



Te Kaunihera o
Te Awa Kairangi ki Uta
Upper Hutt City Council

Section 42A Report Plan Change 47 – Natural Hazards Plan Change

Report on submissions and further submissions

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Executive Summary

1. Proposed Plan Change 47 (PC47) is a review of the natural hazard chapter of the Upper Hutt District Plan. The plan change reviews the mapping of the Wellington Fault and associated provisions. It also introduces overlays and associated provisions for High Slope Hazard and the Mangaroa Peatlands.
2. The purpose of the plan change is to manage subdivision, use and development within the Wellington Fault, and High Slope Hazard Overlays and subdivision within the Mangaroa Peat Overlay. The natural hazards associated with the Wellington Fault, steeper slope angles and the Mangaroa peat presents a threat to people and/or buildings and it is appropriate that there is a planning response to manage the risk arising from development.
3. The proposed plan change takes a risk-based approach to the management of subdivision, use and development within the overlays. This is undertaken by assigning different activities as either
 - Hazard Sensitive Activity
 - Potentially Hazard Sensitive Activity; and
 - Least Hazard Sensitive Activity.
4. The higher the hazard, the more restrictive the provisions. In areas where there is a high hazard, the District Plan does not seek to allow for the development of Hazard Sensitive or Potentially Hazard Sensitive Activities due to the risk to life and property. Where the hazard is less severe, the proposed provisions allow for the activities, subject to the incorporation of mitigation measures.
5. PC47 was publicly notified on 5 October 2022. The submission phase for PC47 closed on 4 November 2022. Overall, 103 submissions were received. The Summary of Submissions was notified on 8 February 2023, with further submissions closing on 22 February 2023. In total 13 further submissions were received.
6. Given the number, nature and extent of the submissions and further submissions received, I have structured the section 42A report based largely on the key topics which have arisen within the received submissions and grouped relevant submission points together based on these topics.
7. For each topic a review of the submissions received has been provided. An assessment section then follows which examines the submissions, the notified provisions relevant to these submissions and provides a consideration of the decision sought. A recommendation is then made to the Hearings Panel of whether the submissions should be accepted, accepted in part, or rejected. Any recommended amendments are then detailed, along with an associated section 32AA analysis of the proposed amendments.
8. When making my recommendation on the proposed provisions, I have relied on the evidence of Sarah Martin and David Sullivan from Tetra Tech Coffey, the expert reports that informed the Section 32 report (from GNS Science, Tetra Tech Coffey and Sense Partners) and a written statement from Kirdan Lees, from Sense Partners in response to the submissions.

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Introduction

Purpose

1. This report and Appendices form the Council's evidence on Plan Change 47 which seek to provide advice to the Hearings Panel on all submissions, the key matters outstanding, and recommended amendments to Plan Change 47.
2. This report focuses on the key issues raised on the plan change and does not specifically address each submission point contained in Appendix 1. Appendix 2 contains all the recommendations on the further submissions. Reference must be had to Appendices 1 and 2 for all specific recommendations on all submission points and further submissions.
3. The analysis and discussion of matters raised in the submissions is informed by:
 - The evidence of Sarah Martin and David Sullivan from Tetra Tech Coffey;
 - A written response to the submissions from Kirdan Less from Sense Partners;
 - The expert reports from GNS Science, Sense Partners and Tetra Tech Coffey that informed the Section 32 report;
 - The section 32 evaluation;
 - Research and evaluation on planning matters carried out by the author;
 - Non-statutory guidance on natural hazards, specifically in relation to fault hazards; and
 - The relevant higher order statutory planning documents and legal context.
4. This report is provided to assist the Panel in their role as Independent Hearing Commissioners and is based on the author's professional opinion based on their experience as a professional planner and the information provided within the submissions. The Panel may choose to accept or reject any of the conclusions and recommendations of this report and may come to different conclusions and make different recommendations, based on the information and evidence provided to them by persons during the hearing.

Author

5. My full name is James Gary Beban. I am a Director at Urban Edge Planning Limited. I have over 21 years of experience as a Resource Management Planner. I have extensive experience with the preparation of numerous plan changes, including a number of plan changes within the Wellington Region. The majority of the plan changes that I have been involved in relate to natural hazards, though I also have prepared several private plan changes as well as prepare the subdivision and three waters chapters for several territorial authorities.
6. I hold a Bachelor of Science Degree (Hons) from Victoria University, Wellington, which I completed in 2002.

7. My experience includes:

- I have been involved in numerous natural hazards plan changes including, Plan Change 42 for Upper Hutt City Council; the Natural and Coastal hazards Chapter for Wellington City Council and preparing the Natural and Coastal hazards Chapters for Porirua City Council;
- I assisted Greater Wellington Regional Council with the hearings for the natural hazard provisions for Proposed Change 1 to the Regional Policy Statements;
- I have been involved in the initial development of the draft National Policy Statement on Natural Hazards; and
- I have been involved in the preparation of a number of non-statutory documents providing guidance on natural hazards including tsunami, flooding, coastal hazards and how to undertake a risk-based approach to planning for natural hazards.

8. My involvement in the plan change includes:

- Initial consultation with councillors and community;
- Preparation of the proposed provisions and section 32 analysis;
- Identify the key issues raised in the submissions and advised the experts advising the plan change;
- Review the submissions and further submissions; and
- Prepare the s42a report.

9. The scope of my evidence relates to the following:

- Providing an overview of the relevant RMA provisions and higher order direction that exists;
- Providing an assessment of the Proposed Plan Change 47 against higher order direction that has changed since the notification of the plan change;
- Providing responses to the submission points received and making any recommended changes to the provisions as a result of the submissions; and
- Undertaking a Section 32AA Analysis of any of the proposed changes made to the provisions.

10. 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.

11. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Code of Conduct

12. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 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.

13. I am authorised to give this evidence on the Council's behalf to the Hearing Panel.

Conflict of Interest

14. I can confirm that I have no conflicts of interest with this plan change. However, for completeness I would like to raise to the panels attention my involvement in Greater Wellington Regional Council's Proposed Change 1 to the Regional Policy Statement. I was involved in assisting the Regional Council with providing expert evidence on the proposed natural hazard provisions. Within this process, Upper Hutt City Council submitted in opposition to some of the provisions. I did not agree with the position of Upper Hutt City Council and this was addressed within my rebuttal evidence and subsequent right of reply to the Commissioners. I do not believe that this creates a conflict of interest for the purposes of this plan change, but I believe it is prudent to draw this situation to the Commissioners attention.
15. I also was not involved in the submission from Greater Wellington Council to Upper Hutt City Council on Plan Change 47, nor have I discussed the content of the submission, or my recommendations with them. I can also confirm that the contract for assisting with the Regional Policy Statement work concluded last year, well prior to the preparation of this Section 42a assessment and my associated recommendations. At the time of preparing this evidence, Urban Edge Planning was not undertaking any work for Greater Wellington Regional Council.

Scope of Report

Overview of the plan change

Background

16. Upper Hutt City is subject to a range of natural hazards that have the potential to negatively impact people and property. The Operative District Plan currently contains natural hazard provisions pertaining to the following matters:
 - Wellington Fault Rupture;
 - Hutt River, Mangaroa River and Pinehaven Stream Flood Hazards; and
 - Slope stability (once resource consent is required for a project as a matter of discretion).
17. The Wellington Fault, slope stability and Hutt River Flood Hazard provisions were first developed in 2004 when the District Plan became operative and are relatively simple and apply to all buildings within these mapped extents.
18. The Mangaroa River and Pinehaven Stream flood hazard provisions became operative in 2019. These provisions are more nuanced and apply to a wider range of activities managed by the District Plan than the earlier Wellington Fault and the Hutt River Flood Hazard provisions.
19. Since the District Plan has become operative, Upper Hutt has received more natural hazard information and research, which has facilitated the need for this plan change. Specifically, this information has related to the following natural hazards:
 - Fault rupture from the Wellington Fault;
 - Poor Ground Conditions associated with the Mangaroa Peatlands; and
 - Slope Hazards.
20. In summary PC47 proposes to:
 - Introduce the concept of and definitions for Hazard Sensitive Activities, Potentially Hazard Sensitive Activities and Less Hazard Sensitive Activities.
 - Update natural hazard objectives, policies, rules and mapping that relate to the Wellington Fault.
 - Introduce natural hazard objectives, policies, rules and maps relating to the proposed High Slope Hazard Overlay and Poor Ground Conditions Overlay in Mangaroa. The current District Plan provisions do not address these two hazards.
 - Update the earthworks and subdivision provisions in relation to natural hazards.
21. Under the proposed provisions as notified
 - Less Hazard Sensitive Activities are permitted in the Wellington Fault, High Slope Hazard and Poor Ground Conditions Overlays.

- Hazard Sensitive and Potentially Hazard Sensitive Activities in the Wellington Fault Overlay would require resource consent.
 - Subdivision within the Wellington Fault Overlay would need to consider the risk associated with the subdivision and fault rupture.
 - All earthworks for building platforms for identified Hazard Sensitive Activities would need resource consent in the High Slope Hazard Overlay.
 - All subdivisions in the Poor Ground Conditions Overlay would require resource consent.
22. Appendix 4 identifies how the proposed objectives, policies and rules link and work together, and that each objective is appropriately supported by policies and rules. Appendix 5 identifies the activity status for each of the proposed rules. This is to demonstrate that the higher the risk (being a combination of hazard and the nature of the activity), the more restrictive the consent activity status.
23. For completeness, I note that Upper Hutt is subject to other natural hazards that have not been addressed by this plan change including flooding, fire, drought, and ground shaking from earthquakes. These other hazards will either be addressed through a future plan change or they are addressed through other pieces of legislation such as the Civil Defence and Emergency Management Act 2002 or the Building Act 2004 (and therefore do not require a planning response within the District Plan).

Statutory requirements

Resource Management Act 1991

24. Proposed Plan Change 47 has been prepared in accordance with the requirements of the RMA.
25. A detailed summary and assessment of the most relevant sections of the RMA for this plan change is provided in the s32 evaluation. Below is a brief summary of the relevant sections.

Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

26. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (RMA-EHS) gained Royal assent on 20 December 2021. The RMA-EHS requires tier 1 councils to implement medium density residential standards (MDRS) for specified urban areas, to enable a wider variety of housing choice. Upper Hutt City Council has completed the Intensification Planning Instrument to give effect to the National Policy Statement on Urban Development and to incorporate the Medium Density Residential Standards into the District Plan. The Intensification Planning Instrument became operative on 13 December 2023.
27. Under the Intensification Planning Instrument, the Operative District Plan natural hazard overlays were considered to be qualifying matters. The qualifying matters did not apply to the proposed natural hazard overlays under Plan Change 47. However, when determining the appropriate zones for Upper Hutt under the Intensification Planning Instrument, the proposed natural hazards overlays were used as part of the information to assist with informing the zoning pattern for the City.

Part 2

28. Part 2 (sections 5 – 8) of the RMA state the purpose and principles of the Act. Part 2 is overarching and the assessments under other sections of the Act are subject to it. In order to approve the plan change,

the Hearings Panel must be able to conclude that the plan change will promote the sustainable management of natural and physical resources, which is the purpose of the Act outlined in Section 5.

29. The sections under Part 2 can be summarised and assessed as follows:

SECTION 5

30. The purpose of the Act is to promote the sustainable management of natural and physical resources. Sustainable management is defined under the Act as:

Managing the use, development and protection of natural and physical resources in a way or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life supporting capacity of air, water, soil, and ecosystems; and*
- (c) *avoiding, remedying or mitigating any adverse effects of activities on the environment.*

31. The District Plan was developed under the RMA and meets its purpose. The Council is required to ensure that all proposed changes to the Plan will also result in outcomes that meet the purpose of the RMA.

SECTION 6

32. Section 6 sets out the matters of national importance that need to be recognised and provided for. Of these, I consider s6(h) to be of particular relevance:

| Section | Relevant Matter |
|---------|---|
| 6(h) | <i>The management of significant risks from natural hazards</i> |

SECTION 7

33. Section 7 of the Act sets out other matters that must be given particular regard. The s7 matter that is relevant to this topic is:

| Section | Relevant Matter |
|---------|--------------------------------------|
| 7(i) | <i>The effects of climate change</i> |

SECTION 8

34. Section 8 of the Act requires the Council to take into account the principles of the Treaty of Waitangi.

35. Section 8 is relevant to this proposal because Natural Hazards have the potential to impact iwi in a number of ways, including:

- Increasing the risk to their members lives and property;

- Loss of areas of cultural value due to erosion and other natural hazard processes; and
- Loss of cultural practices due to erosion and other natural hazard processes.

Part 4

36. Part 4 of the RMA contains regulations relating to the functions, powers, and duties of central and local government.
37. Sections 31, 32 and 32AA are particularly relevant.

SECTION 31

38. Section 31 of the RMA lists the functions of territorial authorities. The following is considered relevant to this plan change:

| Section | Relevant Matter |
|----------|---|
| 31(1)(b) | <i>The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of</i> <i>(i) the avoidance or mitigation of natural hazards</i> |

SECTION 32

39. Section 32 of the Act requires the Council to evaluate the proposed change and decide whether it is necessary and the most appropriate way to achieve the purpose of the Act, and, whether having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives of the Plan.
40. A section 32 evaluation was prepared and provided at the time of notification of the plan change.

SECTION 32AA

41. A further evaluation of any changes to the plan change as notified must be prepared in accordance with section 32AA ('s32AA'). S32AA is set out below:

- (1) *A further evaluation required under this Act—*
- (a) *is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and*
 - (b) *must be undertaken in accordance with section 32(1) to (4); and*
 - (c) *must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
 - (d) *must—*

- (i) *be published in an evaluation report that is made available for public inspection at the same time as the ... decision on the proposal, is publicly notified; or*
- (ii) *be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.*

(2) *To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).*

42. An initial s32AA evaluation of the recommended changes to the plan change as notified in response to submissions is provided as part of this document.

Part 6

43. Part 6 of the RMA contains regulations relating to the resource consent process. Section 106 is of particular relevance.

SECTION 106

44. Section 106 of the RMA enables consent authorities to refuse subdivision consents if there is a significant risk from natural hazards:

National Policy Framework

45. The District Plan sits within a wider framework of both statutory and non-statutory policy documents, which are set out as follows.

NATIONAL POLICY STATEMENTS

46. Under s74(1)(ea) of the RMA, Council must prepare and change the District Plan in accordance with any relevant National Policy Statements. In addition, under s75(3)(a) of the RMA, a district plan must give effect to any national policy statement. There are currently eight national policy statements that have effect, being:

- National Policy Statement on Electricity Transmission 2008 ('NPS-ET');
- New Zealand Coastal Policy Statement 2010 ('NZCPS');
- National Policy Statement for Renewable Electricity Generation 2011 ('NPS-REG');
- National Policy Statement on Urban Development 2020 ('NPS-UD');
- National Policy Statement for Freshwater Management 2020 ('NPS-FM'); and
- National Policy Statement for Highly Productive Land 2022 ('NPS-HPL').
- National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB)
- National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat 2023 (NPS-GGE).

47. These were generally addressed in the s32 evaluation at the time of the plan change being notified, However, since notification of plan change 47, three of the aforementioned National Policy Statements were subsequently gazetted.
48. The National Policy Statement for Highly Productive Land 2022 came into force on 17 October 2022, after the notification of PC47. The purpose of the NPS-HPL is to protect areas of highly productive land to ensure ongoing availability of favourable soils for food and fibre production. The NPS-HPL is not considered to be of relevance for this plan change.
49. The National Policy Statement for Indigenous Biodiversity 2023 came into force on 7 July 2023, after the notification of PC47 The purpose of the NPS-IB 2023 is to protect indigenous fauna and flora. The NPS- IB is not considered to be of relevance for this plan change.
50. The National Policy Statement for GGE 2023 came into force on 29 June 2023, after the notification of PC47 The purpose of the NPS-GGE 2023 is to reduce greenhouse gas emissions by managing the discharge to air from the production of heat for industrial processes. The NPS- GGE is not considered to be of relevance for this plan change.
51. Overall, there are no relevant provisions within the National Policy Statements that are applicable to the development of the natural hazard provisions.

NATIONAL ENVIRONMENTAL STANDARDS

52. Under Section 44A of the RMA a district plan must avoid conflict with and duplication of National Environmental Standards. The following National Environmental Standards are currently in force:
 - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;
 - National Environmental Standards for Electricity Transmission Activities;
 - National Environmental Standard for Sources of Drinking Water;
 - National Environmental Standards for Air Quality;
 - National Environmental Standards for Telecommunication Facilities;
 - National Environmental Standards for Plantation Forestry;
 - National Environmental Standards for Freshwater 2020;
 - National Environmental Standard for Marine Aquaculture 2020;
 - National Environmental Standard for Storing Tyres Outdoors 2021; and
 - National Environmental Standard for Greenhouse Gas Emissions from Industrial Process Heat 2023.
53. As identified in the s32 evaluation I consider the NES Telecommunication Facilities and the NES Freshwater to contain provisions that are of limited relevance.

NATIONAL PLANNING STANDARDS

54. Under Section 75(3)(ba) of the RMA a district plan must give effect to the National Planning Standards. The first set of National Planning Standards came into force on 3 May 2019 and are intended to improve

the consistency of council plans. In November 2021 the Upper Hutt District Plan was amended to implement most of these standards.

55. The National Planning Standards require Natural Hazards (except for Coastal Hazards) to be covered in the Natural Hazards chapter. However, Subdivision and Earthworks provisions pertaining to natural hazards are to be contained in the Subdivision and Earthworks chapters. PC47 aligns with the National Planning Standards version of the Upper Hutt District Plan and the directions of the National Planning Standards.

NATIONAL GUIDANCE DOCUMENTS

56. The national guidance documents covered in the s32 evaluation are still considered to be the most relevant. These are:

- Risk management - Principles and guidelines AS/NZS ISO 31000:2009, 2009, Standards Australia Standards New Zealand
- SA/SNZ HB 436:2013 Risk management guidelines – Companion to AS/NZS 31000:2009, 2013, Standards Australia Limited / Standards New Zealand
- Risk-based land use planning for natural hazard risk reduction, 2013, GNS Science
- Planning for development of land on or close to active faults: A guideline to assist resource management planners in New Zealand, 2003, Ministry for the Environment
- Guidelines for assessment planning policy and consent requirements for landslide prone land, 2007, GNS Science
- Planning and Engineering guidance for potentially liquefaction-prone land, 2017, MBIE; and
- Landslide Planning Guidance January 2024 (this guidance came out once the plan change process was well advanced).

Regional Policy Framework

REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION

57. Under Section 75(3)(c) of the RMA, District Plans must give effect to any regional policy statement.
58. The Regional Policy Statement for the Wellington Region ('RPS') became operative in 2013. It sets out the regional approach for managing the environment and providing for growth and associated effects. The RPS identifies the significant resource management issues for the region and outlines the policies and methods required to achieve the integrated sustainable management of the region's natural and physical resources.
59. I refer to the assessment provided within the s32 evaluation.

PROPOSED CHANGE 1 TO THE RPS

60. On 19 August 2022 Greater Wellington Regional Council notified Proposed Change 1 to the Regional Policy Statement for the Wellington Region ('RPS-PC1'). As this change to the RPS was notified after the Plan Change 47, it is not addressed within the Section 32 report. I have undertaken an assessment of the proposal against the notified provisions of the RPS change.

61. The purpose of RPS-PC1 is to implement national direction relating to urban development and freshwater, to strengthen provisions relating to indigenous ecosystems and, of particular relevance to this plan change, to respond to the climate emergency.
62. The table below lists the changes which are relevant to PC47.

| Proposed Change 1 to the RPS | |
|--|--|
| 3.1A Climate Change (New Chapter) | |
| Proposed Change | Relevance |
| <p>Proposed insertion of Chapter 3.1A: Climate Change</p> <p>The chapter introduces 8 new objectives, the most relevant are:</p> <ul style="list-style-type: none"> • Objectives CC.1 - By 2050, the Wellington Region is a low-emission and climate-resilient region, where climate change mitigation and adaptation are an integral part of: <ul style="list-style-type: none"> (a) sustainable air, land, freshwater, and coastal management, (b) well-functioning urban environments and rural areas, and (c) well-planned infrastructure. • Objective CC.4 - Nature-based solutions are an integral part of climate change mitigation and adaptation, improving the health and resilience of people, biodiversity, and the natural environment. • Objective CC.6 - Resource management and adaptation planning increase the resilience of communities and the natural environment to the short, medium, and long-term effects of climate change. • Objective CC.7 - People and businesses understand what climate change means for their future and are actively involved in planning and implementing appropriate mitigation and adaptation responses. • Objective CC.8 - Iwi and hapū are empowered to make decisions to achieve climate-resilience in their communities. <p>There are several new policies which support these objectives. The most relevant new policies are listed below.</p> <ul style="list-style-type: none"> • Policy CC.4 - Climate resilient urban areas District and regional plans shall include policies, rules and/or methods to provide for | <p>This is of relevance to Plan Change 47 as the proposed objectives specifically require the consideration of climate change and the incorporation of appropriate mitigation measures and adaptation responses.</p> |

| Proposed Change 1 to the RPS | |
|---|---|
| <p>climate-resilient urban areas by providing for actions and initiatives described in Policy CC.14 which support delivering the characteristics and qualities of well-functioning urban environments.</p> <ul style="list-style-type: none"> • Policy CC.7 - Protecting, restoring, and enhancing ecosystems and habitats that provide nature-based solutions to climate change – district and regional plans <p>District and regional plans shall include objectives, policies, rules and/or methods that provide for nature-based solutions to climate change to be part of development and infrastructure planning and design.</p> | |
| 3.8 Natural Hazards | |
| Proposed Change | Relevance |
| <p>Proposed Amendments to Chapter 3.8 Natural Hazards</p> <p>The relevant natural hazards objectives being amended through RPS-PC1 are:</p> <ul style="list-style-type: none"> • Objective 19 – The risks and consequences to people, communities, business, property, infrastructure and the environment from natural hazards and the effects of climate change are minimised. • Objective 20 – Natural hazard and climate change mitigation and adaptation activities minimise the risk from natural hazards and impacts of Te Mana o te Wai, Te Rito o te Haraeke, natural processes, indigenous ecosystems and biodiversity. • Objective 21 – The resilience of our communities, and the natural environment to the short, medium, and long-term effects of climate change and sea level rise is strengthened, and people are better prepared for the consequences of natural hazard events. <p>The relevant natural hazards policies being amended through RPS-PC1 are:</p> <ul style="list-style-type: none"> • Policy 29 – Managing subdivision, use and development in areas at risk from natural hazards – district and regional plans <p>The amendment changes the terminology from “avoiding inappropriate” to “managing” activities while also broadening</p> | <p>The changes are of relevance to Plan Change 47 as they expand the consideration of hazard risk to include the potential effect on the natural environment, rather than limiting it to just people, communities, infrastructure and property.</p> <p>The supporting policies put greater emphasis on a risk-based approach and the management of subdivision use and development in natural hazard areas, depending on the sensitivity of the proposed activity and the level of the hazard risk.</p> <p>PC47 aligns with the proposed direction as it identifies natural hazards, applies a risk based approach and introduces objectives, policies and rules to manage subdivision, use and development in identified natural hazard areas.</p> |

| Proposed Change 1 to the RPS | |
|---|--|
| <p>the scope by removing the qualifier “high” so that it applies to all natural hazard risks. The amendment also introduces the concept of avoid hazard sensitive activities in high hazard areas.</p> <ul style="list-style-type: none"> • Policy 51 – Minimising the risk and consequences of natural hazards – consideration. <p>The amendments introduce a more risk-based approach, the concept of hazard sensitive activities and different risk categories.</p> <ul style="list-style-type: none"> • Policy 52: Minimising adverse effects of hazard mitigation measures – consideration • The amendment introduces a stronger focus on the potential adverse effects of hard protection structures on the environment and the potential transfer of risk. It also introduces the need to give regard to Te Mana o te Wai, ecosystems and biodiversity and sites of significance to mana/tangata whenua | |

NATURAL RESOURCES PLAN

63. Section 74(2) of the RMA requires Councils, when preparing or changing a plan, to have regard to any proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4.
64. The natural resources plan became operative on 28 July 2023 and the Section 32 report outlines the relevant provisions that apply. At the time of the Section 32 report, this document was still in a proposed format as it was subject to a number of appeals. However, through the appeals processes, and the document becoming operative, some of the provision referencing has changed. The table below updates the provisions references from what is in the Section 32 assessment.

| PNRP – Relevant Objectives and Policies | Comments |
|--|--|
| 3.5 Natural Hazards Objectives | |
| <p>Objective O15</p> <p>The hazard risk and residual hazard risk, from natural hazards and adverse effects of climate change, on people, the community, the environment and infrastructure are acceptable.</p> <p>Policy P28: Hazard mitigation measures</p> <p>Policy P29: Effects of climate change</p> | <p>Previously Objective O20</p> <p>Managed through existing District Plan (pertaining to flood hazards and fault hazards) provisions and proposed PC47 provisions.</p> |
| Objective O16 | Previously Objective O21 |

| | |
|---|--|
| <p>Inappropriate use and development in high hazard areas is avoided.</p> <p>Policy P27: High hazard areas</p> | <p>Managed through existing District Plan provisions and proposed PC47 provisions.</p> |
| <p>4.5 Natural Hazards Policies</p> | |
| <p>Policy P25: High hazard areas</p> <p>Use and development, including hazard mitigation methods, in, on or over high hazard areas shall be managed to ensure that:</p> <ul style="list-style-type: none"> (a) they have a functional need or operational requirement or there is no practicable alternative to be so located, and (b) an overall increase in risk of social, environmental and economic harm is avoided, and (c) the hazard risk and/or residual hazard risk to the development, assessed using a risk-based approach, is acceptable or as low as reasonably practicable, recognising that in some instances an increase in risk to the development may be appropriate, and (d) the development does not cause or exacerbate hazard risk in other areas, and unless effects are avoided, remedied or mitigated in accordance with a hazard risk management strategy, and (e) adverse effects on natural processes (coastal, riverine and lake processes) are avoided, remedied, or mitigated, and (f) natural cycles of erosion and accretion and the potential for natural features to fluctuate in position over time, including movements due to climate change and sea level rise over at least the next 100 years, are considered. | <p>Previous Policy P27 (with amendments)</p> <p>Managed through existing Regional and District Plan provisions and proposed PC47 provisions.</p> |
| <p>Policy P27: Hazard mitigation measures</p> <p>Hard hazard engineering mitigation and protection methods shall be discouraged except where it is necessary to protect:</p> <ul style="list-style-type: none"> (a) existing, or upgrades to, infrastructure including Regionally Significant Infrastructure, or (b) new Regionally Significant Infrastructure, or (c) significant existing development, and <p>in respect of (a), (b) and (c)</p> | <p>Previously Policy P28</p> <p>Managed through existing Regional and District Plan provisions and proposed PC47 provisions.</p> |

| | |
|--|--|
| <p>(d) there is no reasonable or practicable alternatives to mitigate hazard risk and residual hazard risk, and</p> <p>(e) the mitigation and protection methods are suitably located and designed, and where appropriate certified by a qualified, professional engineer, and</p> <p>(f) the use of soft engineering options are incorporated and used, where appropriate, and either</p> <p>(g) any adverse effects are no more than minor, or</p> <p>(h) where the environmental effects are more than minor the works form part of a hazard risk management strategy.</p> | |
| <p>Policy P28: Effects of climate change</p> <p>Particular regard shall be given to the potential for climate change</p> <p>(a) to threaten biodiversity, aquatic ecosystem health and mahinga kai, or</p> <p>(b) to cause or exacerbate natural hazard events over at least the next 100 years that could adversely affect use and development</p> <p>including as a result of:</p> <p>(c) coastal erosion and inundation (storm surge), and</p> <p>(d) river and lake flooding and erosion, aggradation, decreased minimum flows, and</p> <p>(e) stormwater ponding and impeded drainage, and</p> <p>(f) relative sea level rise, using reliable scientific data for the Wellington region.</p> | <p>Previously Policy P29</p> <p>Managed through existing Regional and District Plan provisions and proposed PC47 provisions.</p> |
| <p>Policy P29: Natural buffers</p> <p>Provide for the restoration or enhancement of natural features such as beaches, dunes or wetlands that buffer development from natural hazards and ensure the adverse effects of use and development on them are avoided, remedied, or mitigated.</p> | <p>Previously Policy P30</p> <p>Managed through existing Regional and District Plan provisions and proposed PC47 provisions.</p> |

65. Overall, I consider that PC47 has regard to and aligns with the Natural Resources Plan.

PROPOSED CHANGE 1 TO THE NATURAL RESOURCES PLAN

66. On 30 October 2023 GWRC notified Proposed Change 1 to the Natural Resources Plan. The purpose of this is to give effect to the National Policy Statement for Freshwater Management and to include the implementation of the regulatory and non-regulatory recommendations from Te Awarua – o Porirua and Te Whanganui-a-Tara Whaitua Implementation Programmes.
67. As this change to the Natural Resources Plan was notified after the Plan Change 47, it is not addressed within the Section 32 report. I recognise that Proposed Plan Change 1 relates to the discharge of contaminants to freshwater, improving freshwater quality and managing stormwater discharges. As such, the proposed provisions do not overlap with the intent of Plan Change 47.
68. I do recognise that under Proposed Plan Change 1 to the Natural Resources Plan, there is a map that identifies highest erosion risk land. The rules under the Proposed Plan Change 1 relate to vegetation clearance and mitigating the loss of sediment on steeply sloping sites. The map in Proposed Change 1 to the Natural Resources Plan has strong alignment in the Whitemans Valley, Mangaroa Valley and Akatarawa Valley catchments as what was notified in Plan Change 47. While for these properties, there would be a duplication of maps pertaining to slope, it is important to note that one is a hazard map (Plan Change 47) and one is an erosion prone land map (Proposed Change 1 to the Natural Resources Plan) and therefore there is a subtle but important difference between the maps.
69. I consider that Proposed Plan Change 47 has regard to and aligns with the Proposed Change 1 to the Natural Resources Plan.

Considerations of Submissions Received

Submissions and Further Submissions

70. The submitters for Plan Change 47 are as follows:

| Original Submissions | | Further Submissions | |
|----------------------|------------------------|---------------------|-------------------|
| No | Name | No | Name |
| 1 | Sonia and Steve Morgan | FS1 | Stephen Taylor |
| 2 | Ronald Hunter | FS2 | Ryan Baker |
| 3 | Amit Kakroo | FS3 | M De Jong |
| 4 | Cheryl Gall | FS4 | Pat Van Berkel |
| 5 | V & J Manley | FS5 | Mary Beth Taylor |
| 6 | Gaylene Ward | FS6 | Forest and Bird |
| 7 | Charisa Lockley | FS7 | Tony Chad |
| 8 | Stephen Taylor | FS8 | Heather Blissett |
| 9 | David John Angus | FS9 | Emma Zee |
| 10 | Paul Atkins | FS10 | Teresa Homan |
| 11 | Steven Fargher | FS11 | Stephen Pattinson |
| 12 | Alec Hobson | FS12 | Dr Abbie Spiers |
| 13 | Jo Greenman | FS13 | Stephen Pattinson |
| 14 | Camilla Jane Watson | | |
| 15 | David Chrystall | | |
| 16 | Eric Cairns | | |
| 17 | Steve Rich | | |
| 18 | Lance Burgess | | |
| 19 | David Beachen | | |
| 20 | Simon Wall | | |
| 21 | Judi Huxedurp | | |
| 22 | Rozalie Brown | | |
| 23 | Brenda Stonestreet | | |
| 24 | Aldis Malskaitis | | |
| 25 | Mark Murrell | | |
| 26 | Teresa Homan | | |
| 27 | Karsten Kroeger | | |
| 28 | Donna Tofts | | |
| 29 | Stephen Shand | | |
| 30 | Wayne Edgerley | | |
| 31 | Rosemary Anne Paddison | | |

| Original Submissions | | Further Submissions | |
|----------------------|--|---------------------|------|
| No | Name | No | Name |
| 32 | Robert Bok | | |
| 33 | Allan Kelly | | |
| 34 | Karen Pugh | | |
| 35 | Jeremy Holmes | | |
| 36 | Daniel Buhler | | |
| 37 | Doug Gillanders | | |
| 38 | Melanie Smith | | |
| 39 | Quinn McCarthy | | |
| 40 | Dr Boyd Blake and Mrs Verna Blake | | |
| 41 | Yannick M Quesnel and Sherilyn A Quesnel | | |
| 42 | Dr Amarjeet Kanwell and Ripudaman Kanwal | | |
| 43 | Robert Anker | | |
| 44 | Malcom Ayers | | |
| 45 | Bruce Ridley | | |
| 46 | Grant Boyd | | |
| 47 | David De Martin | | |
| 48 | Dean and Debbie Molony | | |
| 49 | Nathan James Gardiner | | |
| 50 | Paul Harris | | |
| 51 | M de Jong | | |
| 52 | Greater Wellington | | |
| 53 | Kevin Trotter | | |
| 54 | D Johnson | | |
| 55 | Katelyn King | | |
| 56 | Elena Goff | | |
| 57 | Christine Lehmann | | |
| 58 | Jeff Price | | |
| 59 | John and Lynne Hill | | |
| 60 | Weston Hill | | |
| 61 | Mark Robbins | | |
| 62 | Anna Brodie and Mark Leckie | | |
| 63 | Gregor and Stephanie Kempt | | |
| 64 | Richard and Carol Dormer | | |
| 65 | Gavin Burgess | | |
| 66 | Judith and Sandy Kauika-Stevens | | |
| 67 | Philip Clegg | | |
| 68 | Jeff and Noeline Berkett | | |

| Original Submissions | | Further Submissions | |
|----------------------|--|---------------------|------|
| No | Name | No | Name |
| 69 | Nicole and Dave Tyson | | |
| 70 | Roger O'Brien | | |
| 71 | Paul Dyson | | |
| 72 | Mike Philpott | | |
| 73 | Paul Dansted and Sarah Kerkin | | |
| 74 | Paul Lunn | | |
| 75 | Adam Pawlak | | |
| 76 | Heather McKay | | |
| 77 | Colin Hawes | | |
| 78 | Steven Robertson | | |
| 79 | Heather Blissett | | |
| 80 | Scott and Nicola Whitman | | |
| 81 | Karen Leishman and Christopher Griffin | | |
| 82 | Ministry of Education | | |
| 83 | Gerald Keown | | |
| 84 | Wendy Botha | | |
| 85 | Jemma and AJ Ragg | | |
| 86 | Evie Gray | | |
| 87 | Andrea Follett | | |
| 88 | Grant O'Brien | | |
| 89 | Kerry Ryan | | |
| 90 | Lisa Keown | | |
| 91 | Grant and Melanie Avery | | |
| 92 | Chris and Jen Priest | | |
| 93 | Emma Zee | | |
| 94 | Cushla and Vaughan Majendie | | |
| 95 | Pat van Berkel | | |
| 96 | Sharlene McDonald | | |
| 97 | Hamish McDonald | | |
| 98 | Alan Rothwell | | |
| 99 | Silver Stream Railway Incorporated | | |
| 100 | Nicola Rothwell | | |
| 101 | Lisa Williams | | |
| 102 | Mary Beth Taylor | | |
| 103 | Tony Chad | | |

71. PC47 was publicly notified on 5 October 2022. The submission phase for PC47 closed on 4 November 2022. Overall, 103 submissions were received.

72. The Summary of Submissions was notified on 8 February 2023, with further submissions closing on 22 February 2023. In total 13 further submissions were received.
73. A summary of decisions requested by the submissions is contained in Appendix 1 and Appendix 2 (further submissions) to this report. This summary includes my recommendation on whether the decisions requested by submissions should be accepted, accepted in part or rejected.
74. The majority of submissions oppose PC47, where it relates to site specific overlays and seek amendments to the identified overlays. However, GWRC and Ministry for Education have submitted in support of the plan change, subject to amendments to the provisions. The Wellington Emergency Management Office also has submitted in support of the provisions.
75. The matters raised in submissions are detailed and discussed in in the sections below.

Withdrawn Submissions

76. There are no withdrawn submissions in respect of this proposed plan change.

Late Submissions

77. There are no late submissions in respect of this proposed plan change.

Structure of the Report

78. Given the number, nature and extent of the submissions and further submissions received, I have structured the section 42A report based largely on the key topics which have arisen within the received submissions and grouped relevant submission points together based on these topics. Those topics are shown below:
 - Topic 1- General - Objectives, Policies, AER, Appendices and Definitions
 - Topic 2 - Wellington Fault Overlay Provisions
 - Topic 3 - Wellington Fault Overlay Spatial Extent
 - Topic 4 – High Slope Hazard Overlay General Matters
 - Topic 5 – High Slope Hazard Overlay Provisions
 - Topic 6 – High Slope Hazard Overlay – Spatial Extent
 - Topic 7 – Mangaroa Peat Overlay General Matters
 - Topic 8 – Mangaroa Peat Overlay Provisions
 - Topic 9 – Mangaroa Peat Overlay – Spatial Extent
79. While the above topics do not necessarily cover all the submissions received in detail, Appendices 1 and 2 of this report does provide a breakdown of all submission points and the proposed recommendations as well as reference to the section of this report where the submission has been considered.

80. For each topic a review of the submissions received has been provided. An assessment section then follows, which analyses the submissions, the notified provisions relevant to these submissions and provides a consideration of the decision sought. A recommendation is then made to the Hearings Panel of whether the submissions should be accepted, accepted in part, or rejected. Any recommended amendments are then detailed, along with an associated section 32AA analysis of the proposed amendments.
81. When amendments are proposed to the notified provisions, these are highlighted in green. Text recommended for deletion is struck through and text recommended for inclusion is underlined. This approach is used both under the recommended amendments sections in this report, and within the recommended amendments to the chapters contained in Appendix 3

Topic 1 - PC47 – General - Objectives, Policies, Anticipated Environmental Results (AER), Appendices and Definitions

Matters Raised by Submitters

OBJECTIVES

82. The Ministry of Education (S82.3) supports Objective NH-01 Risk from Natural Hazards as notified.
83. Greater Wellington Regional Council (S52.2) supports NH-01 with amendment and requests that the words ‘does not significantly increase’ be replaced with ‘minimise’ as follows:

NH-01 Risk from Natural Hazards

Subdivision, use and development within the Natural Hazard Overlays ~~does not significantly increase~~ minimises the risk to life or property.

POLICIES

84. Greater Wellington Regional Council (S52.3, S52.4, S52.10) supports policies NH-P1 (Identification of Natural Hazards) and NH-P2 (Less Hazard Sensitive Activities within the Mangaroa Peat Overlay, High Slope Hazard Overlay and Wellington Fault Overlay) as well as rules NH-R1 and NH-R2 and standard NH-S1. Greater Wellington Regional Council (S52.20) also supports rule SUB-GEN10 but notes that the abbreviation in the table should be corrected from DIS to NC.

ANTICIPATED ENVIRONMENTAL RESULTS

85. Greater Wellington Regional Council (S52.15) supports NH-AER1 with amendment and requests that the AER be reworded as follows:

NH-AER1

Subdivision, use and development within the Natural Hazard Overlays ~~does not significantly increase~~ minimises the risk to life or property.

DEFINITIONS

86. The Ministry of Education (S82.2) supports the proposed definition for Hazard Sensitive Activities as notified.

87. Greater Wellington Regional Council (S52.16) supports the proposed definition for Hazard Sensitive Activities with amendment and requests that Service Stations be included in the list of Hazard Sensitive Activities.

GENERAL POINTS

88. Wellington Region Emergency Management Office (S35.1) supports the proposed plan change.
89. Grant O'Brien (S88.2) seeks to for the plan change to take a risk based approach to the management of natural hazard risk. This would involve restricting development within the Wellington Fault Hazard Overlay and allowing for development within the High Slope Hazard Overlay and the Mangaroa Peat Overlay, subject to mitigation measures.
90. Grant O'Brien (S88.3) seeks to for the information in the plan change to be independently reviewed and overseen by a body such as Engineering NZ and for the plan provisions to go through a full legal review.
91. Heather Blisset (S79.1) seeks the use of terminology that demonstrates that we are living with the whenua, not in opposition to, with Papatūānuku already being the enemy. Submitter seeks that the following amendments to terminology:
- 'Natural Hazard' amended to 'Environmental Assets affecting people' or 'Human Hazards affecting Environmental Assets'
 - Management of natural hazards' amended to 'protection of Environmental Assets affecting people'
 - Climate Change' amended to 'human induced climate destruction'
92. Submitter also considers that rather than managing the risk from natural hazards on people it should be about protecting Papatūānuku from risk from human hazards.

Analysis

93. The amended wording to NH-01 sought by Greater Wellington Regional Council seeks to introduce minimise into the wording to provide clearer direction into the outcome that is being sought by the objective, I am supportive of this submission point for the following reasons:
- The proposed amendment uses wording that is consistent with risk-based planning and the term minimise has a specific meaning under risk based planning (being "to reduce as far as practicable).
 - The proposed wording is consistent with other objective wording within the Region and therefore it ensures that there is a regionally alignment between the outcomes sought in respect to land use planning for natural hazards.
 - The Regional Policy Statement (Policy 51) uses this term and therefore introducing this term into the objective ensures better alignment between the proposed objective and the outcomes sought under the Regional Policy Statement.
94. To ensure that the outcomes sought under NH-AER1 is consistent with the outcomes sought under the objective, I also support the submission point from Greater Wellington Regional Council to ensure that the wording under NH-AER1 is changed to include the word minimise.
95. I concur with the submission point raised by Greater Wellington Regional Council in respect of SUB-GEN-R10 that the activity status is the Non-Complying Activity table needs to be changed from DIS to NC. This change corrects a typo in the table.

96. Greater Wellington Regional Council seeks to have service stations included within the definition of Hazard Sensitive Activities. I do not agree with this submission point. Wellington City Council, Lower Hutt City Council and Porirua City Council all have service stations identified as a Potentially Hazard Sensitive Activity. The reason for this is due to service stations containing a large number of redundancies within their design. This is due to the role that this activity plays under the Civil Defence and Emergency Management Act 2002. As a result of these redundancies, the potential damage to buildings and the risk to life is not comparable to other hazard sensitive activities and is more comparable to other Potentially Hazard Sensitive Activities. On the basis of these points, and to ensure a regionally consistent approach to the definition of Potentially Hazard Sensitive Activities, I remain of the position that services stations should remain defined as a Potentially Hazard Sensitive Activity.
97. In response to Grant O'Brien (S.88.2), the plan change does take a risk-based approach to subdivision, use and development within the Wellington Fault, Mangaroa Peat and High Slope Hazard Overlays. Where the risk is greatest (particularly in the Wellington Fault Hazard Overlay), the provisions are a lot more restrictive towards subdivision, use and development, when compared to the High Slope Hazard and the Mangaroa Peat Hazard Overlay. The risk-based approach taken to this plan change is stepped out in Section 7 of the Section 32 report.
98. While the submissions have raised a number of concerns with the maps involved in the plan change process, a number of these concerns have been addressed through the revised mapping, using the latest data (particularly in relation to the High Slope Hazard Overlay). With the Mangaroa Peat Overlay, there has been a number of site visits undertaken to assist with refining the boundaries of the overlay. In many instances where concerns have been raised around the presence of peat on a site, the site visits have confirmed that there is peat present. As such, a disagreement in the outcome of the mapping does not equate to the mapping process being flawed. As such, I remain of the view that the mapping used in this plan change remains fit for purpose.
99. With regards to the amendments to terminology requested by Heather Blisset (S79.1), I consider that the terminology used in the plan change is common terminology that is understood by the wider community and remains appropriate for use.

Recommended Decision

100. I recommend accepting the submission points S35.1, S52.2, S52.3, S52.4, S52.10, S52.20, S52.15 and S82.2
101. I recommend partially accepting submission point S82.3.
102. I recommend rejecting the submission points S52.16, S79.1, S88.2 S88.3.

Recommended Amendments

103. NH-01 Risk from Natural Hazards

Subdivision, use and development within the Natural Hazard Overlays ~~does not significantly increase~~ minimises the risk to life or property.

104. NH-AER1

Subdivision, use and development within the Natural Hazard Overlays ~~does not significantly increase~~ minimises the risk to life or property.

Section 32AA Evaluation

EFFECTIVENESS AND EFFICIENCY

105. The proposed change to NH-01 is effective as it is more directive in terms of the outcomes sought by the objective when compared to the notified version of the plan change. The proposed change is more aligned with the wording of the RPS, including Proposed Change 1 to the RPS.

OTHER REASONABLY PRACTICABLE OPTIONS

106. The only other two reasonable practicable options are to leave the objective as it is currently worded, or to break the objective into two, with an objective for high hazard areas which seeks to avoid increasing the risk to subdivision, use and development, and a second objective that minimises risk to subdivision, use and development in medium and low hazard areas.

107. It is not considered to be appropriate to retain the objective as it is currently worded as it would allow for there to be an increase in risk from subdivision, use and development. As such, this approach would be less aligned with the RMA and the RPS than the proposed change.

108. In terms of the two objective option, there were no submission points on this matter and therefore such a change would be outside of the scope of what I could consider. It would also require a rewrite of some of the policies to ensure that there was an alignment between the objectives and policies. On this basis of these matters, I have not considered this option further.

COSTS AND BENEFITS

109. The proposed amendment will not result in additional costs, based on the overall scale of the changes being minor.

110. The benefits will ensure that the District Plan is giving effect to a Section 6 Matter (being the management of natural hazard risk) as well as the RPS. It is considered that the proposed change has the benefit in terms of ensuring that the risk to future development is reduced as far as practicable as opposed to allowing for risk to increase as was previously allowed with the original objective wording.

RISKS OF ACTIVITY OR NOT ACTING

111. There is no risk from acting. There is the risk of not acting of the objective allowing for there to be an increase in risk to future development. This would result in an objective that is inconsistent with the RMA and the RPS.

DECISION ABOUT THE MOST APPROPRIATE OPTION

112. The proposed amendments are considered to be more appropriate in achieving the purpose of the RMA and RPS and including the clarity and considerations of the proposed provisions framework for natural hazards.

Topic 2 - Wellington Fault Overlay - Provisions

Matters Raised in Submissions

113. There were several submissions received that related to the Wellington Fault Overlay provisions including:

- Greater Wellington Regional Council (submission 052) and
- Ministry of Education (submission 082)

POLICIES

114. The Ministry of Education (S82.4) supports Policy NH-P3 as notified.

115. Greater Wellington Regional Council (S52.5) seeks to amend the policy to include a requirement that new builds and building platforms be located to avoid the fault.

Provide for Hazard Sensitive and Potentially Hazard Sensitive Activities within the poorly constrained or the uncertain constrained areas of the Wellington Fault Overlay, provided:

(a) New buildings and building platforms are located to avoid the fault, as advised by an appropriately qualified specialist.

116. The Ministry of Education (S82.5) and Greater Wellington Regional Council (S52.6) both support Policy NH-P4 as notified.

RULES

117. The Ministry of Education (S82.8) supports Rule NH-R7 as notified.

118. Greater Wellington Regional Council (S52.11) seeks to amend Rule NH-R7 to require a suitably qualified expert to provide advice on the best location for building platforms for new builds in the uncertain - poorly constrained and uncertain - constrained fault areas:

(b) The location of the building relative to the fault ~~trace line~~ as advised by a suitably qualified expert and any mitigation measures to reduce the impacts from fault rupture.

119. Greater Wellington Regional Council (S52.12) seeks to amend Rule NH-R9 to delete clause (a) and make compliance with standard NH-S1 a matter of discretion:

(a) ~~Compliance is not achieved with NH-R2 1(a) or~~

(b) The additions are located within the well-defined or well-defined extension areas of the Wellington Fault Overlay.

Matters of discretion are restricted to:

a) The change in risk to life as a result of the additions being undertaken on the site;

b) The location of the additions relative to the fault ~~trace line~~ and any mitigation measures to reduce the impacts to life and buildings from fault rupture and;

c) Where the proposal meets NH-S1.

120. The Ministry of Education (S82.9) supports Rule NH-R10 as notified.

121. Greater Wellington Regional Council (S52.13) seeks to amend Rule NH-R10 to require a suitably qualified expert to provide advice on the best location for building platforms for new builds in the uncertain - poorly constrained and uncertain - constrained fault areas:

- (c) *The location of the building relative to the fault ~~trace line~~ as advised by a suitably qualified expert and any mitigation measures to reduce the impacts from fault rupture.*

122. Greater Wellington Regional Council (S52.14) supports Rule NH-R23

123. The Ministry of Education (S82.10) seeks the introduction of a new discretionary activity rule that would provide for potentially hazard sensitive activities and hazard sensitive activities in the Wellington Fault Overlay as a discretionary activity, provided certain criteria are met:

Discretionary Activities

Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Wellington Fault Overlay

The building is located within the well-defined or well-defined extension areas of the Wellington Fault Overlay where it can meet the requirements below and outlined in NH-P4

It must be demonstrated that:

- a. *The activity or subdivision has a critical regional or nationally important operational and functional need to locate or occur within the High Hazard Areas and locating or occurring outside the High Hazard Areas is not a practicable option; and*
- b. *The building, activity or subdivision incorporates mitigation measures that demonstrate that risk to people, and property is avoided; and c. For additions to existing buildings, the change in risk from fault rupture to people, buildings is not increased.*

124. The Ministry of Education (S82.11) further seeks to amend NH-R23 so that these activities only become non-complying if they can't meet the discretionary activity criteria:

Non Complying Activities

Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Wellington Fault Overlay

Where:

- a. *The building is located within the well-defined or well-defined extension areas of the Wellington Fault Overlay; and*
- b. *It does not comply with the criteria in NH-P4 [or reference the new provision above].*

125. Greater Wellington Regional Council (S52.19) requests to amend rule SUB-GEN-R5 to require advice from a suitably qualified expert on the best location for building platforms:

- (c) *The location of the building platform relative to the fault ~~trace line~~ as advised by a suitably qualified expert and any mitigation measures to reduce the impacts from fault rupture.*

Analysis

126. The wording sought by GWRC (S52.5) is related to the change sought to Policy NH-P3, which is considered appropriate as it provides further clarity around the intent of this overlay. The proposed wording change aligns more closely with the rule wording and the matters of discretion that are assessed for new buildings.

127. GWRC (S52.12) seeks to amend Rule NH-R9 to delete clause (a) and make compliance with standard NH-S1 a matter of discretion. I do not agree with this change to the proposed provisions for the following reasons:

- It means there is no relevant rule escalation when Rule NH-R2-1(a) is not met; and
- Adding the provision as a matter of discretion does not work as it is not a matter that can be assessed.

128. On this basis, I remain of the position to retain Rule NH-R9 as drafted.

129. Greater Wellington Regional Council (S52.13) seeks to amend Rules NH R7 and NH-R10 to require a suitably qualified expert to provide advice on the best location for building platforms for new builds in the uncertain - poorly constrained and uncertain - constrained fault areas. I am finely balanced on this suggested amendment to these rules. I understand the intent of the changes and I support this intent. However, for this rule I believe this issue is best addressed through an information requirement that gets included in a rule. I believe the inclusion of a note outlining the need for a specialist report to be provided with any application around the fault location is more transparent for the plan user and ensures that the required specialist involvement is used when determining the location of building platforms.

130. The Ministry of Education seeks to introduce a new rule that would make Hazard Sensitive Activities a Discretionary Activity in the Well Defined and Well Defined Extensions of the Wellington Fault providing certain standards are met. There is a corresponding change also sought to the non-complying activity rule, which only applies when the discretionary activity standards are not met. I do not support this submission point for the following reasons:

- The Wellington Fault is Class I Fault as defined in the Ministry for Environment Guidance on Active Faults. This means that this fault presents the highest hazard to lives and to building damage. In a well-defined area of a fault, the position of the fault is well understood and it is not appropriate that buildings are located in this area. A discretionary activity pathway would make the consenting pathway for new building easier and this is not an outcome that is sought for the Wellington Fault Overlay;
- The proposed discretionary activity status would also be inconsistent with the regional approach to managing buildings on the Wellington Fault. In particular, through the Intensification Planning Instrument (IPI), the Wellington City Council has set a non-complying activity status for Hazard Sensitive Activities on Well Defined and Well Defined Extensions of the Wellington Fault Hazard Overlay.
- The suggested standards by the submitter are not measurable and would be hard to determine if a building complies with these standards. They are subjective and as such, there is the potential for different determinations on whether buildings met these standards or not.
- The suggested approach is in my view is inconsistent with the Regional Policy Statement. The RPS seeks to avoid inappropriate subdivision and development in areas at high risk from natural hazards. I consider having a discretionary activity status for the establishment of hazard

sensitive activities within the Wellington Fault Overlay could result in an outcome where inappropriate subdivision and development could occur.

Recommended Decision

131. I recommend accepting the submission points S52.5, S52.6, S52.1, S52.2, S52.3, S52.4, S52.10, S52.14, S52.20, S52.15, and S82.2.

132. I recommend partially accepting submission points S52.11, S52.19, and S82.4.

133. I recommend rejecting the submission points S52.12 and S52.16.

Recommended Amendments

134. NH-P3

Provide for Hazard Sensitive and Potentially Hazard Sensitive Activities within the poorly constrained or the uncertain constrained areas of the Wellington Fault Overlay, **provided:**

a) **New buildings and building platforms are located to avoid the fault, as advised by an appropriately qualified specialist.**

| Controlled Activities | | | |
|--|--|-------------|------------|
| Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Wellington Fault Overlay | | | |
| NH-R7 | <p>Where:</p> <p>a. <u>The building is being constructed on a site that is vacant as at 30 March 2022 and the building platform is located within the uncertain poorly constrained or the uncertain constrained areas of the Wellington Fault Overlay.</u></p> <p>The matters of controlled are limited to:</p> <p>a. <u>The ability for the building to maintain life safety as a result of fault rupture.</u></p> <p>b. <u>The location of the building relative to the fault line and any mitigation measures to reduce the impacts from fault rupture.</u></p> <p>Note: The position of the building relative to the fault trace shall be determined by a suitably qualified geotechnical or geological specialist.</p> | CON | <i>All</i> |
| Restricted Discretionary Activities | | | |
| Potentially Hazard Sensitive Activities and Hazard Sensitive Activities in the Wellington Fault Overlay | | | |
| NH-R10 | <p>Where:</p> <p>a. <u>The building is not located on a vacant site as at 30 March 2022 and the area where the building is to be located is within the uncertain poorly constrained or the</u></p> | RDIS | <i>All</i> |

| | | | |
|--|--|--|--|
| | <p><u>uncertain constrained areas of the Wellington Fault Overlay.</u></p> <p><u>Matters of discretion are restricted to:</u></p> <ul style="list-style-type: none"> a. <u>The ability for the building to maintain life safety as a result of fault rupture.</u> b. <u>The ability for the building to remain structurally sound as a result of fault rupture; and</u> c. <u>The location of the building relative to the fault line and any mitigation measures to reduce the impacts from fault rupture.</u> <p><u>Note: The position of the building relative to the fault trace shall be determined by a suitably qualified geotechnical or geological specialist.</u></p> | | |
|--|--|--|--|

Section 32AA Evaluation

EFFECTIVENESS AND EFFICIENCY

135. The proposed amendments make it clear to applicants and processing officers alike on how the information around the position of the fault trace is to be determined. It was always the intent of the rule that assessment of subdivision, use and development within the Wellington Fault Overlay would be informed by a specialist assessment. This proposed wording makes this requirement explicitly clear thereby improving the effectiveness and efficiency of the provisions.

OTHER REASONABLY PRACTICABLE OPTIONS

136. The only reasonably practicable option would be to leave the provision wording as it was notified. This would create uncertainty around ensuring the Matters of Control and Discretion have been met and could result in increased requests for information for specialist assessments. The proposed amended wording would address this issue.

COSTS AND BENEFITS

137. There is a cost associated with the proposed amendment as a specialist report would be required for assessments of use and development under these rules. However, it was always intended that a specialist report would be required for the assessment of use and development under these rules and therefore the proposed amendments make these costs more apparent than what was notified.

138. There is the benefit of the proposed amendments of making the provisions clearer in terms of the level of information needed to assess applications.

RISKS OF ACTIVITY OR NOT ACTING

139. Overall, the risk of acting is small as the proposed amendments clarify the intent of the provisions as notified.

DECISION ABOUT THE MOST APPROPRIATE OPTION

140. Based on the above assessment, the proposed amendments are considered the most appropriate option in response to the submissions received and to provide clarity to plan users on the information required to assess use and development under these provisions.

Topic 3 - Wellington Fault Overlay – Spatial Extent

Matters Raised in Submissions

141. Karen Pugh (S34.1) considers that the classification of her property as ‘uncertain constrained’ is not correct and requests the removal of the natural hazard classifications and related policies and rules from the land.
142. Grant Boyd (S46.1) considers there is no evidence or justification requiring changes to the fault line location, hazard rating provisions or restrictions relating to properties in Emerald Hill Drive. The submitter requests that any changes must declare that they don’t apply to existing residential properties in Emerald Hill Drive and recognise the right to rebuild existing single story timber framed dwellings.

Analysis

143. Karen Pugh submission relates to the land at 7 Turksma Lane, where GNS had originally identified a uncertain constrained aspect of the Wellington Fault (the blue overlay on the maps). Further analysis of this area was undertaken as a result of the receipt of the draft feedback received on the plan change and a site visit was undertaken. As a result, the position of the Wellington Fault moved 200m northwards and therefore the Uncertain Constrained Area of the Wellington Fault in Turksma Lane can be removed.
144. Within the latest analysis of the Wellington Fault, a new area of well-defined and well-defined extension was identified in the area of Turksma Lane (see the GNS report dated 14 March 2022 and available at the following link <https://www.upperhuttcity.com/files/assets/public/v/1/districtplan/pc-47/10.-gns-revised-fault-hazard.pdf> for further information). Within this report, it was identified that there was some uncertainty on whether the new area of the fault was a fluvial feature or a fault feature. To assist with determining whether there was a fault trace in the Turksma Lane area, a number of measures were undertaken including:
- Site visits by a GNS Science Tectonic Geomorphologist and Council’s Geotechnical Engineer
 - The use of ground penetration radar on one site; and
 - The beginnings of a trench was dug on another site.
145. In the instances of the site visits and ground penetrating radar, the findings were inconclusive. In terms of the test pit, unfortunately the land owner did not allow for further investigations to be undertaken. As it was not conclusively determined whether there was a fault trace in the Turksma Lane area or not, a decision was made to not include the well-defined and well-defined extension to the Wellington Fault within this plan change. However, it could be included in a future plan change on natural hazards to be undertaken at a later date.
146. Within the Section 32 report, it identifies that due to the uncertainty around the Wellington Fault Hazard Overlay in the vicinity of Turksma Lane at the time of the notification of the plan change, that there was to be no Wellington Fault Hazard Overlay in this area. Amending the mapped extent of the fault within the Turksma Lane area is therefore also consistent with the original intent of the Plan Change.
147. For the purposes of completion, there were no submissions received requesting the inclusion of the well-defined and well-defined extension areas of the Wellington Fault Overlay in the vicinity of Turksma Lane.

148. On the basis of the above, it is recommended that the area of uncertain constrained area of the Wellington Fault Hazard Overlay should be removed from the following properties:

- Lot 2 DP 553144
- 5 Turksma Lane
- 7 Turksma Lane
- 9 Turksma Lane
- Lot 2 DP 26031
- Section 18 SO 459776
- Lot 3 DP 12827
- Lot 1 DP 336368
- Section 1 SO 36338

149. Mr Grant Boyd (S46.1) has raised concerns around the mapping of the Fault Hazard Overlay in respect of his property in Emerald Hill. The position of the Wellington Fault within Emerald Hill is well understood, hence the Wellington Fault Overlay being well defined in this area. The reason the band has expanded is to reflect the guidance around mapping requirements under the Ministry for the Environment Active Fault Guidelines and as per GNS identification of the fault hazard in this area.

150. As previously identified, the Wellington Fault is a Class 1 Fault Hazard and therefore it is appropriate that it is mapped, and development within this mapped extended is managed, and limited due to the high hazard nature of this fault (being the frequent rupture period and large earthquakes that it generates).

151. In relation to the concerns raised by the submitter in relation to the ability to rebuild a timber framed residential dwelling, this plan change does not cancel existing use rights. The landowner has the ability to rebuild a residential unit similar in scale, intensity and character as what previously existed within a 12 month window of the original residential use being discontinued. If a large residential unit was sought, or it was more than 12 months from the activity being discontinued then a resource consent would be required.

152. On the basis of the above, I remain of the position that the mapping in relation to the Wellington Fault does not need to change and should remain as notified.

Recommended Decision

153. I recommend accepting the submission points S34.1 in relation to the mapping of the fault hazard in Turksma Lane.

154. I recommend rejecting the submission point S46.1 and retain the fault hazard in Emerald Hill as it was mapped.

Recommended Amendments

155. I recommend the mapping in Turksma Lane is updated and the fault hazard overlay is removed from the following properties:

- Lot 2 DP 553144
- 5 Turksma Lane
- 7 Turksma Lane
- 9 Turksma Lane
- Lot 2 DP 26031
- Section 18 SO 459776
- Lot 3 DP 12827
- Lot 1 DP 336368
- Section 1 SO 36338

Section 32AA Evaluation

EFFECTIVENESS AND EFFICIENCY

156. The proposed change is considered to be effective and efficient as it removes an area of the Wellington Fault Hazard Overlay where the Wellington Fault Hazard is not believed to be located. On this basis, it would be ineffective to unreasonably burden these properties with the fault overlay, when there may be no fault line present.

OTHER REASONABLY PRACTICABLE OPTIONS

157. One reasonable practicable option is to add the well-defined and well-defined extension areas of the Wellington Fault Overlay to the District Plan in the vicinity of Turksma Lane. However, there is a natural justice issue associated with this, as the owners and occupiers of the properties impacted by this new overlay would not be aware of this information and this may have impacted whether they submitted on the plan change or not. There is also a potential scope issue of including this overlay at this late stage of the process.

158. The only other reasonably practicable option is to retain the fault hazard overlay as notified. However, this is not considered to be the appropriate response given there is no known fault hazard located within the uncertain constrained area of the Wellington Fault Hazard Overlay in the vicinity of Turksma Lane.

COSTS AND BENEFITS

159. The proposed amendment will not result in additional costs, based on the overall scale of the changes being minor.

160. The benefit associated with the proposed change is that it ensures that properties are not burdened by the Wellington Fault Hazard Overlay when current knowledge suggest there is no fault hazard known to be located in this area.

RISKS OF ACTIVITY OR NOT ACTING

161. There is no risk from acting. The risk of not acting is that properties within Turksma Lane may need to obtain resource consent for new potentially hazard sensitive and hazard sensitive activities for works within the Wellington Fault Hazard Overlay and the associated costs for this process.

DECISION ABOUT THE MOST APPROPRIATE OPTION

162. It is considered that given the uncertainty around the location of the Wellington Fault in the vicinity of Turksma Lane that it is appropriate that this hazard overlay is removed from these properties.

Topic 4 – High Slope Hazard Overlay - General

Matters Raised in Submissions

163. Submissions that relate to the High Slope Hazard Overlay in general include:

- S021, S022, S026, S027, S047, S051, S055, S059, S060, S066, S067, S070, S073, S080, S085, S089, S096, S097

164. The main areas of concern raised in submissions relate to:

- The methodology used to identify High Slope Hazard Areas;
- The impact of proposed overlay and related provisions on property values and insurability;
- Lack of consultation; and
- Cost benefit analysis

165. A number of submitters question how the slope areas were identified and request the adoption of a different database/map (S59.6, S60.6, S66.6, S67.4, S70.7, S73.6, S80.4, S85.5, S89.3, S96.6, and S97.6).

166. Teresa Homan (S26.1) considers that areas in the High Slope Hazard Area and Mangaroa Peatlands are not suitable for housing and should be considered unsuitable for development.

167. Karsten Kroeger (S27.1) considers the current methodology of the slope hazard assessment is inappropriate and requests amendments.

168. Robert Bok (S32.1) considers that not all properties covered by the High Slope Hazard Overlay present a risk to others and that the resource consent process is an unfair penalty on costs and time to the owner of the property. He also considers there should be a rebate on rates for those properties impacted by the High Slope Hazard Overlay

169. M de Jong requests an impact assessment of insurability (S51.1), consultation of affected property owners (S51.2), consideration of the impact of reduced rateable values (S51.4), a complete rework of the plan change (S51.5), a vote for ratepayers on whether to adopt the plan change (S51.6) and offers to purchase affected properties (S51.7) or reimburse owners (S51.8).

170. Katelyn King (S55.2) requests changing the title from 'High Slope Hazard' to something less inflammatory like 'Slope Area'.

171. David De Martin (S47.1) opposes the introduction of the overlay in general and considers there is no justification for the additional costs to affected people.

172. Judi Huxedurp (S21.1) requests consideration and disclosure of the effects of industrial noise and increased traffic on the high slope hazard areas.

173. Rozalie Brown (S22.1) is concerned about activities on public land that could affect adjoining ratepayers and requests that all future decisions reflect hydraulic neutrality.

Analysis

174. A number of the submissions have raised concerns on the methodology used for the mapping undertaken and the request either the slope hazard overlay is removed, amended or for an alternative slope database to be used. These matters have been addressed within the evidence of Mrs Martin and Mr Sullivan and I will not repeat within my evidence. However, the High Slope Hazard Overlay has been remapped as a result of the submissions. The remapping process has refined the extent of the High Slope Hazard Overlay through the use of more accurate and up to date LIDAR data and site visits. The use of this new data has removed or reduced the extent of the overlay on a large number of properties (including a number of the submitters). I accept the evidence of Mrs Martin and Mr Sullivan and I considered that the refined mapping has addressed a number of the concerns raised in the submissions. On this basis, I recommend the Hearing Panel adopts the new High Slope Hazard Overlay map as it is a more accurate representation of the areas that have slopes over 26 degrees, when compared to the notified version of the Overlay.

175. I also accept the evidence of Mrs Martin and Mr Sullivan that slopes with an angle of 26 degrees or greater have the potential for stability issues within the Wellington Region. Recent natural hazard events around the country (including Cyclone Gabrielle) have shown the impacts of slope failure on people's properties, health and well-being and unfortunately in some instances slope failure has resulted in loss of life. I therefore remain of the position that it is appropriate that this hazard extent is mapped and that there are rules that manage earthworks and subdivision within this overlay. The purpose of these rules is to ensure earthworks and subdivisions are undertaken in a manner that ensure the risk of failure on both the site and neighbouring properties is not increased and that appropriate mitigation measures are implemented to protect future buildings.

176. Teresa Homan (S26.1) considers that areas in the High Slope Hazard Area and Mangaroa Peatlands are not suitable for housing and should be considered unsuitable for development. I do not agree with this view. It is possible for development to occur within the High Slope Hazard Overlay and Mangaroa Peat Overlay, providing the development has been designed to address these hazards. It is considered that in a number of instances the hazards can be appropriately addressed through mitigation measures and therefore it is not appropriate to completely prevent development from occurring in the High Slope Hazard Overlay and Mangaroa Peat Overlay.

177. Concerns were raised regarding the impact of the proposed plan change in relation to slope hazards on the values of submitters properties. This is not a relevant matter that I can take into account under the RMA when determining whether there is the need for a planning response to address a known issue. As such, I have not considered this matter any further.

178. Similarly to this point, there is no requirement for council to reimburse or purchase impacted properties by the proposed plan change. This plan change is related to council's functions under Section 31 of the RMA and is responding to a Section 6 of the RMA matter. As such, I have not considered these factors further.

179. Concerns have also been raised that the proposed overlay will impact the insurability of properties. Insurance companies consider a wide range of factors when making insurance decisions and setting pricing schedules. The insurance companies have their own databases which often include a large amount of hazard information which they have undertaken their own research on. As such, it is unlikely that the High Slope Hazard Overlay will have an impact on insurability, as insurance companies are aware of properties slope etc when making insurance decisions.

180. For the purposes of completion, I would also note that even if the proposed overlay did influence insurance decisions, then this is not a matter I can consider further. The proposed plan change is

related to council's functions under Section 31 of the RMA and is responding to a Section 6 matter of the RMA. As such, I have not considered this matter any further.

181. Robert Bok (S32.1) considers that there should either be no cost for resource consent applications in the High Slope Hazard Overlay or a rates rebate from the Council. Neither of these options have been considered as the proposed plan change is responding to a function that the Council has under the Resource Management Act 1991. The proposed rules do not have a wider public benefit when compared to other frameworks that often have reduced fees or rates rebates (such as Significant Natural Areas or heritage buildings). On this basis, it is not proposed to either reduce resource consent fees or have a rates rebate in relation to sites that are within the High Slope Hazard Overlay.

182. Katelyn King (S55.2) requests changing the title from 'High Slope Hazard' to something less inflammatory like 'Slope Area'. I have some sympathy for this submission point. In considering this submission point I have reviewed the name of other natural hazard overlays, both in the District Plan and those contained in Plan Change 47. None of the other hazard overlay uses a qualifying statement such as high, medium or low. Rather, the name of the overlay generally follows the name of the hazard to which it applies (for example Mangaroa Flood Hazard Overlay, Pinehaven Stream Flood Hazard Overlay). In the interests of keeping the naming conventions of the hazard overlays consistent, I recommend that the word 'high' is removed from the High Slope Hazard Overlay, and this overlay is renamed as Slope Hazard Overlay. This will ensure consistent wording to the natural hazard overlays within the District Plan.

183. There have been several matters raised that are beyond the scope of the plan change. These relate to the impact of industrial noise and increased traffic within the High Slope Hazard Overlay, the need to amend the earthworks chapter to align with GWRC rules and to be more permissive, and the need for all development to need hydraulic neutrality. These matters raised do not have any impacts on the natural hazards chapter and therefore I have not considered them further. I would however note that as part of the Intensification Streamline Planning Process that concluded at the end of 2023, there was a requirement introduced for all new development in the residential zone to be hydraulically neutral.

Recommended Decision

184. I recommend accepting the submission point, S55.2 in part in that the name of the High Slope Hazard Overlay should be changed to Slope Hazard Overlay.

185. I recommend that submission points S27.1, S51.3, S59.6, S60.6, S66.6, S67.4, S70.7, S73.6, S80.4 S85.5, S89.3 S96.6, and S97.6 are accepted in part, in that the High Slope Hazard Overlay was updated using the latest LIDAR data which result in the spatial extent of the overlay being reduced for a number of properties.

186. I recommend rejecting the submission points S21.1, S22.1, S26.1 S32.1 S47.1, S50.2, S50.3, S51.1. S51.2, S51.4, S51.5, S51.6, S51.7, S51.8, S66.4.

187. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submissions.

Recommended Amendments

188. I recommend that that the amended mapping prepared for this hearing in response to the submissions is accepted.

189. I recommend that the following changes are made to NH-P2, NH-P6, NH-P7, NH-R1, SUB-GEN-R4, and EW-R9 to reflect the amended name to the Slope Hazard Overlay.

NH-P2 Less Hazard Sensitive Activities within the Mangaroa Peat Overlay, **High** Slope Hazard Overlay and Wellington Fault Overlay.

Allow for Less Hazard Sensitive Activities within the Mangaroa Peat Overlay, **High** Slope Hazard Overlay and Wellington Fault Overlay

NH-P6 Earthworks in the **High** Slope Hazard Overlay.

Provide for earthworks in the **High** Slope Hazard Overlay, where:

- a. A geotechnical assessment confirms that the proposed earthworks will not unacceptably increase the risk from slope instability to people, and buildings; and
- b. The earthworks will not increase the risk of slope failure at adjacent sites.

NH-P7 Subdivision where additional building platforms are created in the **High** Slope Hazard Overlay.

Provide for subdivision that creates additional building platforms in the **High** Slope Hazard Overlay where:

- a. A geotechnical assessment confirms that the site is suitable for subdivision, use and development, and that the risk from slope instability can be avoided, remedied or mitigated.
- b. The subdivision will not increase or accelerate land instability on the site or adjoining properties

| Permitted Activities | | | Zones |
|----------------------|--|------------|------------|
| NH-R1 | Less Hazard Sensitive Activities within the Wellington Fault Overlay, High Slope Hazard Overlay and Mangaroa Peat Overlay | PER | <i>All</i> |

| Restricted Discretionary Activities | | | Zones |
|-------------------------------------|---|-------------|------------|
| SUB-GEN-R4 | <p>Subdivision that creates a building platform in the High Slope Hazard Overlay</p> <p><u>Where:</u></p> <ul style="list-style-type: none"> a. <u>The subdivision will result in a suitable building platform for a Potentially Hazard Sensitive Activity or Hazard Sensitive Activity in the High Slope Hazard Overlay.</u> <p><u>Matters of discretion are restricted to:</u></p> <ul style="list-style-type: none"> a. <u>The matters in NH-P7</u> b. <u>Design, appearance and layout of the subdivision.</u> c. Landscaping. d. <u>Provision of and effects on utilities and/or services.</u> e. <u>Standard, construction and layout of vehicular access.</u> f. Earthworks. | RDIS | <i>All</i> |

| | | | |
|--|--|--|--|
| | g. <u>Provision of esplanade reserves and strips.</u> | | |
| | h. <u>Protection of any special amenity feature.</u> | | |
| | i. <u>Financial contributions.</u> | | |

| Restricted Discretionary Activities | | | Zones |
|-------------------------------------|--|-------------|------------|
| EW-R9 | <u>Earthworks for a building platform in the High-Slope Hazard Overlay</u> <u>Where:</u> <u>a. The earthworks are for a suitable building platform for a Potentially Hazard Sensitive Activity or Hazard Sensitive Activity in the High Slope Hazard Overlay.</u> <u>Council will restrict its discretion to, and may impose conditions on:</u> <u>a. The matters in NH-P6</u> | RDIS | <i>All</i> |

Section 32AA Evaluation

EFFECTIVENESS AND EFFICIENCY

190. The proposed changes to the mapping are effective and efficient as the revised High Slope Hazard Overlay is more accurate and better represents slope angles on the properties within the city. This means that the provisions associated with subdivision and development are more appropriately targeted and applies to the areas of the properties where the hazard exists.

191. Due to the minor scale of the change to the name of the High Slope Hazard Overlay, there is really no difference in the effectiveness or efficiency of the provisions, other than ensuring there is a consistent naming convention for the hazard overlays.

OTHER REASONABLY PRACTICABLE OPTIONS

192. The only other reasonably practicable option in relation to the maps is to not change the hazard maps and leave them as they were notified. However, these maps were based on older LIDAR data and the new data has improved the accuracy of the maps and has addressed many of the submissions concerned.

193. The only other reasonably practicable option in relation to change in the name of the overlay is to leave the name as notified. However, this would retain a naming convention for the Slope Hazard Overlay that is inconsistent with how the other natural hazard overlays have been named in the District Plan.

COSTS AND BENEFITS

194. The proposed amendments (both to the maps and the name of the overlay) will not have any costs. With relation to the maps, they will be removing costs for those areas of properties that were originally identified as being in the High Slope Hazard Overlay, but are no longer located within this overlay.

195. The proposed amendments have the benefit in that large areas of the City they were originally mapped as being within the Slope Hazard Overlay will no longer be within this overlay, thereby removing the need for resource consent under this plan change for works within these areas.

196. The proposed amendments also have the benefit of ensuring that the maps relating to slope hazards are more fit for purpose and therefore better align with the requirements of the RMA and RPS (being that areas of property not subject to the natural hazards having natural hazard provisions being applied to those portions of the site).

RISKS OF ACTIVITY OR NOT ACTING

197. There is no risk from acting for the mapping as the data is more accurate.

198. The risk of not acting on the revised hazard mapping is that the proposed provisions will apply to areas of the property which have little or no risk of slope failure. This will result in applicants having to go through a resource consent process, with the associated costs.

199. There is no risk of acting or not acting in relation to the change in name for the Slope Hazard Overlay.

DECISION ABOUT THE MOST APPROPRIATE OPTION

200. It is considered that given the mapping is more accurate as a result of using the revised LIDAR data, and that it better aligns with areas of slopes angles of 26 degrees or greater on the properties, that it is appropriate to proceed with the revised maps.

201. It is considered to ensure there is a consistent naming convention to natural hazards that it is appropriate to proceed with the revised name for the Slope Hazard Overlay.

Topic 5 - High Slope Hazard Overlay - Provisions

Matters Raised in Submissions

202. Submissions that relate to the High Slope Hazard Overlay include:

- S004, S052, S075, S078, S082

203. Cheryl Gall (S4.1) supports the provisions as notified.

POLICIES

204. The Ministry of Education (S82.7) supports policy NH-P6 as notified.

205. Greater Wellington Regional Council (S52.8) considers that the identified slopes are prone to failure during wet conditions and climate change will increase the risk from landslips. GW therefore seeks an amendment to NH-P6 to replace 'will not unacceptably increase' with 'minimise':

A geotechnical assessment confirms that the proposed earthworks ~~will not unacceptably increase~~ minimise the risk from slope instability to people, and buildings.

206. Greater Wellington Regional Council (S52.9) further requests the following change to policy NH-P7:

The subdivision ~~will not increase or accelerate~~ does not cause land instability on the site or adjoining properties.

RULES

207. Adam Pawlak (S75.2, S75.3) does not support the proposed earthworks rules in the High Slope Overlay since they would require resource consent for all earthworks based on a highly inaccurate overlay. The submitter considers the existing provisions only allow for minimal earthworks and should be retained as they already require consent for earthworks on slopes over 28 degrees (compared to 26 degrees proposed by the plan change).

208. Steven Robertson (S78.1) requests to amend the proposed rules to require a geotechnical assessment for any significant earthworks (e.g. driveways or tree removals) rather than only for building platforms.

209. Greater Wellington Regional Council (S52.18) supports rule SUB-GEN-R4 conditional to the requested changes to policy NH-P7 above (since NH-P7 is listed as a matter of discretion).

210. The Ministry of Education (S82.12) supports earthworks rule EW-R9.

211. Greater Wellington Regional Council (S52.21) supports rule EW-R9 conditional to the requested changes to policy NH-P6 above (since NH-P6 is listed as the only matter of discretion).

Analysis

212. I note the support for the proposed provisions by Cheryll Gall (S4.1) and Ministry for Education (S82.7) for NH-P6 and EW-R9 (S82.12).

213. I note the support for the proposed provisions by Greater Wellington Regional Council (S52.18) and (S52.21) to SUB-GEN-R4 and EW-R9 provided other changes are made to NH-P7 and NH-P6.

214. Greater Wellington Regional Council seeks to have the word minimise included in NH-P6. I support this suggested change for the following reasons:

- It ensures consistent wording of the policy with the amended wording to the objective. This ensures that the alignment between NH-P5 and NH-O1 remains.
- The term 'minimise' is a term that is consistent with risk-based planning and the use of this term is more consistent with the RPS, including RPS Change 1.
- The term minimise is more consistent with the outcomes sought by the rule framework, which seeks to reduce as far as practicable the hazard associated with slope instability.
- The proposed amendment to the policy would ensure there is a consistent use of the term minimise through the District Plan provisions.

215. Greater Wellington also sought a change to NH-P7. I am supportive of this requested change as the proposed change achieves the same outcome as what was notified but is clearer wording for plan users.

216. Adam Pawlak submits that the proposed earthworks rules should be removed as they are already covered by EW-S4 and the High Slope Hazard Overlay map is inaccurate. I disagree with this submission point. As previously identified, the High Slope Hazard Overlay has been refined following submissions and a new mapping process. This has made the overlay more refined and has removed areas that were unintentionally captured due to the scale of the mapping originally.

217. In terms of the existing EW-S4, I acknowledge that this exists. However, this rule requires people to self-identify that the slope that earthworks is being undertaken on is greater than 28 degrees. The proposed High Slope Hazard Overlay improves clarity to plan users and ensures that all earthworks for building

platforms for Hazard Sensitive Activities and Potentially Hazard Sensitive Activities obtain resource consent to ensure they do not impact the stability of the site or neighbouring properties.

218. I do recognise that the closeness of EW-S4 with the proposed rule framework could be seen to create some duplication within the District Plan. Upon reviewing the submission from Adam Pawlak I have given some consideration to the removal of EW-S4 from the District Plan due to the rule framework under Plan Change 47. On balance, I have decided to not proceed with the recommendation on the basis that a small portion of the City in Bulls Run Road in the western hills was not mapped for high slope hazard due to the limitations of the original study. If rule EW-S4 was to be removed, then this area would have no rules managing earthworks on the higher slope angles and this is considered to be an unintended and undesired outcome. On this basis, it is proposed to retain rule EW-S4 in addition to the proposed rule framework.

219. Steven Robinson has requested that any significant earthworks in the High Slope Hazard Overlay requires resource consent. When determining what rules to apply to the High Slope Hazard considerable thought was given to what should be the correct threshold for earthworks. It was decided that the proposed approach was appropriate as the intent of the new provisions is to ensure that the establishment of new buildings associated with Hazard Sensitive Activities are not impacted by slope hazards themselves, and that the establishment of these activities also do not increase the potential for slope failure on neighbouring properties. In terms of other earthworks not associated with building platforms, then these are still captured by the existing earthworks provisions of the District Plan and if they are triggered then the associated stability impacts can be considered.

Recommended Decision

220. I recommend accepting the submission points S4.1, S52.8, S52.9 S52.18, S52.21, S82.7, and 82.17.

221. I recommend rejecting the submission points S75.2, S75.3 and S78.1.

222. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submissions.

Recommended Amendments

223. I recommend the following changes to the District Plan provisions in response to the submissions received:

NH-P6 Earthworks in the High Slope Hazard Overlay.

Provide for earthworks in the High Slope Hazard Overlay, where:

a. *A geotechnical assessment confirms that the proposed earthworks will ~~not~~ ~~unacceptably increase~~ minimise the risk from slope instability to people, and buildings; and*

b. *The earthworks will not increase the risk of slope failure at adjacent sites.*

NH-P7 Subdivision where additional building platforms are created in the High Slope Hazard Overlay.

Provide for subdivision that creates additional building platforms in the High Slope Hazard Overlay where:

- a. A geotechnical assessment confirms that the site is suitable for subdivision, use and development, and that the risk from slope instability can be avoided, remedied or mitigated.
- b. The subdivision ~~will not increase or accelerate~~ **does not cause** land instability on the site or adjoining properties

Section 32AA Evaluation

EFFECTIVENESS AND EFFICIENCY

224. The proposed amendment to the wording of the provisions uses terminology that is consistent with the suggested recommended changes to the wording of the objective. This ensures that the objective and policies have better linkages, thereby ensuring a more effective outcome. However, due to the small scale of the suggested changes, any effective or efficiency outcomes are very small.

OTHER REASONABLY PRACTICABLE OPTIONS

225. The only reasonably practicable option would be to leave the provision wording as it was notified. This would create a situation where what the policies of the District Plan are seeking are different to the proposed objective.

COSTS AND BENEFITS

226. Due to the small scale of the proposed changes, there are no identifiable benefits or costs.

RISKS OF ACTIVITY OR NOT ACTING

227. Overall, the risk of acting is small as the proposed amendments clarify the intent of the provisions as notified and ensures the proposed policies align with the natural hazard objective wording.

DECISION ABOUT THE MOST APPROPRIATE OPTION

228. Based on the above assessment, the proposed amendments are considered the most appropriate option in response to the submissions received and to provide consistency in the outcomes sought across the District Plan.

Topic 6 High Slope Hazard Overlay - Spatial

Matters Raised in Submissions

229. Submissions that relate to the spatial extent of the High Slope Hazard Overlay in general include:

- S018, S036, S045, S051, S053, S068, S075, S088

230. Submissions that comment on the extent of the High Slope Hazard Overlay on a property specific level include:

- S001, S002, S003, S005, S006, S007, S008, S009, S010, S011, S012, S013, S014, S015, S016, S017, S019, S020, S023, S024, S025, S027, S028, S029, S030, S031, S032, S033, S034, S036, S037, S038, S039, S040, S041, S042, S044, S045, S048, S049, S050, S054,

S055, S056, S057, S058, S059, S060, S066, S061, S065, S067, S074, S081, S084, S086, S091, S093, S099,

231. A number of submitters question the spatial extent of the High Slope Hazard Overlay in general and request a review of the high hazard maps to ensure they are correct, including site visits and the use of different maps, methodologies and experts (S18.1, S36.2, S45.6, S51.3, S53.1, S68.1, S75.1, S88.1).

232. A large number of submitters request amendments to the High Slope Hazard Overlay in relation to their property to either remove the overlay all together or amend it to exclude flat areas (S1.1, S2.1, S3.1, S5.1, S6.1, S7.1, S8.1, S9.1, S10.1, S11.1, S12.1, S13.1, S14.1, S15.1, S16.1, S17.1, S19.1, S20.1, S23.1, S24.1, S25.1, S27.2, S28.1, S29.1, S30.1, S31.1, S33.1, S34.1, S36.1, S37.1, S38.1, S39.1, S40.1, S41.1, S42.1, S44.1, S45.7, S48.1, S49.1, S50.1, S54.1, S55.1, S56.1, S57.1, S58.1, S59.7, S60.7, S66.7, S61.1, S65.1, S67.5, S72.1, S74.1, S81.1, S84.1, S86.1, S91.1, S93.1, S99.1). Many of these submitters offer or request site visits to confirm the spatial extent of the overlay on their property, while some submitters provide updated maps showing the amendments to the overlay requested.

Analysis

233. The appropriateness of the slope hazard overlay, both in general, and on individual submitter's properties was the main factor raised in the submissions received on this plan change. Due to the number of submissions received and the varying degrees of changes sought to the extent of the Slope Hazard Overlay, a table has been prepared in Appendix 6, which outlines the degree of change to each submitters property as a result of the remapping of this hazard.

234. As previously outlined, the evidence of Mrs Martin and Mr Sullivan addresses the remapping of the High Slope Hazard Overlay and I have relied on their evidence. The remapping has used more refined data and has reduced the extent of the overlay by 37.66% compared to what was notified. As a result, the mapped extent of the High Slope Hazard Overlay is more accurate and better reflects the slopes of properties within Upper Hutt. I considered that the refined mapping has addressed a number of the concerns raised in the submissions.

Recommended Amendment

235. On this basis, I recommend the Hearing Panel adopts the new High Slope Hazard Overlay map as it is a more accurate representation of the areas that have slopes over 26 degrees, when compared to the notified version of the Overlay.

Recommended Decision

236. I recommend submission points S1.1, S3.1, S5.1, S6.1, S7.1, S9.1, S13.1, S14.1, S15.1, S16.1, S17.1, S18.1, S19.1, S20.1, S23.1, S24.1, S27.2, S28.1, S30.1, S31.1, S33.1, S34.1, S37.1, S38.1, S39.1, S40.1, S41.1, S42.1, S45.7, S48.1, S54.1, S55.1, S57.1, S58.1, S61.1, S65.1, S66.7, S67.5, S72.1, and S93.1 be accepted.

237. I recommend partially accepting submission points S8.1, S10.1, S11.1, S12.1, S25.1, S29.1, S36.1, S36.2, S44.1, S45.6, S49.1, S50.1, S51.3, S56.1, S59.7, S60.7, S74.1, S75.1, S81.1, S86.1, S91.1, and S99.1 are accepted in part. With these submissions it is recognised that the extent of the High Slope Hazard Overlay has reduced on their respective property, but not to the full degree sought in their respective submission.

238. I recommend that submission points S2.1, S47.1, S53.1, S68.1, S84.1, and S91.1 are rejected as these parties want the full removal of the High Slope Hazard Overlay from their respective properties. I

would however note that the extent of the High Slope Hazard Overlay of these properties has been reduced through the remapping exercise.

239. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submissions.

Section 32AA Evaluation

EFFECTIVENESS AND EFFICIENCY

240. The proposed changes to the mapping are effective and efficient as the revised High Slope Hazard Overlay is more accurate and better represents slope angles on the properties within the city. This means that the associated provisions associated with subdivision and development are more appropriately targeted and applies to the areas of the properties where the hazard exists.

OTHER REASONABLY PRACTICABLE OPTIONS

241. The only other reasonably practicable option in relation to the maps is to not change the hazard maps and leave them as they were notified. However, these maps were based on older LIDAR data and the new data has improved the accuracy of the maps and has addressed many of the submissions concerned.

COSTS AND BENEFITS

242. The proposed amendments will not have any costs. With relation to the maps, they will be removing costs for those areas of properties that were originally identified as being in the High Slope Hazard Overlay but are no longer located within this overlay.

243. The proposed amendments have the benefit in that large areas of the City they were originally mapped as being within the Slope Hazard Overlay will no longer be within this overlay, thereby removing the need for resource consent under this plan change for works within these areas.

244. The proposed amendments also have the benefit of ensuring that the maps relating to slope hazards are more fit for purpose and therefore better align with the requirements of the RMA and RPS (being those areas of property not subject to the natural hazards having natural hazard provisions being applied to those portions of the site).

RISKS OF ACTIVITY OR NOT ACTING

245. The risk of not acting on the revised hazard mapping is that the proposed provisions will apply to areas of the property which have little or no risk of slope failure. This will result in applicants having to go through a resource consent process, with the associated costs.

DECISION ABOUT THE MOST APPROPRIATE OPTION

246. It is considered that given the mapping is more accurate as a result of using the revised LIDAR data, and that it better aligns with areas of slopes angles of 26 degrees or greater on the properties, that it is appropriate to proceed with the revised maps.

Topic 7 - Mangaroa Peat Overlay - General

Matters Raised in Submissions

247. The submissions received that relate to general matters regarding the Mangaroa Peat Overlay include:

- S043, S045, S059, S060, S062, S063, S064, S066, S067, S069, S070, S071, S073, S076, S077, S080, S083, S085, S087, S088, S090, S092, S095, S096, S097, S098, S100, S101

248. The main areas of concern raised in these submissions can be summarised as follows:

- Classification of peat as a natural hazard
- RPS Change 1 by Greater Wellington Regional Council may use the overlay to depopulate areas like Mangaroa Peatlands
- The accuracy of the cost benefit analysis
- Duplication of provisions under the Building Act
- Naming of the overlay
- Protection of Mangaroa Peatland for ecological and climate change reasons

249. Many submitters consider that peat is just another soil type and the identified issues are sufficiently covered through other legislation. Submitters request a more pragmatic, streamlined and risk-based approach especially for small scale subdivision and development (S43.3, S45.1, S59.1, S60.1, S62.1, S63.1, S64.1, S66.1, S69.1, S70.2, S71.1, S73.1, S76.1, S77.1, S80.1, S83.2, S85.1, S87.1, S90.2, S92.1, S96.1, S97.1, S98.1, S100.1).

250. A number of submitters request to change the name of the Mangaroa Peatland Hazard to 'Sensitive land planning zone' and the name of the High Slope Hazard Zone to 'Slope assessment planning zone' or 'Soil type Risk-planning zone'. This is considered useful to distance peatland and slopes from the goals of the Greater Wellington Regional Council for these areas as expressed in change 1 to the RPS (S45.2, S59.2, S60.2, S62.2, S63.2, S64.2, S66.2, S67.1, S69.2, S70.3, S71.2, S73.2, S76.2, S77.2, S80.2, S83.3, S85.2, S87.2, S90.3, S92.2, S96.2, S97.2, S98.2, S100.2).

251. Lisa Williams (S101.2) also requests changes to the terminology used to better reflect the actual situation and avoid unnecessary fear. The submitter considers the current peat overlay to be inaccurate and the associated descriptions to be misleading.

252. Robert Anker requests clarification that the Coffey report does not cover the Mangaroa Peatlands and considers that references to the soil type as a hazard are not supported by scientific or technical evidence. The submitter considers the cost benefit analysis to be fatally flawed and requests its withdrawal. The submitter criticises the incorrect and incomplete mapping and considers Council has a responsibility to avoid inflammatory remarks and observations that may disrupt financial stability. The submitters considers that the necessary rules to achieve protection are already in place and therefore the Mangaroa overlay is unnecessary and all references to the Mangaroa Peat Overlay should be removed from PC47 documentation (S43.2, S43.4, S43.5, S43.6).

253. Roger O'Brien (S70.1) considers that peat is not hazardous, neither from a liquefaction perspective, nor from a foundation design viewpoint and provides explanations of the nature and the formation of peat. The submitter further considers that the current building and subdivision consent processes sufficiently cover building foundation requirements and that the only peat related hazard is fire. Finally, the

submitter considers that the peat extent map is incorrect, especially in the Katherine Mansfield Drive Area

254. Grant O'Brien (S88.6) requests that the proposed requirement for subdivision consent within the Poor Ground Condition Overlay be withdrawn as the existing District Plan covers this sufficiently and the provisions have the potential to discriminate against elderly and those with lower socioeconomic status due to additional costs for resource consent.

255. Pat van Berkel requests acknowledgement of the importance of the Peatland from an ecological viewpoint and as a carbon sink (S95.1). The submitter also requests an analysis of the significance of the Peatland and its value as a carbon sink (S95.2)

256. The submitter considers that any and requests that the Mangaroo Peatland be zoned to be protected and restored. The submitter requests that any decision making be delayed until the peatland is recognised.

257. Mary Beth Taylor (102) and Tony Chad (103) oppose the Mangaroo Peatland provisions for the following reasons:

- The Mangaroo Peatland is a draft SNA and should be protected from development.
- The NPS-FW requires the protection and restoration of natural inland wetlands.
- The peatland is a damaged carbon sink that should be protected and restored.
- The peatland has never been assessed and geo-technically mapped to determine its depth.
- The draft NPS-IB indicates protection and restoration of wetlands and peatlands.
- The risk from development of the peatland is too great.

258. Pat van Berkel, Mary Beth Taylor and Tony Chad request recognition that building development is completely inappropriate on the Mangaroo Peatland (S95.3, S102.1, S103.1) and seek for it to be zoned so that it is protected and able to be restored (S95.4, S102.2, S103.2). The submitters further request to delay any decision making on PC47 until after the peatland is recognised as a significant natural area and/or a significant amenity landscape (S95.5, S102.3, S103.3).

259. Mary Beth Taylor and Tony Chad further request that further work on the peatland portion of PC47 is delayed until an assessment has been made of the hydrology, geology, flora, fauna of the peatland and of carbon currently being released (S102.4, S103.4).

260. Tony Chad requests that the Mangaroo Peatland is acknowledged as a regional treasure and significant natural area and that if the regional or national significance is confirmed a restoration plan be developed (S103.5, S103.6).

261. Mary Beth Taylor and Tony Chad further request that further work on the peatland portion of PC47 is delayed until the NPS-IB is operative (S102.5, S103.7).

Analysis

262. A number of the submitters have raised concerns around whether peat is a hazard. This matter is covered within paragraphs 2.2 – 2.5 of the evidence of Sarah Martin and David Sullivan. I remain of the view that the potential hazard presented by the peat soils within Mangaroo remain sufficient that it is appropriate to have a planning response at the time of subdivision to ensure that any future lots have a sufficient building platform to address this hazard.

263. A number of submitters has raised concerns around the validity of the cost benefit analysis provided with the Section 32 assessment. These concerns are addressed by Mr Kirdan Lees in a written report contained in Appendix 7 to the report. The overarching findings are that high level cost benefit analysis provided with the Section 32 report remains valid. I accept the findings of Mr Lees and therefore remain of the position that the benefits of this plan change outweigh the associated costs.

264. Many of the submission points considered that the Mangaroa Peat Overlay is sufficiently covered through the existing District Plan provisions or through other legislation and that the proposed rule framework is not required for this proposal. I disagree with these views.

265. The Upper Hutt District Plan allows for subdivision within the Rural Zone as a Controlled Activity, when certain standards are met, with the matters of control being:

- Design, appearance and layout of the subdivision
- Landscaping
- Provision of, and effects on utilities and/or services
- Standard, construction and layout of vehicular access;
- Earthworks
- Provision of esplanade reserves and strips
- Protection of special amenity feature
- Financial contributions
- In addition to the above, within the Mount Marua Structure Plan Development Area – consistency with the Mount Marua Structure Plan.

266. The Matters of Control do not extend to natural hazards for subdivisions. While I acknowledge that Section 106 of the Act applies to all subdivision, which allows for the management of significant natural hazard risk, this creates a significant tension, where there the Act directs that Controlled Activities be granted, but there may be a need to decline a Controlled Activity consent under Section 106. Furthermore, the lack of natural hazards as a Matter of Control means that this matter could be overlooked through the preparation of an application and associated processing, as it is not an overt matter within the District Plan. In my view this is neither an efficient nor effective way to address the natural hazard.

267. The proposed subdivision provisions elevate subdivision within Mangaroa Peat Overlay to a Restricted Discretionary Activity, with requirement for the consideration of the ground conditions and any associated mitigation measures to make sure there is an appropriate building platform for future residential units. The benefit of the proposed approach is that:

- It makes the consideration of the hazard associated with the Mangaroa Peat a matter of consideration for all subdivision applications within the Mangaroa Overlay;
- It provides the opportunity to the Council to decline the consent if the hazard cannot be appropriately addressed through mitigation measures;
- It does not introduce any new consenting requirements, in that all subdivisions in the Rural Zone require a subdivision consent, it merely changes the activity status of the subdivision

consent and introduces new Matter of Discretion directly linked to the hazard presented by the Mangaroa Peat; and

- There is the need for the identification and assessment of the building platforms to be undertaken by a suitably qualified geotechnical engineer. This ensures that the appropriate advice is provided at the consent application stage around this hazard.

268. It is my view that the proposed subdivision rule framework is the most effective and efficient way to address this natural hazard and addresses the challenges that exist with the current District Plan framework.

269. For the purposes of completion, I have also reviewed the proposed Controlled Activity subdivision activity standards under Plan Change 50 (which applies to the Rural Zone). I can confirm that based on the review of the notified version of the plan change:

- Subdivision within the rural zone remains a controlled activity; and
- Natural hazards have not been inserted as a new matter of control.

270. On this basis, the plan change does not change the approach to subdivision under the District Plan or address the concerns raised in paragraphs 248 and 249, and I believe that the proposed provisions remain the best approach to address the hazard associated with the Mangaroa Peatland.

271. In terms of turning my mind to the issue around whether the proposed provisions duplicate the process under other pieces of legislation, and therefore are not required. I do not agree with this position. I agree that under the building consent process under the Building Act 2004, the foundations of a residential unit will be assessed, and a geotechnical report will be required. However, this process only applies at the building consent process, and there is no other duplicate legislative process outside of the RMA for subdivisions. As such, the proposed provisions are designed to prevent a site being created, which at the time of building consent may be unable to development due to the ground conditions that exist. It is not uncommon for a subdivision to occur, which creates vacant sections. In the instances where vacant lot subdivision is created, then the Building Act 2004 process would not assist in addressing the issue around the natural hazard.

272. It is due to the building consent process that there is not a corresponding land use rule to manage new buildings associated hazard sensitive and potentially hazard sensitive activities within the Mangaroa Peat Overlay. It is my view that if there was a land use rule managing new positions, then this would be a duplication of functions under the Building Act 2004.

273. A number of submitters have raised concerns around the naming of the Mangaroa Peat Overlay and feel that the name creates fear. I would note that in the submissions, they believe the name of the overlay is Mangaroa Peat Hazard.

274. I believe the name of the overlay is accurate, not alarmist and describes the hazard. I believe that issue raised in the submissions on this point, is related to a misunderstanding of the name of the Mangaroa Peat Overlay.

275. A number of submitters have raised concerns that Greater Wellington Regional Council may use the overlay to achieve a different agenda. The maps that have been produced for this plan change are hazard maps and are only intended to be used for this basis. I am not aware of these maps being used to inform Proposed Plan Change 1 to the Regional Policy Statement. However, I understand that there are concerns within the Mangaroa community around the changes to the Regional Policy Statement and what this may mean for properties in the area. The Regional Policy Statement process is subject to its own process, with hearings and the validity or otherwise of the proposed Regional Policy Statement changes is not something I can consider further.

276. Mr O'Brien has raised concerns around the proposed provisions being discriminatory towards the elderly due to the costs associated with the resource consent process. I do not share this view. Subdivisions by their nature require resource consent. This proposed plan change does not change this situation. Rather, it elevates the activity status and requires the provision of a geotechnical report. While I acknowledge the geotechnical reports does add a cost, in the context of a subdivision development (when taking into account surveyor fees, council fees and any construction costs), these are not significant. I would also note that in many instances, the geotechnical report used for subdivision, could be used to inform the building consent process. In this regard, the requirement for a geotechnical investigation front loads the cost into the subdivision process.

277. The submissions of Mary Beth Taylor, Tony Chad and Pat van Berkel seek to recognise the ecological value of the wetland and have any decisions on this plan change delay until the peatland is essentially protected as either a Significant Natural Area or as a Special Amenity Landscape. They believe no development on the wetland is in appropriate due to its ecological value.

278. Proposed Plan Change 47 addresses the natural hazards throughout the City of Upper Hutt. The Mangaroa Peatland has been identified as a natural hazard due to the potential depth of soft soils. The inclusions of Mangaroa Peatland within this plan change does not preclude it being recognised for other values in future plan changes (subject to a suitable evidence base). However, for this plan change it would be inappropriate to protect the wetland for other matters such as ecological and landscape values as such considerations are outside the scope of this plan change. On this basis, I do not support the submission points seeking this outcome.

Recommended Decision

279. I recommend that submission points S43.2, S43.2, 45.3, S43.4, S43.5, S43.6, S43.3, S43.4, S43.5, S43.6, S45.1, S45.2, S45.4, S59.1, S59.2, S59.4, S59.5, S.59 S60.1, S60.2, S60.4, S60.5, S62.1, S62.2, S62.4, S62.5, S62.6, S63.1, S63.2, S63.4 S63.5, S64.1, S64.2, S66.1, S66.2, S67.1, S67.3, S69.1, S69.2, S69.4, S69.5, S70.1, S70.2, S70.3, S70.5, S70.6, S71.1, S71.2, S71.4, S73.1, S73.2, S73.4, S73.5, S76.1, S76.2, S76.4, S77.1, S77.2, S77.4, S80.1, S80.2, S83.2, S83.3 S83.5,, S85.1, S85.2, S85.4, S87.1, S87.2, S88.4, S88.5, S88.6 S90.1, S90.2, S90.3, S92.1, S92.2, S92.4, S95.1, S95.2, S95.3, S95.4, S95.5, S96.1, S96.2, S96.4, S97.1, S97.2, S97.4, S98.1, S98.2, S98.4, S100.1, S100.2, S100.4, 101.2, S101.3, S101.4, S102.1, S102.2, S102.3, S102.4, S102.5, S103.1, S103.2, S103.3 S103.4, S103.5, S103.6, and S103.7 are rejected.

280. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submissions.

Recommended Amendments

281. I do not propose any changes to the proposed provisions in relation to the general submissions addressing the Mangaroa Peat Overlay.

Topic 8 - Mangaroa Peat Overlay - Provisions

Matters Raised in Submissions

282. The Ministry of Education (S82.6) supports policy NH-P5 as notified.

283. Greater Wellington Regional Council (S52.7) seeks to replace the word 'reduce' with the word 'minimise' and considers that mitigation methods have advanced sufficiently for this to be achievable.

- (b) *A geotechnical assessment shows that there is the ability for appropriate mitigation options to be incorporated into the design of a future building to ~~reduce~~ minimise the likelihood of damage as a result of poor ground conditions on the identified building platform.*

284. Greater Wellington Regional Council (S52.17) supports rule SUB-GEN-R3, conditional to the requested changes to policy NH-P5 above (since NH-P5 is listed as a matter of discretion).

285. Lisa Williams (S101.1) requests that SUB-GEN-R3 be a permitted activity with a condition that a geotech report is submitted as part of the subdivision consent process that confirms a suitable (buildable) building platform is identified within the new Lot.

286. A number of submitters (S45.3, S59.3, S60.3, S62.3, S63.3, S64.3, S66.3, S67.2, S69.3, S70.4, S71.3, S73.3, S76.3, S77.3, S80.3, S83.4, S85.3, S87.3, S90.4, S92.3, S96.3, S97.3, S98.3 and S100.3) sought to have three hazard risk categories, no risk, some risk and high risk. The submitters sought to have the Mangaroa Peat Overlay classified as some risk.

Analysis

287. I recognise the support to NH-P5 from the Ministry of Education for policy NH-P5 as it was proposed.

288. Greater Wellington Regional Council seeks to have the word minimise included in NH-P5. I support this suggested change for the following reasons:

- It ensures consistent wording of the policy with the amended wording to the objective. This ensures that the alignment between NH-P5 and NH-O1 remains.
- The term 'minimise' is a term that is consistent with risk-based planning and the use of this term is more consistent with the RPS, including RPS Change 1.
- The term minimise is more consistent with the outcomes sought by the rule framework, which seeks to reduce as far as practicable the hazard associated with the deep peat within the Mangaroa Peat Overlay by ensuring that future subdivisions have a suitable building platform for residential development.
- The proposed amendment to the policy would ensure there is a consistent use of the term minimise through the District Plan provisions.

289. Lisa Williams would like subdivisions to be a permitted activity, subject to the provision of a geotechnical assessment confirming a suitable building platform exists on the site. I do not support this submission point for the following reason:

- The District Plan does not have subdivisions as a permitted activity in the rural zones, or any other zone, and as such a permitted activity status would be inconsistent with the wider District Plan approach to subdivision.
- A permitted activity subdivision would not allow for the imposition of conditions normally associated with subdivision (such as for engineering design, and access); and
- A permitted activity status subdivision would not allow for any conditions to be imposed in relation to the geotechnical report (such as the position or location of the building platform), which may be required to mitigate the effects associated with the subdivision.

290. In relation to the request from the submitter (S45.3, S59.3, S60.3, S62.3, S63.3, S64.3, S66.3, S67.2, S69.3, S70.4, S71.3, S73.3, S76.3, S77.3, S80.3, S83.4, S85.3, S87.3, S90.4, S92.3, S96.3, S97.3,

S98.3 and S100.3) who sought to have the hazard categories divided into three categories, I can confirm this has been undertaken and is addressed on page 34 of the Section 32 report. For the Mangaroo Overlay, this has been classified as a Medium Hazard, which aligns with the submitters sought equivalent outcome of “some hazard”.

291. Lisa Williams would like subdivisions to be a permitted activity, subject to the provision of a geotechnical assessment confirming a suitable building platform exists on the site. I do not support this submission point for the following reason:

Recommended Decision

292. I recommend that the submission points submitters S45.3, S59.3, S60.3, S62.3, S63.3, S64.3, S66.3, S67.2, S69.3, S70.4, S71.3, S73.3, S76.3, S77.3, S80.3, S83.4, S85.3, S87.3, S90.4, S92.3, S96.3, S97.3, S98.3 and S100.3 are accepted insofar as that the different natural hazards have been given different hazard rankings, and the Mangaroo Peat Overlay has been assigned a medium hazard and not a high hazard as sort by the submitters.

293. I recommend that submission points S52.7, S52.17 and S82.6 are accepted and that submission point S101.1 is rejected.

294. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submissions.

Recommended Amendments

295. I recommend the following amendment is made to NH-P5 in response to the GWRC submission point.

NH-P5 Hazard Sensitive and Potentially Hazard Sensitive Activities within the Mangaroo Peat Overlay.

Allow for subdivisions that results in the creation of vacant allotments in the Mangaroo Peat Overlay, provided:

a. It can be demonstrated through a geotechnical investigation that the subdivision will not increase the risk of damage to property due to the building platform being located on good ground; or

b. A geotechnical assessment shows that there is the ability for appropriate mitigation options to be incorporated into the design of a future building to reduce minimise the likelihood of damage as a result of poor ground conditions on the identified building platform.

Section 32AA Evaluation

EFFECTIVENESS AND EFFICIENCY

296. The proposed amendment to the wording of the provisions uses terminology that is consistent with the suggested recommended changes to the wording of the objective. This ensures that the objective and policies have better linkages, thereby ensuring a more effective outcome. However, due to the small scale of the suggested changes, any effective or efficiency outcomes are very small.

OTHER REASONABLY PRACTICABLE OPTIONS

297. The only reasonably practicable option would be to leave the provision wording as it was notified. This would create a situation where what the policies of the District Plan are seeking are different to the proposed objective.

COSTS AND BENEFITS

298. Due to the small scale of the proposed changes, there are no identifiable benefits or costs.

RISKS OF ACTIVITY OR NOT ACTING

299. Overall, the risk of acting is small as the proposed amendments clarify the intent of the provisions as notified and ensures the proposed policies align with the natural hazard objective wording.

DECISION ABOUT THE MOST APPROPRIATE OPTION

300. Based on the above assessment, the proposed amendments are considered the most appropriate option in response to the submissions received and to provide consistency in the outcomes sought across the District Plan.

Topic 9 - Mangaroa Peat Overlay - Spatial

Matters Raised in Submissions

301. Submissions that relate to the spatial extent of the Mangaroa Peat Overlay in general include:

- S043, S045, S059, S060, S062, S063, S064, S066, S069, S070, S071, S073, S076, S077, S083, S087, S089, S090, S092, S096, S097, S098, S100

302. Submissions that comment on the extent of the Mangaroa Peat Overlay on a property specific level include:

- S066, S067, S062, S069, S063, S064, S070, S072, S076, S077, S083, S083, S088, S089, S090, S092, S094, S098, S100, S101

303. Robert Anker (S43.1) requests that prior to incorporating any peat overlay the area should be comprehensively surveyed to establish the extent, depth and underlying ground conditions.

304. A large number of submitters consider that the boundaries of the peatland are smaller than identified and request that the map be amended to be the peat defined in the Soil Bureau survey of the peatland and documented in this Overlay, as modified by the sites that have been ground truthed: ArcGIS - Mangaroa Valley Soils (S45.5, S59.5, S60.5, S62.5, S63.5, S64.5, S66.5, S67.3, S69.6, S70.6, S71.5, S73.5, S76.5, S77.5, S83.6, S87.5, S89.2, S90.6, S92.5, S96.5, S97.5, S98.5, S100.5).

305. Grant O'Brien (S88.1) requests that the Poor Ground Condition Overlay and the High Slope Hazard Overlay be accurately defined using an accepted methodology and evidence. The submitter further requests that UHCC fully reimburses any costs for geotechnical testing, engineering assessments and consequential costs (other consents, insurance) where such assessments prove the inaccuracy of the Council overlay.

306. Lisa Williams (S101.1) considers that the Mangaroa Peat Overlay is inaccurate and some ground truthing data has been excluded or misinterpreted.

307. Many submitters request amendments to the Mangaroo Peat Overlay in relation to their property (S62.6, S69.6, S63.6, S64.6, S70.8, S76.6, S77.6, S83.1, S83.7, S89.4, S90.7, S92.6, S94.1, S98.6, S100.6, S101.4). Many of these submitters offer or request site visits to confirm the spatial extent of the overlay on their property.

Analysis

308. I recognise that a number of submitters have raised concerns in regard to the extent of the mapped Mangaroo Peat Overlay, both in respect the general extent of the overlay as well as in relation to their specific property.

309. With the Mangaroo Peat Overlay there has been a considerable effort to refine the extent of the overlay as much as possible. These measures include:

- Writing to every property in the Mangaroo Peat Overlay offering the opportunity for a site visit prior to the notification of the plan change. 18 site visits were undertaken in December 2021, January 2022 and July 2022. The owners and occupiers of the properties had the opportunity to accompany the engineering geologist on the site visit to provide on-site explanation on their understanding of ground conditions. These site visits resulted in some refinement of the overlay on some properties, whereas for other properties the site visit did not change the outcome of the mapping;
- A review of the council files to identify any records or geotechnical information that could be used to inform the extent of the Mangaroo Peat Overlay;
- An invitation to landowners within the Mangaroo Peat Overlay to provide Council with any relevant information that they held in relation to their property which may refine the extent of the overlay (such as geotechnical reports); and
- Visiting those sites, who had asked for a site visit in their submission but had not been previously visited as part of the pre-notification of the plan change process.

310. The table below outlines the properties that were visited in relation to the Mangaroo Peat Overlay, the date of the visit and whether any amendments to the overlay was made. This table demonstrates that 18 site visits were undertaken prior to the notification of the plan change, while 2 site visits occurred after the notification of the plan change, in response to the submissions received.

| Address | Site visit | Purpose of Visit | Adjustment made |
|--------------------------------|------------|------------------|-----------------|
| 50a Katherine Mansfield Drive | 21/12/2021 | Peat | Yes |
| 50b Katherine Mansfield Drive | 21/12/2021 | Peat | Yes |
| 50c Katherine Mansfield Drive | 21/12/2021 | Peat | No |
| 50d Katherine Mansfield Drive | 21/12/2021 | Peat | No |
| 50e Katherine Mansfield Drive | 21/12/2021 | Peat | Yes |
| 102 Katherine Mansfield Drive | 21/12/2021 | Peat | No |
| 110 Katherine Mansfield Drive | 21/12/2021 | Peat | Yes |
| 156 Katherine Mansfield Drive | 21/12/2021 | Peat | Yes |
| 159 Katherine Mansfield Drive | 21/12/2021 | Peat | Yes |
| 191A Katherine Mansfield Drive | 21/12/2021 | Peat | Yes |
| 244 Katherine Mansfield Drive | 21/12/2021 | Peat | No |
| 165a Katherine Mansfield Drive | 25/01/2022 | Peat | Yes |

| Address | Site visit | Purpose of Visit | Adjustment made |
|--------------------------------|------------|------------------|-----------------|
| 281A Katherine Mansfield Drive | 25/01/2022 | Peat | No |
| 2 Margaret Mahy Drive | 25/01/2022 | Peat | No |
| 74 Katherine Mansfield Drive | 26/07/2022 | Peat | Yes |
| 74a Katherine Mansfield Drive | 26/07/2022 | Peat | No |
| 76 Katherine Mansfield Drive | 26/07/2022 | Peat | Yes |
| 96 Katherine Mansfield Drive | 26/07/2022 | Peat | No |
| 230 Katherine Mansfield Drive | 25/08/2023 | Peat and Slope | No |
| 3 Ashton Warner Way | 25/08/2023 | Peat | No |

311. I acknowledge the request from the submitters for on-site geotechnical investigation to determine the extent of peat within the local area. It is cost prohibitive to undertake this approach, and immensely complex as it would require the approval of a large number of landowners to allow the required testing equipment on site.

312. I would also recognise that with any hazard map there is a degree of uncertainty. This uncertainty can exist for a number of reasons including:

- Scale of the mapping that has been undertaken;
- Uncertainty within model assumptions
- Having to make predictions about future states of natural hazards (for example those impacted by climate change); and
- Limitations with a model

313. However, these uncertainties do not mean that the data is not fit for purpose. Rather the scale of the uncertainties needs to be considered in the context of the proposed provisions and their implications for the impacted properties. For this proposal, the greatest uncertainties with the data are around the extent of the peat on the edges of the mapped extent and its depth across the overlay. To address these uncertainties, as previously outlined, would be cost prohibitive, and would not necessarily remove all uncertainty.

314. I also recognise that Mangaroa Peat Overlay only relates to subdivisional activities. It does not apply to new buildings, as this is controlled by other legislative approaches. As such, the regulatory control associated with this overlay is relatively limited, and for a number of properties will have no significant impact as they are either too small to be subdivided or the owners may never opt to subdivide.

315. The submitters have presented an alternative soil map as an approach to represent the extent of the Mangaroa Peat Overlay. This alternative map has been assessed by Mrs Martin and Mr Sullivan within their evidence and for the reasons in paragraph 2.18 they have outlined why it is not appropriate to use on this alternative soil map as the mapped extent of the Mangaroa Peat Overlay. I accept the findings of Mrs Martin and Mr Sullivan and I remain of the view that the mapped extent of the Mangaroa Peat Overlay as outlined in the District Plan (and subject to the amendments arising from the site visits) remains appropriate for this proposed plan change.

Recommended Decision

316. I recommend that submission points S43.1, S45.5, S59.5, S60.5, S62.5, S63.6, S64.5, S64.6, S66.5, S67.3, S69.6, S70.6, S70.8, S71.5, S73.5, S76.5, S76.6, S77.5, S77.6, S83.1, S83.6, S83.7, S87.5,

S88.1, S89.2, S89.4, S90.6, S90.7,S92.5, S92.6, S94.1, S96.5, S97.5, S98.5, S98.6, S100.5, S100.6, S101.1 and S101.4. are rejected.

317. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submissions.

Conclusion

318. Submissions have been received in support of and in opposition to the proposed Plan Change 47 – Natural Hazards. These submissions relate to the mapped extent of the overlays, the methodology used to map the hazards and the proposed provisions.

319. I consider that the submissions on proposed Plan Change 47 – Natural Hazards should be accepted, accepted in part, or rejected as set out in the tables in Appendix 1 and Appendix 2 for the reasons set out in the Section 42a report.

320. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the proposed Plan Change 47 – Natural Hazards should be amended as set out in the section 32AA evaluations included throughout this report.

321. I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:


- achieve the purpose of the Resource Management Act 1991 (RMA),
- give effect to higher order planning documents, and
- achieve the relevant objectives of proposed Plan Change 47 - Natural Hazards, in respect to the proposed provisions.

Recommendations

322. I recommend that:

- The Hearing Panel accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix 1 of this report; and
- Proposed Plan Change 47 – Natural Hazards is amended in accordance with the changes recommended in the section 32AA evaluations included throughout this report.

Signed:

| Name and Title | | Signature |
|----------------|--|---|
| Report Author | James Beban Consultant Planner, on behalf of Upper Hutt City Council |  |

Appendix 1 – Summary of Submissions and Recommendations on Submission Points

Appendix 2 – Summary of Further Submissions and Recommendations on the Further Submissions

Appendix 3 – Recommended Amendments to the Notified Provisions

Appendix 4 - Objective, Policy and Rule Linkages

Appendix 5 – Escalation of Rules

Appendix 6 – Table showing recommended responses to High Slope Hazard Overlay Mapping

Appendix 7 – Sense Partners Response to Submission Points