

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of Submissions and Further Submissions
on the Proposed Hutt City District Plan

Minute 15

**Proposed District Plan – Hearing Stream 5 – Directions and Requests for expert conferencing,
information, and technical discussions**

27 August 2026

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Introduction

1. The Hutt City Council (HCC) Proposed District Plan (PDP) Hearings for Hearing Stream 5 – Natural Hazards commenced on Tuesday, 18 August 2026. Proceedings continued through Thursday, 20 August and are now adjourned pending receipt of further information from various parties; some of those matters were canvassed in Minute 14 dated 24 August 2026.
2. The purpose of this current minute is to set out the specific directions and information we requested during the hearing proceedings and the timetables for receiving that information.

Unreported submission points – The Fuel Companies

Parties: Mr Brown, Mr Davis

3. During the hearing Mr Brown advised us that there were a small number of submission points addressed within his evidence for the Fuel Companies that had not been reported on within Mr Davis's rebuttal evidence. We requested Mr Brown to confirm to us the outstanding submission points. This minute confirms that Mr Brown provided this information to us on 20 August, setting out that the following matters had not yet been reported on by Mr Davis:
 - (a) Delete the word 'structures' from the Liquefaction Hazard Overlay rules (NH-R15, NH-R16, NH-R17).
 - (b) Amend the planning maps and / or Fault Location Area provisions to clearly identify the location of the Uncertain/Constrained, Uncertain/Poorly Constrained, and Well-Defined Extension Areas.
 - (c) Insert corresponding explanatory notes beneath the underlying natural hazards rules in the Flood Hazard Overlay and Coastal Hazard Overlay provisions to identify where the Regionally Significant Coastal Business Areas Overlay take precedence.
4. We request Mr Davis provides a response to these matters in due course within his written right of reply for Hearing Stream 5 which, at this stage is due on **2 October 2026**.

Slope Assessment Overlay: Kelson Height Ltd

Parties: Mr Davis, Mr De Leijer, Mr Brabhakaran, and the geotechnical expert for Kelson Heights Ltd

5. We note the potential for refinement to the spatial extent of the slope assessment overlay within those parts of the Kelson Heights development where earthworks have been completed, and where post-works geotechnical certification has been provided and accepted by the Council for those earthworks as part of the subdivision certification process.

6. Accordingly, we request Mr Davis and Mr De Leijer, accompanied by their technical experts Mr Brabhakaran and the geotechnical expert for Kelson Heights Ltd, to explore whether any amendments to the slope assessment overlay are appropriate.
7. The outcome of these discussions is to be reported back via a Joint Witness Statement, with areas of agreement and disagreement (with reasons) clearly set out. If amendments to the extent of the slope assessment overlay are jointly agreed, these are to be provided on a plan attached to the joint memorandum.
8. The outcome of these discussions is to be provided to Ms Shetty by **3pm on 23 September** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Slope Assessment Overlay

Parties: Mr Brabhakaran, Mr Davis

9. In response to our questions over the course of the hearing, Mr Brabhakaran agreed to provide additional information regarding the assumptions and technical inputs and findings of the slope assessment overlay. We accordingly request Mr Brabhakaran and Mr Davis to provide the following information:
 - (a) Geolocate the historical incidence of recorded slips, landslides and other slope failure indexed in Appendix B to the 2021 WSP Slope Stability report and correlate these with flood hazard overlay data and provide commentary on the observed relationship between these two hazards (if any).
 - (b) Provide more explanation on the decision to use a single medium hazard classification for the slope assessment overlay in the notified PDP versus the high, medium and low hazard levels applied to flood hazards; and latterly the recommendation from Mr Davis to declassify the hazard level of the overlay altogether – in both respects address the extent to which a risk-based and proportionate approach to hazard management is applied.
 - (c) Review and provide a response to the technical information provided by Mr Muir regarding 133 Park Road, and to advise whether any amendments to the extent of the slope assessment overlay are appropriate for this site, including reasons.
10. We also request that Mr Davis and Mr Brabhakaran respond to the additional material tabled by Mr Wadham regarding 23 Pomare Road. That material (13 documents in total) can be found here and include Mr Wadham's presentation dated 24 August 2026.

11. Related to the above, the Panel observes that – both in relation to 23 Pomare Road, and the wider catchment subject to the slope assessment overlay – the spatial extent of the overlay appears to cover more land than the extent of the combined slope failure and runout layer on the appendix maps attached to the 2025 WSP Slope Failure Runout Assessment Report. If that is the case, the Panel wants to understand why that is and whether this imposes restrictions on subdivision and land use over land that is not otherwise identified in the Council’s evidence base as requiring such measures.
12. We request Mr Brabhakaran provides this information to Ms Shetty by **3pm on 23 September 2026** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Mr Davis

13. We request Mr Davis identifies and advises us on any reasonably practicable and effective alternative methods that may be available to manage slope instability and slope runout hazards; for example, slope runout hazard mapping combined with provisions (such as a nominated slope angle) to manage slope stability hazard.
14. In conducting this exercise, it would be useful if Mr Davis includes an audit of other relevant district plans identifying whether mapping of slope overlays to the same district-wide scale is included, and how any corresponding provisions manage slope stability hazards including the risk level addressed.
15. We request Mr Davis provides this information to Ms Shetty as part of his right of reply due by **3pm 2 October 2026**.

Structures exclusions, and definition for ‘minimise’

Parties: Mr Davis, Mr Brown

Structures

16. As we raised during the hearing, we have questions regarding whether the currently recommended exclusions for *structures* from specific rules¹ would result in potential unanticipated consequences that would be contrary to the natural hazards objectives. An example of this is the recommendation from Mr Davis, in response to the submission of The Fuel Companies, to exclude structures from rule NH-R11, and how the effects of structures such as a wall would be managed within a flood hazard such as an overland flow path.

¹ For example, rules NH-R7, R8, R10, R11, R12, R13 within Appendix A1 to the s42A report.

17. Accordingly, we request that Mr Davis and Mr Brown jointly scenario-test the changes requested by the Fuel Companies, and Mr Davis's current recommendations to exclude *structures* from specific rules to identify and address potential unintended consequences.

Definition for 'minimise'

18. We request Mr Davis and Mr Brown to discuss whether it is necessary for the District Plan to include a natural hazards-specific definition for 'minimise'. In addition to whether a definition is necessary, these discussions are to consider any flow-on consequences for the implementation of the District Plan, including any technical consequences of operating an E-Plan, where having a definition for 'minimise' may be used across multiple chapters, but with a different meaning.
19. Mr Davis and Mr Brown are to provide a brief joint statement setting out any agreed position, including any recommended amendments to provisions. Areas of disagreement are also to be set out with reasons for the disagreement clearly explained.
20. The joint statements are to be provided to Ms Shetty by **3pm on 23 September 2026** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Controlled Activity Rule NH-R5

Parties: Mr Davis, Ms Wheatley

21. We request Mr Davis and Ms Wheatley to scenario test the appropriateness of controlled activity status for 'activities most sensitive to natural hazards' within the poorly constrained or the uncertain constrained areas of the Fault Location Area on a vacant site under rule NH-R5. The evaluation is to be through the lens of a section 32 evaluation of the following options:
 - (a) Controlled activity status as currently recommended by Mr Davis;
 - (b) Controlled activity status with amended matters of control as put forward by Ms Wheatley at paragraph 11 of her submitted hearing speaking notes;
 - (c) Controlled activity status with amended controlled activity standards;
 - (d) Restricted discretionary activity status; and
 - (e) Any other activity status jointly agreed to be evaluated.
22. In conducting this joint evaluative exercise, we request Mr Davis and Ms Wheatley to consider a scenario where an 'activity most sensitive to natural hazards' is proposed on a

vacant allotment that was subdivided prior to the Resource Management Act 1991, and a scenario where a long-developed site is cleared for redevelopment and becomes ‘vacant’ for the purposes of standard 1 of Rule NH-R5. For the avoidance of doubt, Mr Davis and Ms Wheatley are free to identify and evaluate any alternative scenarios they jointly agree will be useful for this exercise.

23. We also wish to highlight that (below) we have requested Mr Quinn to provide legal advice on ‘reasonable use’ under section 85 of the Act, and to provide advice on the relevance of controlled activity status versus another activity status for the purposes of enabling the reasonable use of land. We expect that Mr Davis and Ms Wheatley will consider the legal advice of Mr Quinn prior to confirming their joint statement.
24. We request Mr Davis and Ms Wheatley to provide a joint statement setting out any agreed position, including any recommended amendments to provisions. Areas of disagreement are also to be set out with reasons for the disagreement clearly explained.
25. The joint statement is to be provided to Ms Shetty following Mr Davis’s and Ms Wheatley’s consideration of Mr Quinn’s legal advice on the reasonable use of land by **3pm on 23 September 2026** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Rule NH-R5 and enabling the reasonable use of land, and cross-chapter applicability of provisions

Parties: Mr Quinn, Mr Davis

26. Firstly, we request Mr Quinn to provide legal advice on the Environment Court findings and direction from case law on providing for the reasonable use of land through plan provisions and the relevance of any specific activity status of proposed rules.
27. Secondly, we request Mr Quinn to provide legal advice on whether controlled activity status under rule NH-R5 is required to enable the reasonable use of land affected by this rule.
28. Thirdly, we request Mr Quinn to provide his legal view on whether explanatory text and ‘how the plan works’ content is sufficient, given its legal weight, to exclude specific chapters from applying to specific activities. An example of this is the NH explanatory text stating that the natural hazard rules do not apply to the national grid, yet the natural hazard rules themselves do not provide any exclusions for the national grid.
29. Finally, in light of the legal advice of Mr Quinn, we request Mr Davis to revisit his advice on providing for the reasonable use of land via controlled activity status under rule NH-R5², and

² At paragraphs 643 to 650 of the s42A report.

whether explanatory text is sufficient to preclude specific activities from rules and advise us whether his findings and recommendations remain unchanged.

30. We request the legal advice of Mr Quinn to be provided to Ms Shetty by **3pm on 4 September**, and that Mr Davis provides his updated advice on this matter to Ms Shetty and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Hard engineering structures – NH-P3 & CE-P10 ‘policy gap’

Parties: Mr Davis, Ms Wheatley

31. Mr Davis and Ms Wheatley are to jointly discuss whether there is a policy gap for the management of the potential effects of hard engineering structures on natural features and systems resulting in potential off-site adverse effects, such as those described by Ms Wheatley at paragraph 16 of her evidence and paragraph 10 of her speaking notes.
32. Mr Davis and Ms Wheatley are to provide a brief joint statement confirming areas of agreement, disagreement, and any recommended amendments to provisions to be provided to Ms Shetty by **3pm on 23 September 2026** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Faultline geometry - 30 Benmore Crescent

Parties: Dr Litchfield, Mr Davis and Mr Leary/Mr Gibson

30 Benmore Crescent

33. We request Dr Litchfield and Mr Davis to liaise with Mr Leary/Mr Gibson to confirm the geometry of the fault line at 30 Benmore Crescent considering the Tonkin and Taylor report³, as recommended by Dr Litchfield’s evidence⁴. We request this exercise includes any appropriate ‘smoothing’ of the geometry of the fault trace off-site, and confirmation that no other properties will experience an increase in the extent of the fault avoidance area. A joint memorandum from the parties is requested regarding the updated mapping recommendations and an associated brief explanation
34. Dr Litchfield and Mr Davis are to provide the above information to Ms Shetty by **3pm 23 September 2026** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

³ “Te Rangiheata / Manor Park Development Wellington Fault Investigation Report” dated 7 July 2021.

⁴ At paragraphs 19 – 21 of Dr Litchfield’s evidence, dated 11 August 2026.

Fault extents OPD versus PDP

Parties: Dr Litchfield, Mr Davis

35. We request Dr Litchfield and Mr Davis confirm the extent of changes to the mapped fault trace overlay, if any, between the operative district plan maps and those contained within the proposed district plan maps.
36. Dr Litchfield and Mr Davis are to provide this information to Ms Shetty by **3pm 2 October 2026** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Active language & higher-level direction – ‘the matrix’

Parties: Mr Davis, Mr Brown, Ms Wheatley

37. Mr Davis, Mr Brown and Ms Wheatley are requested to prepare an agreed matrix setting out the use of active language used within objectives and policies within the Natural Hazards and Coastal Hazards provisions at the time of public notification of the Proposed District Plan;
38. Upon completion of this joint exercise, Mr Davis, Mr Brown and Ms Wheatley are requested to discuss and provide a brief joint statement addressing the following matters:
 - (a) The most appropriate use of the term ‘risk’ versus ‘potential future risk’, for example in Policy NH-P2.
 - (b) Whether the objectives and/or policies should more expressly incorporate the concept of ‘proportionate’ management of natural hazard risk for clearer alignment with the NPS-NH and Change 1 to the RPS as amended by the recent consent order.
 - (c) whether any amendments are considered appropriate and within the scope of submissions.
39. Mr Davis, Mr Brown and Ms Wheatley are to provide the matrix and a brief joint statement confirming areas of agreement, disagreement, with reasons for disagreement clearly set out, and any agreed recommended amendments to provisions to Ms Shetty by **3pm on 23 September 2026** and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Coastal Inundation

Parties: Dr Stephens, Mr Davis

40. As traversed during the hearing, we request Dr Stephens to revisit the coastal inundation mapping recommendations to reconsider the ‘puddles’ of inundation, in all instances where

they occur.

41. We also request Dr Stephens and Mr Davis to reflect on the use of 1.59m as the sea level rise assumption for coastal inundation modelling, particularly in light of:
 - a. the use of 1m in the tsunami risk model, noting that both models are highly sensitive to the assumption used for sea level rise according Dr Stephens and Dr Burbridge;
 - b. Mr Davis' recommendation that the sea level rise parameter for flood hazard modelling should be reduced from 1.59m to 1m;
 - c. Mr Freeland and Dr Dawe's evidence that the RCP8.5 climate scenario is a credible worst case scenario and/or more appropriate for stress-testing modelling than as a baseline scenario – and whether the SSCP scenarios underpinning Dr Stephens' modelling are comparable or distinguishable in this respect;
 - d. the direction in the NPS Natural Hazards and RPS Change 1 for hazard risk to be managed in a proportionate and risk-based manner and the reasons why different assumptions for the same variable should (or should not) be applied to different hazards.
42. We request Dr Stephens to provide his updated mapping recommendations, accompanied by further explanation from Mr Davis and him, to Ms Shetty by **3pm on 23 September 2026**. and Mr Davis is to capture any changes in his recommendation as part of his right of reply due on **2 October 2026**.

Historic flood event levels

Parties: Mr Osborne

43. We request Mr Osborne confirms the approximate levels of flood events (AEP) that have occurred within Hutt City over the past decade, and that this be provided to Ms Shetty by **3pm on 23 September**.

Future site-specific flood hazard mapping reconsideration

Parties: Mr Osborne

44. Upon the completion of the updated flood modelling process set out within Minute 14, we will issue a separate minute requesting Mr Osborne to reassess the site-specific flood hazard queries raised by submitters as contained within his primary evidence contained with Appendix B1 to the s42A report.
45. For completeness, relevant submitters will also have an opportunity to participate further

regarding the updated flood modelling as per Minute 14.

‘Encourage’ policy direction

Parties: Mr Davis

46. Regarding Mr Davis’ view at paragraphs 398-399 in his section 42A Report, the Panel noted that ‘encourage’ is used as active policy language in various other chapters of the Plan. We asked Mr Davis to reflect further on his view with that wider plan context in mind, and on the understanding that non-regulatory methods are enabled under the RMA, subject to the normal appropriateness tests under section 32 (and section 32AA).

From here

47. Should the timing or any other procedural questions arise from this Minute, please address those to Ms Shetty in the first instance.



DJ McMahon

Independent Commissioner

Deputy Chair Hutt City Proposed District Plan Hearing Panel

27 August 2026