rezoned Beach Residential Zone. I have addressed these questions under Section 3.0 of this response.

2.6 I have also provided, for the Panel's information, a summary of the community consultation and engagement undertaken so far for the Waikanae Beach community futures process in **Attachment 2** to this response. This is in response to Submitter 89's comments at the hearing about the process not being promoted or advertised well by Council.

Ngārara Zone provisions

2.7 **Submitter 263 (FS125) Maypole Environmental Ltd** reiterated their submission concerns regarding the PDP's provisions for the Ngārara Zone and the differences in these provisions when compared to the operative District Plan. The submitter's preference is for the PDP to include the Ngārara Zone provisions as a complete, stand-alone package within the plan and without amendment from the operative District Plan; rather than as part of the Chapter 5 provisions and subject to the relevant PDP objectives, policies and rules/standards (as notified). If this relief is not provided, they seek amendments to Chapter 5 to remove all inconsistencies with the operative Ngārara Zone and Precinct provisions.

2.8 In my opening statement I provided comment in response to the evidence provided by Maypole. These comments provided a summary explanation of Private Plan Change 80 which created the Ngārara Zone (and Precinct), its structure and fit with the operative District Plan,

the Zone's unique two-step planning process, the PDP's approach for the Ngārara Zone and reasons for the approach.

2.9 I note that the Panel Chair asked for further clarification on the following two issues in relation to the Ngārara Zone provisions:

- Why not simply carry over the ODP provisions into the PDP?
- What different environmental outcomes may be achieved under the PDP compared to the ODP? What would be enhanced?

I will respond to these questions in my below comments.

2.10 In his presentation, Mr Hansen stated that in his opinion the current operative Plan provisions adequately address the issues raised in my opening statement in regards to the relief sought by Maypole. He further commented that he could not see how the PDP provisions would achieve anything different, or be "superior", to the operative Plan provisions, as stated in my opening statement.

2.11 I have considered this issue further, and (as per my Section 42A report and opening statement comments), I do not consider it appropriate to provide the primary relief sought by Maypole, that is, that the PDP include the Ngārara Zone provisions as a complete, stand-alone package and without amendment from the operative District Plan. I provide further explanation for my opinion in the following paragraphs.

2.12 Firstly, I note that a large part of the operative plan provisions for Ngārara have been carried over into the PDP. This includes key elements such as:

- a specific Ngārara Zone (and rural Precinct as part of Chapter 7);
- the bespoke 2-step planning/development process;
- the activity status of subdivision and land use activities and many of the key bespoke performance standards;
- the Ngārara Zone specific appendices setting out the structure plan and development guidelines.

Key differences between the operative plan and PDP provisions include:

- the lack of specific objectives for the zone;
- the creation of one Ngārara Zone-specific policy (Policy 5.29) which incorporates many elements/principles of the numerous operative Plan policies;
- the requirement for the development of NDAs and NDPs to be assessed against the PDP's objectives and policies (not just Ngārara Zone specific objectives and policies as per the operative Plan).

I note that, whilst I still consider it appropriate for the NDA to be subject to assessment against the PDP's objectives and policies, I have recommended an amendment to ensure that where activities are in accordance with an approved NDP, the conditions of the NDP take precedence.

2.13 Private Plan Change 80 (PC80) was notified in July 2008 and was made operative in March 2010. Since this time, there have been a number of significant changes of key relevance to the management framework for the Ngārara Zone area, including:

- changes to the provision for section 6 matters within the district plan, eg,

    - the protection of outstanding natural features and landscapes, the preservation of the natural character of the coastal environment, the protection of areas of high natural character;
    - the protection of native vegetation not within ecological sites;
    - the protection of waahi tapu (the operative DP Ngārara Zone provisions do not identify waahi tapu sites);
- changes to flood hazard modelling – the Council's flood hazard modelling has been updated since PC80 became operative.

2.14 The operative Plan provisions for the Ngārara Zone do not include consideration of these issues in the same way, or to the same extent, as the more recent PDP provisions. The PDP provisions for many of these matters will also likely be further refined through the PDP hearings process in response to submissions (eg. provisions and overlays relating to outstanding natural features and landscapes, the coastal environment, areas of high natural character, the protection of native vegetation and waahi tapu etc). This will lead to further differences between the operative Plan provisions and the PDP.

2.15 Consideration of RMA Part 2 matters is a key requirement when preparing district plans. I therefore consider it appropriate as part of a district plan review to consider any relevant changes that may of eventuated since the adoption of plan changes, and to respond to such changes as appropriate via proposed plan provisions.

2.16 Section 32 of the RMA requires an examination of the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and whether the provisions in the proposal are the most appropriate way to achieve the objectives. The rules in the PDP, including those applying to the Ngārara Zone, have been developed to give effect to the PDP's objectives and policies.

2.17 There has been a substantial change to the physical environment within the Ngārara Zone as a result of the construction of the Expressway. This change has happened since the adoption of PC80 and has significant implications for the development of the zone, as anticipated under the plan change. The Expressway alignment differs from the Western Link Road proposal that was considered at the time of the plan change. It also does not provide for any local road connections – which is a notable difference to the roading network envisioned under the plan change, and will result in flow-on changes in terms of land use and development of the zone.

2.18 As noted in my opening statement, the PDP structure also differs to that of the operative District Plan. PC80adopted a structure which fitted with that of the operative Plan and emulated performance standards used in other parts of the plan. For example, operative Plan standards for native vegetation, natural hazards, and heritage were repeated as part of the Ngārara Zone provisions.

2.19 If the approach suggested by the submitter was accepted for the PDP, there would, for example, be more than one set of rules/standards relating to matters such as waahi tapu, natural features etc. This is considered inappropriate from a resource management perspective and would be inefficient from a plan implementation perspective. I also note that the Ngārara Zone provisions refer the plan user to standards located in other parts of the operative Plan, for example, Part J (parking, loading and access), and Part L (signs). Parts J and L do not exist under the PDP, therefore retaining the Ngārara Zone provisions without change from the operative Plan will not be workable, and will not support the integrity of the PDP. In my opinion, the structure of the PDP, with cross referencing to key relevant provisions in other chapters of the plan, is more efficient and effective than the operative Plan, as for

example, there is only one primary set of provisions relating to natural features, waahi tapu, natural hazards, and other district-wide issues.

2.20 During the hearing, Mr Hansen suggested that as a possible alternative to the PDP's Ngārara Zone provisions, that a Ngārara "precinct" could instead be created, in a similar vein to the precinct approach adopted in the Proposed Auckland Unitary Plan (PAUP). It was stated that in the PAUP, precincts have been applied to recently carried over plan changes (less than 5yrs old) and include urban development areas such as Long Bay, Hobsonville, etc.

2.21 After further consideration of this suggestion, including reviewing the use of precincts within the PAUP, I am uncertain of the added value of this approach over the existing PDP Ngārara Zone provisions. I note that the precinct suggestion is not part of the operative Plan provisions and is not part of Maypole's submission. Notwithstanding this, I have considered the merits of the suggestion against the existing PDP provisions.

2.22 Under the operative Plan, parts of the PC80 Ngārara area remain in the Rural Zone as a precinct within the Eco-Hamlet Area north of the urban edge. The remainder of the area is identified and shown on the maps as 'Ngārara Zone' – this depicts the area to be developed for residential (and small-scale retail and commercial activities), i.e. urban land uses. The PDP takes a similar approach, whereby the rural parts of Ngārara retain a rural zoning and are identified as the Ngārara Precinct within the Rural Eco Hamlet Zone; the part of Ngārara envisioned for future urban development is identified as a specific zone - the Ngārara Zone - and is one of the four "Living Zones" provided for by Chapter 5. The Ngārara Zone has zone-specific provisions which reflect the bespoke provisions (including the unique two-step planning process) developed as part of PC80.

2.23 The characteristics and development anticipated within the Ngārara Zone differ from other areas to such an extent that I consider it appropriate for the area to be managed under a specific zone, rather than as a precinct. I consider a specific zone can better provide for the mix of land uses and activities anticipated within the Ngārara area. The zone enables planning, subdivision and development to occur in a comprehensive manner, which is integrated with the rest of the PDP. This is the same approach as adopted by the PDP for the Waikanae North Development Zone[1]. I consider this approach to be the most appropriate method for providing for the development of the Ngārara area. I do not consider that the creation of a "precinct" for the Ngārara area would be any more efficient or effective than the proposed PDP zone approach. I also consider that a precinct approach, as suggested, would serve to add another layer of complexity to the provisions for this area, which are already more complex than most other areas, involving the bespoke two-step planning process.

2.24 Therefore, whilst I acknowledge the significance and uniqueness of the Ngārara area to the District, the comprehensive structure plan undertaken as part of the private plan change process, and the unique way in which subdivision, land use and development are to be undertaken within the Zone, I do not support the request for a complete stand-alone section within the PDP, or for the operative Plan provisions for the Zone to be rolled into the PDP without amendment. I also consider it appropriate for there to be some differences between the operative Plan provisions for the Ngārara Zone and the PDP provisions, in order to reflect changes that have occurred since the plan change was adopted, to ensure integration with the PDP structure and rule format, and to avoid unnecessary duplication of plan provisions.

[1] The Waikanae North Development Zone is another of the four "living zones" identified in Chapter 5 of the PDP.

2.25 I consider the PDP approach for the Ngārara Zone to be the most appropriate for managing this specific (and significant) urban growth area. I also consider the approach to be more efficient and effective than the operative Plan, and to involve significantly less duplication and unnecessary repetition. I consider that the PDP reflects the Ngārara Zone rule framework from the operative Plan in an appropriate manner, whilst also recognising that some management approaches and planning practice have moved on since the private plan change.

2.26 In summary:

- In principle I support the carrying through of plan change provisions through into the PDP, and in the Ngārara case, this has been done to the extent possible under the PDP's different structure and the updated/refined approach adopted for many plan matters;
- Whilst I acknowledge that Private Plan Change 80 (PC80) became operative in March 2010, this was over 2½ years prior to the PDP being notified;
- The operative Plan provisions for Ngārara reflect the policy/regulatory and physical context existing at the time PC80 was developed – there have been some significant changes to this context since PC80 was adopted. I consider it would be sub-optimal and poor resource management practice to include dated provisions from the operative Plan as part of the PDP;
- I also consider it appropriate for provisions within any operative plan to be reviewed and reconsidered as part of a plan review process in order to ensure proposed plan provisions are the most efficient and effective methods to achieve the objectives;
- A large proportion of the Ngārara Zone provisions have been retained as part of the PDP – this includes key elements such as: a specific zone; the bespoke 2-step planning process; the activity status of subdivision and land use activities and many of the key bespoke standards; the Ngārara Zone specific appendices.

2.27 In terms of the submitter's request that activities in the Ngārara Zone not be subject to any other rules or standards in other chapters of the PDP, I acknowledge the issues raised and I consider that relief recommended in my s42A report provides part relief for these concerns. I consider it appropriate for all of the provisions of the PDP to be applied at the stage of developing an NDP for a NDA. However, I consider that once an NDP is approved[2], the conditions of the approved NDP should take precedence over other PDP provisions. I have therefore recommended a wording change to Rule 5C.0 as part of the s42A report to reflect this change. The amendment is intended to provide a specific exemption so that any activity that is in accordance with the conditions in an approved NDP takes precedence over any other rule elsewhere in the Plan (which might otherwise trigger the need for a further resource consent). After further consideration of the evidence, I have recommended a further wording amendment as part of this response (see Section 4.0) to make this exclusion clearer. I consider this provides some relief for the submitter's key concerns whilst also maintaining the integrity of the PDP and ensuring integration with the PDP structure, integrity and outcomes sought for Ngārara.

2.28 I acknowledge Mr Hansen's comments in his evidence (paragraph 90) concerning the Ngārara Zone description and my recommendation to delete paragraphs 4 and 5. He considers these paragraphs pivotal as they introduce the Structure Plan and Neighbourhood Development Plan (NDP) approach. My recommendation to delete these paragraphs was in response to plan-wide submissions seeking to reduce the length of the PDP. After further consideration of this matter, I have recommended the reinstatement of these paragraphs to the zone

[2] One NDP for the Ngārara Zone has been approved so far.

description text as part of this response. I still however consider it appropriate for the explanation under Policy 5.29 Ngārara Zone to be deleted, as this is consistent with the plan-wide recommendations to delete policy explanations across the plan. In addition, the policy explanation repeats the zone description text, therefore provides little value for plan users.

2.29 Mr Hansen also suggests (paragraph 85(c) of his evidence) that the explanation to the Ngārara Zone rules contained in Section D.11.1 of the operative Plan (which explains how the rule framework works in the Zone) is critical to ensure clarity and intent when implementing the rule provisions. After further consideration of this, I consider there would be merit in adding some of the explanation from this section to the Ngārara Zone description to explain how the unique rule framework for this zone works. I do not consider it appropriate to add this explanation to the Ngārara Zone rule table in 5C – this would be inconsistent with the PDP approach for other zones, and the text from Section D.11.1 is explanatory material to aid plan users, it does not form part of the rule as such. I have therefore recommended some further amendments to the Ngārara Zone description to add additional explanatory text as part of this response.

Waikanae North Development Zone – precinct plan provisions

2.30 **Submitter 227 V J Limited** supports the changes recommended in the s42A report to the Waikanae North Development Zone precinct plan and Plan Map 07A as they are consistent with the submissions made by V J Limited (227) and Waikanae North Limited (286). However, V J Limited seek further amendments to the precinct plan boundaries in order to rectify precinct boundary "discrepancies", which have resulted from development that has been consented and approved since the private plan change for the Zone was made operative and which has not followed the original precinct plan design.

2.31 In my opening statement I recommended further amendments to the precinct plan boundaries in response to the submitter's evidence, however the changes recommended did not go as far as the submitter sought in terms of Lot 17 (DP478686). The submitter requested the whole of this lot be zoned Precinct 4 (Village), rather than part Precinct 5 (Multi Unit) and part Precinct 4 as shown in the precinct plan in my s42A report. I have further considered the submitter's evidence, and as a result, I agree the further changes sought provide for alignment and consistency with the resource consents that have been granted for the area in question. The boundary changes would also support the development of Lot 17 as it would fall within one precinct, rather than having two different precincts. Given that this change has been approved as part of a resource consent, the issue raised in my opening statement about the requested amendment to this lot is less relevant. I therefore now recommend as part of this response that the PDP provisions be amended to reflect all the precinct plan boundary changes as sought in V J Limited's evidence.

Zoning of 12-14 Otaihanga Road

2.32 **Submitter 166 John Le Harivel** and **Submitter 266 (FS47) Alex Metcalf** raised issues in terms of the proposed residential zoning for the site at 12-14 Otaihanga Road. This matter is addressed in Section 3.13.8 of the s42A report (pages 375-385). The site has a split zoning – the western portion of the site (adjoining the existing residential area) is identified as Residential Zone, and the eastern portion of the site nearest and incorporating the stream corridor is Rural Residential Zone.

2.33 Submitter 166 raised particular concerns in relation to flood hazard effects worsening on his property from the development of 12-14 Otaihanga Road, particularly the residentially zoned portion. I acknowledge the submitters concerns regarding flood hazard effects, however

under the PDP provisions (Chapter 11 Infrastructure and Chapter 9 Hazards), new subdivision and development is required to be undertaken in accordance with the Council's Subdivision and Development Principles and Requirements, must provide on-site attenuation to achieve hydraulic neutrality, and should not cause flood effects to worsen for other properties off-site. I note that the hearings on Chapters 9 and 11 are scheduled to take place in August.

2.34 As shown on the PDP hazard maps (Map 09C), there are flood hazards (ponding) identified on part of the site in question. Any subdivision and development of the site would require detailed flood hazard assessment/modelling, and I consider this is most appropriately carried out at the subdivision consent stage, rather than as part of the PDP provisions. Under the PDP, subdivision of the residentially zoned part of site would be a restricted discretionary activity under Rule 5A.3.2, and would also be subject to the rules and standards in Chapter 9, particularly Rule 9B.3.2 (subdivision in ponding and residual ponding areas).

2.35 Submitters 166 and 266 also raised issues in terms of the development of the site and the resulting effects on the amenity and character values of the area. Whilst the submitters concerns are acknowledged, I consider it more appropriate for site-specific mitigation measures to be considered at the subdivision (and land use) consent stage, where conditions can be attached to the consent. This would allow mitigation measures to respond to the proposed subdivision and development design for the site, rather than attempting to pre-empt the design as part of the PDP. I note that in discussing this matter further with the resource consents team, matters that could potentially form consent conditions for the site include larger yard setbacks and perhaps site-specific building height limitations. However, the appropriateness of any such conditions (or the need for other conditions) would be assessed as part of the consent application process.

2.36 Notwithstanding this, I have further considered the evidence and Submitter 266's request to limit building heights on the Residential Zone portion of the site to one storey. I have also visited the site (and wider area) again, and have reviewed the consent conditions on neighbouring residential buildings within the Kotuku development. There is no evidence of Council-imposed conditions limiting the height of buildings to one storey, and the resource consents team are unaware of any such consent conditions. There are also several examples of two storey buildings within the adjacent Kotuku area.

2.37 Therefore, whilst I acknowledge the submitter concerns, I cannot support limiting the height of new buildings to one storey. The 8m maximum permitted height provision is a generally consistent height provided across the Residential and Beach Residential Zones under the PDP (and the residential zone in the operative Plan)[3]. Retaining a consistency of approach would assist plan implementation and administration. However, given the site's setting and natural amenity values, I could support the addition of a building height limit for the residentially zoned portion of the site which is similar to that proposed for the Beach Residential Zone – that is, a maximum of 8m and no more than two storeys. This would be in addition to the new standard recommended in the s42A report requiring the use of recessive finishes/colours on new buildings, and would help further mitigate adverse effects of new development. I have therefore recommended an additional standard apply to this site (referred to as 'The Drive Extension Precinct') under Rule 5A.1.8 as part of this response.

<u>Building and development permitted activity controls</u>

[3] The only deviation is the 4.5m permitted height limit that applies to the small Waikanae Golf Precinct area (general precinct 6 on Plan Map 6A). Part of the Waikanae Beach golf course land was re-zoned residential under a private plan change (PC66) submitted by Waikanae Golf Club. The rezoning relates to a small parcel of the golf club's land located to the rear of No. 16 Atua Street. The height standards were agreed as part of the resolution of an Environment Court appeal The re-zoned parcel of land is still presently part of the golf course.

2.38 **Submitter 285 Graeme Boucher** reiterated concerns about the permitted activity controls on new buildings and development contained within Chapter 5, and that the regulations are not consistent with wider objectives and policies, including those of central government. The submitter commented that a simple PDP document is required, that is cost effective to administer, is easy to understand and continues to provide for a mix of residential buildings. The submitter contended that there is no need to have large sections in Paekakariki any more, or to require water storage tanks given the implementation of water meters in the district. The submitter also commented that the PDP rules reducing site coverage for residential sites do not make building on a site easier, that the permitted activity height-in-relation-to-boundary controls should be made higher, an 8m height limit is problematic, and that courtyard housing-type developments should be provided for as a permitted activity.

2.39 In terms of these matters, I provide the following comments:

- I consider that the PDP provisions, including Chapter 5 (as amended), provide for an appropriate mix of residential development opportunities (refer to discussion in Section 3.5.6, pages 99-103, of the s42A report).

- The residential provisions strike a balance between maintaining the character and amenity values of the district's residential areas, and providing for population growth and demographic change by identifying areas where more growth and change can be appropriately and sustainably accommodated. Where change is anticipated, this is managed by bespoke provisions in clearly identified areas of the District (eg. medium density housing areas, or new greenfield/structure plan areas).

- I note that as part of the research completed by Boffa Miskell (Appendix 1 to the s42A report) on Council's approach to urban growth management (including analysis of the District's housing supply/demand), it concluded that the PDP approach in terms of urban growth is consistent with central government's policy direction. It also concludes that there is sufficient land and housing choice to provide for the projected increase in population/households over the next 16+ years.

- A range of housing types and densities are provided under the PDP provisions including higher density apartment-type housing (as part of mixed use) within centres; medium density housing and focused infill housing[4] enabled in identified areas close to centres, public open spaces and public transport (i.e. where existing/planned infrastructure and services can support higher housing densities); traditional residential densities are provided for across the general residential area; and lower residential densities within identified special character areas and low density housing precincts.

- In my opinion there is no reason that would justify an alternative "change-centric" approach to the District's planning and growth. Existing community plans prepared by the Council to date have reinforced the qualities that residents value, which in terms of the built environment include the maintenance of existing amenity and character values.

- Policy 5.5 (Residential density) sets out a management framework for the distribution of residential densities. This policy – in conjunction with other policies such as Policy

[4] Focused infill housing areas are identified on the Plan Maps and provide for smaller lot sizes than in standard residentially zoned areas.

5.1 Growth Management, 5.3 Housing choice, 5.10 Medium Density Housing, 5.17 General residential subdivision, 5.18 Focused infill precincts – help implement, and reconcile potential conflicts between, the objectives relating to Growth management (2.3), Character and amenity (2.11) and Housing choice and affordability (2.12).

- I note that as part of the s42A report I have recommended multiple amendments to Chapter 5 policies and rules in response to submissions, which I consider provide some relief for the submitter's concerns regarding increased simplicity/usability and cost effectiveness, and ensuring provision for a mix of residential buildings and densities. This includes the changes recommended to the Chapter 5 subdivision rules/ standards, e.g. the introduction of a controlled activity status for some subdivision in the Residential Zone, and deletion of the 600m^2 average lot size for general small-scale infill (but retaining the 450m^2 minimum lot size).

- In terms of the permitted activity standard regarding maximum site coverage for residentially zoned sites, I note that in the s42A report I have recommended that the 35% maximum site coverage proposed by the PDP be amended to 40% in the Residential Zone in response to submission concerns. I consider this change to provide relief for the submitter's concerns about a reduction in site coverage under the PDP. I note that 40% site coverage for general residential zoned areas is higher than that provided for under many other district plans in the region which commonly use 35%. I also note that the PDP's site coverage for medium density housing is 50%.

- In terms of the submitter's comment that there is no need to have large sections in Paekākāriki any more, I note that the lot size provisions for Paekākāriki (and similarly Te Horo) recognise the infrastructure constraints in this area (e.g. septic tanks, water supply), and as a result, the level of development intensity that can be appropriately sustained, which is consistent with Policy 5.5, clause g).

- In terms of the comment that there is no need to require water storage tanks given the implementation of water meters, I note that the requirement for water tanks for new residential buildings is part of a a suite of tools to help reduce demand on potable water supplies. The requirement complements Council's water demand management methods (including water meters and various non-regulatory tools), and contributes to community resilience goals. The provision implements objectives such as Objective 2.3 Development management, 2.13 Infrastructure and services and Policy 5.1 Growth management, and I consider it to be a valid part of the management framework for new residential development.

- The submitter's requested changes to the PDP's height-in-relation-to-boundary controls permitted activity standards are assessed on page 199 of the s42A report. In addition to this discussion, I note that the provision is the same as in the operative Plan, and as such, is a long-established control. As a result, there is a high level of community understanding and it has effectively become part of the character of Kāpiti's residential areas. In discussing the provision with Council's resource consents team, it is considered to be an appropriate permitted activity standard, and is appropriate to the Kāpiti context. Whilst I acknowledge the submitter's comments that a more generous provision would make building on sites, particularly sloping sites, easier, as alluded to in paragraph 1008 of the s42A report, I consider that the effects on neighbours of an increased height-in-relation-to-boundary could be

significant over the length of a building. I have not therefore recommended any additional change as part of this response.

- The submitter also commented on the 8m maximum permitted building height being too restrictive. However, after considering this further, I consider 8m to be an appropriate permitted activity standard within the general Kāpiti residential area context. Buildings over this height are able to seek resource consent – they are not disallowed as the submitter alluded to in their presentation. I also note that higher building heights are provided in areas where more intensive forms of development are anticipated, for example, in medium density housing areas (10m) and in centres (12m).

- In terms of the submitter's request that "courtyard housing" be provided for as a permitted activity, this is a different model of housing development to that traditionally undertaken in Kāpiti, or anticipated by the community, and I consider it appropriate for Council to have a greater level of control (via the resource consent process) in order to ensure adverse effects can be appropriately managed. I also consider that the PDP's standards (as amended) strike an appropriate balance between allowing flexibility of house design/layout and managing adverse effects.

- In terms of the submitter's comments about the PDP's medium density housing provisions, including the restricted discretionary rule enabling such development, and the design guide in Appendix 5.1, the approach to medium density housing is largely unchanged from the operative District Plan. These provisions were introduced via a comprehensive plan change process (Plan Change 62) which was made operative in 2007. In terms of the comments about the provisions being based on the "Waitakere model", whilst the provisions used in Waitakere would have been considered when developing the Kāpiti provisions, the plan change process also considered matters including other plan examples, the Kāpiti Coast context, community feedback, etc.

- I also note that there were few submissions received on the PDP's medium density housing provisions. One submitter (115 R Jessup) expressed general opposition to the prescriptive rules and standards, however there was a lack of specific relief sought to justify whole-sale change to the provisions.

Manu Grove subdivision standards

2.40 **Submitter 485 Frank & Vicki Boffa** reiterated their objection to the proposed minimum lot subdivision standard of 6,000m^2 for additional lots in the Manu Grove Low Density Precinct, and instead seek a minimum 500m^2 lot size and 1,000m^2 average. In my opening statement I provided further explanation as to why I did not support the submission, including the PDP's policy and rule framework which anticipates a low density of development for the precinct area, and the significant ecological site and flood hazard constraints present across the area.

2.41 The PDP proposes rezoning the Manu Grove area from Rural (Coastal Dune) Zone under the operative Plan, to a low density residential precinct in order to better recognise and provide for the specific characteristics of the Manu Grove area. Under the PDP, the Manu Grove area is identified as a low density housing precinct which provides a transition to the rural area north of Waikanae township; it is an area which includes large existing lots characterised by mature vegetation, ecological sites (including bush and wetland) and a relatively low built intensity.

2.42 The submitter contends that the 6,000m^2 minimum lot size for the Precinct works against the policies for ecological sites as the large minimum lot size will result in the fragmentation of sites, whereas the smaller minimum lot size requested by the submission would provide for a smaller lot (for a house) and a larger balance lot to be retained (as ecological site). In his opinion, a smaller minimum lot size would better provide for the retention and protection of the K133 ecological site and would not have any impact on character or amenity values.

2.43 The submitter also contends that the identified flooding issues, particularly as they relate to the submitter's properties at 19 and 29 Manu Grove, will not be as relevant once the Waikanae North Precinct 5 area has been developed as the Waikanae North works are being designed to address off-site as well as on-site flood hazards. The submitter did accept that any remaining flooding issues would need to be addressed at the right time, however they believe any flood hazard issues can be resolved. The submitter also commented that the only way the area identified on his properties will flood is through the Council drains blocking.

2.44 Firstly, I note that in terms of opportunities for further subdivision and development of sites within the Manu Grove precinct, the PDP provisions are significantly more enabling than the current operative Plan provisions. Under the PDP, subdivision within the Manu Grove area is provided for as a restricted discretionary activity, subject to meeting standards which include the minimum lot size of 6,000m^2. Any subdivision activity not meeting the standards would default to a non-complying activity[5]. The PDP provisions are significantly more permissive than the operative Plan provisions for the area. Currently, under the operative Plan any subdivision in this area would be a full discretionary activity, with a minimum 1 hectare lot size and an average 4 hectare lot size required. Under these provisions, the submitter's subdivision aspirations would be a non-complying activity and would likely be difficult to support given the extent of nonconformity with the minimum/average lot sizes and inconsistency with objectives and policies of the operative Plan.

2.45 Notwithstanding the more enabling PDP approach, I do acknowledge the submitter's concerns in regards to the relatively large minimum lot size proposed for the precinct area. In my opening statement, whilst I signalled I would further consider matters during the hearing, I considered it would be inappropriate to amend the subdivision standards as requested to enable subdivision down to the much smaller lots suggested by the submitter (i.e. 500m^2 minimum and 1,000m^2 average). I also commented that any proposed subdivision activity would be best considered on a case-by-case basis through the resource consenting process which could take into account the particular characteristics, values and constraints of the site, as well as matters such as the standards in the Council's Subdivision and Development Principles and Requirements.

2.46 Whilst I still consider that subdivision and development activities in this area are best considered on a case-by-case basis via the resource consenting process, after further consideration of the submitter's concerns about the 6,000m^2 minimum lot size working against the policies for ecological sites, particularly Policy 3.7 (Subdivision and sensitive natural features) which seeks to protect ecological sites from inappropriate subdivision and clause c) of that policy which seeks to avoid subdivision which creates boundaries cutting through a sensitive natural feature (which includes ecological sites), I have revised my opinion.

[5] A non-complying status for activities not able to meet the restricted discretionary activity standards is considered appropriate as a proposal would need to demonstrate that adverse effects on the environment will be minor, or it is not contrary to the PDP objectives and policies – this would be entirely achievable if for example, protection of the ecological site and mitigation of flood hazard issues could be demonstrated to be appropriately addressed.

2.47 I maintain my view that the considerably smaller lot sizes sought by the submitter (which are similar to the lot sizes provided for general residential areas where a much higher development density is expected) are inappropriate given the policy framework applying to the Manu Grove low density housing precinct, and the significant constraints (both in terms of ecological sites and flood hazards – refer **Attachment 1**) present across the area. However, I do accept that provision for a smaller minimum lot size, if provided in conjunction with a minimum average lot size, would provide increased consistency with the policy framework for ecological sites, in that smaller lots containing a dwelling could be balanced by larger lots containing ecological site. This approach would help avoid the creation of new boundaries through ecological sites, whilst not creating an inappropriate expectation that a number of additional lots could be created in the area. An average lot size could help address topographical constraints, whilst also providing an appropriate level of control on overall development density. I consider this approach would align better with Policy 3.7 as well as maintain consistency with Policy 5.5 Residential Density, clause f) which states that especially low densities will be applied in Low Density Housing precinct areas as transitions between rural and urban environments. Development potential across the precinct area would remain limited by the flood hazard risk (particularly within high risk areas such as the flood storage areas), and the requirement for lots to have a flood and erosion-free building site.

2.48 After further consideration, and a site visit to the submitter's property, I would support replacing the 6,000m^2 minimum lot size, with a minimum lot size of 1,200m^2 and a minimum average lot size of 6,000m^2. I have recommended a further amendment to the subdivision standards to this effect as part of this response. In my opinion this amendment provides potential for some further subdivision on the least constrained sites within the precinct, whilst ensuring the protection of the ecological site. I consider that a 1,200m^2 minimum would allow appropriate on-site flexibility, and this has been tested against the submitter's subdivision aspirations for the site at 19 Manu Grove[6]. From my assessment, there would only be 2-3 potential additional lots possible across the precinct area under the amended provisions, one of which would include 19 Manu Grove. I consider that subdivision consent for 29 Manu Grove (also owned by the submitter) would be more difficult given the significant flood hazards (which include flood storage areas, not just ponding) and the lack of a flood-free building site(s). Subdivision of this site would require detailed flood hazard assessment/ modelling to be undertaken as part of any consent application, as well as an assessment of the impact of any hydrological changes from earthworks on the ecological site values. I consider this would be more appropriately carried out at the subdivision consent stage, rather than as part of the PDP.

2.49 It is also important to note that other landowners within the Manu Grove area may not have the same development aspirations as the submitter. I note that there were two other submissions made on the PDP concerning the Manu Grove Low Density Precinct zoning – Submitter 407 Nga Manu Trust and 181 C Longstaff. These submissions are addressed in the rezoning section of my s42A report (see Section 3.13.9, pg 385-387). Submitter 181 opposes the rezoning of his property from rural to residential, and Submitter 407 provides conditional support for the rezoning of the Manu Grove area (which borders on to the Nga Manu Nature Reserve), as long as for example, ecological site K133 is retained and the extent of ecological sites on individual properties are not reduced for any reason, and that any development, subdivision or building development does not adversely affect the Nga Manu Nature Reserve.

[6] The approximate size of the preferred additional lot identified by the submitter on his 19 Manu Grove site is approximately 1,600m^2 in size.

2.50 I note that Commissioner McMahon queried whether there were any alternative methods that could achieve the same outcomes as that sought by the submitter and Council. For example, instead of using a minimum lot size, whether limiting the number of lots in the area, or completing a structure plan which stipulates building site locations. I have considered these potential alternatives and I do not consider them appropriate for this particular situation given the limited opportunities and significant development constraints across the precinct. In terms of identifying building sites, I do not think there would be much value in this to the submitter as all the land is subject to flood hazards and detailed assessment would be required to ascertain whether and where a flood-free building site would be possible. I consider that my recommended amendment of using a combination of a smaller minimum lot size and a relatively large average lot size, to be an appropriate management mechanism. This approach is also consistent with that used in the PDP for subdivision in other areas.

2.51 In investigating this matter, and in response to questions by the Panel Chair and Commissioner Cardiff, I have also reviewed the encumbrances on the titles of the sites within the Manu Grove precinct area, including 19 and 29 Manu Grove. In addition to protecting the bush from being felled, cut down or removed, the encumbrances identify specific building sites and also require that any future development or programme of activity which will or may affect the preservation of the bush is subject to obtaining written Council consent[7]. This would include any proposed subdivision activity. Although the encumbrances were established under the Local Government Act 1974 (as opposed to the RMA), they remain on the property titles and, as a party to the encumbrance, Council is required to take them into account as part of the assessment of any development proposal. The encumbrances would therefore be one of the matters taken into consideration as part of a resource consent application, and could require a separate approval/sign-off process by Council. I note that these type of encumbrances are now usually addressed via section 221 consent notices under the RMA.

2.52 In terms of the submitter's comments about the flood hazards over the Manu Grove area being addressed by the development of Precinct 5 in the Waikanae North Development Zone, I do not support this statement. I have confirmed with Ms Rita O'Brien, Council's Senior Subdivision Engineer, that as part of their resource consent, the Waikanae North development must provide on-site attenuation to achieve hydraulic neutrality. While the Waikanae North development works should not cause flood effects to worsen for other properties, there is no requirement to reduce flood hazards on the Manu Grove area, and therefore there is no guarantee that they would do such works. I note that as part of their most recent consent, there is a specific requirement to upgrade the Kakariki Stream to enable a Q100 flood to pass through the Waikanae North development, however this will minimise the flood risk to properties on Awanui Drive, not Manu Grove. I do not therefore consider that the works to be undertaken in Waikanae North will actually address the flood hazards to the extent implied by the submitter. I also disagree with the submitter's statement that the only flood hazard affecting his property would be from the Council drains blocking – this in untrue as for example, a key flood hazard affecting the properties originates from the Kakariki Stream.

Relocated buildings

2.53 **Submitter 345 "House Movers"** raised issues in terms of the recommendations in my Section 42A report for relocated buildings not going far enough in terms of the relief sought in their submission. The submissions on the removal/relocation/re-siting of buildings are addressed in Section 3.10 of the Section 42A report (from page 313).

[7] Copies of the encumbrance documents can be provided to the Panel for reference if required.

2.54 The primary issue in contention is the most appropriate activity status for relocated building activities and the most appropriate performance standards to be applied to the activity. Submitter 345 seeks a permitted activity status with particular performance standards; the PDP as notified provides for relocated buildings primarily as a controlled activity, with a permitted activity status applied to small or new buildings repositioned within a property. In my Section 42A report, in response to the submission concerns, I recommend a number of amendments to the Chapter 5 provisions for relocated buildings. These are summarised on page 319-320 of my S42A report and essentially involved making the permitted activity more permissive and simplifying and deleting some of the controlled activity standards, therefore providing part relief for the submission concerns.

2.55 However, further consideration of the evidence has led me to alter my opinion on the relocated building rule provisions from that expressed in my s42A report. As a result, I recommend some further amendments to the rule provisions which provide additional relief for the submitter's concerns (as well as Submissions 406.8 Paekakariki Community Board and 473.26 Southcombe Architects).

2.56 Firstly, in terms of this matter, I acknowledge that Council has experienced issues in the past as a result of adverse effects on the environment that have arisen from relocated buildings. In these circumstances, the controlled activity consenting process under the operative Plan has enabled complaints to be resolved. The example which has presented the most significant issues for Council in recent history has been the building relocated onto the property at 23 Dunstan Street, Ōtaki. However, it is acknowledged that this activity was undertaken without a building consent making it illegal and therefore an enforcement issue, rather than necessarily a district plan issue. However, I also acknowledge that the majority of relocated building activities undertaken in the district in recent history have not posed significant issues in terms of environmental effects or complaints to Council.

2.57 In terms of the most appropriate **activity status** for relocated buildings within residentially-zoned areas, I acknowledge the submitter's request for a more permissive regime that reflects the approach approved by the Environment Court in the *Central Otago* case (and is being adopted, but I note often with some variation, by other Councils across the country as part of their second generation district plans). The amendments I recommended in my s42A report make the PDP approach more permissive than the approach as was notified. However, I acknowledge that these amendments do not go far enough in the opinion of the submitter in terms of the relief sought in their submission.

2.58 As part of my further consideration of the evidence, I have considered in further detail at how relocated buildings are managed under the Building Act 2004 provisions, and I have had detailed discussions with the Council's resource consents and compliance teams about the evidence presented. I have also re-looked at the Central Otago District Plan provisions, and other recently approved plan provisions which have been subject to Environment Court appeals by House Movers, and have discussed the resulting settled performance standards with the consents and compliance teams to assess their effectiveness and efficiency from a plan implementation perspective.

2.59 In addition, I am also mindful of housing affordability issues and the role that relocatable buildings could provide in response to this issue, particularly if the PDP approach was more permissive and there was less differentiation between the treatment of in-situ/new builds and relocated buildings. I note that housing choice and affordability is specifically recognised by Objective 2.12 – Housing choice and affordability and Policy 5.3 – Housing choice.

2.60 Therefore, as a result of this investigation, I could support further amendments to the PDP provisions to make relocated buildings a permitted activity, as sought by the submitter. I consider there to be an adequate level of justification from a resource management/ environmental effects perspective to treat relocated buildings in the same manner as new builds and additions/alterations to existing buildings. I have therefore recommended further amendments as part of this response to delete the controlled activity rule (Rule 5A.2.1) for relocatable buildings, and to consequentially amend the permitted activity rule to (Rule 5A.1.9) reflect this change.

2.61 In terms of what the most appropriate **performance standards** for these activities, as a result of the evidence presented, I have considered a number of options, including making the current controlled activity standards permitted activity standards; using the standards as suggested by the submitter; as well as limiting the standards to those that apply to new builds and additions/alterations (in Rule 5A.1.8). I discuss these various options in the following paragraphs.

2.62 In terms of the notified PDP standards, I consider that many of the matters which the notified PDP controlled activity standards in Rule 5A.1.9 are seeking to manage are not strictly resource management-based and are more related to Building Act and building code requirements. This includes standard 1 (the repair of damaged exterior fabric and fittings) and standard 3 (the repair of damaged spouting and visible drainage systems). It is possible that these matters could have some impact in terms of visual/amenity values, however it is also possible for in-situ buildings (or unfinished new builds) to have similar adverse visual effects and the permitted activity standards for new builds (Rule 5A.1.8) do not seek to control these matters. In a similar vein, standard 2 (subfloor to be covered in baseboards) is an amenity driven performance standard, however in-situ and new builds are not subject to the same standards. I also note that these standards are likely to present problems from a compliance perspective as they do not specify a time period by which the works should be completed by, making assessment of non-compliance difficult (or in fact impossible).

2.63 The Building Act (2004) provides for the regulation of building work and sets a range of performance standards for buildings to meet. Under Section 17 Building Act (2004), all building work (which includes the removal and relocation of buildings) must comply with the building code to the extent required by the Building Act, whether or not a building consent is required in respect of that building work.

The standards which building works must meet under the Building Act's building code include for example:

- Stability (includes structural stability and durability of materials and components, and includes a requirement for site work to provide stability for construction on the site, and avoiding damage to other property)
- Fire safety
- Access
- Moisture (includes for example, external moisture/weather-tightness, surface water and drainage systems)
- Safety of users
- Service and facilities (includes for example, airborne and impact sound, ventilation, electricity, piped services, water supplies, plumbing and drainage systems etc)
- Energy efficiency.

2.64 I consider that standards 1-3 in the notified controlled activity rule effectively duplicate matters that are addressed by the building code. I therefore do not consider it necessary for the PDP to try and control matters that are addressed under other legislation.

2.65 In terms of standard 4 in Rule 5A.1.9 which requires a performance bond, in my s42A report I recommend its deletion, and instead recommend making a bond a matter over which Council can reserve control (if required), rather than as a standard that must be complied with. This amendment provided part relief for the submitter's concerns about bonds, as well as introducing greater flexibility in the implementation of the rule, enabling resource consent planners to assess on a case-by-case basis whether or not a performance bond is necessary to manage amenity effects, without affecting the activity status (or the cost and complexity of the resource consent application). However, after further discussions with the resource consent and compliance teams about bond requirements, they often pose difficulties in terms of their administration, and can cause issues for consent holders, particularly those who have limited funds available to complete the works. Given these issues, I would support the deletion of the bond requirement from the rule.

2.66 Turning to the permitted activity performance standards suggested by the submitter, I am still of the opinion expressed in my s42A that they do not provide a good fit with the PDP and the focus on managing adverse environmental effects (and in terms of relocated buildings, primarily amenity effects). I understand these standards were settled on as a result of the *Central Otago* case, and since then have been incorporated (with quite a few variations) in other district plans that House Movers have since submitted on. Although the standards were approved by the Environment Court as part of the *Central Otago* case and therefore can be considered to achieve the purpose of the RMA, I also consider it possible for other approaches to achieve the RMA purpose, and to better align with the objectives and policies of the PDP. Several other councils have adopted variations of the standards (including Horowhenua who adopted a refundable monitoring fee as part of their permitted activity standards[8]). To this end, I provide a summary of the issues I consider exist with the submitter's suggested standards in the following table.

Standard suggested by Submitter 345	**Reporting officer issues/concerns**
a. Any relocated building intended for use as a dwelling (excluding previously used garages and accessory buildings) must have previously been designed, built and used as a dwelling.	In terms of managing environmental effects, I do not consider there to be adequate justification to only permit buildings that have been previously designed, built and used as a dwellings. There are examples within Kāpiti where non-residential buildings have been relocated and converted into dwellings which have not presented issues in terms of adverse effects. In addition, the PDP does not seek to control the building design/form/ appearance of new buildings/additions (other than bulk and location controls) in the way that this standard effectively would.
b. A building pre-inspection report shall accompany the application for a building consent for the destination site. That report is to identify all reinstatement works that are to be	In terms of managing environmental effects, I consider the pre-inspection report to be of limited value/relevance. The matters it addresses are primarily Building Act/building code matters. It would also present implications for Council in terms of monitoring the pre-

[8] Note that I have reviewed the Horowhenua standards and discussed them with the consents and compliance teams. It is considered that there would be little value in requiring a 'refundable' monitoring fee; the process of collecting and then refunding would generate increased administrative costs for Council, and if refundable, would mean the cost of staff time spent monitoring would also have to be absorbed by the Council.

	completed to the exterior of the building.	inspection report requirements, which is not usually undertaken for permitted activities. There would also be increased administration and resourcing costs associated with the implementation of this.
c.	The building shall be located on permanent foundations approved by building consent, no later than 2 months of the building being moved to the site.	I consider this to primarily be a building code matter, rather than a resource management issue.
d.	All other reinstatement work required by the building inspection report and the building consent to reinstate the exterior of any relocated dwelling shall be completed within 12 months of the building being delivered to site. Without limiting (b) (above) reinstatement works is to include connections to all infrastructure services and closing in and ventilation of the foundations.	I consider this to primarily be a building code matter, rather than a resource management issue.
e.	The proposed owner of the relocated building intended for use as a dwelling must certify to the Council that the reinstatement work will be completed within the 12 month period.	Requiring the 'proposed owner' of the relocated dwelling to certify the reinstatement work will be completed is problematic as a permitted activity standard. I do not consider such a certification could be easily enforced as a permitted activity standard.

2.67 Given the above issues, I consider the submitter's suggested standards do not provide a good fit with the PDP; they will also likely present Council with increased administration costs and implementation/enforcement issues. As a result, I do not support the incorporation of these standards into the PDP's permitted activity provisions. I also do not consider making the notified controlled activity standards into permitted activity standards to be the most effective or efficient approach. Therefore, after further consideration of the evidence, I consider the most effective and efficient approach would be for the relocation of any building to be subject to the same standards as new builds and additions/alterations (as provided in Rule 5A.1.8). I do however consider it would be helpful for plan users to add an additional advisory note regarding the building code requirements for all building works (irrespective of whether building consent is required) to ensure plan users are aware of the requirements applying to relocated buildings under the Building Act. I have therefore recommended further amendments to the permitted activity rule (Rule 5A.1.9) as part of this response.

Ōtaki Beach subdivision provisions

2.68 **Submitter 210 D Mann** raised concerns in relation to the PDP's subdivision provisions for Ōtaki Beach and that they are inconsistent with the recently adopted Plan Change 77 (which was appealed to the Environment Court and settled by consent order). I acknowledge the concerns of the submitter and I note that as part of my s42A report (see paragraphs 1302-1304), I recommend amendments to the Chapter 5 subdivision provisions in order to provide alignment with the agreed outcome of Plan Change 77 (which became operative in February 2012). These amendments are identified in the amended text in Section 4 of the s42A report. As a result of these changes, I have not recommended any further changes as part of this response.

2.69 I note that Submitter 210 also raised issues in terms of the subdivision provisions as they relate to the Ōtaki residential area more broadly, in that they are highly and overly restrictive. In response to this matter, I note that as part of the s42A report I have also recommended a number of amendments to the Chapter 5 subdivision rules, including those that apply to the Residential Zone in Ōtaki. The amendments recommended include the creation of a new controlled activity rule for subdivision in identified Residential Zone areas (instead of Restricted Discretionary). The primary reason for these amendments is to be more enabling of smaller-scale general infill subdivision in general residential areas. It also aligns with Chapter 5 policies, including Policy 5.17 (General residential subdivision) which provides for small-scale infill in general residential areas where it does not compromise local character and amenity. I consider these amendments go some way to providing relief for the submitter's concerns. I note however that I have recommended retaining the provisions for the Residential Zone in Ōtaki which were agreed as part of the appeal on Plan Change 77 as part of the new controlled activity rule in order to maintain consistency with the bespoke provisions determined under Plan Change 77.

Subdivision – minimum lot size requirements

2.70 **Submitter 216 G Halstead** raised issues of a similar nature to Submitter 285 G Boucher and Submitter 210 D Mann in terms of the prescriptiveness of the Chapter 5 rules and the subdivision lot size thresholds. The additional comments I have made above are therefore also partly relevant to the issues raised by this submitter.

2.71 The submitter requests that the minimum lot size in the Residential Zone be 400m^2 and that the average and maximum lot sizes be deleted. I note that the amendments I have recommended in the s42A report (refer Section 3.7.3) provide part relief for the submitter's concerns, particularly the recommendation to delete the 600m^2 average lot size for general small-scale infill in Residential Zone areas. I have however recommended retaining the 450m^2 (inclusive of access) minimum for the Residential Zone. The other significant amendment I have recommended as part of the s42A report is to create a controlled activity rule for small-scale infill subdivision within the Residential Zone at Raumati, Paraparaumu, Waikanae and Ōtaki (but excluding any identified precinct area and the Beach Residential Zone).

2.72 I consider the changes recommended to the subdivision rules and standards respond in part to the various submission requests, including the concerns regarding the increased cost of development the rules will have, whilst still providing Council with the ability to appropriately manage adverse effects of subdivision activities. I consider that with these proposed amendments, the proposed objectives and policies in the PDP relating to development management, housing choice and affordability, and character and amenity, will be better implemented than through either the operative Plan or notified PDP provisions.

2.73 I also note that Chapter 5 has specific provisions for focused infill and medium density housing which provide for smaller lot sizes and denser development in identified areas which are close to centres, public transport and open space. I consider it appropriate for the PDP to take a more targeted approach to the provision for denser residential development in order to ensure that adverse effects can be appropriately managed, and that more intensive development is located in areas where infrastructure and services can more effectively and efficiently support higher population density.

3.0 Responses to specific questions from the Panel

Status of s42A reports

3.1 During the hearing, and primarily as a result of the evidence provided by Submitter 89 A Hazelton regarding the rezoning request for Waikanae Beach, the Panel requested clarification in regards to the status of the previous Section 42A report prepared for Chapter 5 in mid-2013 (prior to the independent review of the PDP). They asked whether legal advice could be sought to assist them in their consideration of the matter.

3.2 In my opening statement I noted (for the Panel's information) that in 2013 the Council commissioned a Section 42A report on Chapter 5 (Living Environment). Since this time, Council has commissioned the Independent Review of the PDP, and in response, has adopted a modified PDP process; engaged in an extensive submitter engagement process; and commissioned additional expert input on submission issues. A "new" Section 42A report for Chapter 5 was released in April 2016 (ahead of the Chapter 5 hearing) which has revisited, updated and revised the earlier Section 42A report. From my perspective, the previous s42A report and submitter meetings, the recommendations of the independent review, and the submitter engagement undertaken as part of the SEV process, have been considered and are reflected in the new Section 42A report as I consider to be appropriate. Given this, it is my opinion that the "new" Section 42A has superceded the earlier report and therefore the earlier report should be given no weight.

3.3 In terms of legal advice on this matter, the following provides a summary of the advice provided by Council's legal advisors:

- It is essentially up to the PDP Hearings Panel to decide how much weight is placed on the earlier s42A report prepared.
- The starting point for consideration is that the 2016 s42A report represents the reporting officer's recommendations and it should be the focus of consideration at the hearing.
- Where provisions have moved on since the earlier s42A report, the analysis and recommendations in the earlier report will be superseded by the analysis in the 2016 s42A report.
- Many comments and recommendations the earlier s42A report are the same as those currently before the Panel; however there will be some matters where the two reports express different views. These differences will reflect the reporting officer's consideration of submissions within the context of the time elapsed since the preparation of the earlier report was prepared, PDP process issues/changes, and additional information to hand since this time.
- It is also noted that the reporting officer(s) have changed between 2013 and now, and the earlier report writers are not present to discuss the earlier report. This decreases the weight that can be placed on the views/opinions expressed in the 2013 report.
- Given the reporting officer's recommendation that the "new" s42A report has superseded the previous report, it is open to the Panel to give the earlier report no weight.

Waikanae Beach rezoning request

3.4 In relation to the request by **Submitter 89 A Hazelton** to rezone Waikanae 'Olde' Beach area as Beach Residential Zone, Commissioner McMahon queried what the difference there is

between the zone rules for the three areas proposed by the PDP to be zoned Beach Residential Zone. I provide the following information in response to this request:

3.5 The Beach Residential Zone rule provisions are largely the same as for the Residential Zone, however there are tighter controls on the scale, bulk and location of new buildings as permitted activities in order to maintain the identified character and amenity values of beach residential areas. In this respect, the Beach Residential Zone has specific/different controls (which apply to all locations within the Beach Residential Zone) for:

- Building bulk and coverage:
  - a *plot ratio* measurement is used to essentially reduce the size of second stories on residential dwellings (Rule 5A.1.8.11 – any lot in the Beach Residential Zone shall have a minimum *plot ratio* of 0.6:1.0)
  - a max building height of 8m (or 2 storeys, whichever is lesser), and
- Building setbacks from road frontages – a *beach character setback margin* is used to achieve a consistent front yard building setback from the road boundary (Rule 5A.1.8.13.b – requires the front façade of a dwelling to be located within the *Beach Character Setback Margin*; basically means front yard building setback should be in keeping with the setback of adjoining sites and be no closer to road than 3m).

3.6 Under the recommended amendments in my Section 42A report, the maximum site coverage in the Beach Residential Zone is 35%, and in the Residential Zone it is 40%.

3.7 As is the case in the Residential Zone, in the Beach Residential Zone (all locations), all commercial, retail or industrial activities (other than home occupations which meet permitted activity standards) require resource consent. Commercial panel beating and spray painting are the only prohibited activities in these zones.

3.8 Within the Beach Residential Zone, the only controls that differ depending on location are subdivision minimum and average lot standards (Rule 5A.3.2):

- Beach Residential Zone at Paekākāriki – 950m^2 minimum lot size;
- Beach Residential Zone at Ōtaki Beach – 450m^2 minimum lot size (exclusive of access) and 600m^2 average lot size (exclusive of access) [where the land to be subdivided is less than 3000m^2];
- Beach Residential Zone at Raumati – 450m^2 minimum lot size (exclusive of access) and 700m^2 average lot sizes (exclusive of access) [where the land to be subdivided is less than 3000m^2].

3.9 Within the Beach Residential Zone, activities requiring resource consent are subject to assessment for consistency with Policy 5.23 (Special character areas), Policy 5.24 (Beach Residential Zone), and the Special Character Areas Design Guidelines in Appendix 5.2. The policies are of key relevance to Discretionary and Non-complying activities.

3.10 Also in relation to the Waikanae Beach rezoning matter, the Chair asked for clarification of the rationale behind the exclusion of Waikanae Beach from the decision to move forward with the character assessment studies for the three areas now proposed as Beach Residential Zone in the PDP. In terms of this matter, I have spoken to other staff members and reviewed file information and as I understand it, Waikanae Beach was not deliberately excluded, rather, it wasn't included within the scope of the character assessment work that was undertaken as

there was no specific request to do so. As a result, the area was not proposed as part of the new Beach Residential Zone in the PDP.

Leasing of residential houses for commercial activities

3.11 In response to the concerns raised by **Submitter 21 Chris Munn** about how the PDP deals with the leasing out of residential houses for commercial activities (such as functions and events) within residential areas, the Panel requested a summary of how the submission by Submitter 21 is addressed in the s42A report. The following paragraphs (and table) provide a response.

3.12 I understand that a primary reason for the changes sought by the submitter to the PDP provisions is to address adverse effects on residential amenity arising from the temporary renting/leasing and subsequent use of residential buildings for events and functions (such as weddings), and that the issue is related to the use of one particular large residential property in Paetawa Road, Pekapeka.

I have further discussed the Pekapeka property with the Council's compliance team, and I can advise the following:

- An abatement notice was issued by the Council's compliance team after the receipt of complaints from neighbours about noise/disruption;
- As a result of the notice and discussions with the compliance team, the property owner subsequently withdrew their resource consent application (RM140042) in August 2015 to use the property for weddings and commercial activities;
- The owner also disabled its website advertising the property as a venue for such activities – the website is still inactive;
- The compliance team also advised the owner that they are able to let out their house as holiday or permanent living accomodation, however they strongly recommended that the owner set conditions as to what is acceptable use, because as with any landlord/tenant arrangement, it is the owner who is ultimately responsible for any complaints;
- There has been no further activity regarding this property or the abatement notice.

3.13 In terms of the PDP, the plan does not include a specific permitted activity rule for the leasing of a house by day or night. Under the rules and standards in Chapter 5, it is the scale of the activity and whether it could comply with the permitted activity standards in Rule 5A.1 (and the relevant permitted activity standards in other chapters eg, parking, access), which determine whether an activity is permitted or requires resource consent.

3.14 Generally I consider the use/letting of a residential dwelling as a holiday home or bach for short-term rental accommodation is appropriate as a permitted activity in residential areas, as the nature and scale of the effects associated with such an activity are generally consistent with the residential living activities expected in residential zones. As a result of submissions, I have recommended that holiday home rental be clarified as a permitted activity in Residential and Beach Residential Zones, and have recommended amendments to the plan in the s42report which specifically recognise "temporary residential rental accommodation" as a *residential activity* (as distinct from "visitor accomodation" which is not considered to be a residential activity and is provided for as a controlled activity]. The amendments recommended include:

- a new definition for '*temporary residential rental accommodation*'; and
- consequential amendments to the definitions of:

- '*residential activity*' (to include 'temporary residential rental accommodation')
- '*home occupation*' and '*visitor accommodation*' (to exclude 'temporary residential rental accommodation')
- '*non-residential activity*' (to clarify the inclusions/exclusions of this definition).

3.15 The intent of these amendments is for 'temporary residential rental accommodation' to be treated as a permitted activity within residential zones, as long as the activity meets the relevant permitted activity standards (eg. the activity is undertaken in a *residential building* that meets the permitted activity standards, the vehicle generation controls set out in Chapter 11 and parking standards for temporary accommodation under Rule 11P.1.3 be adhered to).

3.16 However, there will be a point at which the permitted activity standards cannot be met by an activity – based largely around the scale and nature of the activity, and its effects such as traffic, parking and noise generation – and this is when an activity will require resource consent.

3.17 The Chapter 5 provisions provide for non-residential activities within residentially zoned areas, subject to meeting standards, in a number of ways – this includes:

- *Home occupation* – Permitted Activity (or Discretionary Activity if certain standards not met)
- *Visitor accommodation* – Controlled Activity (or Discretionary Activity where standards not met)
- *Local convenience retail outlet* – Restricted Discretionary Activity
- Any other *commercial*, *industrial* or *retail activity* not specifically provided for – Non Complying Activity.

3.18 In response to Submitter 21's concerns, and other submitters with similar/related submission points, several amendments are recommended in the s42A report to clarify how different (but related) activities such as visitor accomodation, holiday home rentals, and other more commercially-orientated activities in residentially zoned areas are addressed. These amendments include the above changes to provide for '*temporary residential rental accommodation*', as well as amendments to clarify and tighten the provisions for home occupations, the definitions of 'visitor accommodation', 'residential activity' and 'non-residential activity' , the standards applying to permitted activities, and the rules applying to non-residential activities.

3.19 In terms of the submission made by **Submitter 21**, the muliple submission requests have been coded against the relevant corresponding PDP provisions (including definitions, policies and rules). The table below summarises the submitter's key submission points (10 in total) that have been coded against Chapter 5 provisions, and summarises how they have been addressed.

[Note: other PDP chapters where other related submission points made by Submitter 21 have been coded include: Chapter 1 (Definitions), Chapter 6 (Working Environment), Chapter 12 (General District-wide Provisions). Hearings on Chapter 1 (Definitions) and Chapter 6 (Working Environment) are yet to take place].

Summary of submission point & relief sought	Section 42A report reference	Summary of section 42A report recommendations
21.2 – Amend the definition of "home occupation" to exlude accomodation on a short term or daily basis for functions.	3.4.4 – Home occupation (paragraphs 202-203)	**Accept in part** – recommend the addition of "temporary residential rental accommodation" (a recommended new defined term) to the list of exclusions under the definition of 'home occupation'. Additional reporting officer comments: • The submitter requests that "accomodation provided on a short term or daily basis for functions" be excluded from the 'home occupation' definition. • 'Visitor accommodation' (and 'business activities') is excluded from the definition of 'home occupation'– which is consistent with the submitter's relief sought. This aligns with the Chapter 5 rules which require a controlled activity consent for visitor accommodation activities subject to meeting specific standards (or non-complying consent for business activities that are not otherwise provided for). • I consider short term 'book-a-bach' style house rentals should be provided for as a permitted activity (as requested by other submissions), provided the activity can meet the permitted activity standards in Rule 5A.1 (and other chapters as relevant). Whereas, it is appropriate for activities falling within the definition of 'visitor accommodation', or other non-residential or commercial/business activities, to require resource consent.
21.3 – Insert a definition of "function" defined as "a social gathering such as a wedding, celebratory or other notable event held within an existing dwelling including accessory building(s)".	3.4.15 – New Definitions sought: "Function" (paragraphs 323-329)	**Reject** – I do not support the addition of a new definition of "function" as requested, particularly if it is to be associated with a rule/activity standard (which is what the submitter seeks under other submission points). The major concern I have with the request, and the subsequent use of the term in the definitions, policies and rules, is that it could inadvertently require resource consent to be obtained for activities which are (in effect) anticipated in residential areas. For example, a "notable event" could include family/private gatherings, a family reunion, birthday, engagement or retirement party, which could be reasonably expected to be held in a residential dwelling without consent. Additional reporting officer comments: • Trying to define "function" as requested is problematic for the reasons outlined above. • Rather than precluding or requiring consent for the activity (i.e. a "function") itself, I consider it more appropriate to require resource consent (or enforcement action in the case of excessive noise) where amenity-based standards for the Living Zones are breached.

		• My preference is to enable residential activities as a permitted activities, provided that: - the activity can meet the permitted activity standards in Rule 5A.1 (and relevant standards in other district-wide chapters) - the activity does not trigger the excessive noise provisions (Sections 326 to 328) of the RMA - the activity does not fall within the definition of visitor accomodation or commercial/business activity. • Activities not meeting the permitted activity standards would be subject to resource consent; where an activity triggers the RMA's excessive noise provisions, Council can take enforcement action. • Visitor accommodation and commercial/business activities in residentially zoned areas, are subject to resource consent.
21.5 – Amend the definition of "non-residential activities" to include "<u>residences hired or leased to groups in excess of six people for functions of any type on a short or long term basis</u>".	3.4.9 – Non-residential activities (paragraphs 267-270)	**Accept in part** – the definition of 'non-residential activity' includes activities that do not fall within the definition of 'residential activity'. As a result, the relief sought by the submitter is already provided for by the PDP through the definitions because the definition of 'non-residential activity' means any activity that is not a residential activity – this includes any commercial or business activity and visitor accommodation. However, I have recommended amendments to several key definitions in order to help clarify key terms and their inter-relationships – this includes the definition of 'non-residential activities' (to clarify the inclusions/exclusions from this defintion), and the definition of 'residential activity' (to clarify the exclusion of visitor accomodation). <u>Additional reporting officer comments:</u> • As outlined above, I consider it appropriate for the rental of holiday houses and baches on a short or long term basis to be managed as a 'temporary residential rental accommodation'. This activity would be considered as a "residential activity" and would be subject to meeting the relevant permitted activity standards (in Rule 5A.1 and other chapters as relevant). If the permitted activity standards could not be met, resource consent would be required. • Visitor accommodation and commercial/business activities in residentially zoned areas, are subject to resource consent. Regardless of the activity, if it triggers the RMA's excessive noise provisions, Council can take enforcement action.
21.7 – Amend the definition of "residential activity" by adding the following sentence: "<u>It does not provide</u>	3.4.12 – Residential Activity (paragraph 294)	**Accept in part** - I do not support the approach in the submissions that 'function' be a defined term, and/or that 'functions' necessarily require resource consent. I therefore do not support amending the definition the wording as sought. However, I have recommended that 'temporary residential rental accommodation' be

for the use of residential properties for functions".		considered as a residential activity and be permitted where it complies with relevant permitted activity standards (in 5A.1 and other chapters). As a result, I support adding a reference to 'temporary residential rental accommodation' within the definition of 'residential activity' to ensure clarity and consistency. I have recommended a wording amendment to this effect. Additional reporting officer comments: • As explained above, I consider it problematic to add a definition for "function" and for this to then be reflected in other plan provisions (including definitions, policies and rules). • The definition of 'residential activity' (as amended by the s42A report) specifically excludes 'home occupations', 'visitor accommodation' and 'business activities' (which include commercial activities).
21.8 – Amend Policy 5.31 to recognise and control residential functions; **21.9** – Amend Policy 5.31 explanatory text to include the following: "That such functions can have significant effects, as described, over and above visitor accommodation, and therefore need to be treated with much more caution than visitor accommodation. The Council needs to retain the ability to control the impact on amenity of these proposed uses."	3.5.24 – Policy 5.31 – Non-residential activities (paragraphs 752-756)	**Reject** – Policy 5.31 (Non-residential activities) does not identify specific non-residential activities that require management, although I do acknowledge the explanation as notified (and now recommended for deletion) does. As with other policies, this policy is aimed at a higher level than this specific request is aimed at. I do not consider it appropriate or necessary for the policy wording to be amended as requested. A key concern with this request (and the related requests), is that it could inadvertently require resource consent for activities which are (in effect) anticipated in residential areas - for example, a 'function' could include a family reunion, birthday, engagement or retirement party held at a residential dwelling. As previously stated, I consider it appropriate for the PDP to provide for baches and holiday homes to be able to be rented as a permitted activity, provided that the activity meets the permitted activity standards, does not trigger the "excessive noise provisions (Sections 326 to 328) of the RMA, and does not fall within the definition of a 'commercial activity'. Rather than precluding or requiring consent for the activity itself, I consider it is more appropriate to require consent where the permitted standards are breached.
21.10 – Amend Policy 5.13 (Amenity) to include the following: "i) residential buildings will not be available for short term hire or lease for functions or events for groups in excess of 6 people".	3.5.13 – Policy 5.13 – Amenity (pargraph 594)	**Reject** - this is related to the amendments sought by the submitter to the definitions for 'residential buildings' and the new definition for 'functions'. I consider that the amendment sought to the wording of Policy 5.13 (Amenity) is too specific for inclusion as a general residential amenity principle (and is more akin to a rule or standard). I also consider that the issue of concern to the submission is adequately addressed by Policy 5.31 'Non-residential activities'. Additional reporting officer comments: • The amendment sought to the policy would be

		inconsistent with the Chapter 5 rule framework in that such activities are provided for via resource consent. The requested wording implies that these activities would be prohibited activities, which is inappropriate.
21.12 – amend Rule 5A.4 to include functions as a discretionary activity, or alternatively amend Rule 5A.5 to include functions as a non-complying activity.	3.6.15 – Rule 5A.4 – Discretionary Activities (paragraphs 1201-1208)	**Reject** – Under the PDP, if a residentially zoned property was being used for functions and events and monetary/commercial transactions were involved, the activity would be classified as a commercial activity and require resource consent. This is considered an appropriate approach and provides for adverse effects from the activity to be appropriately managed. People often hold family and personal celebrations at their own residences (often involving more than 6 people, which is the limit the submitters consider appropriate for requiring resource consent for a "function") and I consider this to be an entirely legitimate activity. I do not consider it appropriate for the District Plan to try and control "functions" through a specific discretionary activity rule (or non-complying, as requested in Submission 21.11). This would impose unreasonable limitations on the use of private properties for private uses. Rather than precluding or requiring consent for the activity itself (the "function"), I consider it is more appropriate to require consent (or enfrocement action) where the amenity-based standards for the Living Zones are breached. Council has the ability under s326 to 328 of the RMA to manage any excessive noise generated by any rented holiday home or other residence. This is the preferred method of managing residential noise issues as outlined by Council's Environmental Health Team Leader, Ms Julie Lloyd in the memo attached as Appendix 2 to the s42Areport. In short, where any holiday home (or any other home) is generating excessive noise – be it via speakers, fireworks, voices etc – the Council has enforcement powers. The use of permitted standards for noise management is generally more appropriate for activities generating constant or on-going noise effects; whereas one-off or significantly less frequent instances of excessive noise generation are better managed through enforcement. <u>Additional reporting officer comments:</u> • I note that for any commercial or non-residential activity in a residential zone, the noise standards in Chapter 12 of the PDP (Rule 12D.1.1) would apply.
21.11 – amend the residential zone rules by adding a new non-complying	3.6.16 – Rule 5A.5 – Non-complying activities (paragraph 1216)	**Reject** – I do not support the addition of a new non complying rule for these activities as sought. In my view this would be unreasonable and inappropriate – for similar reasons as outlined above.

activity as follows: "The rental or lease of residential properties for more than 6 people for functions or events".		
21.11 - amend Rule 5B.5 by adding a new non-complying activity as follows: "The rental or lease of residential properties for more than 6 people for functions or events".	3.8.6 – Rule 5B.5 (Waikanae North Development Zone) – Non-complying activities (paragraph 1430)	**Reject** – I do not support the addition of a new non complying rule for these activities as sought by the submissions, in either the Waikanae North Development Zone, or any other Living Zone. In my view this would be unreasonable and inappropriate. See above.

3.20 Therefore, whilst I acknowledge the issues the submitter has raised, I consider there are a range of issues associated with thespecific relief sought by the submitter. My recommendations therefore do not fully accept the relief sought – I have however recommended several amendments which provide part relief for some of the concerns. I note that the submitter's requests in terms of the definition of 'commercial activity' will be considered as part of the s42A report prepared for Chapter 6.

Section 106 RMA – subdivision applications

3.21 During the hearing, Commissioner McMahon asked what the Section 106 RMA considerations are that could mean an application for subdivision is declined by Council. These matters are primarily related to natural hazards and/or risk of natural hazards, and whether sufficient provision has been made for legal and physical access. Section 106 is provided below for the Panel's information:

> **106. Consent authority may refuse subdivision consent in certain circumstances**
>
> (1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—
>
> (a) the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or
>
> (b) any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land, or structure by erosion, falling debris, subsidence, slippage, or inundation from any source; or
>
> (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.
>
> (2) Conditions under subsection (1) must be—
>
> (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and
>
> (b) of a type that could be imposed under section 108.

Rule 5A.1.2 (Fences)

3.22 In response to the evidence presented by **Submitter 378 Coastal Ratepayers United**, the Panel sought clarification of the amendment to the permitted activity fence rule (Rule 5A.1.2) in the s42A report which recommends an advisory note be added to clarify the treatment of seawalls constructed for natural hazard mitigation purposes (refer paragraph 875 of the s42A report). In their presentation, CRU commented that they want to retain a permitted activity status for the construction of fences/walls on private property boundaries that adjoin the open space/coastal edge areas. Further, they do not want to have to get consent for their seawalls (and seawall maintenances). In response to this, permitted activity Rule 5A.1.2 does provide for fences/walls (as amended) to be constructed on private property boundaries, including boundaries between a living zone and an open space zone. The amendment I have recommended is an advisory note which is intended to ensure readers understand that seawalls for the purpose of natural hazard mitigation are excluded from this rule. I do not consider that these structures were intended to be covered by the rule (they were specifically controlled under other PDP provisions in Chapter 9 Hazards, but were withdrawn as a result of the findings of the PDP independent review). The rule's focus is on property boundary fences (which are predominantly constructed to provide privacy), not seawalls for the purposes of coastal erosion mitigation. This is a matter that is more appropriately addressed as part of the development of new coastal provisions for inclusion into the district plan via a future plan change.

3.23 After further considering the evidence provided by the submitter, I maintain the opinion expressed in the s42A report on this matter. I have however recommended a further wording change to the exclusion in Section 4.0 of this response. I also note that the hearings on Chapters 3, 4, 8 and 9 of the PDP are scheduled for July/August, and that there may be integration issues identified as a result which may potentially require further amendment to this rule to ensure alignment with other plan provisions. I consider any matters would be most appropriately addressed as part of the plan integration hearing scheduled for the end of the hearings process.

Definition of 'Kitchen'

3.24 In response to the concerns expressed by **Submitter 356 C Ruthe** that the definition of 'kitchen' (raised as one example of the PDP's superfluous definitions) is absurd and it is not clear why it is necessary to the PDP, Commissioner McMahon sought clarification of the term 'kitchen' and its relationship to related terms such as 'household unit'. The importance/significance of the definition to the PDP is addressed in paragraph 221 of the s42A report. The definition of 'kitchen' is directly related to the definition of 'household unit', and is intended to provide clarity in terms of that definition's reference to the term 'kitchen'. Under the definition of household unit, one household unit has one kitchen; if there are two kitchens, then there are two household units (except for minor flats which are recognised as ancillary to a household unit). The definition is important to the effective implementation and enforcement of the rules controlling the number of household units permitted on a lot (as a permitted activity). Given the use of the term kitchen, I consider there is value in providing a definition of it in that it assists in determining compliance with the household unit provisions of the plan. However, I also acknowledge the difficulties in crafting such a definition, and one which is practical and workable. I consider that the definition (as amended) represents an appropriate balance.

Policy 5.17 & link with rule framework

3.25 Commissioner McMahon requested that the reporting officer provide comment on the issue raised by Submitter 210 D Mann that the subdivision rules in Chapter 5 do not support Policy 5.17 (General residential subdivision) which provides for small-scale infill where it does not compromise local character and amenity. I consider this matter is addressed under paragraph 2.69 of this response.

4.0 Areas in which evidence has led me to recommend further changes

4.1 The amendments I recommend as a result of reviewing the evidence and statements provided by submitters prior to and during the hearing, are outlined/summarised below. For completeness, I have included the further recommended amendments signalled in my opening statement.

Rule 5A.1.8 – permitted activity rule relating to new buildings

4.2 In my opening statement I provided comments on the evidence presented by **Submitter 451 (FS 29) Rob Crozier and Joan Allin**. I noted in paragraph 5.18 of my statement that I would further consider the submitter's relief sought in terms of consistency and clarity of use of the terms such as 'site', 'lot', 'property', and 'boundary' etc and whether any further amendments (in addition to those recommended in the s42A report) were required. I also stated that I would further consider the suggestion by the submitter (in paragraph 535 of their evidence statement) to include a specific reference/wording reference in the plan provisions to provide clarity for situations such as theirs. After further consideration, I would support the the following additional amendments to Rule 5A.1.8:

Standard 13 (yard requirements)

…

c. Side and rear *yards*:

i. Any *residential building* and any *habitable room* within any *accessory building*, shall be setback from ~~adjoining *sites**property**~~ side or rear *boundaries* such that the following minimum dimensions are achieved:

a. if located on a~~ny~~ front ~~*site*~~*lot* - 3 metres rear yard, 3 metres one side yard, and 1.5 metres all other side yards.

b. if located on a~~ny~~ rear ~~*site*~~*lot* - 3 metres all yards.

ii. Any *accessory building*, excluding *habitable rooms* within the *accessory building*, shall be setback from ~~adjoining *sites**property**~~ side or rear *boundaries* such that~~:~~

~~a.~~ rear and side *yards* ~~shall~~ have a minimum width of 1 metre.

iii. Any *building* used for *non-residential* ~~purposes~~*activities* shall be set back from ~~adjoining *site*~~ side or rear *boundaries* by a minimum of 4 metres.

…

Add a new advisory note at end of the standards in Rule 5A.1.8 as follows:

Note: For the avoidance of doubt, where two or more contiguous *lots* are owned by the same person and there is only one *household unit*, the relevant *coverage*, *height envelope* and *yard* standards in this rule shall apply to the outside perimeter of the combined area of the commonly owned *lots*.

Policy 5.21 – Minor flats

4.3 In my opening statement I provided comments on the evidence presented by **Submitter 473 Southcombe Architects** to the general/plan-wide hearing. I noted that I would further consider the submitter's objection to clause 'a' in Policy 5.21 Minor flats and whether further amendments were required.

4.4 After further considertation of the evidence, and after reviewing the permitted activity rule provisions for minor flats (and the amendments recommended as part of the s42A report – refer pgs 190-193), I agree with the submitter and consider that the requirement in Policy 5.21 (clause 'a') to locate a minor flat behind the primary residential building is difficult to justify in terms of adverse effects on the environment, and in my view, is overly onerous. I note that have recommended the deletion of standard 5 in Rule 5A.1.8 (which requires any minor flat to be located no less than 1 metre behind the front façade of the primary residential building for site boundaries directly adjoining legal road) as part of the wider amendments I have recommended to building setback requirements in response to submissions. The amended permitted activity standards for new buildings in Rule 5A.1.8 (standard 13) require any building (including a minor flat) to be set back at least 4.5m from any road boundary, except any primary residential building can be located within a distance no closer than 3m from the road boundary. This provides flexiblity as to where buildings (including minor flats) can be located on a site, subject to meeting the front, side and rear yard requirements etc. Therefore, although I recommended an amendment in the s42A report to soften clause 'a' by inserting the words "where practicable" after the words "located behind the primary residential building", I have revisited my opinion and recommend a further amendment as part of this response (below) to delete clause 'a' from Policy 5.21 (Minor flats). I consider this policy amendment to be more consistent with the amended rule framework.

~~a) a detached *minor flats* shall be located behind the *primary residential buildings* (where practicable) to minimise its visibility of *minor flats* from the street;~~

Waikanae North Development Zone provisions

4.5 As outlined, the evidence provided by **Submitter 227 V J Limited** has led me to support further amendments to the Waikanae North Development Zone precinct plan boundaries in order to better align the zoning of lots with consented subdivision applications and roading layouts. I therefore recommend that the precinct plan boundaries as shown in Appendix 5.6 (Waikanae North Design Guide) and Plan Map 07 be amended to reflect the boundaries shown on drawing number 1650-P2-002 Issue C, as provided in Submitter 227's evidence.

Ngārara Zone provisions

4.6 As discussed in Section 2.0, in response to **Submitter 263 Maypole Environmental Ltd**, I consider it appropriate to recommend some further amendments to the Ngārara Zone provisions. These amendments are as follows:

- Amend **Rule 5C.0** (Applicability of Rules 5C.1 – 5C.6) as follows:

  Rules 5C.1 to 5C.~~5~~6 ~~shall~~ apply only to land within the Ngārara Zone. For the avoidance of doubt, where a *site* comprises more than one zoning, the provisions of each zone shall be considered. Where there is a conflict between any rule or standard in this chapter and any other chapter, the more stringent rule or standard

shall apply, except for any activity identified in a *Neighbourhood Development Area* that is in accordance with an approved *Neighbourhood Development Plan* under Rule 5C.4.2, in which case the conditions of the *Neighbourhood Development Plan* shall ~~apply~~take precedence.

- Reinstate paragraphs 4 and 5 of the **Ngārara Zone description** (which are recommended for deletion in the s42A report), as follows:

  The comprehensively designed settlement provides a lifestyle environment with a range of *lot* densities and supporting mixed use activities in a landscape which reflects and enhances the existing environment. The majority of the settlement will be fully serviced with water supply and wastewater disposal systems from the reticulated public services, enhanced by on-site management and conservation techniques.

  The settlement is based on a Structure Plan within which are a series of development areas, called *Neighbourhood Development Areas*, as identified on the Ngārara Zone Structure Plan map. The *Neighbourhood Development Areas* include identified areas for development as well as the adjoining open spaces areas. The development of each neighbourhood will be guided by specific management guidelines relating to Environmental Outcomes and Anticipated Form that dictate the form and nature of development, and overarching Management Principles.

- Add the following additional text (based on the explanatory text in Section D.11.1 of the operative Plan) to the end of the **Ngārara Zone description:**

  In terms of the Ngārara Zone rule framework, *subdivision* and *development* of each *Neighbourhood Development Area (NDA)* is a discretionary activity subject to the development of detailed *Neighbourhood Development Plans* which address the roading layout, ecological constraints, traffic management, stormwater, water and wastewater management, built form, *open space* and conservation elements, vehicle and other linkages and sustainability initiatives. Land use consent for a full discretionary activity is required for each NDA, before development can proceed. A *subdivision* consent is also required at the time of approval of the NDA so that its boundaries can be defined along with the roading and open space network and any conditions to be complied with on a continuing basis can be imposed. The resource consent application would include a *Neighbourhood Development Plan (NDP)* for each NDA, which would effectively be the Master Plan for that part of the development site. The NDP would demonstrate how the principles and outcomes sought for that Area under the Structure Plan would be achieved.

  Once the NDP for each NDA is approved (i.e. granted resource consent), *subdivision* and land use consent for *non-residential*, *commercial* and *retail activities* would be required for the actual development of the respective NDAs. Provided the *subdivision* and land uses comply with the approved conditions and requirements in the NDP, consent would be required as a controlled activity. Consent for *subdivision* and land development could be sought concurrently with resource consent for the *Neighbourhood Development Area*. *Buildings* that are in accordance with a Council approved NDP and permitted activity standards, would be permitted activities.

  The NDP could be implemented in stages through separate land use and *subdivision* consents sought at later dates, or for the entire NDA at one time.

Should the *subdivision* or land use not be in accordance with the Council approved NDP (such as subdivision of areas for residential development outside the corresponding area identified in the NDP) consent would be required as a non-complying activity.

Development of each NDA will need to comply with the District Plan vehicle access, road location and design standards, and design guidelines for roads. The vision for Ngārara, including the design of roads, walkways and other linkages, seeks to minimise the generation of vehicular traffic. To ensure that the development of the Zone does not outstrip the capacity of the road network, the applicant shall prepare an integrated *transport assessment* as part of the NDP process, once the threshold of 265 household units within the Waimeha NDA is proposed to be exceeded.

12-14 Otaihanga Road – permitted activity standards for new buildings (Rule 5A.1.8)

4.7 In response to the evidence provided by **Submitters 166 John Le Harviel** and **266 Alex Metcalf**, I recommend a further amendment to the permitted activity height standards which would apply to The Drive Extension Precinct under Rule 5A.1.8 as follows:

Height

9. The maximum *height* of any *building* ~~is set out below:~~

…

d. Any *building* in The Drive Extension Precinct, as shown on the District Plan Maps, except for any *accessory building* or a *minor flat* (excluding a *minor flat* contained within the *primary residential building*), shall have a maximum *height* of 8 metres and no more than two storeys.

Manu Grove subdivision standards – Rule 5A.3.2

4.8 After further consideration of the evidence provided by **Submitter 485 Frank & Vicki Boffa**, I recommend an amendment to Rule 5A.3.2 (subdivision in residential and beach residential zones), Standard 2 c) as follows:

c) For any *lot* in the Manu Grove low density precinct the minimum *lot* area shall be 1200m^2~~6000~~m^2 (inclusive of access) and the minimum average *lot* area for the subdivision shall be 6000m^2.

Relocated buildings

4.9 As discuseed in Section 2.0 of this response, I have further considered the evidence provided by **Submitter 345 "House Movers"** in regards to the treatment of relocated buildings, and as a result, I recommend some further substantial changes to the rules managing these activities. The further changes are to delete the controlled activity rule for relocated buildings, and instead, make the activity a permitted activity subject to meeting the building standards in Rule 5A.1.8. The recommended further amendments are as follows:

- Delete controlled activity Rule 5A.2.1 (relocation of buildings); and
- Amend permitted activity Rule 5A.1.9 as follows:

9. *Relocation* of any	~~1. *Relocation* shall be limited to:~~ ~~a) repositioning of the *building* within the *site* on~~	~~Policies 5.7 & 5.13~~

building.	~~which it is located; or~~ ~~b) moving a *building* off of a *site boundary* to be repositioned within one of the *lots*.~~ ~~2. 1. No *building* that is older than 15 years or is any other *building* greater than 30m² in total floor area shall be relocated, except this shall not apply to any *building* that is repositioned within the same *lot* or that is moved off a *boundary* to be repositioned within one of the *lots*.~~ ~~3. 2~~1. Any relocated *building* shall be able to comply with the permitted activity standards for *buildings* set out under Rule 5A.1.8. **Note 1:** attention is drawn to the provisions of Chapter 10, in which additional controls apply to the relocation of listed historic heritage buildings. **Note 2:** attention is also drawn to the Building Code requirements (under the Building Act 2004) that are relevant to all building works, including the removal and relocation of buildings. These requirements relate to a range of matters including for example: stability (which includes building and site stability, durability of materials and components); fire safety; access; moisture (which includes weather-tightness, surface water and drainage systems); safety of users; services and facilities (which includes airborne and sound impact, ventilation, piped services and plumbing/drainage systems); and energy efficiency. Under Section 17 Building Act (2004), all building work must comply with the building code to the extent required by the Building Act, whether or not a building consent is required in respect of that building work.	

Rule 5A.1.2 (Fences)

4.10 After further consideration of the evidence provided by **Submitter 378 Coastal Ratepayers United (CRU)**, I recommend a further amendment to the additional wording recommended in the s42A report to the advisory note under permitted activity Rule 5A.1.2 (fences) as follows:

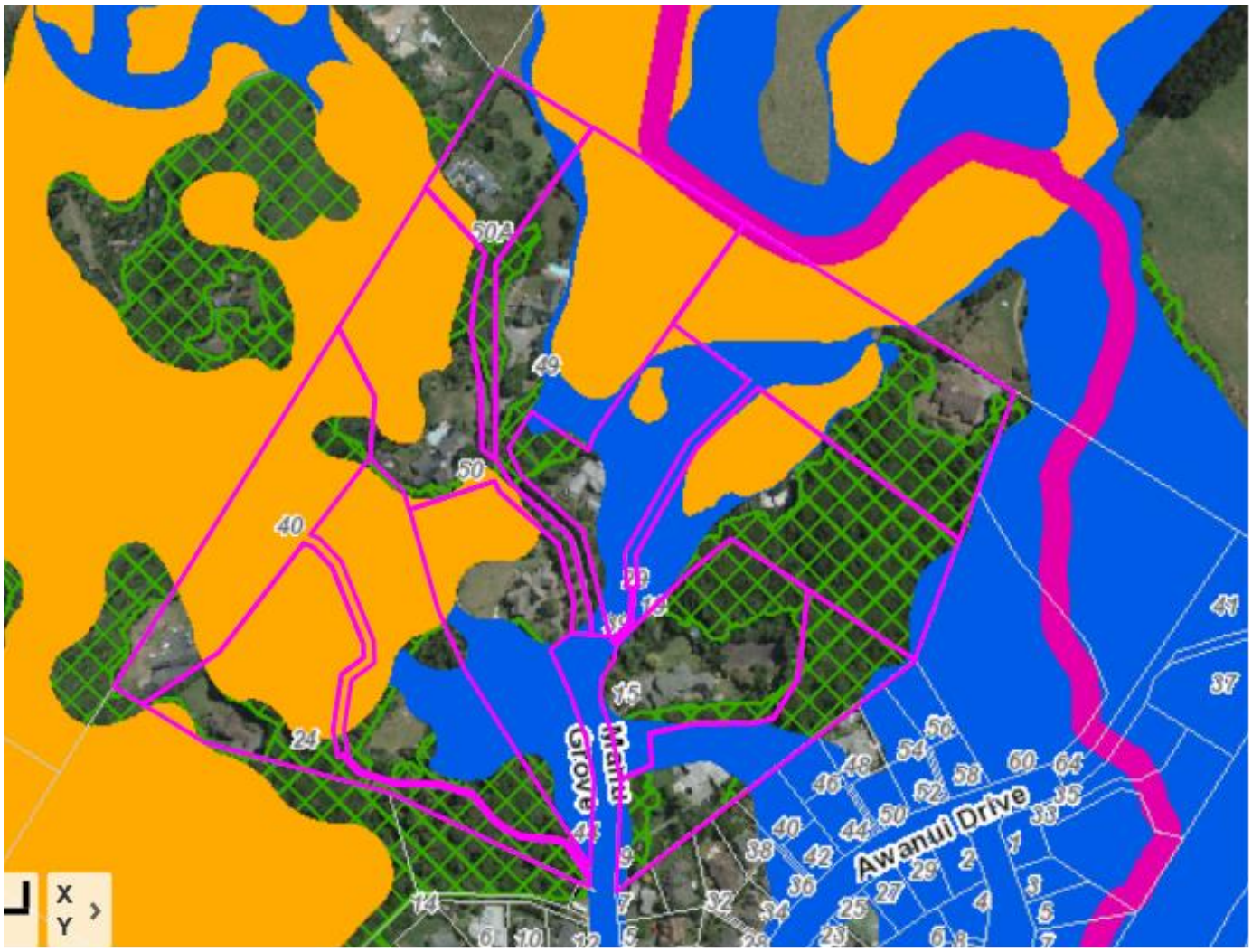
> **Note 1**: For the avoidance of doubt, the standards for fences and walls do not apply to seawalls that are constructed for natural hazard mitigation purposes. ~~Rules relating to seawalls for natural hazard mitigation purposes are contained in Chapter 9 – Hazards.~~ In addition, any wall used as an internal partition or external surface of any building shall be excluded from this rule.

4.11 The deletion of this sentence responds to the submitter's concern that the recommended amendment to the rule is pre-empting where new coastal hazard provisions (which will be developed as a future plan change) will be located within the district plan.

……..
Sherilyn Hinton
13 June 2016

Attachment 1:

Map showing flood hazard and ecological site constraints within the Manu Grove Low Density Precinct



Attachment 2:

Summary of Waikanae Beach community futures project consultation and engagement to date

The process was widely promoted from its commencement in mid-2015, including:

- Letter to all ratepayers
- Notices in local shops
- Letter box drop by local children
- Notices in the newspapers
- Promoted by Olde Waikanae Beach Preservation Society
- Reports on the process have been made at most Community Board meetings in 2015 and 2016;

From September to November 2015:

- Approximately 270 people attended two drop ins
- An email database was created
- A series of workshops followed on topics such as development
- Opportunities continued to be promoted on the Council website and an online forum was created;

Waitangi Day 2016:

- Public display;

Working Group: March 2016 – on-going:

- An open invitation was sent to the email database to invite residents to become part of a Working Group
- The opportunity was also promoted by the new Waikanae Beach Residents Society and the Community Board
- Working group started in March and is still running – 6th meeting tonight. They have been working on their vision for Waikanae Beach and potential actions to achieve this
- The Group will plan how their work will be fed back to the wider community at the 7th meeting on 13 June
- A drop in session is likely to be held on 10 or 17 July 2016.