

24 July 2025

**Submission on the Proposed Lower Hutt District Plan, Under Clause 8 of Schedule 1,
Resource Management Act 1991**

To: the Chief Executive Officer

Hutt City Council
Private Bag 31-912
Lower Hutt 5040

Email: district.plan@huttcity.govt.nz

1. This is a further submission from:

Submitter(s):

Full name: Hugh Mackenzie

Organisation:

Address: 26 Mahoe Street Eastbourne
Lower Hutt 5013

Address for service: as above

Phone: [REDACTED]

Email: hmackenzie@xtra.co.nz

2. This is a further submission in support of (or in opposition to):

This further submission is made **in support of our own original submission** on the Proposed Hutt City District Plan (relating to hazard overlays and new zoning applied to 269 Muritai Road, Eastbourne). It introduces new supporting material that has emerged since the original submission was lodged.

We have an interest in the proposal greater than the interest of the general public.

3. I support the submission of:

Submitter: Andrew and Robyn Robinson

Submission Reference Number: PDP/380

Original Submission Topic: Objection to multiple new overlays and zoning at 269 Muritai Road, Eastbourne. We have an interest in the proposed plan change greater than that of the general public, as it directly affects our property, imposes increased regulatory constraints, and amongst other things misrepresents the nature and source of flood risk on our site.

4. The particular parts of our initial submission I provide further support for are:

- Objection to modelled flood overlays that lack site-specific verification.
- Concern that mapped overlays do not reflect real-world flood mitigation present at the site (e.g. soak pits, raised floors, nib wall, fencing).
- Evidence that flooding can result from Council-owned stormwater infrastructure failure.
- Request to remove or amend overlays and performance rules (e.g. NH-R12.3(b), NH-P9, NH-R9).
- Argument that the Proposed Plan provisions are not proportionate and may breach Section 32 of the RMA.
- Argument that the Proposed Plan timing is out of step with central government's review of the RMA and changes to building/planning regulations.

5. The reasons for my support are:

This further submission is supported by four attachments that demonstrate both the legal precedent and evidentiary basis for the relief sought. These are referenced below, and a list is included at the end of this document:

- **Attachment A** – Consent Order: Tauranga PC27 ([Appendix 1 - Consent Order])
- **Attachment B** – Environment Court Decision: [2025] NZEnvC 93 (published ruling)
- **Attachment C** – UTF Submission: Plan Change 27 (Urban Task Force)
- **Attachment D** – Statement of Evidence: Scott Adams (Urban Task Force witness)

5.1 Environment Court Precedent – Tauranga Plan Change 27 (PC27)

In March 2025, the Environment Court issued a Consent Order in relation to Tauranga City Council's Plan Change 27 (PC27), following appeals led by the Urban Task Force. The appeal challenged the use of broad, modelled flood overlays and rules that imposed restrictions on landowners without site-specific verification. The Court's findings are highly relevant to the issues raised in this further submission, as they confirm that district plan provisions relating to natural hazards must be both proportionate and technically robust. In particular, the Court directed Tauranga City Council to:

- Treat flood hazard overlays as indicative only, not determinative;
- Accept site-specific Flood Assessments by qualified professionals that override GIS hazard maps;
- Amend objectives and rules to allow risk management rather than blanket avoidance;
- Distinguish between infrastructure-based flooding and natural hazard zoning;
- Ensure compliance with Section 32 RMA, including evaluation of efficiency, effectiveness, and proportionality.

These principles directly support the concerns raised in our original submission and are documented in Attachment A (Consent Order) and Attachment B ([2025] NZEnvC 93).

5.2 Infrastructure Responsibilities under the Local Government Act 2002

The Consent Order acknowledges that Councils have a statutory responsibility under the Local Government Act 2002 to provide and maintain flood management infrastructure. Flood risk caused by stormwater drainage limitations must be addressed through public investment, not imposed on private landowners via hazard zoning.

This reinforces our position that any suggestion of future flooding at 269 Muritai Road is the result of culvert failure and insufficient asset management strategy and maintenance — and not a natural topographic hazard (see Attachment D).

5.3 Government Directive (16 July 2025)

In addition to the information provided in the Attachments, The Government has announced that a section of the RMA amendment bill will require Councils to pause or withdraw plan changes not yet at hearing. This release, issued on 16 July 2025, recognises mounting national concern about the reliability of flood modelling, the rushed implementation of regulatory overlays, and the lack of procedural fairness afforded to landowners. A link to this release follows:

<https://www.beehive.govt.nz/release/government-stop-council-plan-changes>

The Minister has indicated that legislation enabling this pause is expected to pass in August 2025. Under the proposed legislation, councils will be required to initiate a 90-day statutory review period, during which time they must pause relevant plan change processes and assess whether overlays and zoning provisions remain justified, accurate, and proportionate.

This provides additional weight to the argument that current natural hazard overlays should be halted and re-evaluated for accuracy, proportionality, and alignment with broader national reform objectives. It reinforces the need for councils to prioritise transparent, site-specific, and evidence-based processes before proceeding with hazard zoning that affects private property rights.

We seek confirmation from Hutt City Council as to how this directive affects the:

- Scheduling of PDP hearings;
- Application and enforcement of proposed hazard overlays under the current plan review process.

6. I seek that the whole (or part) of the submission be allowed:

- That my original submission (PDP/369) be upheld in full.
- That this further submission be accepted as supporting, relevant, and timely evidence.

- That Hutt City Council revise the Proposed District Plan provisions in line with the legal and planning principles confirmed in the Tauranga PC27 Environment Court decision, including:
 - Clearly classifying hazard overlays as indicative only, not determinative;
 - Formally accepting site-specific technical assessments from qualified experts as a basis to override mapped overlays;
 - Amending rules and objectives to promote a managed risk-based approach rather than outright development avoidance;
 - Distinguishing natural hazard risk from flooding caused by Council owned asset run-off and stormwater infrastructure limitations;
 - Ensuring all hazard-related provisions meet the efficiency, effectiveness, and proportionality requirements of Section 32 of the RMA.
- That Hutt City Council provide a formal and public statement confirming how the 16 July 2025 Government directive (and anticipated legislation requiring a 90-day plan change review) will affect the timing and implementation of the PDP natural hazard overlay provisions and all other new provisions outlined in the PDP.

7. I wish to be heard in support of my further submission:

Yes

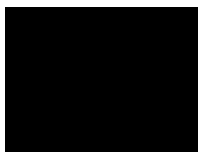
8. If others make a similar submission, I will consider presenting a joint case:

Yes

9. Attachments:

Attachment A-D as noted above in 5.

Yours sincerely,



Hugh Mackenzie
26 Mahoe Street
Eastbourne
Lower Hutt 5013



**APPENDIX 1 – AMENDMENTS
TO PROPOSED PLAN CHANGE**



TAURANGA CITY COUNCIL

OPERATIVE CITY PLAN

Plan Change 27 - Flooding from intense rainfall

Chapter 3 - Definitions

floodplain

Means the land near a stream or river channel, susceptible to flooding in the 1% *annual exceedence probability (AEP)* rainfall event concurrent with a 5% *annual exceedence probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

~~Note: The Council holds publicly available information showing the modelled extent of floodplain(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the floodplain definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of floodplain(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of floodplain does not apply to land which is shown as being outside the floodplain on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the floodplain definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the floodplain. The Council will accept such a site-specific technical report as prevailing over the indicative floodplain map depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the floodplain.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative floodplain depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

flood prone area

Means the land susceptible to flooding in the 1% *annual exceedence probability (AEP)* rainfall event concurrent with a 5% *annual exceedence probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130, but is not within the definition of *overland flowpath* or *floodplain*.

~~Note: The Council holds publicly available information showing the modelled extent of flood prone area(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the flood prone area definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of flood prone area(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of flood prone area does not apply to land which is shown as being outside the flood prone area on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the flood prone area definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the flood prone area. The Council will accept such a site-specific technical report as prevailing over the indicative flood prone area depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the flood prone area.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative flood prone area depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

major overland flowpath

Means an *overland flowpath* with a contributing catchment of 2 hectares or more.

~~Note: The Council holds publicly available information showing the modelled extent of major overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the major overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of major overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of major overland flowpath does not apply to land which is shown as being outside the major overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the major overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the major overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative major overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the major overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative major overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

minor overland flowpath

Means an *overland flowpath* with a contributing catchment which is less than 2 hectares in area.

~~Note: The Council holds publicly available information showing the modelled extent of minor overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the minor overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of minor overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The minor overland flowpath map is indicative only, although Council accepts that the definition of minor overland flowpath does not apply to land which is shown as being outside the minor overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the minor overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the minor overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative minor overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the minor overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative minor overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

social and cultural building

For the purpose of *Chapter 8 – Natural Hazards*, means *buildings and structures* for places of worship, art galleries, museums, libraries, ~~community centres~~, community halls, clubrooms, rest homes and education facilities.

stormwater management devices

Means a device or facility used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge. This includes but is not limited to:

- a) rain gardens and swales;
- b) ~~designed~~ permeable paving with below ground storage;
- c) rainwater tank;
- d) infiltration trenches;
- e) sand filters;
- f) green roofs;
- g) wetlands;
- h) ponds; ~~and~~
- i) proprietary treatment devices; and
- j) soakholes and soakpits.

overland flowpath

Means the land overflowed by a concentrated flow of water resulting from a 1% *annual exceedence probability (AEP)* rainfall event concurrent with a 5% *annual exceedence probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130, as it flows towards the stormwater network, streams, rivers, harbour or the coast. *Overland flowpath* includes a secondary flowpath which is activated when the primary (often piped) stormwater system gets blocked or when the capacity of the piped system is exceeded. For the purposes of this definition, an *overland flowpath* includes an artificially designed route using formed or hard surfaces.

~~Note: The Council holds publicly available information showing the modelled extent of overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of overland flowpath does not apply to land which is shown as being outside the overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

Chapter 4 – General Rules

4C.2.1 Exemptions to the Permitted Activity Rules

- a) The following *activities* are permitted and exempt from *Rule 4C.2.2 – All Zones through Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas* 4C.2.9 High-Voltage Transmission Plan Area:
- i) *Earthworks* consented as part of a *subdivision* consent approved by *Council* where the scope and extent of *earthworks* has been specifically described in the application in accordance with *Rule 12B.3.1.5 – Earthworks; Rule 12C.3.1.3 – Earthworks, Rule 12D.3.1.2 – Earthworks; or Rule 12E.3.1.4 – Earthworks;*
 - ii) *Earthworks* in the *Road Zone*;
 - iii) *Earthworks* associated with the maintenance, renewal and *minor upgrading (in relation to electric lines)* of *network utilities* listed in *Chapter 10 – Network Utilities and Designations* subject to *Rule 10A.5.9 – Establishment, Maintenance or Demolition of a Network Utility*;
 - iv) *Earthworks* associated with the construction of *stormwater reserves*.
 - v) *Earthworks* for domestic gardening;
 - vi) *Earthworks* for grave digging;
 - vii) *Earthworks* for archaeological investigations authorized by Heritage New Zealand, subject to the written approval of Transpower being clearly endorsed on all relevant investigation *site* plans where those investigations occur within the High Voltage Transmission Plan Area identified on the *Plan Maps, Part B*.
- b) The following *activities* are permitted and exempt from *Rule 4C.2.10 Floodplains, Major Overland Flowpaths and Flood Prone Areas*:
- i) *Earthworks consented as part of a subdivision consent approved by Council where the scope and extent of earthworks has been specifically described in the application in accordance with Rule 12B.3.1.5 – Earthworks; Rule 12C.3.1.3 – Earthworks, Rule 12D.3.1.2 – Earthworks; or Rule 12E.3.1.4 – Earthworks;*
 - ii) *Earthworks in the Road Zone.*

4C.3.2.7 For Earthworks in Floodplains, Major Overland Flowpaths and Flood Prone Areas

In considering *earthworks* that do not comply with *Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk;
- b) The extent to which the proposal avoids any increase in flood risk on other neighbouring properties or properties upstream or downstream;
- c) The effects of the decrease of water storage or flood conveyance capacity of the major overland flowpath or floodplain;
- d) ~~Consistency with the objectives and policies in Chapter 8D – Flooding from Intense Rainfall.~~

Chapter 8 – Natural Hazards

8A Purpose of the Natural Hazards Provisions

Council must recognise and provide for the management of significant risks from *natural hazards* as a matter of national importance.

The City is located on land that is geologically sensitive and partly in direct proximity to a dynamic *coastal environment*. It is also located within a volcanically active region which may present localised effects.

Natural hazards are defined in the *Resource Management Act*. *Natural hazards* identified within the Tauranga City environs include, but are not limited to:

- a) Earthquake induced subsidence and/or flooding, including liquefaction;
- b) Instability induced by highly compressible soils;
- c) Erosion and land slippage associated with relic land slips and slip debris or overly steep topography;
- d) Flooding associated with intense rainfall;
- e) Flooding associated with sea-level rise;
- f) Tsunami or coastal inundation and coastal erosion along and within the open and harbour coastlines.

Two key pieces of legislation empower *Council* to regulate ~~manage and control~~ *natural hazards*; the Resource Management Act 1991 and the Building Act 2004. Under the Resource Management Act 1991, *subdivision*, use and development is required to avoid, remedy or mitigate the effects of *natural hazards*.

The Building Act 2004 confers ~~has~~ similar responsibilities when granting *building* consents on land subject to specified *natural hazards*, with certain exceptions.

The emphasis in regulating ~~the management of~~ *natural hazards* is to encourage people to avoid situations in which they, or their property, could be at risk.

Under the Local Government Act 2002, *Council* is required to plan for the management of its infrastructure assets, including flood protection and control works.

Council will take an integrated and catchment-wide approach to the management of stormwater and flooding through the use of comprehensive stormwater consents, catchment management plans and infrastructure upgrades.

Subdivision, use and development, and the protection of natural and physical resources contained within an area subject to, or likely to be subject to, a *natural hazard* are subject to the provisions in this Chapter.

The plan provisions take a risk management approach to controlling *activities* by assessing the level of risk according to the likelihood of *natural hazards* occurring and their potential consequence.

Flood hazard risk has been considered in terms of the following three category risk framework:

- a) High *natural hazard* risk is a level of risk beyond what should be tolerated;
- b) Medium *natural hazard* risk is a level of risk that exceeds the low level but does not meet the criteria for High risk; and

- c) Low *natural hazard* risk is the level of risk generally acceptable.

A low *natural hazard* risk must be achieved on development *sites* after completion of the development, without increasing risk outside of the development *site*.

8C.1.1 Objective - Avoidance or Mitigation in the Flood Hazard Plan Area

The adverse effects to property and the *environment* from flooding caused by harbour inundation are avoided or mitigated.

8C.1.1.1 Policy - Avoidance or Mitigation in the Flood Hazard Plan Area

By ensuring *subdivision*, use and development in the Flood Hazard Plan Area ~~flood hazard plan area~~ is avoided or mitigated, unless:

- a) The risk to *buildings, structures* and surrounding properties is mitigated against;
- b) The natural functioning of flood plains or low-lying land as ponding areas is protected.

8D Purpose of Flooding from Intense Rainfall Provisions

The purpose of this section is to manage *activities affected by* related to flood hazards from intense rainfall, so that risk is not increased and is reduced over time.

The nature of risk and appropriate mitigation for intense rainfall related flooding can vary depending on the nature of the flood area. *Council* has therefore defined three types of flooding areas from intense rainfall events: *floodplains, overland flowpaths* and *flood prone areas*.

The purpose of these categories is to enable targeted control of *activities* which may introduce risk or adverse effects, while allowing *activities* which may be appropriate in or adjacent to the flood area. This section adopts the 1% *AEP* rainfall event taking into account climate change and sea level rise to give effect to the Bay of Plenty Regional Council Regional Policy Statement.

Floodplains are situated next to a river or stream. They carry out the important function of water storage and flood flow conveyance during a flood event. Development within a *floodplain* can cause an increase in flood risk, by either placing more people and assets within an area likely to be affected by flooding, and/or by increasing flood flows through loss of storage and conveyance function and diversions of flows such that additional adverse effects occur.

Overland flowpaths are part of the stormwater system to safely convey flood flows, which cannot get into or cannot be conveyed by the primary stormwater system and need to be managed in order to reduce nuisance or damage caused by flooding. *Overland flowpaths throughout the City are often located on public roads and reserves.* *Overland flowpaths* have been delineated into following categories:

- a) *Minor overland flowpath*: has a contributing catchment of less than 2ha.
- b) *Major overland flowpath*: has a contributing catchment of 2ha or more, meaning that the flowpath function serves a larger area. There is potentially greater onsite risk in a *major overland flowpath* and the possibility that the *major overland flowpath* will affect larger upstream and downstream land area than a *minor overland flowpath*.

Flood prone areas are areas which are flooded in a 1% *AEP* event, however, unlike *floodplains* and *overland flowpaths*, the flow of the water is much slower. Therefore, it is possible to develop in *flood prone areas* in certain circumstances provided flood risk to life and property is low or is mitigated.

Risk can vary on a site-by-site basis and the level of risk will inform the mitigation required.

Council holds publicly available information showing the modelled extent of *floodplains*, *overland flowpaths* and *flood prone areas*, which identify the locations and extent of these flood types. The maps are non-statutory and indicative only. *Council* will update the maps, including where further relevant *site-specific* information becomes available and to account for catchment changes as a result of infrastructure and land development. *Council* will consider publicly held *site-specific* information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the *floodplains*, *overland flowpath* and *flood prone area* definitions to a particular *site*.

The Tauranga City Council Flooding from intense rainfall guideline is publicly available to aid in the understanding of the modelling and implementation of provisions in relation to flooding from intense rainfall. The guideline is non-statutory and will be periodically reviewed and updated by the *Council* as needed.

8D.1 Objectives and Policies for Areas Subject to Flooding from Intense Rainfall

8D.1.1.1 Policy – Floodplains - General

Maintain the conveyance function and storage capacity of *floodplains* by:

- a) Restricting the infilling of *floodplains*; and
- b) Restricting *activities* and *subdivision* within the *floodplain*; ~~and~~
- c) ~~Restricting urban development and~~ *subdivision* within the *floodplain*.

8D.1.1.2 Policy - Overland Flowpaths - General

Maintain the function of *overland flowpaths* to safely convey flood water and reduce risk to life, property and *infrastructure* by:

- a) Maintaining the water carrying capacity of an *overland flowpath*;
- b) Maintaining the water storage capacity of a *major overland flowpath*;
- c) ~~Restricting~~ Ensuring *activities* that may do not obstruct an *overland flowpath*;
- d) Ensuring that the risk of flooding is ~~not transferred~~ to other people, property or *infrastructure* is not increased; and
- e) Ensuring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*; and
- f) Demonstrating that a safe evacuation route or refuge during flood events is provided.

8D.1.1.3 Policy – Floodplains and Overland Flowpaths - Critical Buildings and Social and Cultural buildings

~~Manage activities to r~~Reduce the risk to life and property by from flooding including:

- a) Avoiding new *critical buildings* being located within *floodplains* and *overland flowpaths*;
- b) Avoiding new *social and cultural buildings* being located within *floodplains* and *overland flowpaths*; and
- c) Restricting additions to existing *buildings* located within *floodplains* and *overland flowpaths*.

8D.1.1.4 Policy – Flood Prone Area - General

Requiring new *buildings* and additions to existing *buildings* (other than *social and cultural buildings* and *critical buildings*) within the *flood prone area* to mitigate risks from flood hazards by:

- a) Requiring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*
- b) Ensuring that the risk of flooding is ~~not transferred~~ to other people, property or *infrastructure* is not increased; and
- c) Ensuring that *business* and *industrial activities* are designed to minimise damage to goods and internal fittings caused by flooding.

8D.1.1.5 Policy – Flood Prone Area – Social and Cultural Buildings and Critical Buildings

~~Manage activities to~~ Reduce the risk of flooding in *flood prone areas* by:

- a) Requiring new *social and cultural buildings* and *critical buildings* to be located outside *flood prone areas*; and
- b) Requiring the additions or alterations to existing *social and cultural building* and *critical buildings* located within *flood prone areas* to mitigate risks from flood hazard by:
 - i) Ensuring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*; and
 - ii) Ensuring that the risk of flooding is ~~not transferred~~ to other people, property or *infrastructure* is not increased; and
 - iii) Demonstrate that a safe evacuation route or refuge during flood events is provided; and
 - iv) Ensuring *buildings* are designed to minimise damage caused by flooding; and
 - v) For *critical buildings* located within a *flood prone area*, ensuring that the *activity* within the *critical building* continues in its normal function during and after a 1% *AEP* rainfall event concurrent with a 5% *AEP storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

**PLAN CHANGE 27: FLOODING FROM INTENSE RAINFALL – HEARING PANEL DECISIONS
VERSION TEXT**

8D.2 Activity Status Rules (Flooding from Intense Rainfall)

8D.2.1 Activities within Floodplains, Overland Flowpaths and Flood Prone Areas

All activities within overland flowpaths, floodplains and flood prone areas shall have the status identified in Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area). Symbols used in Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area) have the meaning described in Table 1A.2: Activity Status.

Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area)

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
Additions to any lawfully established <i>buildings</i> unless otherwise stated in this table	-	P (Refer Rule 8D.3.4)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.6)	P (Refer Rule 8D.3.6)
Additions to existing lawfully established <i>Social and Cultural buildings</i> and <i>Critical buildings</i>	-	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	P (Refer Rule 8D.3.6)	P (Refer Rule 8D.3.6)
<i>Childcare or homebased childcare</i> within the <i>flood prone area</i>	-	n/a	n/a	n/a	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)
Flood mitigation works within a <i>minor overland flowpath</i>	-	n/a	P (Refer Rule 8D.3.2)	n/a	n/a	n/a
<i>New Marae</i>	-	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)
<i>New business activities</i> and <i>industrial activities</i>	-	D (Refer Rule 8D.5)	RD (Refer Rule 8D.4.2.2)	RD (Refer Rule 8D.4.2.3)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)

**PLAN CHANGE 27: FLOODING FROM INTENSE RAINFALL – HEARING PANEL DECISIONS
VERSION TEXT**

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
<i>New residential building</i>	-	D (Refer Rule 8D.5)	RD (Refer Rule 8D.4.2.2)	RD (Refer Rule 8D.4.2.3)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)
<i>New Social and Cultural buildings and Critical buildings</i>	-	NC (Refer Rule 8D.6)	NC (Refer Rule 8D.6)	NC (Refer Rule 8D.6)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)
<i>New Structures unless otherwise stated in this table</i>	-	P (Refer Rule 8D.3.4)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.5)	P (Refer Rule 8D.3.5)
<u>Formation of new roads within the legal road</u>	<u>8D.3</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<i>Operation, maintenance, renewal, repair and minor upgrading of any infrastructure</i>	8D.3	P	P	P	P	P
<i>Operation, maintenance, renewal, repair and minor infrastructure upgrading of land drainage works and stormwater management devices</i>	8D.3	P	P	P	P	P
<i>Operation, maintenance, renewal and repair of road network activities within the legal road or road formation width</i>	8D.3	P	P	P	P	P

PLAN CHANGE 27: FLOODING FROM INTENSE RAINFALL – HEARING PANEL DECISIONS VERSION TEXT
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Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
Temporary activities	8D.3	P	P	P	P	P
Temporary Storage Areas	-	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.5)	P (Refer Rule 8D.3.5)
Walls and Fences	8D.3.1	P	P	P	n/a	n/a

8D.2.2 Flood Prone Areas

Any building or structure, ~~excluding other than an~~ in-ground swimming pools, located in a flood prone area shall be either:

- a) Located in an area that has a *flood depth* of less than 300mm with the following minimum *freeboard* level:
 - i) 500mm for *habitable rooms* in *residential buildings* and *Marae*;
 - ii) 300mm for *business activities* and *industrial activities*; or
- b) Located in an area that has a *flood depth* of 300mm or more and shall not exceed 20m² at ground floor level.

8D.2.3 Non-Notification

Any resource consent application made under Rule 8D.4 – *Restricted Discretionary Activity Rules* shall be considered without public ~~or limited~~ notification.

8D.2.4 Restricted Discretionary Activities - Matters of Discretion

8D.4.2.1 Walls and Fences

In considering *activities* that do not comply with Rule 8D.3.1 – *Walls and Fences*, the Council restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood hazard;
- b) The extent to which the proposal changes flood hazard on ~~neighbouring other~~ properties ~~or properties further downstream or upstream~~ and how any potential impacts from these changes will be mitigated;
- c) The extent to which the proposal maintains ~~provides for~~ the conveyance of the water in the *floodplain* or *overland flowpath*.

8D.4.2.2 Minor Overland Flowpaths

In considering *activities* that do not comply with *Rule 8D.3.2 – Minor Overland Flowpaths* or which are classified as *Restricted Discretionary Activities* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal changes the entry and/or the exit points of the *overland flowpath* and how the any potential impacts from any these changes will be mitigated;
- b) The extent to which the proposal mitigates on *site* flood hazard caused by the *overland flowpath*, including setting of minimum *freeboard* level;
- c) The extent to which the proposal changes the flood hazard on other properties ~~caused by the *overland flowpath* on neighbouring properties or properties upstream or downstream~~ and how the any potential impacts from these of that changes will be mitigated;
- d) The extent to which the proposal mitigates erosion caused by the *overland flowpath* on *site* or downstream;
- e) The extent to which the proposal provides for the conveyance of water in a *minor overland flowpath*;
- f) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;
- g) The extent to which the proposal provides for access and maintenance to maintain safe passage of water and minimise risk in an intense rainfall event.

8D.4.2.3 Floodplains and Major Overland Flowpaths

In considering *activities* that do not comply with *Rule 8D.3.3 – Major Overland Flowpaths and Floodplains*, *Rule 8D.3.4 – Additions in Floodplains* or which are classified as *Restricted Discretionary Activities* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts from these of that changes will be mitigated;
- c) The effects of any decrease of water storage capacity of the *floodplain* or *major overland flowpath*;
- d) The extent to which the proposal provides for the conveyance of water ~~in the *major overland flowpath* or *floodplain*~~;
- e) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;
- f) The extent to which mitigation measures are taken so that goods and material stored outdoors do not move and cause damage to any buildings or cause blockage of an *overland flowpath* or *floodplain*;
- g) The extent to which mitigation measures are taken so that the design of any the car parking ensures that vehicles do not move and cause damage to any *buildings* or cause blockage of an *overland flowpath* or *floodplain*;-

- h) The extent to which changes in levels within the road network result in increased flood risk on neighbouring properties or properties further downstream or upstream and how any potential impacts from these changes will be mitigated.

8D.4.2.4 Flood Prone Areas

In considering *activities* that do not comply with *Rule 8D.3.5 – Flood Prone Areas*, the *Council* limits the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The provision for a safe evacuation route or refuge for people during flood events;
- c) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts ~~from these~~ of that changes will be mitigated;
- d) The extent to which the proposal will affect the *Council* drainage system or other properties, ~~neighbouring properties or properties upstream or downstream~~ when the stormwater is removed from the *building* after a flood event;
- e) The extent to which internal fittings are set above the *flood level*;
- f) For *business activities* and *industrial activities*, the extent to which any generators, internal fittings and any goods are protected from flood damage;
- ~~g) The extent to which any other specific design for an activity will increase flood risk on site, on neighbouring properties and on properties further downstream.~~

8D.4.2.5 Additions in Flood Prone Areas

In considering *activities* that do not comply with *Rule 8D.3.6 – Additions in Flood Prone Areas*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts ~~from these~~ of that changes will be mitigated;
- c) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;
- d) The extent to which the proposal ensures that the *activity* within the *critical building* continues in its normal function during and after a 1% *AEP* rainfall event concurrent with a 5% *AEP storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

Chapter 12 - Subdivision, Services and Infrastructure

12A.6.3.8 Subdivision partly within the Floodplain

In considering *subdivision* of a *site* partly within the *floodplain* the *Council* restricts the exercise of its discretion to the following matters:

- a) The extent to which the *subdivision* demonstrates the feasibility of *activities* to occur outside of the *floodplain*, including new *structures*, on site wastewater systems and onsite *stormwater management devices*.
- b) The extent to which the *subdivision* provides access to the *floodplain* for maintenance and emergency works.
- c) The extent to which the *floodplain* located on private land needs to be is protected by an easement in favour of the *Council*.
- d) The provision and location of recreation *reserves*, *esplanade reserves* or *esplanade strips* on the *floodplain* and any vesting that may be required to achieve this.

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2025] NZEnvC 93

IN THE MATTER

of the Resource Management Act 1991

AND

appeals under cl 14 of Schedule 1 of
the Act

BETWEEN

**BLUEHAVEN MANAGEMENT
LIMITED**

(ENV-2022-AKL-115)

**URBAN TASKFORCE FOR
TAURANGA INCORPORATED**

(ENV-2022-AKL-118)

Appellants

AND

TAURANGA CITY COUNCIL

Respondent

Environment Judge K G Reid – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 27 March 2025

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

¹ Resource Management Act 1991.



- (1) the appeals are allowed to the extent that the provisions are amended in accordance with Appendix 1 to this order; and
- (2) the appeals are otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] These appeals relate to the decision of Tauranga City Council (City Council) on the proposed Plan Change 27 (PC 27) to the Tauranga City Plan (City Plan).

[2] PC 27 includes objectives, policies and rules to manage flood hazards from intense rainfall. The planning framework differentiates between three types of flood area: floodplains, overland flowpaths (minor or major) and flood prone areas. Each of these has a different approach, reflected in the objectives, policies, activity classifications and standards.

[3] These flood hazard areas are prescribed in definitions which specify key parameters (1% AEP, year 2130 climate and RCP 8.5 median scenario). The decisions version of PC 27 included notes under the definitions referring to indicative maps that sit outside the Tauranga City Plan. Requirements for resource consent are triggered by activities being proposed in areas which satisfy the parameters specified in the definitions.

[4] PC 27 was notified on 16 November 2020, following an initial feedback process involving the development community, Tauranga Moana Iwi and Hapū, and Iwi authorities. Submissions on PC 27 were heard by Independent Hearing Commissioners from 30 November 2021 to 2 December 2021. In their decision dated 21 March 2022, the Independent Hearing Commissioners recommended that PC 27 be approved with amendments to the notified version.

[5] Appeals against PC 27 were lodged by Bluehaven Management Limited (Bluehaven), Urban Taskforce for Tauranga Inc (UTF) and Aotearoa Park Developments Limited (APDL) on 20 May 2022, although the appeal by APDL was subsequently withdrawn.

[6] The following parties have an interest in the appeals under s274 of the RMA and have signed the memorandum setting out the relief sought:

ENV-2022-AKL-000115: Bluehaven Management Limited v Tauranga City Council

- Bay of Plenty Regional Council
- Kāinga Ora - Homes and Communities
- Palm Springs Limited
- Te Kapu O Waitaha Iwi Trust
- UTF

ENV-2022-AKL-000118: Urban Taskforce for Tauranga Incorporated v Tauranga City Council

- Barrett Homes Limited
- Bay of Plenty Regional Council
- Bluehaven
- Classic Developments NZ Limited
- Colchester Capital Limited
- Element IMF Limited
- JWL Investment Trust
- Kāinga Ora - Homes and Communities
- Peter Linde
- Erin Nicholson
- Peter Nicholson
- Vojtech Nosek
- Palm Springs Limited

- RGB Holdings Limited
- Adam Ross
- Sun Pacific Villas Body Corporate S45940/ John Pullar
- Tauranga Property Consortium No.1 Limited Partnership
- Te Kapu O Waitaha Iwi Trust
- Te One Trust
- Zariba Holdings Limited

[7] Court-assisted mediation took place in Tauranga on 11 and 12 October 2022. Following mediation, the parties have been engaged in discussions to resolve the appeals without the need for a court hearing.

Agreement reached

[8] Subject to approval by the court, the parties have agreed to amend PC 27 as follows:

- (a) changes to the notes for the flood hazard area definitions (floodplains, overland flowpaths (minor or major) and flood prone areas) to clarify the relationship between site-specific technical reports or more up-to-date information and the City Council's GIS layer, in particular:
 - (i) the GIS layer is indicative, but the City Council accepts that the flood hazard area definitions do not apply to land which is shown as being outside the flood hazard areas on the indicative GIS layer;
 - (ii) the City Council will accept a site-specific technical report as prevailing over the indicative maps depicted in the GIS layer, provided the report uses the parameters in the flood hazard area definitions and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the flood hazard area; and
 - (iii) where the City Council's stormwater model has been updated

utilising more up-to-date or site-specific information, this will prevail over the indicative flood hazard areas depicted in the GIS layer.

- (b) changes to the definitions of social and cultural building and stormwater management devices for clarity;
- (c) changes to clarify the status of activities in the Road Zone, the status of new roads within flood hazard areas and include a matter of discretion relating to changes in levels – Rule 4C.2.1, Section 8D Purpose, Table 8D.1 and Matter of Discretion 8D.4.2.3;
- (d) changes so as to not preclude limited notification of restricted discretionary activities – Rule 8D.2.3;
- (e) various other amendments for clarity, consistency and brevity including:
 - (i) changes to the Section 8A Purpose to clarify the City Council’s role as an infrastructure provider;
 - (ii) changes to substitute references to “neighbouring properties or properties upstream or downstream” with the more concise words “other properties” – Rule 4C.3.2.7 and Matters of Discretion 8D.4.2.1, 8D.4.2.2, 8D.4.2.3, 8D.4.2.4 and 8D.4.2.5;
 - (iii) changes to use more accurate language to refer to flood risk being “not increased” rather than “not transferred” – Policy 8D.1.1.2, Policy 8D.1.1.4 and Policy 8D.1.1.5;
 - (iv) changes to use clearer language which focuses on ensuring that activities do not obstruct an overland flowpath rather than restricting activities that *may* obstruct an overland flowpath – Policy 8D.1.1.2;
 - (v) changes to use clearer language which focuses on reducing risk rather than managing activities – Policy 8D.1.1.3 and Policy 8D.1.1.5; and
 - (vi) other minor changes – Rule 4C.3.2.7, Policy 8C.1.1.1, Policy 8D.1.1.1, Rule 8D.2.2, Rule 8D.4.2.1, Rule 8D.4.2.2, Rule 8D.4.2.3 and Rule 12A.6.3.8.

Consideration

[9] In making these orders the court has read and considered:

- (a) the City Council's decision on PC 27;
- (b) the notices of appeal filed by the appellants; and
- (c) the joint memorandum of counsel in support of the draft consent order dated 29 November 2024.

[10] The court is making this order under s279(1)(b) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s279. The court understands for present purposes that:

- (a) all parties to the proceedings agree to the granting of the consent order; and
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction and satisfy the relevant considerations under the RMA and relevant statutory planning documents.

Outcome

[11] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



K G Reid
Environment Judge





**APPENDIX 1 – AMENDMENTS
TO PROPOSED PLAN CHANGE**



TAURANGA CITY COUNCIL

OPERATIVE CITY PLAN

Plan Change 27 - Flooding from intense rainfall

Chapter 3 - Definitions

annual exceedance probability (AEP)

Means the probability that a *natural hazard* event of a certain size will occur, or will be exceeded, in a time of one year.

critical buildings

Means *activities*, landuse, *buildings* and *structures*:

- a) Operated by agencies assisting the public in times of emergency, including Fire and Emergency New Zealand, the New Zealand Police, the Coastguard and ambulance services (including air ambulance services);
- b) Public and private hospitals and other similar facilities providing emergency medical services;
- c) Civic Defence Emergency centres

flood depth

Means the depth of water measured from the ground to the top water level in a flood.

flood level

Means the top water level in the 1% *annual exceedance probability (AEP)* rainfall event concurrent with a 5% *annual exceedance probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

floodplain

Means the land near a stream or river channel, susceptible to flooding in the 1% *annual exceedance probability (AEP)* rainfall event concurrent with a 5% *annual exceedance probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

~~Note: The Council holds publicly available information showing the modelled extent of floodplain(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the floodplain definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of floodplain(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of floodplain does not apply to land which is shown as being outside the floodplain on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the floodplain definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the floodplain. The Council will accept such a site-specific technical report as prevailing over the indicative floodplain map depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the floodplain.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative floodplain depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

flood prone area

Means the land susceptible to flooding in the 1% *annual exceedence probability (AEP)* rainfall event concurrent with a 5% *annual exceedence probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130, but is not within the definition of *overland flowpath* or *floodplain*.

~~Note: The Council holds publicly available information showing the modelled extent of flood prone area(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the flood prone area definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of flood prone area(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of flood prone area does not apply to land which is shown as being outside the flood prone area on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the flood prone area definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the flood prone area. The Council will accept such a site-specific technical report as prevailing over the indicative flood prone area depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the flood prone area.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative flood prone area depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

freeboard

Means the minimum height of the finished floor level above the *flood level*.

habitable room

Means any room used for the purposes of teaching or used as a living room, dining room, sitting room, bedroom and office or other room specified in *the Plan* to be a similarly occupied room.

impervious surfaces

Means an area with a surface which prevents the infiltration of rainfall into the ground. For the purposes of this definition *impervious surfaces* include:

- a) roofs;
- b) paved areas including driveways and sealed/compacted unsealed parking areas;
- c) swimming pools;
- d) sealed and compacted unsealed roads; and
- e) soil layers engineered to be impervious such as compacted clay.

For the purposes of this definition *impervious surfaces* excludes:

- a) any natural surface;
- b) grass and bush areas;
- c) gardens and other vegetated areas;
- d) porous or permeable paving and living roofs;
- e) permeable artificial surfaces, fields or lawns;
- f) slatted decks; and
- g) *stormwater management devices* not located beneath sealed or compacted surfaces.

land drainage works

Means drainage works of any sort, including the making of drains for receiving water in its natural flow and diverting the same to prevent its overflow on to any other lands on a lower level, as well as drains for carrying off water from any lands.

major overland flowpath

Means an *overland flowpath* with a contributing catchment of 2 hectares or more.

~~Note: The Council holds publicly available information showing the modelled extent of major overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the major overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of major overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although

Council accepts that the definition of major overland flowpath does not apply to land which is shown as being outside the major overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the major overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the major overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative major overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the major overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative major overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

marae

Means a specific area containing a complex of *buildings* which a hapū regards as their base for hosting meetings and other ceremonial occasions (hui).

minor overland flowpath

Means an *overland flowpath* with a contributing catchment which is less than 2 hectares in area.

~~Note: The Council holds publicly available information showing the modelled extent of minor overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the minor overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of minor overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The minor overland flowpath map is indicative only, although Council accepts that the definition of minor overland flowpath does not apply to land which is shown as being outside the minor overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the minor overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the minor overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative minor overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the minor overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative minor overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

social and cultural building

For the purpose of *Chapter 8 – Natural Hazards*, means *buildings and structures* for places of worship, art galleries, museums, libraries, ~~community centres~~, community halls, clubrooms, rest homes and education facilities.

storm-tide event

Means the total observed seawater level which is the combination of storm surge and normal high tide.

stormwater management devices

Means a device or facility used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge. This includes but is not limited to:

- a) rain gardens and swales;
- b) ~~designed~~ permeable paving with below ground storage;
- c) rainwater tank;
- d) infiltration trenches;
- e) sand filters;
- f) green roofs;
- g) wetlands;
- h) ponds;
- i) proprietary treatment devices; and
- j) soakholes and soakpits.

overland flowpath

Means the land overflown by a concentrated flow of water resulting from a 1% *annual exceedence probability (AEP)* rainfall event concurrent with a 5% *annual exceedence probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130, as it flows towards the stormwater network, streams, rivers, harbour or the coast. *Overland flowpath* includes a secondary flowpath which is activated when the primary (often piped) stormwater system gets blocked or when the capacity of the piped system is exceeded. For the purposes of this definition, an *overland flowpath* includes an artificially designed route using formed or hard surfaces.

~~Note: The Council holds publicly available information showing the modelled extent of overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although

Council accepts that the definition of overland flowpath does not apply to land which is shown as being outside the overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

Chapter 4 – General Rules

4C.1.1.3 Policy – Flood Hazard Plan Area

By ensuring the potential adverse flooding effects to property are minimised where earthworks occur on land containing watercourses, overland flow paths, ponding areas and/or land subject to inundation by harbour and coastal waters.

4C.2.1 Exemptions to the Permitted Activity Rules

- a) The following *activities* are permitted and exempt from *Rule 4C.2.2 – All Zones through Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas* 4C.2.9 High-Voltage Transmission Plan Area:
- i) *Earthworks* consented as part of a *subdivision* consent approved by *Council* where the scope and extent of *earthworks* has been specifically described in the application in accordance with *Rule 12B.3.1.5 – Earthworks; Rule 12C.3.1.3 – Earthworks, Rule 12D.3.1.2 – Earthworks; or Rule 12E.3.1.4 – Earthworks;*
 - ii) *Earthworks* in the *Road Zone*;
 - iii) *Earthworks* associated with the maintenance, renewal and *minor upgrading (in relation to electric lines)* of *network utilities* listed in *Chapter 10 – Network Utilities and Designations* subject to *Rule 10A.5.9 – Establishment, Maintenance or Demolition of a Network Utility*;
 - iv) *Earthworks* associated with the construction of *stormwater reserves*.
 - v) *Earthworks* for domestic gardening;
 - vi) *Earthworks* for grave digging;
 - vii) *Earthworks* for archaeological investigations authorized by Heritage New Zealand, subject to the written approval of Transpower being clearly endorsed on all relevant investigation *site plans* where those investigations occur within the High Voltage Transmission Plan Area identified on the *Plan Maps, Part B*.
- b) The following activities are permitted and exempt from *Rule 4C.2.10 Floodplains, Major Overland Flowpaths and Flood Prone Areas*:
- i) *Earthworks consented as part of a subdivision consent approved by Council where the scope and extent of earthworks has been specifically described in the application in accordance with Rule 12B.3.1.5 – Earthworks; Rule 12C.3.1.3 – Earthworks, Rule 12D.3.1.2 – Earthworks; or Rule 12E.3.1.4 – Earthworks;*
 - ii) *Earthworks in the Road Zone.*

4C.2.2 All Zones

In addition to *Rule 4C.2.3 – Tauriko Business Estate* through to *Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas*, *earthworks* are a Permitted Activity providing:

- a) They are ancillary to the physical works required to establish a Permitted Activity within that zone;

- b) Any *earthworks*, exposing more than 100m² of area shall apply, as a minimum, the following erosion and sediment control measures (where applicable) to control sediment within the *site(s)* upon which the *earthworks* are occurring:
- i) A single access is constructed and used to prevent vehicle tracking of material off the *site(s)*;
 - ii) Stormwater inlet protection, a perimeter silt fence or other barrier is installed;
 - iii) Material stockpiles are placed upslope of the silt fence or other barrier and are covered when not in use;
 - iv) Temporary or permanent downpipes are connected to the stormwater system;
 - v) Surface water is diverted away from, or prevented from, running over bare soil; and
 - vi) Sediment-laden water from the works area is treated on the *site(s)*.

Rule 4C.2.2 b) shall not apply to *earthworks* that: have resource consent under the Bay of Plenty Regional Council Regional Natural Resources Plan or are ancillary to *primary production*;

Note: Council's Sediment and Erosion Control Guideline provides guidance and examples of sediment and erosion control measures/materials for different site circumstances to assist the selection of the best practice measures for erosion and sediment control.

Note: The Bay of Plenty Regional Council also has Erosion and Sediment Control Guidelines for Land Disturbing Activities which apply to activities/consents under the Bay of Plenty Regional Council Regional Natural Resources Plan.

- c) Any single cut on a *site* 1.5 metres in height or higher (either as a single cut or combination of cuts) where the angle of cut is 45° or greater is retained either before *construction* of any *building* foundations or retained no later than 3 months after that cut being created. This rule shall not apply to *earthworks* in the Rural Zone unless those *earthworks* are associated with *construction* of a *building*;
- d) They do not take place within the *drip-line* of a *Notable Tree* or *Heritage Tree*;
- e) They do not take place on any *site* that includes *potentially contaminated land*, unless:
 - i) A consent for remediation has been obtained from the Bay of Plenty Regional Council;
 - ii) A *site* investigation report prepared by a suitably qualified contaminated *site* investigator is submitted to the *Council* in accordance with Ministry for the Environment Guideline No.1 – Reporting on Contaminated Sites in New Zealand demonstrating that either the *site* does not have *potentially contaminated land* or the *potentially contaminated land* is separated from the *earthworks* by a safe distance (determined by the substance causing soil contamination);
 - iii) Consent has been obtained pursuant to *Rule 9B.3 – Restricted Discretionary Rules*;
 - iv) The provisions of *Rule 9B.2.1 – Applicability to Subdivision and Land Use* apply;
- f) They are associated with sub-surface investigations of contaminated and *potentially contaminated land* to determine the presence, extent and nature of any contamination. This work shall be coordinated by a suitably qualified contaminated *site* investigator.

4C.2.10 Floodplains, Major Overland Flowpaths and Flood Prone Areas

In addition to *Rule 4C.2.2 – All Zones*, *earthworks* carried out between the *ground level* that existed at 16 November 2020 and the top *flood level* within a *floodplain*, *major overland flowpath* or *flood prone area* shall:

- a) Not exceed 10m³ in net volume of fill above the *ground level* that existed at 16 November 2020; and
- b) Not raise *ground levels* by more than 300mm above the *ground level* that existed at 16 November 2020.

This rule shall not apply to *earthworks* that are ancillary to *primary production* or *earthworks* that are ancillary to the maintenance of stormwater assets, *public recreational facilities* and *activities* and *minor public recreational facilities and activities*.

Note: For the avoidance of doubt, non-compliance with both 4C.2.2 a) and 4C.2.2 b) is a Restricted Discretionary Activity in accordance with Rule 4C.3 – Restricted Discretionary Activity Rules.

4C.3.2.7 For Earthworks in Floodplains, Major Overland Flowpaths and Flood Prone Areas

In considering *earthworks* that do not comply with *Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk;
- b) The extent to which the proposal avoids any increase in flood risk on other neighbouring properties ~~or properties upstream or downstream~~;
- c) The effects of the decrease of water storage or flood conveyance capacity of the major overland flowpath or floodplain;
- d) ~~Consistency with the objectives and policies in Chapter 8D – Flooding from Intense Rainfall.~~

Chapter 8 – Natural Hazards

8A Purpose of the Natural Hazards Provisions

Council must recognise and provide for the management of significant risks from *natural hazards* as a matter of national importance.

The City is located on land that is geologically sensitive and partly in direct proximity to a dynamic *coastal environment*. It is also located within a volcanically active region which may present localised effects.

Natural hazards are defined in the *Resource Management Act*. *Natural hazards* identified within the Tauranga City environs include, but are not limited to:

- a) Earthquake induced subsidence and/or flooding, including liquefaction;
- b) Instability induced by highly compressible soils;
- c) Erosion and land slippage associated with relic land slips and slip debris or overly steep topography;
- d) Flooding associated with intense rainfall;
- e) Flooding associated with sea-level rise;
- f) Tsunami or coastal inundation and coastal erosion along and within the open and harbour coastlines.

Two key pieces of legislation empower *Council* to regulate ~~manage and control~~ *natural hazards*; the Resource Management Act 1991 and the Building Act 2004. Under the Resource Management Act 1991, *subdivision*, use and development is required to avoid, remedy or mitigate the effects of *natural hazards*.

The Building Act 2004 confers ~~has~~ similar responsibilities when granting *building* consents on land subject to specified *natural hazards*, with certain exceptions.

The emphasis in regulating ~~the management of~~ *natural hazards* is to encourage people to avoid situations in which they, or their property, could be at risk.

Under the Local Government Act 2002, *Council* is required to plan for the management of its infrastructure assets, including flood protection and control works.

Council will take an integrated and catchment-wide approach to the management of stormwater and flooding through the use of comprehensive stormwater consents, catchment management plans and infrastructure upgrades.

Subdivision, use and development, and the protection of natural and physical resources contained within an area subject to, or likely to be subject to, a *natural hazard* are subject to the provisions in this Chapter.

The plan provisions take a risk management approach to controlling *activities* by assessing the level of risk according to the likelihood of *natural hazards* occurring and their potential consequence.

Flood hazard risk has been considered in terms of the following three category risk framework:

- a) High *natural hazard* risk is a level of risk beyond what should be tolerated;
- b) Medium *natural hazard* risk is a level of risk that exceeds the low level but does not meet the criteria for High risk; and

c) Low *natural hazard* risk is the level of risk generally acceptable.

A low *natural hazard* risk must be achieved on development *sites* after completion of the development, without increasing risk outside of the development *site*.

8C.1.1 Objective - Avoidance or Mitigation in the Flood Hazard Plan Area

The adverse effects to property and the *environment* from flooding caused by harbour inundation are avoided or mitigated.

8C.1.1.1 Policy - Avoidance or Mitigation in the Flood Hazard Plan Area

By ensuring *subdivision*, use and development in the Flood Hazard Plan Area ~~flood hazard plan area~~ is avoided or mitigated, unless:

- a) The risk to *buildings, structures* and surrounding properties is mitigated against;
- b) The natural functioning of flood plains or low-lying land as ponding areas is protected.

8D Purpose of Flooding from Intense Rainfall Provisions

The purpose of this section is to manage *activities affected by* related to flood hazards from intense rainfall, so that risk is not increased and is reduced over time.

The nature of risk and appropriate mitigation for intense rainfall related flooding can vary depending on the nature of the flood area. *Council* has therefore defined three types of flooding areas from intense rainfall events: *floodplains, overland flowpaths* and *flood prone areas*.

The purpose of these categories is to enable targeted control of *activities* which may introduce risk or adverse effects, while allowing *activities* which may be appropriate in or adjacent to the flood area. This section adopts the 1% *AEP* rainfall event taking into account climate change and sea level rise to give effect to the Bay of Plenty Regional Council Regional Policy Statement.

Floodplains are situated next to a river or stream. They carry out the important function of water storage and flood flow conveyance during a flood event. Development within a *floodplain* can cause an increase in flood risk, by either placing more people and assets within an area likely to be affected by flooding, and/or by increasing flood flows through loss of storage and conveyance function and diversions of flows such that additional adverse effects occur.

Overland flowpaths are part of the stormwater system to safely convey flood flows, which cannot get into or cannot be conveyed by the primary stormwater system and need to be managed in order to reduce nuisance or damage caused by flooding. *Overland flowpaths throughout the City* are often located on public roads and reserves. *Overland flowpaths* have been delineated into following categories:

- a) *Minor overland flowpath*: has a contributing catchment of less than 2ha.
- b) *Major overland flowpath*: has a contributing catchment of 2ha or more, meaning that the flowpath function serves a larger area. There is potentially greater onsite risk in a *major overland flowpath* and the possibility that the *major overland flowpath* will affect larger upstream and downstream land area than a *minor overland flowpath*.

Flood prone areas are areas which are flooded in a 1% *AEP* event, however, unlike *floodplains* and *overland flowpaths*, the flow of the water is much slower. Therefore, it is possible to develop in *flood prone areas* in certain circumstances provided flood risk to life and property is low or is mitigated.

Risk can vary on a site-by-site basis and the level of risk will inform the mitigation required.

Council holds publicly available information showing the modelled extent of *floodplains*, *overland flowpaths* and *flood prone areas*, which identify the locations and extent of these flood types. The maps are non-statutory and indicative only. *Council* will update the maps, including where further relevant *site*-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. *Council* will consider publicly held *site*-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the *floodplains*, *overland flowpath* and *flood prone area* definitions to a particular *site*.

The Tauranga City Council Flooding from intense rainfall guideline is publicly available to aid in the understanding of the modelling and implementation of provisions in relation to flooding from intense rainfall. The guideline is non-statutory and will be periodically reviewed and updated by the *Council* as needed.

8D.1 Objectives and Policies for Areas Subject to Flooding from Intense Rainfall

8D.1.1 Objective - Avoidance or mitigation of flooding from intense rainfall

The flood risk to life, property and *infrastructure* resulting from *subdivision*, use and development of land is reduced over time taking into account the effects of climate change.

8D.1.1.1 Policy – Floodplains - General

Maintain the conveyance function and storage capacity of *floodplains* by:

- a) Restricting the infilling of *floodplains*; and
- b) Restricting *activities* and *subdivision* within the *floodplain*; ~~and~~
- ~~c) Restricting urban development and *subdivision* within the *floodplain*.~~

8D.1.1.2 Policy - Overland Flowpaths - General

Maintain the function of *overland flowpaths* to safely convey flood water and reduce risk to life, property and *infrastructure* by:

- a) Maintaining the water carrying capacity of an *overland flowpath*;
- b) Maintaining the water storage capacity of a *major overland flowpath*;
- ~~c) Restricting~~ Ensuring *activities* that may do not obstruct an *overland flowpath*;
- d) Ensuring that the risk of flooding is ~~not transferred~~ is not increased; and
- e) Ensuring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*; and
- f) Demonstrating that a safe evacuation route or refuge during flood events is provided.

8D.1.1.3 Policy – Floodplains and Overland Flowpaths - Critical Buildings and Social and Cultural buildings

~~Manage activities to~~ Reduce the risk to life and property ~~by~~ from flooding including:

- a) Avoiding new *critical buildings* being located within *floodplains* and *overland flowpaths*;
- b) Avoiding new *social and cultural buildings* being located within *floodplains* and *overland flowpaths*; and

- c) Restricting additions to existing *buildings* located within *floodplains* and *overland flowpaths*.

8D.1.1.4 Policy – Flood Prone Area - General

Requiring new *buildings* and additions to existing *buildings* (other than *social and cultural buildings* and *critical buildings*) within the *flood prone area* to mitigate risks from flood hazards by:

- a) Requiring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*
- b) Ensuring that the risk of flooding is not transferred to other people, property or *infrastructure* is not increased; and
- c) Ensuring that *business* and *industrial activities* are designed to minimise damage to goods and internal fittings caused by flooding.

8D.1.1.5 Policy – Flood Prone Area – Social and Cultural Buildings and Critical Buildings

~~Manage activities to~~ Reduce the risk of flooding in *flood prone areas* by:

- a) Requiring new *social and cultural buildings* and *critical buildings* to be located outside *flood prone areas*; and
- b) Requiring the additions or alterations to existing *social and cultural building* and *critical buildings* located within *flood prone areas* to mitigate risks from flood hazard by:
 - i) Ensuring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*; and
 - ii) Ensuring that the risk of flooding is not transferred to other people, property or *infrastructure* is not increased; and
 - iii) Demonstrate that a safe evacuation route or refuge during flood events is provided; and
 - iv) Ensuring *buildings* are designed to minimise damage caused by flooding; and
 - v) For *critical buildings* located within a *flood prone area*, ensuring that the *activity* within the *critical building* continues in its normal function during and after a 1% *AEP* rainfall event concurrent with a 5% *AEP storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

8D.1.1.6 Policy - Impervious surfaces

Restrict on *site impervious surfaces* to manage the amount of *stormwater run-off* generated by a development and ensure that adverse effects of flooding are avoided or mitigated.

8D.2 Activity Status Rules (Flooding from Intense Rainfall)

8D.2.1 Activities within Floodplains, Overland Flowpaths and Flood Prone Areas

All activities within overland flowpaths, floodplains and flood prone areas shall have the status identified in Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area). Symbols used in Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area) have the meaning described in Table 1A.2: Activity Status.

Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area)

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
Additions to any lawfully established <i>buildings</i> unless otherwise stated in this table	-	P (Refer Rule 8D.3.4)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.6)	P (Refer Rule 8D.3.6)
Additions to existing lawfully established <i>Social and Cultural buildings</i> and <i>Critical buildings</i>	-	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	P (Refer Rule 8D.3.6)	P (Refer Rule 8D.3.6)
<i>Childcare or homebased childcare</i> within the <i>flood prone area</i>	-	n/a	n/a	n/a	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)
Flood mitigation works within a <i>minor overland flowpath</i>	-	n/a	P (Refer Rule 8D.3.2)	n/a	n/a	n/a
<i>New Marae</i>	-	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)
<i>New business activities</i> and <i>industrial activities</i>	-	D (Refer Rule 8D.5)	RD (Refer Rule 8D.4.2.2)	RD (Refer Rule 8D.4.2.3)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
<i>New residential building</i>	-	D (Refer Rule 8D.5)	RD (Refer Rule 8D.4.2.2)	RD (Refer Rule 8D.4.2.3)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)
<i>New Social and Cultural buildings and Critical buildings</i>	-	NC (Refer Rule 8D.6)	NC (Refer Rule 8D.6)	NC (Refer Rule 8D.6)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)
<i>New Structures unless otherwise stated in this table</i>	-	P (Refer Rule 8D.3.4)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.5)	P (Refer Rule 8D.3.5)
<u>Formation of new roads within the legal road</u>	<u>8D.3</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Operation, maintenance, renewal, repair and minor upgrading of any <i>infrastructure</i>	8D.3	P	P	P	P	P
Operation, maintenance, renewal, repair and minor <i>infrastructure</i> upgrading of <i>land drainage works</i> and <i>stormwater management devices</i>	8D.3	P	P	P	P	P
Operation, maintenance, renewal and repair of road network <i>activities</i> within the legal road or road formation width	8D.3	P	P	P	P	P

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
Temporary activities	8D.3	P	P	P	P	P
Temporary Storage Areas	-	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.5)	P (Refer Rule 8D.3.5)
Walls and Fences	8D.3.1	P	P	P	n/a	n/a

8D.3 Permitted Activity Rules

Note: Any activity that does not comply with a Permitted Activity Rule shall be considered a Restricted Discretionary Activity, unless stated otherwise.

Any activity not otherwise listed in Table 8D.1 shall be considered a Permitted Activity, subject to the relevant Permitted Activity Rules.

8D.3.1 Walls and Fences

Any fences and walls within the *floodplain* or *overland* flowpath shall be:

- a) Designed so that at least 70% of the surface area of the wall or fence is not solid to allow stormwater to flow through; or
- b) Solid fences and walls with an opening at ground level to retain the water carrying and water storage capacity of the *overland flowpath* or *floodplain*.

8D.3.2 Minor Overland Flowpaths

Any permitted *activity* within the *minor overland flowpath* shall:

- a) Allow the stormwater to flow safely without causing damage to any *site* and/or *building*;
- b) Retain the water carrying capacity of the *overland flowpath*; and
- c) Retain the entry and exit points of the *overland flowpath* from the *site*.

8D.3.3 Major Overland Flowpaths and Floodplains

Any permitted *activity* within the *major overland flowpath* or *floodplain* shall:

- a) Allow the stormwater to flow safely without causing damage to any *site* and/or *building*;
- b) Retain the water carrying capacity of the *major overland flowpath* or *floodplain*; and
- c) Retain the water storage capacity of the *major overland flowpath* or *floodplain*.

8D.3.4 Additions in Floodplains

Additions to any lawfully established *building* or *structure* within the *floodplain* beyond the *building* envelope or footprint of the existing *building* or *structure* shall:

- a) Not exceed 20m² of *gross floor area (GFA)* at *ground level*; and
- b) Have the following minimum *freeboard* level:
 - i) 500mm for *habitable rooms* in any *residential building* and *Marae*; or
 - ii) 300mm for *business activities* and *industrial activities*.

8D.3.5 Flood Prone Areas

Any *building* or *structure*, ~~excluding other than an~~ in-ground swimming pools, located in a *flood prone area* shall be either:

- a) Located in an area that has a *flood depth* of less than 300mm with the following minimum *freeboard* level:
 - i) 500mm for *habitable rooms* in *residential buildings* and *Marae*;
 - ii) 300mm for *business activities* and *industrial activities*; or
- b) Located in an area that has a *flood depth* of 300mm or more and shall not exceed 20m² at ground floor level.

8D.3.6 Additions in Flood Prone Areas

Additions at ground floor level to any lawfully established *activities* within the *flood prone area* shall:

- a) Not exceed 20m² of *gross floor area (GFA)*;
- b) Be at the same or higher floor level as the adjoining room.

8D.4 Restricted Discretionary Activity Rules

The following are Restricted Discretionary Activities:

- a) Any *activity* that does not comply with *Rule 8D.3 - Permitted Activity Rules*;
- b) Any *activity* listed as a Restricted Discretionary Activity in *Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area)*.

8D.4.1 Non-Notification

Any resource consent application made under *Rule 8D.4 – Restricted Discretionary Activity Rules* shall be considered without public ~~or limited~~ notification.

8D.4.2 Restricted Discretionary Activities - Matters of Discretion

8D.4.2.1 Walls and Fences

In considering *activities* that do not comply with *Rule 8D.3.1 – Walls and Fences*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood hazard;

- b) The extent to which the proposal changes flood hazard on ~~neighbouring other properties or properties further downstream or upstream~~ and how any potential impacts from these changes will be mitigated;
- c) The extent to which the proposal maintains ~~provides for~~ the conveyance of the water in the *floodplain or overland flowpath*.

8D.4.2.2 Minor Overland Flowpaths

In considering *activities* that do not comply with *Rule 8D.3.2 – Minor Overland Flowpaths* or which are classified as *Restricted Discretionary Activities* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal changes the entry and/or the exit points of the *overland flowpath* and how the any potential impacts from any these changes will be mitigated;
- b) The extent to which the proposal mitigates on *site* flood hazard caused by the *overland flowpath*, including setting of minimum *freeboard* level;
- c) The extent to which the proposal changes the flood hazard on other properties ~~caused by the overland flowpath on neighbouring properties or properties upstream or downstream~~ and how the any potential impacts from these of that changes will be mitigated;
- d) The extent to which the proposal mitigates erosion caused by the *overland flowpath* on *site* or downstream;
- e) The extent to which the proposal provides for the conveyance of water in a *minor overland flowpath*;
- f) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;
- g) The extent to which the proposal provides for access and maintenance to maintain safe passage of water and minimise risk in an intense rainfall event.

8D.4.2.3 Floodplains and Major Overland Flowpaths

In considering *activities* that do not comply with *Rule 8D.3.3 – Major Overland Flowpaths and Floodplains*, *Rule 8D.3.4 – Additions in Floodplains* or which are classified as *Restricted Discretionary Activities* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts from these of that changes will be mitigated;
- c) The effects of any decrease of water storage capacity of the *floodplain* or *major overland flowpath*;
- d) The extent to which the proposal provides for the conveyance of water ~~in the major overland flowpath or floodplain~~;
- e) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;

- f) The extent to which mitigation measures are taken so that goods and material stored outdoors do not move and cause damage to any buildings or cause blockage of an *overland flowpath* or *floodplain*;
- g) The extent to which mitigation measures are taken so that the design of any the car parking ensures that vehicles do not move and cause damage to any *buildings* or cause blockage of an *overland flowpath* or *floodplain*;
- h) The extent to which changes in levels within the road network result in increased flood risk on neighbouring properties or properties further downstream or upstream and how any potential impacts from these changes will be mitigated.

8D.4.2.4 Flood Prone Areas

In considering *activities* that do not comply with *Rule 8D.3.5 – Flood Prone Areas*, the *Council* limits the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The provision for a safe evacuation route or refuge for people during flood events;
- c) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts ~~from these~~ of that changes will be mitigated;
- d) The extent to which the proposal will affect the *Council* drainage system or other properties, ~~neighbouring properties or properties upstream or downstream~~ when the stormwater is removed from the *building* after a flood event;
- e) The extent to which internal fittings are set above the *flood level*;
- f) For *business activities* and *industrial activities*, the extent to which any generators, internal fittings and any goods are protected from flood damage;
- ~~g) The extent to which any other specific design for an activity will increase flood risk on site, on neighbouring properties and on properties further downstream.~~

8D.4.2.5 Additions in Flood Prone Areas

In considering *activities* that do not comply with *Rule 8D.3.6 – Additions in Flood Prone Areas*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts ~~from these~~ of that changes will be mitigated;
- c) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;
- d) The extent to which the proposal ensures that the *activity* within the *critical building* continues in its normal function during and after a 1% *AEP* rainfall event concurrent with a 5% *AEP storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

8D.5 Discretionary Activity Rules

The following are Discretionary *Activities*:

- a) Any *activity* listed as a Discretionary *Activity* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*.

8D.5.1.1 Assessment of Discretionary Activities

In considering a Discretionary *Activity* the *Council's* discretion is unrestricted. The *Council* shall consider any relevant matter with particular regard to the relevant Objectives and Policies of *the Plan*.

8D.6 Non-Complying Activity Rules

The following are non-complying *activities*:

- a) Any *activity* listed as a Non-Complying *Activity* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*.

8D.7 Exemption where a building consent has been applied for

A *building* or building work is exempt from compliance with any rules relating to *floodplains, overland flowpaths, flood prone areas* and *impervious surfaces* and is a Permitted *Activity* in terms of those rules if the *Council* received an application for a building consent for that *building* or building work under the Building Act 2004 before 16 November 2020.

Chapter 9 - Hazardous Substances and Contaminated Land

9A.1.1.6 Policy – Management of Hazardous Substances in Floodplains, Overland Flowpaths and Flood Prone Areas

By ensuring that facilities within *floodplains, overland flowpaths* and *flood prone areas*, involving the manufacturing, storage, use and disposal of *hazardous substances* are designed, located and managed to prevent adverse effects on public health and contamination of water.

Chapter 12 - Subdivision, Services and Infrastructure

12A.1 Activity Status Rules

12A.2.1 Subdivision Activities

All *subdivision activities* shall have the status identified in *Table 12A.1: Subdivision Activity Status*. Symbols used in *Table 12A.1: Subdivision Activity Status* have the meaning described in *Table 1A.2: Activity Status*.

Table 12A.1: Subdivision Activity Status

Use/Activity	Relevant Rule	Residential Zones	Rural-Residential	Rural, Greenbelt & Future Urban	Commercial and Industrial ¹	Rural Marae Community and Matapihi	Urban Marae Community Ngati Kahu	Education Centre and	Wairakei Zones ²
...									
<i>Subdivision within major overland flowpath</i>	-	C	C	C	C	C	C	C	C
<i>Subdivision partly within the floodplain</i>	12A.6	RD	RD	RD	RD	RD	RD	RD	RD
<i>Subdivision wholly within the floodplain</i>	12A.8	NC	NC	NC	NC	NC	NC	NC	NC

12A.5 Controlled Activity Rules

The following are Controlled Activities:

- a) *Boundary* adjustments, amalgamations and relocations of an existing title;
- ...
- e) *Subdivision* of a *site* located wholly or partly within the *major overland flowpath*.

¹ Excluding Wairakei Town Centre (Core and Fringe), Wairakei Neighbourhood Centre Zone and Papamoa East Employment Zone.

² Wairakei Zones for the purpose of Table 12A.1: Subdivision Activity Status means: Wairakei Town Centre Zone (Core and Fringe), Wairakei Neighbourhood Centre Zone and Papamoa East Employment Zone.

12A.5.1.5 Major Overland Flowpath

For *subdivision* of a *site* that is one hectare or more, the *major overland flowpath* shall be vested with *Council*.

12A.5.2 Controlled Activities – Matters of Control and Conditions

The *Council* reserves control over, and may impose conditions on, the following matters:

- a) The location of *boundaries* on *site* in relation to *buildings* and parking and manoeuvring areas;
- b) The location and provision of *services* and any requirements to upgrade those *services*;
- c) The location and provision of easements;
- d) Payment of *financial contributions* in accordance with the relevant provisions of *Chapter 11 – Financial Contributions*.
- e) Where it is a Standard and Term of the *subdivision*, the creation of a balance allotment that complies with the *subdivision* provisions of the underlying zone;
- f) The provision of landscape planting and access for maintenance in association with allotments to accommodate *network utilities*;
- g) The location, extent and design of the *major overland flowpath* vested to *Council* taking into account proposed *earthworks* associated with the *subdivision*.

12A.6 Restricted Discretionary Activity Rules

The following are Restricted Discretionary Activities:

- a) *Subdivision*, not including allotments for *network utilities*, located wholly or partly within the 50 or 100 year Erosion Risk Zone;
- b) *Subdivision*, not including allotments for *network utilities*, partly within the Current Erosion Risk Zone;
- c) *Subdivision*, not including *boundary* adjustments located within a High-Voltage Transmission Plan Area;
- d) *Subdivision* of a *site* containing an item on *Appendix 7A: Register of Built Heritage* or *Appendix 7B: Register of Significant Maori Areas*, or *Appendix 7D: Register of Significant Archaeological Areas*;
- e) Any *activity* described as a Permitted Activity or Controlled Activity that does not comply with a Permitted Activity Rule or Controlled Activity Standard and Term;
- f) Any *subdivision* listed as Restricted Discretionary Activity in *Table 12A.1: Subdivision Activity Status*;
- g) *Subdivision*, not including *boundary* adjustments, located partly or wholly within the *Flood Hazard Plan Area (FHPA)*;
- h) *Subdivision* of contaminated land;
- i) *Subdivision*, not including *boundary* adjustments or conversion of cross lease to freehold, located partly within the *floodplain*.

12A.6.3.5 For Subdivision in the Flood Hazard Plan Area (FHPA)

In considering *subdivision of site* within the *Flood Hazard Plan Area* the *Council* restricts the exercise of its discretion to the following matters:

- a) The extent to which the *subdivision* is consistent with *8C.1.1.1 – Policy - Avoidance or Mitigation in the Flood Hazard Plan Area*;
- b) The degree to which any associated *earthworks* will modify natural ponding areas and drainage systems, including overland flowpaths, and the extent to which water flow is impeded and/or displaced;
- c) Consideration of whether an engineering assessment is required to accurately determine the extent of any impediment or displacement effect and any recommendations of that assessment;
- d) Ensuring that any finished ground levels on the *site* provide the scope for future land use *activities* on that *site* to mitigate any adverse flooding effects.

12A.6.3.8 Subdivision partly within the Floodplain

In considering *subdivision of a site* partly within the *floodplain* the *Council* restricts the exercise of its discretion to the following matters:

- a) The extent to which the *subdivision* demonstrates the feasibility of *activities* to occur outside of the *floodplain*, including new *structures*, on site wastewater systems and onsite *stormwater management devices*.
- b) The extent to which the *subdivision* provides access to the *floodplain* for maintenance and emergency works.
- c) The extent to which the *floodplain* located on private land needs to be ~~is~~ protected by an easement in favour of the *Council*.
- d) The provision and location of recreation *reserves*, *esplanade reserves* or *esplanade strips* on the *floodplain* and any vesting that may be required to achieve this.

12A.8 Non-Complying Activities

The following are Non-Complying Activities:

- a) *Subdivision*, not including *boundary* adjustments or allotments for *network utilities*, within a Special Ecological Plan Area (Category 1);
- b) *Subdivision*, not including *boundary* adjustments or allotments for *network utilities*, within an *Outstanding Natural Features and Landscapes Plan Area*;
- c) *Subdivision*, not including *boundary* adjustments, within the *Coastal Protection Plan Area*;
- d) Any Discretionary Activity that does not comply with *Rule 12A.7.1 Discretionary Activity – Standards and Terms*;
- e) *Subdivision*, not including *boundary* adjustments or conversion of cross lease to freehold, located wholly within the *floodplain*.

12B.3.1.6 Building Platform Requirements – Papamoa

Subdivision to create freehold title (not including cross-lease to freehold *subdivision*) between the area from Sunrise Avenue, State Highway 2 and the Kaituna River that is within *the City* shall ensure allotments have a minimum *building platform* level of RL5 metres above *Moturiki Datum*. This rule does not apply to the land within the Wairakei Urban Growth Area.

Note: Building Platform minimums for Wairakei Residential Zone are addressed in Rule 12B.3.1.12 f) – Specific Urban Growth Area Requirements – Wairakei Urban Growth Area

Note: Minimum freeboard level for activities located within floodplains, overland flowpaths and flood prone areas is addressed in Chapter 8 – Natural Hazards.

12G.1.3 Objective – Stormwater

People, property, *infrastructure* and *network utilities* are safeguarded from the adverse effects of flooding associated with *stormwater run-off* and discharge.

12G.1.3.1 Policy – Stormwater

Ensuring stormwater systems are designed and constructed to:

- a) Consist of a combination of primary and secondary systems;
- b) Have capacity to service the anticipated demand whilst accommodating anticipated flows, pressures and loads;
- c) Utilise ground soakage in appropriate locations;
- d) Incorporate measures to avoid, remedy or mitigate:
 - i) The risk of blockages;
 - ii) Flooding effects associated with stormwater discharge;
 - iii) Pollutant loads;
 - iv) The increase in runoff associated with additional development;
 - v) The erosion caused by stormwater at discharge points.

Appendix 12B: Performance Standard, Stormwater

Consistency / Compatibility

- a) Each stormwater management system shall be designed and constructed to ensure:
 - i) Consistency with any relevant structure or urban growth plan;
 - ii) It is compatible with the design and construction of the existing stormwater network; and
 - iii) Compliance with any comprehensive stormwater consent where applicable.

Design

- b) Each stormwater management system shall be designed and constructed to ensure:
 - i) All components of the stormwater management system are pre-approved by the *Council* and provide for an asset life that is suitable for its intended purpose;

Note: Components that are pre-approved by the Council are identified in the Council's Infrastructure Development Code.

- ii) Gravity is used as the method for reticulation unless pump stations have been pre-approved by the *Council*;
- iii) The upstream catchment is provided for and the downstream receiving network has the capacity to cater for the design scenarios;
- c) They comprise both primary and secondary flow systems which include components to collect, convey, treat and safely discharge the stormwater associated with the development;
 - i) Secondary stormwater systems shall not include piped systems;
 - ii) Minimum velocities for pipes and lined channels are 0.6 metres per second (m/s)
 - iii) Maximum velocities are as follows:
 - 1) 4.0 m/s for pipes;
 - 2) 1.5 m/s for lined channels;
 - 3) 1.5 m/s for unlined channels.
 - iv) The overall stormwater management system shall be designed to accommodate and contain flows from a 1% *AEP* (1 in 100yr) rainfall event while taking into account the effects of climate change on rainfall and sea level as of the year 2130 based on the RCP 8.5 median scenario for *subdivision* or RCP 8.5H+ scenario for *greenfield subdivision/development*, with the primary conveyance system being designed to accommodate flows from a 10% *AEP* (1 in 10yr) design rainfall event unless b(i) applies;
 - v) The stormwater management system for the Wairakei Urban Growth Area and the Te Tumu Future Urban Zone shall be designed to accommodate flows from a 1% *AEP* (1 in 100 year) return period rainfall event;
 - vi) Where there is downstream flood risk on private property, the post development stormwater run-off rates shall not exceed the pre-development run off rates for rainfall events up and including to the 1% *AEP* event taking into account climate change to the year 2130, unless otherwise approved by *Council*.

Note: pre-development run off rates exclude land uses, buildings and structures that have not been lawfully established.

- vii) In addition to iv) and v) above where a development includes pump stations or road bridges these *structures* shall be provided with a minimum freeboard of 500mm above the flows from a 1% *AEP* (1 in 100 year) return period rainfall event;
- viii) *Overland flowpaths* are only provided for on:
 - 1) Local and collector roads;
 - 2) Public accessways and reserves;
 - 3) Private land where it is protected by an easement in favour of the *Council*.



**SUBMISSION ON PROPOSED PLAN CHANGE UNDER CLAUSE 6 OF THE FIRST
SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

TO: Tauranga City Council

SUBMISSION ON: Plan Change 27 (Flooding from intense rainfall) to the Tauranga City Plan

SUBMITTER: URBAN TASKFORCE FOR TAURANGA (“**UTF**”)

C/: Collier Consultants
PO Box 14371
Tauranga Mail Centre
Tauranga 3143
Attention: Aaron Collier

Scope of submission

1. The provisions to which this submission relates is Plan Change 27 in its entirety.

Nature of submission

2. The nature of our submission is that we oppose the Plan Change.

Reasons for submission

3. The Urban Task Force (“UTF”) has been incorporated as a society with its purpose being to represent its members who are property professionals and funders, developers, Iwi and Hapu, and owners and managers of properties in Tauranga City. The UTF seeks to provide strong and informed leadership to Local Authorities, promote and foster productive local networks around property and related issues, and to advocate for our industry by making submissions to both Central and Local Government.
4. Tauranga is a growing city. Our community is facing unprecedented challenges because leaders have seen growth as a problem rather than an opportunity. The intent of UTF is to focus on the opportunities presented by growth and to unlock these opportunities by working collaboratively and innovatively across Government, Local Government and private sectors.
5. UTF considers that Tauranga has a severe shortage of zoned and serviced land to provide new homes for residents, and spaces for business to invest in. This has caused severe housing affordability issues. Tauranga City has an urgent need for more affordable housing. Poor growth management has led to a failing City Centre, a lack of essential community infrastructure and facilities, and a lack of investment in infrastructure necessary to support growth. UTF advocates for connected thinking, connected planning, connected governments and strong leadership.
6. UTF consider that changes to the Tauranga City Plan (“**City Plan**”) should be based on sound planning policy whilst also avoiding unnecessary and inefficient processes

and costs. UTF's view is that incorporating clear, certain and efficient City Plan provisions is a fundamental part of the sustainable and efficient growth of the City.

7. UTF opposes changes to Chapter 4, definitions, Chapter 8, Chapter 12, and Chapter 14 of the Tauranga City Plan proposed under Plan Change 27. These changes relate to flooding from intense rainfall.
8. As set out below in this submission, UTF consider that there are a number of changes to the City Plan which are unclear, unnecessary and/or uncertain. A number of the proposed changes will add to the complexity and cost of resource consent processes. This is significant given that Tauranga City is identified as a Tier 1 City under the National Policy Statement on Urban development ("NPSUD") with a Government mandate for TCC to resolve the City's significant housing and land supply shortage. It is critically important that RMA planning documents and unnecessary processes do not add to or worsen the housing supply and affordability crisis Tauranga City currently faces.
9. UTF provides reasons for declining Plan Change 27 in its current form are as follows:
 - (i) Plan Change 27 is inconsistent with the purpose of sustainable management under Section 5 and Part 2 of the RMA. Plan Change 27 and its policies will unnecessarily restrict what activities can take place over extensive areas of the City, affecting approximately 50% of properties.
 - (ii) The policy framework that supports Plan Change 27 essentially calls for a "no risk" approach to flooding hazards. A "no risk" approach will not enable people in communities to provide for their social, economic and cultural wellbeing and for their health and safety. This outcome is not consistent with the purpose of sustainable management as set out in Section 5 of the RMA.
 - (iii) Plan Change 27 is inconsistent with the NPSUD. The NPSUD seeks that urban environments are "resilient" to the current and future effects of climate change (Objective 8) and this objective is supported by policies 1 and 6 of the NPSUD. Objective 6 requires that decisions on urban development that affect urban environments are integrated with infrastructure planning and funding decisions, strategic over the medium and long-term, and are responsive. Plan Change 27 does not propose an integrated approach.
 - (iv) Plan Change 27 has been notified in tandem with Plan Change 26, which promotes significant intensification of the existing Tauranga urban area. The intention of Plan Change 26 is to provide greater capacity of housing, given that Tauranga is identified as a Tier 1 Council (with significant housing affordability and supply issues) under the NPSUD. The material supporting Plan Change 27 has considered the issue of flood hazard risk from intense rainfall in isolation of Plan Change 26, and without regard to any planned and/or funded infrastructure upgrades.
 - (v) Plan Change 27 imposes significant costs on the community which have not been properly considered and assessed. The TCC economic assessment focuses only on the average cost of construction to comply with minimum free board requirements, compared against the inflation adjusted costs for remediation in the event of a flood event annually out to 2070. Costs such as resource consent processes imposed by Plan Change 27 and associated professional fees/technical reports have been excluded from this analysis.

- (vi) Plan Change 27 is inconsistent with the planning framework for the City established through the Regional Policy Statement (“RPS”) and the City Plan in 2012. The RPS contains natural hazard objectives which include the need to avoid or mitigate flooding from intense rainfall by managing risk for people’s safety and the protection of property, and lifeline opportunities. Instead of managing risk as required by the RPS, Plan Change 27 focuses on avoiding any risk altogether (no matter how insignificant). For example, the matters of discretion that apply to earthworks include *“the extent to which the proposal avoids any increase in flood risk on neighbouring properties or properties further upstream or downstream”*. Plan Change 27 does not require quantification of the increase or the underlying risk (which in some instances may be very low). Other policies refer to “restricting” activities in floodplains, overland flow paths and flood prone areas, rather than “managing” those risks as promoted under the RPS. Analysis of Plan Change 27 against the RPS includes a statement that “the rules basically exclude overland flow paths and flood plains from new developments”, which confirms this approach and intention.
- (vii) Section 32 of the RMA requires Council to adopt provisions which are the most appropriate way to achieve the plan’s objectives. Plan Change 27 does not represent the most appropriate means of achieving the objectives in the City Plan, or the purpose of the RMA itself.
- (viii) As part of its preparation of Plan Change 27, TCC has failed to take an “all of catchment” approach, which includes the consideration of existing stormwater network discharge consents in place for the City. Instead, the Council has assessed the cost and benefits (and risks) for potential flooding in isolation of the discharge consents for which it is responsible. The absence of this information in Plan Change 27 means that the provisions are heavily lopsided, imposing significant burdens on private land and owners. This occurs without consideration of the obligations imposed on TCC by its comprehensive catchment consents and potential infrastructure upgrades. Under the Local Government Act, TCC have an obligation to provide for new and upgraded infrastructure in the mitigation of flood hazards, and a significant role to play in mitigating the risk of flooding from intense rainfall. An “all of catchment” approach should be adopted which takes into consideration existing catchment consents, and planned and proposed upgrades of the TCC stormwater network.
- (ix) Plan Change 27 ignores the role that private developers play in providing District or area wide stormwater solutions for greenfield development, either through or in combination with existing development contributions levied under TCC’s existing developments contribution policies. Instead, the burden is placed on existing property owners to “prove” their situation, often downstream of those greenfield developments (in circumstances where any risk to those properties may have already been correctly addressed by solutions achieved further upstream).
- (x) TCC appear to be concerned that without Plan Change 27 the enabling aspects of Plan Change 26 (residential intensification) would not have been able to be progressed. Plan Change 27 has therefore been introduced ahead of other natural hazard provisions required to give effect to the RPS. As a result, the process has been rushed and has not given the Council or residents sufficient opportunity to consider and respond appropriately, with

TCC seeking to notify Plan Change 27 in the lead up to the busy Christmas period.

- (xi) The suggestion that Plan Change 27 is consistent with Plan Changes undertaken by other Council's is incorrect. Plan Change 27 is broader, more wide sweeping, and provides a greater degree of regulation and uncertainty than similar plan change processes undertaken by other Council's. Plan Change 27 will result in more costs and greater inconsistencies with the Building Act and is inconsistent with guidance and decisions made on other recent District Plans.
- (xii) TCC are using non-statutory mapping tools to guide the application of the provisions introduced by Plan Change 27. These tools are controlled and managed exclusively by TCC. There is no clear process for the use of these tools being managed and controlled, nor is this updating process contestable. The correct process is to utilise planning maps, based on a proper and complete information base, to identify the hazard areas as provided for under the RMA. Exclusion of the public from further updates of the non-statutory mapping tools is expressly contrary to the participatory focus of the Schedule 1 provisions in the RMA.
- (xiii) Plan Change 27 and its supporting mapping and modelling contains significant inaccuracies and errors, including the GIS mapping of floodable and overland flow path areas using the non statutory planning tools noted above. Overland flow paths and flood prone areas are shown throughout the City as being located through established buildings, and flood prone areas are shown on land that is not flood prone as the land is higher than adjoining land according to contour data. The flooding analysis is too broad brush and high level as a planning tool to be efficient and effective which means individual landowners will have to bear the costs involved with detailed modelling of their sites at any time a resource consent is sought. The low-level resolution in the modelling shows flood water in squares ignores topography and the fundamentals sitting behind rainfall. Up to date and accurate information, including landform and overland flow path data available to TCC (provided by subdividers and developers) has not been incorporated in the flood modelling that supports Plan Change 27. Outdated survey and Lidar data has been used as the basis for "rushed" modelling. As a result, existing site improvements through subdivision, consented stormwater improvements and ground level changes approved and authorised by Council have not been taken into account.
- (xiv) TCC's own analysis of the free board requirements proposed by Plan Change 27 acknowledges that the option ultimately adopted, (the 1% AEP exceedance with an additional 500mm of free board across the city's floodable areas) is inconsistent with the requirements of the RPS which calls for a risk based approach, which is tailored to particular circumstances of a given area. This approach appears to have been disregarded through the Section 32 analysis on the basis that it would be difficult to administer. Detailed analysis of what these difficulties might be has not been provided. Technical analysis identifies that a different threshold (mainly the 2% AEP exceedance with additional 500mm free board) would cover equivalent 1% AEP rainfall events, but due to "model uncertainty" the 1% threshold has been adopted. This lack of certainty through modelling effectively imposes an additional burden on property owners for the reason that the evidence base sitting behind the model is not sufficiently certain for TCC to rely upon. Based on the modelling undertaken

there is uncertain or insufficient information to warrant a change to the existing City Plan provisions.

- (xv) Impervious surface controls are proposed which are an inefficient planning method. Section 32 analysis does not justify the use of impervious surface controls, nor the cost of monitoring and consenting requirements associated with such a significant change to the City Plan. Such wide sweeping changes should instead be undertaken as part of the wider City Plan review.
- (xvi) The Plan Change fails to consider the impacts on land value and insurance costs.
- (xvii) The Plan change proposes to impose restrictions on private landowners to vest overland flow paths in TCC without any consideration of the economic cost and/or compensation, nor the wider benefits provided to others in the catchment.
- (xviii) A proposed full review of the Tauranga City Plan is to be conducted in 3 years' time. The risk of acting now on the basis of insufficient and incorrect information strongly outweighs the risk of not acting, especially when TCC is proposing to review the measures that it seeks to impose as part of this full review process. It is considered that the appropriate time to consider flooding from rainfall matters, rather than in isolation, is together with all other natural hazard matters. TCC in the interim can continue to assess the risks posed by natural hazards on a case by case basis, relying upon the existing planning and building consent framework, without imposing significant costs and uncertainty on the community at large.

Decision sought

10. The decision UTF seeks from the Council is that the Plan Change be either withdrawn, or approved with:
 - (a) amendments to address UTFs concerns set out above.
 - (b) such further other relief or other consequential amendments as considered appropriate and necessary to address the concerns set out above.
11. UTF wish to be heard in support of our submission.
12. UTF would not gain an advantage in trade competition through this submission.
13. If others make a similar submission, UTF are prepared to consider presenting a joint case with them at any hearing.

SCOTT ADAMS
CHAIRMAN

Date:25 January 2021

Address for Service:
URBAN TASKFORCE FOR TAURNGA
C/: Collier Consultants
PO Box 14371
Tauranga Mail Centre
Tauranga 3143
Attention: Aaron Collier

IN THE MATTER of the Resource Management Act 1991 (the Act)

A N D

IN THE MATTER of proposed Plan Changes 26 (Housing Choice) and 27 (Flooding from Intense Rainfall) to the Tauranga City Plan

A N D submissions by Urban Taskforce for Tauranga Incorporated (UTF)

UPDATED STATEMENT OF EVIDENCE OF SCOTT ADAMS

(UTF – Submitter 816 / Further submitter 1028)

DATED 5 NOVEMBER 2021

1. My name is Scott Jason Adams;
2. I am the Chairperson of the Urban Task Force for Tauranga (“UTF”). Our members are property professionals and funders, developers, Iwi and Hapu, and owners and managers of a multitude of residential and commercial properties across Tauranga City. We have approximately 60 members including Classic Developments, Hawkins, Ngaiterangi, HOBEC, Naylor Love, Carrus, Ngati Pukenga, Tauranga Chamber of Commerce, Ngai Tamarawaho, Lysaght, Watts & Hughes, Sabre Construction, Zariba, Hawridge, Veros, Mackersey, Element IMF, iLine Construction, Barrett Homes and Priority One.
3. The UTF have replaced the BOP Property Council presence, and advocate for our members and the development community by making submissions to both Central and Local Government;
4. The intent of UTF is to focus on the opportunities presented by growth and to unlock these opportunities by working collaboratively and innovatively across Government, Local Government, and private sectors.
5. Tauranga is defined under the NPS-for Urban Development as a Tier-1 growth city, but has severe housing supply & affordability issues. There is an urgent need for 3 waters infrastructure to create more land for housing to comply with Development Capacity Requirements set by central Government under the NPS-UD.
6. The UTF opposed Plan Change 27 because in its opinion:
 - Plan Change 27 is not based on sound planning policy and will create unnecessary and inefficient processes and costs;
 - More time and effort needs to be spent by TCC on resolving modelling issues that the plan change has raised before it is approved so it is technically sound and able to be contested through proper planning maps;

- The rule framework could result in a tidal wave of resource consents that TCC will need to gear up to process otherwise it would create significant regulatory hurdles and burden on the community;
- There needs to be the development of citywide storm water structure plans which identify the network upgrades required for each catchment, with costed works and an associated development contributions model (as per the process for future urban greenfield growth areas E.G. Tauriko West & Te Tumu, it should be no different for brownfield density growth areas)
- Putting the liability of mitigating for storm water flooding from intense rainfall back onto individual landowners and builders to deal with on a site by site basis is doomed to fail if the end goal is city-wide intensification;

It is the UTF's opinion that without further work and assessment as set out in the evidence of Peter Moodie and Aaron Collier, that plan change 27 will only hinder the growth of Tauranga and the ability to deliver housing which may be both more efficient and affordable.

Scott Adams

1st December 2021