

# **SECTION 42A REPORT**

Report on submissions and further submissions on the  
Proposed Waikato District Plan

## **Hearing 27B: Natural Hazards: General Submissions**

**Yvonne Legarth**

**On behalf of Waikato District Council**

Date: 31 March 2021



## TABLE OF CONTENTS

|    |  |    |
|----|--|----|
| 1  | Introduction.....  | 5  |
| 2  | Scope of Report.....   | 6  |
| 3  | Statutory framework.....   | 7  |
| 4  | Consideration of submissions received.....   | 10 |
| 5  | Submissions that apply to multiple parts of the proposed plan.....   | 12 |
| 6  | Submissions on Chapter 1 – Introduction [1.4 Issues for Waikato district].....   | 18 |
| 7  | Submissions on Chapter 1 – Introduction: 1.5 What does this mean for Waikato district strategic objectives and directions?.....  | 22 |
| 8  | Submissions on Chapter 1.12 – Strategic directions 1.12.8(d).....  | 24 |
| 9  | Submissions on Chapter 12 – How to use and interpret the rules.....  | 27 |
| 10 | Submissions on Chapter 12 (as notified)/Chapter 13 - Definition of ‘Annual exceedance probability (AEP)’.....  | 29 |
| 11 | Submissions on Chapter 15 Natural Hazards and Climate Change [15.1 - Introduction].....  | 30 |
| 12 | Submissions on Chapter 15 Natural Hazards and Climate Change [15.1(3) and 15.1(4) - Introduction].....   | 37 |
| 13 | Submissions on Chapter 15.1(7) - Introduction.....   | 39 |
| 14 | Submissions on Chapter 15 - Objective 15.2.1 Resilience to natural hazard risk.....  | 40 |
| 15 | Submissions on Chapter 15 – Policy 15.2.1.4 - New infrastructure and utilities.....  | 45 |
| 16 | Submissions on Chapter 15 – Policy 15.2.1.5 – Existing infrastructure and utilities ...  | 54 |
| 17 | Submissions on Chapter 15.2 – Policy 15.2.1.6 - Managing natural hazard risk generally.....  | 57 |
| 18 | Submissions on Chapter 15.2 – Policy 15.2.1.9 - Natural features and buffers.....  | 62 |
| 19 | Submissions on Chapter 15.2 – Objective 15.2.2 - Awareness of natural hazard risks   | 63 |
| 20 | Submissions on Chapter 15.2 – Policy 15.2.2.1 - Natural hazard risk information ....   | 65 |
| 21 | Submissions on Chapter 15.2 – Policy 15.2.2.2 - Community Response Plans .....   | 67 |
| 22 | Submissions on Chapter 15 – Section 15.3 Using and interpreting rules.....   | 69 |
| 23 | Submissions on Chapter 15 – 15.13 Information requirements - Information requirements for all resource consent applications addressing natural hazards: 15.13.1 General..... | 73 |
| 24 | Submissions on Variation 2 – Amendments to zone Chapters 16 to 18.....   | 75 |
| 25 | Submissions on Maps.....   | 77 |
| 26 | Submissions on PWDP Stage 1 relating to Natural Hazards and Climate Change.....  | 87 |
| 27 | Conclusion.....  | 91 |

**List of submitters and further submitters addressed in this report**

| <b>Original Submitter</b>           | <b>Submission number</b> |
|-------------------------------------|--------------------------|
| Sofia Andreen                       | 2083                     |
| Auckland Waikato Fish and Game      | 2156                     |
| Avant Developments Limited          | 2143                     |
| Russell Davis                       | 2118                     |
| Department of Conservation          | 2108                     |
| Dilworth Trust Board                | 2161                     |
| Ewen Brunskill                      | 2028                     |
| Federated Farmers of New Zealand    | 2172<br>2173             |
| Fire and Emergency New Zealand      | 2103                     |
| Genesis Energy Limited              | 2104                     |
| Heritage New Zealand Pouhere Taonga | 2107                     |
| Donald Graeme Hogg                  | 2011                     |
| Horticulture New Zealand            | 2149                     |
| Kainga Ora Homes and Communities    | 2094                     |
| Mark Mathers                        | 2187                     |
| <i>Brett Beamsley</i>               | <i>2109</i>              |
| Graham and Di McBride               | 2178                     |
| Mercury NZ Limited                  | 2053                     |
| Ron Miller                          | 2084                     |
| Ministry of Education               | 2086                     |
| NZTE Operations Limited             | 2099                     |
| Perry Group Limited                 | 2105                     |
| Pokeno Community Committee          | 2091                     |
| Ports of Auckland Limited           | 2139                     |

| <b>Further Submitter</b>                                | <b>Submission number</b>                        |
|---|---|
| <i>Ambury Properties Limited</i>                        | <i>FS3028</i>                                   |
| <i>Bathurst Resources Limited and BT Mining Limited</i> | <i>FS1198</i>                                   |
| <i>Counties Power</i>                                   | <i>FS3021</i>                                   |
| <i>Department of Conservation</i>                       | <i>FS3012</i>                                   |
| <i>Federated Farmers of New Zealand</i>                 | <i>FS1342</i><br><i>FS3030</i>                  |
| <i>Genesis Energy Limited</i>                           | <i>FS3006</i>                                   |
| <i>Heritage New Zealand Pouhere Taonga</i>              | <i>FS3013</i>                                   |
| <i>Horticulture New Zealand</i>                         | <i>FS3027</i>                                   |
| <i>Kainga Ora Homes and Communities</i>                 | <i>FS3033</i>                                   |
| <i>KiwiRail Holdings Limited</i>                        | <i>FS3010</i>                                   |
| <i>Mercury NZ Limited</i>                               | <i>FS1223</i><br><i>FS1387</i><br><i>FS3034</i> |
| <i>Ohinewai Lands Limited</i>                           | <i>FS3022</i>                                   |
| <i>Ports of Auckland Limited</i>                        | <i>FS1087</i>                                   |
| <i>PowerCo Limited</i>                                  | <i>FS3007</i>                                   |
| <i>Raglan Collective Incorporated Society</i>           | <i>FS3016</i>                                   |
| <i>Shand Properties Limited</i>                         | <i>FS3020</i>                                   |
| <i>Spark New Zealand Trading Limited</i>                | <i>FS3002</i>                                   |
| <i>Synlait Milk Limited</i>                             | <i>FS1110</i><br><i>FS1322</i>                  |
| <i>TaTa Valley Limited</i>                              | <i>FS3029</i>                                   |
| <i>Timberline Contracting</i>                           | <i>FS3032</i>                                   |
| <i>Transpower New Zealand Limited</i>                   | <i>FS3003</i>                                   |
| <i>Waikato District Council</i>                         | <i>FS2146</i>                                   |
| <i>Waikato Regional Council</i>                         | <i>FS3031</i>                                   |
| <i>WEL Networks Limited</i>                             | <i>FS3014</i>                                   |

|   |            |
|---|------------|
| Powerco Limited                             | 2100       |
| Raglan Naturally                            | 831        |
| Rangitahi Limited                           | 2115       |
| Sharp Planning Solutions Ltd                | 695        |
| Spark New Zealand Trading Limited           | 2040       |
| Angeline Greensill for Tainui o Tainui      | 942        |
| TaTa Valley Limited                         | 2093       |
| Te Kopua Trust & Te Kopua 2b3 Incorporation | 2175       |
| Terry Quilty                                | 2061       |
| Transpower New Zealand Limited              | 2101       |
| Waikato Regional Council                    | 81<br>2102 |
| Waikato-Tainui Te Kauhanganui Incorporated  | 2151       |
| Ward Ranch Limited                          | 2050       |
| WEL Networks Limited                        | 2106       |
| <i>Blair Everett</i>                        | 2032       |

|  |               |
|--|---------------|
| <i>Whaingaroa Environmental Defence Inc. Society</i> | <i>FSI276</i> |
|  |               |

***Please refer to Appendix I to see where each submission point is addressed within this report.***

# I Introduction

## I.1 Qualifications and experience

1. My name is Yvonne Legarth. I am employed by Waikato District Council as a Principal Policy Planner.
2. My qualification and experience are as follows:
  - (a) I hold a Bachelor of Regional Planning from Massey University. I have over 30 years' experience in planning and policy development, predominantly under the Resource Management Act 1991 (RMA).
  - (b) My background includes planning and policy development with both local and central government, and as a planning consultant. I have been involved in the development of government policy for legislative amendments, National Policy Statements, and the preparation and implementation of the New Zealand Coastal Policy Statement 1994.
  - (c) My experience includes the development and analysis of plan provisions at both the regional and district level, the preparation and implementation of Notices of Requirement for Designations, and the assessment and preparation of applications for resource consents and the implementation of plan provisions. I also have experience with developing and implementing non-regulatory tools aimed at achieving sustainable management.
  - (d) Organisations that I have worked for, and provided planning advice to, include the Department of Corrections, NZ Defence Force, the Department of Conservation, Ngāi Tahu and various other individuals and organisations. I have appeared as an expert witness before the Environment Court and Boards of Inquiry, and provided affidavits for the High Court on planning matters. I am a certificate holder under the Ministry for the Environment Making Good Decisions Programme.
  - (e) Prior to the enactment of the RMA I held contract positions with a local authority monitoring compliance with resource consents, and analysing the effectiveness of plan provisions prepared under the Town and Country Planning Act.

## I.2 Code of Conduct

3. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
4. I am authorised to give this evidence on the Council's behalf to the hearings commissioners.

## I.3 Conflict of Interest

5. I confirm that I have no real or perceived conflict of interest.

## I.4 Preparation of this report

6. I am the author of this report which has been prepared on behalf of the Waikato District Council in accordance with section 42A of the Resource Management Act 1991 (RMA).
7. The *Natural Hazards: General* topic addresses submissions and further submissions made on the natural hazard and climate change provisions in Variation 2 to the proposed plan. The section 42A reports and makes recommendations about submissions made on the natural

hazards provisions for flooding, climate change, wildfire, and coast may also be relevant in this hearing topic.

8. A list of all submitters and a summary of all decisions requested for the changes dealt with in this report is in Table I above. I understand that the Hearing Panel has full copies of the submissions available to them and therefore I have not included these in full as part of this report.
9. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
10. In preparing this report I rely on expert advice in the RMA section 32 reports that deal with the modelling and extent of natural hazards.
11. Prior to preparing this RMA section 42A report, I have not had any previous involvement with the preparation of the proposed Waikato District Plan or variations to that plan.

## 2 Scope of Report

### 2.1 Matters addressed by this report

12. This report is prepared in accordance with Section 42A of the RMA and relates to the provisions in Variation 2 and natural hazards within the Proposed Waikato District Plan (PWDP).
13. This report considers the submissions and further submissions on the natural hazards chapters and maps where the concern, or decision sought, is of a general nature or applies to the provisions notified as part of Stage 2 / Variation 2 as a whole. Those submissions that are on provisions that deal with a particular type of natural hazard are addressed in other RMA Section 42A reports.
14. In this report I address the further submissions together with the primary submissions they relate to. There are 7 submissions that I consider to be out of scope, as these deal with matters that were not part of Variation 2 or Stage 2 as notified. This report also covers a small number of submissions that were made to Stage 1 but related to natural hazards and climate change.

### 2.2 Overview of the topic / chapter

15. Stage 2 of the Waikato District Plan Review proposes Chapter 15: Natural hazards and the effects of climate change.
16. Chapter 15 includes provisions to manage the risk to people and structures on land subject to natural hazards, and provisions to mitigate and/or adapt to the effects of climate change. Stage 2 also amends some of the provisions in the PWDP (Stage 1) to promote consistency across all sections of the Proposed District Plan. The changes to Stage 1 are proposed to be made by Variation 2.
17. Chapter 15 has an introduction that explains the content, three objectives, and the policies and rules that implement them. Chapter 15.14 has a number of proposed definitions. Natural hazard mapping was based on expert technical assessments and modelling to identify areas where the risk of certain natural hazards are present, such as river flooding or coastal erosion and inundation. The technical reports form part of the RMA Section 32 reports.

## 2.3 Structure of this report

18. I have structured this report by grouping submissions together with the further submissions on a part of the variation to the proposed plan. This report contains the following sections:

Section 4 Submissions that are out of scope

Section 5 Submissions that apply to multiple parts of the proposed pla

Section 6 Submission on Chapter 1 – Introduction [1.4 Issues for Waikato district]

Section 7 Submission on Chapter 1 – Introduction [1.5 What does this mean for Waikato district strategic objectives and directions?]

Section 8 Submission on Chapter 1.12 – Strategic directions 1.12.8(d)

Section 9 Submissions on Chapter 12 – How to use and interpret the rules

Section 10 Submissions on Chapter 12 (as notified)/Chapter 13 - Definition of ‘Annual exceedance probability (AEP)’

Section 11 Submissions on Chapter 15 Natural Hazards and Climate Change [15.1 - Introduction]

Section 12 Submissions on Chapter 15 Natural Hazards and Climate Change [15.1(3) and 15.1(4) - Introduction]

Section 13 Submissions on Chapter 15.1(7) - Introduction

Section 14 Submissions on Chapter 15 - Objective 15.2.1 Resilience to natural hazard risk

Section 15 Submissions on Chapter 15 – Policy 15.2.1.4 - New infrastructure and utilities

Section 16 Submissions on Chapter 15 – Policy 15.2.1.5 – Existing infrastructure and utilities

Section 17 Submissions on Chapter 15.2 – Policy 15.2.1.6 - Managing natural hazard risk generally

Section 18 Submissions on Chapter 15.2 – Policy 15.2.1.9 - Natural features and buffers

Section 19 Submissions on Chapter 15.2 – Objective 15.2.2 - Awareness of natural hazard risks

Section 20 Submissions on Chapter 15.2 – Policy 15.2.2.1 - Natural hazard risk information

Section 21 Submissions on Chapter 15.2 – Policy 15.2.2.2 - Community Response Plans

Section 22 Submissions on Chapter 15 – Section 15.3 Using and interpreting rules

Section 23 Submissions on Chapter 15 – 15.13 Information requirements - Information requirements for all resource consent applications addressing natural hazards: 15.13.1 General

Section 24 Submissions on Variation 2 – Amendments to zone Chapters 16 to 18

Section 25 Submissions on Maps

Section 26 Submissions on PWDP Stage 1 relating to Natural Hazards and Climate Change Appendix I Table of submission points

Appendix 2: Recommended amendments

## 3 Statutory framework

19. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening

planning submissions for Council (23 September 2019, paragraphs 18-32). The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45). The following sections identify statutory documents with particular relevance to this report.

20. The common theme in the RMA and higher order statutory instruments that deal with natural hazards and climate change are:

**RMA sections 5, 6, 7 and 8**

21. In addition to the well-being statements provided for in RMA section 5, RMA section 6 is that all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the management of significant risks from natural hazards as a matter of national importance<sup>1</sup>. RMA Section 7(i) requires that all persons exercising functions and powers ..., shall have particular regard to the effects of climate change. The requirements around the maintenance and enhancement of amenity values and maintenance and enhancement of the quality of the environment, in RMA sections 7(c) and (f), respectively, also have an influence on policy as a result of mitigation options that may be employed. Equally, RMA section 8 requires those exercising functions to take into account the principles of Te Tiriti o Waitangi.

**National Policy Statements**

22. The district plan must give effect to the following higher order planning instruments:

**National Policy Statement for Freshwater Management (NPS-FM)**

23. The integrated management theme in the NPS-FM applies to district plans as well as regional plans. NPS-FM Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change. The NPS-FM may be relevant to how the district plan responds to the risks from natural hazards.

**New Zealand Coastal Policy Statement (NZCPS)**

24. NZCPS Objective 5 is to ensure that coastal hazard risks are managed by locating new development away from areas at risk, and to consider a range of responses to risk, and to protect natural defences. Policies 24 to 27 set out a number of management responses, including requiring hazard risk to be identified, increased risk to be avoided, and the protection and enhancement of natural defences, and taking a strategic approach to significant existing development that is at risk.

**National Policy Statement for Renewable Electricity Generation 2011**

25. The National Policy Statement for Renewable Electricity Generation 2011 does not include any objective or policies that specifically deal with natural hazards climate change.

**National Environmental Standards**

26. There are four national environment standards<sup>2</sup> that may be relevant to the objectives and policies in the proposed plan that deal with locating infrastructure and utilities in areas at risk

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<sup>1</sup> RMA section 6(h)

<sup>2</sup> National Environmental Standards for Telecommunication Facilities;  
National Environmental Standards for Electricity Transmission Activities;



from natural hazards. None of the NES's specifically refer to natural hazards, however these do include rules that allow or control certain activities.

### **Waikato Regional Policy Statement (WRPS)**

27. The WRPS deals with natural hazards in Objective 3.4 and Chapter 13. Broadly, the objectives and policies of the WRPS manage the effects of natural hazards on people and property by increasing community resilience; reducing the risks from hazards to acceptable levels; and enabling an effective and efficient response to, and recovery from, natural hazard events. The policy approach in the WRPS is that risks are not to exceed an acceptable level and the creation of new intolerable risk is avoided.

### **Vision and Strategy for the Waikato River**

28. The Vision and Strategy for the Waikato river forms a part of the WRPS. The Vision and Strategy does not specifically refer to natural hazards, however responses to natural hazards have the potential to have adverse effects on the health and wellbeing of the Waikato River. *The Vision is: Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come.*

### **National Planning Standards**

29. The National Planning Standards seek to provide a standard format for district plans across New Zealand. The Hearings Panel has indicated that it wishes to adopt the National Planning Standards approach where possible during the current hearings. This report relies on the National Planning Standards defined terms (14 – Definitions) that were recommended for adoption in Hearing 5.

### **Section 32 of the RMA**

30. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules or other methods) of the proposal be examined for their efficiency, effectiveness and risk. Section 32 reports were published when Stage 2 and Variation 2 to the PWDP were notified in 2020. This report updates that earlier analysis in “section 32AA evaluations” where material changes to the plan are recommended.

#### **3.1 Procedural matters**

31. There were no meetings or pre-hearing meetings with submitters on the matters addressed by this report.

#### **3.2 Amendments to plan text**

32. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in **red underlined**, and deleted text in **red struck through**. All recommended amendments are brought together in Appendix 2 of this report.

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National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health; and  
National Environmental Standards for Plantation Forestry

## 4 Consideration of submissions received

### 4.1 Submissions that are out of scope

33. There are seven submissions and one further submission that do not deal with matters that are part of Stage 2 or Variation 2 Natural Hazards.
34. The following submissions were made:

| Submission point | Submitter                  | Decision requested   |
|------------------|----------------------------|--|
| 2011.1           | Donald Graeme Hogg         | <b>Provide</b> a trickle feed water supply to the west of Hamilton city, including Howden Road, Rowe Road and Bowman Road and extending as far as Whatawhata.  |
| 2028.1           | Ewen Brunskill             | <b>No specific decision sought</b> , however, the submitter generally opposes the rules on new buildings and addition to existing buildings.   |
| <i>FS3019.1</i>  | <i>Blair Everett</i>       | <i>Support 2028.1</i>  |
| 2099.1           | NZTE Operations Limited    | <b>No specific relief sought</b> , but submitter wishes to be involved in the Stage 2 process as part of its wider involvement in the PWDP process with particular interest in the Te Kowhai airpark.  |
| 2091.1           | Pokeno Community Committee | <b>Add</b> a Strategic Property Plan to specifically address issues relating to North Waikato. This should include: <ul style="list-style-type: none"> <li>· Pokeno and Tuakau around reserves, parkland and natural areas;</li> <li>· Significant Natural Reserves identified and protected;</li> <li>· Connected and accessible walkways including during flooding;</li> <li>· Wetlands protected;</li> <li>· Pokeno Waterfalls, Wetlands and Maori Cultural Heritage Areas as areas specifically outlined and protected.</li> </ul> |
| 2061.1           | Terry Quilty               | <b>Amend</b> Proposed District Plan to retain Franklin section Rule 23A.1.3(c) that applies a 12 metre yard setback from the boundary.<br><b>Or</b><br><b>Amend</b> Proposed District Plan to amend Rule 23A.1.3(c) to apply a 50 metre yard setback from the boundary.  |
| 2061.2           | Terry Quilty               | <b>Add</b> to the Proposed District Plan a restriction on the distance between animal enclosures including cattle, horses, or other and a dwelling of a minimum of 50 meters.  |
| 2050.3           | Ward Ranch Limited         | <b>Delete</b> Waikare Golf Course walkway, because it is a health and safety risk, and is dangerous.   |

## 4.2 Submissions

35. The submission made by Donald Graeme Hogg [2011.1] relates to a trickle feed water supply; the submission made by Ewen Brunskill [2028.1] is a general submission opposing rules on new buildings and addition to existing buildings. The further submission made by *Blair Everett [FS3019.1]* supports submission 2028.1. The submission made by NZTE Operations Limited [2099.1] relates to the Te Kowhai airpark which is the subject of Variation 1. The submission made by Terry Quilty [2061.1 and 2061.2] refers to setback requirements.
36. The submission made by Pokeno Community Committee [2091.1] is to add a Strategic Property Plan to specifically address issues associated with protected areas, areas with significant values, wetlands and accessible walkways during flooding.
37. The submission made by Ward Ranch Limited [2050.3] is to delete Waikare Golf Course walkway,<sup>3</sup> and submits that it is a health and safety risk, and is dangerous.

## 4.3 Analysis

38. A Variation is a proposed change to a proposed plan. Submissions on Variation 2 (Stage 2) are limited to 'new' proposed provisions or those Stage 1 provisions that are amended by Variation 2.

## 4.4 The scope of Variation 2

39. Consideration of the submissions lodged on Variation 2 must be limited to those parts of the proposed plan where a change is proposed. Variation 2 proposes amendments to:

Chapter 1:

Chapter 1.4: Issues for the Waikato District:

1.4.2.3 Challenges

1.4.4(c) The urban environment

Chapter 1.5: What does this mean for Waikato district strategic objectives and directions

1.5.2(b) Planning for urban growth and development

Chapter 1.12: Strategic directions and objectives for the district

1.12.8(d) Strategic objectives

Deletes Chapter 11 placeholder

Chapter 12 How to use and interpret the rules

12.1.(k) Introduction to the rules

12.5 How to find out if a resource consent is needed

Annual exceedance probability definition

Chapter 14: Infrastructure

14.1(1) Introduction

Chapter 15: Natural Hazards and Climate Change

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<sup>3</sup> Located at 66 Waerenga road, Te Kauwhata

Replaces a placeholder and contains definitions, objectives, policies and rules, and matters of discretion.

Various rules

Maps

40. The Panel has no jurisdiction to consider a Variation 2 submission that is not on a matter that is directly proposed to be amended by Variation 2. A submission must address the proposed Variation itself, to the extent that Variation 2 is an alteration to the proposed plan as notified (Stage 1). Incidental or consequential extensions to submissions are acceptable, if they require no substantial section 32 analysis.
41. I am not familiar with the walkway raised in submission 2050.3. I understand that part of the walkway in the area is located along two boundaries of the golf course. The property is not shown on the Stage 2 planning maps as being subject to natural hazards. I recommend that the submission be rejected as it is out of scope.
42. I consider that the submissions made by Donald Graeme Hogg [2011.1]; Ewen Brunskill [2028.1] NZTE Operations Limited [2099.1] and Pokeno Community Committee [2091.1] do not relate to the matters in Chapter 15 or to those parts proposed for a change through Variation 2, and therefore these should be rejected as they are out of scope.

#### 4.5 Recommendations

43. For the reasons above, I recommend that the Hearings Panel:
- (a) **Reject** the submissions made by Donald Graeme Hogg [2011.1]; Ewen Brunskill [2028.1] NZTE Operations Limited [2099.1], Pokeno Community Committee [2091.1] and Ward Ranch Limited [2050.3] and the further submission made by Blair Everett [FS3019.1]; and the submission made by Terry Quilty [2061.1 and 2061.2].

#### 4.6 Recommended amendments

44. No amendments are recommended as a result of the above submissions.

## 5 Submissions that apply to multiple parts of the proposed plan

### 5.1 Submissions

45. There were 14 submission points and seven further submission points received that apply to multiple parts of the plan, Chapter 15 in its entirety, or the whole of Variation 2. I have included the submissions on the Strategic Directions in this section because the Strategic Directions are overarching provisions that have a broad influence on the whole plan.
46. These submissions were made:

| Submission point | Submitter                      | Decision requested   |
|------------------|--------------------------------|--|
| 2103.41          | Fire and Emergency New Zealand | <b>Retain</b> amendments to Stage 1 provisions as proposed in Variation 2 to the Proposed District Plan (Stage 1). |
| 2139.17          | Ports of Auckland Limited      | <b>Retain</b> Variation 2 Natural Hazards and Climate Change.  |
| 2161.17          | Dilworth Trust Board           | <b>Retain</b> Variation 2 as notified.   |

|            |                                  |   |
|------------|----------------------------------|---|
| 2172.5     | Federated Farmers of New Zealand | <b>Retain</b> the Variation 2 matter of discretion for various activities requiring a controlled or restricted discretionary resource consent   |
| 2086.1     | Ministry of Education            | Retain Chapter 15: Natural Hazards and Climate Change as proposed, specifically Section 15.2 Objectives and Policies, rules sections 15.4 through to 15.13 and accurate mapping   |
| 2178.1     | Graham & Di McBride              | <b>Delete</b> Chapter 15 Natural Hazards and Climate Change and Variation 2.  |
| FS3021.27  | Counties Power                   | <i>Oppose 2178.1</i>  |
| FS3031.155 | Waikato Regional Council         | <i>Neutral 2178.1</i>   |
| FS3034.106 | Mercury NZ Limited               | <i>Support 2178.1</i>   |
| 2094.72    | Kainga Ora Homes and Communities | Retain Variation 2 amendment to direction 12.1(k) as notified.  |
| 2187.2     | Mark Mathers                     | <b>Amend</b> Chapter 15 in entirety. Review the Proposed Waikato District Plan (stage 2) and Variation 2 in their entirety to ensure aspects required by the RMA are met.   |
| 2093.17    | TaTa Valley Limited              | <b>Amend</b> drafting of stage 2 PWDP by removing unnecessary complication, and amending to represent good drafting practice.   |
| 2093.13    | TaTa Valley Limited              | <b>Amend</b> PWDP with any consequential relief required to give effect to submitter's submission points including to other provisions as required to ensure a consistent approach throughout the Plan.   |
| 2094.88    | Kainga Ora Homes and Communities | <b>Amend</b> the Stage 2 and Variation 2 provisions to clearly distinguish between "new development" and redevelopment of existing dwellings / structures, particularly within existing urban areas where development and a variety of land uses have already been established within hazard areas (such as floodplains). |
| 2094.90    | Kainga Ora Homes and Communities | <b>Amend</b> Chapter 15 and variation 2 text to cross refer to the Medium Density Residential Zone (MDRZ) sought in submissions on Stage 1 and introduce the amendments sought by the submitter to MDRZ where relevant.   |
| FS3034.33  | Mercury NZ Limited               | <i>Oppose 2094.90</i>   |
| 2102.1     | Waikato Regional Council         | <b>Add</b> a note to PWDP Stage 1 Section B - Objectives and Policies immediately before Chapter 2: Tangata Whenua as follows:<br><i>Please note that objectives and policies contained within Chapter 15 Natural Hazards and Climate Change may also apply and are located within</i>                                    |

|            |                            |   |
|------------|----------------------------|---|
|            |                            | <u>one plan chapter at Section C Rules: Chapter 15: Natural Hazards and Climate Change.</u> |
| FS3012.1   | Department of Conservation | Support 2102.1  |
| FS3034.110 | Mercury NZ Limited         | Support 2102.1  |
| 2053.7     | Mercury NZ Limited         | Amend Chapter 15 to include vulnerability as an attribute to all land use activities.       |
| FS3031.18  | Waikato Regional Council   | Neutral 2053.7  |

## 5.2 Analysis

47. The key issues raised in the submissions on multiple parts of Stage 2 of the proposed plan, or Variation 2 as a whole, can be grouped as follows:
- a. Submissions in support
  - b. Submissions in opposition
  - c. Clarify the plan
  - d. Cross referencing
  - e. Distinguish between existing land uses in hazard areas
  - f. Include vulnerability as an attribute of land use.

### Submissions in support

48. There are five submissions in support of Variation 2. The submissions made by Fire and Emergency New Zealand [2103.41] is to retain amendments to Stage 1 provisions as proposed in Variation 2 to the Proposed District Plan (Stage 1); the submission made by Ports of Auckland Limited [2139.17] is to retain Variation 2 Natural Hazards and Climate Change; the submission made by Dilworth Trust Board [2161.17] is to retain Variation 2 as notified; and the submission made by Federated Farmers of New Zealand [2172.5] is to retain the Variation 2 matter of discretion for various activities requiring a controlled or restricted discretionary resource consent. The submission made by the Ministry of Education [2086.1] is to retain Chapter 15: Natural Hazards and Climate Change as proposed, specifically Section 15.2 Objectives and Policies, rules sections 15.4 through to 15.13 and accurate mapping.
49. The submission made by Kainga Ora Homes and Communities [2094.72] is to retain Variation 2 amendment to direction 12.1(k) as notified.
50. I rely on the section 32 analysis that the provisions are the most appropriate to achieve the purpose of the RMA, and are efficient and effective. I recommend that the submissions in support of Variation 2 as notified be accepted in part, to the extent that this is consistent with the changes as recommended below, and by the section 42A authors dealing with specific natural hazards.

### Submissions in opposition

51. There is one submission to delete Variation 2. The submission made by Graham & Di McBride [2178.1] is to delete Chapter 15 Natural Hazards and Climate Change and Variation 2 and the further submission made by Mercury NZ Limited [FS3034.106] supports the submission. The further submission made by Counties Power [FS3021.27] opposes the decision sought; and the further submission made by Waikato Regional Council [FS3031.155] is neutral.

52. The submission made by Mark Mathers [2187.2] is to amend Chapter 15 in its entirety, and to review the Proposed Waikato District Plan (stage 2) and Variation 2 in their entirety, to ensure aspects required by the RMA are met.
53. RMA section 6 requires that all persons exercising functions and powers under the RMA recognise and provide for matters of national importance. These include managing significant risks from natural hazards.
54. The management of natural hazards and climate change is within the functions of the district council, and natural hazard risk has been identified in technical reports as an issue for the district. The significance of the hazard risk is discussed in the RMA section 32 report Appendix 8<sup>4</sup>.
55. I recommend that the submissions made by Graham & Di McBride [2178.1] and Mark Mathers [2187.2] and the further submission made by *Mercury NZ Limited* [FS3034.106] be rejected because I consider that Chapter 15 of the proposed plan will assist the Council to perform its functions, in particular the management of significant risk from natural hazards as a matter of national importance in RMA Section 6(h). I consider that deleting provisions that address natural hazards and climate change would fail to address a relevant issue and would create a gap in the plan.

### Clarify the plan

56. The submission made by TaTa Valley Limited [2093.17] is to redraft to remove unnecessary complication, and amend to represent good drafting practice.
57. TaTa Valley Limited [2093.13] also seek consequential amendments to ensure a consistent approach throughout the plan. The further submission made by *Mercury NZ Limited* [FS3034.22] is in support of [2093.13].
58. I recommend that the submission made by TaTa Valley Limited [2093.17] be accepted in part to the extent that it applies to provisions amended by Variation 2, and the changes as recommended in this report, and by the section 42A authors dealing with specific natural hazards.
59. I agree that a plan should be clear about the outcomes sought and drafted in accordance with good drafting practice. The other section 42A report writers are making recommendations in response to submissions on specific parts of the plan within Variation 2 that deal with natural hazards, and are applying the tests in RMA section 32 to ensure that the recommended changes are the most appropriate to achieve the purpose of the RMA, and that provisions are effective to implement the objectives in the Variation. There is a question about the scope of 2093.13 as it applies broadly to the proposed plan as a whole, but contains no detail. In the absence of specific provisions, I recommend that submission 2093.13 be accepted in part, together with the further submission made by *Mercury NZ Limited* [FS3034.22], to the extent that other report authors separately reference the submission in recommending drafting changes.

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<sup>4</sup> Section 32 Report - Proposed Waikato District Plan Stage 2 (Natural Hazards and Climate Change) – 27 July 2020

## Cross-referencing

60. The submission made by Waikato Regional Council [2102.1] is to add a note that cross-references between *Section B - Objectives and Policies* in the proposed plan to the rules in *Chapter 15*. The further submissions made by the *Department of Conservation [FS3012.1]* and *Mercury NZ Limited [FS3034.110]* support submission 2102.1. I recommend that cross-referencing be added where it can assist users to navigate the provisions that are relevant, provided that the inclusion of cross-referencing cannot be interpreted as ‘limiting’ the application of the plan to those provisions that are cross-referenced.
61. The submission made by Kainga Ora Homes and Communities [2094.90] is to amend Chapter 15 and Variation 2 text to cross reference the Medium Density Residential Zone (MDRZ) sought in its submissions on Stage 1 and introduce the amendments sought to MDRZ where relevant. The further submission made by *Mercury NZ Limited [FS3034.33]* opposes submission [2094.90].
62. I consider that the addition of a cross reference can assist readers of the plan, however in my opinion the information on *how to use and interpret the rules* should be contained together in Chapter 12 “How to use and Interpret the rules”. Section 12.1(k) of the Variation 2 refers to “Natural hazards are managed throughout the district through a suite of ... and provisions contained in Chapter 15 ...” I recommend that the submission and further submission be accepted. The reference to ‘provisions’ in a plan already encompasses rules. However, it would assist readers if the term ‘provisions’ was clarified, and specifically referred to rules.
63. I recommend that the submissions made on cross referencing be accepted in part, and changes be made to section 12.1(k) *Introduction to the rules*.

## Distinguish between existing land uses in hazard areas

64. The submission made by Kainga Ora Homes and Communities [2094.88] is to distinguish between “new development” and redevelopment of existing dwellings / structures, particularly within existing urban areas where land uses have already been established within hazard areas (such as floodplains).
65. The Natural Hazards chapter manages land use in areas subject to risk from natural hazards. The Variation already distinguishes between new development and changes to existing dwellings. The introduction to Chapter 15 states that “*It identifies areas where certain types of new development will be avoided because of the natural hazards present, but also recognises that there is existing development, including infrastructure and historic heritage, already located on land subject to natural hazards. These areas will require management through mitigation and adaptation to ensure that the risk of damage to property or injury or loss of lives is not increased.*” The consenting requirements in the proposed plan apply to ‘new work’ (new land uses, development and subdivision), and places conditions on the extent of change to existing buildings<sup>5</sup>.
66. I recommend that the submission made by Kainga Ora Homes and Communities [2094.88] be accepted in part, to the extent that the submission applies to proposed Chapter 15 as notified that inserts provisions about ‘new and ‘existing’ use and development, because the submission is consistent with the approach taken in Variation 2. I do not recommend any changes as a result of the submission.

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<sup>5</sup> Variation 2: Chapter 15 Permitted activity rules 15.4.1 P1 and P2



### Include vulnerability as an attribute to all land use activities

67. The submission made by Mercury NZ Limited [2053.7] is to include vulnerability as an attribute to all land use activities. The further submission made by *Waikato Regional Council* [FS3031.18] is neutral on that point.
68. The submission is unclear about how the plan provisions should be amended to add vulnerability as an attribute of land use. Vulnerability to natural hazard risk can be considered as part of a resource consent assessment where that is relevant and where the rule includes matters of control or matters of discretion, or where it is a discretionary or non-complying activity. The risk-based approach in Variation 2 is carried through in the objectives and policies that deal with natural hazards, so I consider that where the matter is relevant, that the Council can already consider vulnerability. I recommend that the change sought be rejected because there is insufficient information to allow an evaluation of the effectiveness or efficiency of the change sought in implementing the objectives and policies.

### 5.3 Recommendations

69. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept in part** the submissions made by Fire and Emergency New Zealand [2103.41]; Ports of Auckland Limited [2139.17]; Dilworth Trust Board [2161.17]; Federated Farmers of New Zealand [2172.5]; Ministry of Education [2086.1]; and Kainga Ora Homes and Communities [2094.72] to the extent that the plan provisions are retained, subject to any changes as recommended by the other section 42A authors dealing with specific natural hazards
  - (b) **Reject** the submission made by Graham & Di McBride [2178.1]; Mark Mathers [2187.2]; and the further submission made by *Mercury NZ Limited* [FS3034.106].
  - (c) **Reject** the submission made by Mercury NZ Limited [2053.7] and the further submission made by *Waikato Regional Council* [FS3031.18].
  - (d) **Accept** the further submission made by Counties Power [FS3021.27] and *Waikato Regional Council* [FS3031.155].
  - (e) **Accept in part** the submissions made by TaTa Valley Limited [2093.17] to the extent that the submissions apply to provisions amended by Variation 2, and the changes as recommended by the other section 42A authors dealing with specific natural hazards.
  - (f) **Accept in part** the submissions made by TaTa Valley Limited [2093.13] to make consequential amendments through the proposed plan, and the further submission made by *Mercury NZ Limited* [FS3034.22] in support of 2093.13 to the extent that other report authors separately reference the submission if recommending drafting changes.
  - (g) **Accept** in part the submissions made by Waikato Regional Council [2102.1] and the further submissions made by the Department of Conservation [FS3012.1] and *Mercury NZ Limited* [FS3034.110] and amend 'Chapter 12.1 Introduction to the rules' to specifically refer to the rules.
  - (h) **Accept in part** the submission made by Kainga Ora Homes and Communities [2094.90] to the extent that the submissions apply to provisions as notified in Chapter 15 inserted by Variation 2, and the changes as recommended by the other section 42A authors dealing with specific natural hazards.
  - (i) **Reject** the further submission made by *Mercury NZ Limited* [FS3034.33].
  - (j) **Accept in part** the submission made by Kainga Ora Homes and Communities [2094.88] to the extent that it applies to the proposed changes to Chapter 15 by Variation 2 that refer to 'new and 'existing' use and development.

## 5.4 Recommended amendments

70. The following amendments are recommended:

### 12.1 Introduction to the rules

(a) ...

(k) Natural hazards are managed throughout the district through a suite of natural hazard overlays identified on the planning maps and provisions, including rules contained in Chapter 15. Assessment matters related to natural hazards also occur in the zone chapters. Unless otherwise stated, the provisions in the district wide and zone specific chapters apply in addition to those in the natural hazards chapter.

## 5.5 Section 32AA evaluation

71. The recommended change to 12.1(k) is considered to be a minor change that can be made under RMA Schedule 1 clause 16. No section 32AA evaluation is required as this is introductory text.

# 6 Submissions on Chapter 1 – Introduction [1.4 Issues for Waikato district]

## 6.1 Introduction

72. Chapter 1 of the PWDP deals with ‘Issues for the Waikato District’. There is no obligation for a plan to include an ‘issues’ section, although it can be helpful context for the provisions of the plan that follow and address those issues.
73. The two sections of the issues statements in the introduction that are within scope of Variation 2 Natural Hazards are 1.4.2.3 *Challenges* (which identifies the Economic development challenges facing the district) and 1.4.4 *The urban environment* (which discusses urbanisation and development).

## 6.2 Submissions

74. There were six submission points and five further submission points received that apply to Chapter 1 - Introduction.
75. These submissions were made:

| Submission point | Submitter                        | Decision requested  |
|------------------|----------------------------------|---|
| 2172.1           | Federated Farmers of New Zealand | <b>Retain</b> Variation 2 amendments to chapter 1.4.2.3(x) and (xi)   |
| 2172.2           | Federated Farmers of New Zealand | <b>Retain</b> Variation 2 amendments to Chapter 1.4.4(c) The urban environment as notified.   |
| 2102.3           | Waikato Regional Council         | <b>Amend</b> section 1.4.2.3(a)(x) as follows:<br>(x) Natural hazards in certain locations in the district pose a constraint on land development and urban growth in terms of reduced opportunity or cost of mitigation <u>and acknowledgement of residual risks.</u> |

|            |  |  |
|------------|--|--|
| FS3020.33  | Shand Properties Limited                   | Support 2102.3   |
| FS3034.112 | Mercury NZ Limited                         | Support 2102.3   |
| 2151.2     | Waikato-Tainui Te Kauhanganui Incorporated | <b>Retain</b> Variation 2 Amendments, Chapter 1.4.2.3(x) and (xi) Introduction, Economic Growth, Challenges,   |
| FS3032.21  | Timberline Contracting                     | Oppose 2151.2  |
| 2102.4     | Waikato Regional Council                   | Amend Section 1.4.4(c), first sentence as follows;<br>(c) The district plan manages activities to <del>reduce the manage</del> risks from natural hazards through avoiding the creation of new risks and ensuring risks do not exceed an acceptable level. The emphasis is on ensuring that [...]  |
| FS3020.34  | Shand Properties Limited                   | Support 2102.4   |
| FS3034.113 | Mercury NZ Limited                         | Support 2102.4   |
| 2151.3     | Waikato-Tainui Te Kauhanganui Incorporated | <b>Amend</b> Variation 2 Amendments, Chapter 1.4.4(c) Introduction, The Urban Environment to include a reference to river communities in the last sentence.<br>... particularly coastal hazards and flooding, will require management through appropriate mitigation and adaptation over time, taking into consideration projected sea level rise and other climate change factors; and river communities. |

### 6.3 Analysis

76. The key issues raised in the submissions on Chapter 1 are:
- Submissions in support
  - Submissions seeking changes to specify residual risk and acceptable levels of risk
  - Submission seeking an amendment to recognise river communities

#### Submissions in support

77. There were 3 submissions in support. The submission made by Federated Farmers of New Zealand [2172.1] is to retain Variation 2 amendments to chapter 1.4.2.3(x) and (xi) and amendments to Chapter 1.4.4(c) [2172.2] as notified. The submission made by Waikato-Tainui Te Kauhanganui Incorporated [2151.2] is to retain Variation 2 Amendments, Chapter 1.4.2.3(x) and (xi) Introduction, Economic Growth, Challenges as notified. The further submission made by *Timberline Contracting* [FS3032.21] opposes submission 2151.2.
78. I consider these provisions assist the interpretation of the plan and are appropriate. I recommend that the original submissions be accepted and the further submission rejected.

#### Submissions seeking amendments to specify residual risk and acceptable levels of risk

79. The submission made by Waikato Regional Council [2102.3] is to amend Section 1.4.2.3(a)(x) to add an acknowledgment of residual risk, as follows:

1.4.2.3(a)(x) Natural hazards in certain locations in the district pose a constraint on land development and urban growth in terms of reduced opportunity or cost of mitigation and acknowledgement of residual risks.

80. The further submissions made by *Shand Properties Limited* [FS3020.33] and *Mercury NZ Limited* [FS3034.112] support submission 2102.3
81. The submission made by Waikato Regional Council [2102.4] also seeks an amendment to the issues to add to 1.4.4.(c) to manage rather than reduce risk, by avoiding new risk and setting acceptable risk levels. *Shand Properties Limited* [FS3020.34] and *Mercury NZ Limited* [FS3034.113] support submission 2102.4. Submission 2102.4 seeks the following change to the Issues statement:
- Amend** Section 1.4.4(c), first sentence as follows;
- (c) The district plan manages activities to ~~reduce the~~ manage risks from natural hazards through avoiding the creation of new risks and ensuring risks do not exceed an acceptable level. The emphasis is on ensuring that [...]
82. The submissions seek amendments to the issues statements in sections 1.4.2.3(a) (which is about economic development challenges) and section 1.4.4 (which is about urbanisation). I consider that the changes sought in the submissions are out of context. Section 1.4.2.3(a) comprises a high-level list of economic development challenges facing the district. Section 1.4.4 is about risks to rural productivity, costs of providing infrastructure outside of compact urban environments, and managing urban intensification in areas vulnerable to natural hazards. Variation 2 adds to these lists with the constraints posed by natural hazards to economic development and urban development.
83. The issue as described in the proposed plan is that the district plan manages activities to reduce the risks from natural hazards, and applies an approach that ensures an assessment of natural hazard risk is undertaken prior to rezoning and new subdivision and development taking place.
84. I consider that “residual risks” are encompassed by ‘natural hazards’ and the amendment sought is not needed and does not clarify Issue 1.4.2.3(a). Issue 1.4.4(c) as notified is to ‘reduce’ risk and, in my opinion, that is clearer than ‘manage’ in this instance because the intended policy outcome is more clearly stated. The intended outcome in the WRPS appears to be to reduce the risk from natural hazards. WRPS Objective 3.24 includes managing the effects of natural hazards on people, property and the environment to reduce risk and WRPS Policy 13.2 includes managing subdivision, use and development to reduce risks from natural hazards to an acceptable or tolerable level.
85. I recommend that Waikato Regional Council [2102.3] and the further submissions on Issue 1.4.2.3(a) be rejected.
86. I consider that the second part of the amendment sought is consistent with the intended approach in the proposed plan and provides additional detail around how risk from hazards is to be addressed. I recommend that submission 2102.4 on Issue 1.4.4.(c) be accepted in part, to the extent that the second part of the amending words are adopted.

### **Recognising river communities**

87. The submission made by Waikato-Tainui Te Kauhanganui Incorporated [2151.3] is to amend Variation 2 Amendments, Chapter 1.4.4(c) Introduction, to ensure that clear direction is set for natural hazard assessments in regard to river communities ahead of subdivision, land use and development. The submission seeks that a reference to ‘river communities’ be included in the last sentence.

88. Issue 1.4.4(c) includes a list of examples of existing areas of urban development (“*Raglan, Port Waikato, and river communities*”) where hazard risk will need to be managed. In the context, the reference to ‘river communities’ refers to settlements alongside the river. I consider that the examples are confusing and unhelpful, and should be deleted. In my opinion, this change is within the scope of Tata Valley [2093.17] (reported on principally in another section), which asks for unnecessary complication to be removed. I recommend that the submission [2151.3] be accepted in part, to the extent that it refers to ‘river communities’, and submission [2093.17] be accepted in part.

#### 6.4 Recommendations

89. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept in part** the submissions made by Federated Farmers of New Zealand [2172.1] and [2172.2]; Waikato-Tainui Te Kauhanganui Incorporated [2151.2] on sections 1.4.2.3(a)(x) and 1.4.4(c) to the extent that the submissions support the intent of the issues statement.
  - (b) **Reject** the further submission made by *Timberline Contracting* [FS3032.21].
  - (c) **Accept** the submissions made by Waikato-Tainui Te Kauhanganui Incorporated [2151.2] on sections 1.4.2.3(a)(xi).
  - (d) **Reject** the submissions made by Waikato Regional Council [2102.3] to amend section 1.4.2.3(a)(x) and the further submissions in support made by *Shand Properties Limited* [FS3020.33] and *Mercury NZ Limited* [FS3034.112].
  - (e) **Accept in part** the submissions made by Waikato Regional Council [2102.4] to amend the issues statement in section 1.4.4(c), and the further submissions in support made by *Shand Properties Limited* [FS3020.34] and *Mercury NZ Limited* [FS3034.113] to the extent that the change sought to the issue references avoiding creating new risks and managing risk to an acceptable level.
  - (f) **Accept in part** the submission made by Waikato-Tainui Te Kauhanganui Incorporated [2151.3] to amend Variation 2 Amendments, Chapter 1.4.4(c) Introduction, The Urban Environment, to the extent that the submission discusses “river communities”.
  - (g) **Accept in part** Tata Valley [2093.17] to the extent that specific references to named urban areas be deleted from 1.4.4(c).

#### 6.5 Recommended amendments

90. The following amendments are recommended:

##### Chapter 1: Challenges section 1.4.2.3 (a)(x)

91. No amendments are recommended to Chapter 1: Introduction: Challenges section 1.4.2.3(a)(x) as a result of submissions.
92. The following amendments are recommended to section 1.4.4(c):

##### Chapter 1: Introduction: The urban environment: section 1.4.4(c)

*First sentence:*

The district plan manages activities to reduce the risks from natural hazards through avoiding the creation of new risks and ensuring risks do not exceed an acceptable level.<sup>6</sup>

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<sup>6</sup> Recommendation to accept in part submission 2102.4

Last sentence: delete the examples of urban areas

“For existing areas of urban development, such as Raglan, Port Waikato, and river communities, natural hazard risk, particularly coastal hazards and flooding, will require management through appropriate mitigation and adaptation over time, taking into consideration projected sea level rise and other climate change factors.”<sup>7</sup>

## 6.6 Section 32AA evaluation

93. No section 32AA evaluation is required as this is introductory text.

# 7 Submissions on Chapter I – Introduction: 1.5 What does this mean for Waikato district strategic objectives and directions?

## 7.1 Introduction

94. Chapter I Introduction section 1.5 is an explanation of the Strategic Objectives. Variation 2 amends the explanation by adding an additional sentence to the end of 1.5.2 ‘*Planning for urban growth and development*’ sub-clause (b) to add consideration of the risk posed by natural hazards to the explanation about Strategic Objectives.

## 7.2 Submissions

95. There were three submission points and two further submission points received that seek amendments to the text in Chapter I: Introduction section 1.5.2(b).
96. These submissions were made:

| Submission point | Submitter                        | Decision requested  |
|------------------|----------------------------------|---|
| 2172.3           | Federated Farmers of New Zealand | Retain Variation 2 amendments to Chapter 1.5.2(b) Planning for urban growth and development as notified.  |
| 2102.5           | Waikato Regional Council         | Amend Section 1.5.2(b) text added by Variation 2 as follows:<br>(b) ... However, when preparing structure plans or spatial plans for developing urban land, consideration of the risk posed by natural hazards such as flooding, land instability, coastal hazards and <u>low probability high impact hazards such as liquefaction, and the effects of climate change</u> will be important to ensure that the land is suitable for the type of development proposed and avoids increased risk from natural hazards <u>including the future demand for protection works associated with natural hazard risks or an increase of the level of service for existing infrastructure</u> . |

<sup>7</sup> Recommendation to accept submissions 2151.3; 2093.17

|            |  |   |
|------------|--|---|
| FS3020.35  | <i>Shand Properties Limited</i>            | <i>Neutral 2102.5</i>   |
| FS3034.114 | <i>Mercury NZ Limited</i>                  | <i>Support 2102.5</i>   |
| 2151.4     | Waikato-Tainui Te Kauhanganui Incorporated | Amend Variation 2 amendments, Chapter 1.5.2(b) Planning for urban growth and development last sentence to read:<br>However, <del>when preparing structure plans or spatial plans for developing urban land, consideration of</del> <u>carrying out growth planning, structure planning and master planning</u> , the risk posed by natural hazards such as flooding, land instability, coastal hazards and liquefaction will be <del>important-addressed</del> to ensure that the land is suitable for the type of development proposed and avoids increased risk from natural hazards. |

### 7.3 Analysis

97. The key issues raised in the submissions are:
- a. Support for the amendment to 1.5.2(b)
  - b. Amend the wording of 1.5.2(b)
98. The submission made by Federated Farmers of New Zealand [2172.3] is to retain 1.5.2(b) as notified. The approach and intent of Variation 2 and the management of natural hazards is set out in the Introduction. I consider that the reference to planning mechanisms such as master plans or structure plans is appropriate, and that the plan should ensure that the type of development is suitable and does not increase the risk from natural hazards. I have recommended changes to the introduction in response to the submissions set out in the following paragraphs. Therefore, I recommend that submission 2172.3 be accepted in part.
99. The submissions made by Waikato Regional Council [2102.5] seeks changes to refer to addressing hazard risk. The further submission made by *Shand Properties Limited* [FS3020.35] is neutral and the further submission made by *Mercury NZ Limited* [FS3034.114] opposes the changes sought by 2102.5. The submission made by Waikato-Tainui Te Kauhanganui Incorporated [2151.4] seek changes to the wording of 1.5.2(b) to refer to carrying out growth planning and addressing risk.
100. The effect of the change sought by submission 2102.5 is to be more specific about the nature of risk and probability, and potential responses. The effect of the change sought by 2151.4 is to focus on the implementation of growth planning, structure plans and master planning and to ensure the risk is addressed. As notified, the focus is on those planning tools at the time they are prepared (my emphasis), and recognising the importance of ensuring land is suitable for the type of development and avoiding increased risk. In my opinion, the amendments sought to the wording to also focus on the implementation of those plans is consistent with the outcomes being sought, and the intention to manage natural hazard risk.
101. I recommend that submissions 2102.5 and 2105.5 be accepted in part to refer to both the preparation and implementation of planning tools to address hazard risk in the Introduction 1.5.2(b), and that drafting changes are made to reduce the text and improve readability.

### 7.4 Recommendations

102. For the reasons above, I recommend that the Hearings Panel:

103. Accept in part the submissions made by Waikato Regional Council [2102.5] and Waikato-Tainui Te Kauhanganui Incorporated [2151.4]; and the further submission made by *Shand Properties Limited* [FS3020.35] to the extent that the amendment sought refers to both the preparation and implementation of planning tools to address hazard risk and the effect of climate change.
- (a) **Reject** the further submission made by *Mercury NZ Limited* [FS3034.114].
- (b) **Accept in part** the submission made by Federated Farmers of New Zealand [2172.3].

## 7.5 Recommended amendments

104. I recommend that 1.5.2(b) be amended as follows:

“... However, when preparing ~~structure plans or spatial plans for developing urban land, consideration of~~ and implementing growth planning, structure planning and master planning, to consider<sup>8</sup> the risk posed by natural hazards ~~and the effects of climate change~~<sup>9</sup> ~~such as flooding, land instability, coastal hazards and liquefaction will be important~~ addressed.<sup>10</sup> This is to ensure that the land is suitable for the type of development proposed and avoids increased risk from natural hazards, and that the future demand for protection works associated with natural hazard risks or an increase of the level of service for existing infrastructure is taken into account.”<sup>11</sup>

## 7.6 Section 32AA evaluation

105. Proposed Chapter 1.5.3(b) is an explanation of the Strategic Objectives. While informative and providing useful context, the recommended changes have no regulatory effect. The recommended change is considered to be a minor change that clarifies, and does not change, the intent of the explanation.

# 8 Submissions on Chapter 1.12 – Strategic directions

## 1.12.8(d)

### 8.1 Introduction

106. Variation 2 amends the Chapter 1 Introduction section 1.12.8 by adding an Objective (d) *Natural Hazards and Climate Change* to the Strategic Objectives. The objective is:

“Objective Natural Hazards and Climate Change

The choice, location and design of development in the district takes into account the risks from natural hazards and potential impacts of climate change.”

### 8.2 Submissions

107. There were three submission points and one further submission point received that apply to the Strategic Direction as amended by Variation 2: Natural Hazards.
108. These submissions were made:

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<sup>8</sup> Submission 2151.4

<sup>9</sup> Submission 2102.5

<sup>10</sup> Submission 2151.4

<sup>11</sup> Submission 2102.5



| Submission point | Submitter                                  | Decision requested   |
|------------------|--|--|
| 2151.5           | Waikato-Tainui Te Kauhanganui Incorporated | Retain Variation 2 amendment to Chapter 1.12.8(d) Introduction, Strategic objectives.  |
| 2172.4           | Federated Farmers of New Zealand           | Retain Variation 2 amendments to Chapter 1.12.8(d) Strategic directions and objectives for the district as notified.   |
| 2102.6           | Waikato Regional Council                   | Amend Section 1.12.8(d) Strategic objectives as follows:<br>(d) Objective - Natural Hazards and Climate Change <u>refer to Objectives 15.2.1, 15.2.2 and 15.2.3 at Chapter 15.</u><br><del>The choice, location and design of development in the district takes into account the risks from natural hazards and potential impacts of climate change.</del> |
| FS3034.115       | Mercury NZ Limited                         | Support 2102.6   |

### 8.3 Analysis

109. The key issues raised in the submissions are:
- to retain Objective 1.12.8(d) as notified
  - to amend the Objective to specifically refer to Objectives 15.2.1, 15.2.2 and 15.2.3 at Chapter 15.
110. Objective 1.12.8 is:
- “Objective - Natural Hazards and Climate Change  
The choice, location and design of development in the district takes into account the risks from natural hazards and potential impacts of climate change.”
111. The submissions made by Waikato-Tainui Te Kauhanganui Incorporated [2151.5] and Federated Farmers of New Zealand [2172.4] are to retain Variation 2 amendments to Chapter 1.12.8(d) Strategic directions and objectives for the district as notified. I recommend that the submissions in support be accepted.
112. The submission made by Waikato Regional Council [2102.6] is that it is unclear if the proposed text is intended to be an objective, and to amend the objective to specify Objectives 15.2.1 to 15.2.3.
113. I agree with submission 2102.6 that it is unclear that proposed Objective 1.12.8(d) is a strategic objective for natural hazards and climate change. Proposed Objective 1.12.8(d) is located in a section of the proposed plan that explains the overarching objectives in the plan. To assist users of the plan to locate the strategic objective that deals with natural hazards, I consider that 1.12.8 (b) should have an additional sub-clause (vii) that refers to the strategic objective for natural hazards, and the actual objective (as notified) should be relocated into Chapter 15: Natural Hazards and Climate Change. This would be comparable with the structure of the PWDP where the strategic objectives for the topic in each chapter is located at the beginning of the chapter; e.g. the strategic objective for urban environment is located in Chapter 4.

114. Submission 2102.6 also states that the objective only ‘takes into account’ natural hazard risks and as such does not provide a clear direction to reduce and manage risks. The further submission made by *Mercury NZ Limited [FS3034.115]* supports [2102.6].
115. The decision sought in the submission is to delete Objective 1.12.8 and to replace it with a cross reference that specifies objectives 15.2.1 to 15.2.3 in Chapter 15. In my opinion, the effect of the decision sought by the submitter is that the strategic layer is removed and the applicability of the strategic objective is limited to just those proposed objectives in Chapter 15 as notified. In my opinion, deleting the objective as sought by [2102.6] would remove rather than improve the direction to reduce and manage risks.
116. I consider that the Strategic Objective 1.12.8(d) assists the council to manage use and development in areas that are potentially vulnerable to natural hazards, and promotes an integrated approach to development location and risks from natural hazards and climate change. In my opinion, the strategic directions provide an important touchstone that promotes a consistent planning approach that can lead the development of other parts of the plan in an integrated and consistent manner.
117. I recommend that the submission made by Waikato Regional Council [2102.6] and the further submission made by *Mercury NZ Limited [FS3034.115]* be accepted in part, and the objective be deleted from 1.12.8(d), and be inserted (as notified) into Chapter 15.

#### 8.4 Recommendations

118. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** the submission made by Waikato-Tainui Te Kauhanganui Incorporated [2151.5] and Federated Farmers of New Zealand [2172.4].
  - (b) **Accept in part** the submission made by Waikato Regional Council [2102.6] and the further submission made by *Mercury NZ Limited [FS3034.115]* to the extent that the decision sought is to delete the objective form Chapter 1.12.8.

#### 8.5 Recommended amendments

119. I recommend that the following amendment be made to 1.12.8, adding a sub-clause to deal with natural hazards and climate change, as follows:

“1.12.8(b) In summary, the overarching directions include the following:

(i)...

(vii): to take into account the risks from natural hazards and potential impacts from climate change on use and development”

120. I recommend that the strategic objective 1.12.8(d) be relocated into Chapter 15: following the Introduction in Chapter 15.1, add

**“15.1A: Strategic Direction**

**15.1.1A Strategic Objective: Natural Hazards and Climate Change**

The choice, location and design of development in the district takes into account the risks from natural hazards and potential impacts of climate change.”

#### 8.6 Section 32AA evaluation

121. A section 32AA evaluation is not required because:

- a. The recommended change to Chapters 1.12.8(b) is in an introductory section and only has minor effect; and
- b. The recommended change to relocate the Strategic Objective: Natural Hazards and Climate Change into Chapter 15 (which deals with those matters) assists users of the plan. The relocation of the objective does not amend the text as notified. I considered this to be a minor change that clarifies, and does not change, the interpretation or approach to applying the rules.

## 9 Submissions on Chapter 12 – How to use and interpret the rules

### 9.1 Introduction

122. Chapter 12 explains how to use and interpret the rules in the plan. Variation 2 adds an explanation about the natural hazard overlays and the Chapter 15 provisions in section 12.1(k).

### 9.2 Submissions

123. There was one submission point and three further submission points received that apply to Chapter 12 – *How to use and interpret the rules*.
124. The following submissions were made:

| Submission point | Submitter                        | Decision requested   |
|------------------|----------------------------------|--|
| 2102.2           | Waikato Regional Council         | <b>Add</b> the following statement to an appropriate section or sections of Chapter 12 PWDP:<br><u>The overall activity status of a proposal is that of the most restrictive rule which applies to the proposal.</u> |
| FS3012.2         | Department of Conservation       | Support 2102.2   |
| FS3030.10        | Federated Farmers of New Zealand | Oppose 2102.2  |
| FS3034.111       | Mercury NZ Limited               | Support 2102.2   |

### 9.3 Submissions

125. The submission made by Waikato Regional Council [2102.2] is to add a statement in Chapter 12 to clarify the overall activity status of a proposal where more than one rule applies, and this is supported in the further submissions made by *Department of Conservation* [FS3012.2] and *Mercury NZ Limited* [FS3034.111]. The submission is opposed by *Federated Farmers of New Zealand* [FS3030.10].

### 9.4 Analysis

126. Submission 2102.2 states that it is unclear which rule takes precedence over another, giving an example that development may be permitted within a zone but controlled within an area identified in the planning maps as being subject to natural hazard risk. The submission point may be out of scope as it deals with “an appropriate section or sections in Chapter 12”. In Chapter 12.1, only 12.1(k) is amended by Variation 2.

127. The provisions of the plan may be understood as a series of 'layers', where an activity must comply with all of the conditions on all relevant permitted activities, or obtain a resource consent. This can result in an activity falling under a number of different rule categories, including district-wide and site-specific plan controls. Local authorities have the discretion to treat the various rules triggered by an application as a bundle where several consents are required, and to apply the more stringent category, or can treat the consent application separately.
128. I consider that it is helpful to include guidance in a plan on the discretion to treat a proposal as a number of separate activities or as one overall activity (a 'bundle'). There may be circumstances where a consent is not dependent on another and 'bundling' may not be appropriate, therefore I consider that the drafting of the statement in the plan should still signal that Council may exercise its discretion to bundle where appropriate.
129. I recommend that the following be added to Chapter 12.1(k) 'How to use and interpret the rules':
- Natural hazards are managed throughout the district through a suite of natural hazard overlays identified on the planning maps and provisions, including rules,<sup>12</sup> contained in Chapter 15. Assessment matters related to natural hazards also occur in the zone chapters. The zone provisions and district wide provisions apply in addition to the natural hazards provisions<sup>13</sup>. The council will consider whether it is appropriate to 'bundle' activities and apply the most restrictive rule to the overall activity status of a proposal.<sup>14</sup>
130. If the Panel considered there is scope, and were of a mind to include information about the processes council might use to 'bundle' activities, then a new sub-section 12.1(m) could be added to refer more generally to bundling activities and applying the more stringent category of rule.

## 9.5 Recommendations

131. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept in part** the submission made by Waikato Regional Council [2102.2] and the further submissions in support made by Conservation on behalf of *Department of Conservation* [FS3012.2] and *Mercury NZ Limited* [FS3034.111] to the extent that guidance is sought in Chapter 12.1 to refer to circumstances when the more restrictive rule will apply.
  - (b) **Reject** the further submission made by *Federated Farmers of New Zealand* [FS3030.10].
132. The following amendments are recommended:
- Chapter 12.1(k) be amended as follows:**
- Natural hazards are managed throughout the district through a suite of natural hazard overlays identified on the planning maps and provisions, including rules,<sup>15</sup> contained in Chapter 15. Assessment matters related to natural hazards also occur in the zone chapters. The zone provisions and district wide provisions apply in addition to the natural hazards provisions.<sup>16</sup>

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<sup>12</sup> Partially accept submission 2102.1

<sup>13</sup> First sentence duplicates 15(3)(a) in the proposed plan Variation 2

<sup>14</sup> Partially accept submission 2102.2

<sup>15</sup> Partially accept submission 2102.1

<sup>16</sup> First sentence duplicates 15(3)(a) in the proposed plan Variation 2

The council will consider whether it is appropriate to 'bundle' activities and apply the most restrictive rule to the overall activity status of a proposal.<sup>17</sup>

## 9.6 Section 32AA evaluation

133. The recommended changes to Chapter 12.1(k) are considered to be a minor change, that clarifies, and does not change, the interpretation or approach to applying the rules.

# 10 Submissions on Chapter 12 (as notified)/Chapter 13 - Definition of 'Annual exceedance probability (AEP)'

## 10.5 Introduction

134. Chapter 12 of the proposed plan is: How to find out if a resource consent is needed, and explains matters such as what rules are, which have legal effect, where the rules are found in the plan. Chapter 12(d) states that "Chapter 13 contains all of the definitions that are used in the rules..."
135. Variation 2 proposes to amend the definition of Annual exceedance probability (AEP). That definition is located on its own page, at the end of 12.5 of Variation 2. Variation 2 proposes that the definition (located in Chapter 12) be amended as follows:

### Annual exceedance probability

Means the probability of an event of a specified size occurring or being exceeded in any one year. The probability is expressed as a percentage and in respect to flooding generally refers to storm events of a particular magnitude occurring in any given year. For example, a large flood which may be calculated to have a 1% chance to occur in any one year, is described as 1% AEP.

- A 1% AEP has a 1% chance of occurring in any one year, or is a 1 in 100-year flood event;
- A 2% AEP has a 2% chance of occurring in any one year, or is a 1 in 50-year flood event;
- A 5% AEP has a 5% chance of occurring in any one year, or is a 1 in 20-year flood event.

### Minor amendment

136. The definitions in the PWDP are located in Chapter 13. There appears to be a typo and the heading "**Chapter 13: Definitions**" is missing from the proposal that was notified on 27 July 2020; and it was intended that the proposed definition of "Annual Exceedance probability" be located in Chapter 13: Definitions.
137. RMA Schedule 1 Clause 16 allows a decision maker to make an amendment to its proposed plan without using the process in Schedule 1, where such an alteration is of minor effect, or may correct any minor errors.

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<sup>17</sup> Partially accept submission 2102.2

## 10.6 Submissions

138. One submission and no further submissions were received on the definition of 'Annual exceedance probability (AEP) as amended by Variation 2.
139. The following submission was made:

| Submission point | Submitter                        | Decision requested  |
|------------------|----------------------------------|---|
| 2094.70          | Kainga Ora Homes and Communities | <b>Retain</b> Variation 2 amendments to definition for Annual exceedance probability as notified. |

## 10.7 Analysis

140. The submission made by Kainga Ora Homes and Communities [2094.70] is to retain Variation 2 amendments to the definition for Annual exceedance probability as notified. No further submissions were received.
141. I rely on the RMA section 32 analysis and technical reports that the approach is efficient and effective, and I recommend that submission [2094.70] be accepted.

## 10.8 Recommendations

142. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** the submission made by Kainga Ora Homes and Communities [2094.70].

## 10.9 Recommended amendments

143. I recommend that the definition of 'Annual Exceedance Probability' be relocated into Chapter 13: Definitions. I consider that the relocation into Chapter 13 corrects a minor error and RMA Schedule 1 Clause 16 can be used to make this change.

# 11 Submissions on Chapter 15 Natural Hazards and Climate Change [15.1 - Introduction]

## 11.1 Introduction

144. Chapter 15.1 in the proposed plan contains the introductory sections to the Natural Hazards and Climate change chapter. The introduction discusses the risk based approach and the nature of natural hazards and touches on how these will be managed.

## 11.2 Submissions

145. There were 15 submission points and 10 further submission points on Chapter 15.1 Introduction.
146. The following submissions were received:

| Submission Point | Submitter                 | Decision requested   |
|------------------|---------------------------|--|
| 2139.1           | Ports of Auckland Limited | <b>Retain</b> Section 15.1 Introduction except as set out in submission. |

|                  |   |  |
|------------------|---|--|
| 2161.1           | Dilworth Trust Board                          | <b>Retain</b> Chapter 15.1 Introduction paragraphs 1 to 10, and paragraphs 12 to 18 as notified.   |
| 2173.1           | Federated Farmers of New Zealand              | <b>Retain</b> the intent of Chapter 15.1 Introduction as notified.   |
| <i>FS3027.1</i>  | <i>Horticulture New Zealand</i>               | <i>Support 2173.1</i>  |
| 2053.12          | Mercury NZ Limited                            | <b>Retain</b> Chapter 15.1, paragraph (5).   |
| <i>FS3031.23</i> | <i>Waikato Regional Council</i>               | <i>Neutral 2053.12</i>   |
| 2053.13          | Mercury NZ Limited                            | <b>Retain</b> Chapter 15.1, paragraph (7).   |
| <i>FS3031.24</i> | <i>Waikato Regional Council</i>               | <i>Neutral 2053.13</i>   |
| 2102.13          | Waikato Regional Council                      | <b>Amend</b> Section 15.1 introductory text to clarify whether high hazard areas are to be considered as primary hazard areas, as defined in the RPS.  |
| <i>FS3016.5</i>  | <i>Raglan Collective Incorporated Society</i> | <i>Support 2102.13</i>   |
| 2053.9           | Mercury NZ Limited                            | <b>Amend</b> Chapter 15.1, paragraph (1), first sentence as follows:<br>The Natural Hazards chapter <u>identifies risks associated with natural hazards and manages land use in areas subject to the risk from natural hazards.</u>  |
| <i>FS3016.1</i>  | <i>Raglan Collective Incorporated Society</i> | <i>Support 2053.9</i>  |
| <i>FS3031.20</i> | <i>Waikato Regional Council</i>               | <i>Neutral 2053.9</i>  |
| 2101.3           | Transpower New Zealand Limited                | <b>Amend</b> section 15.1(1) to recognise new infrastructure with additional text as follows:<br>(1) The Natural Hazards chapter manages land use in areas subject to <del>the</del> risk from natural hazards. It identifies areas where certain types of new development will be avoided because of the natural hazards present, but also recognises that there is existing development, including infrastructure and historic heritage, already located on land subject to natural hazards, <u>and that in some circumstances new infrastructure development in natural hazard areas may be required</u> . These areas [...]. |
| <i>FS3007.1</i>  | <i>PowerCo Limited</i>                        | <i>Support 2101.3</i>  |
| <i>FS3013.1</i>  | <i>Heritage New Zealand Pouhere Taonga</i>    | <i>Oppose 2101.3</i>   |
| 2105.1           | Perry Group Limited                           | <b>Amend</b> Section 15.1 (1) - Introduction as follows:<br>(1) The Natural Hazards chapter manages land use in areas subject to the risk from natural hazards. It identifies areas where certain types of   |

|           |  |  |
|-----------|--|--|
|           |  | new development <del>will should</del> be avoided, <u>or mitigated</u> because of the natural hazards present, but also recognises that there is existing development including infrastructure and historic heritage, already located on land subject to natural hazards, <u>or development which is necessary to be located in natural hazards areas</u> .  |
| 2107.1    | Heritage New Zealand Pouhere Taonga        | <b>Amend</b> section 15.1 paragraph 1 as follows:<br>(1) The Natural Hazards chapter manages land use in areas subject to the risk from natural hazards. It identifies areas where certain types of new development will be avoided because of the natural hazards present, but also recognises that there is existing development, including infrastructure and historic heritage, <u>and sites and areas of Significance to Maori</u> already located on land subject to natural hazards. These areas will require management through mitigation and adaptation to ensure that the risk of damage to property, <u>historic heritage or sites and areas of Significance to Maori</u> or injury or loss of lives is not increased. |
| 2115.1    | Rangitahi Limited                          | <b>Amend</b> section 15.1 - Introduction paragraph (1) as follows:<br>[...]. It identifies areas where certain types of new development will be avoided <u>or appropriately mitigated</u> because of the natural hazards present, [...]  |
| FS3034.48 | Mercury NZ Limited                         | <i>Oppose 2115.1</i>   |
| 2143.1    | Avant Developments Limited                 | <b>Amend</b> Chapter 15.1(1) Introduction to read:<br>...It identifies areas where certain types of new development will be avoided <u>or appropriately mitigated</u> because of the natural hazards present.,<br>AND<br>Any additional or consequential relief as is necessary to achieve consistency with the above.   |
| 2151.6    | Waikato-Tainui Te Kauhanganui Incorporated | <b>Amend</b> Chapter 15.1 Introduction to include an overview commentary of where each hazard area is located in regard to affected communities (towns and villages) and Maori Freehold Land and Marae,<br>AND<br>Add in section 32 report a breakdown of affected Maori Freehold Land and how this land is affected.  |
| 2102.8    | Waikato Regional Council                   | <b>Amend</b> Section 15.1(8) Introduction to reflect how the maps, definitions and non-statutory information can be utilised together.   |



|            |                                   |  |
|------------|-----------------------------------|--|
| FS3034.117 | Mercury NZ Limited                | Support 2102.8   |
| 2102.31    | Waikato Regional Council          | <b>Amend</b> Chapter 13 Definitions and Chapter 15.14 Definitions to clarify the how definitions of infrastructure, utility, road network activities and telecommunication facilities interact, and which takes precedence in which situation. |
| FS3002.3   | Spark New Zealand Trading Limited | Opposes 2102.8   |
| FS3003.9   | Transpower New Zealand Ltd        | Support 2102.8   |
| FS3021.7   | Counties Power Align Ltd          | Support 2102.8   |
| FS3030.17  | Federated Farmers New Zealand     | Support 2102.8   |
| FS3034.132 | Mercury NZ Limited                | Support 2102.8   |

147. The key issues raised in submissions are:
- a. submissions in support; and
  - b. submissions seeking amendments to particular parts of the introduction to clarify how natural hazards will be managed, or to provide for particular activities or values.

### Submissions in support

148. There were 5 submissions in support of the introductory chapters, seeking that the introduction be retained, and one further submission in support, and one neutral further submission.
149. The submissions made by Ports of Auckland Limited [2139.1] and Federated Farmers of New Zealand [2173.1] are to retain Chapter 15.1 Introduction as notified. The further submission made by *Horticulture New Zealand* [FS3027.1] is in support of [2173.1].
150. The submission made by Mercury NZ Limited [2053.12] and [2053.13] is to retain Chapter 15.1 paragraph (5) and Chapter 15.1 paragraph (7). The further submission made by *Waikato Regional Council* [FS3031.23] and [FS3031.24] are neutral.
151. The submission made by Dilworth Trust Board [2161.1] is to retain Chapter 15.1 Introduction paragraphs 1 to 10, and paragraphs 12 to 18 as notified.

### 11.3 Analysis

152. I consider that the introduction in Chapter 15.1 is helpful and explains the provisions that follow. I recommend that the submissions in support of Chapter 15.1 as a whole, and in support of particular paragraphs of Chapter 15.1, be accepted.

### Submissions seeking amendments to 15.1 Introduction

153. The submission made by Waikato Regional Council [2102.13] is to amend Section 15.1 text to clarify whether high hazard areas are to be considered as primary hazard areas, as defined in the WRPS. The further submission made by *Raglan Collective Incorporated Society* [FS3016.5] supports the submission.

154. The term ‘high hazard area’ is not used in Chapter 15.1 Introduction. The introduction does include an example ‘high flood risk area’. This is a defined term and is explained in paragraph 15.1 (10). The Variation also uses the term ‘high coastal hazard risk’ in Chapter 1.4.4(c) The urban environment and explains that greenfield development and urban intensification in those areas is to be avoided as required by the Regional Policy Statement.
155. I consider that the district plan should give effect to the WRPS by actioning the WRPS objectives and policies and including the descriptions and criteria that will be used in the district plan. I have concluded that the district plan does include sufficient information about the use of the terms associated with ‘hazard risk’, and that it is not necessary to duplicate the WRPS.
156. The submission made by Mercury NZ Limited [2053.9] is to amend Chapter 15.1, paragraph (1), first sentence as follows:  
*The Natural Hazards chapter identifies risks associated with natural hazards and manages land use in areas subject to the risk from natural hazards.*
157. The further submission made by Raglan Collective Incorporated Society [FS3016.1] is in support, and the further submission made by Waikato Regional Council [FS3031.20] is neutral.
158. I agree with the submission point and I consider that the change properly describes the approach in the district plan. I recommend that the submission be accepted.
159. The submission made by Transpower New Zealand Limited [2101.3] is to amend section 15.1(1) to recognise new infrastructure with additional text as follows:  
*(1) The Natural Hazards chapter manages land use in areas subject to ~~the~~ risk from natural hazards. It identifies areas where certain types of new development will be avoided because of the natural hazards present, but also recognises that there is existing development, including infrastructure and historic heritage, already located on land subject to natural hazards, and that in some circumstances new infrastructure development in natural hazard areas may be required. These areas [...].*
160. The further submission made by PowerCo Limited [FS3007.1] is in support, and the further submission made by Heritage New Zealand Pouhere Taonga [FS3013.1] opposes the submission.
161. I consider that the amendment sought to refer to circumstances where new infrastructure may be required does describe the approach in the proposed district plan, and there is a policy that contains the relevant criteria that will be applied<sup>18</sup>. I recommend that the submission be accepted in part, and that an addition is made to refer to the need to meet criteria in the plan.
162. The submission made by Perry Group Limited [2105.1] is to amend Section 15.1 (1) - Introduction paragraph (1) as follows:  
*(1) The Natural Hazards chapter manages land use in areas subject to the risk from natural hazards. It identifies areas where certain types of new development ~~will-should~~ be avoided, or mitigated because of the natural hazards present, but also recognises that there is existing development including infrastructure and historic heritage, already located on land subject to natural hazards, or development which is necessary to be located in natural hazards areas.*

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<sup>18</sup> Variation 2: Policy 15.2.1.4 New infrastructure and utilities in areas subject to significant risk from natural hazards

163. The submission made by Rangitahi Limited [2115.1] and Avant Developments Limited [2143.1] is to amend section 15.1 - Introduction paragraph (1) as follows:  
*[...]. It identifies areas where certain types of new development will be avoided or appropriately mitigated because of the natural hazards present, [...].*
164. The further submission made by Mercury NZ Limited [FS3034.48] opposes this change.
165. In my opinion the amendments sought in these submissions [2105.1, 2115.1 and 2143.1] weakens the language used to describe how the risks from natural hazards will be managed. I consider that the amendment is not needed because the paragraph (with the recommended amendments) properly and clearly describes the policy intent, and where 'avoidance' or 'mitigation and adaptation' is directed. I recommend that submissions [2105.1], [2115.1] and [2143.1] be rejected.
166. The submission made by Heritage New Zealand Pouhere Taonga [2107.1] is to amend section 15.1 paragraph 1 as follows:  
*(1) The Natural Hazards chapter manages land use in areas subject to the risk from natural hazards. It identifies areas where certain types of new development will be avoided because of the natural hazards present, but also recognises that there is existing development, including infrastructure and historic heritage, and sites and areas of Significance to Maori already located on land subject to natural hazards. These areas will require management through mitigation and adaptation to ensure that the risk of damage to property, historic heritage or sites and areas of Significance to Maori or injury or loss of lives is not increased.*
167. The amendment sought in the submission identified RMA section 6 matters, where the risk from natural hazard is an issue that can be managed by the district plan. The introduction discusses areas where certain types of new development is inappropriate, and recognises that some land uses are already present. The subject of the sentence is new development, and existing development. In my opinion there is a technical question around whether sites and areas of significance to Maori are a land use or development that is similar to the other matters in the sentence. However, I consider that it is appropriate to refer to the need to manage the risk to historic heritage or sites and areas of Significance to Maori in the second sentence, because these are matters that are relevant to the effects of hazards and methods used in risk management.
168. The submission made by Waikato-Tainui Te Kauhanganui Incorporated [2151.6] is to amend Chapter 15.1 Introduction to include an overview commentary of where each hazard area is located in regard to affected communities (towns and villages) and Maaori Freehold Land and Marae, and add into the section 32 report a breakdown of affected Maaori Freehold Land and how this land is affected.
169. I consider that the introduction does describe the hazards, and the maps identify where each hazard is identified. The approach in the plan, and the RMA, does not differentiate between different land owners, but instead focuses on managing the issues associated with risk from natural hazards and climate change and identifying areas on the planning maps. I recommend that submission [2151.6] be rejected.
170. The submission made by Waikato Regional Council [2102.8] is to amend Section 15.1(8) Introduction to reflect how the maps, definitions and non-statutory information can be utilised together. The further submission made by Mercury NZ Limited [FS3034.117] is in support.
171. The submission made by Waikato Regional Council [2102.31] is to amend Chapter 13 Definitions and Chapter 15.14 Definitions to clarify how the definitions of infrastructure, utility, road network activities and telecommunication facilities interact, and which takes precedence in which situation.

172. The further submission made by *Spark New Zealand Trading Limited* [FS3002.3] opposes [2102.31], and is that as no specific relief is proposed that changes may directly impact on how the rules apply to telecommunications facilities, therefore the submission has been opposed to ensure Spark has standing in regard to any changes that may impact on telecommunication facilities.
173. *Transpower New Zealand Ltd* [FS3003.9] supports the principle of consistent use of definitions and terminology in the proposed Waikato District Plan and on this basis supports clarification as to how the definitions of 'Infrastructure' and "Utilities" interact and are applied. Transpower also notes that no specific relief is sought in terms of sought amendments and therefore reserves the right to amend its position on this submission point.
174. The further submission made by *Counties PowerAlign Ltd* [FS3021.7] supports [2102.31], as does Jesse Gooding on behalf of *Federated Farmers New Zealand* [FS3030.17].
175. The further submission made by *Mercury NZ Limited* [FS3034.132] supports [2102.31] and submits that it is appropriate to identify natural hazard risk within the plan for the purposes of ensuring that land use and development decisions are cognisant of flood risk. Mercury supports land use intensification and development in appropriate areas, and where mitigation of natural hazard risk has been appropriately considered and addressed.
176. The plan already includes a number of sections that explain how to use and interpret the rules (Chapters 12.1 and Chapter 15.3) and the role of definitions in Chapter 13. In my opinion the existing descriptions together with the recommended amendments are 'fit for purpose'. I recommend that the submissions made by Waikato Regional Council [2102.8 and 2102.31] and further submission made by *Mercury NZ Limited* [FS3034.117] be rejected.

#### 11.4 Recommendations

177. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** the submission made by Ports of Auckland Limited [2139.1] and Federated Farmers of New Zealand [2173.1] and the further submission made by *Horticulture New Zealand* [FS3027.1]
  - (b) **Accept** the submission made by Mercury NZ Limited [2053.12] and [2053.13] and the further submissions made by *Waikato Regional Council* [FS3031.23] and [FS3031.24]
  - (c) **Accept** the submission made by Dilworth Trust Board [2161.1]
  - (d) **Reject** the submission made by Waikato Regional Council [2102.13] and the further submission made by *Raglan Collective Incorporated Society* [FS3016.5]
  - (e) **Accept** the submission made by Mercury NZ Limited [2053.9]; and the further submissions made by *Raglan Collective Incorporated Society* [FS3016.1] and *Waikato Regional Council* [FS3031.20]
  - (f) **Accept** in part the submission made by Transpower New Zealand Limited [2101.3] and the further submission made by *PowerCo Limited* [FS3007.1]
  - (g) **Reject** the further submission made by *Heritage New Zealand Pouhere Taonga* [FS3013.1]
  - (h) **Reject** the submissions made by Perry Group Limited [2105.1], Rangitahi Limited [2115.1] and Avant Developments Limited [2143.1]
  - (i) **Accept** the further submission made by *Mercury NZ Limited* [FS3034.48]

- (j) **Accept in part** the submission made by Heritage New Zealand Pouhere Taonga [2107.1] to the extent that the submission seeks an amendment to include areas that require management
- (k) **Reject** the submission made by Waikato-Tainui Te Kauhanganui Incorporated [2151.6]
- (l) **Reject** the submissions made by Waikato Regional Council [2102.8 and 2102.31], and the further submission made by *Mercury NZ Limited* [FS3034.117].
- (m) **Accept in part** the further submission made by *Spark New Zealand Trading Limited* [FS3002.3], *Transpower New Zealand Ltd* [FS3003.9], Shraavan Miryala for Align Ltd on behalf of *Counties PowerAlign Ltd* [FS3021.7], *Federated Farmers New Zealand* [FS3030.17] to the extent that the original submission 2102.31 is not clear about the relief sought.
- (n) **Accept in part** the further submission made by *Mercury NZ Limited* [FS3034.132] to the extent the submission supports the identification and management of natural hazard risk.

### 11.5 Recommended amendments

178. I recommend that the following amendments are made to section 15.1(1):

- (1) The Natural Hazards chapter identifies risks associated with natural hazards and<sup>19</sup> manages land use in areas subject to a the-risk from natural hazards. It identifies areas where certain types of new development will be avoided because of the natural hazards present, but also recognises that there is existing development, including infrastructure and historic heritage, already located on land subject to natural hazards, and that in some circumstances new infrastructure development in natural hazard areas may be appropriate where the criteria in the plan are met.<sup>20</sup> These areas will require management through mitigation and adaptation to ensure that the risk of damage to property, historic heritage or sites and areas of Significance to Maori<sup>21</sup> or injury or loss of lives is not increased.

## 12 Submissions on Chapter 15 Natural Hazards and Climate Change [15.1(3) and 15.1(4) - Introduction]

### 12.1 Introduction

179. Chapter 15 contains the specific provisions in the proposed plan that apply to natural hazards and climate change. Chapter 15.1 contains the introduction and 15.1(3) outlines the risk-based approach to natural hazard management.

#### Submissions on 15.1(3) and (4)

180. There were two submission points and one further submission point received that apply to Chapter 15.1 Introduction: 15.1(3) and (4).

181. The following submissions were made:

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<sup>19</sup> Accept submission 2053.9;

<sup>20</sup> Accept in part submission Limited2101.3

<sup>21</sup> Accept in part submission 2107.1

| Submission point | Submitter                       | Decision requested   |
|------------------|---------------------------------|--|
| 2053.10          | Mercury NZ Limited              | <b>Amend</b> Chapter 15 to ensure the principles articulated in 15.1(3) are implemented in the plan and make better use of spatial tools to ensure the principles are implemented.     |
| <i>FS3031.21</i> | <i>Waikato Regional Council</i> | <i>Support 2053.10</i>   |
| 2053.11          | Mercury NZ Limited              | <b>Amend</b> Chapter 15 to ensure the principles articulated in paragraph 4 are implemented in the plan and make better use of spatial tools to ensure the principles are implemented. |
| <i>FS3031.22</i> | <i>Waikato Regional Council</i> | <i>Neutral 2053.11</i>   |

182. The submissions made by Mercury NZ Limited [2053.10 and 2053.11] and the further submission in support made by *Waikato Regional Council* [FS3031.21] is that the principles outlined in Chapter 15.1(3) and (4) be applied throughout the plan, and that spatial tools would assist with implementation. The further submission made by *Waikato Regional Council* [FS3031.22] is neutral to submission 2053.11.

## 12.2 Analysis

183. The factors referred to in Chapter 15.1(3) Introduction are:

“... The risk that natural hazards pose to the Waikato District is made up of several factors including:

- (a) the nature, magnitude and extent of the hazard;
- (b) the anticipated frequency or probability of the hazard event occurring; and
- (c) the exposure and vulnerability of the environment to the hazard, including the likely community losses/damages that could occur.”

184. Paragraph 15.1(4) contains further discussion of the risk-based approach.

185. In my experience, it is common in RMA plans to take a risk-based approach, that considers the risk and probability of a hazard event. The suite of objectives and policies in Chapter 15 focus on a resilient community, areas of high risk, and management of risk. Spatial tools include mapping of areas where natural hazards may pose a risk. While there may be recommendations made in the other section 42A reports that refine the planning tools as a consequence of submissions made by the community, I consider that generally the plan does apply the principles in Chapter 15.1.

## 12.3 Recommendations

186. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept in part** the submissions made by Mercury NZ Limited [2053.10 and 2053.11] and the further submission in support made by *Waikato Regional Council* [FS3031.21 and FS3031.22] on the principles in Chapter 15.1(3) and (4) to the extent that the submission is consistent with the recommendations in the other section 42A reports dealing with specific natural hazards.

## 12.4 Recommended amendments

187. No recommended amendments are made in response to the submissions.

## 13 Submissions on Chapter 15.1(7) - Introduction

### 13.1 Introduction

188. Chapter 15 contains the specific provisions in the proposed plan that apply to natural hazards and climate change. Chapter 15.1(7) explains the risk management approach to less frequent natural hazards in the Waikato district.

### 13.2 Submissions

189. In addition to the submission in support made by 2053.13 (dealt with above), there was one submission point and two further submissions received that apply to Chapter 15.1(7).

190. The following submissions were made:

| Submission point   | Submitter                        | Decision requested  |
|--|----------------------------------|---|
| 2053.13<br>(discussed in the above section on Chapter 15 submissions in support) | Mercury NZ Limited               | <b>Retain</b> Chapter 15.1, paragraph (7)   |
| 2102.11  | Waikato Regional Council         | Amend Section 15.1(7) - Introduction as follows:<br>(7) <del>Less frequent</del> <u>A range of natural hazards can occur in the Waikato District, such as wildfires, tsunami, extreme wind events and drought, these hazards are generally considered as high impact low probability hazards and often have an emergency management response. may not need a district plan response.</u> Emergency [...] role. <u>Land use planning including a district plan response should be considered in relation to these hazards where residual risks (to life, property or the environment) are identified as unacceptable or intolerable.</u> |
| FS3030.5   | Federated Farmers of New Zealand | Oppose 2102.11  |
| FS3034.119   | Mercury NZ Limited               | Support 2102.11   |

191. The key issue raised in the submissions made by Waikato Regional Council [2102.11] is that a district plan response should be considered in response to natural hazards that are high impact and low probability. The further submissions made by *Federated Farmers of New Zealand* [FS3030.5] opposes 2102.11 and *Mercury NZ Limited* [FS3034.119] supports the changes sought.

### 13.3 Analysis

192. The description in 15.1(7) is intended to signal that, in addition to the regulatory responses, there are also non-statutory responses and instruments that play an important role in management and recovery following a natural hazard event. The re-wording sought changes the information to the extent that the intended message is lost. I consider that non-regulatory

and non-statutory responses are appropriate for responding to low frequency, high impact natural hazard events. I recommend that submission 2102.11 be rejected.

### 13.4 Recommendations

193. For the reasons above, I recommend that the Hearings Panel:

- (a) **Reject** the submission made by Waikato Regional Council [2102.11] and the further submission made by *Mercury NZ Limited* [FS3034.119].
- (b) **Accept** the further submissions made by *Federated Farmers of New Zealand* [FS3030.5].

### 13.5 Recommended amendments

194. No recommended amendments are made in response to the submissions.

## 14 Submissions on Chapter 15 - Objective 15.2.1 Resilience to natural hazard risk

### 14.1 Introduction

195. Objective 15.2.1 - Resilience to natural hazard risk is:

“A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are avoided or appropriately mitigated.”

### 14.2 Submissions

196. There were 13 submission points and 14 further submission points received on Objective 15.2.1.

197. The following submissions were made:

| Submission point | Submitter                                  | Decision requested  |
|------------------|--|---|
| 2139.3           | Ports of Auckland Limited                  | <b>Retain</b> Section 15.2 Objectives and policies except as set out in submission.             |
| 2161.2           | Dilworth Trust Board                       | <b>Retain</b> section 15.2 objectives and policies as notified, except as in other submissions. |
| 2161.3           | Dilworth Trust Board                       | <b>Retain</b> section 15.2 objectives and policies as notified, except as in other submissions. |
| 2094.2           | Kainga Ora Homes and Communities           | <b>Retain</b> Objective 15.2.1 Resilience to Natural Hazard Risk as notified                    |
| 2151.7           | Waikato-Tainui Te Kauhanganui Incorporated | <b>Retain</b> Objective 15.2.1 – Resilience to natural hazard risk.                             |
| 2103.1           | Fire and Emergency New Zealand             | <b>Retain</b> Objective 15.2.1 as proposed.   |
| 2101.4           | Transpower New Zealand Limited             | <b>Retain</b> Objective 15.2.1 - Resilience to natural hazard risk as proposed.                 |
| <i>FS3007.2</i>  | <i>PowerCo Limited</i>                     | <i>Support 2101.4</i>   |



|            |  |   |
|------------|--|---|
| FS3010.1   | KiwiRail Holdings Limited              | Support 2101.4  |
| 2102.12    | Waikato Regional Council               | Amend Objective 15.2.1 - Resilience to natural hazard risk as follows:<br>A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are <u>first</u> avoided <del>or appropriately mitigated</del> or managed to acceptable levels.  |
| FS3013.4   | Heritage New Zealand Pouhere Taonga    | Oppose 2102.12  |
| FS3016.4   | Raglan Collective Incorporated Society | Support 2102.12   |
| FS3030.6   | Federated Farmers of New Zealand       | Oppose 2102.12  |
| FS3020.36  | Shand Properties Limited               | Neutral 2102.12   |
| FS3034.120 | Mercury NZ Limited                     | Support 2102.12   |
| 2105.3     | Perry Group Limited                    | <b>Amend</b> Objective 15.2.1 as follows:<br>A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision use and development of land are <del>avoided or appropriately mitigated</del> <u>minimised</u> .   |
| 2107.5     | Heritage New Zealand Pouhere Taonga    | <b>Amend</b> Objective 15.2.1 as follows:<br>A resilient community where the risks from natural hazards on people, property, infrastructure <u>, historic heritage, sites and areas of significance to Maaori</u> and the environment from subdivision, use and development of land are avoided or appropriately mitigated.   |
| 2108.2     | Department of Conservation             | <b>Amend</b> Objective 15.2.1 as follows:<br>A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are avoided or <del>appropriately mitigated</del> and remedied.<br><b>OR</b><br><b>Any</b> alternative relief that may be appropriate.  |
| 2149.1     | Horticulture New Zealand               | <b>Amend</b> Objective 15.2.1 - - Resilience to natural hazard risk to read<br><u>(a) A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are avoided or appropriately mitigated; and Who are able to undertake appropriate use and development in order to respond to climate change. For instance, provide water storage, or undertake</u> |

|           |  |  |
|-----------|--|--|
|           |  | <u>different types of primary production and the practices that may support primary production.</u>  |
| FS3030.24 | Federated Farmers of New Zealand       | Support 2149.1   |
| FS3016.8  | Raglan Collective Incorporated Society | Support 2149.1   |
| FS3030.31 | Federated Farmers of New Zealand       | Support 2149.1   |
| 2173.2    | Federated Farmers of New Zealand       | Amend Objective 15.2.1 – Resilience to natural hazard risk as follows:<br>A resilient community where the risks from natural hazards on people, property, infrastructure and the environment <del>from subdivision, use and development of land</del> <u>are appropriated identified and assessed to ensure they can be avoided or appropriately mitigated.</u><br>AND<br>Any consequential amendments that may be required. |
| FS3016.9  | Raglan Collective Incorporated Society | Support 2173.2   |

### 14.3 Analysis

198. The key issues raised in the submissions are:

- a. Submissions in support
- b. Submissions to amend the Objective 15.1.2 that adjust the management outcomes
- c. Submissions seeking that the objective specify particular matters.

#### Submissions in support

199. The submissions made by Ports of Auckland Limited [2139.3] and Dilworth Trust Board [2161.3] is to retain Section 15.2 objectives and policies as notified, except as in other submissions.
200. The submission made by Fire and Emergency New Zealand [2103.1], Kainga Ora Homes and Communities [2094.2], and Transpower New Zealand Limited [2101.4] is to retain Objective 15.2.1 - Resilience to natural hazard risk as proposed. The further submissions made by *PowerCo Limited* [FS3007.2] and *KiwiRail Holdings Limited* [FS3010.1] support submission [2101.4].
201. I rely on the RMA section 32 reports that have concluded that these objectives are the most appropriate to achieve the purpose of the RMA. I recommend a minor change to clarify the intended outcomes, and I recommend that the submissions in support be accepted in part.

#### Submissions to amend Objective 15.1.2 that adjust the management outcomes

202. The submission made by Waikato Regional Council [2102.12] is to amend Objective 15.2.1 to avoid, in the first instance, or manage to acceptable levels.
203. The submission seeks the following:  
Amend Objective 15.2.1 - Resilience to natural hazard risk as follows:

A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are first avoided or appropriately mitigated, or managed to acceptable levels.

204. The further submission made by *Heritage New Zealand Pouhere Taonga* [FS3013.4] and *Federated Farmers of New Zealand* [FS3030.6] oppose submission [2102.12]. The further submission made by *Shand Properties Limited* [FS3020.36] is neutral; and *Raglan Collective Incorporated Society* [FS3016.4] and *Mercury NZ Limited* [FS3034.120] support the changes sought in submission [2102.12].
205. The submission made by Department of Conservation [2108.2] is to amend Objective 15.2.1 by deleting ‘appropriately’ and add ‘remedied’ after mitigated.
206. The submission made by Horticulture New Zealand [2149.1] is to amend Objective 15.2.1 Resilience to natural hazard risk to read:
- (a) A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are avoided or appropriately mitigated; and Who are able to undertake appropriate use and development in order to respond to climate change. For instance, provide water storage, or undertake different types of primary production and the practices that may support primary production.
207. The further submissions made by *Raglan Collective Incorporated Society* [FS3016.8]; *Federated Farmers of New Zealand* [FS3030.24 and FS3030.31]; and *Raglan Collective Incorporated Society* [FS3016.8] support this amendment.
208. The submission made by Perry Group Limited [2105.3] is to amend Objective 15.2.1 as follows:
- A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision use and development of land are ~~avoided or appropriately mitigated~~ minimised.

## Conclusions

209. Objectives should be drafted as an outcome. I agree that the word ‘appropriately’ should be deleted as sought by 2102.12, however in my opinion ‘mitigation’ should be retained. The outcome described in WRPS Objective 3.24 is about managing the effects, on people, property and the environment, increasing community resilience, reducing risk and enabling response and recovery. WRPS Policy 13, and the implementation methods that follow describe how natural hazard risk will be managed, and ensuring risk does not exceed acceptable levels, and avoiding new intolerable risk.<sup>22</sup> My interpretation of the WRPS is that ‘avoidance’ applies to ‘new risk’, and while the WRPS suggests levels of risk are to be managed, the WRPS does not suggest a mitigation hierarchy be applied to all risk from natural hazards.
210. I have a concern with the word ‘appropriately’ in Objective 15.2.1 because it does not clearly state an outcome, instead it suggests an element of judgement will be applied. That judgement about ‘appropriateness’ needs to be interpreted in light of the policies that implement it. Replacing the word ‘mitigated’ with ‘managed’ is not as clear in stating the intended outcome as the notified version of Objective 15.2.1.

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<sup>22</sup> Waikato Regional Policy Statement Policy 13.1 p13-1

211. Replacing the words ‘avoided or appropriately mitigated’, with ‘minimised’ is also not as clear about the intended outcome as the notified version of the objective. ‘Avoid’ is used in the WRPS and I consider that the approach in the proposed plan gives effect to the WRPS objective and policies dealing with natural hazard management. In my opinion, ‘minimised’ is open to interpretation and can mean different things to different people, potentially reducing the effectiveness of the objective in achieving the purpose of the RMA.
212. I recommend that the amendment sought in submission [2105.3] be rejected, and the amendment sought in submission [2102.12] be accepted in part, because an amendment to the objective will clarify the outcome sought in respect of risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development.
213. The submission made by Heritage New Zealand Pouhere Taonga [2107.5] is to amend Objective 15.2.1 to specifically refer to historic heritage, and sites and areas of significance to Maaori.
214. Specifying “historic heritage, and sites and areas of significance to Maaori” does ensure there is an emphasis and a focus placed on those RMA section 6 matters where they are present on a site. However, I consider that the change is un-necessary because these matters are already included under “... the risks from natural hazards on ... and the environment...”
215. The submission made by Horticulture New Zealand [2149.1] is to amend Objective 15.2.1 in a way that has potential to limit the applicability of the objective. The amendment sought is to add: “*who are able to undertake appropriate use and development in order to respond to climate change. For instance, provide water storage, or undertake different types of primary production and the practices that may support primary production.*”
216. I consider that an objective should not contain examples. An objective should be clearly drafted to state the intended outcome. The submission appears to set out potential responses to climate change and hazard risk, that would usually form part of the management approach or ‘how’ in a policy. In my opinion, water storage and undertaking different types of primary production are useful responses to hazard risk and climate change, but I consider that these responses are better delivered through local authorities considering education and other non-regulatory tools that have potential to be more effective than a change to the objective.

#### 14.4 Recommendations

217. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept in part** the submissions made by Ports of Auckland Limited [2139.3], Dilworth Trust Board [2161.3], Fire and Emergency New Zealand [2103.1], Kainga Ora Homes and Communities [2094.2] and Transpower New Zealand Limited [2101.4]; and further submissions made by *PowerCo Limited [FS3007.2]* and *KiwiRail Holdings Limited [FS3010.1]*.
  - (b) **Accept in part** the submission made by Waikato Regional Council [2102.12] to amend Objective 15.2.1 to the extent that the change sought deletes ‘appropriately’.
  - (c) **Accept in part** the submission made by Department of Conservation [2108.2] to the extent that it seeks the deletion of the word ‘appropriately’.
  - (d) **Accept in part** the further submissions made by *Heritage New Zealand Pouhere Taonga [FS3013.4]*, *Federated Farmers of New Zealand [FS3030.6]*, *Shand Properties Limited [FS3020.36]*, *Raglan Collective Incorporated Society [FS3016.4]*, and *Mercury NZ Limited [FS3034.120]* to the extent that the submissions either support, or oppose, or are neutral about recognising the risks be ‘first avoided’, and that the word ‘appropriately’ be deleted.

(e) **Reject** the submission made by Horticulture New Zealand [2149.1] and the further submissions made by *Raglan Collective Incorporated Society FS3016.8*; and *Federated Farmers of New Zealand [FS3030.24 and FS3030.31]*.

(f) **Reject** the submission made by Perry Group Limited [2105.3].

#### 14.5 Recommended amendments

218. The following amendments are recommended to Objective 15.2.1 - Resilience to natural hazard risk:

A resilient community where the risks from natural hazards on to people, property, infrastructure and the environment from subdivision, use and development of land are avoided, or ~~appropriately~~ mitigated to acceptable levels.

#### 14.6 Section 32AA evaluation

219. The recommended change to Objective 15.2.1 is considered to be a minor change, that clarifies the outcome sought by the objective, and does not change the intent.

## 15 Submissions on Chapter 15 – Policy 15.2.1.4 - New infrastructure and utilities

### 15.1 Introduction

220. Proposed Policy 15.2.4.1 recognises that there may be a need for infrastructure and utilities in risk areas that cannot be placed in alternative locations, and therefore risks to people and the environment must also be mitigated rather than avoided, and also designed to function before and after a hazard event.

221. Policy 15.2.1.4 – New infrastructure and utilities in areas subject to significant risk from natural hazards is:

“(a) Enable the construction of new infrastructure and utilities in areas at significant risk from natural hazards, including High Risk Flood, High Risk Coastal Hazard (Inundation) and High Risk Coastal Hazard (Erosion) areas only where:

- (i) the infrastructure and utilities are technically, functionally or operationally required to locate in areas subject to natural hazards, or it is not reasonably practicable to be located elsewhere; and
- (ii) any increased risks to people, property and the environment are mitigated to the extent practicable; and
- (iii) the infrastructure and utilities are designed, maintained and managed, including provision of hazard mitigation works where appropriate, to function to the extent practicable during and after natural hazard events.”

### 15.2 Submissions

222. Thirteen submission points and 21 further submission points were received on Policy 15.2.1.4.

223. These submissions were made:

| Submission point | Submitter                         | Decision requested  |
|------------------|-----------------------------------|---|
| 2040.1           | Spark New Zealand Trading Limited | <b>Amend</b> Policy 15.2.1.4 such that it covers both new and upgrading of infrastructure and utilities (to the |

|   |                           |  |
|---|---------------------------|--|
|   |                           | extent it is not minor upgrading). The use of terminology such as 'significant' or 'substantial' may be suitable.  |
| FS3034.6  | Mercury NZ Limited        | Support 2040.1   |
| 2106.2<br>(submission on Policy 15.2.1.5(a))              | WEL Networks Limited      | Amend Policy 15.2.1.5(a) as follows;<br>(a) Provide for the operation, maintenance and minor upgrading <u>and upgrading</u> of existing infrastructure and utilities in all areas subject to natural hazards.  |
| FS3007.8<br>(further submission on Policy 15.2.1.4 above) | PowerCo Limited           | Support 2106.2   |
| 2053.24   | Mercury NZ Limited        | <b>Amend</b> Policy 15.2.1.4(a)(ii) as follows:<br>(a) Enable the construction of new infrastructure and utilities in areas at significant risk from natural hazards, including High Risk Flood, Flood Plain Management Area, High Risk Coastal Hazard (Inundation) and High Risk Coastal Hazard (Erosion) areas only where:<br>[...]<br>(ii) any increased risks to people, property and the environment are avoided, remedied or mitigated <del>to the extent practicable</del> ; and<br>[...] |
| FS3031.35   | Waikato Regional Council  | Neutral 2053.24  |
| FS3007.3  | PowerCo Limited           | Support 2053.24  |
| 2100.1  | Powerco Limited           | <b>Retain</b> Policy 15.2.1.4 New infrastructure and utilities in areas subject to significant risk from natural hazards as notified.  |
| FS3034.35   | Mercury NZ Limited        | Support 2100.1   |
| FS3010.3  | KiwiRail Holdings Limited | Support 2100.1   |
| FS3014.2  | WEL Networks Limited      | Support 2100.1   |
| 2102.26   | Waikato Regional Council  | <b>Add</b> new Policy 15.2.1.4A as follows:<br>Policy 15.2.1.4A - Small scale non-habitable structures in areas subject to significant risk from natural hazards<br>(a) Enable the location of small-scale accessory buildings and farm buildings to be located within areas subject to significant risk from natural hazard, including High Risk Flood, High Risk Coastal Hazard (Inundation) and High-Risk Coastal Hazard (Erosion) where risks are managed to acceptable levels and           |

|            |                                     |  |
|------------|-------------------------------------|--|
|            |                                     | potential risk to people, property and the environment beyond the site are avoided.  |
| FS3033.14  | Kainga Ora Homes and Communities    | Support 2102.26  |
| FS3027.40  | Horticulture New Zealand            | Support 2102.26  |
| FS3029.16  | TaTa Valley Limited                 | Support 2102.26  |
| FS3030.13  | Federated Farmers of New Zealand    | Support 2102.26  |
| FS3034.129 | Mercury NZ Limited                  | Oppose 2102.26   |
| 2102.30    | Waikato Regional Council            | <b>Amend</b> Policy 15.2.1.4(a)(ii) - New infrastructure and utilities in areas subject to significant risk from natural hazards as follows:<br>(ii) any increased risks to people, property, <u>other infrastructure and utilities</u> and the environment are mitigated to the extent practicable; and..   |
| FS3034.131 | Mercury NZ Limited                  | Support 2102.30  |
| FS3003.8   | Transpower New Zealand Limited      | Support 2102.30  |
| FS3007.11  | PowerCo Limited                     | Support 2102.30  |
| 2103.5     | Fire and Emergency New Zealand      | <b>Retain</b> Policy 15.2.1.4 as proposed.   |
| FS3034.40  | Mercury NZ Limited                  | Support 2103.5   |
| 2104.3     | Genesis Energy Limited              | <b>Amend</b> Policy 15.2.1.4(a) as follows:<br>(a) Enable the construction of new infrastructure and utilities, <u>including any ancillary activities</u> , in areas at significant risk from natural hazards, including High Risk Flood, High Risk Coastal Hazard (Inundation) and High-Risk Coastal Hazard (Erosion) areas only where:<br>(i)... |
| FS3003.3   | Transpower New Zealand Limited      | Support 2104.3   |
| FS3007.6   | PowerCo Limited                     | Support 2104.3   |
| 2106.1     | WEL Networks Limited                | <b>Retain</b> Policy 15.2.1.4 as proposed.   |
| 2107.7     | Heritage New Zealand Pouhere Taonga | <b>Amend</b> Policy 15.2.1.4(a)(ii) as follows:<br>(ii) And increased risks to people, property and the environment, <u>including historic heritage and sites and areas of Significance to Maaori</u> are mitigated to the extent practicable; and...  |
| 2108.6     | Department of Conservation          | <b>Amend</b> Policy 15.2.1.4 as follows:<br>(a) <u>Provide for</u> <del>Enable</del> the construction of new infrastructure ... where:<br>(i) the infrastructure and utilities are technically,  |

|           |  |   |
|-----------|--|---|
|           |  | functionally or operationally required to locate in areas subject to natural hazards, <del>or it is not reasonably practicable to be located elsewhere;</del> and<br>(ii) any <u>unavoidable</u> increased risks to people, property and the environment are mitigated <del>to the extent practicable;</del> and<br>(iii) the infrastructure and utilities are designed, maintained and managed, including provision of hazard mitigation works where appropriate, to function <del>to the extent practicable</del> during and after natural hazard events.<br><b>OR</b><br><b>Any</b> alternative relief that may be appropriate |
| FS3013.11 | Heritage New Zealand Pouhere Taonga        | Support 2108.6  |
| FS3014.1  | WEL Networks Limited                       | Oppose 2108.6   |
| FS3003.5  | Transpower New Zealand Limited             | Oppose 2108.6   |
| 2151.11   | Waikato-Tainui Te Kauhanganui Incorporated | <b>Amend</b> Policy 15.2.1.4(a) to reference avoidance rather than enablement.  |
| FS3034.76 | Mercury NZ Limited                         | Oppose 2151.11  |
| 2173.6    | Federated Farmers of New Zealand           | <b>Retain</b> Policy 15.2.1.4 – New infrastructure and utilities in areas subject to significant risk from natural hazards as notified.   |

### 15.3 Analysis

224. The key issues arising from submissions are:

- a. Submissions in support
- b. Submissions seeking additions to add specific activities to 15.2.1.4(ii)
- c. Submissions on new and upgrading of infrastructure in a hazard risk area
- d. Submission to add a new policy to enable small scale non-habitable structures in areas subject to significant risk from natural hazards
- e. Submissions seeking changes to the ‘pitch’ and direction of the policy.

#### Submission in support

225. The submission made by Fire and Emergency New Zealand [2103.5] is to retain Policy 15.2.1.4 as notified, and this is supported by the further submission made by *Mercury NZ Limited* [FS3034.40]. PowerCo Limited [2100.1], Fire and Emergency New Zealand [2103.5], Federated Farmers of New Zealand [2173.6] and WEL Networks Limited [2106.1] seek to retain Policy 15.2.1.4. Further submitters *Mercury NZ Limited* [FS3034.35], *KiwiRail Holdings Limited* [FS3010.3] and *WEL Networks Limited* [FS3014.2] support PowerCo. *Mercury NZ Limited* [FS3034.40] supports FENZ.



226. I rely on the RMA section 32 evaluation that the policy as notified is the most efficient and effective way to implement the objective. I recommend that the submissions in support be accepted.

### **New, and upgrading of, infrastructure and utilities**

227. The submission made by Spark New Zealand Trading Limited [2040.1] is to amend Policy 15.2.1.4 to cover both new and upgrading of infrastructure and utilities (to the extent it is not minor upgrading). The submission suggests terminology such as ‘significant’ or ‘substantial’ may be suitable. *Mercury NZ Limited [FS3034.6]* supports submission [2040.1].
228. WEL Networks Limited [2106.2] seeks to amend Policy 15.2.1.5(a) to refer to upgrading as well as minor upgrading of existing infrastructure and utilities. *PowerCo Limited [FS3007.8]* support this.
229. I have dealt with submissions on the issue of a policy on upgrading infrastructure together.
230. Policy 15.2.1.4 only deals with ‘new infrastructure’ while Policy 15.2.1.5 deals with ‘minor upgrading’ of existing infrastructure. I agree with the submitter that there is a policy gap in the plan as notified, and that a policy is needed to deal with existing infrastructure located in hazard risk areas that require works that would not be considered ‘minor’. Adding a reference to ‘upgrading of existing utilities’ in proposed Policy 15.2.1.4 would mean that more extensive works on existing infrastructure would be subject to (i), (ii) and (iii) in that policy.
231. There are rules in the proposed plan that require a consent for more-than-minor upgrades<sup>23</sup>. It would assist with the implementation of the plan if the policy approach in 15.1.1.4 was applied to applications for consent for works on existing infrastructure and utilities where the nature and scale of the work is considered to be more than a ‘minor upgrade’.
232. I consider that expanding the scope of the policy to deal with both new and upgrading of infrastructure and utilities, that are not addressed in proposed Policy 15.2.1.5, would manage activities that could have a scale of effects that is significant or inappropriate in an area that is vulnerable to natural hazards. Therefore, it is my view that the tests in proposed Policy 15.2.1.4 are appropriate and should apply to both new and upgrading of infrastructure and utilities, with 15.2.1.5 applying to ‘minor upgrading’. I recommend that submission 2040.1 be accepted, and that Policy 15.2.1.4 be amended to include upgrades to existing infrastructure, where the works could not be considered ‘minor’. I recommend that submissions 2106.2 and FS3007.8 that seek that Policy 15.2.1.5 be amended to deal with all upgrading of infrastructure be rejected.

### **Addition of a new policy enabling small scale structures in hazard risk areas**

233. The submission made by Waikato Regional Council [2102.26] is to add a new Policy 15.2.1.4A as follows:

*“Policy 15.2.1.4A - Small scale non-habitable structures in areas subject to significant risk from natural hazards*

*(a) Enable the location of small-scale accessory buildings and farm buildings to be located within areas subject to significant risk from natural hazard, including High Risk Flood, High Risk Coastal Hazard (Inundation) and High-Risk Coastal Hazard (Erosion) where risks are managed to acceptable levels and potential risk to people, property and the environment beyond the site are avoided.”*

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<sup>23</sup> Rules 15.5.1, 15.9.1, and 15.10.1 in the proposed plan

234. Waikato Regional Council [2102.26] is supported by *Kainga Ora Homes and Communities* [FS3033.14], *Horticulture New Zealand* [FS3027.40], *TaTa Valley Limited* [FS3029.16] and *Federated Farmers of New Zealand* [FS3030.13], while *Mercury NZ Limited* [FS3034.129] oppose.
235. I consider that there is an unhelpful tension in the new policy as sought by [2102.26] which seeks to enable structures in areas subject to significant risk, provided these are non-habitable. The policy both enables “*accessory buildings and farm buildings*” suggesting these would always be appropriate in a high risk area. Such land use is to be “*managed to acceptable levels*” but the drafting suggests that the risk to people, property and the environment is only avoided beyond the site.
236. The range of structures enabled by the new policy is unclear, and could potentially include anything that is not a dwelling. Small scale structures might include sheds that are used from time to time for storage, or farm buildings, sheds and workshops that might be occupied for periods of the day. Structures might also include activities like stock yards and bridges.
237. The new policy should be efficient and effective in implementing Objective 15.2.1. Objective 15.2.1 (as notified) is to avoid or appropriately mitigate risk. I consider that the policy as drafted by the submitter would promote activities in high risk areas, and the approach does not provide certainty about how the risk will be avoided or mitigated. Enabling structures suggest these might be permitted by the plan, and council would have no oversight nor ability to assess the risk or whether the degree of mitigation was appropriate for the activity.
238. I consider that the policy sought in submission 2102.26 is also inconsistent with policy 15.2.1.1 (as notified), which is:  
 “Policy 15.2.1.1 - New development in areas at significant risk from natural hazards  
 Avoid new subdivision, use and development where they will increase the risk to people’s safety, well-being and property in the following areas identified as being at significant risk from natural hazards:  
 High Risk Flood Area;  
 High Risk Coastal Hazard (Inundation) Area;  
 High Risk Coastal Hazard (Erosion) Area.”
239. I recommend that the submission made by Waikato Regional Council [2102.26] be rejected because it does not address the risk or mitigation methods, and as such is not efficient in implementing Objective 15.2.1.

#### **Amend proposed Policy 15.1.2.4(a)(ii)**

240. Waikato Regional Council [2102.30] seeks to amend Policy 15.2.1.4(a)(ii) to add “other infrastructure and utilities” to the risks to be mitigated to the extent practicable. *Mercury NZ Limited* [FS3034.131], *Transpower New Zealand Limited* [FS3003.8] and *PowerCo Limited* [FS3007.11] support the submission.
241. Heritage New Zealand Pouhere Taonga [2107.7] seeks to amend Policy 15.2.1.4(a)(ii) to add to the risks mitigated to the extent practicable, risks to “historic heritage and sites and areas of Significance to Maaori”
242. Proposed Policy 15.2.4.1 - New infrastructure and utilities in areas subject to significant risk from natural hazards uses directive wording, that enables the construction of new infrastructure and utilities in areas at significant risk from natural hazards, **only where** (my emphasis) all of the criteria in subclauses (i) (ii) and (iii) are met.

243. The addition of ‘other infrastructure and utilities’ and ‘historic heritage and sites and areas of significance to Maaori’ would make it clear that any increased risk to these services and values are to be mitigated to the fullest extent practicable. I consider that these are already covered by ‘property’ and ‘environment’. These matters should be recognised and provided for, and protected from inappropriate activities, in accordance with the approach in RMA section 6. Specifying these values in Policy 15.2.1.4 has the potential to affect the weighting given in other parts of the plan to protecting those values from adverse effects. I recommend that submissions [2102.30] and [2107.7] be rejected.
244. Mercury NZ Limited [2053.24] seeks to amend Policy 15.2.1.4(a)(ii) to add the Flood Plain Management Area to the overlays and delete the words “to the extent practicable” from para (ii). Further submitters *Waikato Regional Council* [FS3031.35] are neutral and *PowerCo Limited* [FS3007.3] support.
245. Objective 15.2.1 is that risk is avoided or appropriately mitigated. I consider that the policy gives clear policy direction to decision makers and deleting the requirement to mitigate “to the extent practicable” would be less effective in implementing Objective 15.2.1. I recommend that submission [2053.24] be rejected.
246. Genesis Energy Limited [2104.3] seeks to amend Policy 15.2.1.4(a) to add “ancillary activities” to the activities enabled by the policy. *Transpower New Zealand Limited* [FS3003.3] and *PowerCo Limited* [FS3007.6] support.
247. Ancillary activities as defined in the National Planning Standard “means an activity that supports and is subsidiary to a primary activity”. The definition is very broad and adding this to the policy could have unintended consequences, for example it could extend to earthworks, access tracks and structures. The policy provides for infrastructure that cannot be located elsewhere, subject to meeting criteria. I consider that the resilience of the community is promoted by locating ancillary activities away from an area of risk associated with natural hazards. I recommend that submission [2104.3] be rejected.
248. Department of Conservation [2108.6] seeks to amend Policy 15.2.1.4 as follows:  
**Amend Policy 15.2.1.4 as follows:**  
 (a) Provide for ~~Enable~~ the construction of new infrastructure ... where:  
 (i) the infrastructure and utilities are technically, functionally or operationally required to locate in areas subject to natural hazards, ~~or it is not reasonably practicable to be located elsewhere;~~ and  
 (ii) any unavoidable increased risks to people, property and the environment are mitigated ~~to the extent practicable;~~ and  
 (iii) the infrastructure and utilities are designed, maintained and managed, including provision of hazard mitigation works where appropriate, to function ~~to the extent practicable~~ during and after natural hazard events.
249. *Heritage New Zealand Pouhere Taonga* [FS3013.11] support [2108.6] and *WEL Networks Limited* [FS3014.1] and *Transpower New Zealand Limited* [FS3003.5] oppose the change sought.
250. The submission seeks to amend ‘enable’ to ‘provide for’. I expect that in practice there is very little difference when interpreting the policy in response to an application for consent. However, in my opinion, the term ‘enable’ clearly states what is intended. I consider that an infrastructure provider would be unwise to locate services in an area that is vulnerable to natural hazards where there are alternatives, and there is no functional or operational requirement to do so. I have assumed that the additional costs of maintenance and replacement would be a deterrent unless there is no practicable alternative. In my opinion, the change of wording is un-necessary. I consider that 15.2.1.4 (iii) as notified recognises the economic costs of managing the effects of an event with low probability but high consequences,

and the practical reality and unpredictability of some natural hazards. I recommend that the submission [2108.6] be rejected.

251. Waikato-Tainui Te Kauhanganui Incorporated [2151.11] seeks to amend Policy 15.2.1.4(a) to reference avoidance rather than enablement. *Mercury NZ Limited [FS3034.76]* oppose this.
252. The intention of the policy is to provide for new infrastructure in hazard risk areas only where the criteria are met. It is possible that there may be no alternative. I have assumed that the economic costs of locating new infrastructure in an area at risk of natural hazards, and the costs of replacement if an event occurs, will be a deterrent if alternatives locations are viable. I recommend that submission [2151.11] be rejected.

#### 15.4 Recommendations

253. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** the submissions made by Powerco Limited [2100.1], Fire and Emergency New Zealand [2103.5], Federated Farmers of New Zealand [2173.6] and WEL Networks Limited [2106.1]; and the further submissions made by *Mercury NZ Limited [FS3034.35]*, *KiwiRail Holdings Limited [FS3010.3]*, *WEL Networks Limited [FS3014.2]* and *Mercury NZ Limited [FS3034.40]*.
  - (b) **Accept** the submission made by Spark New Zealand Trading Limited [2040.1] and the further submission made by *Mercury NZ Limited [FS3034.6]*.
  - (c) **Reject** the submission made by WEL Networks Limited [2106.2] on Policy 15.2.1.5(a) add 'upgrading' of existing infrastructure and utilities and the further submission made by *PowerCo Limited [FS3007.8]*.
  - (d) **Accept** the further submission made by *Mercury NZ Limited [FS3034.129]*.
  - (e) **Reject** the further submissions made by Waikato Regional Council [2102.30], *Mercury NZ Limited [FS3034.131]*, *Transpower New Zealand Limited [FS3003.8]* and *PowerCo Limited [FS3007.11]*.
  - (f) **Reject** the submissions made by Heritage New Zealand Pouhere Taonga [2107.7], *Mercury NZ Limited [2053.24]* and the further submissions made by *Waikato Regional Council [FS3031.35]* and *PowerCo Limited [FS3007.3]*.
  - (g) **Reject** the submissions made by Genesis Energy Limited [2104.3] and the further submissions made by *Transpower New Zealand Limited [FS3003.3]* and *PowerCo Limited [FS3007.6]*.
  - (h) **Reject** the submission made by Department of Conservation [2108.6] and the further submission made by *Heritage New Zealand Pouhere Taonga [FS3013.11]*.
  - (i) **Accept** the further submissions made by *WEL Networks Limited [FS3014.1]* and *Transpower New Zealand Limited [FS3003.5]*.
  - (j) **Reject** the submission made Waikato-Tainui Te Kauhanganui Incorporated [2151.11]
  - (k) **Accept** the submission made by *Mercury NZ Limited [FS3034.76]*.

#### 15.5 Recommended amendments

254. I recommend the following amendment is made to Policy 15.2.1.4, and that a consequential change is made to the heading of that policy:

Policy 15.2.1.4 - New **and upgrading of** infrastructure and utilities in areas subject to significant risk from natural hazards

- (a) Enable the construction of new infrastructure and utilities in areas at significant risk from natural hazards, .... only where ...

(b) Enable upgrading of infrastructure and utilities in the areas mentioned in (a), where (a)(i), (ii) and (iii) are complied with.”

## 15.6 Section 32AA Evaluation

255. This evaluation is undertaken in accordance with RMA section 32AA and only deals with the provisions being sought by Spark New Zealand Trading Limited [2040.1] to add upgrading of infrastructure and utilities which are additional to those discussed in Council’s s 32 report.

### Evaluation of the objective

256. I have not undertaken an evaluation of whether the objective achieves the purpose of the RMA, as it is unamended by the submission.

### Analysis of proposed provisions

257. RMA section 32AA requires an evaluation of whether the provisions in the proposal are the most appropriate way to achieve the objectives. Policy 15.2.1.4 and 15.2.1.5 both implement Objective 15.2.1 which is:

*A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are avoided or appropriately mitigated.*

258. The following options were identified for consideration:

- Option 1 – status quo (no change from proposed plan (Variation 2))
- Option 2 – expand Policy 15.2.1.4 to deal with upgrading of infrastructure and utilities
- Option 3 - amend Policy 15.2.1.5 to deal with upgrading of infrastructure and utilities.

### Assessing the efficiency and effectiveness of the provisions in achieving Objective 15.2.1

#### Option 1 - retain the policies as notified

259. As notified, Policy 15.2.1.4 and Policy 15.2.1.5 only address 'minor upgrading' of existing infrastructure. I agree with the submitter that there is a policy gap in the plan as notified. I conclude that Policy 15.2.1.4 and 15.2.1.5 are not the most effective option for implementing Objective 15.1.1.

#### Option 2 - amend Policy 15.2.1.4

260. A policy is needed to deal with existing infrastructure located in hazard risk areas that require works that would not be considered 'minor'.

261. Adding a reference to 'upgrading of existing utilities' in proposed Policy 15.2.1.4 is more effective in implementing the objective because the criteria in that policy require consideration of alternatives and manage the risk where there are no alternatives. The amendment to Policy 15.2.1.4 also improves the implementation of the rules, by providing policy on upgrading that is not addressed in another policy.

262. I have concluded that expanding the scope of the policy to deal with both new and upgrading of infrastructure and utilities, that are not addressed in proposed Policy 15.2.1.5, would manage activities that could have a scale of effects that is significant or inappropriate in an area that is vulnerable to natural hazards.

#### Option 3 - amend 15.2.1.5

263. Amending Policy 15.2.1.5 to deal with both 'minor upgrading' and more significant works on existing infrastructure would mean that more extensive works on existing infrastructure would not be subject to the requirements in 15.2.1.4 (i), (ii) and (iii). I consider that broader

amendments to the policy would be needed to ensure that the policy would be effective in managing upgrades that could have a scale of effects that is significant or inappropriate in an area that is vulnerable to natural hazards.

### The reasons for deciding on the preferred option

264. Option 2 is my preferred option, and I recommend Policy 15.2.1.4 be amended. There are rules in the proposed plan that require a consent for more-than-minor upgrades<sup>24</sup>, and I consider that it would assist with the implementation of the plan if the policy approach in 15.2.1.4 was applied to applications for consent for works on existing infrastructure and utilities where the nature and scale of the work is considered to be more than a ‘minor upgrade’.
265. I have concluded that the criteria in Policy 15.2.1.4 are relevant to an assessment of upgrading infrastructure and utilities in areas that are vulnerable to significant risk from natural hazards. I conclude that amended policy 15.2.1.4 is more effective and efficient in implementing Objective 15.2.1 than the notified version of that policy, and gives better effect to the objectives and policies that manage risks from natural hazards on people, property and the environment in the WRPS.

## 16 Submissions no Chapter 15 – Policy 15.2.1.5 – Existing infrastructure and utilities

### 16.1 Introduction

266. Policy 15.2.1.5 - Existing infrastructure and utilities in all areas subject to natural hazards is:  
“(a) Provide for the operation, maintenance and minor upgrading of existing infrastructure and utilities in all areas subject to natural hazards.”

### 16.2 Submissions

267. Seven submission points and nine further submission points were received on Policy 15.2.1.5.
268. These submissions were made:

| Submission Point | Submitter                         | Decision requested  |
|------------------|-----------------------------------|---|
| 2040.2           | Spark New Zealand Trading Limited | <b>Retain</b> Policy 15.2.1.5.  |
| 2053.25          | Mercury NZ Limited                | <b>Retain</b> Policy 15.2.1.5   |
| <i>FS3031.36</i> | <i>Waikato Regional Council</i>   | <i>Neutral 2053.25</i>  |
| 2102.32          | Waikato Regional Council          | Amend Policy 15.2.1.5 - Existing infrastructure and utilities in all areas subject to natural hazards as follows: |

<sup>24</sup> Rules 15.5.1, 15.9.1, and 15.10.1 in the proposed plan

|   |                                   |   |
|---|-----------------------------------|---|
|   |                                   | (a) Provide for the operation, maintenance and minor upgrading of existing infrastructure and utilities in all areas subject to natural hazards, <u>provided that the hazard is not exacerbated, or risks increased to other properties.</u>  |
| FS3003.10   | Transpower New Zealand Limited    | Oppose 2102.32  |
| FS3034.133  | Mercury NZ Limited                | Support 2102.32   |
| 2102.33   | Waikato Regional Council          | Add new Policy 15.2.1.5A as follows:<br><u>Policy 15.2.1.5A – New infrastructure and utilities in all areas subject to natural hazards</u><br><u>(a) Provide for new infrastructure and utilities in all areas subject to natural hazards, provided that the hazard is not exacerbated or risks increased to other properties.</u>              |
| FS3006.2  | Genesis Energy Limited            | Support 2102.33   |
| FS3002.4  | Spark New Zealand Trading Limited | Support 2102.33   |
| FS3007.12   | PowerCo Limited                   | Support 2102.33   |
| FS3034.134  | Mercury NZ Limited                | Support 2102.33   |
| 2104.4  | Genesis Energy Limited            | Amend Policy 15.2.1.5(a) as follows:<br>(a) Provide for the operation, maintenance, and minor upgrading and rehabilitation of existing infrastructure and utilities, including any ancillary activities, in all areas subject to natural hazards.   |
| 2106.2<br>(submission is discussed in paras 227 to 232 under Policy 15.2.1.4 above)   | WEL Networks Limited              | Amend Policy 15.2.1.5(a) as follows;<br>(a) Provide for the operation, maintenance and minor upgrading and upgrading of existing infrastructure and utilities in all areas subject to natural hazards.  |
| FS3007.8<br>(submission is discussed in paras 227 to 232 under Policy 15.2.1.4 above) | PowerCo Limited                   | Support 2106.2  |
| 2108.7  | Department of Conservation        | Amend Policy 15.2.1.5 as follows:<br>“(a) <del>Provide for</del> <u>Recognise the need for</u> the operation, maintenance and minor upgrading of existing infrastructure and utilities in all areas subject to natural hazards and take into account the need for long-term risk reduction.” OR Any alternative relief that may be appropriate. |

|          |                                  |   |
|----------|----------------------------------|---|
| FS3003.6 | Transpower New Zealand Limited   | Oppose 2108.7   |
| 2173.7   | Federated Farmers of New Zealand | Amend Policy 15.2.1.5 – Existing infrastructure and utilities in all areas subject to natural hazards as follows:<br>“... in all areas subject to natural hazards <u>where any increased risks to people are mitigated to the extent practicable</u> ” AND Any consequential amendments that may be required. |

### 16.3 Analysis

269. The key issues raised in submissions are:
- Exacerbating or reducing hazard risk
  - Adding ‘rehabilitation’ and ‘ancillary activities’
270. The submission made by Spark New Zealand Trading Limited [2040.2] and Mercury NZ Limited [2053.25] is to retain Policy 15.2.1.5. Further submitter *Waikato Regional Council* [FS3031.36] is neutral.
271. I consider that the Policy 15.2.1.5 is appropriate to manage small scale activities associated with the operation, maintenance and minor upgrading of infrastructure and utilities, and that the policy is effective in implementing objective 15.2.1. Therefore, I recommend that the submissions in support be accepted.
272. Waikato Regional Council [2102.32] seeks to amend Policy 15.2.1.5(a) to add a proviso that upgrading of existing infrastructure and utilities does not exacerbate hazards or increase risks to other properties. Further submitters *Transpower New Zealand Limited* [FS3003.10] oppose and *Mercury NZ Limited* [FS3034.133] support this.
273. The the Department of Conservation [2108.7] seeks to amend Policy 15.2.1.5 by rewording it to recognise the need for the operation, maintenance and minor upgrading of existing infrastructure and utilities in all areas subject to natural hazards and take into account the need for long-term risk reduction. *Transpower New Zealand Limited* [FS3003.6] oppose this.
274. Waikato Regional Council [2102.33] seeks to add new Policy 15.2.1.5A relating to new infrastructure and utilities, containing a proviso that the hazard is not exacerbated or risks increased to other properties. *Genesis Energy Limited* [FS3006.2], *Spark New Zealand Trading Limited* [FS3002.4], *PowerCo Limited* [FS3007.12] and *Mercury NZ Limited* [FS3034.134] support this.
275. Federated Farmers of New Zealand [2173.7] seeks to amend Policy 15.2.1.5 – *Existing infrastructure and utilities in all areas subject to natural hazards* as follows:  
“... in all areas subject to natural hazards where any increased risks to people are mitigated to the extent practicable.”
276. Policy 15.2.1.5 as notified deals with the operation, maintenance and minor upgrading of existing infrastructure and utilities. The policy intent is that the nature and scale of the activities is not significantly different from the existing activity, but also ensures that infrastructure can be operated, and maintained in good condition. Where the nature and scale of the activity is the same as the existing, or there is only a minor change made to upgrade the infrastructure or utility, I believe that that there is unlikely to be an increased risk to people, property or the environment from the works. Where the nature and scale of the activity, or the effects are



increased by a higher degree, then Policy 15.2.1.4 would apply. Therefore, I recommend that submissions [2102.32], [2108.7], [2102.33] and [2173.7] to amend Policy 15.2.1.5 be rejected.

277. Genesis Energy Limited [2104.4] seeks to amend Policy 15.2.1.5(a) to refer to rehabilitation of existing infrastructure and utilities, including any ancillary activities. In my opinion, the terms ‘operation’, ‘maintenance’ and ‘upgrading’ of infrastructure and utilities as used in policies 15.2.1.4 and 15.2.1.5 are fairly clear. ‘Rehabilitation’ would need to be clearly defined, as the nature and scale of the activities involved in ‘rehabilitation’ is not obvious. If the intention is to entirely rebuild existing infrastructure and utilities that have been destroyed by a natural hazard, then I consider that the works is not ‘minor’ and policy 15.2.1.4 should apply. I recommend that submission [2104.4] be rejected, as the terms used in policies 15.2.1.4 (as recommended for amendment) and 15.2.1.5 already cover the repair and maintenance of existing infrastructure and utilities.

## 16.4 Recommendations

278. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept** the submissions made by Spark New Zealand Trading Limited [2040.2] and Mercury NZ Limited [2053.25] to retain Policy 15.2.1.5 and the further submission made by *Waikato Regional Council* [FS3031.36].
- (b) **Reject** the submission made by *Waikato Regional Council* [2102.32] and the further submission made by *Mercury NZ Limited* [FS3034.133].
- (c) **Accept** the further submitter *Transpower New Zealand Limited* [FS3003.10].
- (d) **Reject** the submission made by the the Department of Conservation [2108.7].
- (e) **Accept** the further submission made by *Transpower New Zealand Limited* [FS3003.6].
- (f) **Reject** the submission made by *Waikato Regional Council* [2102.33] to add new Policy 15.2.1.5A relating to new infrastructure and utilities, containing a proviso that the hazard is not exacerbated or risks increased to other properties and the further submissions made by *Genesis Energy Limited* [FS3006.2], *Spark New Zealand Trading Limited* [FS3002.4], *PowerCo Limited* [FS3007.12] and *Mercury NZ Limited* [FS3034.134].
- (g) **Reject** the submission made by *Genesis Energy Limited* [2104.4].

## 16.5 Recommended amendments

279. No amendments are recommended as a result of submission received.

# 17 Submissions on Chapter 15.2 – Policy 15.2.1.6 - Managing natural hazard risk generally

## 17.1 Introduction

280. Policy 15.2.1.6 - *Managing natural hazard risk generally* is:

“(a) Provide for rezoning, subdivision, use and development outside High Risk Flood, High Risk Coastal Hazard (Inundation) and High Risk Coastal Hazard (Erosion) Areas where natural hazard risk has been appropriately identified and assessed and can be adequately avoided, remedied or mitigated and does not transfer or exacerbate risk to adjoining properties.”

### Relevant definitions in Chapter 15.4

*High risk flood areas:*

“means an area identified on the planning maps, located within the Flood Plain Management Area, which is subject to river or surface flooding during an event with an annual exceedance probability of no more than 1%, and during such an event:

- a. the depth of flood waters exceeds one metre; or
- b. the speed of flood waters exceeds two metres per second; or
- c. the flood depth multiplied by the flood speed exceeds one.

**Flood plain management area:**

“means an area identified on the planning maps which is at risk of flooding in a 1% AEP flood event and is otherwise described as the 1% AEP floodplain.”

## 17.2 Submissions

281. Eleven submission points and nine further submission points were received on this topic.
282. These submissions were made:

| Submission point | Submitter                 | Decision requested   |
|------------------|---------------------------|--|
| 2053.26          | Mercury NZ Limited        | <b>Amend</b> Policy 15.2.1.6(a) as follows:<br>Provide for rezoning, subdivision, use and development outside High Risk Flood, <u>Flood Plain Management Area</u> , High Risk Coastal Hazard (Inundation) and High Risk Coastal Hazard (Erosion) Areas where natural hazard risk has been appropriately identified and assessed and can be adequately avoided, remedied or mitigated and does not transfer or exacerbate risk to adjoining properties.   |
| FS3022.9         | Ohinewai Lands Limited    | Oppose 2053.26   |
| FS3031.37        | Waikato Regional Council  | Neutral 2053.26  |
| FS3028.7         | Ambury Properties Limited | Oppose 2053.26   |
| 2083.1           | Sofia Andreen             | <b>Amend</b> Policy 15.2.1.6 - Managing natural hazard risk generally, to secure slope stability, especially risks due to trees by the Kellyville Road intersection on Koheroha Road, Mercer.  |
| 2084.1           | Ron Miller                | <b>Retain</b> Policy 15.2.1.6 Managing natural hazard risk generally as proposed.<br><b>And add</b> to Chapter 15: Natural Hazards and Climate Change to allow the following: <ul style="list-style-type: none"> <li>• Utilising coal under Lake Waikare using Underground Coal Gasification technology.</li> <li>• Cryo-generate gas to supply Huntly Power Station and/or produce hydrogen</li> <li>• Create a charcoal-based sinkhole to both deepen and clean lake water fed from the</li> </ul> |

|            |                                  |  |
|------------|----------------------------------|--|
|            |                                  | <ul style="list-style-type: none"> <li>Waikato River via Te Onetea Stream and other tributaries.</li> </ul> <p>Possible clean water source to supply future development in the North Waikato region with added water treatment facilities.</p>   |
| 2094.5     | Kainga Ora Homes and Communities | <b>Retain</b> Policy 15.2.1.6 - Managing natural hazard risks generally as notified  |
| 2102.40    | Waikato Regional Council         | <p><b>Amend</b> Policy 15.2.1.6 - Managing natural hazard risk generally as follows:</p> <p>(a) Provide for rezoning, subdivision, use and development outside High Risk Flood, High Risk Coastal Hazard (Inundation) and High Risk Coastal Hazard (Erosion) Areas where natural hazard risk has been appropriately identified and assessed <u>taking into account the projected effects of climate change over at least a 100 year timeframe and significant and unacceptable risks are <del>can be</del> adequately avoided, and all other risks are appropriately managed to acceptable levels including through the use of mitigations where appropriate remedied or mitigated</u> and does not transfer or exacerbate risk to adjoining properties.</p> |
| FS3027.30  | Horticulture New Zealand         | Oppose 2102.40   |
| FS3034.136 | Mercury NZ Limited               | Oppose 2102.40   |
| 2102.41    | Waikato Regional Council         | <p><b>Add</b> new Policy 15.2.1.6A - Minimising risks from high impact low probability Hazards as follows:<br/> <u>Policy 15.2.1.6A – Minimising risks from high impact low probability hazards (a) Minimise the risks to personal health and safety, critical community facilities and infrastructure and enable increased resilience through response and recovery by assessing the risks from a low probability but high potential impact events such as tsunamis, earthquake and volcanic eruptions.</u></p>   |
| FS3030.18  | Federated Farmers of New Zealand | Oppose 2102.41   |
| FS3034.137 | Mercury NZ Limited               | Support 2102.41  |
| FS3033.18  | Kainga Ora Homes and Communities | Oppose 2102.41   |
| 2103.6     | Fire and Emergency New Zealand   | <b>Retain</b> Policy 15.2.1.6 as proposed.   |
| FS3034.41  | Mercury NZ Limited               | Support 2103.6   |
| 2105.4     | Perry Group Limited              | <p><b>Amend</b> Policy 15.2.1.6(a) as follows: (a) Provide for rezoning, subdivision, use and development outside High Risk Flood, High Risk Coastal Hazard , (Inundation) and High Risk Coastal (Erosion)</p>   |

|        |                                     |   |
|--------|-------------------------------------|---|
|        |                                     | Areas where natural hazard risk has been appropriately identified and assessed and can be adequately avoided, remedied or mitigated <del>and does not transfer or exacerbate risk to adjoining properties.</del>  |
| 2107.8 | Heritage New Zealand Pouhere Taonga | <b>Amend</b> Policy 15.2.1.6(a) - Managing natural hazard risk generally as follows: (a) Provide for the rezoning, subdivision, use and development outside High Risk Flood, High Risk Coastal Hazard {Inundation) and High Risk Coastal Hazard (Erosion) Areas where natural hazard risk has been appropriately identified and assessed and can be adequately avoided, remedied or mitigated and does not transfer or exacerbate risk to adjoining properties, <u>including any historic heritage and sites and areas of significance to Maaori that may be located within the property.</u> |
| 2118.1 | Russell Davis                       | <b>Amend</b> Policy 15.2.1.6 - Managing hazard risk generally.  |
| 2173.8 | Federated Farmers of New Zealand    | <b>Retain</b> Policy 15.2.1.6 – Managing natural hazard risk generally as notified.   |

### 17.3 Analysis

283. The submissions made by Federated Farmers of New Zealand [2173.8], Kainga Ora Homes and Communities [2094.5] and Fire and Emergency New Zealand [2103.6] are to retain Policy 15.2.1.6 as proposed. *Mercury NZ Limited [FS3034.41]* support FENZ. I recommend that the submissions in support be accepted.
284. The submission made by Mercury NZ Limited [2053.26] is to amend Policy 15.2.1.6(a) to refer to the Flood Plain Management Area in addition to the overlays identified in their submission. This is opposed by *Ohinewai Lands Limited [FS3022.9]* and *Ambury Properties Limited [FS3028.7]*, with *Waikato Regional Council [FS3031.37]* lodging a neutral further submission.
285. Variation 2 contains definition of terms used in Chapter 15.4. The definition of “High risk flood area” refers to the flood plain management area. I consider that the addition sought is a duplication, and adding the words “Flood Plain Management Area” to the policy is therefore not needed.
286. Ron Miller [2084.1] seeks to retain Policy 15.2.1.6 as proposed, but seeks to add provisions for utilising coal, coal gasification, a charcoal-based sinkhole, and clean water sources.
287. While utilising natural resources can have implications for climate change, the policy intent of Chapter 15 is to manage the risk associated with natural hazards and climate change. In my opinion, the additional test sought to refer to various land uses is out of context with the policy approach. I recommend that the submission be rejected.
288. Sofia Andreen [2083.1] seeks to amend Policy 15.2.1.6 to secure slope stability, especially risks due to trees by the Kellyville Road intersection on Koheroha Road, Mercer.
289. I agree with submission [2083.1] that an area that is the subject of subdivision, use and development should be the subject of an assessment through a consent process to assess and address slope instability, rather than be re-zoned. However, the policy intent of proposed

Policy 15.2.1.6 is to provide for rezoning, subdivision, use and development in areas that are outside of identified risk areas where the natural hazard risk has been appropriately identified, assessed, (my emphasis) and can be managed.

290. I am not aware of any technical reports that identify and assess natural hazard risk from slope stability on Koheroa road, or that deal with utilising coal, coal gasification, a charcoal-based sinkhole, and clean water sources. I recommend that submissions [2083.1] and [2084.1] be rejected.
291. Waikato Regional Council [2102.40] seeks to amend Policy 15.2.1.6 to refer to the projected effects of climate change over at least a 100-year timeframe and to refer to managing risks through the use of mitigations where appropriate. *Horticulture New Zealand [FS3027.30]* and *Mercury NZ Limited [FS3034.136]* oppose this.
292. The RMA section 32 report states that an allowance for the projected effects of climate change has been included only where 2D modelling is available for the main stem of the Waikato River between Horotiu and Ohinewai.<sup>25</sup> The technical assessments specifically prepared for the plan review were commissioned by both the regional and district council working in a collaborative partnership with iwi, the regional council and the community,<sup>26</sup> and the Waikato District Council relied on that work to assist with the development of provisions and hazard mapping. In my opinion, the amendment sought to Policy 15.2.1.6 departs from the collaborative approach that was used to develop the proposed provisions as set out in the RMA section 32 report, and has the potential for duplication.
293. There are other provisions in the proposed plan that deal with climate change. Provisions include Objective 15.2.3 and policies 15.2.1.16 and 15.2.3.1 and 15.2.3.2, 15.2.3.3 and 15.2.3.5 that are to take a precautionary approach, require setbacks, and to assess the impact of climate change. I recommend that submission [2102.40] be rejected.
294. Waikato Regional Council [2102.41] seeks to add a new Policy 15.2.1.6A for minimising risks from high impact low probability hazards. *Federated Farmers NZ [FS3030.18]* and *Kainga Ora Homes and Communities [FS3033.18]* oppose this, with *Mercury NZ Limited [FS3034.137]* in support.
295. Perry Group Limited [2105.4] seeks to amend Policy 15.2.1.6(a) to remove the reference to whether development will transfer or exacerbate risk to adjoining properties. I consider that transferring or exacerbating risk to adjoining properties is an important matter in the consideration of the effect of subdivision and land uses; and the plan should contain policy guidance on this matter. I recommend that the submission 2105.4 be rejected.
296. Heritage New Zealand Pouhere Taonga [2107.8] seeks to amend Policy 15.2.1.6(a) to refer to risks to historic heritage and sites and areas of significance to Maaori that may be located within the property. I agree that use and development should not transfer or exacerbate the risk associated with natural hazards to adjoining properties, particularly where either property has historic heritage and sites and/or areas of significance to Maaori. Other parts of the plan identify how subdivision, use and development should be managed within a property to recognise and provide for the protection of those values. I consider that an amendment to Policy 15.2.1.6(a) is not necessary.

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<sup>25</sup> RMA section 32 report p6, p12-13 and p19

<sup>26</sup> RMA section 32 report Table 1 on p26

297. Russell Davis [2118.1] supports the policy and seeks to amend Policy 15.2.1.6. The submission does not specify how the policy is to be amended. I recommend that the submission 2118.1 be rejected as the decision sought is unclear.

#### 17.4 Recommendations

298. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept** the submissions made by Federated Farmers of New Zealand [2173.8], Kainga Ora Homes and Communities [2094.5], Fire and Emergency New Zealand [2103.6] and the further submission made by *Mercury NZ Limited* [FS3034.41].
- (b) **Reject** the submission made by Mercury NZ Limited [2053.26].
- (c) **Accept** the further submissions made by *Ohinewai Lands Limited* [FS3022.9], *Waikato Regional Council* [FS3031.37], and *Ambury Properties Limited* [FS3028.7].
- (d) **Reject** the submission made by Ron Miller [2084.1].
- (e) **Reject** the submission made by Sofia Andreen [2083.1].
- (f) **Reject** the submission made by Waikato Regional Council [2102.40].
- (g) **Accept** the further submission made by *Horticulture New Zealand* [FS3027.30] and *Mercury NZ Limited* [FS3034.136].
- (h) **Reject** the submission made by Perry Group Limited [2105.4].
- (i) **Reject** the submission made by Heritage New Zealand Pouhere Taonga [2107.8].
- (j) **Reject** the submission made by Russell Davis [2118.1].

#### 17.5 Recommended amendments

299. No amendments are recommended as a result of these submissions.

## 18 Submissions on Chapter 15.2 – Policy 15.2.1.9 - Natural features and buffers

### 18.1 Introduction

300. Policy 15.2.1.9 - *Natural features and buffers providing natural hazard protection* is:

“(a) Protect, maintain and, where appropriate, enhance the integrity of natural features and buffers which provide a natural defence against the effects of natural hazards and sea level rise, including natural ponding areas, coastal dunes, intertidal areas, wetlands, waterbody margins, riparian/coastal vegetation and floodways.”

### 18.2 Submissions

301. Two submission points and one further submission point were received on this topic.

302. These submissions were made:

| Submission Point | Submitter          | Decision requested             |
|------------------|--------------------|--------------------------------|
| 2053.27          | Mercury NZ Limited | <b>Retain</b> Policy 15.2.1.9. |

|           |                                |   |
|-----------|--------------------------------|---|
| FS3031.38 | Waikato Regional Council       | Neutral 2053.27   |
| 2156.1    | Auckland Waikato Fish and Game | <b>Retain</b> Policy 15.2.1.9 - Natural features and buffers providing natural hazard protection. |

### 18.3 Analysis

303. Mercury NZ Limited [2053.27] and Auckland Waikato Fish and Game [2156.1] seek to retain Policy 15.2.1.9. Waikato Regional Council [FS3031.38] is neutral in relation to Mercury's submission point.

304. I rely on the RMA section 32 evaluation, and recommend that the submissions be accepted.

### 18.4 Recommendations

305. For the reasons above I recommend that the Hearings Panel:

- (a) **Accept** the submissions made by Mercury NZ Limited [2053.27] and Auckland Waikato Fish and Game [2156.1] and the further submission made by *Waikato Regional Council* [FS3031.38].

### 18.5 Recommended amendments

306. There are no recommended amendments as a result of the submissions.

## 19 Submissions on Chapter 15.2 – Objective 15.2.2 - Awareness of natural hazard risks

### 19.1 Introduction

307. Objective 15.2.2 - *Awareness of natural hazard risks* is:

"A well-informed community that:

- (a) is aware of, and understands, which natural hazards affect the district; and  
 (b) is able to effectively and efficiently respond to, and recover from, natural hazard events."

### 19.2 Submissions

308. Six submission points and two further submission points were received on Objective 15.2.2.

309. The following submissions were made:

| Submission point | Submitter                 | Decision requested  |
|------------------|---------------------------|---|
| 2139.3           | Ports of Auckland Limited | <b>Retain</b> Section 15.2 Objectives and policies except as set out in submission.             |
| 2161.3           | Dilworth Trust Board      | <b>Retain</b> section 15.2 objectives and policies as notified, except as in other submissions. |
| 2053.34          | Mercury NZ Limited        | <b>Retain</b> Objective 15.2.2.   |

|            |                                  |  |
|------------|----------------------------------|--|
| FS3031.45  | Waikato Regional Council         | Support 2053.34  |
| 2102.80    | Waikato Regional Council         | <b>Amend</b> Objective 15.2.2 - Awareness of natural hazard risks by relocating it to sit with Objective 15.2.1. |
| FS3034.149 | Mercury NZ Limited               | Support 2102.80  |
| 2103.23    | Fire and Emergency New Zealand   | <b>Retain</b> Objective 15.2.2 as proposed.  |
| 2173.26    | Federated Farmers of New Zealand | <b>Retain</b> Objective 15.2.2 – Awareness of natural hazard risks as notified.                                  |

### 19.3 Analysis

310. Mercury NZ Limited [2053.34] and Fire and Emergency New Zealand [2103.23] seek to retain Objective 15.2.2. *Waikato Regional Council* [FS3031.45] supports Mercury. I recommend these be accepted, subject to moving the objective within Chapter 15, in response to another submission.
311. Dilworth Trust Board [2161.3] and Federated Farmers of New Zealand [2173.26] and Ports of Auckland Limited [2139.3] is to retain the objectives, except as set out in their submissions<sup>27</sup>.
312. Waikato Regional Council [2102.80] seeks to amend Objective 15.2.2 by relocating it to sit with Objective 15.2.1. *Mercury NZ Limited* [FS3034.149] support this. This submitter made a similar submission to move Objective 15.2.3 and this has been recommended to be accepted. Grouping the objectives together will better support the policies in Chapter 15, as many of these respond to more than one of the three objectives. In any case, grouping of objectives is required by the National Planning Standards. I recommend accepting the submission.

### 19.4 Recommendations

313. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** Mercury NZ Limited [2053.34], Fire and Emergency New Zealand [2103.23], Federated Farmers of New Zealand [2173.26] and *Waikato Regional Council* [FS3031.45].
  - (b) **Accept** Waikato Regional Council [2102.80] and *Mercury NZ Limited* [FS3034.149].

### 19.5 Recommended amendments

314. The following amendments are recommended:
- (a) **Move** Objective 15.2.2 to locate it together with the other Objectives in Chapter 15.

### 19.6 Section 32AA evaluation

315. No section 32AA evaluation is required because grouping of objectives within chapters is required by the National Planning Standards.

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<sup>27</sup> The same submission point appears in respect of Objective 15.2.1



## 20 Submissions on Chapter 15.2 – Policy 15.2.2.1 - Natural hazard risk information

### 20.1 Introduction

316. Policy 15.2.2.1 is about awareness of hazard risk. Policy 15.2.2.1 *Natural hazard risk information* is:

- “(a) Enable people to be informed and have access to information on the natural hazards affecting their properties and surrounding area, including through:
- (i) provision of Land Information Memoranda;
  - (ii) natural hazard technical information, risk registers and mapping on the Council’s website, the Waikato Regional Council Hazards Portal, this district plan and accompanying planning maps;
  - (iii) education, provision of information and community engagement; and
  - (iv) alignment with the work of other agencies including iwi and the Waikato Regional Council.”

### 20.2 Submissions

317. Five submission points and three further submission points were received on Policy 15.2.2.1.

318. These submissions were made:

| Submission point  | Submitter                                  | Decision requested  |
|-------------------|--|---|
| 2053.35           | Mercury NZ Limited                         | <b>Retain</b> Policy 15.2.2.1.  |
| <i>FS3031.46</i>  | <i>Waikato Regional Council</i>            | <i>Support 2053.35</i>  |
| 2102.81           | Waikato Regional Council                   | <b>Amend</b> Policy 15.2.2.1(a) - Natural hazard risk information as follows: (a) Enable people to be informed and have access to information on the natural hazards <u>including the projected effects of climate change</u> affecting their properties and surrounding area, including through:(i)...   |
| <i>FS3034.150</i> | <i>Mercury NZ Limited</i>                  | <i>Support 2102.81</i>  |
| 2103.24           | Fire and Emergency New Zealand             | <b>Retain</b> Policy 15.2.2.1 as proposed.  |
| 2151.14           | Waikato-Tainui Te Kauhanganui Incorporated | <b>Retain</b> Policy 15.2.2.1 - Natural hazard risk information.  |
| 2173.27           | Federated Farmers of New Zealand           | <b>Amend</b> Policy 15.2.2.1 Natural hazard risk information as follows:<br>(a) Enable people to be informed and have access to information on the natural hazards affecting their properties and surrounding area, including through:<br><del>(iii) education, provision of information and community engagement; and provide information</del><br><u>directly to owners subject to the natural hazard</u> |

|           |                    |  |
|-----------|--------------------|--|
|           |                    | <p><u>overlays referred to in this district plan and shown on the accompanying planning maps;</u></p> <p><u>(iv) Ensure landowners are made aware of the impact the natural hazard overlays will have on existing and proposed activities;</u></p> <p>(iv) alignment with the work of other agencies including iwi and the Waikato Regional Council<br/>AND Any consequential amendments that may be required.</p> |
| FS3034.96 | Mercury NZ Limited | support 2173.27  |

### 20.3 Analysis

319. Fire and Emergency New Zealand [2103.24], Waikato-Tainui Te Kauhanganui Incorporated [2151.14] and Mercury NZ Limited [2053.35] seek to retain Policy 15.2.2.1. *Waikato Regional Council [FS3031.46]* supports Mercury.
320. I rely on the RMA section 32 evaluation that the policy is efficient and effective in implementing the objectives of the plan and I recommend that the submissions be accepted.
321. Waikato Regional Council [2102.81] seeks to amend Policy 15.2.2.1(a) to include reference to the projected effects of climate change. *Mercury NZ Limited [FS3034.150]* supports this.
322. Federated Farmers of New Zealand [2173.27] seeks to amend Policy 15.2.2.1 to refer to provision of information directly to owners subject to the natural hazard overlays and ensuring landowners are made aware of the impact of natural hazard overlays on existing and proposed activities. *Mercury NZ Limited [FS3034.96]* supports this.
323. Policy 15.2.2.1 sets out a non-regulatory approach to provide information about risk. There are many sources of information available that people can access. The policy uses ‘including’ and as such is not limited to the list in subclauses (i) to (iv). Subclause (ii) deals with technical information and mapping. I consider that projected effects of climate change would already be encompassed by the technical reports in subclause (ii), and it is not necessary to single out one matter in a more general sub-clause. If the Panel are of a mind to accept the submission [2102.81] then I recommend that the matter be included in Policy 15.2.2.1(a)(ii) because climate change is within the ambit of Policy 15.2.2.1.
324. Similarly, the policy deals more generally with the provisions of information, and does not specify ‘how’. In my opinion, provision of information directly to the owner is already included in the more general sub-clause, and drafting sought in the submission has the potential to limit provision of information to owners.

### 20.4 Recommendations

325. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** the submissions made by Fire and Emergency New Zealand [2103.24], Waikato-Tainui Te Kauhanganui Incorporated [2151.14] and Mercury NZ Limited [2053.35] and the further submission made by *Waikato Regional Council [FS3031.46]*.
  - (b) **Reject** the submission made by Waikato Regional Council [2102.81] and the further submission made by *Mercury NZ Limited [FS3034.150]*.
  - (c) **Reject** the submission made by Federated Farmers of New Zealand [2173.27] and the further submission made by *Mercury NZ Limited [FS3034.96]*.

## 20.5 Recommended amendments

326. No amendments are recommended as a result of submissions. If the Panel are of a mind to accept in part the submission made by Waikato Regional Council [2102.81], the following amendment is suggested:

### **Amend Policy 15.2.2.1(a) - Natural hazard risk information**

(a) Enable people to be informed and have access to information on the natural hazards affecting their properties and surrounding area, including through:

(i)...

(ii) ... natural hazard technical information including information on the projected effects of climate change, risk registers and mapping on the Council's website, the Waikato Regional Council Hazards Portal, this district plan and accompanying planning maps;

(iii) ...

## 20.6 Section 32AA evaluation

327. No section 32AA evaluation is required.

# 21 Submissions on Chapter 15.2 – Policy 15.2.2.2 - Community Response Plans

## 21.1 Introduction

328. Policy 15.2.2.2 - *Awareness of Community Response Plans* provides:

“(a) Improve response to and recovery from natural hazard events by encouraging community awareness and use of information and methods contained in Community Response Plans.”

## 21.2 Submissions

329. Six submission points and two further submission points were received on Policy 15.2.2.2 .

330. These submissions were made:

| Submission point | Submitter                | Decision requested  |
|------------------|--------------------------|---|
| 2053.36          | Mercury NZ Limited       | <b>Retain</b> Policy 15.2.2.2.  |
| FS3031.47        | Waikato Regional Council | Neutral 2053.36   |
| 2102.82          | Waikato Regional Council | <b>Amend</b> Policy 15.2.2.2 - Awareness of Community Response Plans as follows:<br><b>Policy 15.2.2.2 – Awareness of <u>Consideration of</u> Community Response Plans</b><br>(a) Improve response to and recovery from natural hazard events by encouraging community awareness and use of information and methods contained in Community Response Plans.<br><u>Identifying and having regard to community response plans where new subdivision, use and</u> |

|                   |   |  |
|-------------------|---|--|
|                   |   | <u>development is proposed in areas subject to natural hazard risk.</u>            |
| <i>FS3034.151</i> | <i>Mercury NZ Limited</i>                   | <i>Support 2102.82</i>   |
| 2103.25           | Fire and Emergency New Zealand              | <b>Retain</b> Policy 15.2.2.2 as proposed.   |
| 2151.15           | Waikato-Tainui Te Kauhanganui Incorporated  | <b>Retain</b> Policy 15.2.2.2 - Awareness of Community Response Plans.             |
| 2173.28           | Federated Farmers of New Zealand            | <b>Retain</b> Policy 15.2.2.2 – Awareness of Community Response Plans as notified. |
| 2175.8            | Te Kopua Trust & Te Kopua 2b3 Incorporation | <b>Retain</b> Policy 15.2.2.2 - Awareness of Community Response Plans              |

### 21.3 Analysis

331. Mercury NZ Limited [2053.36], Fire and Emergency New Zealand [2103.25], Waikato-Tainui Te Kauhanganui Incorporated [2151.15], Federated Farmers of New Zealand [2173.28] and Te Kopua Trust & Te Kopua 2b3 Incorporation [2175.8] seek to retain Policy 15.2.2.2. *Waikato Regional Council [FS3031.47]* lodged a neutral further submissions in relation to Mercury. I recommend these submissions be accepted.
332. Waikato Regional Council [2102.82], supported by *Mercury NZ Limited [FS3034.151]*, seek amendments to Policy 15.2.2.2 to change the heading and add a new paragraph (b) for identifying and having regard to community response plans in areas subject to natural hazard risk.
333. The intent of Policy 15.2.2.2 is about encouraging people to be aware of community response plans, rather than imposing any regulatory requirements. As I understand it, the Civil Defence Community Response Groups are about empowering the community to prepare and plan for an emergency.
334. Community Response Plans are documents that are prepared outside of the RMA. The Waikato Region Emergency Management Group website explains that “*This is a plan that the community response group writes and owns which describes how the community will be self sufficient for the first 72 hours of an emergency. It makes sure the community has access to basic safety needs, including: Shelter, food, medical care and sanitation. The plan helps to identify what resources the community has available, what the vulnerabilities of the community are, and what responsibilities individuals and groups will have during an emergency.*”<sup>28</sup>
335. The amendment sought replaces ‘awareness’ with ‘consideration’, and appears to me to impose a requirement for an assessment where new subdivision, use and development is proposed. While decision makers are to have regard to management plans and strategies prepared under other Acts when preparing a district plan, and can consider other relevant matters in accordance with RMA section 104, it is my opinion that the purpose of a

<sup>28</sup> <https://www.waikatoregioncdemg.govt.nz/comunity-response/>

Community Response Plan is not well suited to implementation through regulatory tools, such as those in a district plan.

## 21.4 Recommendations

336. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept** the submissions made by Mercury NZ Limited [2053.36], Fire and Emergency New Zealand [2103.25], Waikato-Tainui Te Kauhanganui Incorporated [2151.15], Federated Farmers of New Zealand [2173.28] and Te Kopua Trust & Te Kopua 2b3 Incorporation [2175.8]; and the further submission made by *Waikato Regional Council* [FS3031.47].
- (b) **Reject** the submission made by Waikato Regional Council [2102.82] and the further submission made by *Mercury NZ Limited* [FS3034.151].

## 21.5 Recommended amendments

337. No amendments are recommended as a result of the submissions made.\

# 22 Submissions on Chapter 15 – Section 15.3 Using and interpreting rules

## 22.1 Introduction

338. Section 15.3 provides guidance on using and interpreting rules. The description sets out the relationship of the rules in Chapter 15 with those in the rest of the plan, and the relationship of the rules with two NES, as follows:

### "15.3 How to use and interpret the rules

- a. The activities covered by the rules in this chapter are also subject to the rules in the relevant zone chapters and the district-wide rules in Chapter 14 Infrastructure and Energy.
- b. Where subdivision is specified, a subdivision consent is also required under the provisions of the relevant zone chapter, and the district-wide rules in Chapter 14 Infrastructure and Energy will also apply.
- c. The rules in this chapter do not apply to:
  - i. any activity which is a regulated activity under the National Environmental Standards for Telecommunication Facilities 2016 (NESTF);
  - ii. plantation forestry activities regulated under the National Environmental Standards for Plantation Forestry (NESPF).
- d. The information requirements for resource consent applications in respect to natural hazards are set out in Rule 15.13."

## 22.2 Submissions

339. Six submission points and two further submission points were received on section 15.3.

340. These submissions were made:

| Submission point | Submitter                           | Decision requested   |
|------------------|-------------------------------------|--|
| 2040.3           | Spark New Zealand Trading Limited   | <b>amend</b> 15.3 by adding new clause:<br><u>(e) Where the rules table for any particular hazard area does not include rules for earthworks, then only relevant zone or district wide earthworks rules apply.</u>   |
| FS3034.7         | Mercury NZ Limited                  | Support 2040.3   |
| FS3030.1         | Federated Farmers of New Zealand    | Support 2040.3   |
| 2101.15          | Transpower New Zealand Limited      | <b>Add</b> to Section 15.3(c) new (iii) as follows:<br><u>(iii) any activity which is a regulated activity under the National Environmental Standards for Electricity Transmission 2010 (NESETA).</u>  |
| 2107.17          | Heritage New Zealand Pouhere Taonga | <b>Amend</b> Section 15.3 – when the plan is altered to reflect the requirements of the National Planning Standards, to reflect that Chapter 15 will be subject to the new district wide historic heritage chapter, as these rules will be relocated from the zone chapters to a district wide chapter.  |
| 2107.18          | Heritage New Zealand Pouhere Taonga | <b>Amend</b> Section 15.3 - How to use and interpret the rules, (and its final version of the Plan as per the National Planning Standards) as follows:<br><u>Advice note</u><br><u>Effects on archaeological sites, both recorded (identified by the New Zealand Archaeological Association) and unrecorded, are regulated under the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga must be contacted regarding development and the need to undertake an archaeological assessment to determine the need for an archaeological authority. In the event of an accidental discovery Heritage New Zealand Pouhere Taonga Lower Northern Office must be contacted immediately on 07 577 4530.</u> |
| 2139.5           | Ports of Auckland Limited           | <b>Retain</b> Rule 15.3 How to use and interpret the rules as notified.  |
| 2161.5           | Dilworth Trust Board                | <b>Retain</b> Rule 15.3 as notified.   |

### 22.3 Analysis

341. Ports of Auckland Limited [2139.5] and Dilworth Trust Board [2161.5] seek to retain Section 15.3 as notified. I consider that the provisions assist the Council to carry out its functions. I recommend that the submission in support be accepted in part.
342. The submission made by Spark New Zealand Trading Limited [2040.3] is some hazard areas include rules in the activity table for earthworks, whilst others do not, and that a new clause needs to be added to the interpretation rule to clarify what rules apply. As follows:
- e) *Where the rules table for any particular hazard area does not include rules for earthworks, then only relevant zone or district wide earthworks rules apply.*
343. Submission 2030.3 is to amend Section 15.3 to clarify the earthworks rules that apply where hazard rules do not include rules for earthworks. *Mercury NZ Limited [FS3034.7] and Federated Farmers of New Zealand [FS3030.1]* support this.
344. Where the activity specific tables do not specify a permitted activity rule for a specific activity, there is a default rule that applies; e.g. Rule 16.5.7.2 D1 requires a resource consent for a discretionary activity where earthworks do not comply with Rule 16.5.7.2 P3. This approach applies in the rules sections throughout the plan, with each section including a 'default' rule to require consent for activities that are not specifically allowed for or are not controlled by another rule.
345. Transpower New Zealand Limited [2101.15] seeks to add to 5.3(c) a new (iii) to say that the rules do not apply to activities regulated under the National Environmental Standards for Electricity Transmission 2010 (NES-ETA).
346. The advice from the Ministry for the Environment (MFE) on incorporating the NES into a district plan is: "Where rules do not duplicate nor conflict with the NES, councils do not need to take direct action; they just need to know the standards and how these apply. However, councils may choose to amend their district or regional plan to include reference to the NES for the benefit of users of the plan."<sup>29</sup>
347. The MFE advice is not specific to earthworks, and adding a reference to a specific activity may be misleading. I consider that a more general statement, similar to the one included for the National Environmental Standards for Telecommunication Facilities 2016 (NES-TF) may be more appropriate as that would alert plan users to the requirements of the NES.
348. I recommend that a reference is added that refers to the NES-ETA.
349. Heritage New Zealand Pouhere Taonga [2107.17] seeks to amend 15.3 with information reflecting the requirement of the National Planning Standards that rules be relocated from the zone chapters to a district wide historic heritage chapter.
350. The 'District-Wide Matters' Standard is that provisions to protect and manage historic heritage must be located in the Historic Heritage Chapter. The submission gives the Panel scope to relocate all historic heritage matters associated with natural hazards into a District Wide: Historic Heritage Chapter.

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<sup>29</sup> <https://www.mfe.govt.nz/publications/rma/national-environmental-standards-electricity-transmission-activities-introduction-0>

351. Heritage New Zealand Pouhere Taonga [2107.18] seeks the addition of an advice note to 15.3 in relation to archaeological assessments and contacting Heritage New Zealand.
352. The advice note sought by [2107.18] refers to a process outside of the RMA. I consider that it is helpful to include a reference in the district plan to alert consent applicants where they may need to obtain approvals under another Act. While the 'Advice note' would be better located in the individual chapters, alongside the earthworks rules, there is no submission seeking that, and it would be out of scope of the Variation 2.
353. In my opinion, section 15.3 should be located in Chapter 12 that addresses the same matters for other parts of the plan. There is no specific submission made on this structural issue.

## 22.4 Recommendations

354. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept in part** the submission made by Ports of Auckland Limited [2139.5] and Dilworth Trust Board [2161.5] to the extent that the provision as notified are retained, with some recommended additions.
  - (b) **Reject** the submission made by Spark New Zealand Trading Limited [2040.3] and the further submission made by *Mercury NZ Limited [FS3034.7]* and *Federated Farmers of New Zealand [FS3030.1]*.
  - (c) **Accept in part** the submission made by Transpower New Zealand Limited [2101.15] to the extent that it seeks a reference in the plan to the NES.
  - (d) **Accept** the submission made by Heritage New Zealand Pouhere Taonga [2107.18].

## 22.5 Recommended amendments

355. The following amendments are recommended:  
Add a new (c), and re-number subsections as follows;

### 15.3 How to use and interpret the rules

- a. The activities covered by the rules in this chapter are also subject to the rules in the relevant zone chapters and the district-wide rules in Chapter 14 Infrastructure and Energy.
- b. Where subdivision is specified, a subdivision consent is also required under the provisions of the relevant zone chapter, and the district-wide rules in Chapter 14 Infrastructure and Energy will also apply.
- c. The rules in this chapter apply alongside the National Environmental Standards for Electricity Transmission 2010 (NES-ETA).
- d. The rules in this chapter do not apply to:  
...  
e.

356. The following amendments are recommended:  
Add the following Advice note:

Advice note  
Effects on archaeological sites, both recorded (identified by the New Zealand Archaeological Association) and unrecorded, are regulated under the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga must be contacted regarding development and the need to undertake an archaeological assessment to determine the need for an archaeological authority. In the event of an accidental discovery Heritage New Zealand Pouhere Taonga Lower Northern Office must be contacted immediately.



## **22.6 Section 32AA evaluation**

357. The recommended addition of a reference to the additional NES-ETA is added for completeness, and does not change the application of either the NES or the management of transmission lines in the proposed plan.
358. The recommended addition of an Advice Note is a minor change, and has no regulatory effect.
359. An RMA section 32AA evaluation is not required.

## **23 Submissions on Chapter 15 – 15.13 Information requirements - Information requirements for all resource consent applications addressing natural hazards: 15.13.1 General**

### **23.1 Introduction**

360. The section in the proposed plan that deals with the information requirements has a general section, and specific hazard sections. The General information requirements apply to all resource consent applications addressing natural hazards, and are as follows:

“15.13.1 General

- (1) The following documents, to the extent relevant to the proposal:
- (a) Geotechnical assessment, including identification and assessment of any potentially liquefaction-prone land and land subject to slope instability;
  - (b) An assessment of natural hazard risk, including the type of natural hazards present, such as flooding, slope stability, liquefaction, subsidence and coastal hazards. The assessment shall include the level of risk and any increase in risk as a result of the proposal associated with each hazard. Where applicable, the projected effects of climate change over the period to 2120 must be included;
  - (c) Remediation and mitigation measures necessary to make the site and any proposed buildings suitable for the proposed use, such as minimum floor levels, foundation design for relocatability, and appropriate time limits and/or triggers for the removal of any building and onsite wastewater disposal systems.
- (2) Plans identifying:
- (a) Topographical features within the site and surrounding area;
  - (b) The location of natural hazards on all or part of the site.”

### **23.2 Submissions**

361. Four submission points and three further submission points were received on 15.13.1 General.

362. These submissions were made:

| Submission point | Submitter                               | Decision requested  |
|------------------|---|---|
| 2053.78          | Mercury NZ Limited                      | Retain 15.13.1 General.   |
| <i>FS3029.11</i> | <i>TaTa Valley Limited</i>              | <i>Support 2053.78</i>  |
| <i>FS3031.89</i> | <i>Waikato Regional Council</i>         | <i>Neutral 2053.78</i>  |
| 2093.10          | TaTa Valley Limited                     | "Delete 15.13.1(1)(a) (Information requirements) as follows: a) Geotechnical assessment, including identification and assessment of any potentially liquefaction-prone land and land subject to slope instability;"<br><br>(a) is unnecessary because (b) generally covers the matters listed in (a).<br><br><ul style="list-style-type: none"> <li>• The volume of information required is substantial and not linked to scale of activities or effects that may be generated.</li> <li>• Costs may be prohibitive, particularly for small activities such as minor earthworks.</li> </ul> |
| <i>FS3027.53</i> | <i>Horticulture New Zealand</i>         | <i>Support 2093.10</i>  |
| 2149.18          | Horticulture New Zealand                | "Retain Rule 15.13.1 Information requirements for all resource consent applications addressing natural hazards, and Amend Chapter 13 Definitions so that the definition of earthworks excludes ancillary rural earthworks, and Adopt changes sought elsewhere in the submission relating to farm buildings or habitable/non-habitable buildings."   |
| <i>FS3030.38</i> | <i>Federated Farmers of New Zealand</i> | <i>Support 2149.18</i>  |

### 23.3 Submissions and analysis

363. The submission made by Mercury NZ Limited [2053.78] is to retain 15.13.1 General. The further submission of *TaTa Valley Limited* [FS3029.11] supports the submission, and the further submission of *Waikato Regional Council* [FS3031.89] is neutral.

364. The submission made by Horticulture New Zealand [2149.18] is to retain Rule 15.13.1 *Information requirements for all resource consent applications addressing natural hazards*. The further submission made by *Federated Farmers of New Zealand* [FS3030.38] supports that submission.

365. I rely on the RMA section 32 evaluation and technical reports dealing with the natural hazard provisions, and recommend that the submissions in support be accepted.

366. I recommend that submissions [2149.18] and [3030.38] be accepted in part, to the extent that the submission deals with the information requirements in the proposed plan.
367. The submission made by TaTa Valley Limited [2093.10] is to delete 15.13.1(1)(a) “*Geotechnical assessment, including identification and assessment of any potentially liquefaction-prone land and land subject to slope instability*”. The submission is that subsection (a) is unnecessary because (b) generally covers the matters listed in (a) and the volume of information required is substantial and not linked to the scale of activities or effects that may be generated; and costs may be prohibitive, particularly for small activities such as minor earthworks. The further submission made by *Horticulture New Zealand* [FS3027.53] supports that submission.
368. The information requirements in 15.13.1 apply to the extent that they are relevant to a proposal. Decision makers need to have sufficient information to assess an application, and I consider that it assists both the council and applicants to include those requirements in the plan. While there may be some overlap if a report both undertakes a geotechnical assessment, and also assesses risk of natural hazard risks in general, I consider that it is useful to set out the detail on what will be required, to the extent that it is relevant to a development or land use proposal where the potential risk and effects are of a nature and scale that a resource consent is required.

### 23.4 Recommendations

369. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** the submissions made by Mercury NZ Limited [2053.78] and the further submissions made by of *TaTa Valley Limited* [FS3029.11] and *Waikato Regional Council* [FS3031.89].
  - (b) **Accept in part** the submissions made by *Horticulture New Zealand* [2149.18] and the further submission made by *Federated Farmers of New Zealand* [FS3030.38] to the extent that the submissions deal with Rule 15.13.1 *Information requirements for all resource consent applications addressing natural hazards*.
  - (c) **Reject** the submission made by TaTa Valley Limited [2093.10] and the further submission made by *Horticulture New Zealand* [FS3027.53].

### 23.5 Recommended amendments

370. No amendments are recommended as a result of the submissions.

### 23.6 Section 32AA evaluation

371. No section 32AA evaluation is required.

## 24 Submissions on Variation 2 – Amendments to zone Chapters 16 to 18

### 24.1 Introduction

372. Variation 2 proposes changes to PWDP zone chapters, amending selected rules by adding references to natural hazards.

### 24.2 Submissions

373. Sixteen submission points and no further submission points were received on the proposed amendments to zone chapters. 15 of these relate to chapters 16-18 and the remaining

submission relates to matters of discretion in rules across all chapters. All the submissions seek retention of proposed rule changes.

374. These submissions were made:

| Submission point | Submitter                        | Decision requested   |
|------------------|----------------------------------|--|
| 2094.73          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 16.1.3(i) as notified.  |
| 2094.74          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 16.4.1(b)(v) as notified.   |
| 2094.75          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to rule 16.4.4(b)(v) as notified.   |
| 2094.76          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to rule 16.4.12(b)(vi).   |
| 2094.77          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to rule 16.5.9.3(b)(viii) as notified.  |
| 2094.78          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 17.1.3, matter of discretion clause (ix).   |
| 2094.79          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 17.4.1(b)(iii) as notified.   |
| 2094.80          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 17.4.1.1 as notified.   |
| 2094.81          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 17.5.2, matter of discretion (viii) as notified.  |
| 2094.82          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 17.5.9 (f) (viii) as notified.  |
| 2094.83          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 18.1.3, matter of discretion (i) as notified.   |
| 2094.84          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 18.4.1, matter of discretion (b)(iii) as notified.  |
| 2094.85          | Kainga Ora Homes and Communities | Retain Variation 2 amendment to Rule 18.4.2, matter of discretion (b)(iv) as notified.   |
| 2172.5           | Federated Farmers of New Zealand | Retain the Variation 2 matter of discretion for various activities requiring a controlled or restricted discretionary resource consent |

### 24.3 Analysis

375. Kainga Ora Homes and Communities [2094.73-85] seeks to retain Variation 2 amendments to various rules in Chapters 16, 17 and 18. There are no other submissions asking for changes or deletion of these provisions. I recommend that these submissions be accepted.

376. Federated Farmers of New Zealand [2172.5] asks to retain the Variation 2 matter of discretion for various activities requiring a controlled or restricted discretionary resource consent. This includes all of the zones chapters. The submissions states, "FFNZ understands the purpose

of the matter of discretion and considers it appropriate, provided the relief sought in our submission on Stage 2 is granted.” I understand submission [2172.5] is therefore conditional on the acceptance of Federated Farmers’ submissions on Chapter 15. However, no specific submissions were referenced, nor is there any indication of how the controlled or restricted discretionary rules might alter depending on the result of other submissions. Therefore, I recommend that submission [2172.5] be accepted without further consideration.

377. Accordingly, all submissions on the Variation 2 amendments to zone rules are recommended to be accepted, with no changes to those rules.

#### 24.4 Recommendations

378. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept** Kainga Ora Homes and Communities [2094.73-85].
- (b) **Accept** Federated Farmers of New Zealand [2172.5].

#### 24.5 Recommended amendments

379. No amendments are recommended.

#### 24.6 Section 32AA evaluation

380. No RMA section 32AA evaluation is required.

## 25 Submissions on Maps

381. Planning maps show areas where particular policies or rules apply.

### 25.1 Submissions

382. There were nine submission points and 17 further submission points received that apply to the maps that are proposed through Stage 2.

383. These submissions were made:

| Submission point  | Submitter                  | Decision requested   |
|-------------------|----------------------------|--|
| 2102.7            | Waikato Regional Council   | <b>Amend</b> all planning maps (hazard areas) to clarify the location and statutory intent of the maps.  |
| <i>FS3029.13</i>  | <i>TaTa Valley Limited</i> | <i>Oppose 2102.7</i>   |
| <i>FS3034.116</i> | <i>Mercury NZ Limited</i>  | <i>Support 2102.7</i>  |
| 2102.9            | Waikato Regional Council   | <b>Amend</b> the planning maps and/or plan provisions to address the matters raised below:<br>The submitter seeks to clarify the following points through amendments to the provisions under Chapter 15, the planning maps or specific definitions included in the plan including but not limited to the definitions of: Annual exceedance probability; Flood plain management area; Flood ponding area; High risk flood area; High Risk Coastal Hazard (Inundation) Area; High Risk Coastal Hazard (Erosion) Area; Defended Area; Coastal Sensitivity Area (Erosion); Coastal |

|          |  |  |
|----------|--|--|
|          |  | <p>Sensitivity Area (Inundation); Coastal Sensitivity Area (Open Coast); Risk assessment.</p> <ol style="list-style-type: none"> <li>1. How the provisions (both policy direction and rules) are intended to apply; through reference to defined terms and/or the planning maps.</li> <li>2. How natural hazards will be defined to give effect to the policy direction in the plan, in particular the projected effects of climate change, and in a manner, which can be understood and consistently applied through area or site-specific assessment where hazards are not mapped in the planning maps.</li> <li>3. Clearer representation of mapped areas in the GIS viewer.</li> <li>4. Management of the perception of plan users that high flood hazards may exist beyond the areas mapped in the plan.</li> <li>5. Where flood hazards are to be identified through a definition that the criteria which are to be used include but are not limited to the following: <ol style="list-style-type: none"> <li>(a) The area of land that is inundated by a specified, rainfall event.</li> <li>(b) any increases in impervious areas that would arise from changes in land use enabled by the plan.</li> <li>(c) the effects of climate change over a 100-year timeframe in respect of the frequency and duration of rain fall events.</li> <li>(d) sea level rise projections; and</li> <li>(e) the effects of climate change over a 100-year timeframe in respect of the frequency and intensity of storm surge events.</li> </ol> </li> <li>6. Confirmation of how the Natural hazards portal available on the WRC website is designed to reflect the most up to date information available to the region.</li> <li>7. How will the planning maps be updated where land modification may affect the spatial extent of hazards and how might any site specific or area specific changes be reflected in the application of the rules.</li> <li>8. Clarification of the wording of the annual exceedance probability definition.</li> </ol> <p>Clarification of the consideration of vertical land movement (subsidence) and climate change effects in relation to rainfall and sea level rise across all definitions.</p> |
| FS3016.2 | Raglan Collective Incorporated Society | Support 2102.9   |
| FS3022.5 | Ohinewai Lands Limited                 | Oppose 2102.9  |
| FS3028.5 | Ambury Properties Limited              | Oppose 2102.9  |
| FS3030.4 | Federated Farmers of New Zealand       | Support 2102.9   |

|            |                                  |   |
|------------|----------------------------------|---|
| FS3027.44  | Horticulture New Zealand         | Oppose 2102.9   |
| FS3029.14  | TaTa Valley Limited              | Oppose 2102.9   |
| FS3032.47  | Timberline Contracting           | Support 2102.9  |
| FS3034.118 | Mercury NZ Limited               | Support 2102.9  |
| 2146.4     | Waikato District Council         | <b>Amend</b> maps by merging the hazard overlay area polygons where adjoining polygons of the same hazard overlay area have not been merged. See attachment 4 of submissions for examples of unmerged polygons;<br>AND<br><b>Any</b> consequential amendments as required AND<br><b>Any</b> other change necessary to give effect to the intent of this relief sought and to achieve the purpose of the Resource Management Act 1991.                           |
| FS3034.63  | Mercury NZ Limited               | Support 2146.4  |
| 2146.5     | Waikato District Council         | <b>Amend</b> maps by making changes to overlay map styles if necessary to change colours or patterns to ensure the difference between overlay areas is clear and there is no conflict between Stage 1 and Stage 2 overlay map styles;<br>AND<br><b>Any</b> consequential amendments as required;<br>AND<br><b>Any</b> other change necessary to give effect to the intent of this relief sought and to achieve the purpose of the Resource Management Act 1991. |
| FS3030.40  | Federated Farmers of New Zealand | Support 2146.5  |
| FS3034.64  | Mercury NZ Limited               | Support 2146.5  |
| 2146.6     | Waikato District Council         | <b>Amend</b> maps to reference the most up to date national vertical datum NZVD2016;<br>AND<br><b>Any</b> consequential amendments as required;<br>AND<br><b>Any</b> other change necessary to give effect to the intent of this relief sought and to achieve the purpose of the Resource Management Act 1991.  |
| FS3034.65  | Mercury NZ Limited               | Support 2146.6  |
| 2146.7     | Waikato District Council         | <b>Consider</b> amending the names of hazard overlay areas to make them easier to recognise;<br>AND<br><b>Include</b> any consequential amendments to the policies, rules and definition where these reference the hazard overlay areas.  |
| FS3034.66  | Mercury NZ Limited               | Support 2146.7  |

|         |                      |  |
|---------|----------------------|--|
| 2161.18 | Dilworth Trust Board | <b>Retain</b> the Planning Maps as notified, as they relate to the Rural Campus site at 500 Lyons Road, Mangtawhiri. |
|---------|----------------------|--|

## 25.2 Submissions

384. The key issues raised in respect of the maps are:

- a. submission in support
- b. clarify and explain the intent of the maps, correct errors
- c. amend the planning maps and/or plan provisions to address variety of issues.

### Submission in support

385. The submission made by Dilworth Trust Board [2161.18] is to retain the Planning Maps as notified, as they relate to the Rural Campus site at 500 Lyons Road, Mangtawhiri.

386. I rely on the RMA section 32 analysis that the provisions are the most appropriate to achieve the purpose of the RMA, and are efficient and effective, and on the technical reports. I recommend that the submission be accepted in part, with amendments made to simplify or correct errors.

### Clarify the maps and the intent, and correct errors

387. Submission point 2102.9 made by the Waikato Regional Council raises a concern about how area or site-specific assessments will occur where hazards are not mapped in the planning maps.

388. The approach in the PWDP is to map and manage areas that can be demonstrated to be vulnerable to natural hazard risk. I consider that identifying areas for future assessment on non-statutory hazard maps could be unclear and could suggest that those areas require some form of management through a consent assessment. The maps are based on the best available information at the time the plan was released for public submissions. In the event that new information becomes available that identifies additional natural hazard areas in future, these can be added using the RMA Schedule 1 plan change process.

389. The submission made by Waikato Regional Council [2102.7] is to amend all planning maps (hazard areas) to clarify the location and statutory intent of the maps. The further submission made by *TaTa Valley Limited* [FS3029.13] opposes 2102.7, and *Mercury NZ Limited* [FS3034.116] supports 2102.7.

390. A number of submission points were made by the Waikato District Council [2146.4, 2146.5, 2146.6, and 2146.7]. The submission identifies a number of errors or omissions in the Plan text and errors in the planning maps and seeks corrective amendments that will improve the administration of the plan, as well as its accuracy and clarity for plan users. The changes sought are:

- (a) to amend maps by merging the hazard overlay area polygons where adjoining polygons of the same hazard overlay area have not been merged. *Mercury NZ Limited* [FS3034.63] supports submission [2146.4].
- (b) to amend maps by making changes to overlay map styles if necessary to change colours or patterns to ensure the difference between overlay areas is clear and there is no conflict between Stage 1 and Stage 2 overlay map styles. The further submissions made by *Federated Farmers of New Zealand* [FS3030.40] and *Mercury NZ Limited* [FS3034.64] support the submission.



- (c) to amend maps to reference the most up to date national vertical datum NZVD2016. *Mercury NZ Limited [FS3034.65]* supports the submission [2146.6].
- (d) to consider amending the names of hazard overlay areas to make them easier to recognise. *Mercury NZ Limited [FS3034.66]* supports [2146.7].
- (e) to include any consequential amendments to the policies, rules and definition where these reference the hazard overlay areas.

### 25.3 Analysis

391. Submission points [2146.4], [2146.5], [2146.6] and [2102.7] are to provide clarification and identify and seek that a number of errors and omissions be corrected. I recommend that submissions be accepted because the changes assist plan users and improve the implementation of the proposed plan. The other section 42A report writers deal with the submission points that relate to specific hazards in more detail.
392. The submission points made by the Waikato District Council provide scope for the Panel to make amendments that update and redraft provisions to assist users of the plan to identify and understand the hazard overlay areas, and to improve the administration and accuracy of the plan. I recommend that changes to overlay map styles and colours or patterns used on the maps be amended because these changes to the maps have the potential to assist with plan interpretation and administration. Following a discussion with Ms Nicolson, I consider that there are also amendments to the rule dealing with coastal hazards that could be made to simplify the rules that apply. I have recommended name changes, and amalgamated rules 15.7 and 15.8 to retain the same regulatory method, and Ms Nicolson has additional changes she is recommending as a result of specific submissions on the coastal hazard provisions.
393. If the Panel was of a mind to make changes to the coastal hazard overlay maps and rules to make the maps and rules clearer, without changing the intent or regulatory approach, the following amendments could be made:

#### Coastal Hazard Overlay Name Changes

394. The natural hazard overlay areas are identified on the proposed planning maps. As notified there are:
- 15.9 High Risk Coastal Hazards (Inundation) Area
  - 15.10 High Risk Coastal Hazards (Erosion) Area
395. I consider that the names of the 'High Risk' overlays could be shortened for readability; as follows:
- 15.9 High Risk Coastal Inundation Area
  - 15.10 High Risk Coastal Erosion Area

#### Coastal sensitivity areas - Rule 15.7 and 15.8

396. Activities in the coastal sensitivity areas are subject to the rules in:
- 15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) and
  - 15.8 Coastal Sensitivity Area (Inundation).
397. The rules that apply to the Coastal Sensitivity Area (Erosion) and the Coastal Sensitivity Area (Open Coast) are the same; and there are strong similarities with the rules applying to Coastal Sensitivity Area (Inundation).

398. I consider that the permitted, restricted discretionary and discretionary activity rules in 15.7 and 15.8 could be combined, without changing the level of regulation or applicability to specific activities. As notified, these rules are very similar, with the same activities being identified under the permitted, restrictive discretionary activity categories. The difference between rule 15.7 and 15.8 is in the conditions, that apply to specific coastal sensitivity areas.

### **Amend the planning maps and/or plan provisions to address variety of issues**

399. The submission made by Waikato Regional Council [2102.9] is about the identification of natural hazard areas. The decision sought by the submission is to amend the planning maps and/or plan provisions to address a lengthy list of generalised issues.
400. Submission 2102.9 is supported in the further submissions of *Raglan Collective Incorporated Society* [FS3016.2]; *Federated Farmers of New Zealand* [FS3030.4]; *Timberline Contracting* [FS3032.47]; and *Mercury NZ Limited* [FS3034.118]. Submission [2102.9] is opposed by *Horticulture New Zealand* [FS3027.44]; *TaTa Valley Limited* [FS3029.14]; *Ohinewai Lands Limited* [FS3022.5]; and *Ambury Properties Limited* [FS3028.5].
401. Submission 2109.9 does not provide specific details of the relief sought or give helpful examples of the kinds of changes envisaged.
402. I consider that the maps as notified are clear and fit for purpose. The RMA section 32 report evaluates the general approach applied in the PWDP, of which the maps are an integral part. There may be changes recommended by other section 42A report writers where amendments are sought through submissions for specific properties that are subject to specific hazard maps.
403. The RMA section 32 report sets out the collaborative approach that was taken to develop the provisions in the proposed plan. The section 32 report includes technical reports that support the approach taken to identify areas on the planning maps. Evidence would be needed to demonstrate that there are errors that have occurred that need to be corrected.

### **Defined terms and hyperlinks**

404. The submitter seeks to clarify the planning maps and defined terms<sup>30</sup> where these appear in the text of objectives, policies and rules where hyperlinks to the definition are imbedded. The submitter is concerned that there are 'hazard areas' or 'risk areas' that are present beyond those areas which have been mapped and identified in the planning maps.
405. The provisions are implemented by the rules in the proposed plan and some terms that are used in the plan are hyperlinked to the definitions sections. The definitions and planning maps identify the spatial areas where those rules apply. Definitions have been included in the proposed plan where a specific definition is needed to assist users of the plan. There are terms referred to in the permitted activity rules that are hyperlinked to relevant definitions assist with rule interpretation. The effect of the definition and reference to the maps is to limit the applicability of the rules to those areas. I consider that it is clear in the proposed plan that the permitted activity rules (subject to conditions) only apply in the areas that are within the specified area mapped in the plan.

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<sup>30</sup> Annual exceedance probability; Flood plain management area; Flood ponding area; High risk flood area; High Risk Coastal Hazard (Inundation) Area; High Risk Coastal Hazard (Erosion) Area; Defended Area; Coastal Sensitivity Area (Erosion); Coastal Sensitivity Area (Inundation); Coastal Sensitivity Area (Open Coast); Risk assessment.

### **Annual Exceedance Probability (AEP)**

406. Submitter 2102.9 also seeks clarification of the wording of the annual exceedance probability definition, and clarification of the consideration of vertical land movement (subsidence) and climate change effects in relation to rainfall and sea level rise across all definitions.
407. The submitter is concerned that there are areas within the district which may be subject to a 1% AEP floodplain and/or 1% AEP rainfall flood ponding (which would meet the criteria of the high flood risk hazard area) which are not identified on the planning maps.
408. I consider that including a definition of Annual exceedance probability (AEP) and mapping a natural hazard risk area provides certainty for plan users and decision makers. The RMA section 32 report sets out the approach used to develop the plan provisions, which has included technical reports that include the 1% AEP modelling, mine hazard and risk assessment reports, coastal hazard assessments, peer reviews, and the section 32 report also details the collaborative approach with iwi, the regional council and the community. Based on those reports, I consider that the development of the definitions and extent of the mapped areas was appropriate for notification. I defer to the other section 42 report writers that deal with the submissions and make recommendations about specific hazards and sites that are the subject of submissions.

### **General concerns in submission 2102.9**

409. No specific amendments were sought to the above decisions in submission point [2102.9]. I recommend that submission [2102.9] be rejected as the decision sought is unclear and no specific amendments were sought.
410. The submission seeks clarification on a number of other matters, but is unclear what specific amendments are sought. I have commented on the points of clarification on each matter raised below.
- (a) The RMA section 32 report states that an allowance for the projected effects of climate change was included where 2D modelling is available.<sup>31</sup> The mapped natural hazard areas reflect the extent of the hazards identified in the technical reports. Where an activity requires a consent, a site-specific assessment of hazard risk can also occur and the council has retained the discretion to do so. All adverse effects may be considered where an activity is subject to a discretionary activity or a non-complying activity rule, even where hazards are not mapped in the planning maps.
  - (b) I consider that the maps as notified are clear and fit for purpose.
  - (c) There is no regulatory response through the district plan where there is a perception that high flood hazards may exist beyond the areas mapped in the plan. Flood hazards are assessed on technical reports, defined and identified on the planning maps.
  - (d) A plan change would need to be undertaken to add or remove areas where natural hazard risk is re-assessed, and planning maps would need to be updated where land modification may affect the spatial extent of hazards, the implications for any site-specific or area-specific changes to the rules would form part of any plan change to address natural hazard risk.

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<sup>31</sup> RMA section 32 report p6 and p12/13 and p19

411. I recommend that the submission point be rejected as the decision sought is unclear and no specific amendments were sought.

## 25.4 Recommendations

412. For the reasons above I recommend that the Hearings Panel:

- (a) **Accept in part** the submission made by Waikato Regional Council [2102.7] to amend all planning maps (hazard areas) and the further submission made by *Mercury NZ Limited* [FS3034.116].
- (b) **Accept** the further submission made by *TaTa Valley Limited* [FS3029.13].
- (c) **Accept** the submission made by the Waikato District Council [2146.4], and the further submission made by *Mercury NZ Limited* [FS3034.63].
- (d) **Accept** the submission made by the Waikato District Council [2146.5] and further submissions made by *Federated Farmers of New Zealand* [FS3030.40] and *Mercury NZ Limited* [FS3034.64].
- (e) **Accept** the submission made by the Waikato District Council [2146.6] and the further submission made by *Mercury NZ Limited* [FS3034.65].
- (f) **Accept** the submission made by the Waikato District Council [2146.7] and the further submission made by *Mercury NZ Limited* [FS3034.66].
- (g) **Reject** the submission made by the Waikato Regional Council [2102.9] and the further submissions of *Raglan Collective Incorporated Society* [FS3016.2]; *Federated Farmers of New Zealand* [FS3030.4]; *Timberline Contracting* [FS3032.47]; and *Mercury NZ Limited* [FS3034.118].
- (h) **Accept** the further submissions made by *Horticulture New Zealand* [FS3027.44]; *TaTa Valley Limited* [FS3029.14]; *Ohinewai Lands Limited* [FS3022.5]; and *Ambury Properties Limited* [FS3028.5].
- (i) **Reject** the submission made by *Pokeno Village Holdings Limited* [2147.5] to add non-statutory hazard maps, and the further submission made by *Mercury NZ Limited* [FS3034.69].
- (j) **Accept** the submission made by *Dilworth Trust Board* [2161.18].

## 25.5 Recommended amendments

413. I recommend the following amendment to the names of the 'High Risk' overlays:

Throughout the plan and on planning maps, replace:

High Risk Coastal Hazards (Inundation) Area

High Risk Coastal Hazards (Erosion) Area

with the following:

[High Risk Coastal Inundation Area](#)

[High Risk Coastal Erosion Area](#)

414. I recommend the following amendment be made to Rules 15.7 and 15.8:

Rename title and amalgamate rules 15.7 and 15.8 into 15.7A (or re-number in sequence), as follows:

### **15.7A Coastal Sensitivity Areas**

#### **15.7A.1 Permitted Activities**

- The activities listed below are permitted activities within the Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) and the Coastal Sensitivity Area (Inundation) as shown on the Planning Maps, if they meet the activity-specific conditions set out in this table.
- Activities may also be restricted discretionary activities or discretionary activities, as specified in Rules 15.7A.2 and 15.7A.3.

| Activity |   | Activity-specific conditions   |
|----------|---|--|
| P1       | Additions to an existing lawfully established building.   | 1. The gross floor area of all additions to the building from [date this rule becomes operative] do not exceed a total of 15m <sup>2</sup> . |
| P2       | <ol style="list-style-type: none"> <li>Construction of an accessory building without a floor;</li> <li>Construction of a <u>farm building</u> without a floor.</li> </ol> | Nil  |
| P3       | Construction, upgrading, <u>minor upgrading</u> , replacement, repair or maintenance of utilities.  | Nil  |
| P4       | Maintenance or repair of an existing lawfully established coastal protection structure.   | Nil  |

### 15.7A.2 Restricted Discretionary Activities

- The activities listed below are restricted discretionary activities in the Coastal Sensitivity Area (Erosion), Coastal Sensitivity Area (Open Coast), and the Coastal Sensitivity Area (Inundation).
- Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table.

| Activity |   | Matters of Discretion  |
|----------|---|--|
| RD1      | Construction of a new building or additions to an existing building not provided for in Rule 15.7A.1 P1-P3 and not listed in Rule 15.7A.3 DI. | <p><b>Discretion is restricted to:</b></p> <ol style="list-style-type: none"> <li>The ability to manage coastal hazard risk through appropriate building materials, structural or design work, engineering solutions or other appropriate mitigation measures</li> <li>The ability to relocate the building;</li> <li><u>The setting of minimum floor levels where appropriate;</u></li> </ol> |

|  |  |  |
|--|--|--|
|  |  | <ol style="list-style-type: none"> <li>4. The application of mitigation through natural features and buffers where appropriate;</li> <li>5. The ability to impose time limits or triggers to determine when the building and services to be removed or relocated;</li> <li>6. The degree to which coastal hazard risk, including the effects of climate change over a period to 2120, has been assessed in a site specific coastal hazard <u>risk assessment</u>;</li> <li>7. Suitability of the site for the proposed use, including the provision for servicing such as access, wastewater, stormwater, and water supply;</li> <li>8. Adverse effects to people and property and overall vulnerability from the establishment of the new building or additions to an existing building</li> <li>9. <u>Any mitigation measures to reduce risk<sup>32</sup></u>;</li> <li>10. Whether there is any suitable alternative location for the activity to locate within the site       <ol style="list-style-type: none"> <li>11. <u>In coastal inundation areas<sup>33</sup></u>:           <ol style="list-style-type: none"> <li>a. <u>Whether there is any suitable alternative location for the activity to locate within the site.</u></li> </ol> </li> </ol> </li> </ol> |
|--|--|--|

### 15.7A.3 Discretionary Activities

1. The activities listed below are discretionary activities in the Coastal Sensitivity Area (Erosion), ~~and Coastal Sensitivity Area (Open Coast)~~, and the Coastal Sensitivity Area (Inundation).

|    |  |
|----|--|
| D1 | Construction of a new coastal protection structure.  |
| D2 | Subdivision to create one or more additional vacant lot(s) other than a <u>utility</u> allotment, access allotment or subdivision to create a reserve allotment. |

<sup>32</sup> in notified version in Rule 15.7.3 "and any mitigation measures to reduce risk" and 15.8.3 "or other appropriate mitigation measures".

<sup>33</sup> in the notified version this condition only applies to coastal inundation areas.

## 26 Submissions on PWDP Stage I relating to Natural Hazards and Climate Change

### 26.1 Submissions

415. Submissions were received on Stage I of PWDP in 2018 about natural hazards and climate change. Some have been addressed in earlier reports and hearings. The remaining submissions that have not been addressed to date are reported in this section.
416. Eleven Submissions and 14 further submissions are reported in this section.
417. Submissions received were:

| Submission Point  | Submitter   | Decision Requested   |
|-------------------|---|--|
| 81.5              | Waikato Regional Council                                | Add to the Proposed District Plan for all zones an additional condition related to earthworks within a flood plain (in addition to identifying these on maps), as follows (or similar): Not be located within a flood plain as identified in the Waikato District Plan. AND Add to Maps the flood plain. |
| <i>FS1110.27</i>  | <i>Synlait Milk Limited</i>                             | <i>Oppose 81.5</i>   |
| <i>FS1198.58</i>  | <i>Bathurst Resources Limited and BT Mining Limited</i> | <i>Oppose 81.5</i>   |
| <i>FS1322.36</i>  | <i>Synlait Milk</i>                                     | <i>Oppose 81.5</i>   |
| <i>FS1342.40</i>  | <i>Federated Farmers</i>                                | <i>Oppose 81.5</i>   |
| 81.11             | Waikato Regional Council                                | Amend the Proposed District Plan to provide for district-wide provisions in the Natural Hazards and Climate Change zones/overlays to restrict activities that take place in these areas, and to discourage inappropriate use and development.  |
| <i>FS1342.9</i>   | <i>Federated Farmers</i>                                | <i>Oppose 81.11</i>  |
| <i>FS1276.218</i> | <i>Whaingaroa Environmental Defence Inc. Society</i>    | <i>Support 81.11</i>   |
| 81.235            | Waikato Regional Council                                | Add to Chapter 13: Definitions a new definition for "Flood risk area."   |
| <i>FS1087.28</i>  | <i>Ports of Auckland Limited</i>                        | <i>Support 81.235</i>  |
| <i>FS1223.59</i>  | <i>Mercury NZ Limited</i>                               | <i>Support 81.235</i>  |
| <i>FS1342.50</i>  | <i>Federated Farmers</i>                                | <i>Oppose 81.235</i>   |
| 81.236            | Waikato Regional Council                                | Add to Chapter 13: Definitions a new definition for "Floodplain."  |

|             |  |  |
|-------------|--|--|
| FS1087.29   | Ports of Auckland Limited              | Support 81.236   |
| FS1223.60   | Mercury NZ Limited                     | Support 81.236   |
| FS1342.51   | Federated Farmers                      | Oppose 81.236  |
| 81.245      | Waikato Regional Council               | Amend the Proposed District Plan to clarify the terminology of the Huntly South Assessment Area and the Huntly south ponding zone and apply consistently if they are the same.   |
| 695.148     | Sharp Planning Solutions Ltd           | Requests to be notified and given a reasonable opportunity to prepare a response of this chapter when the contents become available.   |
| FS1387.343  | Mercury NZ Limited                     | Oppose 695.148   |
| 722.2       | Will Phelps                            | No specific decision sought, but submission opposes any rates increases based on climate change.   |
| 802.10      | Vera van der Voorden                   | Amend the Proposed District Plan to stop development on areas known as flood prone due to rising sea levels with global warming.   |
| FS1387.1295 | Mercury NZ Limited                     | Oppose 802.10  |
| 831.82      | Raglan Naturally                       | Consider the impact of coal mining on climate change, particularly through Stage 2 of the reviewed Proposed District Plan.   |
| 942.55      | Angeline Greensill for Tainui o Tainui | No specific decision sought, but submission expresses concern that there is no climate change chapter, and supports efforts to reduce carbon footprints by encouraging off the grid living and biodiversity offsets when properties are developed. |
| 942.69      | Angeline Greensill for Tainui o Tainui | No specific decision sought, but submission seeks clarification on whether Chapter 11 Natural Hazards and Climate Change is a placeholder for Stage 2 District Plan review.  |

## 26.2 Analysis

418. Waikato Regional Council [81.5] sought to add to all zones an additional condition related to earthworks within a flood plain (in addition to identifying these on maps): “Not be located within a flood plain as identified in the Waikato District Plan.” AND Add to Maps the flood plain. *Synlait Milk Limited [FS1110.27]*, *Bathurst Resources Limited and BT Mining Limited [FS1198.58]*, *Synlait Milk [FS1322.36]* and *Federated Farmers [FS1342.40]* opposed this.
419. Chapter 15, notified in Stage 2, addresses earthworks issues related to natural hazards in the mapped hazard overlays. The submitter and further submitters have made separate submissions on Chapter 15 and this submission on Stage 1 of the proposed plan has therefore largely been overtaken by the notification and submissions on Stage 2 / Variation 2. I recommend that Waikato Regional Council [81.5] be accepted in part to the extent that these matters are addressed in Chapter 15. I recommend that *Synlait Milk Limited [FS1110.27]*,



*Bathurst Resources Limited and BT Mining Limited [FS1198.58], Synlait Milk [FS1322.36] and Federated Farmers [FS1342.40] be rejected.*

420. Waikato Regional Council [81.1] sought to amend the plan to provide for district-wide provisions in the Natural Hazards and Climate Change zones/overlays to restrict activities that take place in these areas, and to discourage inappropriate use and development. *Federated Farmers [FS1342.9] opposed and Whaingaroa Environmental Defence Inc. Society [FS1276.218] supported this.*
421. Chapter 15, notified in Stage 2, addresses these issues in the ways submitted. The submitter and further submitters have made submissions on Chapter 15 and this submission on Stage 1 of the proposed plan has therefore largely been overtaken by the notification and submissions on Stage 2 / Variation 2. I recommend that Waikato Regional Council [81.1], and *Whaingaroa Environmental Defence Inc Society [FS1276.218]* be accepted in part, to the extent that these matters are addressed in Chapter 15. I recommend that *Federated Farmers [FS1342.9]* be rejected.
422. Waikato Regional Council [81.235] and [81.236] sought to add to Chapter 13: Definitions a new definition for "Flood risk area" and "Floodplain." *Ports of Auckland Limited [FS1087.28 and FS1087.29] and Mercury NZ Limited [FS1223.59 and FS1223.60] supported, and Federated Farmers [FS1342.50 and FS1342.51] opposed this.*
423. Chapter 15, notified in Stage 2, has introduced flood risk overlays and related definitions. While the names adopted for the overlays do not include the names suggested in this submission, Chapter 15 is generally adopting the approach sought. The submitter and further submitters have made submissions on Chapter 15 and these Stage 1 submissions have therefore been overtaken by the notification and submissions on Stage 2 / Variation 2. I recommend that Waikato Regional Council [81.1 and 81.236], and *Ports of Auckland Limited [FS1087.28 and FS1087.29] and Mercury NZ Limited [FS1223.59 and FS1223.60]* be accepted in part, to the extent that these matters are addressed in Chapter 15. I recommend that *Federated Farmers [FS1342.50 and FS1342.51]* be rejected.
424. Waikato Regional Council [81.245] sought to amend the plan to clarify the terminology of the Huntly South Assessment Area and the Huntly south ponding zone and apply consistently if they are the same.
425. Chapter 15, notified in Stage 2, includes a mapped overlay for Flood Ponding Areas and related plan provisions. The Huntly south ponding area referred to in the submission is identified on the Planning Maps as a Flood Ponding Area. While the name adopted for the overlay is not name suggested in this submission, Chapter 15 is generally adopting the approach sought. The submitter has made submissions on Chapter 15 and this Stage 1 submission has therefore been overtaken by the notification and submissions on Stage 2 / Variation 2. I recommend that Waikato Regional Council [81.245] be accepted in part, to the extent that these matters are addressed in Chapter 15.
426. Sharp Planning Solutions Ltd [695.148] requested to be notified and given a reasonable opportunity to prepare a response to this chapter when the contents became available. *Mercury NZ Limited [FS1387.343] opposed this.* This is an administrative request not a submission. For completeness, I recommend that it be accepted in part, as Stage 2 followed the statutory public notification process.
427. Will Phelps [722.2] sought no specific decision, but opposed any rates increases based on climate change. The submission is beyond the scope of the district plan and should be rejected. Mr Phelps made a similar submissions on Stage 2, also recommended to be rejected in the section 42A Report for Hearing 27F.

428. Vera van der Voorden [802.10] sought to amend the PWDP to stop development on areas known as flood prone due to rising sea levels with global warming. *Mercury NZ Limited [FS1387.1295]* opposed this.
429. Chapter 15, notified in Stage 2, has introduced natural hazard overlays identifying areas at risk of coastal inundation, and related plan provisions. These take account of projected sea level rise and are generally adopting the approach sought by the submitter. This Stage 1 submission has therefore been overtaken by the notification and submissions on Stage 2 / Variation 2. I recommend that Vera van der Voorden [802.10] be accepted in part, to the extent that these matters are addressed in Chapter 15.
430. Raglan Naturally [831.82] sought consideration of the impact of coal mining on climate change, particularly through Stage 2 of the PWDP. The impact of coal mining on climate change has not been addressed in Stage 2 of PWDP. Lowering emissions is outside the scope of a district plan under the RMA, which is concerned only with addressing the effects, not causes, of climate change. However, I note that extractive industries are discretionary activities under the zone rules, which requires other effects of coal mining to be assessed. I recommend that Raglan Naturally [831.82] be rejected.
431. Angeline Greensill for Tainui o Tainui [942.55] sought no specific decision but expresses concern that there is no climate change chapter and supports efforts to reduce carbon footprints by encouraging off the grid living and biodiversity offsets when properties are developed.
432. Chapter 6.3 of PWDP addresses energy issues and was open for submissions under Stage 1. Stage 2 has now introduced provisions dealing with climate change effects on natural hazards. The submitter has made separate submissions on Chapter 15 and this Stage 1 submission has therefore largely been overtaken by events. This submission does not seek any specific decision and I recommend that it be rejected.
433. Angeline Greensill for Tainui o Tainui [942.69] sought no specific decision, but the submission sought clarification on whether Chapter 11 Natural Hazards and Climate Change is a placeholder for Stage 2 District Plan review. This is an administrative request not a submission. Chapter 11 was originally designed to be a placeholder, to contain objectives and policies on natural hazards to be notified in Stage 2. This has not gone ahead in the way originally envisaged. Chapter 15 now contains all natural hazard objectives, policies and rules. For completeness, I recommend that it be accepted in part, to the extent that Stage 2 has now been notified.

### 26.3 Recommendations

434. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept in part** Waikato Regional Council [81.5] to the extent that these matters are addressed in Chapter 15 and reject *Synlait Milk Limited [FS1110.27]*, *Bathurst Resources Limited and BT Mining Limited [FS1198.58]*, *Synlait Milk [FS1322.36]* and *Federated Farmers [FS1342.40]*.
  - (b) **Accept in part** Waikato Regional Council [81.1], and *Whaingaroa Environmental Defence Inc Society [FS1276.218]*, to the extent that these matters are addressed in Chapter 15 and reject *Federated Farmers [FS1342.9]*.
  - (c) **Accept in part** Waikato Regional Council [81.1 and 81.236], *Ports of Auckland Limited [FS1087.28 and FS1087.29]* and *Mercury NZ Limited [FS1223.59 and FS1223.60]*, to the extent that these matters are addressed in Chapter 15.

- (d) **Reject** *Federated Farmers [FS1342.50 and FS1342.51]*.
- (e) **Accept in part** Waikato Regional Council [81.245], to the extent that these matters are addressed in Chapter 15.
- (f) **Accept in part** Sharp Planning Solutions Ltd [695.148] and **reject** *Mercury NZ Limited [FS1387.343]*, noting that Stage 2 was notified under the statutory process.
- (g) **Reject** Will Phelps [722.2].
- (h) **Reject** Angeline Greensill for Tainui o Tainui [942.55].
- (i) **Accept in part** Angeline Greensill for Tainui o Tainui [942.69], to the extent that Part 2 has been notified without Chapter 11.

## 26.4 Recommended amendments

435. There are no recommended amendments as a result of submissions.

## 27 Conclusion

436. This report deals with those submissions that are more general, that are on Stage 2 or Variation 2 as a whole, or that apply to multiple parts of the plan. Other RMA section 42A reports deal with submissions on specific natural hazards, and on climate change.

### Submissions that are out of scope

437. There are a number of submissions that I consider to be out of scope. No changes are recommended as a result of the submissions on matters that are outside of Stage 2 or Variation 2, Natural Hazard and Climate change.

### Submissions that apply to multiple parts of the proposed plan, and support of Chapter 15 as a whole

438. There are submissions that provide general support for the whole of Chapter 15, or support for specific sections of Chapter 15. I have recommended that those submissions be supported in part, as I have recommended changes that assist users of the plan, and other recommendations I make retain the same meaning, but refine or add to the wording in the proposed plan so that the intent is clearer.

### Chapter 12.1 Introduction to the rules

439. The introductory sections of the plan are intended to assist the council and other users of the plan to understand the different sections of the plan, and matters such as rules that have immediate legal effect and where the definitions are located. I have recommended that **Chapter 12.1 Introduction to the rules** be amended to specifically refer to the rules, as well as using the more general reference of 'provisions', and to make the relationship between district wide provisions and the specific zone provisions explicit.
440. I recommend the following change to Chapter 12.1 Introduction to the rules:
- (a) ...
  - (k) Natural hazards are managed throughout the district through a suite of natural hazard overlays identified on the planning maps and provisions, including rules contained in Chapter 15. Assessment matters related to natural hazards also occur in the zone chapters.

Unless otherwise stated, the provisions in the district wide and zone specific chapters apply in addition to those in the natural hazards chapter.

### **Chapter I – Introduction [I.4 Issues for Waikato district]**

441. Chapter I contains the issues, and outlines a number of details about the district, including matters such as demographic trends and economic sectors and growth. I have not recommended any changes to I.4.2.3(a)(x) as a result of submissions.
442. I recommend that the following amendment be made to section I.4.4(c):

#### **Chapter I: Introduction: The urban environment: section I.4.4(c)**

*First sentence:*

The district plan manages activities to reduce the risks from natural hazards through avoiding the creation of new risks and ensuring risks do not exceed an acceptable level.<sup>34</sup>

*Last sentence: delete the examples of urban areas*

“For existing areas of urban development, such as Raglan, Port Waikato, and river communities, natural hazard risk, particularly coastal hazards and flooding, will require management through appropriate mitigation and adaptation over time, taking into consideration projected sea level rise and other climate change factors.”<sup>35</sup>

### **Chapter I – Introduction [I.5 What does this mean for Waikato district strategic objectives and directions?]**

443. Chapter I.5 contains the explanation of the strategic planning issues. Chapter I.5.2 deals with planning for growth. Variation 2 added an explanation about planning to manage the risk posed by natural hazards, but did not specifically refer to implementation of the planning tools, or refer to climate change.
444. I recommend that I.5.2(b) be amended as follows:

“... However, when preparing ~~structure plans or spatial plans for developing urban land,~~ and implementing growth planning, structure planning and master planning to consider<sup>36</sup> the risk posed by natural hazards ~~and the effects of climate change~~<sup>37</sup> such as flooding, land instability, coastal hazards and liquefaction will be important addressed.<sup>38</sup> This is to ensure that the land is suitable for the type of development proposed and avoids increased risk from natural hazards, and that the future demand for protection works associated with natural hazard risks or an increase of the level of service for existing infrastructure is taken into account.<sup>39”</sup>

### **Chapter I.12 – Strategic directions I.12.8(d)**

445. Chapter I.12 discusses the strategic directions that form part of the plan that are located at the beginning of the chapters and a summary of the "overarching directions" for the development of the objectives, policies and other provisions in the proposed plan". Chapter I.12.8 specifically refers to the urban development strategic objectives in Chapter 4, and sub-

<sup>34</sup> Submission 2102.4

<sup>35</sup> Submissions 2151.3; 2093.17

<sup>36</sup> Submission 2151.4

<sup>37</sup> Submission 2102.5

<sup>38</sup> Submission 2151.4

<sup>39</sup> Submission 2102.5

section (b) refers to those in other parts of the proposed plan. Ideally the section in the plan would specifically refer to all of the strategic directions in each chapter. Variation 2 adds a strategic objective to a new 1.12.8(d), rather than an explanation. I recommend that an explanation be added as a sub-clause to 1.12.8(b); and the Strategic Objective be relocated into Chapter 15. This would align with the approach for other strategic objectives that sit within the relevant chapters. I recommend that the following amendment be made to 1.12.8, adding a sub-clause to deal with natural hazards and climate change:

“1.12.8(b) In summary, the overarching directions include the following:

(i)...

(vii): to take into account the risks from natural hazards and potential impacts from climate change on use and development”

446. I also recommend that the strategic objective 1.12.8(d) be relocated into Chapter 15: following the Introduction in Chapter 15.1, add

**“15.1A: Strategic Direction**

**15.1.1A Strategic Objective: Natural Hazards and Climate Change**

The choice, location and design of development in the district takes into account the risks from natural hazards and potential impacts of climate change.”

## **Chapter 12 – How to use and interpret the rules:**

447. Chapter 12 is an introduction to the rules and other provisions, and includes an explanation of how these work together.

448. I recommend a change to specifically refer to 'rules' as well as 'provisions', as that may be clearer to readers of the plan, and an explanation of how the council may apply the rules where more than one rule category applies to an application for a resource consent.

449. The following amendments are recommended:

### **Chapter 12.1(k) be amended as follows:**

“Natural hazards are managed throughout the district through a suite of natural hazard overlays identified on the planning maps and provisions, including rules<sup>40</sup> contained in Chapter 15. Assessment matters related to natural hazards also occur in the zone chapters. The zone provisions and district wide provisions apply in addition to the natural hazards provisions.<sup>41</sup> The council will consider whether it is appropriate to ‘bundle’ activities and apply the most restrictive rule to the overall activity status of a proposal.<sup>42”</sup>

## **Chapter 12 (as notified)/Chapter 13 - Definition of ‘Annual exceedance probability (AEP)’**

450. Variation 2 adds a number of new definitions in Chapter 15 that are specific to natural hazards; and also amends the definition of 'annual exceedance probability'. I consider that it would be more efficient to locate all definitions in one chapter (Chapter 13). There may not be scope in submissions to relocate all new definitions from Chapter 15.

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<sup>40</sup> Recommended amendment in this section 42A report to partially accept the submission 2102.1

<sup>41</sup> First sentence duplicates 15(3)(a) in the proposed plan Variation 2

<sup>42</sup> Recommended amendment in this section 42A report to partially accept the submission 2102.2

451. Variation 2 amends the definition of 'annual exceedance probability' and appears to locate that definition in Chapter 12. As this definition is in Chapter 13 of the proposed plan as notified, I consider there is a minor error, and it was intended that the proposed definition of "Annual Exceedance probability" be located in Chapter 13: Definitions.
452. I recommend that the definition of 'annual exceedance probability' be retained and amended as notified in Variation 2; and located in Chapter 13. RMA Schedule 1 clause 16 allows amendments to a proposed plan without using the process in Schedule 1, where such an alteration is of minor effect, or may correct any minor errors.

### **Chapter 15 Natural Hazards and Climate Change [15.1 - Introduction]**

453. Chapter 15.1 is an introduction that sets out how the Natural Hazards chapter manages land use in areas subject to risk from natural hazards. The changes I recommend are intended to expand on the explanation, and do not change the approach in the proposed plan.
454. I recommend that the following amendments are made to section 15.1(1) as follows:

“(1) The Natural Hazards chapter identifies risks associated with natural hazards and<sup>43</sup> manages land use in areas subject to a the-risk from natural hazards. It identifies areas where certain types of new development will be avoided because of the natural hazards present, but also recognises that there is existing development, including infrastructure and historic heritage, already located on land subject to natural hazards, and that in some circumstances new infrastructure development in natural hazard areas may be appropriate where the criteria in the plan are met.<sup>44</sup> These areas will require management through mitigation and adaptation to ensure that the risk of damage to property, historic heritage or sites and areas of Significance to Maaori<sup>45</sup> or injury or loss of lives is not increased.”

### **Chapter 15 Natural Hazards and Climate Change [15.1(3) and 15.1(4) - Introduction]**

455. I have not recommended any changes to Chapter 15.1(3) and (4).

### **Chapter 15 - Objective 15.2.1 Resilience to natural hazard risk**

456. Objective 15.2.1 deals with resilience, and states an outcome for managing the risks from natural hazards. I have recommended a change that does not change the policy intent, but amends the objective so that the outcome is more clearly stated.
457. I recommended Objective 15.2.1 be amended as follows:

“A resilient community where the risks from natural hazards on to people, property, infrastructure and the environment from subdivision, use and development of land are avoided, or ~~appropriately~~ mitigated to acceptable levels.”

### **Chapter 15 – Policy 15.2.1.4 - New infrastructure and utilities and Policy 15.2.1.5 – Existing infrastructure and utilities**

458. Proposed policies 15.2.1.4 and 15.2.1.5 as notified deal with new and minor upgrading of existing infrastructure. There is a policy gap for upgrading of infrastructure and utilities that is more significant.

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<sup>43</sup> Recommendation to accept submission 2053.9

<sup>44</sup> Recommendation to accept in part submission 2101.3

<sup>45</sup> Recommendation to accept in part submission 2107.1

459. I recommend the following amendment is made to Policy 15.2.1.4, and that a consequential change is made to the heading of that policy:

“Policy 15.2.1.4 - New and upgrading of infrastructure and utilities in areas subject to significant risk from natural hazards

(a) Enable the construction of new infrastructure and utilities in areas at significant risk from natural hazards, .... only where ...

(b) Enable upgrading of infrastructure and utilities in the areas mentioned in (a), where (a)(i), (ii) and (iii) are complied with.”

460. No amendments are recommended to Policy 15.2.1.5 –as a result of submission received.

#### **Chapter 15.2 – Policy 15.2.1.6 - Managing natural hazard risk generally**

461. Proposed Policy 15.2.1.6 is to use the planning tools in the plan and provide for activities outside of identified hazard areas, where natural hazard risk has been appropriately identified and assessed and can be adequately avoided, remedied or mitigated and does not transfer or exacerbate risk to adjoining properties.

462. No amendments are recommended as a result of submissions.

#### **Chapter 15.2 – Policy 15.2.1.9 - Natural features and buffers**

463. Policy 15.2.1.9 deals with the integrity of natural features and buffers which provide a natural defence against the effects of natural hazards and sea level rise.

464. There are no recommended amendments as a result of submissions

#### **Chapter 15 – Objective 15.2.2 - Awareness of natural hazard risks**

465. Objective 15.2.2 is about ensuring the community is well informed of risk, and can respond to and recover from natural hazard events.

466. It is recommended that Objective 15.2.2 be moved and located together with the other Objectives in Chapter 15.

#### **Chapter 15 – Policy 15.2.2.1 - Natural hazard risk information**

467. Proposed Policy 15.2.2.1 is about access to information and working together with iwi and the regional council. I do not recommend any amendments, but have included alternative drafting to assist the Panel.

468. If the Panel are of a mind to **accept in part** submission 2102.81, the following amendments are suggested:

##### **Amend Policy 15.2.2.1(a) - Natural hazard risk information**

“(a) Enable people to be informed and have access to information on the natural hazards affecting their properties and surrounding area, including through:

(i)...

(ii) ... natural hazard technical information including the projected effects of climate change, risk registers and mapping on the Council’s website, the Waikato Regional Council Hazards Portal, this district plan and accompanying planning maps;

(iii) ...”

### Chapter 15 – Policy 15.2.2.2 - Community Response Plans

469. Policy 15.2.2.2 is about assisting response and recovery using Community Response Plans.

470. No amendments are recommended as a result of submissions.

### Chapter 15 – Section 15.3 Using and interpreting rules

471. As with Chapter 12, Chapter 15.3 explains the rules in the plan. I have recommended that a reference be included to deal with the NES Electricity Transmission Activities, and to add an advice note about requirements under other legislation. Ideally, Chapters 12 and 15 would also be amalgamated to assist readers of the plan.

472. The following amendments are recommended:

Add a new (c), and re-number subsections as follows;

#### “15.3 How to use and interpret the rules

- a. The activities covered by the rules in this chapter are also subject to the rules in the relevant zone chapters and the district-wide rules in Chapter 14 Infrastructure and Energy.
- b. Where subdivision is specified, a subdivision consent is also required under the provisions of the relevant zone chapter, and the district-wide rules in Chapter 14 Infrastructure and Energy will also apply.

c. The rules in this chapter apply alongside the National Environmental Standards for Electricity Transmission 2010 (NESETA).

d. The rules in this chapter do not apply to:  
...”

473. The following amendments are recommended:

Add the following Advice note:

“Advice note  
Effects on archaeological sites, both recorded (identified by the New Zealand Archaeological Association) and unrecorded, are regulated under the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taongo must be contacted regarding development and the need to undertake an archaeological assessment to determine the need for an archaeological authority. In the event of an accidental discovery Heritage New Zealand Pouhere Taonga Lower Northern Office must be contacted immediately”

### Chapter 15 – 15.13 Information requirements - Information requirements for all resource consent applications addressing natural hazards: 15.13.1 General

474. Chapter 15.13 sets out the information requirements when resource consents are applied for. This includes technical reports.

475. No amendments are recommended as a result of submissions.

### Variation 2 – Amendments to zone Chapters 16 to 18

476. Amendments to Chapters 16 to 18 assist with integrating the natural hazards and climate change provisions into the proposed plan. I have not recommended amendments to the provisions as notified by Variation 2 as a result of submissions.



## Maps

477. The maps identify site specific provisions in the plan. A minor change is recommended to amalgamate rules referring to coastal hazards, to simplify the approach in the proposed plan.
478. Apart from correcting minor errors and omissions, there are no amendments recommended as a result of submissions received. Other RMA section 42A reports deal with more specific changes where these are sought in submissions.
479. I recommend simplified naming of the coastal hazard overlays:

[High Risk Coastal Inundation Area](#)

[High Risk Coastal Erosion Area](#)

## Amalgamate rules 15.7 and 15.8

480. I recommend that the permitted activity and discretionary activity rules 15.7 and 15.8 be retained as notified but combined into one rule, as these are the same in the notified version of Variation 2. I have recommended that the matters of discretion in the restricted discretionary activity rules 15.7 and 15.8 be retained but combined into one rule 15.7A (or sequential numbering). The approach does not change the regulatory effect of the rules as these apply to the coastal sensitivity areas.

### **15.7A Coastal Sensitivity Areas**

*(recommendation for amalgamated rules 15.7 and 15.8)*

#### **15.7A.1 Permitted Activities**

- The activities listed below are permitted activities within the Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast) [and the Coastal Sensitivity Area \(Inundation\)](#) as shown on the Planning Maps, if they meet the activity-specific conditions set out in this table.
- Activities may also be restricted discretionary activities or discretionary activities, as specified in Rules 15.7A.2 and 15.7A.3.

| Activity |   | Activity-specific conditions   |
|----------|---|--|
| PI       | Additions to an existing lawfully established building.   | 2. The gross floor area of all additions to the building from [date this rule becomes operative] do not exceed a total of 15m <sup>2</sup> . |
| P2       | 3. Construction of an accessory building without a floor;<br>4. Construction of a <u>farm building</u> without a floor. | Nil  |
| P3       | Construction, upgrading, <u>minor upgrading</u> , replacement, repair or maintenance of utilities.                      | Nil  |

|    |   |     |
|----|---|-----|
| P4 | Maintenance or repair of an existing lawfully established coastal protection structure. | Nil |
|----|---|-----|

### 15.7A.2 Restricted Discretionary Activities

- The activities listed below are restricted discretionary activities in the Coastal Sensitivity Area (Erosion), Coastal Sensitivity Area (Open Coast), and the Coastal Sensitivity Area (Inundation).
- Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table.

| Activity |   | Matters of Discretion  |
|----------|---|--|
| RDI      | Construction of a new building or additions to an existing building not provided for in Rule 15.7A.1 P1-P3 and not listed in Rule 15.7A.3 DI. | <p><b>Discretion is restricted to:</b></p> <ol style="list-style-type: none"> <li>The ability to manage coastal hazard risk through appropriate building materials, structural or design work, engineering solutions, and other appropriate mitigation measures, including the ability to relocate the building;</li> <li><u>the setting of minimum floor levels where appropriate;</u></li> <li>The application of mitigation through natural features and buffers where appropriate;</li> <li>The ability to impose time limits or triggers to determine when the building and services to be removed or relocated;</li> <li>The degree to which coastal hazard risk, including the effects of climate change over a period to 2120, has been assessed in a site specific coastal hazard <u>risk assessment</u>;</li> <li>Suitability of the site for the proposed use, including the provision for servicing such as access, wastewater, stormwater, and water supply;</li> <li>Adverse effects to people and property and overall vulnerability from the establishment of the new building or additions to an existing building</li> <li><u>Any mitigation measures to reduce risk</u><sup>46</sup>;</li> <li>Whether there is any suitable alternative location for the activity to locate within the site</li> <li><u>the setting of minimum floor levels in areas subject to inundation.</u></li> <li><u>In coastal inundation areas</u><sup>47</sup>;</li> </ol> |

<sup>46</sup> in notified version in Rule 15.7.3 "and any mitigation measures to reduce risk" drafted slightly differently for other coastal sensitivity areas.

<sup>47</sup> in the notified version this condition only applies to coastal inundation areas.

|  |  |  |
|--|--|--|
|  |  | b. <u>Whether there is any suitable alternative location for the activity to locate within the site.</u> |
|--|--|--|

### 15.7A.3 Discretionary Activities

I. The activities listed below are discretionary activities in the Coastal Sensitivity Area (Erosion), ~~and~~ Coastal Sensitivity Area (Open Coast), and the Coastal Sensitivity Area (Inundation).

|    |  |
|----|--|
| D1 | Construction of a new coastal protection structure.  |
| D2 | Subdivision to create one or more additional vacant lot(s) other than a <u>utility</u> allotment, access allotment or subdivision to create a reserve allotment. |

### Overall conclusion

481. I consider that the submissions should be accepted, accepted in part, or rejected as set out in Appendix 1, for the reasons set out above.
482. I have concluded that Stage 2, and the PWDP as amended by Variation 2 and the recommendations in this report, are within the functions of the council, that the objectives achieve the purpose of the RMA, and the policies and methods dealt with in this report are effective in implementing the objectives in the proposed plan.
483. I have concluded that the recommended amendments give better effect to the WRPS objectives and policies that deal with natural hazard risk than the provisions as notified.
484. **Appendix 1** contains the list of submissions and further submissions made, and recommendation to accept or reject the submission point.
485. **Appendix 2** contains recommended amendments to the District Plan provisions.

**Appendix I: Table of submission points**

See separate Appendix.