

**Before the Hearings Panel
At Porirua City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Porirua District Plan

Between **Various**

Submitters

And **Porirua City Council**

Respondent

**Council Reply on Hearing Stream 7 – Rory Smeaton on behalf of Porirua City
Council**

Date: 28 April 2023

INTRODUCTION

1 My full name is Rory McLaren Smeaton. I am employed as a Principal Policy Planner for Porirua City Council.

2 I have prepared this Council reply on behalf of the Porirua City Council (**Council**) in respect of matters raised through Hearing Stream 7.

3 Specifically, this statement of evidence relates to the matters in the following Section 42A Report – Part B:

- The DEV-NG-Northern Growth Development Area;
- District Wide Matters;
- The FENZ and RNZ submissions; and
- The FUZ, HOSZ and OSZ chapters.

4 I have read the evidence and tabled statements provided by submitters relevant to those Section 42A Reports.

5 I am authorised to provide this evidence on behalf of the Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

6 Appendix D of my Section 42A Report: Part B - DEV-NG-Northern Growth Development Area sets out my qualifications and experience.

7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023.

SCOPE OF REPLY

8 This reply follows Hearing Stream 7 held between 13 and 22 March 2023. Minute 2 of the Hearing Procedures allows for s42A report authors to

submit a written reply within 10 working days of the adjournment of the hearing. Minute 60, dated 26 March 2023, set a date of 28 April 2023 for the deadline for provision of Council's reply for Hearing Stream 7.

- 9 The main topics addressed in this reply include:
- Answers to questions posed by the Panel;
 - Matters remaining in contention; and
 - Changes to recommendations in s42A report.
- 10 Appendix A has the list of materials provided by submitters including expert evidence, legal submissions, submitter statements etc. This information is all available on the Council's Hearing Portal website.
- 11 Appendix B has recommended amendments to PDP provisions, with updated recommendations differentiated from those made in Appendix A of the s42A reports.
- 12 Appendix C has an updated table of recommended responses to submissions and further submissions, with updated recommendations differentiated from those made in Appendix B of the s42A reports.

ANSWERS TO QUESTIONS POSED BY THE PANEL

Northern Growth Development Area

Can Mr Smeaton please provide a fuller explanation of the factors considered in deciding to expand the NGA residential areas to the east (compared to the FUZ in the notified PDP).

- 13 I provided a written response to this question in 'Response to questions on the NGDA' dated 15 March 2023 and provided that response to the Panel on that date.

- 14 As noted in that previous written response, the options for the extent of the Northern Growth Development Area (NGDA) were considered in the Section 32 Evaluation Report Part B – Northern Growth Development Area, specifically section 5.2.5.1 and Table 19. That assessment included consideration of the costs and benefits for retaining RLZ – Rural Lifestyle Zone to the east of the FUZ – Future Urban Zone.
- 15 Section 5.1.4 of the Section 32 Evaluation Report Part B – Northern Growth Development Area states that the FUZ – Future Urban Zone included in the PDP for the NGA south of Pukerua Bay generally followed the ‘Deferred Land (Rural)’ area in the Northern Growth Area Structure Plan 2014, with the eastern extent defined by the ‘Catchment Protection Overlay’. As discussed at the hearing and shown in Figure 3, the Kakaho Stream catchment includes a significant portion of the eastern extent of the existing FUZ area. Mr David Wilson provided verbal answers to questions from the Panel at the hearing, confirming that the stormwater treatment measures required would be the same throughout that catchment.
- 16 I note that the Panel questioned whether a Large Lot Residential Zone would be more appropriate in the eastern part of the NGDA. On this, I do not consider that it would be appropriate to change the zoning of the eastern extent of the NGDA, as no submitters have sought this outcome. While I appreciate that, as an IPI, the Panel has the ability to make ‘beyond scope’ recommendations, there is no existing Large Lot Residential Zone chapter in the PDP. Including a new zone chapter would require drafting of that chapter as well as numerous consequential amendments to the district-wide chapters. I consider this would be a significant change and that such change is not warranted in the circumstances.
- 17 As such, taking into account the assessment in the Section 32 Evaluation Report, my ‘Response to questions on the NGDA’ dated 15 March 2023, and the additional assessment above, overall, I consider that the zoning of the NGDA as proposed Variation 1 is the most appropriate.

Please provide a map showing the relief recommended in para 330

18 In my Section 42A Report: Part B – Northern Growth Development Area I recommended at paragraph 330 that the Hearings Panel:

Amend the Ecological Connections shown on DEV-NG-Figure 1 Northern Growth Development Area Structure Plan so that;

- i. The ecological connection between SNA010 and SNA225 is aligned with the NGDA boundary to the northwest, and positioned so that the connection adjoins that boundary;*
- and*
- ii. The ecological connection between SNA225 and SNA029 is extended slightly to the south to ensure that the area provides a complete connection with SNA029.*

19 The amendments to the ecological connections as recommended in paragraph 330 area shown as the red arrows in Figure 1 below.

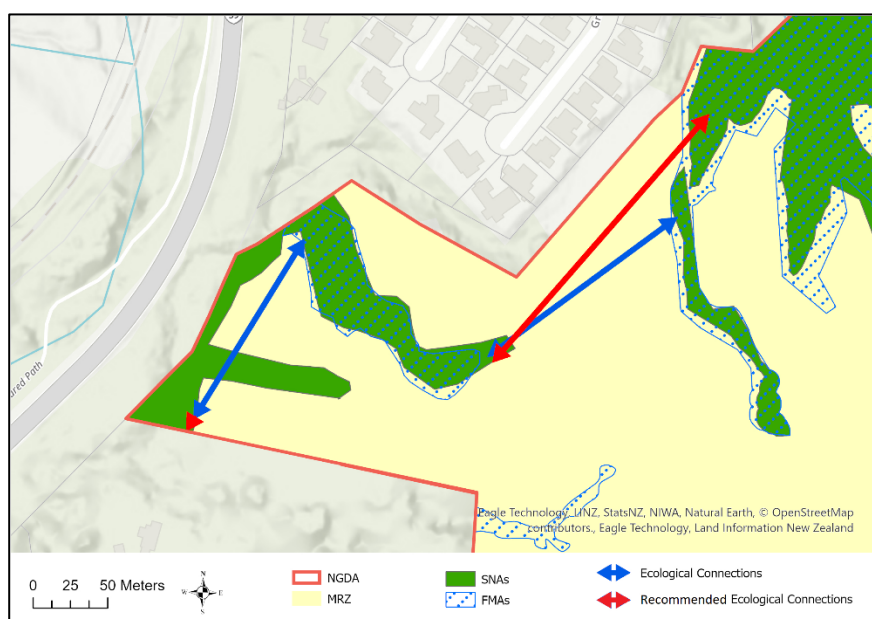


Figure 1: Recommended ecological connection locations

20 As discussed at the hearing, I note that DEV-NG-R3 includes requirements for ecological connections to be identified on scheme plans, and for these to be no less than 50 metres wide. As set out in my section 42A report, I consider that this provides sufficient certainty. As

such, the minimum spatial extent of the ecological connections does not need to be shown as 'boxes' on the Structure Plan or included within the policies, as sought by the Gray Street Pukerua Bay Residents' Association.

Please advise the areal extent of the area east of the ridgeline road within the NGA proposed to be zoned MRZ.

21 I responded to this question in my response to interim questions from the Panel, dated 21 March 2023.

Please provide a link to the Archaeological Report discussion of the potential archaeological site on the NGA land.

22 I responded to this question in my response to interim questions from the Panel, dated 21 March 2023.

Please advise whether additional provisions are required to ensure excessive shading is managed once subdivision lot layout and final levels within the NGA are confirmed.

23 I responded to this question in my response to interim questions from the Panel, dated 21 March 2023. I have not changed my opinion in relation to this matter.

Please comment on the hand-drawn plan provided by Mr Barber and his verbal comment that the land on the eastern margin of the Muri Road Block is not suitable for development as RLZ?

24 I responded to this question in my response to interim questions from the Panel, dated 23 March 2023. I have not changed my opinion in relation to this matter.

Please advise any comments on the presentation for the Gray Street Residents Group as regards the yellow island discussed by Ms Davis?

25 I responded to this question in my response to interim questions from the Panel, dated 23 March 2023. I have not changed my opinion in relation to this matter.

Please advise the population and the number of households in Pukerua Bay?

26 I responded to this question in my response to interim questions from the Panel, dated 23 March 2023.

Radio Transmission Height Control

Can Mr Smeaton please advise his views on Ms Williams' revised EMF standard wording?

27 I have considered further the revised provisions for the Radio Transmission Height Control Area (RTHCA) put forward in the Joint Memorandum of Counsel for Radio New Zealand and Kāinga Ora – Homes and Communities (the 'Joint Memorandum').

28 I note that Mr Martin Gledhill tabled additional information at the hearing on 20 March 2023. The Chair expressed at that time a concern that this potentially did not accurately represent the revised provisions I had previously tabled. I can confirm that they do accurately represent those provisions, but that the information does not take into account the difference in activity status between Area A and Area B (and I would not expect Mr Gledhill to do so).

29 While the approach put forward in my revised provisions provided to the Panel at the hearing is somewhat simpler, I generally agree with the approach put forward in the Joint Memorandum. The approach in the Joint Memorandum included a linear height limit directly proportional to the distance from the mast within Area A, and then a stepped height limit approach within Area B.

The recommended height limits in the Joint Memorandum were graphed in relation to the distance from the transmitter by Mr Gledhill in his supplementary evidence dated 24 March 2023. That graph is reproduced in Figure 2 below. The geographic location of the concentric radii that relate the height limits are shown in Figure 3 below.

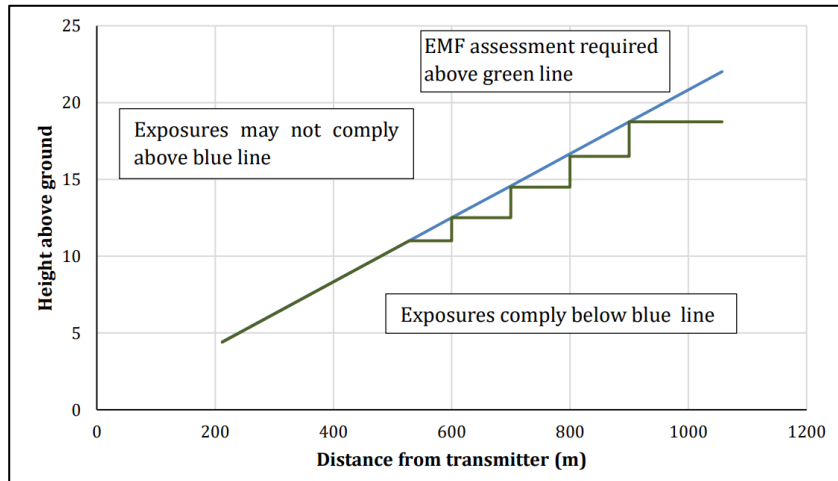


Figure 2: Height limits recommended in Joint Memorandum
 Source: Supplementary Evidence - Kainga Ora - M Gledhill - Comments on revised rules with respect to EMF Safety (24 Mar 2023)

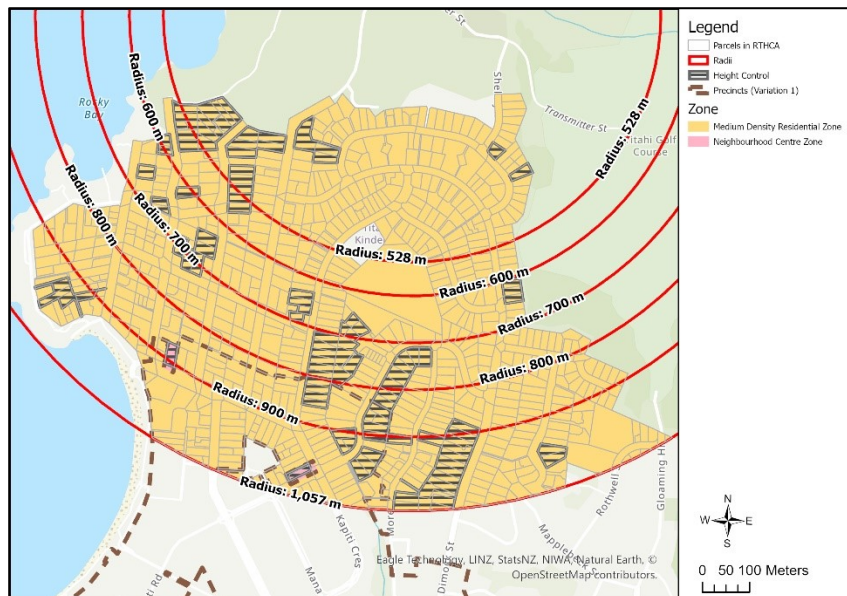


Figure 3: Concentric radii as proposed in the Joint Memorandum

I note that the Joint Memorandum approach results in two geographic areas where the RTHCA provisions would reduce the permitted height limit of the underlying zoning: within 600 metres distance of the mast;

and within the Residential Intensification Precinct (RIP) between 800 metres and 900 metres of the mast.

- 32 In relation to the general height limit within the MRZ of 11 metres plus one metre for roof pitch under MRZ-S2-1.a, the permitted height would only be reduced by RTHCA provisions within the 600 metre radius. Beyond the 600 metre radius the height limit of the RTHCA is 12.5 metres or greater and therefore exceeds the underlying limit in MRZ-S2-1.a.
- 33 The RIP located in the southern extent of the 1,057 metre radius is within the outer two height bands as shown in Figure 3 above. Under MRZ-S2-1.b the height limit within the RIP is 18 metres. Therefore, the height limit recommended in the Joint Memorandum beyond the 900 metre radius of 18.75 metres would not reduce the permitted height within that area. Between the 800 and 900 metre radii the height limit would be 16.5 metres, and so would reduce the permitted height by 1.5 metres. Assuming a 3.5 metre floor-to-floor height, this would enable four storey buildings within that area. This affects approximately 42 land parcels covering an area of approximately 3.1 hectares. Approximately 10 of those parcels, covering an area of approximately 0.68 hectares, are also affected by Height Control - Shading B which limits height to 14 metres and therefore the Joint Memorandum approach would not affect the development capacity of these allotments.
- 34 As such, the recommended height limits in the Joint Memorandum are more enabling than those recommended in my s42A report, and the revised provisions I presented to the Panel at the hearing, and therefore has fewer consenting costs for landowners and developers. While somewhat more complicated than those approaches, and therefore potentially leading to greater time and resource costs in relation to plan administration, the Joint Memorandum approach better reflects the technical evidence in the Joint Witness Statement of Martin Gledhill and Steve White. The Joint Memorandum approach also better achieves the greatest height permitted by the MDRS while managing the specific characteristics of the area in relation to radio transmission effects.

- 35 However, in my initial response to the question raised by the Panel I noted that I was not comfortable with the inclusion of the tabulated height limits within the rule itself, due to there being no other provisions with that rule structure within the PDP. The structure of the PDP provisions was carefully thought through during the plan's preparation, as was indicated by the plan drafting guide prepared by the Council and previously provided to the Panel.
- 36 To address the plan drafting issue, I recommend that the table of height limits for the concentric bands within the Radio Transmission Height Control Area B is contained within the new appendix recommended to be included in my section 42A report. This will enable the relevant rules to refer to the height limits in the appendix, rather than these being duplicated within each rule. I have included recommended amendments to the recommended provisions in Appendix B to reflect this.
- 37 In relation to section 32AA requirements, I consider that the recommended provisions in Appendix B better give effect to the higher order documents including the NPS-UD and RPS, along with the requirements in the RMA as amended by the RMS-EHS. The recommended provisions have lower consenting and compliance costs for landowners and developers while maintaining the benefits sought to be realised through the introduction of the provisions by appropriately protecting regionally significant infrastructure and the health and safety of residents. The recommended provisions are therefore more efficient and effective, and overall are more appropriate than the PDP and those recommended in my section 42A report.

Other matters

Is it possible to summarise in SUB-O2 the outcomes Council standards seek to achieve, rather than referring generically to those standards?

38 I responded to this question in my response to interim questions from the Panel, dated 21 March 2023. I have not changed my opinion in relation to this matter.

Can Mr Smeaton please advise his response to the reasoning in Colbert submission (OS66.2)

39 I responded to this question in my response to interim questions from the Panel, dated 21 March 2023. I have not changed my opinion in relation to this matter.

40 Additionally, I note that at the hearing the Panel questioned whether the zoning of the land as residential may result in reverse sensitivity issues. The zoning of site and the adjoining Rangikura School under the Operative District Plan are shown in Figure 4 below.

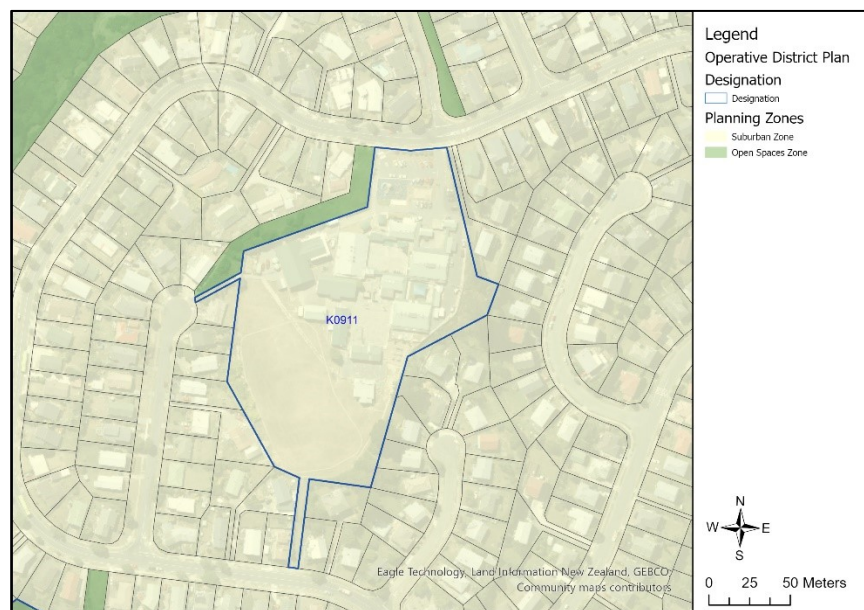


Figure 4: Rangikura School zoning under the ODP

41 The Rangikura School site is already predominantly surrounded by residential development. As such, I do not consider that the zoning of this site as residential as proposed in the PDP would result in any greater potential for reverse sensitivity issues than would result under the current zoning under the Operative District Plan.

Can Mr Smeaton please advise on appropriate wording to capture the exemption proposed for lightning rods as discussed with the Telco witnesses?

42 I responded to this question in my response to interim questions from the Panel, dated 23 March 2023. I have not changed my opinion in relation to this matter.

With reference to Mr Morrison's presentation, please comment on the apparent contradiction he draws attention to in relation to the need for and likelihood of upgrade of the wastewater network?

43 It is recognised that Porirua's wastewater infrastructure is currently not sufficient to service the expected population growth within the City. Consequently, Porirua's Long-term Plan 2021-51 (LTP) identifies a range of planned upgrades for the wastewater network.¹ These are summarised under the Major Infrastructure Projects 2021-51 on page 142 of that document. In relation to the wastewater system along Mana Esplanade, these include:

- Wastewater pipe and pump station renewals and improvements with a budget of \$359.4 million across the City within the 30-year timeframe of the LTP; and
- North Plimmerton storage tank with a budget of \$30 million starting in around 2030.

44 Specifically in relation to the statements in the Infrastructure Report provided in support of the Section 32 Evaluation Report: Part B – Northern Growth Development Area, while the extracts quoted by Mr Morrison are accurate, the manner in which Mr Morrison presented

¹ The LTP can be found online here: <https://porirucity.govt.nz/your-council/city-planning-and-reporting/long-term-plan-2021-51/>

these does not appear to take into account the mitigation options set out in sections 3.2.2 and 3.2.3 of that report. Those options address the off-site and on-site options to mitigate the additional demand generated by development of the site. Section 3.2.3 of the report states:

Further to the above consideration of options we have had more detailed discussions with Wellington Water and Porirua City Council to determine the storage requirements. We have been advised that storage of wastewater flow of 12-24 hours of average dry weather flow (ADWF) may be required. This level of storage is required to mitigate the peak flows to a level that can be accommodated by the existing downstream network.

We have carried out a preliminary design of the storage required and can confirm that this level of storage can be provided on-site. The proposed solutions of centralised tanks or a low-pressure sewer system are both capable of storing the required flows while the network is at capacity and discharging once spare capacity becomes available in the downstream network.

45 Additionally, the Infrastructure Report considered the provisions in the THWT – Three Waters chapter of the PDP (which was considered through Hearing Stream 4). Those provisions require compliance with the Wellington Water Regional Standard for Water Services (May 2019). I also note that the SUB – Subdivision chapter also references those standards.

46 I note that these matters were addressed in section 8.10 of the Section 32 Evaluation Report: Part B – Northern Growth Development Area.

47 As such, while Mr Morrison is correct that the wastewater network requires upgrades, there are relevant matters that need to be considered:

- There are network upgrades planned to occur under the Council's LTP;
- The PDP includes provisions to ensure subdivision and development meets the levels of service in Wellington Water's Regional Standard for Water Services; and
- The NGDA is capable of providing appropriate on-site mitigation of wastewater flows to ensure that any impact on the downstream wastewater network capacity is acceptable.

Please comment on the Paremata Residents Association's queries about the need for greater setbacks at the top and bottom of steep slopes, by reason that the need to maintain earthwork stability?

48 The Paremata Residents Association (PRA) raised a concern around buildings being located near to steep slopes as there is a risk to property and people. Mr Tony Shaw on behalf of the PRA stated at the hearing that 'steep' slopes would be anything greater than 45 degrees and suggested that buildings should be set back at least a metre from a boundary that has a steep slope. While noting that the risk depends on a range of parameters, Mr Shaw noted the recent example of adverse effects of extreme weather events in Muriwai, as well as the predominantly clay soils in Porirua. Mr Shaw stated that the EW – Earthworks chapter of the PDP should require engineering impact assessments of slope stability and a recommended setback above and below a slope of a certain height and angle that exceed permitted thresholds.

49 While I acknowledge the concerns of the PRA in relation to this matter, I consider that the issue is appropriately addressed through existing regulations, including the proposed EW – Earthworks chapter provisions and the Building Act 2004. I also note that the Proposed Natural Resources Plan also contains a permitted activity standard for

earthworks relating to maintaining the stability of land at or beyond the boundary of the property where the earthworks occur.²

50 As noted in my section 42A report the standard in EW-S2-1.c limits permitted earthworks to slopes of less than 34 degrees. Earthworks which are proposed to occur on a slope steeper than 34 degrees would require resource consent. In addition, consent is also required for any earthworks that exceed 1.5 metres in height or depth or occur within one metre of a boundary. As such, the additional provision sought by the PRA appears to actually already be covered by EW-S2, where the slope is located at the boundary of a property.

51 Additionally, the Building Act 2004 and the associated Building Regulations 1992 regulate the construction of buildings. Schedule 1 of the Building Regulations 1992 sets out the Building Code. This includes Clause B1 – Structure, which sets out the functional requirement under B1.2 of:

Buildings, building elements and sitework shall withstand the combination of loads that they are likely to experience during construction or alteration and throughout their lives.

52 I note that ‘sitework’ is defined in the Building Code as:

sitework means work on a building site, including earthworks, preparatory to or associated with the construction, alteration, demolition, or removal of a building

53 The ‘Acceptable Solutions and Verification Methods for Clause B1 Structure’ can be accessed on the MBIE website. This includes in relation to building foundations ‘Verification Method B1/VM4 Foundations’, and

² Rule R101 clause (b).

for siteworks refers to NZS 4431 'Engineered fill construction for lightweight structures'. A recent version of NZS 4431 was published in 2022. The New Zealand Standards website includes the following summary of NZS 4431:

NZS 4431 provides the process for the geotechnical investigation, design, construction, quality assurance testing, and certification of engineered fill as foundation support for lightweight residential and commercial buildings and associated infrastructure. Evidence of adherence to this standard, alongside appropriate professional review and certification, can be used to demonstrate compliance with the relevant sections of the New Zealand Building Code for these projects.

54 As such, I consider that both earthworks generally, as well as earthworks for preparation of or associated with the construction of buildings, and the design of foundations of buildings, are appropriately covered by existing regulations and that no additional provisions are required in the PDP to address the matter raised by the PRA.

MATTERS REMAINING IN CONTENTION

Northern Growth Development Area

DEV-NG-02

55 In his planning evidence provided on behalf of Pukerua Property Group, Mr Bryce Holmes reiterated his concerns regarding clause 5 of DEV-NG-02.

56 I addressed the concerns raised by Pukerua Property Group regarding the wording of the objective in paragraph 261 of my Section 42A Report Part B: Northern Growth Development Area. Mr Holmes remains concerned with the revised wording I recommended for the clause, being, 'Predominantly medium density housing'.

57 I disagree with Mr Holmes' statement of evidence where he states that:

Whilst a predominance of medium density housing may be appropriate across the Medium Density Residential Zone (MRZ) at a macro scale, at the more micro scale of the NGDA, housing requirements need to reflect the amenity values of the area and market demand.

58 I do not consider that the NGDA represents a 'micro' scale at which seeking to achieve predominantly medium density housing would be inappropriate. As set out in the Section 32 Evaluation Report Part B: Northern Growth Development Area, there is approximately 185.8 hectares of MRZ proposed within the NGDA, with an estimated development capacity of approximately 1,500 new homes. As I noted during the hearing, I would expect that the density of residential development would vary within the NGDA, with higher density likely to occur closer to the NCZ - Neighbourhood Centre Zone.

59 While the NPS-UD has an enabling policy direction in terms of residential development, it also has a clear requirement in Policy 1 for planning

decisions to contribute to well-functioning urban environments. Lower density residential development may struggle to achieve a well-functioning urban environment, as characterised by the NPS-UD, particularly in relation to the requirement to have good accessibility between activities (clause (c)) and supporting reductions in greenhouse gas emissions (clause (e)).

60 Additionally, I note that medium density housing is not in itself a housing typology, as Mr Holmes appears to imply in paragraph 21 of his statement of evidence. A variety of housing types can and should be provided while still achieving a higher level of density of residential development than historically provided in suburban areas. This could be achieved through development of a mix of duplexes, terraced townhouses, and low-rise apartments, along with some standalone houses. I consider that my recommended wording of clause 5 reflects this.

61 As such I do not recommend any further amendment to the objective.

Flexibility in implementation of the Structure Plan for the NGDA.

62 In his planning evidence provided on behalf of Pukerua Property Group, Mr Holmes notes two issues in relation to interpretation of the NGDA chapter provisions, specifically the activities able to occur within Freshwater Management Areas in DEV-NG-P2, and the use of the term 'in accordance with' in DEV-NG-R1.

63 In relation to DEV-NG-P2, having read and considered Mr Holmes' evidence, I have not changed my position and continue to consider that the wording of clause eight is sufficiently clear through its general reference to use and development, and that specific reference to types of use or development is not required.

64 In relation to DEV-NG-R1, Mr Holmes appears to have misinterpreted the analysis in my section 42A report in paragraph 13 of his evidence. My

point in that analysis is that the term 'in accordance with' is familiar to resource management practitioners. Because of this, I do not consider that the term is too difficult to interpret.

65 I also note that Mr Holmes states in paragraph 16 of his evidence that:

In my view, the term 'consistent with' better reflects the high-level nature of structure plans. Perhaps Council should clarify what it is trying to achieve with the rule. For example if it is to avoid dwellings where a roading corridor is shown on the structure plan, then it may be best to clarify that. Regardless of the wording, I consider the current rule to read more like an assessment criteria attached to a Restricted Discretionary Activity (RDA) rule rather than a permitted activity.

66 The purpose of the rule is set out in Table 31 of the Section 32 Evaluation Report Part B: Northern Growth Development Area. Mr Holmes is correct in that the overall intention is to ensure that proposed activities do not compromise the achievement of the urban form set out in the Structure Plan. However, I also note that a significant driver of the achievement of that urban form will be the subdivision of the land, which is managed through a separate rule. As such, the question posed by Mr Holmes in relation to dwellings within road corridors is unlikely to occur in reality.

67 While I respectfully acknowledge Mr Holmes' experience on this matter as stated in his evidence, I consider that any challenge with applying the proposed rule framework will be a matter of degree based on the divergence of any proposal from the Structure Plan, or, as identified by Mr Holmes, the format and scale of the Structure Plan potentially making this difficult to determine in some circumstances. However, if the proposed activity is questionable in this regard, there remains the option to apply for consent under DEV-NG-R1-2. Such a consent would be assessed against DEV-NG-P3 which sets out clear requirements for the proposal to meet.

68 As noted in my section 42A Report: Part B – Northern Growth Development Area, the Structure Plan was developed with significant input from technical experts to address relevant resource management issues associated with development of the NGDA. Adherence to the Structure Plan will be important to achieve the planned urban form and a well-functioning urban environment. Additionally, the most restrictive activity status within the proposed chapter rules is discretionary, which is applied to subdivision, and other activities not provided for in the table, which are not in accordance with the Structure Plan. The assessment of those activities would include the matters in DEV-NG-P3. As such, I consider that there is already an appropriate degree of flexibility in the chapter drafting. This is achieved through a resource consent process to ensure the outcomes sought are achieved. I consider this to be appropriate given the scale of the site and the sensitive environments within and surrounding it.

69 As such, having read and considered Mr Holmes’ evidence, I have not changed my position and continue to support the wording as recommended in my section 42A report on these matters.

State Highway 59

70 I addressed the Waka Kotahi New Zealand Transport Agency (Waka Kotahi) submission points on the Northern Growth Development Area in my supplementary planning evidence dated 9 March 2023. In that evidence, in order to respond to the concerns of Waka Kotahi, I recommended an additional clause in DEV-NG-P2 that referred to a connection to State Highway 59 only being provided for once a transport strategy confirms the future form of the road.

71 In her supplementary evidence provided on behalf of Waka Kotahi, Ms Claudia Kirkbride stated that, in her opinion, “reference to the Integrated Transport Strategy is more appropriate as an advice note given that it sits outside the district plan provisions.” Ms Kirkbride also recommended the following amendments to the clause:

4. Provides a transport network layout and design that:

~~e. Only provides for a connection to State Highway 59—once the planned future form of the road corridor is confirmed through a transport strategy adopted by Waka Kotahi—the New Zealand Transport Agency, and has regard to the timing of that connection to achieve safety and connectivity for all transport users and modes;~~

Advisory Note: A connection to State Highway 59 will be informed through a transport strategy that has been developed with key stakeholders (including Porirua City Council; Greater Wellington Regional Council; Kiwirail; Kāinga Ora and Ngāti Toa).

72 While I do not entirely agree that reference to a transport strategy within the policy is outside of the available options (as it does not affect the activity status of development of the site), I have no issue with Ms Kirkbride's suggested deletion of reference to the anticipated transport strategy within the policy. As noted above, the additional clause was recommended as a response to Waka Kotahi's concerns and evidence filed on the matter.

73 However, I do not agree that an advice note is the appropriate way to flag to plan users that a transport strategy is to be developed. Rather, I consider that the reference to the transport strategy would sit better within the introduction to the chapter under the 'Connectivity' heading. Consequently, I have included recommended amendments to the DEV – NG chapter Introduction in Appendix B.

74 Additionally, I do not consider that a separate policy clause which simply refers to a connection to State Highway 59 being provided for is necessary, as this is already indicated on the Structure Plan. I consider that a reference to an 'appropriate' connection to State Highway 59 can be incorporated into the existing clause addressing transport connections at the boundary of the Development Area. I have included

such a reference in the recommended amendments to the Northern Growth Development Area chapter in Appendix B. The inclusion of the reference to the transport strategy in the chapter introduction will give guidance as to what would be considered 'appropriate', along with the other relevant policies in the chapter and the other PDP chapters including INF-P13.

- 75 In terms of section 32AA, I consider that the revised wording as included in Appendix B will assist in integrating land use planning and transport infrastructure and therefore gives effect to DEV-NG-O2, INF-O4, strategic objectives UFD-O3, UFD-O5 and FC-O1, and Objective 22(j) of the RPS. There will be no additional costs compared to the notified provisions, but benefits will be realised through greater integration of land use planning and transport infrastructure.

Setback from rail corridor

- 76 Ms Michelle Grinlinton-Hancock provided planning evidence on behalf of KiwiRail. In her evidence, Ms Grinlinton-Hancock reiterates KiwiRail's desire to have a five-metre setback from the rail corridor.

- 77 While I generally agree with the majority of Ms Grinlinton-Hancock's evidence, particularly in relation to the need for a sufficient setback from the rail corridor to manage the identified safety risks of development adjoining the corridor, the evidence provided has not resulted in a significant shift in my position on this matter.

- 78 Ms Grinlinton-Hancock has not, to my mind, provided any new information that clearly substantiates the stated need for a five-metre setback. No specific examples are provided of existing development that has resulted in an adverse safety risk, or of activities that would clearly necessitate a setback greater than 1.5 metres from the rail corridor. While a diagram was provided that purported to show potential items falling from a scaffold and achieving a horizontal distance of more than

4.5 metres from the scaffold, I consider that this would be a highly unlikely scenario.

79 I also note that the safety of workers using scaffolding is managed under the Health and Safety at Work Act 2015 (HSWA). Other regulations also relate to scaffolding. WorkSafe New Zealand has produced the document 'Good Practice Guidelines - Scaffolding in New Zealand' (WorkSafe, 2016) which sets out guidelines for people involved in scaffolding work. That document states at page 55 that:

If the scaffold is erected adjacent to or over public spaces or adjoining property specific controls like hoardings, catch fans or barricades with clear signs should be provided. Catch platforms should be designed to support a uniformly distributed load of not less than 5 kPa.

80 As identified in Appendix A of 'Scaffolding in New Zealand', the WorkSafe position is that any scaffolding higher than 3 metres should comply with those guidelines.

81 Additionally, as identified by the Chair at the hearing, the issue of sufficient space for the maintenance of buildings and structures located close to boundaries would affect all allotments, not just those adjoining the rail corridor.

82 As such, I have not changed my recommendation that the 1.5 metre setback as proposed through Variation 1 appropriately gives effect to Policies 7 and 8 of the RPS.

83 However, I do note that incorporation of the 1.5 metre setback into the PDP through Variation 1 inadvertently allowed for buildings up to seven metres in length to be located within the rail corridor setback. This is inconsistent with the intention of the setback, as discussed in paragraph 696 of my Section 42A Report Part B - Infrastructure. As such, I consider that the relevant standards should be amended similar to the standard set out below.

XYZ-Sx	Setbacks									
<p>1. Buildings and structures must be set back from the relevant boundary by the minimum depth listed in the yards table below:</p> <table border="1" data-bbox="564 365 1080 607"> <thead> <tr> <th data-bbox="564 365 647 416">Yard</th> <th data-bbox="647 365 1080 416">Minimum depth</th> </tr> </thead> <tbody> <tr> <td data-bbox="564 416 647 501">Front</td> <td data-bbox="647 416 1080 501">1.5m, where that the boundary is to a road, otherwise it must be 1m</td> </tr> <tr> <td data-bbox="564 501 647 553">Side</td> <td data-bbox="647 501 1080 553">1m</td> </tr> <tr> <td data-bbox="564 553 647 607">Rear</td> <td data-bbox="647 553 1080 607">1m (excluded on corner sites)</td> </tr> </tbody> </table>	Yard	Minimum depth	Front	1.5m, where that the boundary is to a road, otherwise it must be 1m	Side	1m	Rear	1m (excluded on corner sites)		<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> <li data-bbox="1139 315 1362 405">1. The matters in RESZ-P7 and RESZ-P8. <p>On sites where XYZ-Sx-2 applies, and the building or structure setback otherwise complies with XYZ-Sx-1:</p>
Yard	Minimum depth									
Front	1.5m, where that the boundary is to a road, otherwise it must be 1m									
Side	1m									
Rear	1m (excluded on corner sites)									
<p>2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.</p> <p>This standard does not apply to:</p> <ul style="list-style-type: none"> <li data-bbox="576 792 1094 913">• Site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed; <li data-bbox="576 920 1094 972">• Fences and standalone walls — see XYZ-Rx; <li data-bbox="576 978 1094 1030">• Uncovered decks no more than 300mm in height above ground level; <li data-bbox="576 1037 1094 1088">• Buildings that are no more than 2m² in floor area and 2m in height above ground level; <li data-bbox="576 1095 1094 1193">• Any part of a building that is 7m or less in length, where this exemption only occurs once per site; or <li data-bbox="576 1200 1094 1299">• Eaves up to a maximum of 600mm in width and external gutters or downpipes (including their brackets) up to an additional width of 150mm. <p>2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.</p> <p>This standard does not apply to:</p> <ul style="list-style-type: none"> <li data-bbox="576 1507 1094 1559">• Fences and standalone walls — see XYZ-Rx; or <li data-bbox="576 1565 1094 1617">• Uncovered decks no more than 300mm in height above ground level. 		<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> <li data-bbox="1139 710 1406 799">1. The safe and efficient operation of the rail network. 								

84 The amended standard above relocates the wording of the required setback from the rail corridor to below the exceptions to the general setback requirements. This makes it clear that those exceptions do not apply to the setback from the rail corridor.

85 In addition, I recommend that the only exceptions to the rail corridor setback should relate to fences and standalone walls and uncovered decks less than 300 millimetres in height. This would mean that the exemption for eaves and gutters would not apply to the rail corridor setback, which was of particular concern to KiwiRail as that exemption reduced the effective setback to 0.75 metres. While I considered that 0.75 metres would likely be sufficient in paragraph 694 of my Section 42A Report Part B – Infrastructure, I have reconsidered this position in light of the material provided by KiwiRail showing that the depth of scaffolding would generally extend 1.2 to 1.5 metres from the side of a building.³

86 In terms of section 32AA, I consider that the standard as recommended to be amended above better gives effect to Policy 8 in the RPS than the notified standard by ensuring that there is sufficient space for maintenance of buildings and structures adjacent to the rail corridor. The recommended standard therefore provides benefits to landowners and KiwiRail by reducing administrative costs associated with approvals for temporary occupation of rail corridor land. I consider that these benefits outweigh the costs associated with less efficient use of land due to the greater setback requirement.

Telecommunication structure heights

87 In relation to the functional requirements of telecommunication facilities, while acknowledging the evidence provided by Mr McCarrison, Mr Clune, and Mr Wright relating to this matter, as noted in my section 42A the height limits in INF-S3 provides for a range of structures associated with infrastructure. Where consent is required the matters of

³ Memorandum of Counsel – KiwiRail 20 March 2023, Appendix A

discretion in INF-S3 and INF-P9 specifically provide for the consideration of functional and operational requirements.

88 Ms Kathleen Haylock addresses the permitted height limits in INF-S3 in her evidence provided on behalf of Spark and Vodafone. Ms Haylock recommends that the permitted height for a telecommunication facility with a single provider be five metres above the permitted building height in each respective zone. The stated reasons relate to functional requirements and the 'permitted baseline' created by the height standards relating to multiple providers.

89 With respect, I disagree with Ms Haylock's stated approach in relation to a permitted baseline assessment. In my view, this approach is overly simplistic as it ignores the fact that the PDP makes a clear distinction in the height standards for structures supporting multiple providers as opposed to single providers, as well as cumulative effects.

90 As noted in my section 42A report for District-Wide Matters, the relevant standards, as proposed in the PDP, provide an incentive for the co-location of services. This assists in avoiding cumulative effects from the proliferation of multiple separate facilities. The Chair identified this matter during the hearing, although phrased it slightly differently by referring to the positive effects of the standards which allow for higher structures when associated with multiple providers.

91 In relation to assessments of effects of activities under 95D, 95E and 104(1)(a), the Council has discretion as to whether to disregard an adverse effect if a rule or a national environmental standard permits an activity with that effect. That is, whether to apply the permitted baseline. I note that the 'Quality Planning' website⁴ states that:

⁴ <https://www.qualityplanning.org.nz/node/850>

Situations where applying the baseline may not be appropriate include where ... the application of the baseline would be inconsistent with objectives and policies in the plan.

92 In relation to this, INF-P8 of the PDP states:

Provide for Regionally Significant Infrastructure and other infrastructure which is not located within an Overlay, where it can be demonstrated that the following matters can be achieved:

[...]

9. Any adverse cumulative effects are minimised.

93 As such, in my opinion, taking into consideration the policy in the PDP, I do not consider that applying a permitted baseline would always be appropriate in the circumstances described by Ms Haylock. This would need to be considered on a case-by-case basis through the resource consent process.

94 However, I suspect that Ms Haylock is actually suggesting that the permitted heights for multiple providers would be used as an argument for exceedance of the single provider height standard within an assessment of the effects on the environment for a resource consent application, rather than strictly as a 'permitted baseline' assessment. Again, in this case I disagree with Ms Haylock due to such an argument ignoring cumulative effects and the policy direction in the PDP supporting co-location.

95 Additionally, INF-R17 controls telecommunication poles, with or without associated antenna, and antenna attached to telecommunication poles (not regulated by the NESTF) outside of any overlay. Within the Residential Zones, Neighbourhood Centre Zone, and Open Space Zone this is a restricted discretionary activity. As such, a permitted baseline would not be relevant within these zones.

96 I also note that INF-S5 provides height limits for building mounted antennas and associated support structures (not regulated by the NESTF) of 3.5 metres for single providers and five metres for more than one provider. This is therefore consistent with that proposed for INF-S3 through Variation 1. The Telcos [51.38] supported INF-S5 in their submission on the PDP as notified in 2020.

97 For these reasons, I do not recommend any amendments to INF-S3.

Silverwood

98 I have not changed my opinion from that expressed in my section 42A report in relation to the submission from the Silverwood Corporation Limited (Silverwood).

99 I note again the potential of the Silverwood submission to not be 'on' Variation 1. This was identified in paragraph 70 of my Section 42A Report Part B – FUZ, HOSZ and OSZ. This was also addressed in detail by Council's legal counsel in response to the Panel's interim questions.⁵

100 Mr Julian Dawson provided legal submissions and Mr James Hook provided planning evidence on behalf of Silverwood.

101 After quoting paragraph 68 of my Section 42A report Part B – FUZ, HOSZ and OSZ, Mr Dawson states in his legal submission that:

The difficulty with the Council officer's recommendation is that, with respect, rather than considering the merits of Silverwood's submission, and the possibility of a live zoning, it is simply

⁵ Refer to the Response to Interim Questions from the Hearing Panel, dated 22 March 2023.

dismissed for what Mr Smeaton considers to be the absence of process. In other words, "process over substance."

102 In coming to his conclusion, Mr Dawson appears to have overlooked the last two sentences of paragraph 68 in my Section 42A Report. In those sentences I stated that neither a proposed Development Area chapter nor fully developed structure plan were provided with the submission, and as such I was unable to adequately assess whether such a chapter, or the more detailed provisions that would be included in such a chapter, would be appropriate. As such, I did consider the 'substance' of the submission through my Section 42A Report, but found that there was not sufficient substance against which to make a recommendation as sought through the submission.

103 Mr Hook's statement of evidence also notes at paragraph 10 that:

...the future extension of the urban boundary eastwards from Waitangirua/Cannons Creek to the Transmission Gully motorway is specifically identified as a future growth area in the Porirua Growth Strategy 2048.

104 This statement is not quite correct, as it ignores the distinction in the Porirua Growth Strategy 2048 (Growth Strategy) of the areas identified for future growth. As identified by Ms Sweetman in her section 42A report for Hearing Stream 5, the Silverwood site is identified in the Growth Strategy as a '*potential* residential area – medium term'. This is different to the other areas which were identified as FUZ in the PDP, which are identified in the Growth Strategy as 'New Residential Area' or 'Employment Area'. As such, Ms Sweetman evaluated the potential zoning of the site as Future Urban in accordance with clause 2, and her recommended clause 3, of proposed FUZ-P1. While Ms Sweetman notes that the Growth Strategy does not address why this has been identified as a 'potential' area, I consider that it at least indicates that future investigation was required before it could be determined to be a 'New Residential Area'.

105 I also note that Mr Hook's evidence appears to contradict the conclusions of the 'Site Evaluation and Rezoning Report' provided with Silverwood's submission, which states on page 5 that:

So, while a significant amount of work has already been undertaken that has culminated in this report and the accompanying Draft Structure Plan and technical documents, a future structure planning / plan change process will still need to be advanced for future development of the site to occur. In this regard, this report and accompanying reports includes recommendations for further investigation and structure plan refinement work that will be undertaken if the submission is successful.

106 Mr Hook may have overlooked the statement above, as the 'Site Evaluation and Rezoning Report' is not listed in paragraph nine of his statement of evidence as having been reviewed by him.

107 However, Mr Hook does state that he reviewed the report 'Silverwood Rezoning – Draft Proposed Structure Plan, Urban Acumen (20 November 2020)'. Page 20 of that document states that:

*The structure plan elements include an indicative roading layout, pedestrian and cycle connections, the open space network and various residential development areas. These development areas have been identified in response to the varying levels of physical, visual and landscape values of this large site. **Descriptions, intentions, and outcomes for each development area could also form part of the structure plan documentation. It is envisaged that specific policies and development controls for each area would be developed as part of a future plan change process.***

(Emphasis added)

108 As identified in Figure 5 below, the draft structure plan for the Silverwood site sets out five potential 'development areas' being 'Eastern Hillside', 'Whitby Views', 'Cannons community', 'Hilltop

Clusters’, and ‘Bush Living’. The document briefly describes the outcomes envisaged for each area, including a range of estimated yields (expressed as units per hectare).

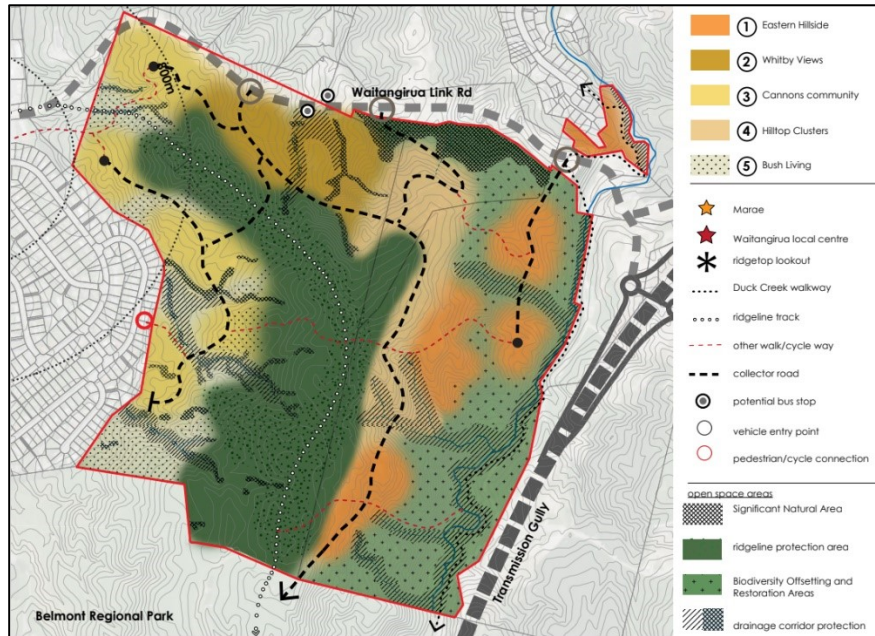


Figure 5: Silverwood Draft Structure Plan⁶

109 As such, there are a range of development areas identified on the draft structure plan and there was an expectation of the structure plan’s author that specific policies and controls would be developed for each area. There are, however, only two residential zones included in the PDP under Variation 1; HRZ – High Density Residential Zone and MRZ – Medium Density Residential Zone. I am unable to reconcile these matters with the conclusion at paragraph 19 of Mr Hook’s statement of evidence that if a live zoning were to be applied to the site, the existing PDP provisions would, “provide a comprehensive basis under which future subdivision consent applications for the subject land would be assessed and evaluated.” Indeed, Silverwood’s own submission requested that the “site is live-zoned to Medium Density Residential

⁶ Adapted from ‘Silverwood Rezoning – Draft Proposed Structure Plan’, Urban Acumen, 20 November 2020, pages 20-21.

Zone or any other appropriate zone/s informed by the structure plan”, and that:

A Silverwood/Landcorp Development Area chapter is incorporated into the District Plan that includes site -specific provisions that seek to manage subdivision, use and development of the site in line with identified opportunities and constraints of the Site for residential purposes.

110 I note Ms Sweetman raised concerns in paragraph 330 of her section 42A Report: Part B – Future Urban Zone based on the expert review of Ms Armstrong around the appropriateness of rezoning all of the SAL on the site to FUZ. On this, Ms Sweetman noted that:

...there needs to be further work undertaken in this regard to better identify what parts of the site are appropriately Future Urban Zone, and which remain as General Rural, or are rezoned to Rural Lifestyle. There is also question as to whether there are cultural values associated with the site that have not yet been addressed, as raised by Richard Falkner and supported by TROTR. The level of evidence necessary to make this evaluation is not available.

111 For these reasons, while Mr Dawson stated at the hearing that appropriate provisions could be distilled from the structure plan into two to three pages (as the Panel identified through Minute 61), I consider that development of appropriate provisions to give effect to the structure plan (assuming it would be accepted as being adequate) would require significant additional time and resources. This may include not only the need for a separate new Development Area chapter, but also additional new residential zone chapters or precincts. Such substantial changes to the PDP would likely result in issues relating to natural justice and fair process, in that no one would have the opportunity to make a submission or be heard on those provisions.

112 As such, overall, I have not changed my opinion as expressed in my Section 42A Report.

Nature-Based Solutions

113 In her evidence provided on behalf of Wellington Regional Council, Ms Guest suggests that DEV-NG-O3 be amended to include reference to nature-based solutions as follows:

Infrastructure with sufficient capacity is provided at the time of subdivision for urban use and is developed in an integrated, efficient and comprehensive manner, which utilises nature-based solutions, to meet the planned needs of the Northern Growth Development Area.

114 Additionally, Ms Guest suggests inclusion of policies similar to those in the Wellington City Proposed District Plan for three waters, subdivision, and coastal environment chapters. Ms Guest's planning evidence was supported by the evidence of Mr Stuart Farrant, who describes nature-based solutions and provides some examples.

115 In relation to DEV-NG-O3, I see no benefit of the suggested amendment. DE-NG-O2 already includes a clause that seeks:

Development that maintains and protects and, where possible, enhances ecological values and the health and wellbeing of receiving waterbodies including Te Awarua-O-Porirua Harbour and other downstream catchments.

116 Additionally, the DEV – NG – Northern Growth Development Area chapter sets out additional matters specific to the area.⁷ The underlying

⁷ See, for example clauses five to nine of DEV-NG-P2.

zone and district-wide chapters also continue to apply. Relevantly, the INF – Infrastructure chapter is enabling of infrastructure and includes INF-P10, which recognises the benefits of new technology in infrastructure that results in environmental benefits or enhancements.

117 In relation to the other district-wide matters, I note that the CE – Coastal Environment chapter of the PDP encourages soft engineering measures to mitigate natural hazard risk, as well as enabling activities that restore and rehabilitate the coastal environment. The THWT – Three Waters chapters refers to the levels of service in the Wellington Water Regional Standard for Water Services May 2019 which encourages the use of innovative alternative solutions.

118 Therefore, the PDP provisions, including the DEV – NG Northern Growth Development Area, do not impede, and rather, provide for the delivery of infrastructure through ‘nature-based solutions’; that term is simply not used. As noted in my section 42A report, Policy CC.7 of Proposed Change 1 would require district plans to ‘provide for’ nature-based solutions to climate change, and this is sufficiently achieved through the existing provisions of the PDP.

119 Overall, therefore, I do not consider that any amendments are required to the DEV – NG Northern Growth Development Area or District-Wide chapters to incorporate reference to ‘nature-based solutions’.

Noise chapter

120 Waka Kotahi’s submission point [OS81.11] is referred to by Ms Catherine Heppelthwaite in her evidence as not being directly addressed in the Officer’s Reports. However, I note that [OS81.11] is addressed in section 7.18.9 of the section 42A report ‘Officers’ Report: Part A – Overarching Report’. Additionally, while Ms Heppelthwaite states in paragraph 4.2 of her evidence that the submission point seeks changes to the NOISE chapter provisions, it actually specifically refers to the HRZ and MRZ chapters.

121 I also note that while Waka Kotahi referenced all the standards in the NOISE chapter in its submission on the PDP in 2020, it did not submit on NOISE-R4. As the reasons for those submission points (82.172 and 82.173) refer specifically to the transport network, I do not consider that there is a clear link to NOISE-R4 in its submission. Additionally, the submission points from 2020 were considered in detail through Hearing Stream 4.

122 As such, I have not changed my opinion from that expressed in my section 42A report in relation to the submission from Waka Kotahi on the NOISE – Noise chapter.

OTHER MATTERS

Zone references in District-Wide chapters

123 There are a number of references to zones within various provisions that no longer refer to the correct zone and which were not proposed to be amended through Variation 1:

- The CCZ - City Centre Zone is referred to in the Definitions, INF – Infrastructure, and NOISE – Noise chapters. Variation 1 proposes changing the zone name from CCZ - City Centre Zone to MCZ – Metropolitan Centre Zone;
- Similarly, there are references to the GRZ – General Residential Zone in the INF – Infrastructure chapter. These should be amended to refer to the HRZ – High Density Residential Zone.

124 For consistency, minor consequential changes are required to amend the zone references noted above. I recommend the Panel consider exercising the discretion granted to them under clause 99(2)(b) of Schedule 1 of the RMA to address this issue. This allows the Panel to make recommendations on Variation 1 on matters that are outside the

scope of submissions. Alternatively, these may be able to be made under Clause 16 as minor amendments.

CHANGES TO RECOMMENDATIONS IN S42A REPORT

125 I addressed the submissions from KiwiRail in section 7.18.8 of the Section 42A Report: Part A – Overarching Report. In that section I recommended that the submissions from KiwiRail [OS72.1, OS72.2 OS72.3, OS72.4, OS72.5, OS72.6, OS72.7, OS72.8, OS72.10, OS72.11] be rejected. Given the assessment in paragraphs 76 to 86 above, I now recommend that:

- KiwiRail [OS72.1] be **accepted in part**; and
- KiwiRail [OS72.4] be **accepted**.

126 KiwiRail [OS72.1] seeks that MRZ-S5, HRZ-S4, LCZ-S3 and MUZ-S3 be amended to be increased from 1.5 metres to 5 metres. While I have not accepted this request in full, I have recommended above that the standards be amended so that the 1.5 metre setback is not subject to inappropriate exemptions.

127 Additionally, I note that KiwiRail [OS72.4] seeks retention of identification of the rail corridor as a qualifying matter. The setback from the rail corridor is identified as a qualifying matter and I agree that this should be retained.

Date: 28 April 2023



.....
Rory Smeaton

Principal Policy Planner

Appendix A. List of materials provided by submitters

SUBMITTER EVIDENCE

Kainga Ora

Martin Gledhill
Michael Cullen
Nicholas Rae
Brendon Liggett
Karen Williams

KiwiRail

Michelle Grinlinton-Hancock

KM and MG Holdings Limited

Andrew Cumming

Ara Poutama

Maurice Dale

Firstgas Limited

Natalie Jade Webb

Foodstuffs North Island Limited

Evita Key

Paremata Business Park

Linda Bruwer (Planning Evidence)

Ministry of Education

Sian Stirling (Planning Evidence)

Pukerua Property Group Limited

Bryce Holmes

Radio New Zealand

Steve White

Retirement Villages Association of New Zealand Incorporated

John Collyns

Ryman Healthcare Limited

Matthew Brown
Phil Mitchell

Silverwood

James Hook

Spark and Vodafone

Grant Wright
Kathleen Haylock

Spark And Vodafone (Graeme Ian McCarrison for Spark Trading New Zealand Ltd and Colin Clune For Vodafone New Zealand Ltd)

Waka Kotahi

Catherine Lynda Heppelthwaite
Claudia Kirkbride
Kesh Keshaboina
Selwyn John Blackmore

Wellington Regional Council

Dr Iain Dawe
Pam Guest
Stuart Farrant

REBUTTAL EVIDENCE

Steve White for Radio New Zealand Limited

SUPPLEMENTARY EVIDENCE

Wellington Regional Council

Pamela Guest

Kainga Ora

Karen Williams - Response to Question from the Hearing Panel (22 Mar 23)

Waka Kotahi

Claudia Kirkbride
Mr Blackmore and Mr Keshaboina

SUBMITTER STATEMENTS

Fuel Companies
Transpower Limited
Z Energy Limited
Te Awarua O Porirua Harbour and Catchments Trust and the Guardians of Pāuatahanui Inlet (Joint)
B Warburton [Os64]
B Warburton for R Smith [168]
David Carter (9 Mar 2023)
David Carter
Oyster Management Limited
RNZ
Pukerua Property Group Limited
Ministry Of Education

MEMOS FROM SUBMITTERS TO PANEL

KiwiRail (20 Mar 2023)
Silverwood Corporation (28 Feb 2023)

SUBMITTER LEGAL SUBMISSIONS

Kainga Ora and RNZ (Joint)
Greater Wellington Regional Council
Kainga Ora
KiwiRail Holdings Limited
KM & MG Holdings Limited
Radio New Zealand
Retirement Villages Association and Ryman Healthcare Limited
Ryman and the RVA
GWRC – Response to Questions Arising Regarding Submission Point Os74.52 (23 Mar 2023)
Kainga Ora (Witness Conferencing)
Silverwood Corporation

EXPERT CONFERENCE JOINT WITNESS STATEMENTS

Graeme McIndoe For PCC and Nick Rae for Kāinga Ora (Urban Design) - 20 Mar 2023
Graeme McIndoe For PCC and Nick Rae for Kāinga Ora (Urban Design) - 22 Mar 2023
Graeme McIndoe For PCC and Nick Rae for Kāinga Ora (Urban Design) 10 Mar 2023
Martin Gledhill For Kainga Ora and Steve White for Radio NZ

SUBMITTER PRESENTATIONS

M Brown for Ryman
Alan Collett
Claire And Brad Keenan
J Collyns for RVA
Jeanette and Bruce Menzies
Paul Botha
Plimmerton Residents Association
Pukerua Bay Residents Association
Pukerua Holdings Ltd
Russell Morrison
The Gray Street Pukerua Bay Residents Group - Rebecca Davis

Appendix B. Recommended amendments to PDP provisions

In order to distinguish between the recommendations made in the s42A report and the recommendations that arise from this report:

- s42A recommendations are shown in red text (with underline and ~~strike-out~~ as appropriate);
and
- Recommendations from this report in response to evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

INF – Infrastructure

[...]

INF-P26⁸	<u>Buildings and structures within the Radio Transmission Height Control Area</u>
<p>Consider the following matters when assessing any buildings and structures proposed within the Radio Transmission Height Control Area:</p> <ol style="list-style-type: none"> <u>The extent to which the proposed development will avoid the potential reverse sensitivity effects on and amenity and nuisance effects of the Radio Transmission site;</u> <u>The risk of electromagnetic hazards affecting public or individual safety, and the risk of property damage;</u> <u>Measures proposed to mitigate other adverse effects on the operation, maintenance, upgrading and development of the Radio Transmission site;</u> <u>Technical advice from an electrical engineer specialising in radio transmission;</u> <u>The outcome of any consultation with Radio New Zealand; and</u> <u>Whether the building or structure could be located further from the Radio Transmission site.</u> 	

[...]

INF-S3	Height – Masts, antennas, lines and single pole support structures, anemometers and extreme weather devices (not regulated by the NESTF)	
Local Centre Zone	1. It must not exceed a maximum height above ground level of 3.5m above the maximum height of structures for the underlying zone (single provider).	Matters of discretion are restricted to: [...]
Mixed Use Zone	2. It must not exceed a maximum height above ground level of 5m above the maximum height of structures for the underlying zone (two or more providers).	
Neighbourhood Centre Zone		
Metropolitan Centre Zone		
Residential Zones		
Hospital Zone	<u>This standard does not apply to a lightning rods fixed to the structure provided it does not exceed 15mm in diameter or 1m in length.⁹</u>	

⁸ RNZ [OS73]

⁹ Spark New Zealand Trading Limited and Vodafone New Zealand Ltd [OS33.1]

<p>General Industrial Zone</p> <p>Large Format Retail Zone</p>	<p>3. It must not exceed a maximum height above ground level of 25m (single provider).</p> <p>4. It must not exceed a maximum height above ground level of 30m (two or more providers).</p> <p><u>This standard does not apply to a lightning rods fixed to the structure provided it does not exceed 15mm in diameter or 1m in length.¹⁰</u></p>	<p>Matters of discretion are restricted to: [...]</p>
<p>Special Purpose Zone (BRANZ)</p>	<p>5. It must not exceed a maximum height above ground level of 15m (single provider).</p> <p>6. It must not exceed a maximum height above ground level of 18m (two or more providers).</p> <p><u>This standard does not apply to a lightning rods fixed to the structure provided it does not exceed 15mm in diameter or 1m in length.¹¹</u></p>	<p>Matters of discretion are restricted to: [...]</p>
<p>Open Space and Recreation Zones</p>	<p>7. It must not exceed a maximum height above ground level of 12m (single provider).</p> <p>8. It must not exceed a maximum height above ground level of 15m (two or more providers).</p> <p><u>This standard does not apply to a lightning rods fixed to the structure provided it does not exceed 15mm in diameter or 1m in length.¹²</u></p>	<p>Matters of discretion are restricted to: [...]</p>
<p>Rural Zones</p> <p>Future Urban Zone</p> <p>Māori Purpose Zone (Hongoeka)</p>	<p>9. It must not exceed a maximum height above ground level of 25m (single provider).</p> <p>10. It must not exceed a maximum height above ground level of 30m (two or more providers).</p> <p><u>This standard does not apply to a lightning rods fixed to the structure</u></p>	<p>Matters of discretion are restricted to: [...]</p>

¹⁰ Spark New Zealand Trading Limited and Vodafone New Zealand Ltd [OS33.1]

¹¹ Ibid

¹² Ibid

provided it does not exceed 15mm in diameter or 1m in length.¹³

THWT - Three Waters

[...]

THWT-R5

Connection of non-residential buildings, retirement villages, papakāinga, and **multi-unit housing residential development that will result in three or more residential units on any site**¹⁴ to the Three Waters Network

Residential Zones

Māori Purpose Zone (Hongoeka)

Settlement Zone

1. Activity status: **Permitted**

Where:

- a. The building(s) is connected to the reticulated water supply, reticulated wastewater and stormwater management networks; and
- b. Compliance is achieved with the following:
 - a. For stormwater — The level of service in Chapter 4 Stormwater Table 4.1, Table 4.2 and 4.3 of the Wellington Water Regional Standard for Water Services May 2019;
 - b. For wastewater — The level of service in Chapter 5, section 5.2.3 of the Wellington Water Regional Standard for Water Services May 2019; and
 - c. For water supply — The level of service in Chapter 6, Tables 6.1 and 6.2 of the Wellington Water Regional Standard for Water Services May 2019.

Note:

- a. Where a development relies on site specific measures to achieve compliance with the performance standards (for example an engineered wetland, on-site detention, booster pumps, or wastewater detention), that has already been approved and constructed (for example as part of a subdivision) and is considered fit for purpose, then this rule can be considered to be complied with.
- b. This rule only applies to sites in the Māori Purpose Zone (Hongoeka) that are serviced by the three waters network.

Residential Zones

Māori Purpose

2. Activity status: **Restricted discretionary**

Where:

- a. Compliance is not achieved with THWT-R5-1.a or THWT-R5-1.b.

¹³ Spark New Zealand Trading Limited and Vodafone New Zealand Ltd [OS33.1]

¹⁴ Clause 16

**Zone
(Hongoeka)**

**Settlement
Zone**

Matters of discretion are restricted to:
1. The matters in THWT-P3.

SUB – Subdivision

[...]

SUB-O2 Servicing of allotments

Subdivisions are appropriately serviced by infrastructure¹⁵, including that:

1. ~~In Urban Zones allotments are serviced by the Three Waters Network which: meets Council standards and is designed with sufficient capacity to accommodate any proposed or anticipated development; and subdivisions~~
 - a. Safeguards the health and wellbeing of people and communities;
 - b. Protects property, infrastructure and the environment; and
 - c. Is designed to accommodate any proposed or anticipated development; and
2. ~~In non-urban areas allotments are able to be serviced through on-site measures.~~¹⁶

[...]

SUB-P6 Subdivision in the Residential Zones and Māori Purpose Zone (Hongoeka)

Provide for vacant lot subdivision within the Medium Density Residential, ~~General High Density¹⁷~~ Residential Zone and Māori Purpose Zone (Hongoeka) where it can be demonstrated that the proposed lots are able to accommodate a residential unit that is of a size, scale and location that is anticipated for the Zone.

[...]

Standards

SUB-S1 Minimum allotment size and shape

All zones

1. All allotments created must comply with the minimum allotment size and allotment shape set out in SUB-Table 1.

There are no matters of discretion for this standard.

¹⁵ WELL [85.34]

¹⁶ PCC [11.57]

¹⁷ Kāinga Ora [OS76.87]

2. All minimum allotment shape rectangles required under SUB-S1-1 must be clear of any:

- a. Yards;
- b. Access allotments;
- c. Right-of-way easements;
- d. Infrastructure, including public and private infrastructure; and
- e. Other easements, including any new easement to be registered against the new allotment.

Note: Easements will be required to be registered against new allotments containing public or shared infrastructure. Compliance with SUB-S1-2.d will be considered to be achieved where the minimum allotment shape rectangle is located outside of the area to be registered with an easement over this infrastructure.¹⁸

SUB-Table 1 Minimum allotment size and shape		
Zones	Minimum allotment size	Minimum allotment shape
General Rural Zone Future Urban Zone	All allotments created must have a minimum allotment size of 40ha.	n/a
Rural Lifestyle Zone	All allotments created must have a minimum allotment size of 2ha.	n/a
Settlement Zone	All allotments created must have a minimum allotment size of 3000m ² with a 1ha minimum average allotment size being achieved across the site.	n/a
Industrial Zone	All allotments created must have a minimum allotment size of 1,000m ² .	n/a
General Residential Zone and Māori Purpose Zone (Hongoeke)	All vacant allotments created must have a minimum allotment size of 400m ² .	All vacant allotments must be able to contain a rectangle measuring 10m x 15m clear of any yards, access allotments and right of way. ¹⁹
Medium Density Residential Zone	All vacant allotments created must have a minimum allotment size of 300m ² .	All vacant allotments must be able to contain a rectangle measuring 9m x

¹⁸ PCC [11.62]

¹⁹ Ibid

		14m clear of any yards, access allotments and right-of-way. ²⁰
<u>High Density Residential Zone</u>	<u>All vacant allotments created must have a minimum allotment size of 300m².</u>	<u>All vacant allotments must be able to contain a rectangle measuring 9m x 14m.</u>
Other zones	n/a	n/a
All zones All allotments created for infrastructure	No minimum allotment size.	No minimum allotment shape.

NOISE - Noise

Noise generation can be an intrinsic part of how a diverse range of activities and industries operate and function in the City.

[...]

The following are all exempt from the rules and standards in this chapter:

1. Aircraft being operated during flight;
2. Vehicles being driven on a road (within the meaning of section 2(1) of the Transport Act 1998), or within a site as part of or compatible with a normal residential activity;
3. Trains on rail lines (public or private) and crossing bells within the road reserve, including at railway yards, railway sidings or stations. This exemption does not apply to the testing (when stationary), maintenance, loading or unloading of trains;
4. Any warning device or siren used by emergency services for emergency or training²¹ purposes (and routine testing and maintenance);
5. The use of generators and mobile equipment (including vehicles) for emergency purposes, including testing and maintenance not exceeding 48 hours in duration, where they are operated by emergency services or lifeline utilities, or for the continuation of radiocommunication broadcasts from Radio New Zealand's Titahi Bay facilities;
6. Activities at emergency service facilities associated with emergency response and emergency response training;
7. Farming activity, agricultural vehicles, machinery or equipment used on a seasonal or intermittent basis for primary production in the Rural Zones;
8. Helicopters used in emergencies or as air ambulances;
9. Impulsive sounds (hammerings and bangs) and dog barking noise;
10. Crowd noise from activities in Open Space and Sport and Active Recreation Zones; and
11. Temporary Activities in the City Centre, General Rural, Rural Lifestyle, Mixed Use and Local Centre Zones on New Year's Eve until 1.00am on New Year's Day only, where in accordance with the rules and standards in the Temporary Activities chapter.

²⁰ PCC [11.62]

²¹ Clause 16

TEMP – Temporary Activities

[...]

TEMP-R1 ²²	Temporary building and structures ancillary to a construction activity.
All zones	<p>1. Activity status: Permitted</p> <p>Where:</p> <ul style="list-style-type: none"> a. The temporary building or structure is removed from the site within; <ul style="list-style-type: none"> i. One month of the completion of the project; or ii. 24 months from when first placed on site; whichever is the lesser; b. The temporary building or structure does not exceed the height of buildings and structures standard for the zone in which it will be located; c. <u>The temporary building or structure does not exceed:</u> <ul style="list-style-type: none"> i. <u>10m in height within the Radio Transmission Height Control Area B, the maximum height specified in Table 1 in APP16 – Radio Transmission Height Control Area – Maximum Height; and/or</u> ii. <u>Within Radio Transmission Height Control Area A, the maximum height calculated using the methodology in APP16 – Radio Transmission Height Control Area – Maximum Height.</u> ed. The temporary building or structure does not exceed the height in relation to boundary standard for the zone in which it will be located. <p>In case of doubt, TEMP-R1-1.b and TEMP-R1-1.ed do not apply to cranes.</p> <p>This rule does not apply to temporary military training activities.</p>
<p>Medium Density Residential Zone</p> <p>Local Centre Zone</p>	<p>2. Activity status: Controlled</p> <p>Where:</p> <ul style="list-style-type: none"> a. <u>Compliance is not achieved with TEMP-R1-1.c.i; and</u> b. <u>The building or structure is within the Radio Transmission Height Control Area B.</u> <p>Matters of discretion are restricted to:</p> <ul style="list-style-type: none"> 1. <u>The matters in INF-P26.</u> <p><u>Section 88 information requirements for applications:</u></p> <ul style="list-style-type: none"> 1. <u>Applications under this rule must provide, in addition to the standard information requirements, an assessment prepared by a</u>

²² RNZ [OS73]

suitably qualified and experienced professional of the effects of electromagnetic radiation generated by RNZ's transmission site on the safety of workers or occupants of the proposed buildings and structures.

Medium Density Residential Zone

3. Activity status: Restricted discretionary

Local Centre Zone

Where:

- a. Compliance is not achieved with TEMP-R1-1.c.ii; and
- b. The building or structure is within the Radio Transmission Height Control Area A.

Local Centre Zone

Matters of discretion are restricted to:

1. The matters in INF-P26.

Notification:

- An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.
- When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, Porirua City Council will give specific consideration to any adverse effects on Radio New Zealand.

All zones

24. Activity status: Restricted discretionary

Where:

- a. Compliance is not achieved with TEMP-R1-1.a, TEMP-R1-1.b or TEMP-R1-1.ed.

Matters of discretion are restricted to:

2. Positive effects enabled through the activity; and
3. The matters in TEMP-P2.

MRZ - Medium Density Residential Zone

[...]

MRZ-Rx²³

Buildings and structures within the Radio Transmission Height Control Area

1. Activity status: Permitted

Where:

²³ RNZ [OS73]

- a. The building or structure is within the Radio Transmission Height Control Area B and is no greater in height than 404m in the maximum height specified in Table 1 in APP16 – Radio Transmission Height Control Area – Maximum Height; or
- b. The building or structure is within the Radio Transmission Height Control Area A and is no greater in height than the maximum height calculated using the methodology in APP16 – Radio Transmission Height Control Area – Maximum Height.

2. Activity status: Controlled

Where:

- a. Compliance is not achieved with MRZ-Rx-1.a; and
- b. The building or structure is within the Radio Transmission Height Control Area B.

Matters of control are reserved to:

- 1. The matters in INF-P26

Section 88 information requirements for applications:

- 1. Applications under this rule must provide, in addition to the standard information requirements, an assessment prepared by a suitably qualified and experienced professional of the effects of electromagnetic radiation generated by RNZ's transmission site on the safety of workers and occupants of the proposed buildings and structures.

3. Activity status: Restricted discretionary

Where:

- a. Compliance is not achieved with MRZ-Rx-1.ba; and
- b. The building or structure is within the Radio Transmission Height Control Area A.

Matters of discretion are restricted to:

- 1. The matters in INF-P26.

Notification:

- An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.
- When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, Porirua City Council will give specific consideration to any adverse effects on Radio New Zealand.

[...]

MRZ-S5	Setbacks	
1. Buildings and structures must be set back from the relevant boundary by the minimum depth listed in the yards table below:		Matters of discretion are restricted to: 1. The matters in RESZ-P7 and RESZ-P8. On sites where MRZ-S5-2 applies, and the building or structure setback otherwise complies with MRZ-S5-1: Matters of discretion are restricted to:
Yard	Minimum depth	
Front	1.5m, where that the boundary is to a road, otherwise it must be 1m	
Side	1m	
Rear	1m (excluded on corner sites)	

~~2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.²⁴~~

This standard does not apply to:

- Site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed;
- Fences and standalone walls — see MRZ-R4;
- Uncovered decks no more than 300mm in height above ground level;
- Buildings that are no more than 2m² in floor area and 2m in height above ground level;
- Any part of a building that is 7m or less in length, where this exemption only occurs once per site; or
- Eaves up to a maximum of 600mm in width and external gutters or downpipes (including their brackets) up to an additional width of 150mm.

~~2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.~~

~~This standard does not apply to:~~

- ~~Fences and standalone walls — see MRZ-R4; or~~
- ~~Uncovered decks no more than 300mm in height above ground level.²⁵~~

1. The safe and efficient operation of the rail network.

HRZ – High Density Residential Zone

[...]

HRZ-S4	Setbacks	
1. Buildings and structures must be set back from the relevant boundary by the minimum depth listed in the yards table below:		Matters of discretion are restricted to: 1. The matters in RESZ-P7 and RESZ-P8. On sites where HRZ-S4-2 applies, and the building or structure setback otherwise complies with HRZ-S4-1:
Yard	Minimum depth	
Front	1.5m, where that the boundary is to a road, otherwise it must be 1m	
Side	1m	
Rear	1m (excluded on corner sites)	

²⁴ KiwiRail [OS72.1]

²⁵ Ibid

~~2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.²⁶~~

This standard does not apply to:

- Site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed;
- Fences and standalone walls — see HRZ-R4;
- Uncovered decks no more than 300mm in height above ground level;²⁷
- Buildings that are no more than 2m² in floor area and 2m in height above ground level;
- Any part of a building that is 7m or less in length, where this exemption only occurs once per site; or
- Eaves up to a maximum of 600mm in width and external gutters or downpipes (including their brackets) up to an additional width of 150mm.

~~2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.~~

This standard does not apply to:

- Fences and standalone walls — see HRZ-R4; or
- Uncovered decks no more than 300mm in height above ground level.²⁸

Matters of discretion are restricted to:

1. The safe and efficient operation of the rail network.

NCZ – Neighbourhood Centre Zone

[...]

NCZ-Rx²⁹

Buildings and structures within the Radio Transmission Height Control Area

1. Activity status: Permitted

Where:

- a. **The building or structure is within the Radio Transmission Height Control Area B and is no greater in height than 101m in the maximum height specified in**

²⁶ KiwiRail [OS72.1]

²⁷ Clause 16 minor amendment

²⁸ KiwiRail [OS72.1]

²⁹ RNZ [OS73]

Table 1 in APP16 – Radio Transmission Height Control Area – Maximum Height; or

- b. The building or structure is within the Radio Transmission Height Control Area A and is no greater in height than the maximum height calculated using the methodology in APP16 – Radio Transmission Height Control Area – Maximum Height.

2. Activity status: Controlled

Where:

- a. Compliance is not achieved with MRZ-Rx-1.a; and
b. The building or structure is within the Radio Transmission Height Control Area B.

Matters of control are reserved to:

1. The matters in INF-P26

Section 88 information requirements for applications:

1. Applications under this rule must provide, in addition to the standard information requirements, an assessment prepared by a suitably qualified and experienced professional of the effects of electromagnetic radiation generated by RNZ's transmission site on the safety of workers or occupants of the proposed buildings and structures.

3. Activity status: Restricted discretionary

Where:

- a. Compliance is not achieved with MRZ-Rx-1.ba; and
b. The building or structure is within the Radio Transmission Height Control Area A.

Matters of discretion are restricted to:

1. The matters in INF-P26.

Notification:

- An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.
- When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, Porirua City Council will give specific consideration to any adverse effects on Radio New Zealand.

[...]

LCZ-S3	Setbacks
1. Buildings and structures must not be located within a 3m setback from a side or rear boundary where that boundary adjoins a Medium Density Residential Zone, High Density Residential Zone, Open Space Zone or Sport and Active Recreation Zone.	Matters of discretion are restricted to: 1. Screening, planting and landscaping of the building or structure; 2. The amenity of adjoining Residential or Open Space and Recreation sites;

~~2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.³⁰~~

LCZ-S3-1 does not apply to:

- One accessory building or structure less than 2m in height and less than 7m long per site; or
- Fences or standalone walls.

~~2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.~~

~~LCZ-S3-2 does not apply to fences or standalone walls.³¹~~

3. Any benefits, including the extent to which the reduced setback will result in a more efficient, practical and better use of the balance of the site; and
4. Whether there are topographical or other site constraints that make compliance with the permitted standard impractical.

Except that:

On sites where LCZ-S3-2 applies, and the building or structure setback otherwise complies with LCZ-S3-1:

Matters of discretion are restricted to:

1. The safe and efficient operation of the rail network.

MUZ – Mixed Use Zone

[...]

MUZ-S3	Setbacks
<p>1. Buildings and structures must not be located within a 3m setback from a side or rear boundary where that boundary adjoins a High Density Residential Zone, Medium Density Residential Zone, Open Space Zone or Sport and Active Recreation Zone.</p> <p>2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.³²</p> <p>MUZ-S3-1 does not apply to:</p>	<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. Screening, planting and landscaping of the building or structure; 2. Whether any architectural features or steps are proposed in the building

³⁰ KiwiRail [OS72.1]

³¹ KiwiRail [OS72.1]

³² Ibid

<ul style="list-style-type: none"> •One accessory building or structure less than 2m in height and less than 7m long per site; or •Fences or standalone walls. <p>2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.</p> <p>MUZ-S3-2 does not apply to fences or standalone walls.³³</p>	<p>façade to provide an attractive appearance when viewed from adjoining Residential or Open Space and Recreation sites;</p> <ol style="list-style-type: none"> 3. Any benefits, including the extent to which the reduced setback will result in a more efficient, practical and better use of the balance of the site; and 4. Whether there are topographical or other site constraints that make compliance with the permitted standard impractical. <p>Except that:</p> <p>On sites where MUZ-S3-2 applies, and the building or structure setback otherwise complies with MUZ-S3-1:</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. The safe and efficient operation of the rail network.
--	--

DEV - NG - Northern Growth Development Area

The Northern Growth Development Area has been identified as an area that is suitable for urban growth where this is in accordance with the Structure Plan developed for the area.

This chapter contains objectives, policies and rules which relate to the Development Area. The rules in this chapter apply in addition to the underlying zone rules and the rules contained in the Part 2: District-Wide Matters chapters. Where there is a conflict between the two sets of rules, the more restrictive activity status will apply.

³³ KiwiRail [OS72.1]

The Development Area covers approximately 323 hectares of greenfield land to the south of Pukerua Bay. The key elements that define the Development Area as shown on the Structure Plan are:

- Identification of the areas zoned Medium Density Residential, Rural Lifestyle and Neighbourhood Centre;
- Identification of proposed Freshwater Management Areas;
- The protection of Significant Natural Areas and identification of ecological connections to be created between them;
- Identification of an indicative transport network including roads, bus routes and cycling/pedestrian tracks, and connections at Development Area boundaries; and
- Identification of reserves to serve the new community and the existing community of Pukerua Bay, including a neighbourhood community park and neighbourhood reserves.

Urban form

The way the Development Area is subdivided will introduce long-term development patterns and will therefore determine the quality and character of the area. Ensuring that subdivision is well-designed is therefore integral to achieving a well-functioning and high quality living environment for future residents. Inclusion of the structure plan within the District Plan will assist in achieving a well-functioning urban environment, and the Development Area provisions will ensure that the Structure Plan is implemented. Underlying zoning provisions and district-wide provisions will also help ensure that subdivision, use and development, including any associated earthworks, are appropriate.

Land use

The residential areas within the Development Area are zoned Medium Density Residential. This recognises the requirements of the NPS-UD and the Medium Density Residential Standards introduced through the RMA-EHS. A commercial area located within the Development Area near State Highway 59 is zoned Neighbourhood Centre, consistent with the hierarchy of commercial centres in Porirua. This area will provide services and amenities to meet the day-to-day needs of residents. The balance of the site remains Rural Lifestyle Zone.

Ecological values

There are areas of native vegetation within the Development Area which are Significant Natural Areas and are protected by the relevant Ecosystem and Indigenous Biodiversity provisions in the District Plan. The provisions seek to maintain and enhance these areas to ensure the integrity of the Significant Natural Areas on the site are not compromised through future development. The creation of new ecological connections between the Significant Natural Areas will also assist in enhancing these areas and indigenous biodiversity values across the Development Area.

Recreation areas

The Structure Plan identifies a network of neighbourhood parks that enable residents to easily access a park or reserve close to their home. The Structure Plan also identifies a neighbourhood community park next to the neighbourhood centre, which will provide a large recreational space with good accessibility from road and active transport networks that service both the Development Area and the wider Pukerua Bay urban area. Additionally, four indicative neighbourhood reserve areas are identified to provide amenity and day-to-day recreational opportunities for residents.

Freshwater Management Areas

The Freshwater Management Areas identify opportunities to maintain and enhance terrestrial and freshwater ecology and improve water quality. They can also provide for

water sensitive design approaches to stormwater management including catchment scale detention devices; provide increased resilience to flood hazards; connect the community to water and provide for passive recreation, and; create high quality amenity for the community. Other activities may also need to locate or be undertaken within these areas to enable the wider development of the area, such as infrastructure or earthworks.³⁴ The Freshwater Management Areas also acknowledge provisions that already apply to subdivision, use and development in these areas under the District Plan, Natural Resources Plan, NPS-FM and the NES-F.

Connectivity

To promote active and sustainable transport modes, and enhanced recreational experiences, indicative walking and cycling connections have been identified on the Structure Plan. The exact locations of these connections will need to be determined at subdivision stage and created through the development of the site. These also provide open space connectivity through providing linkages between Significant Natural Areas, recreation reserves and along waterways.

The Structure Plan provides indicative access locations, road layouts and bus routes. These have been identified primarily taking account of the topography of the Development Area, the location of water bodies and Significant Natural Areas, and the potential for longer-term connectivity to adjacent areas.

The main connection of the internal road layout to the wider road network is via a new access onto State Highway 59. The form of this access is to be informed by a transport strategy that will be developed in collaboration with key stakeholders and lead by the Waka Kotahi NZ Transport Agency.³⁵

Objectives

DEV-NG-O1 Purpose of the Northern Growth Development Area

The Northern Growth Development Area contributes to achieving feasible development capacity to meet Porirua City's medium to long-term housing needs.

DEV-NG-O2 Planned urban built environment of the Northern Growth Development Area

Subdivision, use and development in the Medium Density Residential Zone and Neighbourhood Centre Zone of the Northern Growth Development Area achieves:

1. A well-functioning urban environment consistent with the Northern Growth Development Area Structure Plan;
2. A built urban form that responds to the natural landform;
3. A quality living environment that is connected, accessible and safe;
4. A high quality public open space and recreation network that is easy to access and meets the needs of the local community;
5. **Predominantly medium**³⁶ density housing with a variety of housing types, sizes and tenures;
6. A neighbourhood centre that serves the needs of the local community;

³⁴ Pukerua Property Group Limited [OS59.4]

³⁵ Waka Kotahi [OS81.7 and 81.9]

³⁶ Pukerua Property Group [OS59.5]

7. An urban form that is integrated with the transport network, and encourages **public and** active transport modes **while minimising reliance on private vehicles**³⁷; and
8. Development that maintains and protects and, where possible, enhances ecological values³⁸ and the health and wellbeing of receiving waterbodies including Te Awarua-O-Porirua Harbour and other downstream catchments.

DEV-NG-O3 Provision of infrastructure

Infrastructure with sufficient capacity is provided at the time of subdivision for urban use and is developed in an integrated, efficient and comprehensive manner to meet the planned needs of the Northern Growth Development Area.

Policies

DEV-NG-P1 Use and development

Enable use and development that is in accordance with the Northern Growth Development Area Structure Plan.

DEV-NG-P2 Subdivision

Provide for subdivision that is in accordance with the Northern Growth Development Area Structure Plan, and where the design and layout of the subdivision:

1. Integrates the topographical, natural and physical characteristics, constraints and opportunities of the Development Area;
2. Minimises landscape and visual effects of development both within the site and on views of the site from transport corridors, the existing Pukerua Bay urban area, and Whenua Tapu cemetery, through:
 - a. Minimising earthworks and the modification of landform where practicable;
 - b. Integrating the transport network with the existing landform to the extent practicable;
 - c. Providing landscaping within road corridors;
 - d. Creating open space linkages and networks; and
 - e. Retaining existing indigenous vegetation;
3. Provides adequate and integrated infrastructure to service the needs of the development;
4. Provides a transport network layout and design that:
 - a. **Is safe for all transport users;**
 - ab. Recognises and provides for transport connections at the boundaries of the Development Area where opportunities exist, **including an appropriate connection to State Highway 59**³⁹;
 - bc. Provides for roads shown as indicative bus routes as Collector Roads, and other roads as Access Roads;
 - ed. Provides for **pedestrian active transport**⁴⁰ and open space connectivity, including by incorporating legal public access along indicative track routes identified on the Structure Plan, and providing for opportunities to create recreational and open space linkages;
5. Recognises and enhances ecological values of the Development Area, including by:

³⁷ GWRC [OS74.63]

³⁸ QEII National Trust (QEII) [OS82.3]

³⁹ Waka Kotahi [OS81.7 and 81.9]

⁴⁰ Waka Kotahi NZ Transport Agency [OS81.33]

- a. Creating buffer areas around the edges of Significant Natural Areas identified in SCHED7 – Significant Natural Areas; and
- b. Creating ecological corridors in the locations identified on the Structure Plan which will, over time, become dominated by indigenous vegetation, with a sufficient width, scale, and appropriate mitigation of any severance caused by roads, to connect and enhance Significant Natural Areas;
6. Minimises adverse effects on waterbodies;
7. Minimises natural hazard risk to people's lives and properties;
8. Demonstrates that use and development within the Freshwater Management Areas identified on the Structure Plan:
 - a. Considers regional plan provisions and the regulations in the NES-F;
 - b. Is consistent with Water Sensitive Urban Design principles and Wellington Water's 'Water Sensitive Design for Stormwater: Treatment Device Design Guideline' (Version 1.1, 2019) for the design of any relevant stormwater treatment devices;
 - c. Recognises and provides opportunities to enhance freshwater ecology, public access to and along freshwater bodies, and resilience to flood risk;
9. Incorporates stormwater management measures for the treatment and disposal of stormwater at catchment and allotment scales, and achieve hydraulic neutrality;
10. Provides parks, reserves, pathways and open space areas including a neighbourhood community park and neighbourhood parks, and gully and hilltop reserves where opportunities exist; and
11. Minimises the potential for reverse sensitivity effects and other effects at the interface of different zones within the Development Area.

DEV-NG-P3 Potentially appropriate development

Only allow subdivision, use and development that is potentially not in accordance with the Northern Growth Development Area Structure Plan where it is demonstrated that it is appropriate for such subdivision, use or development to occur within the Development Area, having regard to whether:

1. The purpose and effects of the subdivision, use or development are likely to constrain, limit or compromise the intended development and use of the Development Area as set out in the Structure Plan, including consideration of:
 - a. The compatibility of the type, location and density of the development with the planned urban form of the Northern Growth Development Area;
 - b. The integration of topographical, natural and physical characteristics, constraints and opportunities;
 - c. Risks from natural hazards to people, property and the environment;
 - d. Maintaining and enhancing ecological values within and adjacent to⁴¹ the Development Area;
 - e. The need for adequate, coordinated and integrated infrastructure to meet the planned urban needs of the area;
 - f. Safe and Connected transport networks that allow ease of movement for all modes to, from and within the Development Area;⁴² and
 - g. Integrated and accessible open space networks and reserves;
2. The effects on the landscape and visual amenity from earthworks, the modification of landform, and the location and design of the transport network will be minimised;
3. It will compromise any cultural, spiritual and/or historical values, interests or associations of importance to Ngāti Toa Rangatira that are associated with the Northern Growth Development Area and if so, the outcomes of any consultation

⁴¹ QEII [OS82.5]

⁴² Waka Kotahi [OS81.34]

<p>with Ngāti Toa Rangatira, in particular with respect to mitigation measures and/or the incorporation of mātauranga Māori principles into the design and development of the activity;</p> <ol style="list-style-type: none"> 4. It would provide for or support the future needs of the Development Area; 5. Its scale, design and layout is compatible with the planned urban built environment of Development Area as it transitions and once urbanised as set out in the Structure Plan; 6. Any adverse visual effects can be appropriately avoided, remedied or mitigated through screening, planting, building design, siting, and the retention of existing vegetation; and 7. Staging is appropriate to ensure development occurs logically and achieves good urban form. 	
<p>DEV-NG-P4 Inappropriate development</p>	
<p>Avoid subdivision, use or development that is not in accordance with the Northern Growth Development Area Structure Plan, where these:</p> <ol style="list-style-type: none"> 1. Constrain, limit or compromise the intended development and use of the Development Area as set out in the Structure Plan; 2. Result in adverse effects on the planned urban built environment of the⁴³ Development Area, which cannot be appropriately avoided, remedied or mitigated; or 3. Do not provide sufficient infrastructure to service its needs and/or constrain, limit or compromise the efficient provision of infrastructure to service the Structure Plan. 	
<p>Rules</p>	
<p>Note: There may be a number of provisions that apply to an activity, building, structure or site. Resource consent may therefore be required under rules in this chapter as well as other chapters. Unless specifically stated in a rule, resource consent is required under each relevant rule. The steps to determine the status of an activity are set out in the General Approach chapter.</p> <p>Additional rules relating to subdivision, including minimum allotment sizes for each zone, are found in the Subdivision chapter.</p>	
<p>DEV-NG-R1 Activities (excluding subdivision) that are permitted activities in the underlying zone</p>	
	<p>All zones 1. Activity status: Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> a. The activity is in accordance with DEV-NG-Figure 1 Northern Growth Development Area Structure Plan. <p>Note: The provisions of the relevant zone chapters also apply to any activities within the Northern Growth Development Area.</p>
	<p>All zones 2. Activity status: Restricted discretionary</p> <p>Where:</p> <ol style="list-style-type: none"> a. Compliance is not achieved with DEV-NG-R1.a. <p>Matters of discretion are restricted to:</p>

⁴³ Clause 16 minor amendment

	<p>1. The matters in DEV-NG-P3.</p> <p>Notification: An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.</p>
DEV-NG-R2	Earthworks that are permitted activities in the EW – Earthworks chapter
All zones	<p>1. Activity status: Permitted</p> <p>Where:</p> <p>a. The activity is in accordance with DEV-NG-Figure 1 Northern Growth Development Area Structure Plan.</p> <p>Note: The provisions of the EW- Earthworks chapter also apply to any earthworks within the Northern Growth Development Area.</p>
All zones	<p>2. Activity status: Restricted discretionary</p> <p>Where:</p> <p>a. Compliance is not achieved with DEV-NG-R2.a.</p> <p>Matters of discretion are restricted to:</p> <p>1. The matters in DEV-NG-P3.</p> <p>Notification: An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.</p>
DEV-NG-R3	Subdivision of land within the Northern Growth Development Area
Medium Density Residential Zone	<p>1. Activity status: Controlled</p> <p>Where:</p> <p>a. The allotment is less than 3,000m² in area;</p> <p>b. Any subdivision of an allotment containing or directly adjoining⁴⁴ a Significant Natural Area identified in SCHED7- Significant Natural Areas must include:</p> <p>i. A scheme plan which identifies a buffer area of at least 5m wide around that part of the perimeter of the Significant Natural Area which is located within or directly adjoining⁴⁵ the allotment;</p> <p>ii. A planting plan and monitoring and maintenance programme for the buffer area which meets the requirements set out in Parts B and C of Appendix 17 Ecological Corridors and SNA Buffer areas; and</p> <p>iii. Details of how the buffer area will be legally protected in perpetuity in accordance with Part A of Appendix 17 Ecological Corridors and SNA Buffer areas;</p>

⁴⁴ QEII [OS82.7]

⁴⁵ QEII [OS82.7]

- c. Any subdivision of an allotment which includes an ecological corridor identified on DEV-NG-Figure 1 Northern Growth Development Area Structure Plan must include:
 - i. A scheme plan which identifies the ecological corridor as being no less than 50 metres wide and connecting the Significant Natural Areas which it is located between;
 - ii. A planting plan and monitoring and maintenance programme for the ecological corridor which meets the requirements set out in Parts B and C of Appendix 17 Ecological Corridors and SNA Buffer areas; and
 - iii. Details of how the ecological corridor will be legally protected in perpetuity in accordance with Part A of Appendix 17 Ecological Corridors and SNA Buffer areas;
- d. The design and layout of the subdivision is in accordance with DEV-NG-Figure 1 Northern Growth Development Area Structure Plan.

Matters of control are limited to:

- 1. The matters in DEV-NG-P2.

Note: The provisions of the SUB - Subdivision chapter also apply to any subdivision within the Northern Growth Development Area.

Medium Density Residential Zone

2. Activity status: **Restricted discretionary**

Where:

- a. The allotment is 3,000m² or greater in area;
- b. Any subdivision of an allotment containing or directly adjoining⁴⁶ a Significant Natural Area identified in SCHED7- Significant Natural Areas must include:
 - i. A scheme plan which identifies a buffer area of at least 5m wide around that part of the perimeter of the Significant Natural Area which is located within or directly adjoining⁴⁷ the allotment;
 - ii. A planting plan and monitoring and maintenance programme for the buffer area which meets the requirements set out in Parts B and C of Appendix 17 Ecological Corridors and SNA Buffer areas; and
 - iii. Details of how the buffer area will be legally protected in perpetuity in accordance with Part A of Appendix 17 Ecological Corridors and SNA Buffer areas;
- c. Any subdivision of an allotment which includes an ecological corridor identified on DEV-NG-Figure 1 Northern Growth Development Area Structure Plan must include:
 - i. A scheme plan which identifies the ecological corridor as being no less than 50 metres wide and connecting

⁴⁶ QEII [OS82.7]

⁴⁷ QEII [OS82.7]

	<p>the Significant Natural Areas which it is located between;</p> <ul style="list-style-type: none"> ii. A planting plan and monitoring and maintenance programme for the ecological corridor which meets the requirements set out in Parts B and C of Appendix 17 Ecological Corridors and SNA Buffer areas; and iii. Details of how the ecological corridor will be legally protected in perpetuity in accordance with Part A of Appendix 17 Ecological Corridors and SNA Buffer areas; <p>d. The design and layout of the subdivision is in accordance with and gives effect to DEV-NG-Figure 1 Northern Growth Development Area Structure Plan.</p> <p>Matters of discretion are restricted to:</p> <ul style="list-style-type: none"> 1. The matters in DEV-NG-P2.
<p>Rural Lifestyle Zone</p> <p>Neighborhood Centre Zone</p>	<p>3. Activity status: Restricted discretionary</p> <p>Where:</p> <ul style="list-style-type: none"> a. Any subdivision of an allotment containing <u>or directly adjoining</u>⁴⁸ a Significant Natural Area identified in SCHED7-Significant Natural Areas must include: <ul style="list-style-type: none"> a. A scheme plan which identifies a buffer area of at least 5m wide around that part of the perimeter of the Significant Natural Area which is located within <u>or directly adjoining</u>⁴⁹ the allotment; b. A planting plan and monitoring and maintenance programme for the buffer area which meets the requirements set out in Parts B and C of Appendix 17 Ecological Corridors and SNA Buffer areas; and c. Details of how the buffer area will be legally protected in perpetuity in accordance with Part A of Appendix 17 Ecological Corridors and SNA Buffer areas; b. The design and layout of the subdivision is in accordance with and gives effect to DEV-NG-Figure 1 Northern Growth Development Area Structure Plan. <p>Matters of discretion are restricted to:</p> <ul style="list-style-type: none"> 1. The matters in DEV-NG-P2.
<p>All zones</p>	<p>4. Activity status: Discretionary</p> <p>Where:</p> <ul style="list-style-type: none"> a. Compliance is not achieved with DEV-NG-R3-1.b, DEV-NG-R3-1.c or DEV-NG-R3-1.d;

⁴⁸ QEII [OS82.7]

⁴⁹ QEII [OS82.7]

- b. Compliance is not achieved with DEV-NG-R3-2.b, DEV-NG-R3-2.c or DEV-NG-R3-2.d; or
- c. Compliance is not achieved with DEV-NG-R3-3.

DEV-NG-R4 Activities that are not otherwise provided for in this table

All zones 1. Activity status: **Restricted discretionary**

Where:

- a. The activity is in accordance with DEV-NG-Figure 1 Northern Growth Development Area Structure Plan.

Matters of discretion are restricted to:

- 1. The matters in DEV-NG-P3.

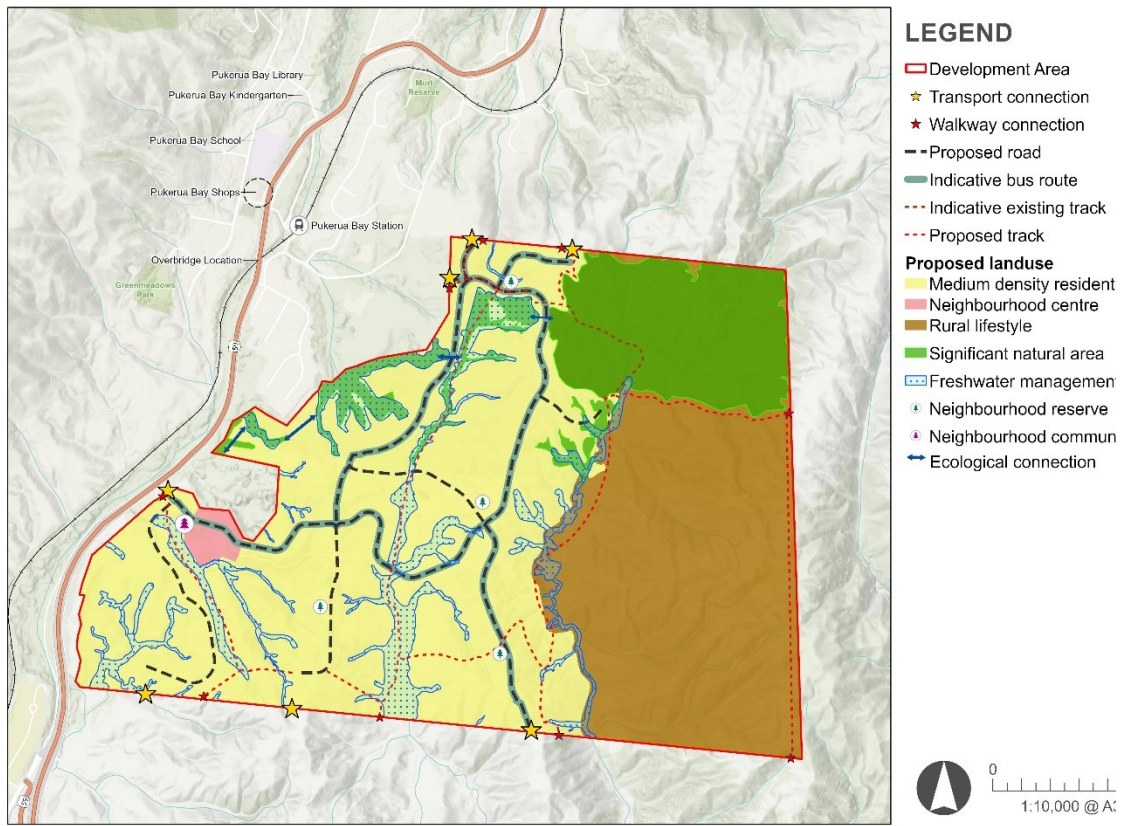
Notification:
An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.

All zones 2. Activity status: **Discretionary**

Where:

- a. Compliance not achieved with DEV-NG-R4-1.a.

DEV-NG-Figure 1 Northern Growth Development Area Structure Plan



APP16 – Radio Transmission Height Control Area – Maximum Height⁵⁰

The intent of APP16 - Radio Transmission Height Control Area – Maximum Height is to ensure that the health and safety of occupants and construction workers in or on buildings and structures within the Radio Transmission Height Control Area is maintained.

Radio Transmission Height Control Area A

The permitted maximum height of any building, structure, or any temporary buildings and structures ancillary to a construction activity, within Radio Transmission Height Control Area A shall be the height determined by the calculation below:

$$\text{Maximum Height (m)} = \frac{11d}{528}$$

Where d is the distance in metres of the structure or building or part thereof from Radio New Zealand's radio transmission tower located on Whitireia Peninsula at 2664785.88 mE, 6010654.33 mN (NZMG). The maximum height shall be rounded to the nearest tenth of a metre.



⁵⁰ RNZ [OS73]

An example is provided below, for clarity:

If a building or structure is proposed that is a minimum of 400 metres from the radio transmission tower, the maximum permitted height of that building or structure would be 8.3 metres.

Radio Transmission Height Control Area B

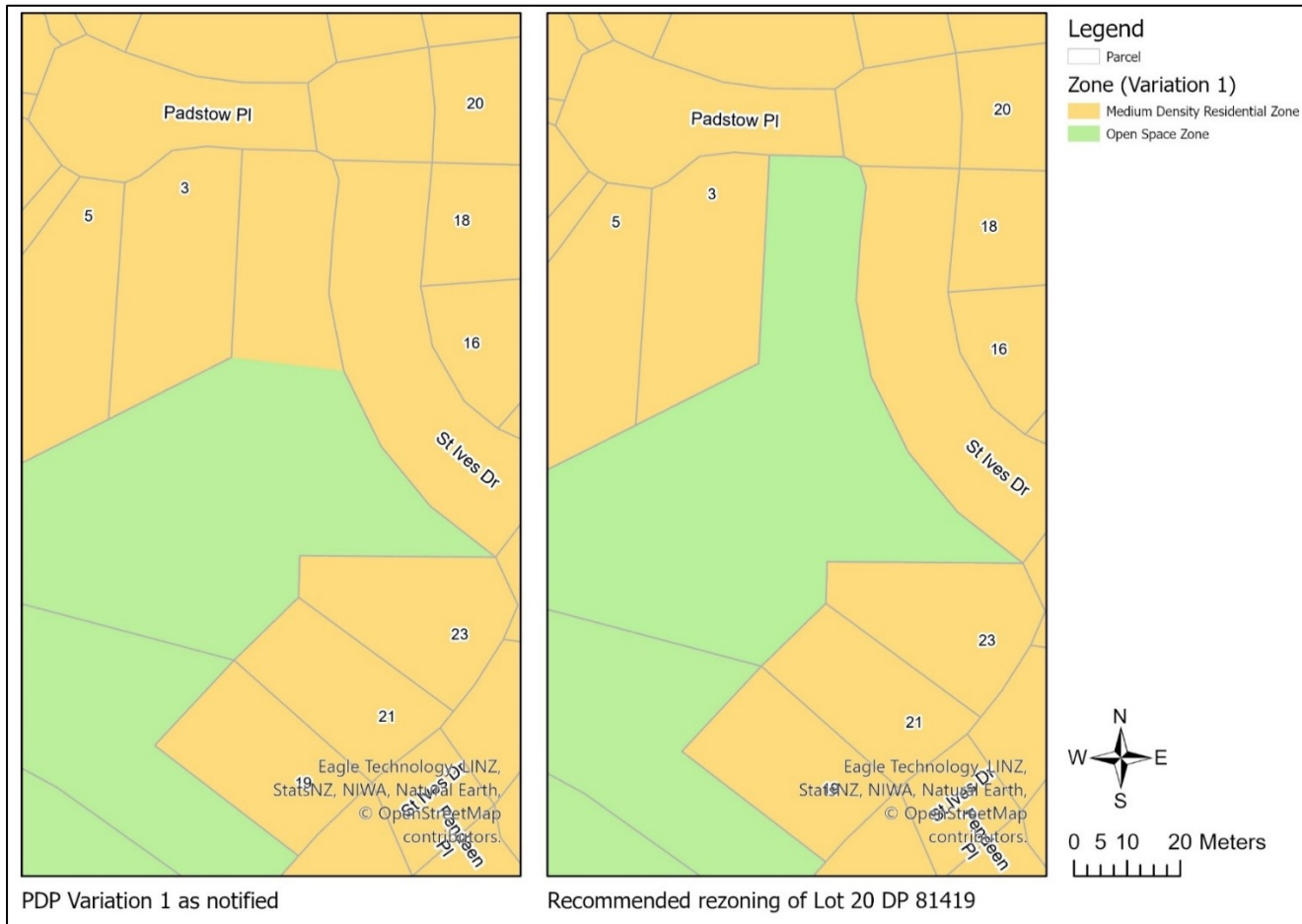
The permitted maximum height of any building, structure, or any temporary buildings and structures ancillary to a construction activity, within Radio Transmission Height Control Area B shall be the maximum height set out in the table below.

Table 1: Maximum height of buildings and structures in RTHC Area B

<u>Distance from Transmission Mast</u>	<u>Maximum height of buildings and structures</u>
<u>528m to 600m</u>	<u>11 metres</u>
<u>>600m to 700m</u>	<u>12.5 metres</u>
<u>>700m to 800m</u>	<u>14.5 metres</u>
<u>>800m to 900m</u>	<u>16.5 metres</u>
<u>>900m to 1057m</u>	<u>18.75 metres</u>

Planning Maps

Lot 20 DP 81419



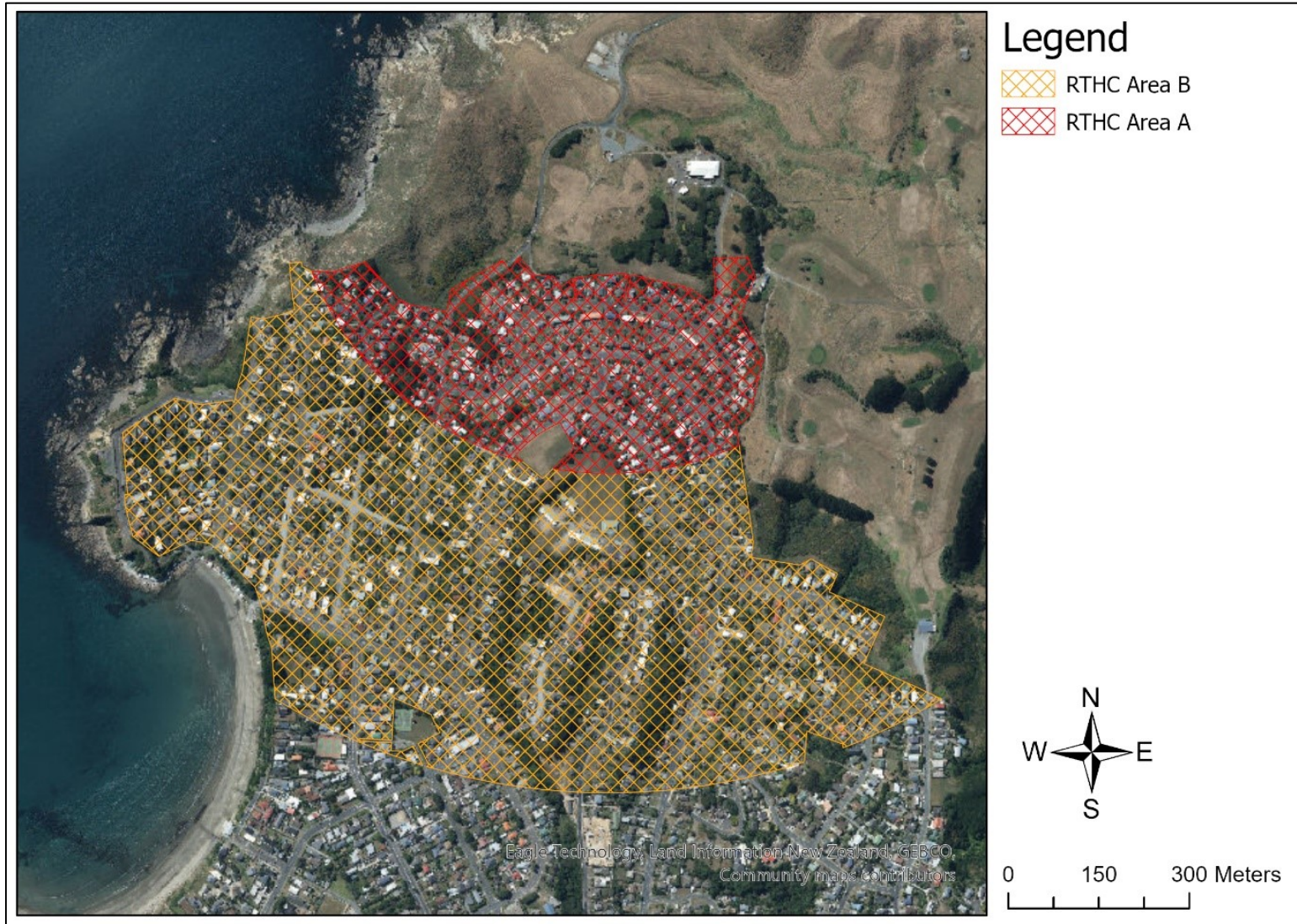
Lot 74 DP 50599



Flood Hazard overlays



Radio Transmission Height Control Area



Appendix C. Recommended responses to submissions and further submissions

In order to distinguish between the recommended responses in the s42A report and the recommended responses that arise from this report:

- Recommendations from this report in response to evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

Submissions from KiwiRail							
OS72.1 ⁵¹	KiwiRail	Qualifying matters	Seeks that these standards [MRZ-S5, HRZ-S4, LCZ-S3, MUZ-S3] be amended to be increased to from 1.5m to 5m.	7.18	Reject <u>Accept in part</u>	See body of the report	No
OS72.2	KiwiRail	General	Seeks a 5m setback be introduced into all zones adjoining the rail corridor which fall within the scope of Variation 1.	7.18	Reject	See body of the report	No
OS72.3 ⁵²	KiwiRail	Qualifying matters	Seeks a 5m setback for buildings on sites adjoining the rail corridor. Seeks the setback to be increased to 5m and this be applied to all zones adjoining the rail corridor within the scope of Variation 1.	7.18	Reject	See body of the report	No
OS72.4	KiwiRail	Qualifying matters	Retention of identification of the rail corridor as a qualifying matter.	7.18	Reject <u>Accept</u>	See body of the report	No
OS72.5 ⁵³	KiwiRail	MRZ-S5	[...] 2. Buildings and structures must not be located within a 1.5m <u>5m</u> setback from a boundary with a rail corridor.	7.18	Reject	See body of the report	No
OS72.6 ⁵⁴	KiwiRail	HRZ-S4	[...] 2. Buildings and structures must not be located within a 1.5m <u>5m</u> setback from a boundary with a rail corridor.	7.18	Reject	See body of the report	No

⁵¹ Opposed by Kainga Ora [FS76.370]

⁵² Opposed by Kainga Ora [FS76.371]

⁵³ Opposed by Kainga Ora [FS76.372]

⁵⁴ Opposed by Kainga Ora [FS76.373]

Submissions from KiwiRail							
OS72.7 ⁵⁵	KiwiRail	LCZ-S3	[...] 2. Buildings and structures must not be located within a 1.5m 5m setback from a boundary with a rail corridor.	7.18	Reject	See body of the report	No
OS72.8 ⁵⁶	KiwiRail	MUZ-S3	[...] 2. Buildings and structures must not be located within a 1.5m 5m setback from a boundary with a rail corridor.	7.18	Reject	See body of the report	No
OS72.9 ⁵⁷	KiwiRail	NOISE	[Not specified, refer to original submission] While no specific decision sought, the submitter raised the following matter(s): Supports the inclusion of acoustic and vibration standards, and district-wide building setbacks as important controls to ensure the ongoing safe and efficient operation of the rail corridor, particularly where intensive residential development is proposed adjacent to the rail corridor. Previously submitted on these provisions (seeking their retention with amendment) through the wider Proposed District Plan process.	7.18	Accept	Agree with submitter	No
OS72.10	KiwiRail	Qualifying matters	Amendment of setback standards in MRZ-S5, HRZ-S4, LCZ-S3 and MUZ-S3 from 1.5m to 5m.	7.18	Reject	See body of the report	No
OS72.11	KiwiRail	Qualifying matters	Introduction of a 5m setback standard for in any other zones [zones other than MRZ, HRZ, LCZ or MUZ] adjoining the rail corridor affected by Variation 1.	7.18	Reject	See body of the report	No

⁵⁵ Opposed by Kainga Ora [FS76.374]

⁵⁶ Opposed by Kainga Ora [FS76.375]

⁵⁷ Opposed by Kainga Ora [FS76.376]