

Wellington City Proposed District Plan

Hearing Stream 5 – Subdivision

Section 42A of the Resource Management Act 1991

Document Information

REPORT FOR: **Independent Hearings Commissioners:**
Robert Schofield (Chair)
Lindsay Daysh
Jane Black
Rawiri Faulkner

SUBJECT: **Wellington City Proposed District Plan –
Part 2 – District-wide Matters –
Subdivision (SUB)**

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REPORT DATED: 3 July 2023

DATE OF HEARING: 1 August 2023

Executive Summary

- i. This report considers submissions received by Wellington City Council in relation to the relevant definitions, objectives, policies, rules, standards, and maps of the Wellington City Proposed District Plan as they apply to the Subdivision chapter (SUB) including the Subdivision Design Guide.
- ii. There were 358 submission points and 139 further submission points received in relation to the Subdivision chapter. The submissions received were diverse and sought a range of outcomes. This report outlines recommendations in response to the issues that have emerged from these submissions.
- iii. The following are considered to be the key issues in contention:
 - a. Concerns around access to firefighting water supply;
 - b. Requests to delete references to consent notices, covenants, easements or other legal instruments in the policy and rule framework;
 - c. Consistency and alignment of subdivision provisions with the NZCPS and approach of the Natural Environmental Value and Coastal Environment chapters;
 - d. Three water standards, specifically in relation to hydraulic neutrality; and
 - e. The policy and rule framework for subdivision in the Airport Zone and for infrastructure more broadly.
- iv. This report addresses each of these key issues, as well as any other relevant issues raised in the submissions.
- v. The report includes recommendations to address matters raised in submissions as to whether the provisions in the Proposed District Plan relating to Subdivision should be retained as notified, amended, or deleted in full.
- vi. Appendix A of this report sets out the recommended changes to the Subdivision chapter in full. These recommendations take into account all of the relevant matters raised in submissions and relevant statutory and non-statutory documents.
- vii. Appendix B of this report details officers' recommendations on submissions, and whether those submissions should be accepted or rejected. The body of this report should be consulted for reasoning.
- viii. For the reasons set out in the Section 32AA evaluation included throughout this report, the proposed objectives and associated provisions, with the recommended amendments, are considered to be the most appropriate means to:
 - a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives; and
 - b. Achieve the relevant objectives of the Proposed District Plan, in respect to the proposed provisions.

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Interpretation

Table 1: Abbreviations

Abbreviation	Means
the Act / the RMA	Resource Management Act 1991
the Council	Wellington City Council
the ODP/ODP	Operative Wellington City District Plan
the Proposed Plan/PDP	Proposed Wellington City District Plan
GWRC	Greater Wellington Regional Council
NES	National Environmental Standard
NES-AQ	National Environmental Standards for Air Quality 2004
NES-CS	National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NES-ETA	National Environmental Standards for Electricity Transmission Activities 2009
NES-FW	National Environmental Standards for Freshwater 2020
NES-MA	National Environmental Standards for Marine Aquaculture 2020
NES-PF	National Environmental Standards for Plantation Forestry 2017
NES-SDW	National Environmental Standards for Sources of Drinking Water 2007
NES-TF	National Environmental Standards for Telecommunication Facilities 2016
NPS	National Policy Statement
NPS-ET	National Policy Statement on Electricity Transmission 2008
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement on Urban Development 2020
NPS-REG	National Policy Statement for Renewable Electricity Generation 2011
NZCPS	New Zealand Coastal Policy Statement 2010
PNRP	Proposed Wellington Natural Resources Plan (Appeals Version) 2022
RPS	Wellington Regional Policy Statement 2013
Spatial Plan	Spatial Plan for Wellington City 2021
S32	Section 32 of the Resource Management Act 1991
S32AA	Section 32AA of the Resource Management Act 1991

Table 2: Submitters' and Further Submitters' Names

Abbreviation	Submitters
BARNZ	Board of Airline Representatives of New Zealand Inc
CentrePort	CentrePort Limited
Chorus	Chorus New Zealand Limited
FENZ	Fire and Emergency New Zealand
Firstgas	Firstgas Limited
GWRC	Greater Wellington Regional Council
Heritage NZ	Heritage New Zealand Pouhere Taonga
Kāinga Ora	Kāinga Ora – Homes and Communities
KiwiRail	KiwiRail Holdings Limited
Forest & Bird	Royal Forest and Bird Protection Society of New Zealand Inc
EQC	Toka Tū Ake EQC
Transpower	Transpower New Zealand Limited
WCC	Wellington City Council
WIAL	Wellington International Airport Ltd

1.0 Introduction

1.1 Purpose

1. This report is prepared under section 42A of the Resource Management Act 1991 (the **RMA**) to:
 - a. Assist the Hearings Panel in their role as Independent Commissioners in making their decisions on the submissions and further submissions on the Wellington City Proposed District Plan (the **PDP**); and
 - b. Provide submitters with information on how their submissions have been evaluated and the recommendations made by officers, prior to the hearing.

1.2 Scope

2. This report considers submissions received by the Council in relation to the relevant definitions, objectives, policies, rules, and standards as they apply to the Subdivision chapter including the Subdivision Design Guide.
3. This report:
 - a. Discusses general issues;
 - b. Considers the original and further submissions received;
 - c. Makes recommendations as to whether those submissions should be accepted or rejected; and
 - d. Concludes with a recommendation for any consequential changes to the plan provisions or maps based on the assessment and evaluation contained in the report.
4. This report is intended to be read in conjunction with the Section 42A Assessment Report: Part A – Overview, which sets out the statutory context, background information and administrative matters pertaining to the District Plan review and PDP.
5. The Hearings Panel may choose to accept or reject the conclusions and recommendations of this report, or may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.

1.3 Author and Qualifications

6. My full name is Hannah Jane van Haren-Giles. I am a Senior Planning Advisor in the District Planning Team at Wellington City Council (the Council).
7. My role in preparing this report is that of an expert in planning.
8. I hold the qualification of Bachelor of Resource and Environmental Planning (First Class Honours) from Massey University. I am an Intermediate Member of the New Zealand Planning Institute.
9. I have five years' experience in planning and resource management, primarily as a consultant planner working for Hill Young Cooper Limited. I have background in preparing and processing district and regional resource consent applications, plan and policy development, reviewing and preparing submissions, and providing resource management advice to a range of clients

including local authorities, industry groups, private sector companies, and individuals on various projects and planning processes.

10. My involvement with the Proposed Wellington City District Plan commenced in early 2020 when I was engaged to assist the Council with issues and options reports. I subsequently led the review and drafting of the Special Purpose Port Zone (including the Inner Harbour Port Precinct and Multi-User Ferry Precinct), Special Purpose Quarry Zone (including Kiwipoint Quarry Precinct), Special Purpose Stadium Zone, Hazardous Substances, and Contaminated Land chapters. I also authored the Section 32 Evaluation Reports for the Port Zone, Quarry Zone, Hazardous Substances, and Contaminated Land chapters.
11. Since joining the District Plan Team in July 2022 I have been involved in summarising submissions and further submissions, as well as developing the systems and database used to capture submissions and further submission points on the PDP.
12. I am also the reporting officer on the General Industrial Zone, Earthworks, Port Zone, Quarry Zone, Hazardous Substances, and Contaminated Land chapters.

1.4 Code of Conduct

13. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court 1 January 2023. I have complied with the Code of Conduct when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
14. Other than when I state that I am relying on the evidence or advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
15. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

1.5 Supporting Evidence

16. The expert evidence, literature, legal cases or other material which I have used or relied upon in support of the opinions expressed in this report is as follows:
 - a. Assessments contained in other relevant s42A Reports; and
 - b. Advice from other Council staff, including the district plan and consents teams.

1.6 Key resource management issues in contention

17. Having read the submissions and further submissions, I consider that the following matters are the key issues in contention in the chapter:
 - a. Concerns around access to firefighting water supply;

- b. Requests to delete references to consent notices, covenants, easements or other legal instruments in the policy and rule framework;
- c. Consistency and alignment of subdivision provisions with the NZCPS and approach of the Natural Environmental Value and Coastal Environment chapters;
- d. Three water standards, specifically in relation to hydraulic neutrality; and
- e. The policy and rule framework for subdivision in the Airport Zone and for infrastructure more broadly.

1.7 Procedural Matters

18. At the time of writing this report there have been no pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on any Subdivision provisions.
19. I note that some submissions in the submission tables at Appendix B of this s42A report relate to matters that have been addressed in Hearing Stream 1 (Strategic Direction), Hearing Stream 2 (Residential) and/or Hearing Stream 3 (Historic Heritage). If submission points have been addressed in earlier streams this has been noted. In this respect, I note that the question as to whether or not the Subdivision Design Guide (and Design Guides in general) should form a statutory part of the District Plan was addressed in Hearing Stream 2.
20. The submission tables at Appendix B also include reference to matters that will be addressed in later hearing streams. Where a submission point is included in the summary tables for Subdivision but would be more appropriately assessed under later hearing streams, this has been noted in Appendix B.
21. In particular I wish to note:
 - a. There are a number of submission points and further submission points relating to Te Motu Kairangi / Miramar Peninsula, Mount Crawford. The matters raised in these submissions are better addressed in the Open Space and Recreation Zone hearing, and I do not address them further in this report.
 - b. There are also a number of further submission points from Ms Hilary Watson [FS74] that respond to Kāinga Ora's original submission. Ms Watson's further submission points incorrectly identified Kāinga Ora's original submission points as relevant to subdivision, when they were intended to oppose Kāinga Ora's points on the MRZ and MRZ-PREC01. Mr Patterson, at paragraph 162 of his [Right of Reply for Hearing Stream 2](#), has since addressed Ms Watson's further submission points. Consequently, they are not addressed further in this report.

2.0 Background and Statutory Considerations

2.1 Resource Management Act 1991

22. The PDP has been prepared in accordance with the RMA and in particular, the requirements of:
 - a. Section 74 Matters to be considered by territorial authority; and
 - b. Section 75 Contents of district plans.

23. As set out in the Section 32 Evaluation Report Part 1 – Context to Evaluation and Strategic Objectives, there are a number of higher order planning documents and strategic plans that provide direction and guidance regarding the preparation and content of the PDP. These documents and a comprehensive assessment of all relevant consultation and statutory considerations prior to public notification of the PDP are discussed in detail within the [Subdivision s32 Report](#).

24. Since public notification of the PDP and publishing of the related section 32 evaluation reports on 18th July 2022, the following relevant statutory considerations have changed/been introduced:
 - a. Spatial Planning Bill and Natural and Built Environment Bill (14.11.2022)**
 - i. These Bills are currently before the select committee and have no implications for the plan.

 - b. Plan Change 1 to the Wellington Regional Policy Statement was notified (19.08.2022)**
 - i. A submission was received from GWRC seeking amendments to the PDP, in part to achieve alignment with this notified Plan Change. In Hearing Stream 1 the Reporting Officer confirmed that Plan Change 1 (PC1) to the WRPS must be had regard to, but that given the stage that PC1 is at in the legislative process (with substantial parts the subject of competing submissions), it may be difficult to give much weight to the PC1. However, it is appropriate that consideration is given to PC1 where relevant.

2.2 Schedule 1 and ISPP

25. As detailed earlier in the section 42A Overview Report, the Council has chosen to use two plan review processes:
 - a. The Intensification Streamlined Planning Process (ISPP) under Part 6 of Schedule 1 of the RMA for the intensification planning instrument (IPI). There are no appeal rights on ISPP provisions.
 - b. For all other PDP provisions and content, the standard Part 1 of Schedule 1 process of the RMA is used. Part 1 Schedule 1 provisions can be appealed.

26. The PDP is annotated with provisions that are to be assessed under the ISPP and the Part 1 Schedule 1 process. For this topic, the following provisions were notified under the ISPP as per the decision of the Pūroro āmua | Planning and Environment committee on 12 May 2022:
 - a. Objectives: SUB-O1

- b. Policies: SUB-P1, SUB-P2, SUB-P3, SUB-P4, SUB-P5, SUB-P7, SUB-P9, SUB-P24 and SUB-P25.
 - c. Rules: SUB-R1, SUB-R2, SUB-R3, SUB-R5, SUB-R7, SUB-R8, SUB-R17, SUB-R18, SUB-R19, SUB-R20, SUB-R21, SUB-R22, SUB-R23, SUB-R24 and SUB-R25
 - d. Standards: SUB-S1, SUB-S2, SUB-S3, SUB-S4, SUB-S5 and SUB-S6
27. The following provisions were notified under the Part 1 Schedule 1 process:
- a. Introduction
 - b. Objectives: SUB-O2
 - c. Policies: SUB-P6, SUB-P8, SUB-P10, SUB-P11, SUB-P12, SUB-P13, SUB-P14, SUB-P15, SUB-P16, SUB-P17, SUB-P18, SUB-P19, SUB-P20, SUB-P21, SUB-P22, SUB-P23 and SUB-P26
 - d. Rules: SUB-R4, SUB-R6, SUB-R9, SUB-10, SUB-R11, SUB-R12, SUB-R13, SUB-R14, SUB-R15, SUB-R16, SUB-R26, SUB-R27, SUB-R28, SUB-R29, SUB-R30 and SUB-R31
 - e. Standards: SUB-S7

2.3 Section 32AA

28. I have undertaken an evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken in accordance with s32AA. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

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

29. The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to this topic is contained within the assessment of the relief sought in submissions in section 3 of this report, as required by s32AA(1)(d)(ii).

30. The Section 32AA further evaluation contains a level of detail that corresponds to the scale and

significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor, and consequential changes that improve the effectiveness of provisions without changing the policy approach have not been re-evaluated. Additionally, further re-evaluation has not been undertaken if the recommended amendments have not materially altered the policy approach.

2.4 Trade Competition

31. Trade competition is not considered relevant to the provisions of the PDP relating to this topic.
32. There are no known trade competition issues raised within the submissions.

3.0 Consideration of Submissions and Further Submissions

3.1 Overview

33. In total there were 497 submission points received in relation to Subdivision, as follows:
 - a. 35 original submitters who collectively made 358 submission points; and
 - b. 26 further submitters who collectively made 139 further submission points in support or opposition to the primary submissions.

3.2 Report Structure

34. Submissions raised several issues that have been grouped for convenience and ease of reference by the parent chapter matters they relate to as opposed to the chronological ordering of provisions as they appear in the Subdivision Chapter. Substantive commentary on primary submissions contained in further submissions has been considered as part of consideration of the primary submissions to which they relate.
35. In accordance with Clause 10(3) of the First Schedule of the RMA, the following evaluations have been undertaken for the purposes of this report:
 - a. An issues and provisions, versus submission by submission, based evaluative approach, where a large number of similar submissions have been received.
 - b. A submission by submission evaluative approach, where a small number of submissions have been received.
36. Recommended amendments are contained in the following appendices:
 - a. Appendix A – Recommended Amendments to the Subdivision Chapter
 - b. Appendix B – Recommended Responses to Submissions and Further Submissions on the Subdivision Chapter
37. Additional information can also be obtained from the [Subdivision Section 32 Report](#), and the overlays and maps on the ePlan.
38. The following evaluation should be read in conjunction with the summaries of submissions and further submissions, along with the full submissions. Where there is agreement with the relief sought and the rationale for that relief, this is noted in the assessment section of the report, with the associated recommendation provided in the summary of submission table in Appendix B. Where a further evaluation of the relief sought in a submission(s) has been undertaken, the evaluation and recommendations are set out in the body of this report. A marked-up version of the subdivision chapter with recommended amendments in response to submissions is contained in Appendix A.
39. This report only addresses definitions that are specific to this topic. Definitions that relate to more than one topic have previously been addressed in the section 42A report relating to Hearing Stream 1, as well as other relevant s42A reports relating to different topics.

3.3 Format for Consideration of Submissions

40. The consideration of submissions has been undertaken in the following format:
 - a. Matters raised by submitters;
 - b. Assessment; and
 - c. Summary of recommendations.

41. The recommended amendments to the relevant parts of the PDP are set out in Appendix A of this report where all text changes are shown in a consolidated manner.

42. The recommended acceptance or rejection of submissions (and accordingly further submissions) is set out in Appendix B.

43. I have undertaken a s32AA evaluation in respect to the recommended amendments in my assessment that represent a material change from the policy direction in the proposed Subdivision chapter.

44. Where relevant I have addressed minor and inconsequential changes, pursuant to Schedule 1, clause 16 (2) of the RMA, within the context of the relevant provision assessment.

45. I note that the provisions of the Subdivision Chapter are unique in that they relate to a number of zone specific and district wide matters. For ease and clarity, the assessments undertaken in this report have been organised into related sections based on the zone/district wide matter or theme to which they relate, as set out below. The table below also sets out which provisions are to be assessed under the ISPP (shown in purple) and the Part 1 Schedule 1 process (shown in black).

Report section	Zone/ District wide matter / theme	Objectives	Policies	Rules	Standards
Section 3.4	Subdivision Design Guide				
Section 3.5	General Points on the Chapter as a whole				
Section 3.6	Recurring submission points relating to multiple provisions				
Section 3.7	General Subdivision provisions	SUB-O1	SUB-P1 SUB-P2 SUB-P3 SUB-P4 SUB-P5 SUB-P6 SUB-P7	SUB-R2 SUB-R3 SUB-R4 SUB-R5 SUB-R31	SUB-S1 SUB-S2 SUB-S3 SUB-S4 SUB-S5 SUB-S6
Section 3.8	Residential			SUB-R1	
Section 3.9	Esplanades	SUB-O2	SUB-P8		SUB-S7

Section 3.10	Historical and Cultural Values		SUB-P9 SUB-P10 SUB-P11 SUB-P12 SUB-P13	SUB-R6 SUB-R7 SUB-R8 SUB-R9 SUB-R10	
Section 3.11	Natural Environmental Values		SUB-P14 SUB-P15 SUB-P16 SUB-P17 SUB-P18 SUB-P19 SUB-P20	SUB-R11 SUB-R12 SUB-R13	
Section 3.12	Coastal Environment		SUB-P21 SUB-P22 SUB-P23 ¹ SUB-P24	SUB-R14 SUB-R15 SUB-R16	
Section 3.13	Natural Hazards and Coastal Hazards		SUB-P25 SUB-P26	SUB-R17 SUB-R18 SUB-R19 SUB-R20 SUB-R21 SUB-R22 SUB-R23 SUB-R24 SUB-R25 SUB-R26	
Section 3.14	National Grid and Gas Transmission Pipeline Corridor			SUB-R27 SUB-R28 SUB-R29	
Section 3.15	Air Noise Boundary			SUB-R30	

46. Given that the provisions of the Subdivision Chapter are interrelated to a number of other PDP chapters that are yet to be assessed and heard, the recommendations in this report are somewhat limited on the basis that the outcomes of the ‘parent’ chapter hearing processes are unknown. To the extent possible, I have made recommended amendments for the subdivision provisions, or otherwise noted proposed amendments that I consider would be appropriate.

47. The sections of this report which this issue is most relevant to are:

- a. Section 3.11 Natural Environmental Values – to be addressed in Hearing Stream 8
 - i. Ecosystems and Indigenous Biodiversity (ECO)
 - ii. Natural Character (NATC)
 - iii. Natural Features and Landscapes (NFL)
- b. Section 3.12 Coastal Environment – to be addressed in Hearing Stream 8
- c. Section 3.14 Infrastructure – to be addressed in Hearing Stream 9

48. Where amendments are proposed these will either be made in parallel with, or consequential to, the parent chapter hearings.

¹ I note that SUB-P23 and SUB-P24 as they relate to riparian margins are also relevant to this section on Natural Environmental Values, but have been grouped within the Coastal Environment section of this report.

49. I also note that there are interrelated matters between the subdivision provisions and other chapter content also part of Hearing Stream 5. In light of this, recommended amendments to the subdivision provisions set out in this report have sought to align with the recommendations of these other chapters as far as possible, noting that further consequential amendments may be required for reasons of consistency and alignment dependent on the outcomes of Hearing Stream 5.
50. The sections of this report that are relevant to chapters also being considered though Hearing Stream 5 are:
 - a. Section 3.7 General Subdivision Provisions – to the extent provisions address matters relating to Three Waters
 - b. Section 3.13 Natural and Coastal Hazards
 - c. Section 3.15 Air Noise Boundary
51. Finally, in relation to Proposed RPS Change 1, I concur with Mr McCutcheon’s verbal confirmation in Hearing Stream 1 that given the current point that this change is at in the process that no statutory weight is required to be given to it. However, as publicly notified the intent of Change 1 can be used to inform consideration in the context of the WCC PDP process, noting that it is subject to potential change through the process.

3.4 Subdivision Design Guide

3.4.1 All Subdivision Design Guide Points

Matters Raised by Submitters

52. Wellington Heritage Professionals [412.99 & 412.100] seek that G1 and G4 of the Subdivision Design Guide are retained as notified.
53. VicLabour [414.51] seeks the prioritisation of pedestrian experience, including the emphasis on accessibility, for subdivisions.
54. Paul M Blaschke [435.12] seeks that the Subdivision Design Guide is retained as notified.
55. Kainga Ora Homes and Communities [391.196 & 391.197] (opposed by Heritage New Zealand [FS9.3 & FS 9.4] and Onslow Residents Community Association [FS80.24]) opposes all references to design guides throughout all rules in the PDP and seeks deletion of them from the Plan.
56. McIndoe Urban Limited [135.120] considers that the Subdivision Design Guide contains a lot of detail that will not be relevant to many small subdivision applications. The submitter seeks that the Subdivision Design Guide identifies different types and scales of subdivision and introduces a mechanism to identify which guidelines apply to each type and scale of subdivision.
57. The Wellington City Council [266.187] seeks to amend G19, G20, and G21 in the Subdivision Design Guide to reference natural wetland, and G23 to reference constructed wetland.
58. GWRC [351.339 and 351.340] support the intent of the guidelines, but considers that the current

phrasing of policy G21 in the Subdivision Design Guide could suggest that piping streams is a way to avoid adverse effects on water quality and seeks the following amendment:

G21

Streams or wetlands should not be disturbed. However, where development does impact a stream (such as piping streams), alternative design solutions for stormwater management must be provided that will not adversely affect the waterway's quality (or ecological health), ~~such as piping streams.~~

59. The Glenside Progressive Association Incorporated [374.14] seek that the Subdivision Design Guide be stricter in restricting earthworks in elevated development areas, particularly Upper Stebbings and Glenside West. This is opposed by Lincolnshire Farm Ltd, Hunters Hill Ltd, Best Farm Ltd, Stebbings Farmland [FS75.7] on the basis that the areas identified in Upper Stebbings and Glenside West are identified for increased housing development and earthworks will be necessary to facilitate this.

Assessment

60. As noted in paragraph 145 of Ms Hayes and Ms Stevens Overview and General Matters for Commercial and Mixed-Use Zones report, the inclusion of the Design Guides in the PDP was addressed in Part 6 of the s42A Report prepared for Hearing Stream 2² and associated Statement of Evidence prepared by Dr Zamani³. I note that the Council's recommended approach is that Design Guides are retained as a statutory part of the PDP.
61. During Hearing Stream 2, submitters raised several issues with the Residential and the Centres and Mixed-Use Design Guides. These included issues relating to the statutory or non-statutory nature of the Guides, their relationship with District Plan provisions, their structure, and their content. In considering these submissions, the Hearing panel requested that Council undertake a review of the Residential and the Centres and Mixed-Use Design Guides and report back to the Panel in August 2023 at the ISPP 'wrap up' hearing. This review is currently underway and includes conferencing with several key submitters.
62. In a [memorandum dated 20 June 2023](#), Council Officers requested that the subdivision design guide be included in this review. Whilst the Subdivision Design Guide did not attract the same number of submissions as the Residential and the Centres and Mixed-Use Design Guides, it was considered beneficial that this guide also be included in the review process due to similarities in structure and content.
63. Across all the design guides there is a level of shared content by way of outcomes and how they are structured, their introductions, and what is an additional consideration and what is not. There are likely to be a number of structural and formatting changes to the Subdivision Design Guide, and changes across all Design Guides, that would be best undertaken in this integrated review. In addition, Kāinga Ora and McIndoe Urban have made similar points on the Subdivision Design Guide as those made on the Residential Design Guide, including the relevance of the guidelines in some cases.

² Hearing Stream 2 s42A Report - Part 6 Design Guides, section 3.2

³ [Statement of evidence of Dr Farzad Zamani on behalf of Wellington City Council, para 17](#)

64. The Independent Hearings Panel released [Minute 24 – Further Directions on Hearing Stream 5 on the 21st of June 2023](#). This minute, among other matters, confirmed that this request is appropriate and directed that the Subdivision Design Guide be included in the review process. Consequently, in accordance with Minute 24, any submissions relating to the Subdivision Design Guide, including its scope and content, will be addressed at the Wrap-Up Hearing for Streams 1 – 5.

3.5 General Points on the Chapter as a Whole

3.5.1 General Points on plan interpretation and application

Matters Raised by Submitters

65. WIAL [406.259] (supported by BARNZ [FS139.72]) seek that the subdivision chapter is amended to simplify rules and remove repetition.
66. Kāinga Ora [391.190 and 391.191] seeks that the Subdivision chapter be amended to have additional headings to categorise the policies to help with plan legibility and usability:

Assessment

Historic Heritage and Cultural Values:

SUB-P8 – SUB-P13

Natural Environment:

SUB-P14 – SUB-P19

Coastal Environment:

SUB-P20 – SUB-P24

Natural Hazards:

SUB-P25 – SUB-P26

67. In response to WIAL [406.259] I agree there is scope to simplify the rules and remove repetition. However, I also consider that to be in accordance with the National Planning Standards there is a need to ensure that all subdivision policies are located within the Subdivision Chapter. On this basis, policies relating to subdivision within Natural Hazard Overlays and Coastal Hazard Overlays should be re-housed in the Subdivision Chapter. As the amendments are proposed to clarify the interpretation of the provisions, I consider these to be of a minor nature and can be made under Clause 16 of Schedule 1. These amendments, including reasoning for these amendments is further detailed in section 3.13 of this report.
68. In response to Kāinga Ora [391.190 and 391.191] I agree that headings in the Subdivision Chapter will help plan legibility and usability. I further consider that it would also be beneficial to group policies and rules in the same order within the policies section as in the rules section to assist plan navigation and legibility. I have made recommendations to this effect.

Summary of Recommendations

69. **HS5-SUB-Rec1:** That the Subdivision chapter is amended so that the polices and rules are grouped

under headings as set out in Appendix A.

70. **H55-SUB-Rec2:** That submission points relating to the interpretation and application are accepted/rejected as detailed in Appendix B.

3.5.2 General Points on the chapter as a whole

Matters Raised by Submitters

71. Waka Kotahi [370.189] (opposed by Stride Investment Management [FS107.27] and Investore Property [FS108.27]) submit that subdivision within 100m of a state highway corridor should be at least a restricted discretionary activity. KiwiRail [FS72.55] support Waka Kotahi's submission and seek further amendment to include the rail corridor.
72. Waka Kotahi [370.190] (supported by KiwiRail [FS72.56] and opposed by Stride Investment Management [FS107.28] and Investore Property [FS108.28]) seeks an additional standard which subdivision activities shall be assessed against when located within specified distances of the state highway network, as follows:

SUB-SX Subdivision resulting in the creation of new sites 100m of a State Highway (measured from the nearest painted edge of the carriageway).

Assessment criteria where the standard is infringed:

1. The potential adverse effects of noise generated from the road network.
2. The potential adverse effects of site development on the efficient use and operation of the state highway network and the suitability of any mitigation measures relating to noise and vibration to enable the continued operation of the network.
3. Whether any consultation with Waka Kotahi NZ Transport Agency has occurred and the outcome of that consultation.
4. Whether a consent notice with regard to reverse sensitivity effects on the State Highway network is proposed.
5. Whether any proposed building platform or development should be restricted to parts of the site.
6. Whether there are any special topographical features or ground conditions which may mitigate effects on the operation of the State Highway network.

73. Trelissick Park Group [168.17] seeks that subdivision should not be allowed in significant natural areas (SNAs).
74. Kāinga Ora [391.192 and 391.193] (opposed by KiwiRail [FS72.57 and FS72.58] and Wellington's Character Charitable Trust [FS82.136]) submit that all rules in the Subdivision chapter should have a notification preclusion statement (for both public and limited notification) for restricted discretionary activities. The submitter notes that the technical nature of these breaches require technical and/or engineering assessments, and that public participation by way of limited or public notification will unlikely add anything to the consideration of the effects of these breaches. The submitter seeks the inclusion of a notification preclusion statement relating to restricted

discretionary activities within the chapter as follows:

Notification:

Applications under this rule are precluded from being publicly or limited notified in accordance with section 95A or section 95B of the RMA.

Assessment

75. Waka Kotahi [370.189] contend that at the subdivision stage there are better options available to manage noise exposure instead of treating the matter on an individual house by house basis, noting that this does not protect outdoor amenity and can constrain residents to reliance on mechanical ventilation.
76. In response to Waka Kotahi [370.189 and 370.190] I consider that the land use approach of requiring noise attenuation for sensitive users is more appropriate to the Wellington context for several reasons.
77. Firstly, I note that the painted edge of a state highway carriageway can be amended without recourse to the Schedule 1 process, meaning the compliance and administrative implications of the relief sought by the submitter are ambiguous and offer insufficient certainty to underpin a rule in a Plan.
78. I also agree with further submitters Stride Investment Management Limited [FS107.28] and Investore Property Limited [FS108.28] that this blanket approach is insufficiently nuanced and may impose an unreasonable burden on subdivision, and that there are other controls more appropriate to manage any effects of the subdivision on the state highway.
79. In my view the Noise Chapter is the most appropriate place to address this matter as it relates to land use provisions that address noise and potential reverse sensitivity within proximity to a state highway. For example, new buildings, alterations or additions to existing buildings within 80m of a State Highway are managed through NOISE-R3 and, depending on whether the activity is within a High Noise Area (within 40m of State Highway) or Moderate Noise Area (40-80m of State Highway), NOISE-S4 or NOISE-S5 apply along with associated acoustic insulation requirements. If an activity does not comply with these standards, it becomes a restricted discretionary activity.
80. In addition, relying on the assessment at paragraph 64 of the Noise s42A Report, as I understand it, analysis of potential levels of traffic noise received within areas 40m to 100m from the highway has shown noise levels received at these distances from highways with lower vehicle speed limits (≤ 70 km/hour) would be unlikely to cause significant adverse future highway noise effects. A related factor is that, in Wellington, these lower speed portions of the state highway network typically have significant buildings and structures built close to the road (acting to acoustically screen more distant receiver sites).
81. In the absence of any compelling evidence, planning evaluation or s32AA evaluation from Waka Kotahi presenting analysis of the costs and benefits from imposing the blanket approach, or any evidence that the 100m metric is the most appropriate distance to manage reverse sensitivity effects, I consider the notified provisions appropriately implement the objectives of the PDP for the relevant reasons set out in the associated Subdivision section 32 report. On this basis I reject

the relief sought by Waka Kotahi.

82. To the extent that the intent of the submission of Trelissick Park Group [168.17] is to prohibit all subdivision within SNAs I disagree that this is appropriate. In my view the policy framework for subdivision in SNAs in SUB-P15 and SUB-P16 is appropriate to protect biodiversity values as detailed in section 3.11.2 of this report.
83. In response to Kāinga Ora [391.192 and 391.193] I do not consider that all restricted discretionary activity rules in the Subdivision chapter should preclude public and limited notification. I disagree that public participation by way of limited or public notification will unlikely add anything to the consideration of the effects of these breaches. By way of example, under SUB-R5.3, non-compliance with the standard for stormwater management (SUB-S6) may have significant adverse effects for the surrounding area, or non-compliance with the access standard (SUB-S1) has the potential to have significant adverse effects on the safety and efficiency of the transport network. In my view it is more appropriate to rely on s95 RMA so that the specifics of each application can be assessed on their merits. I therefore disagree that a blanket notification preclusion statement is appropriate. I also note that Clause 5, Schedule 3A of the RMA provides specific direction on notification requirements and when this is to be precluded. The notification provisions in SUB-R1 have been informed by this direction.

Summary of Recommendations

84. **HS5-SUB-Rec3:** No changes are recommended in response to these submissions on general points.
85. **HS5-SUB-Rec4:** That submission points relating to General points are accepted/rejected as detailed in Appendix B.

3.5.3 General Points on the Subdivision chapter introduction

Matters Raised by Submitters

86. Transpower [315.166] submit that in order to assist with plan interpretation and application, reference to the National Grid as a qualifying matter within the introductory/plan relationship text of the subdivision chapter of the PDP should be included.
87. Transpower [315.167 and 315.168] support the guidance as to the applicability of the rule and policy provisions but seek to amend the reference 'topic specific' to 'district wide' as follows:

Rule SUB-R1 relates specifically to subdivision of land for the purpose of the construction and use of residential units in the Medium Density Residential Zone and the High Density Residential Zone. Subdivisions under Rule SUB-R1 are not subject to Rules SUB-R2 – SUB-R5, but are subject to the area specific and ~~topic specific~~ district wide rules where the land also contains a corresponding planning notation or overlay.

88. Transpower [315.169] supports guidance provided within the introduction to the PDP that clarifies for plan users that the objectives and policies relating to subdivision within the National Grid Yard are provided within the INF Chapter. They consider such direction is necessary given the PDP chapters separates the rules from the supporting policy framework, and seeks to retain

the text within Other relevant District Plan provisions as notified.

89. Kāinga Ora [391.187, 391.188, and 391.189] submit that the Introduction to the Subdivision chapter should be amended to clarify how the effects of poorly designed subdivisions are related to vacant lot subdivisions where the land use activities have not yet been designed. Further amendments are sought to clarify that the District Plan seeks to provide a more enabling framework for combined land use and subdivision resource consents, and for clarity to explain application of the objectives, policies and rules as this is currently confusing and does not provide further clarity, and that the objectives, policies and rules themselves should clearly describe how they apply. The amendment sought by Kāinga Ora is as follows (on the next page):

...

In addition to facilitating increased housing supply and choice, subdivision is related to the Council's aims for a more sustainable and resilient future for Wellington. For example, poorly designed vacant lot subdivisions can limit neighbourhood connectivity and cohesion, entailing also longer travel times, greater reliance on private vehicle transport and associated increases in greenhouse gas emissions.

...

Poorly-designed vacant lot subdivisions can also lead to greater energy consumption and associated costs for home heating, relative to designs that make better use of solar aspect and other renewable energy opportunities. Objectives, policies, rules and standards included in the subdivision chapter seek to manage the effects of vacant lot subdivision.

When subdivision and related land use activities are assessed concurrently, it enables a comprehensive understanding of the resulting pattern, scale and density of development. For this reason, the Council prefers combined subdivision and land use resource consent applications to be made wherever possible and therefore the District Plan provides a more enabling framework for combined subdivision and land use application. ~~However, it is understood that such an integrated approach is not always practicable or preferable for applicants, for a variety of reasons.~~

...

Subdivisions commonly lead to an increase in intensity of land use activity, and additional steps may need to be taken for vacant lot ~~at subdivisions stage~~ to ensure existing and future activities can be serviced for access, water supply, wastewater disposal, stormwater management, telecommunications and power supply.

....

...

Subdivision is only permitted in limited circumstances. Under Section 223 of the RMA, a ~~requires that a~~ survey plan for such subdivisions may be submitted to Council for approval provided that a certificate of compliance has been obtained for the subdivision and that certificate has not lapsed.

...

~~Rule SUB-R1 relates specifically to subdivision of land for the purpose of the construction and use of residential units in the Medium Density Residential Zone and the High Density Residential Zone. Subdivisions under Rule SUB-R1 are not subject to Rules SUB-R2 – SUB-R5, but are subject to the area-specific and topic-specific rules where the land also contains a corresponding planning notation or overlay.~~

~~With the exception of Rule SUB-R1, the general subdivision objectives, policies and rules apply to all subdivision proposals, including those that affect land subject to other planning map notations, areas, or overlays. To the extent relevant, this includes Objectives SUB-O1 and SUB-O2, Policies SUB-P1 – SUB-P8, and Rules SUB-R2 – SUB-R5.~~

~~In addition to those general provisions, the area-specific and topic-specific policies and rules apply to subdivisions affecting land subject to the applicable planning notation or overlay. This includes Policies SUB-P9 – SUB-P26, and Rules SUB-R6 – SUB-R31.~~

Assessment

90. In response to Transpower [315.166] I note that qualifying matters were addressed in Hearing Stream 1 and are now beyond consideration. This matter was assessed in the Hearing Stream 1 s42A Report⁴ and in the Hearing Stream 1 Right of Reply,⁵ with the s42A Report noting that as elected representatives decided that the provisions identified by Transpower should not be progressed through the ISPP that this decision cannot be changed post notification of the PDP.
91. In response to Transpower [315.167 and 315.168], I agree that the introduction should state 'district-wide' instead of 'topic-specific' as the term 'topic specific' is not otherwise used in the plan and therefore it may be unclear to plan users to which provisions the term applies. This will ensure clarity in referring to the 'district-wide' matters as drafted in the PDP.
92. In response to Kāinga Ora [391.187 and 391.188] seeking to clarify that the effects of poorly designed subdivisions are related to vacant lots, I disagree with the amendments sought. It is not the purpose or intent of the subdivision chapter that it address vacant lots only and as such I do not consider that this should be the prevailing consideration reflected in the introductory text. However, as to their suggested amendment to add 'the District Plan provides a more enabling framework for combined land use and subdivision applications', I agree and support the relief sought as it is consistent with SUB-P4.1 - *encouraging joint applications for subdivision and land use*.
93. Kāinga Ora [391.189] have also requested amendments to the introductory text to clarify application of the objectives, policies and rules as they consider the current wording is confusing and does not clearly describe how they apply. While I agree that this text could lead to confusion, I am of the view that any discussion on the general applicability of the provision framework should rightly be integrated into the introduction. Consequently, although I do not concur with the proposed text deletions I consider that the addition of an 'Application of rules in this Chapter' heading in the introduction similar to that provided in the Earthworks Chapter introduction would be beneficial to help with plan legibility and usability.

Summary of Recommendations

94. **HS5-SUB-Rec5:** That the Subdivision Chapter introduction be amended as set out below and detailed in Appendix A.

Subdivisions under Rule SUB-R1 are not subject to Rules SUB-R2 – SUB-R5, but are subject to the area-specific and ~~topic-specific~~ district wide rules where the land also contains a corresponding planning notation or overlay.

...

In addition to those general provisions, the area-specific and ~~topic-specific~~ district wide policies and rules apply to subdivisions affecting land subject to the applicable planning notation or overlay. This includes Policies SUB-P9 – SUB-P26, and Rules SUB-R6 – SUB-R31.

⁴ Paragraphs 79-81, [Hearing Stream 1 s42A Report](#)

⁵ Pages 4-5 of Appendix 5, [Stream 1 Reporting Officer Right of Reply](#)

...

When subdivision and related land use activities are assessed concurrently, it enables a comprehensive understanding of the resulting pattern, scale and density of development. For this reason, the Council prefers combined subdivision and land use resource consent applications to be made wherever possible and therefore the District Plan provides a more enabling framework for combined subdivision and land use application. However, it is understood that such an integrated approach is not always practicable or preferable for applicants, for a variety of reasons.

...

Subdivision is only permitted in limited circumstances. Under Section 223 of the RMA, a requires that a survey plan for such subdivisions may be submitted to Council for approval provided that a certificate of compliance has been obtained for the subdivision and that certificate has not lapsed.

Application of rules in this Chapter

This chapter includes objectives, policies and rules that relate to subdivision generally. It also includes policies and rules that implement objectives in other chapters, specifically as they relate to the management of subdivision.

Rule SUB-R1 relates specifically to subdivision of land for the purpose of the construction and use of residential units in the Medium Density Residential Zone and the High Density Residential Zone.

Subdivisions under Rule SUB-R1 are not subject to Rules SUB-R2 – SUB-R5, but are subject to the area-specific and topic-specific rules where the land also contains a corresponding planning notation or overlay.

With the exception of Rule SUB-R1, the general subdivision objectives, policies and rules apply to all subdivision proposals, including those that affect land subject to other planning map notations, areas, or overlays. To the extent relevant, this includes

95. **HS5-SUB-Rec6:** That submission points relating to the Subdivision chapter introduction are accepted/rejected as detailed in Appendix B.

3.6 Recurring submission points relating to multiple provisions

96. This section of the report addresses submission points that have been made in relation to multiple provisions throughout the Subdivision chapter. To reduce repetition relevant submission points have been grouped and collectively assessed, as opposed to individually on a provision by provision basis. The submission points are considered broad enough that they can be assessed at this overarching level.
97. There are four main matters that attracted recurring submission points as follows:
- a. The matter of firefighting water supply as a matter of discretion.

- b. The matter of consent notices, covenants, easements or other legal instruments.
- c. The matter of referring to the overlays instead of referring to a relevant hazard.
- d. The matter of building platforms, particularly in the Airport Zone.

3.6.1 The matter of firefighting water supply as a matter of discretion

Matters Raised by Submitters

98. FENZ submits that the rules do not provide appropriate consideration for the provision of services, particularly firefighting water supply and access to that supply, and has sought to add the following matter of discretion to eight rules in the Subdivision chapter:

The extent to which firefighting water supply, and access to that supply, has been provided in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008.

99. The specific rules and submission points relevant to the relief sought are as follows:

Rule	Submission points
SUB-R6	273.112, 273.113
SUB-R11	273.114, 273.115
SUB-R12	273.116, 273.117
SUB-R13	273.118, 273.119
SUB-R14	273.120, 273.121
SUB-R15	273.122, 273.123
SUB-R16	273.124, 273.125
SUB-R17	273.126, 273.127

Assessment

100. In response, I do not consider it necessary to include the requested matter of discretion to the rules requested as the intent of these specific, targeted provisions and supporting overlays is that they apply in addition to the more 'general' district-wide subdivision rules, being SUB-R2, SUB-R3, SUB-R4, and SUB-R5.
101. Consequently, I disagree with the relief sought by FENZ, noting that provision and access to firefighting water supply will be addressed via SUB-S2 in all relevant general subdivision rules. I consider that it is not appropriate for the matters of discretion to include specific reference to an external standard.

Summary of Recommendations

102. **HS5-SUB-Rec7:** No changes are recommended in response to submissions on the matter of firefighting water supply as a matter of discretion.
103. **HS5-SUB-Rec8:** That submission points relating to the matter of firefighting water supply as a matter of discretion are accepted/rejected as detailed in Appendix B.

3.6.2 The matter of consent notices, covenants, easements or other legal instruments

Matters Raised by Submitters

104. WCC [266.95 and 266.96] (supported by Survey & Spatial New Zealand Wellington Branch [FS116.4]) seek to delete 'Any consent notices, covenants, easements or other legal instruments necessary' from all relevant rules for the reason it gives too much discretion to the assessment of controlled and restricted discretionary activities. The relevant rules being: SUB-R1.1.7 SUB-R2.2.4 SUB-R3.2.5 SUB-R3.3.8 SUB-R4.1.3 SUB-R4.2.4 SUB-R5.1.3 SUB-R5.2.7 SUB-R5.3.4 SUB-R17.1.3 SUB-R17.2.3 SUB-R18.1.1c SUB-R19.1.3 SUB-R22.1.3 SUB-R23.1.3 SUB-R26.1.3.
105. This overarching submission point from WCC has also been captured as submission points for each relevant rule where WCC has sought to delete this matter of control / matter of discretion, as follows:

Rule	Submission points
SUB-R1	266.99
SUB-R2	266.100
SUB-R3	266.101
SUB-R4	266.102
SUB-R5	266.103
SUB-R17	266.104
SUB-R18	266.105
SUB-R19	266.106
SUB-R22	266.107
SUB-R23	266.108
SUB-R26	266.109

106. Kāinga Ora [391.194 and 391.195] oppose the matter of control and associated matter of discretion 'any consent notices, covenants, easements or other legal instruments necessary', and seeks that all rules in the Subdivision chapter are amended to remove this matter in relation to controlled and restricted discretionary activities. This overarching submission point from Kāinga Ora has also been captured as separate submission points for each relevant rule where Kāinga Ora has sought to delete this matter of control / matter of discretion. These submission points (and further submission points) as they also relate to the matter of referring to the overlays instead of referring to a relevant hazard are addressed in section 3.6.3 of this report.
107. Kāinga Ora have also sought to remove reference to 'whether covenants or consent notices can be imposed on new allotment to manage any anticipated development' from relevant policies as follows:

Policies	Submission points	Further submission points in opposition
SUB-P10	391.212 and 391.213	Heritage New Zealand Pouhere Taonga [FS9.8] LIVE WELLington [FS96.15] Roland Sapsford [FS117.14]
SUB-P11	391.214 and 391.215	Heritage New Zealand Pouhere Taonga [FS9.9] LIVE WELLington [FS96.16] Roland Sapsford [FS117.15]
SUB-P12	391.216 and 391.217	Heritage New Zealand Pouhere Taonga [FS9.10]
SUB-P13	391.218 and 391.219	

Assessment

108. Kāinga Ora [391.194 and 391.195] submit that 'any consent notices, covenants, easements or other legal instructed necessary' should not be a determining matter for control / discretion when granting consent on the basis that anticipated development is provided for within the framework of the underlying zone and relevant district plan provisions, and covenants and consent notices are tools that are currently provided for when necessary and appropriate under current legislation. Similarly, WCC [266.95 and 266.96] submit that the proposed wording enables too much discretion to be exercised in the assessment of controlled and restricted discretionary activities
109. I agree with the submission points seeking that the matter of discretion or matter of control relating to consent notices, covenants, easements or other legal instruments should be deleted from the subdivision rules.
110. In particular, I do not consider it appropriate for these matters to be included in a restricted discretionary or controlled activity rule because in some cases it may unnecessarily and unintentionally provide the consenting authority with too much discretionary scope where it is not necessary. Importantly, I note that these mechanisms are already available to consenting authorities where appropriate through the RMA. For these reasons I am of the opinion that reference to these matters should not be retained, noting that there are other clauses in the rules that direct the consenting authority to relevant matters without needing a broad matter concerning consent notices, covenants, easements and other legal instruments.
111. I note that these legal mechanisms can be applied to subdivision to the extent available to the Council irrespective of whether they are explicitly specified in the PDP as matters of discretion. Section 221 of the RMA enables Council to issue a consent notice, which is registered on any new title. This ensures a condition will be complied with after the subdivision has been completed. Other covenants can also be registered on titles, such as 'no complaints' covenants. An easement is defined as a right for the owner to carry out some form of activity over another lot and are created under sections 107 to 115 of the Land Transfer Act 2017. Councils have powers to impose conditions requiring the creation of easement on subdivision, in accordance with s243 of the RMA.
112. Following discussions with relevant Council staff there are a number of reasons why I have concluded that these proposed matters of discretion/control are inappropriate. These include:
- a. Provides Council staff with an opportunity to negotiate restrictions that exceed those in the district plan without recourse to public scrutiny;
 - b. Relies on private versus Council enforcement of compliance;
 - c. Potentially binds future councils in a way that a normal resource consent cannot;
 - d. Provides Council with unconstrained discretion to impose any legal instrument available to it for any purpose it deems necessary, a position contrary to the intended discretionary scope of a restricted discretionary or controlled activity rule. Removing this clause returns Council control/discretion back to the list of matters in the rule, with reliance on legal mechanisms outside of the district plan to deal with such matters as consent notices, covenants, and/or easements.

113. As such, I recommend that references to these matters of discretion/control are removed from relevant rules in the Subdivision chapter as they are ambiguous and provide too much discretion as to when and how the various instruments should be used. I further consider that the subdivision provisions are drafted in such a way that, that the directive of the policies and other specific matters of discretion/control do the ‘heavy lifting’ for important matters to be considered.
114. Turning to deletion of the matter of the reference to ‘Whether covenants or consent notices can be imposed on any new allotment to manage any anticipated development’ in policies SUB-P10, SUB-P11, SUB-P12, and SUB-P13, I firstly note that as these are all policies relating to the Historical and Cultural Values chapters I refer and rely on the assessment and recommendations of Mr McCutcheon as it relates to Hearing Stream 3. In particular I note, in relation to scheduled archaeological sites, that I am in agreement with his assessment that the placement of a notice on a resource consent is a matter for the resource consent process, and also standard practice.⁶
115. Secondly, I note that ‘whether covenants or consent notices can be imposed on any new allotment to manage any anticipated development’ is very broadly phrased. This, in turn, would in my opinion enable Council to impose consent notices on a wide range of matters, for any management purpose, as opposed to a specific task or matter in the policy framework for a specific outcome.
116. Thirdly, as I understand it covenants are not technically meant to be ‘imposed’ as they are essentially a voluntary agreement. In this sense consent notices are a more appropriate mechanism in relation to managing any subsequent development following subdivision.
117. Fourthly, I consider the structure of the policies in referencing the matter to be odd, as it is worded it implies that regard should be had to whether covenants/consents notices *can* be imposed, implying this is a legal check for the processing officers – “can I impose a consent notice?” rather than what should be a merits/planning assessment of “should I impose a consent notice?”.
118. Fifthly, the further submitters opposing Kāinga Ora’s request to delete these clauses do so because “these are appropriate measures for ongoing protection ...” “It is useful to remind applicants and decision-makers of these methods”. In my view, as set out above, these legal tools exist whether they are referenced in a policy or not. As such, ‘reminders’ are in my view suited to plan user guidance, rather than PDP policies and rules.
119. On this basis I agree with all submission points of Kāinga Ora and WCC on this matter and recommended these clauses be removed from the policies. As to whether this would it have a detrimental effect on managing historic/cultural heritage or notable trees, I consider that the residual clauses in these policies provide sufficient direction to inform the consideration of related consent applications. However, if the panel were of mind to retain these references in relevant policies I would suggest that the phrasing is amended as follows:

‘whether a consent notice or other legal mechanism is required to protect identified historic heritage or cultural values.’

⁶ Page 183, [Hearing Stream 3 s42A Report](#).

Summary of Recommendations

120. **HS5-SUB-Rec9:** That references to consent notices, covenants, easements and other legal instruments in all relevant policies and rules in the Subdivision Chapter are deleted as detailed in Appendix A.
121. **HS5-SUB-Rec10:** That submission points relating to consent notices, covenants, easements and other legal instruments are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

122. In my opinion, the recommended deletion of references to consent notices, covenants, easements and other legal instruments in the Subdivision Chapter is the most appropriate way to achieve the objectives of the plan compared to the notified provisions for the reasons outlined above. In particular, I consider that the deletion of these references:
 - a. Provides a more nuanced and targeted provision framework, and ensures discretionary scope is not provided unnecessarily and unintentionally.
 - b. Removes reference to mechanisms that are already available to consenting authorities where appropriate.
123. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation and more efficient plan administration.

3.6.3 The matter of referring to the overlays instead of referring to a relevant hazard

Matters Raised by Submitters

124. Kāinga Ora [391] opposes the inclusion of flood hazard overlays and seeks the reference to overlays is removed from all relevant rules and standards and replaced with reference to the relevant hazard. The various submission points of Kāinga Ora on this matter are opposed by GWRC [FS84], EQC [FS70], and Te Rūnanga o Toa Rangatira [FS138] for the following reasons:
 - a. GWRC [FS84] disagree that the flood hazard maps be held in a nonstatutory GIS and instead seek that all flood hazard maps are included in the PDP.
 - b. EQC [FS70] submit that accurate and risk-based regulatory hazard maps are an important tool in the PDP to limit subdivision and development within areas subject to natural hazard risk. Removing part or all of these regulatory maps opens the possibility that rules controlling development in flood-prone areas will be inconsistently applied, exposing people and their properties to unnecessary flood risk.
 - c. Te Rūnanga o Toa Rangatira [FS138] submit that these overlays provide certainty around what areas could be affected by hazards and how to plan for natural hazards – what land uses are appropriate to allow and disallow for.
125. The submission points of Kāinga Ora, and further submission points of GWRC, EQC, and Te

Rūnanga o Toa Rangatira on this matter are as follows:

Rules	Submission points	Further submission points in opposition
SUB-R17	391.228 391.229	GWRC [FS84.59] GWRC [FS84.60] and EQC [FS70.57]
SUB-R18	391.230 391.231	GWRC [FS84.61] GWRC [FS84.62] and EQC [FS70.58]
SUB-R19	391.232 391.233	GWRC [FS84.63] GWRC [FS84.64] and EQC [FS70.59]
SUB-R20	No submission point tagged to SUB-R20 but is identified in Kāinga Ora's original submission.	
SUB-R21	391.235	EQC [FS70.60]
SUB-R22	391.236 391.237	GWRC [FS84.65] and Te Rūnanga o Toa Rangatira [FS138.76] GWRC [FS84.66] and Te Rūnanga o Toa Rangatira [FS138.77]
SUB-R23	391.238 391.239	GWRC [FS84.67] and Te Rūnanga o Toa Rangatira [FS138.78] GWRC [FS84.68] and Te Rūnanga o Toa Rangatira [FS138.79] and EQC [FS70.61]
SUB-R24	391.240 391.241	GWRC [FS84.69] and Te Rūnanga o Toa Rangatira [FS138.80] GWRC [FS84.70] and Te Rūnanga o Toa Rangatira [FS138.81]
SUB-R25	391.242 391.243	

It is noted that some of the submission points and further submission points identified in this table also raise and respond to other matters that are addressed separately in this report under the relevant rule section.

Assessment

126. As this matter relates more broadly to natural hazards rather than subdivision, I rely on the assessment of Mr Sirl as set out in paragraphs 153-159 of the Natural and Coastal Hazards s42A Report.
127. I note that Mr Sirl concludes in paragraph 159 of the above mentioned report that reference to the flood hazard overlays is appropriate, and I concur with this conclusion for the reasons outlined and propose that associated references in the Subdivision Chapter are retained.

Summary of Recommendations

128. **HS5-SUB-Rec11:** No changes are recommended in response to submissions on the matter of referring to the overlays instead of referring to a relevant hazard.
129. **HS5-SUB-Rec12:** That submission points relating to the matter of referring to the overlays instead of referring to a relevant hazard are accepted/rejected as detailed in Appendix B.

3.6.4 The matter of building platforms, particularly in the Airport Zone

Matters Raised by Submitters

130. WIAL [406.260] (supported by BARNZ [FS139.73]) seek that further guidance is added as to circumstances where it is necessary for building platforms to be identified as a part of subdivision activity.
131. WIAL [406.261] also seek that there is no requirement for building platforms to be identified within the Airport Zone.
132. The specific rules and submission points relevant to the relief sought by WIAL are as follows:

Rules	Submission points
SUB-R17	406.267 and 406.268
SUB-R19	406.269 and 406.270
SUB-R20	406.271 and 406.272
SUB-R21	406.273 and 406.274
SUB-R23	406.275 and 406.276
SUB-R24	406.277 and 406.278
SUB-R25	406.279 and 406.280

Assessment

133. Firstly, in response to WIAL [406.260] I disagree that it is not clear the circumstances where building platforms will be required to be identified as part of subdivision consent. I consider that the rules are clear and appropriate. In the absence of any compelling evidence, planning evaluation or s32AA evaluation provided by WIAL, I consider the notified provisions most appropriately implement the objectives of the PDP, and disagree with the relief sought.
134. In my view the rules requiring building platforms to be identified directly responds to the direction in SUB-P4 that joint applications for subdivision and land use are encouraged, and that standalone subdivision proposals provide allotments that can be feasibly developed and are fit for the future intended purpose. I also consider that the identification of building platforms responds to SUB-P25 in terms of the sensitivity of the activities to the impacts of natural hazards. As such, I consider it appropriate that building platforms located within the Natural and Coastal Hazards and Natural Environmental Value overlays are identified as a matter of control/discretion in the rules.
135. Secondly, WIAL [406.261] consider that it is inappropriate for building platforms to be identified within the Airport Zone given the size of the land parcels and the nature of the activities that are accommodated on-site, even where the activity is one that is hazard sensitive or potentially hazard sensitive.
136. The intent of the provisions in the Subdivision Chapter is that subdivision to create a new allotment for infrastructure, which by definition includes an airport, would be considered and assessed as a controlled activity under SUB-R4, with no associated building platform requirement applying. Further, in the event that a subdivision is not directly associated with the airport, i.e. for commercial or visitor accommodation purposes, the intent is that this would be assessed under SUB-R2 or SUB-R5 as appropriate, noting again that no associated building platform requirement applies.
137. I note that subdivision in the Airport Zone has a specific carve out in the overlay subdivision rules, notably SUB-R15 where a subdivision is located in the coastal environment within coastal margins or riparian margins, and/or SUB-R26 where it is located in the Wellington Fault Overlay or medium or high coastal hazard areas. In my view this carve out for the Airport (and other zones) is appropriate and consistent with NZCPS Policy 25. To the extent WIAL raises concerns seeking that there be no requirement for building platforms within the Airport Zone, this is already the case via the aforementioned rules. However, I note that reference to building platforms as a matter of control/discretion is made in a few of the subdivision rules, for example SUB-R15 which includes 'Any measures proposed to protect the natural character values of the area, including the location and size of future building platforms'.

Summary of Recommendations

138. **HS5-SUB-Rec13:** No changes are recommended in response to submissions on the matter of building platforms, particularly in the Airport Zone.
139. **HS5-SUB-Rec14:** That submission points relating to the matter of building platforms, particularly in the Airport Zone are accepted/rejected as detailed in Appendix B.

3.7 General Subdivision Provisions

3.7.1 New objective

Matters Raised by Submitters

140. Kāinga Ora [391.198] seek an additional objective that identifies the outcomes sought for subdivision within or on land identified as having historical values, natural environmental values and coastal values. The amendment sought by Kāinga Ora (supported by Pouhere Taonga [FS9.5]) is as follows:

SUB-OX

Subdivision is managed in areas with identified historical values, natural environmental and coastal values, where subdivision can have adverse effects on the values that the District Plan seeks to manage or protect.

Assessment

141. In response to Kāinga Ora Homes and Communities [391.198] I acknowledge the intent of the amendment is to provide high-level overarching directive for the policy framework within the subdivision chapter on various environments that are more sensitive to change.
142. However, the approach adopted in the PDP is that the objectives relating to relevant district-wide matters and associated overlay provisions, including as they relate to subdivision, are embedded in the corresponding parent chapter, for example HH-O2, SASM-O2, ECO-O1, NATC-O1, NFL-O1, and CE-O3. This approach allows for catered outcomes to be expressed for each district-wide matter and/or overlay, particularly where there is a need to implement relevant higher order direction contained in Part 2 of the RMA, NPSs, and/or the RPS. The Subdivision Chapter introduction makes clear that the relevant policies relate back to the corresponding objectives in the overlay chapter.
143. A new objective in the Subdivision chapter as suggested would in my view risk creating a scenario where a conflicting outcome is expressed in the Subdivision chapter that does not align with one already established and expressed in the parent overlay chapter. It further risks that the specific direction and detail in those objectives is overridden and made ineffective by a more succinct objective, downplaying and weakening the outcomes anticipated in those parent chapter objectives as it relates to subdivision. I consider that the 'Other relevant District Plan provisions' section at the start of the Subdivision chapter provides suitable cross referencing to ensure wayfinding between relevant provisions.
144. Regardless, I consider that the 'Other relevant District Plan provisions' section would benefit

from amendments to ensure that all relevant chapters are adequately cross referenced, noting for example the Notable Trees chapter is not referenced. These amendments are detailed further in section 4.0 of this report and set out in Appendix A.

145. Overall, I am of the view that the parent chapter objectives express suitably detailed outcomes that reflect the significance of the various values that the PDP seeks to manage, and as such I disagree with Kāinga Ora that a new objective is necessary.

Summary of Recommendations

146. **HS5-SUB-Rec15:** No changes are recommended in response to submissions seeking a new objective.
147. **HS5-SUB-Rec16:** That submission points relating to new objectives are accepted/rejected as detailed in Appendix B.

3.7.2 SUB-O1: Efficient pattern of development

Matters Raised by Submitters

148. FENZ [273.105] and WCC Environmental Reference Group [377.162] seek to retain SUB-O1 as notified.
149. John Tiley [142.13] and Churton Park Community Association [189.13] seek that SUB-O1 is rewritten to provide greater balance between efficient development and the preservation of landscape amenity values.
150. Heidi Snelson, Aman Hunt, Chia Hunt, Ela Hunt [276.20] seek to amend SUB-O1 to give further protection to Marshall's Ridge and other ridgelines within the area.
151. Wellington Electricity Lines [355.50] is neutral on SUB-O1 noting that while the electricity distribution network is clearly identified as being associated with efficient development, they have concerns in relation to the need for a separate definition of development infrastructure.
152. Waka Kotahi [370.191 and 370.192] (supported by KiwiRail [FS72.59], opposed by LIVE WELLington [FS96.91], Stride Investment Management [FS107.29], and Investore Property [FS108.29]) seek an additional outcome to ensure that development considers land use and transport in an integrated manner throughout both the urban and rural areas as all development should consider the connections to the movement of people, as follows (next page):

SUB-O1 Efficient pattern of development

Subdivision achieves an efficient development pattern that:

1. Maintains or enhances Wellington's compact urban form;
2. Is compatible with the nature, scale and intensity anticipated for the underlying zone and local context;
3. Enables appropriate future development and use of resulting land or buildings; and
4. Is supported by development infrastructure and additional infrastructure for existing and anticipated future activities;~~and~~
5. Any potential adverse effects of site development on the efficient use and operation of the roading and state highway network.

153. KiwiRail [408.97] (opposed by Stride Investment Management [FS107.19], and Investore Property [FS108.19]) considers that subdivision, and the associated land use development it enables, can compromise public safety and the safe operation of the rail network if inappropriately designed. They seek to amend SUB-O1 to recognise the value of the transport network, and the need to maintain the safety and efficiency of this network, as follows:

SUB-O1 Efficient pattern of development

Subdivision achieves an efficient development pattern that:

1. Maintains or enhances Wellington's compact urban form;
2. Is compatible with the nature, scale and intensity anticipated for the underlying zone and local context;
3. Enables appropriate future development and use of resulting land or buildings; and
4. Is supported by development infrastructure and additional infrastructure for existing and anticipated future activities;~~and~~
5. Maintains the safety and efficiency of the transport network.

154. Kāinga Ora [391.199 and 391.200] (opposed by Wellington's Character Charitable Trust [FS82.137]) seek to amend SUB-O1 to recognise that the zone purpose, form and function along with amenity values will change overtime, as follows:

SUB-O1 Efficient pattern of development

Subdivision achieves an efficient development pattern that:

1. Maintains or enhances Wellington's compact urban form;
2. Is compatible with the nature, scale and intensity anticipated for the underlying zone ~~and local context~~;
3. Enables flexibility, innovation and choice for appropriate future development and use of resulting land or buildings; and
4. Is supported by development infrastructure and additional infrastructure for existing and anticipated future activities.

155. WIAL [406.264 and 406.265] (supported by KiwiRail [FS72.60] and opposed by Kāinga Ora [FS89.123]) opposes SUB-O1 in part and seeks to amend it as follows:

SUB-O1 Efficient pattern of development

Subdivision achieves an efficient development pattern that:

1. Maintains or enhances Wellington’s compact urban form;
2. Is compatible with the nature, scale and intensity anticipated for the underlying zone and local context;
3. Enables appropriate future development and use of resulting land or buildings; and
4. Is supported by development infrastructure and additional infrastructure for existing and anticipated future activities;⁷ and
5. Avoids development that is incompatible with regionally significant infrastructure.

Assessment

156. In response to John Tiley [142.13] and Churton Park Community Association [189.13], I disagree with the relief sought. The approach of the PDP is that the overarching outcomes sought for district-wide matters, overlays, and zones are located within the relevant parent chapter objectives. Consequently, there are chapter specific objectives in the Natural Features and Landscapes, Natural Character, and Ecosystems and Indigenous Biodiversity chapters which seek to protect natural environment values, such as landscape amenity, from inappropriate subdivision. By way of example, NFL-O1 states: *‘The characteristics and values of outstanding natural features and landscapes are protected from inappropriate subdivision, use and development.’* In this sense, the Subdivision chapter relies on the outcomes expressed in these parent chapters.
157. I also disagree with the submission from Heidi Snelson, Aman Hunt, Chia Hunt and Ela Hunt [276.20], which seeks that provisions give further protection to Marshall's Ridge and other ridgelines within the area. For the same reasons outlined above, in my opinion it is neither necessary nor appropriate to include this in the objective, which expresses a general outcome sought for subdivision.
158. In response to Wellington Electricity Lines [355.50] I note that ‘development infrastructure’ and ‘additional infrastructure’ are both defined terms in the PDP, of which the latter includes a ‘network operated for the purpose of transmitting or distributing electricity or gas’. I note that these definitions were addressed in Hearing Stream 1, with no changes to the definition of ‘development infrastructure’⁷ recommended.⁸
159. In response to Kāinga Ora [391.199 and 391.200] I disagree with the relief sought, noting that SUB-O1 sets the overarching outcome relating to achieving efficient patterns of development for Wellington City as a whole, whereas SUB-P5 is specific to subdivision for residential activities.

⁷ means the following, to the extent they are controlled by a local authority or council controlled organisation (as defined in section 6 of the Local Government Act 2002):

- a. network infrastructure for water supply, wastewater, or stormwater
- b. land transport (as defined in section 5 of the Land Transport Management Act 2003).

⁸ See paragraph 561: [HS1 s42A report - plan wide matters and strategic direction](#)

Consequently, I am of the view that the suggested wording ‘flexibility, innovation and choice’ is more appropriate in the context of SUB-P5, whilst ‘enables appropriate future development and use’ is more appropriate for the broader context of subdivision across all zones and activities.

160. I also disagree that ‘local context’ should be deleted from the objective. Contrary to the view expressed by Kāinga Ora [391.200], I am of the opinion that ‘local’ context’ provides for the scenario where the form, function and amenity values of the zone changes over time. The local context of any particular area may deviate from the anticipated nature, scale and intensity of the underlying zone – including, for example, as a result of consent-based processes that authorise activities not necessarily ‘anticipated’ by the underlying zone. In relation to urban environments, that this is an outcome which is foreshadowed and explicitly acknowledged in Policy 6(b) of NPS-UD.
161. Waka Kotahi [370.191 and 370.192] seek to include an additional outcome to ensure that development considers land use and transport in an integrated manner throughout both the urban and rural areas. Similarly, KiwiRail [408.97] seek an amendment to recognise the value of the transport network, and the need to maintain the safety and efficiency of the network. I disagree with the relief sought and do not recommend any changes for the following reasons:
- a. The PDP already expresses outcomes on this matter in other chapters, including in UFD-O7, SCA-O1, SCA-O2 and perhaps most directly INF-O4⁹.
 - b. The PDP is to be read as a whole, and to the extent these submission points seek to manage effects of subdivision on the safe/efficient use and operation of the transport network, I consider that this existing direction is sufficient. Duplicating, recasting and/or expressing potentially conflicting direction/outcomes in the Subdivision chapter is unnecessary and inefficient in my view.
162. Finally, in response to WIAL [406.264, 406.265], I disagree with the relief sought as I consider the matter of avoiding reverse sensitivity effects on regionally significant infrastructure is already sufficiently addressed in other parts of the PDP, particularly the Strategic Directions (including SCA-O6), Infrastructure and Noise Chapters as outlined above. Sufficient cross references are provided to those other chapter provisions in the ‘Other relevant District Plan provisions’ section of the Subdivision chapter.
163. To the extent the reverse sensitivity effects relate to the Air Noise Boundary, I refer to my assessment in section 3.15 of this report.

Summary of Recommendations

164. **HS5-SUB-Rec17:** That SUB-O1 be confirmed as notified.
165. **HS5-SUB-Rec18:** That submission points relating to SUB-O1 are accepted/rejected as detailed in Appendix B.

⁹ Safe, effective and resilient infrastructure is available for, and integrated with, existing and planned subdivision, use and development.

3.7.3 SUB-P1: Recognising and providing for subdivision

Matters Raised by Submitters

166. Forest & Bird [345.256], WCC Environmental Reference Group [377.164], and Kāinga Ora [391.201] seek that SUB-P1 is retained as notified.

Assessment

167. No further assessment is required.

Summary of Recommendations

168. **HS5-SUB-Rec19:** That SUB-P1 be confirmed as notified.
169. **HS5-SUB-Rec20:** That submission points relating to SUB-P1 are accepted/rejected as detailed in Appendix B.

3.7.4 SUB-P2: Boundary adjustments and amalgamation

Matters Raised by Submitters

170. Forest & Bird [345.257] and WCC Environmental Reference [377.165] seek that SUB-P2 is retained as notified.
171. Kāinga Ora [391.202 and 391.203] (opposed by Wellington’s Character Charitable Trust [FS82.138]) seek to amend SUB-P2 as follows:

SUB-P2 Boundary adjustments and amalgamation

Enable boundary adjustments and site amalgamation to enhance the efficient use of land, provided that the nature and scale of resulting development potential is compatible with the underlying zone~~local context~~.

Assessment

172. In response to Kainga Ora [391.203], I disagree that 'local context' should be deleted from the objective and replaced with 'underlying zone'. Although the local context of any particular area may deviate from the anticipated nature and scale of the underlying zone, I am of the view that a boundary adjustment or site amalgamation may still be compatible with the local context, particularly where a site is located at a zone boundary. In addition, compatibility with the local context takes account of wider matters than those addressed under zone provisions.
173. As set out in paragraphs 159-60 above in relation to SUB-O1, my view is that ‘local context’ provides for the scenario where the form, function and amenity values of the zone changes over time including, for example, as a result of consent-based processes that authorise activities not necessarily ‘anticipated’ by the underlying zone.
174. In this instance I agree with Wellington’s Character Charitable Trust [FS82.138] that local context is an important consideration for a consent authority.

Summary of Recommendations

175. **HS5-SUB-Rec21:** That SUB-P2 be confirmed as notified.
176. **HS5-SUB-Rec22:** That submission points relating to SUB-P2 are accepted/rejected as detailed in Appendix B.

3.7.5 SUB-P3: Sustainable design

Matters Raised by Submitters

177. Treliwick Park Group [168.18], Forest & Bird [345.258], and WCC Environmental Reference Group [377.166] seek that SUB-P3 is retained as notified.
178. GWRC [351.179 and 351.180] have sought to amend SUB-P3 to align with proposed RPS Change 1 including policies FW.2, CC.3 and CC.9, as follows:

SUB-P3 Sustainable design

Provide for subdivision design and layout that makes efficient use of renewable energy and other natural and physical resources, and delivers well-connected, resilient communities including development patterns that:

1. Maximise solar gain;
2. Incorporate effective water sensitive design;
- 2a. Encourage the efficient use of water;
3. Achieve hydraulic neutrality;
4. Provide for safe vehicle access;
5. Support walking, cycling opportunities, and provide for public transport opportunities and enhance neighbourhood and network connectivity and safety;
~~and~~
6. Are adaptive to the effects of climate change-~~and~~
7. Support greenhouse gas emission reductions.

179. Waka Kotahi [370.193] seeks an additional clause be added, providing for local and other centres in proposed subdivisions to support reduced reliance on private vehicle travel & reduced emissions, as follows:

SUB-P3 Sustainable design

Provide for subdivision design and layout that makes efficient use of renewable energy and other natural and physical resources, and delivers well-connected, resilient communities including development patterns that:

1. Maximise solar gain;
2. Incorporate effective water sensitive design;
3. Achieve hydraulic neutrality;
4. Provide for safe vehicle access;
5. Support walking, cycling and public transport opportunities and enhance neighbourhood and network connectivity and safety;
6. Are adaptive to the effects of climate change.
7. Considers the ability of future residents to meet their day-to-day needs within the immediate area.

180. Kāinga Ora [391.204 and 391.205] (opposed by GWRC [FS84.80] and Forest & Bird [FS85.11]) submits that SUB-P3 should be amended to provide the flexibility where practicable as the outcomes as not all developments can achieve and attain all aspects in design and layout, and to avoid unnecessary duplication by removing reference to renewable energy as it is already captured under 'natural and physical resources', as follows:

SUB-P3 Sustainable design

~~Provide~~ Encourage and promote for subdivision design and layout that makes efficient use of ~~renewable energy and other~~ natural and physical resources, and delivers well-connected, resilient communities including development patterns that:

1. Maximise solar gain;
2. Incorporate effective water sensitive design where practicable;
3. ~~Achieve~~ Provide for hydraulic neutrality;
4. Provide for safe vehicle access;
5. Support walking, cycling and public transport opportunities and enhance neighbourhood and network connectivity and safety;
6. Are adaptive to the effects of climate change.

181. KiwiRail [408.98] (opposed by Kāinga Ora [FS89.30], Stride Investment Management [FS107.20], and Investore Property [FS108.20]) have sought to amend SUB-P3 to address the potential for adverse effects on infrastructure, including the rail corridor as follows:

SUB-P3 Sustainable design

Provide for subdivision design and layout that makes efficient use of renewable energy and other natural and physical resources, and delivers well-connected, resilient communities including development patterns that:

1. Maximise solar gain;
2. Incorporate effective water sensitive design;
3. Achieve hydraulic neutrality;
4. Provide for safe vehicle access;
5. Support walking, cycling and public transport opportunities and enhance neighbourhood and network connectivity and safety; ~~and~~
6. Are adaptive to the effects of climate change; and
7. Manage adverse effects of activities through setbacks and design controls to achieve appropriate protection of infrastructure.

Assessment

182. In response to GWRC [351.180] I consider that the inclusion of 'encourage the efficient use of water' is not appropriate as it is broader than the outcomes sought in the Three Waters chapter. Instead, I consider that SUB-P3.2 and SUB-P3.3 provide adequate directives for sustainable design and layout in relation to three waters in a manner consistent with the Three Waters Chapter, including in particular THW-P1 and THW-P5. In addition, I note that as set out in Clause 3.28(2) NPS-FW 'encourage the efficient use of water' is more broadly a Regional Council matter.
183. As to GWRC's amendment to SUB-P3.5, I consider it too onerous that SUB-P3 'provide for' public transport opportunities at a city-wide level, particularly given that routes and timetables are ultimately the responsibility of the Regional Council. As such, subdivision cannot provide for

public transport, it can only enable opportunities for it to occur.

184. As detailed in the [Subdivision s32 Report](#), *“The concept of linking public transport accessibility to subdivision is supported, and the draft policy does this via advocacy (“Provide for subdivision...that.. supports walking cycling and public transport opportunities”). Requiring all subdivision to be readily accessed by public transport as sought by the submission is an unreasonable expectation for many parts of the City where subdivision may occur. Furthermore, integration with PT services is reliant upon Regional Council decisions and funding as to routes, services etc.”*¹⁰
185. Finally, I note that when the PDP is read on the whole, UFD-O7 and in particular UFD-O2.3 contain strong public transport related outcomes, with a clear emphasis on urban development being well-connected to the public transport network. In my view SUB-P3.5, in parallel with these strategic directions, respond to Policy 57 of the RPS in that particular regard has been given to:
- a. *connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity, open spaces or recreational areas*
 - b. *whether there is good access to the strategic public transport network.*
 - c. *provision of safe and attractive environments for walking and cycling.*
186. Turning to GWRC’s amendment to include a new clause ‘Support greenhouse gas emission reductions’, I note that Policy 57 of the RPS directs that particular regard needs to be given to making progress towards achieving the key outcomes of the Wellington Regional Land Transport Strategy, of which reduced greenhouse gas emissions is a key outcome. However, I disagree with this suggested amendment as I am of the opinion that the addition of this clause is not necessary given that the outcomes in the Sustainability, Resilience and Climate Change Chapter, specifically SRCC-O1, SRCC-O3, and SRCC-O4, already reflect a clear intent to seek a reduction in green house gas emissions.
187. On this basis I consider that the PDP is consistent with the RPS, and whilst noting the uncertainty surrounding RPS Change 1, it will provide greater likelihood that the PDP will not be inconsistent with the RPS following PC1 becoming operative, whilst also contingent on the outcome of any appeals arising following a decision on PC1.
188. In response to Waka Kotahi [370.193] seeking to add a new clause, ‘consider the ability of future residents to meet their day-to-day needs within the immediate area’, I am of the view that it would be consistent with the outcomes sought by the PDP in terms of creating a well-functioning urban environment as detailed in UFD-O7. However, I disagree with the suggested clause as I consider that it lacks sufficient clarity as to what is anticipated in relation to meeting the daily needs of future residents to be effectively interpreted and demonstrably implemented at the subdivision stage. Instead, I consider that the notified drafting of SUB-P3.5 in terms of provision of development patterns that ‘enhance neighbourhood and network connectivity and safety’ already addresses the broader matter raised by the submitter as to ensuring sustainable design and layout for transport opportunities.

¹⁰ [Subdivision s32 Report](#), Page 56

189. In response to Kāinga Ora [391.204, 391.205], I disagree with the relief sought as I consider that SUB-P3 is sufficiently enabling in its phrasing, and does not require subdivisions to achieve all clauses of the policy. In my view, Kāinga Ora’s suggested wording lessens the support that would be provided to well-designed proposals, and reduces the efficacy of the policy. I also consider that ‘provide for’ offers a stronger direction than ‘encouraging’ or ‘promoting’ in terms of the key elements sought in the design and layout of a subdivision proposal.
190. Turning to Kāinga Ora’s amendments to SUB-P3.3 I note that this clause directly responds to THW-O3 that *‘there is no increase in offsite stormwater peak flows and volumes as a result of subdivision, use and development in urban areas’*. This outcome sets a high bar for hydraulic neutrality, and as such the directive of SUB-P3.3 to ‘achieve’ hydraulic neutrality in my opinion appropriately aligns with the outcomes sought in the Three Waters chapter, specifically THW-P5, as well as SUB-S4 in achieving hydraulic neutrality.
191. As to deleting reference to ‘renewable energy’, I note that the benefits to be derived from the use and development of renewable energy are a s7(j) RMA matter to which ‘particular regard’ must be had. I also note that SUB-P3 directly aligns with strategic direction SRCC-O1 – that the City’s built environment supports an increase in the use of renewable energy sources. I note SUB-P3 is not requiring renewable energy facilities to be provided, but provides policy support for proposals that do. As such I disagree with Kāinga Ora’s amendments.
192. In response to KiwiRail [408.98], I disagree with the relief sought as I consider that INF-O3¹¹ and INF-P7 appropriately address adverse effects on infrastructure. I also consider that SUB-P3 has a different focus than INF-P7 which is centred on managing reverse sensitivity, and that when the PDP is read and considered as a whole that KiwiRail’s concerns are sufficiently covered. The new standards requiring a 1.5m setback from the rail corridor that have been recommended in the s42a Reports for the Residential, Centres, and Mixed Use Zone Chapters in Hearing Streams 2 and 4 also further reinforce this.
193. As detailed in the s32 Report, *“This aim is already set out in SCA-O5, INF-O4 and supporting policies. Including an additional aim in the subdivision chapter is redundant, and in conflict with the direction in the National Planning standards that “Provisions relating to energy, infrastructure and transport...must be located in one or more chapters under the Energy, Infrastructure and Transport heading...and may include...the management of reverse sensitivity effects between infrastructure and other activities.”*¹²

Summary of Recommendations

194. **HS5-SUB-Rec23:** That SUB-P3 be confirmed as notified.
195. **HS5-SUB-Rec24:** That submission points relating to SUB-P3 are accepted/rejected as detailed in Appendix B.

¹¹ Manage the adverse effects, including reverse sensitivity effects or subdivision use and development on the function and operation of infrastructure.

¹² [Subdivision s32 Report](#), Page 57

3.7.6 SUB-P4: Integration and layout of subdivision and development

Matters Raised by Submitters

196. Forest & Bird [345.259], WCC Environmental Reference Group [377.167], and Kāinga Ora [391.206] seek that SUB-P4 is retained as notified.

Assessment

197. No further assessment is required.

Summary of Recommendations

198. **HS5-SUB-Rec25:** That SUB-P4 be confirmed as notified.
199. **HS5-SUB-Rec26:** That submission points relating to SUB-P4 are accepted/rejected as detailed in Appendix B.

3.7.7 SUB-P5: Subdivision for residential activities

Matters Raised by Submitters

200. Forest & Bird [345.260], WCC Environmental Reference Group [377.168], and Kāinga Ora [391.207] seek that SUB-P5 is retained as notified.
201. Peter Kelly [16.5] submits that if SNAs are returned to residentially zoned land, SUB-P5 is amended to add “and minimises vegetation clearance within SNAs until 1 July 2027.”

Assessment

202. In response to Peter Kelly [16.5], I note that any decision about returning SNAs to residentially zoned land will be made in Stream 8, when submissions on the Natural and Coastal Environment Chapter will be heard and considered. Any necessary amendments to the Plan arising as a result of these proceedings will be addressed at this time.

Summary of Recommendations

203. **HS5-SUB-Rec27:** That SUB-P5 be confirmed as notified.
204. **HS5-SUB-Rec28:** That submission points relating to SUB-P5 are accepted/rejected as detailed in Appendix B.

3.7.8 SUB-P6: Subdivision in the General Rural Zone

Matters Raised by Submitters

205. Forest & Bird [345.261], Wellington Electricity Lines [355.51], Waka Kotahi [370.194], WCC Environmental Reference Group [377.169], and Kāinga Ora [391.208] seek that SUB-P6 is retained as notified.

Assessment

206. No further assessment is required.

Summary of Recommendations

207. **HS5-SUB-Rec29:** That SUB-P6 be confirmed as notified.

HS5-SUB-Rec30: That submission points relating to SUB-P6 are accepted/rejected as detailed in Appendix B.

3.7.9 SUB-P7: Servicing

Matters Raised by Submitters

208. FENZ [273.106], Forest & Bird [345.262], WCC Environmental Reference Group [377.170], and Kāinga Ora [391.209] seek that SUB-P7 is retained as notified.

209. GWRC [351.181, 351.182, and 351.183] have sought to amend SUB-P7 to provide for decentralised wastewater re-use and treatment (of grey and black water) and disposal using alternative wastewater systems (but not septic tanks due to their existing issues with contamination and leaching) anywhere where there are constraints on the existing network capacity, as well as where connections are not available.

210. Wellington Electricity Lines [355.52 and 355.53] seek to amend SUB-P7 as follows:

SUB-P7 Servicing

Require all allotments created by any subdivision to be adequately serviced such that:

1. In urban areas, suitable access, connections to reticulated water supply, wastewater and stormwater management networks are provided in accordance with the Council's Code of Practice for Land Development;
2. Allotments in rural or other areas that are unable to connect to reticulated networks are of sufficient size and shape to accommodate on-site wastewater disposal, stormwater management, and water supply, including water supply for fire-fighting purposes; and
3. Suitable connections to telecommunications and electricity are supplied.

Assessment

211. In response to GWRC [351.181, 351.182, and 351.183], I do not agree that SUB-P7 be amended to provide for alternative wastewater systems for decentralised wastewater re-use and treatment. Consistent with the recommendations made in the Three Waters chapter, relying on the assessment of Ms Cook in paragraphs 71-73 of the Three Waters s42 Report, it is unclear whether a requirement to install a wastewater recycling system falls within the scope of a s31 Territorial Authority responsibility and whether it is the most appropriate method for managing effects on drinking water networks and the efficient use of water in Wellington City. I note that GWRC [351.87] has made similar submissions on relevant Three Water provisions in relation to this matter, and consider that the Three Waters chapter is the most appropriate context for this matter to be addressed.

212. In response to Wellington Electricity Lines [355.52 and 355.53] I consider that the amendment sought provides consistency with the phrasing of SUB-P7.1 and SUB-P7.2 for the purposes of

demonstrating ‘adequately serviced’ outcomes. In my view the amendment sought is more directive of what subdividers can actually achieve/supply – being the connection to existing networks as opposed to the supply of electricity or telecommunications. To this extent, I agree with the relief sought.

Summary of Recommendations

213. **HS5-SUB-Rec31:** That SUB-P7 be amended as set out below and detailed in Appendix A.

SUB-P7 Servicing

Require all allotments created by any subdivision to be adequately serviced such that:

1. In urban areas, suitable access, connections to reticulated water supply, wastewater and stormwater management networks are provided in accordance with the Council’s Code of Practice for Land Development;
2. Allotments in rural or other areas that are unable to connect to reticulated networks are of sufficient size and shape to accommodate on-site wastewater disposal, stormwater management, and water supply, including water supply for fire-fighting purposes; and
3. Suitable connections to telecommunications and electricity are supplied.

214. **HS5-SUB-Rec32:** That submission points relating to SUB-P7 are accepted/rejected as detailed in Appendix B.

3.7.10 SUB-R2: Subdivision around an existing lawfully established building which does not result in the creation of any new undeveloped allotment

Matters Raised by Submitters

215. WCC Environmental Reference Group [377.191] seek that SUB-R2 is retained as notified.
216. FENZ [273.109] support SUB-R2 subject to requested amendments sought to SUB-S1 and SUB-S2.
217. Kāinga Ora [391.223] generally supports SUB-R2, subject to the relief sought elsewhere in their submission.
218. Survey & Spatial New Zealand Wellington Branch [439.28] submit that all proposed subdivision rules should have the ability to assess and claim existing use rights for standards that are not met for existing buildings or situations and seek an amendment to SUB-R2.1 as follows:

SUB-R2 Subdivision around an existing lawfully established building which does not result in the creation of any new undeveloped allotment

Activity status: Permitted

Where:

- a. The subdivision is not located in the General Rural Zone, the Large Lot Residential Zone or the Future Urban Zone; and
- b. Compliance with the following standards is achieved:
 - i. SUB-S1;
 - ii. SUB-S2;
 - iii. SUB-S3;
 - iv. SUB-S4;
 - v. SUB-S5; and
 - vi. SUB-S7; and
- c. The subdivision will not lead to, or increase the degree of, non-compliance with land use standards of the applicable Zone.

Assessment

219. Kāinga Ora [391.223] submit that they support SUB-R2, subject to the relief sought elsewhere in their submission. In the absence of sufficient detail being supplied that outlines what/how the relief sought applies to SUB-R2, I note that it is difficult to provide any further assessment of this relief.
220. Similarly, I note that the relief sought by FENZ in respect of SUB-S1 and SUB-S2 is addressed in sections 3.7.15 and 3.7.16 of this report.
221. In response to Survey & Spatial New Zealand Wellington Branch [439.28] I disagree about the necessity of the amendment sought. The rule does not purport to annul existing use rights. A subdivision amounts to a change to the existing environment, and this sub-clause SUB-R2.c provides a trigger for assessment of existing and proposed (or potential) built form post-subdivision. To this extent the term 'lead to' is intended to avert non-complying subdivision proposals where there is no existing compliance, but one is created by virtue of the proposed subdivision alignment, while 'increase the degree of' is intended to avert the further escalation where there is an existing non-compliance and the subdivision alignment makes it worse.

Summary of Recommendations

222. **HS5-SUB-Rec33:** That SUB-R2 be confirmed as notified.
223. **HS5-SUB-Rec34:** That submission points relating to SUB-R2 are accepted/rejected as detailed in Appendix B.

3.7.11 SUB-R3: Boundary adjustments

Matters Raised by Submitters

224. WCC Environmental Reference Group [377.192] seek that SUB-R3 is retained as notified.
225. Rod Halliday [25.23] seeks to delete SUB-R3.2.e in its entirety. He submits that the 100m setback distance is arbitrary and if an owner is adjusting a boundary that renders one allotment incapable of having an appropriate building platform, then that risk should be borne by the applicant. Further, he suggests that the time that has elapsed from the deposit of the title is irrelevant for a boundary adjustment where no new allotments are being created.
226. FENZ [273.110] support SUB-R3, subject to requested amendments sought to SUB-S1 and SUB-S2.
227. Kāinga Ora [391.224] generally supports SUB-R3, subject to the relief sought elsewhere in their submission.
228. Survey & Spatial New Zealand Wellington Branch [439.29] submit that all proposed subdivision rules should have the ability to assess and claim existing use rights for standards that are not met for existing buildings or situations and seek an amendment to SUB-R3.1 as follows:

SUB-R3 Boundary adjustments

Activity status: Permitted

Where:

- a. The boundary adjustment is not located in the General Rural Zone, the Large Lot Residential Zone or the Future Urban Zone; and
- b. Compliance with the following standards is achieved:
 - i. SUB-S1;
 - ii. SUB-S2;
 - iii. SUB-S3;
 - iv. SUB-S4;
 - v. SUB-S5; and
 - vi. SUB-S7; and
- c. The boundary adjustment will not lead to, or increase the degree of, non-compliance with land use standards of the applicable Zone.

Assessment

229. Kāinga Ora [391.224] submit that they support SUB-R3, subject to the relief sought elsewhere in their submission. In the absence of sufficient detail being supplied that outlines what/how the relief sought applies to SUB-R3, I note that it is difficult to provide any further assessment of this relief.
230. Similarly, I note that the relief sought by FENZ in respect of SUB-S1 and SUB-S2 is addressed in sections 3.7.15 and 3.7.16 of this report.
231. In response to Mr Haliday [25.23] seeking to delete SUB-R3.2.e.ii, I firstly note that SUB-R3 applies to boundary adjustments, which involve the reallocation of land between parcels, with

new records of title created as part of the subdivision. A boundary adjustment does not increase development potential in that no new allotments are created and as such I accept Mr Halliday's request in relation to the rate of change and recommend that SUB-R3.2.e.ii is deleted.

232. Turning to Mr Halliday's request to delete SUB-R3.2.e.i, it is noted that a boundary activity subdivision will increase the size of a rural land parcel and may create development potential. The clause requires the identification of a building platform to ensure that any new dwelling will be suitably separated from any established residential buildings on adjoining sites. It is my understanding that the 100m metric was considered to provide suitable separation of building sites to mitigate visual and privacy effects, noting that there is a higher expectation for physical separation of dwellings in a rural context. It is important that this clause is retained as the Council must approve a controlled activity subdivision consent, and would have no means to regulate the location of the dwelling once the subdivision is granted. If an applicant cannot show a building location at least 100m from an existing dwelling, they can apply under SUB-R3.3 as a restricted discretionary activity. I consider this is appropriate.
233. In response to Survey & Spatial New Zealand Wellington Branch [439.29] consistent with my assessment for SUB-R2 in paragraph 221 above, I am of the view that the amendment is unnecessary. The rule does not purport to annul existing use rights. A subdivision, including a boundary adjustment, amounts to a change to the existing environment, and this sub-clause SUB-R3.c provides a trigger for assessment of existing and proposed (or potential) built form post-subdivision.

Summary of Recommendations

234. **HS5-SUB-Rec35:** That SUB-R3 is amended as set out below and detailed in Appendix A.

<p>2. Activity status: Controlled</p> <p>Where:</p> <p>...</p> <p>e. In the General Rural Zone:</p> <p>i. All allotments identify a building platform for any existing or proposed residential unit that is no closer than 100m to any other existing or proposed building platform for a residential unit; and</p> <p>ii. Any allotment to be subdivided must be at least five years old from the deposit of survey plan.</p>

235. **HS5-SUB-Rec36:** That submission points relating to SUB-R3 are accepted/rejected as detailed in Appendix B.

3.7.12 SUB-R4: Subdivision to create a new allotment for infrastructure

Matters Raised by Submitters

236. WCC Environmental Reference Group [377.193] and WIAL [406.266] seek that SUB-R4 is retained as notified.

237. Waka Kotahi [370.196 and 370.197] (supported by KiwiRail [FS72.62]) submit that SUB-R4 should reference that the subdivision must be sought by a Network Utility Operator and should not be subject to SUB-S6 (Minimum dimension size) as this would result in an unnecessary burden on acquiring sites to deliver necessary infrastructure outcomes. The amendment sought by Waka Kotahi is as follows:

<p>SUB-R4 Subdivision to create a new allotment for infrastructure</p> <p>Activity status: Controlled</p> <p>Where:</p> <ul style="list-style-type: none">a. <u>Subdivision is sought by a Network Utility Operator and</u>b. Compliance is achieved with the following standards for any balance allotment:<ul style="list-style-type: none">i. <u>SUB-S1; and</u>ii. SUB-S6; andiii. SUB-S7. <p>...</p>
--

238. Kāinga Ora [391.225] generally supports SUB-R4, subject to the relief sought elsewhere in their submission.
239. WIAL [406.262] submits that the complex and duplicating consenting requirements for activities within the Airport Zones should be removed and seeks that SUB-R4 is retained as notified and that other subdivision methods be deleted insofar as they relate to infrastructure and/or clarification is provided that the other provisions are not applicable to infrastructure.

Assessment

240. Kāinga Ora [391.225] submit that they support SUB-R4, subject to the relief sought elsewhere in their submission. In the absence of sufficient detail being supplied that outlines what/how the relief sought applies to SUB-R4, I note that it is difficult to provide any further assessment of this relief.
241. In response to Waka Kotahi [370.196 and 370.197] I note that developers regularly create or upgrade infrastructure as part of a subdivision and/or development, with these assets subsequently vested in Council. Furthermore, some entities create, modify, upgrade and operate infrastructure (as defined in the RMA) that are not Network Utility Operators (as defined in the RMA). Electricity Generation entities are one such example of this and, as such, I do not agree with amendment sought by Waka Kotahi.
242. Turning to WIAL's [406.262] request seeking additional clarification, I note that when the chapter is read as a whole there is ambiguity as to whether SUB-R5 would also apply to an allotment created for infrastructure, thereby negating the intention of SUB-R4. As such I agree with the relief sought and consider that the heading of SUB-R5 should be amended to clarify this. This will ensure there is no ambiguity as to the relationship between SUB-R4 and SUB-R5, the latter of which addresses the balance allotment. Consequential to this I consider that SUB-R4 should be amended to remove reference to 'for any balance allotment' as the balance

allotment would fall to be considered under SUB-R2 or SUB-R5. I consider that these amendments can be made in accordance with Clause 16 of the First Schedule of the RMA as they clarify the intent of the application of rules.

243. I also further propose that reference to SUB-S6 is removed as subdivision for the purpose of creating an allotment for infrastructure should not be subject to number, size or shape requirements. The intent of SUB-R4 is that allotments created specifically for infrastructure should be subject to a lower level of regulatory stringency. If the subdivision also results in the creation of allotments for other purposes, then there may be more than one consent required (i.e. under SUB-R5 and/or SUB-R2) at which point SUB-S6 is, in my view, the more appropriate standard to be applied from a compliance perspective. I consider that deletion of SUB-S6 from SUB-R4 responds to the concerns raised by WIAL [406.262] as to clarifying the complex and duplicating consenting requirements for activities within the Airport Zone.

Summary of Recommendations

244. **HS5-SUB-Rec37:** That SUB-R4 be amended as set out below and detailed in Appendix A.

<p>SUB-R4 Subdivision to create a new allotment for infrastructure</p> <p>Activity status: Controlled</p> <p>Where:</p> <p>a. Compliance is achieved with the following standards for any balance allotment:</p> <ul style="list-style-type: none">i. SUB-S1; andii. SUB-S6; andiii. SUB-S7. <p>...</p>

245. **HS5-SUB-Rec38:** That submission points relating to SUB-R4 are accepted/rejected as detailed in Appendix B.

3.7.13 SUB-R5: Subdivision that creates any vacant allotment

Matters Raised by Submitters

246. WCC Environmental Reference Group [377.194] and Survey & Spatial New Zealand Wellington Branch [439.30] seek that SUB-R5 is retained as notified.
247. FENZ [273.111] support SUB-R5 subject to requested amendments sought to SUB-S1 and SUB-S2.

248. Kāinga Ora [391.226 and 391.227] have sought to amend SUB-R5.4 so that a vacant lot subdivision that does not meet proposed minimum lot size and shape becomes a discretionary activity, as follows:

<p>SUB-R5 Subdivision that creates any vacant allotment</p> <p>...</p> <p>4. Activity Status: Discretionary</p> <p>Where:</p> <p>a. The subdivision is not a controlled activity under SUB-R5.1 or a restricted discretionary activity under SUB-R5.2 or SUB-R5.3;</p> <p>b. <u>Compliance with SUB-S6 is not achieved.</u></p>
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Assessment

249. The relief sought by FENZ in respect of SUB-S1 and SUB-S2 is addressed in sections 3.7.15 and 3.7.16 of this report.
250. In response to Kāinga Ora [391.226 and 391.227], I disagree with the relief sought as I do not consider that it is necessary or appropriate that non-compliance with SUB-S6 be elevated to a discretionary activity in SUB-R5, noting that this corresponds with further relief sought to amend SUB-S6 by adding a proposed minimum lot size and shape.
251. Irrespective of my recommendation for SUB-S6, I am also unconvinced as to why non-compliance cannot be adequately managed as a restricted discretionary activity and, in the absence of any compelling evidence, planning evaluation or s32AA evaluation from Kāinga Ora, consider that the notified provisions most appropriately implement the objectives of the PDP.
252. I recommend one amendment to SUB-R5, that is a consequential amendment in response to WIAL [406.262] relating to SUB-R4 as detailed in section 3.7.12 above.

Summary of Recommendations

253. **HS5-SUB-Rec39:** That SUB-R5 be amended as set out below and detailed in Appendix A.

<p>SUB-R5 Subdivision that creates any vacant allotments, <u>excluding new allotments for infrastructure</u></p>

254. **HS5-SUB-Rec40:** That submission points relating to SUB-R5 are accepted/rejected as detailed in Appendix B.

3.7.14 SUB-R31: Any other subdivision

Matters Raised by Submitters

255. WCC Environmental Reference Group [377.220] seeks that SUB-R31 is retained as notified.

Assessment

256. No further assessment is required.

Summary of Recommendations

257. **HS5-SUB-Rec41:** That SUB-R31 be confirmed as notified.

258. **HS5-SUB-Rec42:** That submission points relating to SUB-R31 are accepted/rejected as detailed in Appendix B.

3.7.15 SUB-S1: Access

Matters Raised by Submitters

259. Survey & Spatial New Zealand Wellington Branch [439.31] submit that the standard replicates S106(1)(c) of the RMA and seek to delete SUB-S1 in its entirety.

260. FENZ [273.128 and 273.129] (opposed by Survey & Spatial New Zealand Wellington Branch [FS116.5]) has sought to amend SUB-S1 to ensure sufficient access for firefighting appliances is provided to sites in unreticulated areas, or areas where the driveway exceeds hose run distances, as follows:

SUB-S1 Access

Every allotment must have practical, physical and legal access directly to a formed legal road or by way of a registered right-of-way.

Any access to a site located in an area where no fully reticulated water supply system is available, or having a length greater than 50 metres when connected to a road that has a fully reticulated water supply system including hydrants, must be designed to accommodate a fire appliance design vehicle of at least 2.5 metres wide and 13 metres long and with a minimum gross mass of 25 tonne including:

- a. a gradient of no more than 15% at any point; and
- b. a minimum clear passageway and/or vehicle crossing of at least 3.5 metres width at the site entrance, internal entrances and between buildings; and
- c. a minimum formed carriageway width of 4 metres; and
- d. a height clearance of at least 4 metres; and
- e. a design that is free of obstacles that could hinder access for emergency service vehicles; and
- f. The provision of hardstand and turnaround areas with maximum gradient of 5% in all directions.

261. Waka Kotahi [370.198 and 370.199] (opposed by LIVE WELLington [FS96.92]) support SUB-S1 but seek to add a further note as follows:

SUB-S1 Access

Every allotment must have practical, physical and legal access directly to a formed legal road or by way of a registered right-of-way.

Note, please refer to the requirements of Waka Kotahi NZ Transport Agency and Part IV of the Government Roding Powers Act 1989 with regard to vehicle entrances onto state highways.

Assessment

262. In response to Survey & Spatial New Zealand Wellington Branch [439.31], I acknowledge and agree that s106 of the RMA applies irrespective of the rule. However, I consider it appropriate that SUB-S1 is retained in the chapter, noting that it contains more detail than section 106(1)(c). Specifically, SUB-S1 differs in that it requires *practical* in addition to legal and physical access. It also requires connection to a formed legal road by a registered right of way, both of which are not required under s106(1)(c). I also note that many district plans¹³ include a similar standard/requirement. As such, I disagree that SUB-S1 should be deleted in its entirety.
263. In response to FENZ [273.128 and 273.129] seeking an addition to the standard to accommodate fire appliance vehicles in certain circumstances, I disagree with the relief sought. Although I appreciate that appropriate access where there is no reticulated water supply is important, compliance with the requirements of SNZ PAS 4509:2008 are explicitly included in SUB-S2.1.b, noting that Appendix B of SNZ PAS 4509:2008 details, amongst other matters, requirements in relation to alternative firefighting water sources as follows:
- Alternative firefighting water sources should meet minimum standards for firefighting (access, security, visibility, adequacy of supply) and have a suitable fire service coupling for firefighting equipment and be sited to provide safe and ready access for Fire Service operations.*¹⁴
264. On this basis, I agree with the further submission of Survey & Spatial New Zealand Wellington Branch, in that I consider the access component, among other aspects, is already provided for in the standard. This is supplemented further by Table 1 – INF: Design of Roads – One Network Framework in the Infrastructure Chapter which includes standards for ‘unhindered vehicle access including firetruck access’ in INF-S13 for the design of new roads, and TR-P3.5 which directs that on-site transport facilities and driveways that do not meet the standards are only allowed where safe and effective access for firefighting purposes is provided.
265. As such, when the PDP is read and considered as a whole I am of the opinion that access for firefighting purposes is suitably covered.
266. I also disagree with the relief sought by Waka Kotahi [370.198 and 370.199] as I consider that the addition of the proposed note is an unnecessary addition to the standard. Under the Government Roding Powers Act 1989 there is a requirement for legal access to a site to be provided, which would include adhering to requirements around vehicle entrances to State

¹³ For example, the New Plymouth Proposed District Plan SUB-S7, Porirua Proposed District Plan SUB-S2, Christchurch District Plan, Chapter 8, standard 8.6.3.

¹⁴ Appendix B, Page 26 [SNZ PAS 4509:2008](#)

Highways. Moreover, I note that s106 of the RMA would enable WCC to refuse to grant a subdivision consent if *sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.*¹⁵

Summary of Recommendations

267. **HS5-SUB-Rec43:** That SUB-S1 be confirmed as notified.
268. **HS5-SUB-Rec44:** That submission points relating to SUB-S1 are accepted/rejected as detailed in Appendix B.

3.7.16 SUB-S2 Water supply

Matters Raised by Submitters

269. AdamsonShaw [137.1] (supported by Survey & Spatial New Zealand Wellington Branch [FS116.6]) submit that SUB-S2 should be amended to specifically refer to new vacant lots.
270. AdamsonShaw [137.2] also seek to clarify that existing water supply arrangements continuing to serve an existing dwelling as part of the subdivision can be retained in full.
271. FENZ [273.130 and 273.131] supports reference to the firefighting Code of Practice, however, seeks specific reference to the necessity to provide access to water supply in accordance with the Code. FENZ also submit that where this standard is infringed, it is necessary for FENZ to be consulted. The amendments sought by FENZ are as follows:

SUB-S2 Water Supply

1. Where a connection to Council's reticulated water supply systems is available, all new allotments must:
 - a. Be provided with a water supply connection at the allotment boundary, that provides the level of service in Chapter 6, Tables 6.1 and 6.2 of the Wellington Water Regional Standard for Water Services May 2019;
 - b. Comply with water supply requirements, including the requirements for access to such supply, in of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008; and
2. Where a connection to Council's reticulated water supply systems is not available, all allotments must:
 - a. Be provided with access to a self-sufficient potable water supply with a minimum volume of 10,000L; and
 - b. Comply with the water supply requirements, including the requirements for access to such supply, of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

272. GWRC [351.191] seek to amend SUB-S2 to require new lots connecting to the Council's water supply system to include alternate supplies for non-potable use, such as roof water collection systems among other possible sources.
273. Survey & Spatial New Zealand Wellington Branch [439.32] seeks to remove cross references to

¹⁵ Section 106(1)(c) of the RMA

the Regional Standard for Water Services and instead specify the minimum water pressure requirements for the point of supply.

Assessment

274. In response to AdamsonShaw [137.1 and 137.2], I acknowledge that an existing connection would have existing use rights under s10 of the RMA to the extent that the existing dwelling/allotment remains unaltered i.e. there is no change in the scale of effects on the network. However, where there is a 'new' allotment proposed – being either vacant or an alteration to an existing dwelling i.e. a building subdivided into multiple new units that adds to/alters the water supply use and arrangements, the intent is that this is captured by the standard. This is particularly relevant for unit title and cross lease subdivisions. As such, I disagree that SUB-S2 only apply to vacant lots as this could unintentionally create a scenario where, while there is an existing connection, the scale of the effect on the network is increased.
275. As I understand it, the directives in the Three Waters Chapter, in particular THW-P4.1, are intended to ensure that all development achieves compliance with the Wellington Water Regional Standard for Water Services v3.0 December 2021. As such, the extent to which existing water supply arrangements comply with the standards is a matter that should rightly be assessed through the consenting process.
276. In response to FENZ [273.130 and 273.131], I refer to the parallel assessment and reasoning in paragraphs 263-265 of this report, and the conclusion that when the PDP is read and considered as a whole that access for firefighting purposes is suitably covered.
277. In response to GWRC [351.191], SUB-S2 is not intended to discourage nor require alternate non-potable use, such as roof water collection systems. As I understand it, Wellington Water does not have sufficient technical guidance on alternate water supply, as such there is no standard to which WCC could rely on for guidance. This is more broadly a Three Waters matter and as such I rely on the assessment within the Three Waters s42A Report.
278. In response to Survey & Spatial New Zealand Wellington Branch [439.32] I refer to the assessment of Ms Cook at paragraph 253 of the Three Waters s42A Report where she responds to an identical submission point [439.16]. For ease of reference, I repeat that assessment here:
- Reference to external documents to meet permitted activity standards is addressed at a general level in the Plan-wide section 42A report¹⁶. As noted in that report, the RMA specifically provides for incorporating material by reference in a district plan under section 75(5) and Part 3 of Schedule 1. Specifically, section 30(c) of Schedule 1 of the Act states that “any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan or proposed plan” may be incorporated by reference in a proposed plan. As it relates to the WRWS, this document is over 120 pages long, and contains objectives, performance criteria, design methods and general specifications for stormwater, wastewater and water supply infrastructure. Therefore, I consider that the document meets the criteria in section 30(c) of Schedule 1 of the RMA and amendments are not required to this rule.*
279. On this basis, I disagree with the submitter that cross references to the Regional Standard for

¹⁶ Section 42A: Overview Report, page 9.

Water Services should be removed from SUB-S2.

Summary of Recommendations

280. **HS5-SUB-Rec45:** That SUB-S2 be confirmed as notified.
281. **HS5-SUB-Rec46:** That submission points relating to SUB-S2 are accepted/rejected as detailed in Appendix B.

3.7.17 SUB-S3: Wastewater disposal

Matters Raised by Submitters

282. AdamsonShaw [137.3 and 137.4] submit that SUB-S3 should be amended to specifically refer to new vacant lots, and to clarify that existing wastewater system/connections continuing to serve an existing dwelling as part of the subdivision can be retained in full.
283. GWRC [351.192] submit that that the reference to septic tanks or soakage fields should be updated to refer to on-site domestic wastewater treatment and disposal, as follows:

<p>SUB-S3 Wastewater disposal</p> <ol style="list-style-type: none">1. Where a connection to Council’s reticulated wastewater systems is available, all new allotments must be provided with a connection at the allotment boundary that provides the level of service in Chapter 5, section 5.2.3 of the Wellington Water Regional Standard for Water Services May 2019;2. Where a connection to Council’s reticulated wastewater systems is not available, all allotments must be provided with <u>on-site wastewater systems</u> a septic tank or soakage field or an approved alternative means to dispose of sewage in a sanitary manner within the net site area of the allotment in accordance with Section 5.2.6 of the Wellington Water Regional Standard for Water Services May 2019; and3. Where a connection to Council’s reticulated wastewater systems is not available and sewage is to be disposed to ground, that area must not be subject to instability or inundation or used for the disposal of stormwater.
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284. GWRC [351.193] also seek to amend SUB-S3 to provide for the use of approved alternative wastewater systems for decentralised wastewater re-use and treatment (of grey and black water) and disposal anywhere where there are constraints on the existing network capacity, as well as where connections aren’t available. GWRC [351.194] seeks that SUB-S3 refer to the additional requirements for on-site wastewater discharge under the Natural Resources Plan.
285. Survey & Spatial New Zealand Wellington Branch [439.33] seeks to remove cross references to the Regional Standard for Water Services and to instead specify the minimum requirements for a wastewater connection.

Assessment

286. In response to AdamsonShaw [137.3 and 137.4] I refer to the parallel assessment and reasoning in paragraph 274 of this report, and the conclusion that it is neither appropriate nor the intent of SUB-S3 to refer to vacant lots in relation to wastewater disposal water supply arrangements.

287. As to GWRC [351.192] seeking that the reference to septic tanks or soakage fields is replaced with on-site wastewater systems, I agree that this is an appropriate amendment. As I understand it (as detailed in GWRC's submission point 351.87 on the Three Waters Chapter), septic tanks have issues with contamination and leaching and, as such, it is preferable to refer more broadly to alternative wastewater systems.
288. In response to GWRC [351.193], I do not agree with the suggested amendment to SUB-S3 to provide for the use of approved alternative wastewater systems for decentralised wastewater re-use and treatment. Consistent with the recommendations made in the Three Waters chapter, relying on the assessment of Ms Cook in paragraphs 71-73 of the Three Waters s42 Report, it is unclear whether a requirement to install a wastewater recycling system falls within the scope of a s31 Territorial Authority responsibility and whether it is the most appropriate method for managing effects on drinking water networks and the efficient use of water in Wellington City. I note that GWRC [351.87] has made similar submissions on relevant Three Water provisions in relation to this matter, and consider that the Three Waters chapter is the most appropriate context for this matter to be addressed.
289. In response to GWRC [351.194], I do not consider that SUB-S3 should refer to additional requirements for on-site wastewater discharge under the Natural Resources Plan. However, I consider that for the benefit of applicants, the Introduction to the Subdivision Chapter could refer to GWRC's responsibilities, in a similar manner to how this is detailed in the Introduction to the Earthworks Chapter. I have recommended wording to this effect to be included in the Introduction as set out in my recommendations for SUB-S4 below.
290. In response to Survey & Spatial New Zealand Wellington Branch [439.33] I refer to the parallel assessment and reasoning in paragraphs 278-279 of this report. On the basis of that assessment, I disagree with the submitter that cross references to the Regional Standard for Water Services should be removed from SUB-S3.

Summary of Recommendations

291. **HS5-SUB-Rec47:** That SUB-S3 be amended as set out below and detailed in Appendix A.

SUB-S3 Wastewater disposal

1. Where a connection to Council's reticulated wastewater systems is available, all new allotments must be provided with a connection at the allotment boundary that provides the level of service in Chapter 5, section 5.2.3 of the Wellington Water Regional Standard for Water Services May 2019;
2. Where a connection to Council's reticulated wastewater systems is not available, all allotments must be provided with on-site wastewater systems ~~a septic tank or soakage field~~ or an approved alternative means to dispose of sewage in a sanitary manner within the net site area of the allotment in accordance with Section 5.2.6 of the Wellington Water Regional Standard for Water Services May 2019; and
3. Where a connection to Council's reticulated wastewater systems is not available and sewage is to be disposed to ground, that area must not be subject to instability or inundation or used for the disposal of stormwater.

292. **HS5-SUB-Rec48:** That submission points relating to SUB-S3 are accepted/rejected as detailed in Appendix B.

3.7.18 SUB-S4: Stormwater management

Matters Raised by Submitters

293. Rod Halliday [25.24] (opposed by Heidi Snelson [FS24.8]) seeks an exemption, or a permitted activity standard that does not require hydraulic neutrality, for sites upstream of the Stebbings or Seton Nossiter detention structure that are designed to hold back the 1 in 100 year storm event.

294. AdamsonShaw [137.5, 137.6, and 137.7] submit that SUB-S4 should be amended to specifically refer to new vacant lots, and clarify that existing stormwater system/connections continuing to serve an existing dwelling as part of the subdivision can be retained in full. AdamsonShaw [137.8] also seek a note be added to point out that existing dwellings do not require hydraulic neutrality. The amendments sought by Adamson Shaw are as follows:

SUB-S4 Stormwater management

1. Where a connection to Council's stormwater management systems is available, all new vacant allotments must be provided with a connection at the allotment boundary, that provides the level of service in Chapter 4 Stormwater Table 4.1, Table 4.2 and 4.3 of the Wellington Water Regional Standard for Water Services May 2019;
2. All subdivisions creating vacant allotments must achieve hydraulic neutrality; and
3. Where a connection to Council's stormwater systems is not available and the means of stormwater disposal is to ground, that area must not be subject to instability or inundation or be used for the disposal of wastewater.

295. Trelissick Park Group [168.21 and 168.22] consider that it is essential that all building developments, including infill housing, require at least neutral or lesser stormwater runoff, compared with pre-development, and seek that all assessment criteria where the standard is infringed are deleted.

296. Tyers Stream Group [221.70 and 221.71] submit that contributions from the subdivider are needed to any upgrades, in proportion to the extent of upgrade required from the subdivision.

297. GWRC [351.195] seeks that SUB-S4 refer to additional requirements for stormwater discharge under the Natural Resources Plan.

298. Survey & Spatial New Zealand Wellington Branch [439.34] seeks to remove cross references to the Regional Standard for Water Services and instead specify the minimum requirements for a stormwater connection.

Assessment

299. In response to Rod Halliday [25.24] I note that advice from Wellington Water, as detailed in the

s32 Report¹⁷, does not support the relief sought as follows:

“In order to exempt development from providing hydraulic neutrality WWL would need evidence that the Dam design had made detention allowance for the level of development proposed under the draft district plan for storm events of up to 1 in 100 years with climate change. WWL does not currently have that evidence and it would require significant work (both in terms of time and costs) to get this information.”

300. As I am unaware of any material evidence being supplied to WWL that alters the position outlined above I do not consider an exemption for hydraulic neutrality for sites upstream of the Stebbings or Seton Nossiter detention structure would be appropriate. I also refer to paragraph 227 of the Three Waters s42A Report that responds to a similar submission point [25.19] on this matter.
301. AdamsonShaw [137.5, 137.6, and 137.7] submit that allotments containing existing dwellings do not need to be provided with hydraulic neutrality because the dwelling that existed prior to the subdivision, and the subdivision itself, is not increasing the stormwater runoff on the original allotment. In response, I draw attention to the policy directive in THW-P5 that requires that offsite stormwater discharge for new subdivision is reduced, as far as practicable, to be at or below the modelled peak flow and volume for each site in an undeveloped state. Consequently, I disagree with the relief sought as I consider that SUB-S4 is consistent with the directive of this policy, as well as SUB-P3.3 as it directly implements that hydraulic neutrality is to be achieved.
302. In response to AdamsonShaw [137.8] seeking a note pointing out that existing dwellings do not require hydraulic neutrality, I am of the view that the intent of SUB-S4 is that each allotment, as opposed to each dwelling, achieves hydraulic neutrality, noting that the definition of hydraulic neutrality is implicitly linked to a ‘site in an undeveloped state’, not the existing ‘pre subdivision’ state. The PDP contains strong policy directive relating to hydraulic neutrality in THW-P5 and SUB-P3.3, and as such an exemption for all existing dwellings/sites would undermine the efficacy of the rule (and standard/policy). In addition, the requirement for hydraulic neutrality applies irrespective of the type of subdivision as SUB-S4 is a relevant standard for SUB-R2 (Subdivision around an existing lawfully established building which does not result in the creation of any new undeveloped allotment), SUB-R3 (Boundary adjustments), and SUB-R5 (Subdivision that creates any vacant allotment), indicating again that SUB-S4 is intended to apply to all subdivision irrespective of any existing dwelling. On this basis I disagree with AdamsonShaw.
303. I further note that the NPSFW Section 3.5(4) on integrated management requires local authorities to ‘include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments’. To this extent I consider that SUB-S4.2 is consistent with this higher order directive, and the outcomes sought in THW-O3.
304. In assessing the submissions of Mr Halliday [25.24] and AdamsonShaw [137.5, 137.6, 137.7, and 137.8] I have also considered relevant directions in the National Planning Standards, noting in

¹⁷ [Subdivision s32 Report](#), Page 55.

particular that:

- a. Standard 5 under the District-wide Matters Standard requires that provisions relating to energy, infrastructure and transport must be located in one or more of the chapters under the Energy, infrastructure and transport heading – as such the THW Chapter is the home for restrictions on the use of land where three waters standards are not met (section 9 RMA).
- b. Standard 24 requires ‘subdivision provisions’ to be under the Subdivision heading – as such the Subdivision Chapter is the home for restrictions on the subdivision of land relating to three waters (section 11 RMA).
- c. Standard 25 states that chapters under the Subdivision heading must include cross-references to any relevant provisions under the Energy, infrastructure and transport heading.

305. On this basis, I consider that the ‘Other relevant District Plan provisions’ section of the Subdivision Chapter should be amended to reference the Three Waters chapter as the relevant cross-reference is currently absent. Doing so would provide clear linkages between the Subdivision Chapter standards that address water supply, wastewater disposal, and stormwater management in acknowledgement that the associated policy directives on these matters are addressed in the Three Waters chapter.

306. In response to Trelissick Park Group [168.21 and 168.22] I acknowledge their support for hydraulic neutrality in SUB-S4, noting that it is a relevant standard in relation to SUB-R2, SUB-R3, and SUB-R5. Where compliance with the hydraulic neutrality requirement in SUB-R4.2 is not achieved, the subdivision activity would fall to being either a restricted discretionary activity or a discretionary activity depending on the circumstances.

307. Regardless, I note that the relief sought is to delete all assessment criteria from SUB-S4, with these forming the basis of considering restricted discretionary activity rules SUB-R2.2, SUB-R3.3, and SUB-R5.3. Of note here though is that SUB-R5.2 does not include ‘The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standards’ as a matter of discretion. I recommend that this matter of discretion be added to ensure that the relevant assessment criteria be considered. I acknowledge what I infer to be the intent of Trelissick Park Group’s submission point – that subdivisions that do not meet the standard for hydraulic neutrality not be allowed. However, as the assessment criteria in SUB-S4 apply more broadly to stormwater management I disagree these should be deleted.

308. In response to Tyers Stream Group [221.70 and 221.71] I refer to the assessment in paragraphs 67-69 of the Three Waters s42 Report as to the appropriateness of Financial Contributions for offsite stormwater treatment and management. Relying on that assessment, I disagree with Tyers Stream Group.

309. In response to GWRC [351.195], I do not consider that SUB-S4 should refer to additional requirements for stormwater discharge under the Natural Resources Plan. However, I consider that for the benefit of applicants, the Introduction to the Subdivision Chapter could refer to GWRC’s responsibilities, in a similar manner to how this is detailed in the Introduction to the Earthworks Chapter. I have recommended wording to this effect to be included in the

Introduction below.

310. In response to Survey & Spatial New Zealand Wellington Branch [439.34] I refer to the parallel assessment and reasoning in paragraphs 278-279 of this report. On that basis of that assessment, I disagree with the submitter that cross references to the Regional Standard for Water Services should be removed from SUB-S4.

Summary of Recommendations

311. **HS5-SUB-Rec49:** That the Subdivision Chapter Introduction is amended as set out below and detailed in Appendix A.

Responsibilities

GWRC has a key role under the RMA in conserving soil, maintaining and enhancing water quality and aquatic ecosystems and avoiding or mitigating natural hazards. In practice, this means that:

GWRC have functions and responsibilities for the control relating to subdivision;

1. GWRC manages potable water where a connection to Council's reticulated potable systems is not available, and the water supply is from groundwater or a waterbody.
2. GWRC manages wastewater disposal where a connection to Council's reticulated wastewater systems is not available and sewage is to be disposed to ground.
3. GWRC manages stormwater disposal where a connection to Council's reticulated wastewater systems is not available and stormwater is to be disposed to ground or into a waterbody.
4. GWRC also manages disturbance activities in the beds of rivers and lakes.

Other relevant District Plan provisions

Three Waters – The Three Waters chapter contains provisions relating to hydraulic neutrality and three waters infrastructure servicing.

312. **HS5-SUB-Rec50:** That SUB-R5.2 is amended as set out below and detailed in Appendix A.

Matters of discretion are:

1. The matters in SUB-P1, SUB-P3, SUB-P4, SUB-P6, SUB-P7, and SUB-P8;
2. The matters in the Subdivision Design Guide;
3. The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standards;
4. ...

313. **HS5-SUB-Rec51:** That submission points relating to SUB-S4 are accepted/rejected as detailed in Appendix B.

3.7.19 SUB-S5: Telecommunications and power supply

Matters Raised by Submitters

314. Chorus New Zealand [88.2] seeks that SUB-S5 is retained as notified.

Assessment

315. No further assessment is required.

Summary of Recommendations

316. **HS5-SUB-Rec52:** That SUB-S5 be confirmed as notified.

317. **HS5-SUB-Rec53:** That submission points relating to SUB-S5 are accepted/rejected as detailed in Appendix B.

3.7.20 SUB-S6: Number, size and shape of allotments

Matters Raised by Submitters

318. Rod Halliday [25.25] (opposed by Glenside Progressive Association [FS4.11] and Heidi Snelson [FS24.10]) submits that the use of the phrase “capable of providing a platform within the 'built' area” is ambiguous and subject to misinterpretation, and seeks that SUB-S6.8 be deleted.

319. Kāinga Ora [391.244 and 391.245] seeks a number of amendments to SUB-S6 including that the minimum lot size in the MCZ, LCZ, NCZ, MUZ, and GIZ be nil, along with a minimum shape factor standard for vacant allotments and deletion to any reference to legal instruments in the assessment criteria. The amendments sought are as follows:

SUB-S6 Number, size and shape of <u>vacant</u> allotments	
The following maximum <u>vacant</u> allotment number and minimum size and shape limits must be complied with for any fee simple subdivision:	
...	
Standard	Limit
<u>Vacant Allotments</u>	
<u>Minimum allotment shape</u>	<u>Accommodate a rectangle of 8m x 15m.</u>
Metropolitan Centre, Local Centre, Neighbourhood Centre, Mixed Use & General Industrial Zones	
5. Maximum number of allotments	nil
6. Minimum allotment size	500m² <u>nil</u>
7. Minimum allotment shape	nil
Assessment Criteria where the standard is infringed:	
1. The extent to which a higher density of development is compatible with the <u>anticipated zone purpose, form and function</u> local site context ;	
2.	
3.	
4.	
5. The effectiveness of any legal or instruments necessary to limit future intensification.	

Assessment

320. In response to Mr Halliday's submission [25.25], I note that the intent of SUB-S6 is that each allotment within the Upper Stebbings and Glenside West Development Area identifies a building platform within the 'built area'. Reference to 'built area' directly relates to the terminology used within the Upper Stebbings and Glenside West Development Area Chapter. This aligns with the directive in DEV3 and associated planning map that development is enabled in the built areas and restricted in the no build areas. Specifically, that construction, alteration of and addition to buildings and structures is a permitted/restricted discretionary activity in the Built Areas, but discretionary in No Build Areas.
321. I acknowledge that the DEV3 chapter refers to both 'built areas' and 'build areas', whilst the planning maps identify 'unbuilt areas'. In my view, it is logical that a 'built area' is the inverse of one that is unbuilt. Likewise, it is logical that built, being the past-tense of build, address the same matter.
322. Insofar as the submitter considers that SUB-S6.8 is ambiguous and subject to misinterpretation, I consider that the inconsistency in terminology could create confusion for a District Plan reader. However, this broader matter relates more directly to the DEV3 chapter, and as such I consider that this submission point would be more appropriately addressed in Hearing Stream 6 on Development Areas.
323. In response to Kāinga Ora [391.244 and 391.245] I agree that removal of the minimum allotment size for the Metropolitan Centre, Local Centre, Neighbourhood Centre, Mixed Use & General Industrial Zones would be appropriate. It is my understanding that the 500m² minimum allotment size in the centres was derived to manage the potential for fragmentation and to implement SUB-P4.3 by ensuring subdivision proposals provide allotments that can be feasibly developed and are fit for their future intended purpose.
324. Removal of the minimum allotment size for Centres and Mixed Use zones in particular would, in my view, go further to encouraging and supporting a wider range of housing typologies such as terraced housing as well as enable broader and more favourable consideration of unit title and cross-lease subdivisions. I also consider that removal of minimum allotment sizes is consistent with the directives in SUB-P1¹⁸ and SUB-P5¹⁹ in enabling flexibility, innovation, and choice in the supply and variety of new housing, and would directly respond to the outcomes sought in UFD-O6 as follows:
- 'A variety of housing types, sizes and tenures, including assisted housing, supported residential care, and papakainga options, are available across the City to meet the community's diverse social, cultural, and economic housing needs.'*
325. On this basis, I propose that sub-clause 5, 6 and 7 of SUB-S6 be deleted as subdivision in the Metropolitan Centre, Local Centre, Neighbourhood Centre, Mixed Use and General Industrial

¹⁸ Recognise the benefits of subdivision in facilitating the supply and variety of new housing, business and other activities that meet the needs of people and communities.

¹⁹ Provide for flexibility, innovation and choice for future development enabled by subdivision for residential activities, while ensuring allotments are of a size, shape and orientation that is compatible with the nature, scale and intensity anticipated for the underlying zone or activity area.

Zones can be appropriately considered under sub-clause 9 and 10 or the 'All other zones' section of SUB-S6.

326. In response to Kāinga Ora seeking that a minimum allotment shape be added for vacant lots, I understand that 8 x 15m is a proxy for a minimum lot size and shape that would be particularly enabling of medium density housing. However, given that subdivision for residential activities in SUB-R1 is a Controlled Activity in the MRZ and HRZ subject to satisfying relevant standards, I do not consider it appropriate or necessary that a minimum lot size be added for vacant residential lots. As to whether a minimum allotment shape be applied to all vacant lots more broadly, I disagree for the reasons set out above, that this is necessary or appropriate because as suggested by Kāinga Ora it would apply to all zones.
327. Moreover, given my proposal in paragraph 325 to remove the minimum allotment size for the Metropolitan Centre, Local Centre, Neighbourhood Centre, Mixed Use and General Industrial Zones, I do not consider it necessary for a minimum allotment shape to be applied to vacant lots as there is no reason to control shape in these circumstances either. A rectangle shape factor of 8 x 15m for all vacant lots imposes a minimum 120m² allotment size, which in turn would make the 'nil' minimum allotment size proposed within these zones misleading and subject to ambiguity.
328. As to whether the assessment criteria clause 5, 'The effectiveness of any legal or instruments necessary to limit future intensification', should be deleted I consider that, unlike its general use within a policy and as a matter of control/discretion, it is appropriate as an assessment criterion in this context given the specific focus of SUB-S6. However, in my view this criterion needs to be refined to refer to 'proposed' rather than 'necessary' to ensure it is appropriately targeted.
329. Turning to the amendments sought by Kāinga Ora to assessment criterion 1, I agree in part with adding 'anticipated zone purpose, form and function' as it would be beneficial to acknowledge that the existing local context may not reflect the nature, scale and intensity of the underlying zone. However, I disagree that 'local site context' should be deleted, as its retention recognises and responds to the fact that the anticipated nature, scale and intensity of the underlying zone may be inconsistent with the local context of a particular area – including for example as a result of consent-based processes that authorise activities not necessarily 'anticipated' by the underlying zone. As such, I consider that both of these considerations should form part of this criterion, noting further that this would also align with the outcome sought in SUB-O1.2 that *'subdivision achieves an efficient development pattern that is compatible with the nature, scale and intensity anticipated for the underlying zone and local context'*.
330. Further, I also agree that deleting reference to higher density in assessment criterion 1 is appropriate as I consider that it does not alter the intent or readability of the standard. In this regard I note that this criterion will only be considered if the minimum allotment size in the LLRZ or GRUZ is contravened, or in the instance where a building platform is not provided for within the 'built area' in the Upper Stebbings and Glenside West Development Area.

Summary of Recommendations

331. **HS5-SUB-Rec54:** That SUB-S6 be amended as set out below and detailed in Appendix A.

SUB-S6 Number, size and shape of allotments

The following maximum allotment number and minimum size and shape limits must be complied with for any fee simple subdivision:

...

Standard	Limit
Metropolitan Centre, Local Centre, Neighbourhood Centre, Mixed Use & General Industrial Zones	
5. Maximum number of allotments	nil
6. Minimum allotment size	500m²
7. Minimum allotment shape	nil

Assessment Criteria where the standard is infringed:

1. The extent to which ~~a higher density of~~ development is compatible with the zone purpose, form and function and local site context;
- 2.
- 3.
- 4.
5. The effectiveness of any legal or instruments ~~necessary proposed~~ to limit future intensification.

332. **HS5-SUB-Rec55:** That submission points relating to SUB-S6 are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

333. In my opinion, the recommended amendments to SUB-S6 is the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that the amended standard:

- a. Encourages and supports a wider range of housing typologies, is consistent with SUB-P1 and SUB-P5 and would directly respond to the outcomes sought in UFD-O6. Consequently, the amended SUB-S6 is more efficient and effective than the notified provisions in achieving the objectives of the PDP.

334. The recommended amendments will not have any greater environmental, social, or cultural effects than the notified provisions as detailed in the Subdivision s32 Report. Compared to the notified proposal, the recommended approach may have economic benefit by further encouraging and supporting a wider range of housing typologies.

3.8 Residential

3.8.1 SUB-R1: Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone

Matters Raised by Submitters

335. Chorus [88.1], FENZ [273.108], Retirement Villages Association [350.65], and WCC Environmental Reference Group [377.190], seek that SUB-R1 is retained as notified.
336. Peter Kelly [16.6] submits that if SNAs are returned to residentially zoned land, SUB-R1 is amended to add “8. Minimising vegetation loss within a Significant Natural Area.”
337. Rachel Marr [89.1] opposes the non-notification clauses under SUB-R1 on the basis that subdivision can cause problems and judicial review is often too late to rectify the issue, and seeks a more open process for consents with notification when neighbours (not just direct neighbours) will obviously be adversely affected by the work.
338. Design Network Architecture [259.1] seek amendment to clarify where a standard does not apply to multi-unit housing, it is not highlighted as being necessary to consider under a notification preclusion.
339. WCC [266.98] also seek to remove the gavel for SUB-R1 as the rule does not have legal effect.
340. Wellington Electricity Lines [355.54 and 355.55] seeks that SUB-R1.6 is amended to be more robust regarding the degree of connection. As currently worded “provision of electricity” does not instill an expectation of a safe and secure supply to an electricity supply network, but rather, merely that any given development has provision to the network. It is also noted that equipment is likely to also be required, which should be considered to facilitate the connection, not the development to an electricity supply. The amendment sought by Wellington Electricity Lines is as follows:

6. ~~The provision of~~ That connections to a safe and secure electricity supply network are provided ~~connections~~ to the legal boundary ~~or~~ of each allotment; and

341. Waka Kotahi [370.195] (supported by KiwiRail [FS72.61] and opposed by Kāinga Ora [FS89.18]) seek an additional matter of control relating to the management of adverse effects on noise, as follows:

SUB-R1 Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone

1. Activity status: Controlled

Matters of control are:

...

8. Any potential adverse effects of site development on the efficient use and operation of the roading and state highway network.

...

342. Kāinga Ora [391.221 and 391.222] (opposed by FENZ [FS14.1]) seek amendments to the matters of control as, consistent with other rules in this chapter, it considers that these would be more appropriate as standards that are required to be complied with, as follows:

SUB-R1 Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone

1. Activity status: Controlled

Matters of control are:

1. The provision of practical, physical and legal access from each allotment directly to a formed legal road or by registered right of way;
2. Whether the subdivision necessitates a joint land use application.
3. Compliance with SUB-S1, SUB-S2, SUB-S3, SUB-S4, and SUB-S5
4. ~~The provision of a water supply connection to the Council's reticulated water supply system for each allotment sufficient to meet the levels of service in the Wellington Water Regional Standard for Water Services 2022 and the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008;~~
5. ~~The provision of a wastewater disposal connection to Council's reticulated wastewater system for each allotment sufficient to meet the level of service in the Wellington Regional Standard for Water Services 2022;~~
6. ~~The provision of a stormwater connection to Council's reticulated stormwater system for each allotment sufficient to meet the level of service in the Wellington Regional Standard for Water Services 2022;~~
7. ~~The provision of fibre optic cable connections to the legal boundary of each allotment;~~
8. ~~The provision of electricity connections to the legal boundary of each allotment;~~
and
9. ~~Any consent notices, covenants, easements or other legal instruments necessary.~~

...

343. Survey & Spatial New Zealand Wellington Branch [439.27] submit that the first notification status statement appears to be related to subdivision of 1 - 3 units, and therefore MRZ-S2 should be removed, and the notification status statement for subdivision related to 4 or more units includes compliance with standard MRZ-S1 which should be removed.
344. Kāinga Ora [391.193] have also submitted that the notification statuses for SUB-R1 generally relate to the land use activity and associated standards, and the subdivision itself is not generating additional effects that should trigger notification.

Assessment

345. In response to Peter Kelly [16.6], I note that any decision about returning SNAs to residentially zoned land will be made in Stream 8, when submissions on the Natural and Coastal Environment Chapter will be heard and considered. Any necessary amendments to the Plan arising as a result of these proceedings will be addressed at this time.

346. In response to Rachel Marr [89.1], I note that Rule SUB-R1 expressly addresses the requirements

of Clauses 3 and 7 of RMA Schedule 3A. As the notification preclusions for such subdivisions are required under clause 5(3) of Schedule 3A of the RMA I therefore disagree with the relief sought as I consider that the notification preclusions in SUB-R1 give effect to these requirements.

347. In response to Design Network Architecture [259.1] and Survey & Spatial New Zealand Wellington Branch [439.27], I acknowledge the submitters' point that the notification preclusion statements, for developments of 4 or more units, should not reference standards that do not apply to multi-unit housing, and vice versa for developments of 1-3 units. I note that Schedule 3A RMA distinguishes between 1-3 and 4+ units through making specific reference to 'an application for the construction and use of residential units described in subclause (1) or (2).' In response to the submitters I note that the relevant standards in the residential chapters clearly state when the standards do not apply to multi-unit developments. As an example, development relating to 4 or more residential units appears to demand compliance with MRZ-S7, however multi-unit housing is exempt from compliance in that standard.
348. In response to the Wellington City Council [266.98], removal of the gavel is now beyond consideration as established in Hearing Stream 1.
349. In response to Wellington Electricity Lines [355.54 and 355.55] I disagree with the request to add 'safe and secure' to SUB-R1 as I do not consider it is within the ambit of the submitter to make sure the connection is/remains safe and secure. In any case, I am of the view that the suggested phrasing would be inappropriate as it more closely resembles a condition or standard rather than a matter of control.
350. As to the wording of 'the provision of...', I note that this phrasing is used consistently in SUB-R1 to refer to the provision of fibre optic cable connections, stormwater connections, among other matters. Consequently, I disagree with relief sought as I consider that the current phrasing for the provision of connections as notified is appropriate and provides a consistent drafting approach to this matter of control.
351. In response to Waka Kotahi [370.195], I disagree with the relief sought as I do not consider the requested matter of control is necessary as any effects associated with noise are appropriately managed by the Noise Chapter through insulation and ventilation standards. In addition, any traffic safety effects or impact of development on the transportation network can be appropriately addressed under the Infrastructure and Transport Chapters. Further, I consider that the requested matter of control is unnecessary within a residential environment, where residential development is expected. Should a development impact the state highway network (or rail network as raised by KiwiRail [FS72.61]) by way of non-compliance with relevant standards listed in the notification preclusions, then the opportunity exists for Waka Kotahi or KiwiRail to be notified as an affected party through the resource consent process.
352. In response to Kāinga Ora [391.221 and 391.222], I do not agree with the amendments sought to remove the matters of control and replace with compliance with the subdivision standards as SUB-R1 is intended to implement clauses 3 and 7 of Schedule 3A of the RMA. Under these clauses subdivision for the purposes of construction and use of housing, which complies with the MDRS, must be assessed as a controlled activity. Placing compliance burdens that would default to a more stringent activity status would be inconsistent with the requirements of Schedule 3A. In addition, I do not consider that listing 'compliance with xx standards' is an

appropriate matter of control as this statement lends itself more towards a cascading activity status, which is not the intent of SUB-R1.

353. Further, I disagree with the notification concern raised by Kainga Ora [391.193] as I consider that the notification preclusions are appropriate in that they give effect to the directive in clause 5(3) of Schedule 3A of the RMA.

Summary of Recommendations

354. **HS5-SUB-Rec56:** That SUB-R1 be confirmed as notified.
355. **HS5-SUB-Rec57:** That submission points relating to SUB-R1 are accepted/rejected as detailed in Appendix B.

3.9 Esplanades

3.9.1 General Points in relation to Esplanades

Matters Raised by Submitters

356. Tyers Stream Group [221.66] seek that appropriate esplanade provision be made along the margins of Tyers Stream, and other waterways, whenever subdivision occurs (as is required by the RMA) to create better linkages and facilitate more livable spaces and lower energy/runoff intensity use of areas.

Assessment

357. In response to Tyers Stream Group [221.66] I note that the outcomes sought in SUB-O2 is that the network of esplanade reserves and esplanade strips in Wellington is progressively increased. This represents a deliberate shift in this anticipated environmental outcome compared to the ODP. This is further complemented by SUB-P8 which sets out that the provision of esplanade reserves and esplanade strips is to enhance public access, ecological, amenity and recreational values, and to enhance natural hazard resilience.
358. To the extent that their submission seeks development and provision of walking access to, along and within Tyers Stream Reserve, I note that the Public Access chapter provides strong directive around this, particularly PA-P2.2 which requires *'the creation of esplanade reserves and/or esplanade strips along the coastal environment and waterbodies (in accordance with SUB-P8)'*. I also note the aims of NE-O2 and NE-O3 and consider that when the PDP is read as a whole, there is strong directives contained in the plan to create better linkages and facilitate more liveable spaces and lower energy/runoff intensity use of areas.
359. This is directly implemented by SUB-P8 (which has a strong directive to require the provision of esplanade reserves and esplanade strips) and SUB-S7 which sets standards for esplanade reserves and esplanade strips where a river whose bed has an average width of 3m or more adjoins or flows through the allotment.
360. Where the average width of the bed of Tyers Stream is equal to, or exceeds, 3m to the extent that it adjoins or flows through a proposed allotment SUB-S7 requires that allotment to create an esplanade reserve or strip with a minimum width of 20m, or otherwise obtain consent for

provision of a lesser width. For the benefit of the submitter I note that the definition of 'river' and 'bed' in the PDP is consistent with the RMA.

361. Consequently, I agree with the intent of the request by the submitter as I am of the view that the requirement for esplanade reserves and esplanade strips for all subdivision that creates an allotment which or adjoins or contains a river whose bed has an average of 3m or more established in SUB-S7.2 is appropriate and in accordance with the purposes of esplanade reserves and esplanade strips as set out in s229, and s77 and s230 of the RMA. To the extent enabled in these sections of the RMA, I consider that the esplanade and public access provisions of the PDP collectively provide a strong directive to maintain and enhance public access, among other matters, with this further reinforced by the notified provisions requiring sufficient esplanades to be provided at subdivision stage.

Summary of Recommendations

362. **HS5-SUB-Rec58:** No changes are recommended in response to submissions on general points in relation to esplanades.
363. **HS5-SUB-Rec59:** That submission points relating to esplanades are accepted/rejected as detailed in Appendix B.

3.9.2 SUB-O2: Esplanades

Matters Raised by Submitters

364. WCC Environmental Reference Group [377.163] seek that SUB-O2 is retained as notified.

Assessment

365. No further assessment is required.

Summary of Recommendations

366. **HS5-SUB-Rec60:** That SUB-O2 be confirmed as notified.
367. **HS5-SUB-Rec61:** That submission points relating to SUB-O2 are accepted/rejected as detailed in Appendix B.

3.9.3 SUB-P8: Esplanade requirements

Matters Raised by Submitters

368. Forest & Bird [345.263], WCC Environmental Reference Group [377.171], and Kāinga Ora [391.210] seek that SUB-P8 is retained as notified.

Assessment

369. No further assessment is required.

Summary of Recommendations

370. **HS5-SUB-Rec62:** That SUB-P8 be confirmed as notified.

371. **HS5-SUB-Rec63:** That submission points relating to SUB-P8 are accepted/rejected as detailed in Appendix B.

3.9.4 SUB-S7: Esplanade reserves and esplanade strips

Matters Raised by Submitters

372. Rod Halliday [25.26] seeks that SUB-S7 be amended to only apply to lots less than 4ha in the General Rural Zone as per ODP Rule 15.4.5. Rod Halliday [25.27] also seeks that SUB-S7 be amended to only apply to streams and tributaries identified in ODP Rule 15.4.5.

Assessment

373. The outcomes sought in SUB-O2 is that the network of esplanade reserves and esplanade strips in Wellington is progressively increased, supported by SUB-P8 which sets out that the provision of esplanade reserves and esplanade strips is to enhance public access, ecological, amenity and recreational values, and to enhance natural hazard resilience. Again, it is worth noting here that this approach has been deliberately adopted in the PDP to enhance the wider network of esplanades over time, compared to the approach in the ODP which is more selective.
374. The anticipated outcome is that public access to surface water will be progressively enhanced, consistent with the corresponding matter of national importance at s6(d)²⁰ of the RMA. It also aligns with the conservation, access and recreational values inherent in the purposes of esplanades defined at s229 of the RMA. Further, I am of the opinion that the proposed approach in the PDP will assist with the preservation of riparian natural character values²¹, and enhance the relationship of Maori and their cultures and traditions with ancestral water and other taonga.²²
375. For these reasons I disagree with the submitter that the standard should revert to the approach of the ODP, with the requirement for an esplanade reserve or esplanade strip only applying to new lots of less than 4 hectares.
376. I note that in the event of non-compliance SUB-S7 there is the ability for the subdivision proposal to be assessed as a restricted discretionary activity based on the associated assessment criteria set out in the standard. I further note that there remains the ability for esplanade reserves or esplanade strips requirements to be reduced or waived, in accordance with the considerations in s229 RMA during Council's assessment of a subdivision application.
377. It is my understanding that 'Porirua Stream and tributaries, Makara Stream and tributaries including Ohariu Stream, Oteranga Stream and tributaries, and Karori Stream and tributaries' were listed in the ODP as these were the rivers that had been identified as averaging a width of 3m or more in the Rural Zone. However, it is plausible that various sections of rivers will have different and/or variable widths depending on where the river adjoins or flows through the

²⁰s6(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers

²¹s6(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development

²² s6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga

allotment. As such, I disagree with the relief sought by the submitter and do not support listing specific streams and tributaries within the standard as is currently the case in the ODP.

378. I acknowledge however that, short of there being publicly available information on river bed width, this would put the onus on the applicant to determine whether the river meets this requirement, whereas the ODP clearly outlined the rivers (at least within the Rural Zone) to which the esplanade requirements apply.

Summary of Recommendations

379. **HS5-SUB-Rec64:** That SUB-S7 be retained as notified.
380. **HS5-SUB-Rec65:** That submission points relating to SUB-S7 are accepted/rejected as detailed in Appendix B.

3.10 Historical and Cultural Values

3.10.1 New policy

Matters Raised by Submitters

381. Wellington Heritage Professionals [412.60, 412.62, and 412.64] submit that there are no rules or standards to achieve the outcomes in SUB-P10, SUB-P11 or SUB-12, and question how the outcomes in those policies will be supported through the consenting process. They seek that SUB-P10, SUB-P11 and SUB-12 be converted into restricted discretionary rules, with an overarching policy as per their submission point below [412.57].
382. Wellington Heritage Professionals [412.57] (supported by Pouhere Taonga [FS9.6]) seek that a policy similar to (20.2.1.4) in the ODP be added as follows:

SUB-PX

Protect the heritage values of listed buildings, objects, areas and scheduled archaeological sites by ensuring that the effects of subdivision and development on the same site as any listed building or object are avoided, remedied and mitigated.

Assessment

383. In response to Wellington Heritage Professionals [412.57], I do not consider a new policy is necessary or appropriate for the following reasons.
384. The approach of the PDP is that the overarching directive for district-wide matters, overlays, and zones are located within the relevant parent chapter. In this sense, the Subdivision chapter relies on the outcomes sought in HH-O2 as follows:

Historic heritage is retained and protected from inappropriate use, subdivision and development.

385. Where relevant to future subdivision proposals, this outcome is then implemented through specific historic heritage policies in the Subdivision chapter. This approach allows for catered outcomes to be expressed for each aspect of historic heritage specific to subdivision.

386. As such, it is my view that when read as a whole, the provisions across the Subdivision chapter and parent Historic Heritage chapter adequately cover policy direction for subdivision and development as it relates to historic heritage.
387. Consequently, I am also of the view that SUB-P10, SUB-P11, and SUB-P12 should not be converted to restricted discretionary activity rules (as requested in Wellington Heritage Professionals submission [412.60, 412.62, and 412.64]). In response to the submitters concerns that there are no rules or standards to achieve the outcomes in SUB-P10, SUB-P11, and SUB-P12, I note that SUB-R7, SUB-R8, and SUB-R9 provide rules for subdivision addressed in those policies. All three rules are discretionary activities, and as such I consider that the provisions as notified provide a sufficient level of protection for heritage buildings and structures, heritage areas, and scheduled archaeological sites than what is being sought by the submitter. I therefore disagree with the relief sought from Wellington Heritage Professionals.

Summary of Recommendations

388. **HS5-SUB-Rec66:** No changes are recommended in response to submissions seeking a new policy.
389. **HS5-SUB-Rec67:** That submission points relating to a new policy are accepted/rejected as detailed in Appendix B.

3.10.2 SUB-P9: Subdivision of land within a site or area of significance to Māori Category A or B

Matters Raised by Submitters

390. Forest & Bird [345.264], WCC Environmental Reference Group [377.172], and Kāinga Ora [391.211] seek that SUB-P9 is retained as notified.
391. Te Rūnanga o Toa Rangatira [488.55 and 488.56] (supported by GWRC [FS84.116 and FS84.117]) seek to amend SUB-P9 by requiring partnership and engagement with mana whenua rather than just having regard to the extent of consultation with mana whenua.

Assessment

392. In response to Te Rūnanga o Toa Rangatira [488.55 and 488.56], the term 'consultation with' is consistent with the Sites and Areas of Significance to Māori parent chapter policy SASM-P4, which addresses the construction of buildings and structures within sites and areas of significance. I consider it appropriate that 'consultation with' also be used in relation to subdivision of land within a site or area of significance to Māori.
393. I do however recommend that the wording of SUB-P9 is amended to improve consistency with SASM-P4 by removing 'The extent to which...' This will also provide clarity that regard will be had to the consultation undertaken with mana whenua.
394. I also note that Strategic Objective AW-O1 sets out that "*Resource management processes include mana whenua as active participants in a way that recognises Te Tiriti o Waitangi and its principles.*" As the plan is read as a whole, this strategic direction applies in how mana whenua participate in resource management processes.

395. Likewise, I acknowledge the outcomes sought in SASM-O3 as follows:

*Mana whenua are enabled to exercise kaitiakitanga in relation to sites and areas of significance, including by being active participants on resource consents which have the potential to affect sites and areas of significance, and promoting the narratives of sites within the development of the city.*²³

Summary of Recommendations

396. **HS5-SUB-Rec68:** That SUB-P9 be amended as set out below and detailed in Appendix A.

SUB-P9 Subdivision of land within a site or area of significance to Māori Category A or B

Provide for the subdivision of land within a site or area of significance to Māori Category A or B having regard to:

1. ~~The extent to which c~~onsultation ~~has been~~ undertaken with mana whenua;

...

397. **HS5-SUB-Rec69:** That submission points relating to SUB-P9 are accepted/rejected as detailed in Appendix B.

3.10.3 SUB-P10: Subdivision of land on which a heritage building or heritage structure is located

Matters Raised by Submitters

398. Forest & Bird [345.265] and WCC Environmental Reference Group [377.173] seek that SUB-P10 is retained as notified.

399. WCC [266.97] (supported by Pouhere Taonga [FS9.7]) seek to amend SUB-P10 as follows:

SUB-P10 Subdivision of land on which a heritage building or heritage structure is located

Provide for the subdivision of land on which heritage buildings and heritage structures are located, having regard to:

1. The extent to which the subdivision and any anticipated development would detract from the identified heritage values;
2. The identified relationship and contribution of the setting and surroundings of the site to the values of the heritage building or heritage structure;
3. The extent to which the subdivision would retain an appropriate setting for the heritage building or heritage structure; and
4. Whether covenants or consent notices can be imposed on any new allotment to manage any anticipated development.

400. Wellington Heritage Professionals [412.58 and 412.59] seek two amendments to SUB-P10 as follows:

²³ Recommended SASM-O3 in Appendix A for Hearing Stream 3.

SUB-P10 Subdivision of land on which a heritage building or heritage structure is located

Provide for the subdivision of land on which heritage buildings and heritage structures are located, having regard to:

1. The identified relationship and contribution of associated buildings and structures, and the setting and surroundings of the site to the values of the heritage building or heritage structure;
2. The extent to which the subdivision would retain an appropriate setting for the heritage building or heritage structure; and
3. Whether covenants or consent notices can be imposed on any new allotment to manage any anticipated development.
4. The findings of any advice by a suitably qualified heritage professional.

Assessment

401. I agree with the submission point from WCC [266.97] to amend SUB-P10 to include ‘The extent to which the subdivision and any anticipated development would detract from the identified heritage values’. In my view, the extent to which a proposal detracts from the identified heritage values is an important matter to have regard to. Inclusion of this matter in SUB-P10 additionally provides consistency with SUB-P11, and helps to ensure that historic heritage is retained and protected from inappropriate subdivision as per the outcomes sought in HH-O2.
402. In response to Wellington Heritage Professionals [412.59], I do not consider this amendment necessary, particularly considering the recommendation above to include a new clause SUB-P10.1. In my view, the recommendation to add ‘The extent to which the subdivision and any anticipated development would detract from the identified heritage values’ will ensure that identified heritage values will be considered. I further consider that ‘relationship and contribution of the setting and surroundings of the site’ is suitably broad to encompass consideration of associated buildings and structures.
403. In response Wellington Heritage Professionals [412.58], seeking to include an additional clause ‘the findings of any advice by a suitably qualified heritage professional’, I agree with the intent of the submission that this should be included and be consistent with SUB-P12. However, I consider that the wording should reflect the ‘sister’ policy in the Historic Heritage parent chapter. As I understand it, the Right of Reply for Hearing Stream 3 will recommend that HH-P7 is amended as follows: “Any advice that has been obtained from a suitably qualified heritage professional including Heritage New Zealand Pouhere Taonga where it is listed as a Category 1 or Category 2 Historic Place.” In my view this is an appropriate amendment to achieve consistency with the parent chapter in ensuring that heritage buildings and heritage structure are protected from inappropriate subdivision.

Summary of Recommendations

404. **HS5-SUB-Rec70:** That SUB-P10 be amended as set out below and detailed in Appendix A.

SUB-P10 Subdivision of land on which a heritage building or heritage structure is located

Provide for the subdivision of land on which heritage buildings and heritage structures are located, having regard to:

1. The extent to which the subdivision and any anticipated development would detract from the identified heritage values;
2. The identified relationship and contribution of the setting and surroundings of the site to the values of the heritage building or heritage structure;
3. The extent to which the subdivision would retain an appropriate setting for the heritage building or heritage structure; and
4. Whether covenants or consent notices can be imposed on any new allotment to manage any anticipated development; and
5. Any advice that has been obtained from a suitably qualified heritage professional including Heritage New Zealand Pouhere Taonga where it is listed as a Category 1 or Category 2 Historic Place.

405. **HS5-SUB-Rec71:** That submission points relating to SUB-P10 are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

406. In my opinion, the amendments recommended to SUB-P10 are the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that the amended policy:

- a. Is not inconsistent with the notified objective of the PDP regarding the efficient pattern of development for subdivision.
- b. Ensures the policy aligns with SUB-P11 and relevant aspects of the Historic Heritage Chapter.

407. The recommended amendments will not have any greater environmental, social, or cultural effects than the notified provisions.

3.10.4 SUB-P11: Subdivision within heritage areas

Matters Raised by Submitters

408. Forest & Bird [345.266] and WCC Environmental Reference Group [377.174] seek that SUB-P11 is retained as notified.

409. Wellington Heritage Professionals [412.61] seek to amend SUB-P11 as follows:

SUB-P11 Subdivision within heritage areas

Provide for the subdivision of land within heritage areas, having regard to:

1. The extent to which the subdivision and any anticipated development would detract from the identified heritage values; and
2. Whether covenants or consent notices can be imposed on any new allotment to manage any anticipated development.
3. The findings of any advice by a suitably qualified heritage professional.

Assessment

410. In response to Wellington Heritage Professionals [412.61], I refer to my assessment above in paragraph 403. For the same reasons as outlined in the assessment for SUB-P10, I agree that a new clause should be added to SUB-P11, but consider the wording should be consistent with the 'sister' policy in the Historic Heritage parent chapter.

Summary of Recommendations

411. **HS5-SUB-Rec72:** That SUB-P11 be amended as set out below and detailed in Appendix A.

SUB-P11 Subdivision within heritage areas

Provide for the subdivision of land within heritage areas, having regard to:

1. The extent to which the subdivision and any anticipated development would detract from the identified heritage values; ~~and~~
2. Whether covenants or consent notices can be imposed on any new allotment to manage any anticipated development; ~~and~~
3. Any advice that has been obtained from a suitably qualified heritage professional including Heritage New Zealand Pouhere Taonga where it is listed as a Historic Area.

412. **HS5-SUB-Rec73:** That submission points relating to SUB-P11 are accepted/rejected as detailed in Appendix B.

3.10.5 SUB-P12: Subdivision of land containing a scheduled archaeological site

Matters Raised by Submitters

413. Forest & Bird [345.267], WCC Environmental Reference Group [377.175], and Wellington Heritage Professionals [412.63] seek that SUB-P12 is retained as notified.

Assessment

414. No further assessment is required.

Summary of Recommendations

415. **HS5-SUB-Rec74:** That SUB-P12 be retained as notified.

416. **HS5-SUB-Rec75:** That submission points relating to SUB-P12 are accepted/rejected as detailed in Appendix B.

3.10.6 SUB-P13: Subdivision of land containing a notable tree

Matters Raised by Submitters

417. Forest & Bird [345.268] and WCC Environmental Reference Group [377.176] seek that SUB-P13 is retained as notified.

Assessment

418. No further assessment is required.

Summary of Recommendations

419. **HS5-SUB-Rec76:** That SUB-P13 be retained as notified.
420. **HS5-SUB-Rec77:** That submission points relating to SUB-P13 are accepted/rejected as detailed in Appendix B.

3.10.7 SUB-R6: Subdivision of land within a site or area of significance to Māori Category A and B

Matters Raised by Submitters

421. WCC Environmental Reference Group [377.195] seek that SUB-R6 is retained as notified.

Assessment

422. No further assessment is required.

Summary of Recommendations

423. **HS5-SUB-Rec78:** That SUB-R6 be confirmed as notified.
424. **HS5-SUB-Rec79:** That submission points relating to SUB-R6 are accepted/rejected as detailed in Appendix B.

3.10.8 SUB-R7: Subdivision of a site on which a scheduled heritage building or object is located, SUB-R8: Subdivision of a site within a heritage area, SUB-R9: Subdivision of a site on which a scheduled archaeological site is located, and SUB-R10: Subdivision of a site on which a notable tree is located

Matters Raised by Submitters

425. WCC Environmental Reference Group [377.196, 377.197, 377.198, and 377.199] seek that SUB-R7, SUB-R8, SUB-R9, and SUB-R10 are retained as notified.

Assessment

426. No further assessment is required.

427. However, as a minor and inconsequential amendment, I consider that headings of the rules should correspond directly to the heading of the policies for clarity and plan interpretation. As such I propose that the heading of SUB-R7 is amended.

Summary of Recommendations

428. **HS5-SUB-Rec80:** That SUB-R7 is amended as set out below and detailed in Appendix A.

SUB-R7 Subdivision of a site on which a ~~scheduled~~ heritage building or ~~object~~ heritage structure is located

429. **HS5-SUB-Rec81:** That SUB-R8, SUB-R9, and SUB-R10 be confirmed as notified.

430. **HS5-SUB-Rec82:** That submission points relating to SUB-R7, SUB-R8, SUB-R9, and SUB-R10 are accepted/rejected as detailed in Appendix B.

3.11 Natural Environmental Values

431. To the extent possible I have assessed and made recommendations as applicable to subdivision provisions relevant to Natural Environment Values within this section, noting that submissions relating more broadly to these values will be heard and considered in Hearing Stream 8. Given the interrelated nature of the subdivision and parent chapter provisions, the outcome of Hearing Stream 8 deliberations could have a material bearing on the recommendations contained in this section.

3.11.1 SUB-P14: Subdivision within riparian margins

Matters Raised by Submitters

432. Forest & Bird [345.269] and WCC Environmental Reference Group [377.177] seek that SUB-P14 is retained as notified.

433. GWRC [351.184 and 351.185] (supported EQC [FS70.32]) oppose use of 'provide for' relating to subdivision in riparian margins and seek to amend SUB-P14 as follows:

SUB-P14 Subdivision within riparian margins

~~Provide for subdivision within riparian margins where:~~

- ~~1. The natural character is protected; and~~
- ~~2. The subdivisions is designed to minimise the adverse effects of future use and development enabled by the subdivision on the natural character.~~

Only allow for subdivision in riparian margins where adverse effect on natural character are avoided, and other adverse effects on natural character are avoided, remedied or mitigated.

Assessment

434. In response to GWRC [351.184 and 351.185], I agree that the phrasing ‘Provide for’ does not contribute to the outcomes sought in NATC-O1 to preserve and protect natural character within riparian margins from inappropriate subdivision. I acknowledge though that riparian margins within the city are, to a large extent, highly modified environments with, as I understand it, little to no natural character. Hence, this is the reason why SUB-R15 differentiates the activity status for subdivision with riparian margins in different highly modified zones (Port Zone, Airport Zone, Stadium Zone, Waterfront Zone or City Centre Zone) as a controlled activity.
435. Regardless, I am of the view that SUB-P14.1 provides a stronger directive to protect than GWRC’s suggested wording, and is consistent with the parent chapter outcomes in NATC-O1. I note that SUB-P14s ‘sister’ policy NATC-P1 also uses the phrasing ‘Provide for’, but that this policy is limited to matters including functional and operational need and does not limit or prevent public access to, along or adjacent to waterbodies. On this basis, I consider that SUB-P14 should be retained as notified but the introductory phrasing amended to ‘Only allow’, to align with corresponding rule SUB-R15.

Summary of Recommendations

436. **HS5-SUB-Rec83:** That SUB-P14 be amended as set out below and detailed in Appendix A.

SUB-P14 Subdivision within riparian margins

~~Provide for~~Only allow subdivision within riparian margins where:

1. The natural character is protected; and
2. The subdivisions is designed to minimise the adverse effects of future use and development enabled by the subdivision on the natural character.

437. **HS5-SUB-Rec84:** That submission points relating to SUB-P14 are accepted/rejected as detailed in Appendix B.

3.11.2 SUB-P15: Protection of significant natural areas and SUB-P16: Subdivision in significant natural areas

438. For ease of assessment, submission points on SUB-P15 and SUB-P16 have been grouped for consideration.

Matters Raised by Submitters

439. WCC Environmental Reference Group [377.178] and the Director-General of Conservation [385.50] seek that SUB-P15 is retained as notified.
440. WCC Environmental Reference Group [377.179] and the Director-General of Conservation [385.51] seek that SUB-P16 is retained as notified.
441. Treliwick Park Group submit that subdivision should not be allowed in significant natural areas and seek to delete SUB-P15 [168.19] and SUB-P16 [168.20] in their entirety.

442. Tyers Stream Group [221.67, 221.68 and 221.69] submit that SUB-P15 and SUB-P16 have no effect in the absence of any SNAs on private residential land and do not meet the requirements of s6(d) RMA. They also submit that ‘avoid’ is a high policy bar for subdivision to cross, except for the ‘where practicable’ qualifier. They further note that the effects management hierarchy is very similar to that proposed in the NPSIB, and that some kind of accounting is necessary if offsetting and compensation is contemplated - this could be by putting resources into a fund to deliver more or better biodiversity elsewhere, on a ‘net gain’ basis.
443. Forest & Bird [345.270] submit that the subdivision introduction states that it contains policies and rules that implement the objectives in the ECO chapter, where subdivision affects an SNA. They note that the subdivision chapter has taken the approach of replicating (although not exactly) some of the policies from the ECO chapter. They submit that because the ECO policies already apply to subdivision (e.g. ECO-P1, ECO-P3) it may be simpler to cross reference the ECO policies in the subdivision chapter, or that with either approach care needs to be taken to be clear which policies apply to subdivision, and to ensure that all relevant policies are included in the subdivision chapter.
444. Forest & Bird [345.271, 345.272, 345.273] seek to amend the subdivision policy framework to either:
- a. Remove duplication of ECO policies by deleting and replacing SUB-P15 and SUB-P16 with a new policy that references ECO-P1, ECO-P3, ECO-P5 and their proposed new ECO policy - ‘Maintenance of biodiversity’ as follows:

SUB P15 Protection of, and subdivision in significant natural areas

Protect significant natural areas by applying ECO-P1, ECO-P3, ECO XX (re maintenance of biodiversity) and ECO P5.

- b. Or if the duplication of policies approach is retained, that:
 - i. ECO-P5 and their proposed new ‘Maintenance of biodiversity’ policy are also duplicated in the Subdivision chapter; and

- ii. That their relief sought to ECO-P1 and ECO-P3 are applied to SUB-P15 and SUB-P16²⁴ as set out below. The two options from Forest & Bird are as follows:

SUB-P15 Protection of significant natural areas

Protect the biodiversity values of significant natural areas identified ~~within SCHED8~~ by requiring subdivision to:

1. Avoid adverse effects on indigenous biodiversity in the coastal environment to the extent stated in ECO-P5 (or reference to replicated SUB policy);
2. Avoid the following adverse effects on indigenous biodiversity values ~~where practicable;~~
 - a. Loss of ecosystem representation and extent;
 - b. Disruption to sequences, mosaics or ecosystem function;
 - c. Fragmentation or loss of buffering or connectivity within the SNA and between other indigenous habitats and ecosystems; and
 - d. A reduction in population size or occupancy of threatened species using the SNA for any part of their lifecycle.
3. Avoid adverse effects on indigenous biodiversity values where practicable;
4. Mitigate ~~Minimise~~ adverse effects on the biodiversity values where avoidance is not practicable;
5. Remedy adverse effects on the biodiversity values where they cannot be avoided or mitigated ~~minimised~~;
6. Only consider biodiversity offsetting for any residual adverse effects that cannot otherwise be avoided, mitigated ~~minimised~~ or remedied and where the principles of APP2 – Biodiversity Offsetting are met; ~~and~~
7. ~~Only consider biodiversity compensation after first considering biodiversity offsetting and where the principles of APP3 – Biodiversity Compensation are met.~~

SUB-P16 Subdivision in significant natural areas

Only a ~~Allow~~ for subdivision in significant natural areas ~~listed in SCHED8~~ where it:

1. Applies the effects management hierarchy approach in SUB-P15; and
2. Demonstrates that it is appropriate including by taking into account the:
 - a. Findings of an ecological assessment in accordance with APP15; and
 - b. Provision of any proposed protective covenants of the significant natural area; and
 - c. Degree to which fragmentation of the significant natural area is minimised; and
 - d. Extent to which building platforms and vehicle accessways within the new lots are proposed to locate outside the significant natural area or designed to minimize the degree of impact; and
 - e. Extent that the ecological processes, functions and integrity of the significant natural area are maintained.

²⁴ The submission of Forest & Bird has identified amendments to SUB-S16 using a different version of the policy to that of the notified PDP.

Assessment

445. In response to Trelissick Park Group [168.19 and 168.20] it is my view that the policy framework for subdivision in SNAs will appropriately protect indigenous ecosystems and habitats with significant biodiversity values. SUB-P15 and SUB-P16 reflect the directives in the parent ECO chapter, specifically the effects management hierarchy set out in ECO-P1 and replicated for subdivision in SUB-P15, and ECO-P3 which is replicated as SUB-P16. In my view SUB-P15 and SUB-P16 provide important direction to ensure that SNAs are protected from inappropriate subdivision, consistent with the outcomes sought in ECO-O1²⁵. As such I disagree that SUB-P15 and SUB-P16 should be deleted.
446. In response to Tyers Stream Group [221.67, 221.68 and 221.69] the absence of any SNAs on private residential land is a matter more appropriately addressed at Hearing Stream 8. As to whether the Subdivision chapter meets the requirements of s6(d) RMA to recognise and provide for 'significant areas of indigenous vegetation and significant habitats of indigenous fauna' I note, similar to other Natural Environmental Values and Historical and Cultural Values, that the approach applied in the PDP is to identify specific areas for protection in schedules. As such, I consider that whether the relevant schedule, SCHED8 – Significant Natural Areas, meets the requirements of s6(d) RMA is a matter more appropriately addressed in Hearing Stream 8. I further note that as both SUB-P15 and SUB-P16 reference SNAs identified within SCHED8 any subsequent amendments recommended to this schedule will consequentially apply to the Subdivision Chapter.
447. As to the submitter's point about similarity with the draft NPSIB and accounting being necessary if offsetting and compensation is contemplated, I note that biodiversity compensation is addressed via Appendix APP3 – *Biodiversity Compensation* (referenced in SUB-P15.5), and that the matter of funds to deliver more or better biodiversity elsewhere on a 'net gain' basis is a matter more relevant to, and would be more appropriately addressed in, Hearing Stream 8.
448. In response to Forest and Bird [345.270] I note that Standard 24 of the National Planning Standards directs all subdivision provisions must be located within the Subdivision Chapter. However, I acknowledge that ECO-P1 and ECO-P3 include reference to subdivision in addition to referencing use and development. This is a residual drafting error from the pre-notification drafting stage, noting that these policies have since been replicated to be specific to subdivision - being SUB-P15 and SUB-P16. As a result, I would suggest that, as part of the Hearing Stream 8 proceedings, references to subdivision in ECO-P1 and ECO-P3 be removed as a consequential amendment.
449. In response to Forest & Bird [345.271, 345.272, 345.273] to ensure greater consistency and alignment with the National Planning Standards I also agree that it would be beneficial to replicate ECO-P5 in the Subdivision Chapter. This could be undertaken in a similar manner to that applied to the subdivision of land within SALs, both outside of and within the coastal environment in SUB-P18 and would address a gap in the subdivision provisions as well as give

²⁵ ECO-O1 Significant Natural Areas are protected from inappropriate subdivision, use and development and where appropriate, restored.

effect to the NZCPS.

450. However, I acknowledge that many of the text amendments sought to SUB-P15 and SUB-P16 reflect broader opposition and/or relief sought by Forest & Bird in relation to the ECO chapter, specifically ECO-P1, ECO-P3 and ECO-P5 (being the relevant 'sister' policies). Given the scope of potential amendments and recommendations arising from Hearing Stream 8 that could alter the policy framework for SNAs, including the potential for a new 'Maintenance of biodiversity' policy, it is my view that any amendments to the replicated subdivision ECO policy framework should be considered at that time in order to ensure consistency.
451. On this basis, I propose no substantive changes to SUB-P15 and SUB-P16 at this time, noting the need to consider further refinements to the subdivision provisions following Hearing Stream 8.

Summary of Recommendations

452. **HS5-SUB-Rec85:** That SUB-P15 and SUB-P16 are retained as notified, subject to any amendments arising from Hearing 8.
453. **HS5-SUB-Rec86:** That submission points relating to SUB-P15 and SUB-P16 are accepted/rejected as detailed in Appendix B.

3.11.3 SUB-P17: Subdivision of land within ridgeline and hilltops

Matters Raised by Submitters

454. WCC Environmental Reference Group [377.180] seeks that SUB-P17 is retained as notified.
455. John Tiley [142.14] and Churton Park Community Association [189.14] oppose SUB-P17 as the concept of subdividing on ridgelines does a disservice to the city's landscape values, expressed in other plans and policies over the last twenty years.
456. Heidi Snelson, Aman Hunt, Chia Hunt, Ela Hunt [276.21] seek to amend SUB-P17 to give further protection to Marshall's Ridge and other ridgelines within the area.
457. Forest & Bird [345.274] consider that the policy broadly replicates NFL-P2 and seeks to amend SUB-P17 to align with their relief sought on NFL-P2. For ease of reference, Forest & Bird's submission point on NFL-P2 [345.232] is set out on page 7 in the [Natural Features and Landscapes Summary of Submissions](#).

Assessment

458. In response to John Tiley [142.14], Churton Park Community Association [189.14], and Heidi Snelson, Aman Hunt, Chia Hunt, Ela Hunt [276.21] seeking stronger directive to protect ridgelines and hilltops, I am in agreement. In conjunction with the suggested amendments for earthworks within the ridgetop area of the Upper Stebbings and Glenside West Development Area set out in Recommendation 120 of the Earthworks s42A Report, it is my view that the policy directive for subdivision within the ridgetop area could be made stronger. In particular, as this area is not currently managed in the Subdivision Chapter as notified.
459. Under DEV3-R33 in the Development Area - Upper Stebbings and Glenside West chapter, the construction of buildings and structures in the ridgetop is a non-complying activity, with

associated policy DEV3-P4.6 directing that land development and subdivision protect the natural ridgetop around the Upper Stebbings valley in order to provide a natural backdrop to Upper Stebbings and Tawa valleys and a connected reserves network. To align with the approach of the parent chapter, I consider that there needs to be a complementary subdivision policy to protect the natural ridgetop around the Upper Stebbings valley. In my view this could be achieved by adding 'ridgetop area' to the policy heading for SUB-P17, in a similar manner to the proposed amendments to EW-R15 set out in paragraph 595 of the Earthworks s42A Report.

460. I also consider that further protection for ridgelines and hilltops is necessary in order to implement NFL-O3 and achieve a coherent policy construct in combination with NFL-P2 along with relevant policy direction in the Earthworks and Development Area - Upper Stebbings and Glenside West Chapters (i.e. DEV3-P4.6). On this basis, I agree with the relief sought by Forest & Bird [345.274] and propose that the introductory phrasing of SUB-P17 should be amended to 'Only allow'.
461. In assessing the submissions of John Tiley [142.14], Churton Park Community Association [189.14], and Heidi Snelson, Aman Hunt, Chia Hunt, Ela Hunt [276.21] I have turned my mind to the rule framework for subdivision within ridgelines and hilltops and the ridgetop area, and in the course of doing this have identified a gap. Although beyond the scope of relevant submissions, it is my view that a new rule relating to subdivision within the ridgeline and hilltops overlay or within the ridgetop area is necessary otherwise there is a risk that SUB-P17 becomes an orphan policy. For consistency with DEV3-R33 and suggested amendments to EW-R15 I propose a new subdivision rule as set out below, noting that under Schedule 1, clause 99(2)(b) of the RMA the Panel's recommendatory powers are not limited to matters within the scope of submissions.

Summary of Recommendations

462. **HS5-SUB-Rec87:** That SUB-P17 be amended as set out below and detailed in Appendix A.

SUB-P17 Subdivision of land within ridgeline and hilltops overlay or within the ridgetop area of the Upper Stebbings and Glenside West Development Area

~~Provide for~~Only allow subdivision of land containing ridgelines and hilltops or within the ridgetop area where:

1. The integrity of the ridgeline is protected; and
2. The subdivision is designed to minimise the adverse effects of future use and development on the visual amenity and landscape values.

463. **HS5-SUB-Rec88:** I recommend a new subdivision rule as set out below and detailed in Appendix A.

SUB-RX Subdivision of land within ridgeline and hilltops overlay or within the ridgetop area of the Upper Stebbings and Glenside West Development Area

1. Activity status: Restricted Discretionary

Where:

a. A future building platform to contain a residential unit is identified for each new undeveloped allotment that:

i. complies with the underlying zone provisions for buildings; and
 ii. For the Upper Stebbings and Glenside West Development Area is located outside of the ridgetop area.

Matters of discretion are restricted to:

1. The matters in SUB-P17; and
 2. Any measures proposed to protect ridgeline and hilltop or ridgetop area, including the location and size of future building platforms.

464. **HS5-SUB-Rec89:** That submission points relating to SUB-P17 are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

465. In my opinion, the amendments recommended to SUB-P17 including a new rule are the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that the amendments:

- a. Better give effect to NFL-O3.
- b. Better align with DEV3-P4.
- c. Addresses a gap in the provision framework regarding the protection of ridgeline and hilltops and the natural ridgetop around the Upper Stebbings Valley.

466. The environmental, economic, social and cultural effects of the recommended amendments, as they vary somewhat from the existing plan s32 evaluation report, are below.

Environmental	<ul style="list-style-type: none"> • Compared to the notified provisions, I consider these amendments will provide greater protection to ridgelines and hilltops, in line with DEV3-R33 and DEV3-P4.6.
Economic	<ul style="list-style-type: none"> • The addition of a rule and greater protection for ridgelines and hilltops may require additional costs where consents are sought.
Social	<ul style="list-style-type: none"> • There are unlikely to be any additional social costs or benefits compared to the notified proposal.

Cultural	<ul style="list-style-type: none"> No cultural effects are identified.
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3.11.4 SUB-P18: Subdivision of land within special amenity landscapes

Matters Raised by Submitters

467. WCC Environmental Reference Group [377.181] seeks that SUB-P18 is retained as notified.
468. Forest & Bird [345.275] consider that the policy broadly replicates NFL-P3 and NFL-P4 and seeks to amend SUB-P18 to align with their relief sought on NFL-P3 and NFL-P4. For ease of reference, Forest & Bird’s submission point on NFL-P3 and NFL-P4 [345.233 and 345.234] is set out on page 8 in the [Natural Features and Landscapes Summary of Submissions](#).

Assessment

469. In response to Forest & Bird [345.275] I disagree with the relief sought to amend SUB-P18 to ‘Only consider providing’ as I consider it would be unhelpful to decision-making and would be inconsistent with directive language deliberately applied in drafting the PDP.
470. As to adding an additional clause to SUB-P18 ‘Any activity ensures the maintenance and enhancement of the quality of the environment’ (as sought to be added to NFL-P3 and NFL-P4), I consider that this matter would be more appropriately considered and addressed in Hearing Stream 8 for the parent NFL chapter, with any consequential amendments to SUB-P18 considered at or subsequent to this hearing.
471. That said, as I understand it Forest & Bird have sought this amendment to better give effect to Policy 13 and 15 of the NZCPS. However, I am of the opinion that the addition of this clause to SUB-P18 would be inappropriate given that when the subdivision provisions are read as a whole:
- a. A SAL containing the presence of Natural Character within the coastal environment would be addressed via SUB-P22 (giving effect to NZCPS Policy 13); and
 - b. A SAL containing the presence of Outstanding Natural Features and Landscapes within the coastal environment would be addressed via SUB-P20 (giving effect to NZCPS Policy 15).

Summary of Recommendations

472. **HS5-SUB-Rec90:** That SUB-P18 be confirmed as notified, subject to any amendments arising from Hearing 8.
473. **HS5-SUB-Rec91:** That submission points relating to SUB-P18 are accepted/rejected as detailed in Appendix B.

3.11.5 SUB-P19: Subdivision of land within outstanding natural features and landscapes located outside of the coastal environment

Matters Raised by Submitters

474. WCC Environmental Reference Group [377.182] seeks that SUB-P19 is retained as notified.
475. Forest & Bird [345.276] support the intent of the policy but seek to amend SUB-P19 to align with their relief sought on NFL-P5. For ease of reference, Forest & Bird's submission point on NFL-P5 [345.235] is set out on page 9 in the [Natural Features and Landscapes Summary of Submissions](#).

Assessment

476. In response to Forest & Bird [345.276] I disagree with the relief sought to amend SUB-P19 to 'Only consider allowing' as I consider it would be unhelpful to decision-making and would be inconsistent with directive language deliberately applied in drafting the PDP.
477. As to their amendment to delete references to 'identified', I note that the rationale for referring to 'identified values' was to draw the plan user to the detail provided in the various schedules of the PDP (and not just any unspecified 'values'). The values identified in the schedules have been identified through rigorous engagement, research, and assessment. The phrasing of 'identified values' is terminology that has been consistently applied throughout the PDP to refer to values, as exemplified by the comparable use of this term in the natural environmental values and historical and cultural values chapters and their associated schedules.
478. I note that Forest & Bird have also made other submission points on use of this phrasing throughout the PDP, particularly its use within the relevant parent chapter - Natural Features and Landscapes. Policy 23 of the RPS requires that the District Plan identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values, according to specified criteria. As I understand it, the PDP methodology effectively implements this higher order direction, noting that the explanation to the policy sets out that '*Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.*' However, given the breadth and topic related focus of these submission points I consider that they are matters more appropriately addressed in Hearing Stream 8.
479. Regardless, for the purposes of this s42A Report I disagree with the request to delete reference to 'identified values' in the subdivision provisions as I consider its retention is appropriate for the reasons outlined above.

Summary of Recommendations

480. **HS5-SUB-Rec92:** That SUB-P19 be confirmed as notified, subject to any amendments arising from Hearing 8.
481. **HS5-SUB-Rec93:** That submission points relating to SUB-P19 are accepted/rejected as detailed in Appendix B.

3.11.6 SUB-P20: Subdivision of land within outstanding natural features and landscapes located within the coastal environment

Matters Raised by Submitters

482. WCC Environmental Reference Group [377.183] and the Director-General of Conservation [385.52] seek that SUB-P20 is retained as notified.

483. Forest & Bird [345.277] consider that the policy broadly replicates NFL-P5 and seeks to amend SUB-P20 to align with their relief sought on NFL-P5. For ease of reference, Forest & Bird's submission point on NFL-P5 [345.235] is set out on page 9 in the [Natural Features and Landscapes Summary of Submissions](#).

Assessment

484. In response to Forest & Bird [345.277] request to align SUB-P20 with their amendments sought to NFL-P5, and the matter of reference to 'identified' values, I disagree with the relief sought for the reasons outlined in my related assessment above in paragraphs 477-479.
485. On the assumption that Forest & Bird intended that SUB-P20 be amended to align with the relevant 'sister' policy NFL-P6, I am of the view that SUB-P20 goes further to protect ONFL within the coastal environment than the amendments sought to NFL-P6. In particular I note that SUB-P20.2 directs that identified values and characteristics of the outstanding natural features and landscapes are protected.
486. In my view, the avoid directive of SUB-P20 is most appropriate to give effect to Policy 15 of the NZCPS. As noted in paragraph 476 of this report, amending the policy to 'Only consider allowing' is unhelpful to decision-making and inconsistent with directive language deliberately applied in drafting the PDP.

Summary of Recommendations

487. **HS5-SUB-Rec94:** That SUB-P20 be confirmed as notified, subject to any amendments arising from Hearing 8.
488. **HS5-SUB-Rec95:** That submission points relating to SUB-P20 are accepted/rejected as detailed in Appendix B.

3.11.7 SUB-R11: Subdivision of land within a significant natural area

Matters Raised by Submitters

489. WCC Environmental Reference Group [377.200] and the Director-General of Conservation [385.55] seek that SUB-R11 is retained as notified.
490. Forest & Bird [345.284] submit that SUB-R11 be amended to also apply to building platform access, and include as matters of discretion ECO policies (i.e. maintenance of biodiversity and ECO-P5, or their replicas in the SUB chapter). They also submit that where the restricted discretionary activity requirements are not met, the activity should become non-complying.

Assessment

491. In response to Forest & Bird [345.284], I agree that adding consideration of access to SUB-R11.1.a. would be appropriate as I am of the view that this would help ensure that allotment access can be provided without encroaching onto SNAs. It would also specifically give effect to SUB-P16.2.d, which includes consideration of vehicle accessways. Vehicle accessways, particularly on steep sites, can require significant land area and not requiring these areas to be shown on plans prior to subdivision may result in a situation where future development of the

site is unnecessarily constrained.

492. A building platform and/or allotment access may only need to be located within a small area of the mapped SNA, and therefore not generate inappropriate effects. In this sense I am of the view that SUB-P15 and SUB-P16 provide sufficient direction to inform the processing of discretionary activity consents, with the effects management hierarchy in SUB-P15 setting out clear guidance on how the effects are to be managed. Consequently, I consider that it is appropriate to include additional wording in SUB-R11.1.a requiring areas for access to the building platform be identified that are located outside of the SNA.
493. As to whether SUB-R11 should be amended to refer back to ECO policies, the relevant matters, including the effects management hierarchy, are addressed specifically in SUB-P15 and SUB-P16. However, as discussed above in paragraph 450, I agree that it would be appropriate to include a subdivision equivalent of ECO-P5 in the Subdivision chapter. This, in turn, will ensure that the Subdivision chapter manages SNAs located within the coastal environment to the same extent as the parent Ecosystems and Indigenous Biodiversity chapter. Any changes to the outcomes and direction applicable to SNAs arising out of Hearing Stream 8 can be consequentially updated as relevant to the Subdivision chapter to ensure consistency with the parent ECO chapter.
494. With the addition of an ECO-P5 equivalent policy to the subdivision chapter I consider it would be appropriate that non-complying activity status apply where an SNA is located within the coastal environment, similar to the manner in which this matter is addressed in SUB-R13. In my view this would respond to Forest & Bird's relief that the matters of discretion for SUB-R11 are expanded to include the equivalent subdivision version of ECO-P5, and that where restricted discretionary activity requirements are not met the activity should become non-complying.
495. As a further consequential amendment I consider that the Section 88 information requirement for SUB-R11.1. should be applicable to SUB-R11.2 and the new non-complying activity rule. As this amendment is informative in nature and intended to assist with the efficient preparation and lodgment of applications it would not, in my view, introduce any issues of prejudice or natural justice.

Summary of Recommendations

496. **HS5-SUB-Rec96:** That SUB-R11 be amended as set out below and detailed in Appendix A.

SUB-R11 Subdivision of land within a significant natural area

1. Activity status: **Restricted Discretionary**

Where:

- a. A future building platform to contain a residential unit including areas for access to the building platform are identified for each new undeveloped allotment that:
- i. Complies with the underlying zone provisions for buildings; and
 - ii. Is located outside of the significant natural area.

Matters of discretion are:

1. The matters in SUB-P15 and ~~16624~~,SUB-P16.

Section 88 information requirements for applications: Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15.

2. Activity status: **Discretionary**

Where:

- a. Compliance with any of the requirements of SUB-R11.1.a cannot be achieved ~~;~~
and
- b. The subdivision is located outside of the coastal environment.

Section 88 information requirements for applications: Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15.

3. Activity Status: Non-complying

Where:

- a. Compliance with any of the requirements of SUB-R11.2 cannot be achieved; and
- b. The subdivision is located outside the coastal environment.

Section 88 information requirements for applications: Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15.

497. **HS5-SUB-Rec97:** That submission points relating to SUB-R11 are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

498. In my opinion, the amendments recommended to SUB-R11, and similar amendments to SUB-R13 and SUB-R16, are the most appropriate way to achieve the objectives of the plan compared

to the notified provisions. In particular, I consider that the amended rules:

- a. Better gives effect to SUB-P16, which includes consideration of vehicle accessways.
- b. Better gives effect to Policy 24 of the RPS through ensuring adverse effects on indigenous vegetation are appropriately protected. The inclusion of the requirements in the subdivision rule will also ensure that future use of the allotments created will be able to be undertaken, without the need to seek additional resource consents for clearance of indigenous vegetation within a SNA. Consequently, they better give effect to higher order documents, ensure more efficient use of land resources, and are more efficient and effective than the notified provisions in achieving the objectives of the PDP.

499. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation and more efficient plan administration.

3.11.8 SUB-R12: Subdivision of land within special amenity landscapes

Matters Raised by Submitters

500. WCC Environmental Reference Group [377.201] seeks that SUB-R12 is retained as notified.
501. Forest & Bird [345.285] submit that SUB-R12 be amended to include NFL-P3 and NFL-P4 as matters of discretion and cross reference new ECO and NFL policies sought aimed at the maintenance of biodiversity outside of SNAs as well as ensuring policy 11 of the NZCPS is given effect to, outside of SNAs. They also oppose reference to 'identified values' as per relief sought on SCHED11.

Assessment

502. In response to Forest & Bird [345.285] seeking that SUB-R12 include NFL-P3 and NFL-P4 as matters of discretion, I note that SUB-P18 is the subdivision chapter equivalent of the parent chapter policies, of which SUB-P18 is a matter of discretion for SUB-R12.1. I therefore disagree with Forest & Bird as referring to NFL-P3 and NFL-P4 would duplicate matter already addressed in the subdivision specific SAL policy - SUB-P18.
503. As to whether ensuring Policy 11 of the NZCPS is given effect to, outside of SNAs, I again note that the approach applied in the PDP is to identify specific areas for protection in schedules. The intent is that the schedules have been prepared to give effect to the NZCPS, noting as well that the relevant values identified in the schedules which respond to RPS policies also, by virtue of the requirement in s62(3) of the RMA, give effect to the NZCPS.
504. Further to this, it is my understanding that if a SAL were to have indigenous biological diversity in the coastal environment, that this area would also be identified in SCHED8 as being an SNA with indigenous ecosystems and habitats with significant biodiversity values, in addition to being a SAL identified in SCHED11. In this sense, an area or site can trigger multiple subdivision policies depending on the number and extent of natural environmental values. I also note that Policy 27 of the RPS states that District Plans 'may' identify special amenity landscapes, whereas Policy 23 of the RPS states that District Plans 'shall' identify and evaluate indigenous ecosystems

and habitats with significant indigenous biodiversity value (these are identified as Significant Natural Areas in the PDP). Therefore, in accordance with the RPS, there is mandatory direction to identify SNAs that are not applicable to SALs. However, the matter of ensuring the NZCPS is given effect to, is a matter more appropriately addressed in Hearing Stream 9.

505. To the extent it relates to subdivision, the matter of the SAL being located within the coastal environment or outside of the coastal environment is addressed through the relevant associated policy SUB-P18 which differentiates the approach to SALs by way of SUB-P18.1 (outside of the coastal environment) and SUB-P18.2 (within the coastal environment).
506. As to the matter of deleting references to 'identified values', I disagree for the reasons outlined in my related assessment of a similar request in paragraphs 477-479 of this report.

Summary of Recommendations

507. **HS5-SUB-Rec98:** That SUB-R12 be confirmed as notified, subject to any amendments arising from Hearing 8.
508. **HS5-SUB-Rec99:** That submission points relating to SUB-R12 are accepted/rejected as detailed in Appendix B.

3.11.9 SUB-R13: Subdivision of land within outstanding natural features and landscapes

Matters Raised by Submitters

509. WCC Environmental Reference Group [377.202] seeks that SUB-R13 is retained as notified.
510. Forest & Bird [345.286] submit that SUB-R13 be amended to also apply to the access to the building platform, and include as matters of discretion policies aimed at the protection of ONFLs and the indigenous biodiversity located within them, including new ECO and NFL policies sought by F&B which are aimed at the maintenance of biodiversity outside of SNAs.

Assessment

511. In response to Forest & Bird [345.286] I agree with the request to include reference to building platform access for the reasons outlined in my related assessment in paragraphs 491-492 of this report.

Summary of Recommendations

512. **HS5-SUB-Rec100:** That SUB-R13 be amended as set out below and detailed in Appendix A.

<p>SUB-R13 Subdivision of land within outstanding natural features and landscapes</p> <p>1. Activity status: Restricted Discretionary</p> <p>Where:</p> <p>a. A future building platform to contain a residential unit, <u>including areas for access to the building platform are</u> identified for each new undeveloped allotment that:</p> <p>i. complies with the underlying zone provisions for buildings; and</p> <p>ii. is located outside of the outstanding natural feature or landscape.</p> <p>...</p>
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513. **HS5-SUB-Rec101:** That submission points relating to SUB-R13 are accepted/rejected as detailed in Appendix B.

3.12 Coastal Environment

514. To the extent possible I have assessed and made recommendations as applicable to subdivision provisions relevant to the Coastal Environment chapter within this section, noting that submissions relating more broadly to the coastal environment will be heard and considered in Hearing Stream 8. Given the interrelated nature of the subdivision and parent chapter provisions, the outcome of Hearing Stream 8 deliberations could have a material bearing on the recommendations contained in this section.

3.12.1 SUB-P21: Subdivision of land within the landward extent of the coastal environment

Matters Raised by Submitters

515. WCC Environmental Reference Group [377.184] and the Director-General of Conservation [385.53] seek that SUB-P21 is retained as notified.

516. Forest & Bird [345.278] consider that the policy broadly replicates NFL-P6 and seeks to amend SUB-P21 to align with their relief sought on NFL-P6. For ease of reference, Forest & Bird's submission point on NFL-P6 [345.236] is set out on page 9 in the [Natural Features and Landscapes Summary of Submissions](#).

Assessment

517. In response to Forest & Bird [345.278], I disagree that SUB-P21 should be amended to align with their relief sought on NFL-P6 on the basis that this policy solely addresses use and development within outstanding natural features and landscapes within the coastal environment whereas SUB-P21 addresses subdivision within all areas of the coastal environment. Given the different focus of these policies, the amendments sought are not relevant or appropriate.

518. I also note that SUB-P21 reflects similar wording to that of its 'sister' policy, CE-P2, in the Coastal Environment chapter, but with a specific focus on use and development within the coastal environment. To the extent that Forest & Bird intended that SUB-P21 align with their relief sought to CE-P2, I disagree that amending the policy to 'Only consider providing' would be appropriate for the reasons outlined in my related assessment of a similar request in section paragraph 469 in 3.11.4 of this report, that I consider it would be unhelpful to decision-making and would be inconsistent with directive language deliberately applied in drafting the PDP.

Summary of Recommendations

519. **HS5-SUB-Rec102:** That SUB-P21 be retained as notified.
520. **HS5-SUB-Rec103:** That submission points relating to SUB-P21 are accepted/rejected as detailed in Appendix B.

3.12.2 SUB-P22: Subdivision of land within high coastal natural character areas

Matters Raised by Submitters

521. WCC Environmental Reference Group [377.185] and the Director-General of Conservation [385.54] seek that SUB-P22 is retained as notified.
522. Forest & Bird [345.279] consider that the policy broadly replicates CE-P5 and seeks to amend SUB-P22 to align with their relief sought on CE-P5. For ease of reference, Forest & Bird's submission point on CE-P5 [345.307] is set out on page 19 in the [Coastal Environment Summary of Submissions](#).

Assessment

523. I note that SUB-P22 closely aligns with the wording of its 'sister' policy, CE-P5, in the Coastal Environment chapter, but with a specific focus on land use and development in high coastal natural character areas.
524. Forest and Bird [345.279] have sought a number of changes to CE-P5 that are not relevant to SUB-P22, as they relate to use and development as opposed to subdivision, or are already achieved by the notified provision. To the extent they have sought to delete references to 'identified', I disagree for the reasons outlined in my related assessment of a similar request in paragraphs 477-479 of this report.
525. In terms of the relief sought to delete references to 'operational need' I refer to my associated assessment on this same matter in paragraphs 125-131 in section 3.5.3 of my s42A Earthworks Report. For ease of reference, I particularly note that in my view Objective 6 and Policy 6 of the NZCPS, in particular (6)(a) and (6)(b), acknowledge that enabling development and infrastructure is important so long as the values of the coastal environment are not compromised. In this context it is important to note that proposals must meet all clauses in SUB-P22 i.e. there must be both a functional or operational need, in addition to meeting all other matters including incorporating measures to restore or rehabilitate disturbed areas. On this basis, I disagree with Forest and Bird that 'operational need' should be deleted.

526. In response to Forest & Bird [345.279], Policy 13.1.a of the NZCPS directs that adverse effects of

activities in areas of ‘outstanding natural character’ in the coastal environment are to be avoided. Policy 13.1.b then directs that only significant adverse effects are avoided, and other adverse effects on natural character in all other areas of the coastal environment are to be avoided, remedied, or mitigated.

527. The directive of the NZCPS is then reflected in the PDP through the differentiation of ‘high natural character areas’ identified in SCHED12 and the corresponding policy directives in the Coastal Environment Chapter. This is exemplified by policy CE-P5, which addresses use and development in high coastal natural character areas, and policies CE-P6/CE-P7 which address use and development in the coastal environment more broadly – including in relation to natural character.

528. These directives, in turn, are reflected in the Subdivision chapter through the distinction that has been created between SUB-P22 and SUB-P23/SUB-P24, with SUB-P22 addressing ‘high natural character areas’ and SUB-P23/SUB-P24 applying to all other areas of natural character within the coastal environment.

529. ‘Coastal Natural Character Areas’ are defined in the PDP as follows:

means an area of very high or high coastal natural character identified in SCHED12 – High Coastal Natural Character Areas.

530. I acknowledge though that this definition may be interpretively confusing as it refers to both ‘very high or high coastal natural character’ values, whereas the use of this definition in the PDP, including within Coastal Environment chapter, is accompanied by the word ‘high’ i.e. ‘High Coastal Natural Character Areas’. In my view it would be beneficial to amend the definition to ‘High Coastal Natural Character Areas’. This is however a matter for the Coastal Environment hearing and would necessitate consequential amendments throughout the PDP – including in SUB-P22.

531. To the extent relevant to the subdivision provisions, I disagree with the relief sought as I am of the opinion that the proposed subdivision provisions framework in the PDP appropriately addresses high natural character in SUB-P22 and natural character more broadly in SUB-P23/SUB-P24, consistent with NZCPS Policy 13.

532. In the absence of any compelling evidence, planning evaluation or s32AA evaluation provided by Forest & Bird, I consider the notified provisions most appropriately implement the objectives of the PDP, and disagree with the relief sought.

Summary of Recommendations

533. **HS5-SUB-Rec104:** That SUB-P22 be confirmed as notified.

534. **HS5-SUB-Rec105:** That submission points relating to SUB-P22 are accepted/rejected as detailed in Appendix B.

3.12.3 SUB-P23: Subdivision of land within coastal margins and riparian margins in the coastal environment located inside the Port Zone, Airport Zone, Stadium Zone, Waterfront Zone or City Centre Zone

Matters Raised by Submitters

535. WCC Environmental Reference Group [377.186] seeks that SUB-P23 is retained as notified.
536. Forest & Bird [345.280] consider that the policy broadly replicates CE-P6 and seeks to amend SUB-P23 to align with their relief sought on CE-P6. For ease of reference, Forest & Bird's submission point on CE-P6 [345.308] is set out on page 20 in the [Coastal Environment Summary of Submissions](#).

Assessment

537. I note that SUB-P23 closely aligns with the wording of its 'sister' policy, CE-P6, in the Coastal Environment chapter, but with a specific focus on land use and development within coastal margins and riparian margins in the coastal environment located inside the Port Zone, Airport Zone, Stadium Zone, Waterfront Zone, City Centre Zone or Evans Bay Marine Recreation Area.
538. In relation to CE-P6, Forest & Bird consider that it should not be a blanket enabling policy but instead recognise and reflect that there may be limits to development in those areas. At the very least, they are of the view that the policy should refer to potential limits on the use of these areas in accordance with policies 11, 13 and 15 of the NZCPS (and the policies in this plan that give effect to those policies), for the reason that the requirements of the NZCPS do not stop applying because a zone has been assigned to an area.
539. As to whether these policies are consistent with the NZCPS, I consider this matter would be more appropriately addressed in the Coastal Environment hearing in response to the primary submission points made by Forest & Bird in relation to CE-P6.
540. Regardless, in terms of the Subdivision chapter I am of the opinion that the associated provision framework is consistent with the NZCPS for the following reasons:
- a. The 'avoid' directive in Policy 13 (Preservation of natural character) is appropriately addressed in SUB-P22 and SUB-P24.
 - b. The 'avoid' directive in Policy 15 (Natural features and natural landscapes) is appropriately addressed in SUB-P20.
 - c. NZCPS Policies 6(1)(b)²⁶, (c)²⁷ and (f)²⁸ are enabling of development in the coastal environment where other values of the coastal environment are not compromised, noting, in particular, that Policy 6(1)(c) encourages the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth.
541. Where subdivision provided for in SUB-P23 and SUB-R26 is proposed, the application of the subdivision rules and policies will mean that any ONFL or high natural character areas present

²⁶ consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;

²⁷ encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;

²⁸ consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;

will trigger SUB-R15 and SUB-R16 as relevant.

542. In this sense, the specific provisions for the Port Zone, Airport Zone, Stadium Zone, Waterfront Zone, City Centre Zone in the Subdivision chapter do not 'side step' protection of ONFL or high natural character areas within the coastal environment, but instead acknowledges that the coastal environment overlay as it applies to these zones is highly modified.
543. In the absence of any compelling evidence, planning evaluation or s32AA evaluation provided by Forest & Bird, I consider the notified provisions most appropriately implement the objectives of the PDP, and disagree with the relief sought.

Summary of Recommendations

544. **HS5-SUB-Rec106:** That SUB-P23 be confirmed as notified.
545. **HS5-SUB-Rec107:** That submission points relating to SUB-P23 are accepted/rejected as detailed in Appendix B.

3.12.4 SUB-P24: Subdivision of land within coastal margins and riparian margins in the coastal environment located outside the Port Zone, Airport Zone, Stadium Zone, Waterfront Zone and City Centre Zone

Matters Raised by Submitters

546. WCC Environmental Reference Group [377.187] seeks that SUB-P24 is retained as notified.
547. Forest & Bird [345.281] consider that the policy broadly replicates CE-P7 and seeks to amend SUB-P24 to align with their relief sought on CE-P7. For ease of reference, Forest & Bird's submission point on CE-P7 [345.309] is set out on page 21 in the [Coastal Environment Summary of Submissions](#).

Assessment

548. I note that SUB-P24 closely aligns with the wording of its 'sister' policy, CE-P7, in the Coastal Environment chapter, but with a specific focus on land use and development within coastal margins and riparian margins in the coastal environment located outside the Port Zone, Airport Zone, Stadium Zone, Waterfront Zone, City Centre Zone and the Evans Bay Marine Recreation Area.
549. In relation to CE-P7, Forest & Bird consider that the requirements of the NZCPS do not stop applying because a zone has been assigned to an area and, at the very least, the policy should refer to potential limits on the use of these areas in accordance with policies 11, 13 and 15 NZCPS. For the reasons outlined in my related assessment of a similar request in section 3.12.3 above I disagree with the relief sought.
550. Forest & Bird also considers that clause CE-P7.d is not clear as to which effects are being mitigated, and seek that the clause refer specifically to 'natural character effects'. The submitter also seeks that the policy should be amended to add a clause specifying that use or development will only be allowed where the natural character values of the area are retained.

551. In the absence of any compelling evidence, planning evaluation or s32AA evaluation to the

contrary I consider the notified provisions most appropriately implement the objectives of the PDP in aligning with the parent Coastal Environment Chapter.

Summary of Recommendations

552. **HS5-SUB-Rec108:** That SUB-P24 be retained as notified.
553. **HS5-SUB-Rec109:** That submission points relating to SUB-P24 are accepted/rejected as detailed in Appendix B.

3.12.5 SUB-R14: Subdivision of land within the coastal environment outside of high coastal natural character areas and outside of coastal margins and riparian margins

Matters Raised by Submitters

554. WCC Environmental Reference Group [377.203] seeks that SUB-R14 is retained as notified.
555. Forest & Bird [345.287] oppose the controlled activity status and submit that restricted discretionary is more appropriate. As submitted in the Coastal Environment chapter, provisions which only protect areas of high natural character do not give effect to NZCPS policy 13. They also seek that matters of discretion policies aimed at the protection of natural character (generally) be included.

Assessment

556. In response to Forest & Bird's [345.287] as to ensuring that the matters of discretion policies aimed at the protection of natural character (generally) be included in SUB-R14, I disagree as this rule is intended to specifically focus on subdivision outside of high coastal natural character areas and outside of coastal margins and riparian margins, not natural character generally. As such, SUB-P21 is the relevant policy reference in SUB-R14.1 and SUB-R14.2, which has the direction to:

'Provide for subdivision of land within the landward extent of the coastal environment where it:

- 1. Consolidates existing urban areas; and*
- 2. Does not establish new urban sprawl along the coastline.'*

557. Turning to their concern that the provision framework is inconsistent with the NZCPS, I disagree that this is the case as I am of the view that the 'avoid' directive in Policy 13 (Preservation of natural character) is appropriately addressed in SUB-P22 and SUB-P24, and SUB-R16.
558. I also consider that the controlled activity status for subdivision within the coastal environment but outside of the high coastal natural character areas and outside of coastal margins and riparian margins is appropriate, and aligns with the 'provide for' directive in SUB-P21. Given the large extent of the coastal environment in Wellington City, in my view the provision framework

is consistent with the NZCPS, noting in particular that Policy 6(1)(b)²⁹, (c)³⁰ and (f)³¹ are enabling of development in the coastal environment where other values of the coastal environment are not compromised. I note that the controlled activity status in SUB-R14.1 does not apply to the Open Space and Recreation Zone or the General Rural Zone which would instead be considered under SUB-R14.2 as a restricted discretionary activity.

559. In the absence of any compelling evidence, planning evaluation or s32AA evaluation to the contrary I consider the notified provisions most appropriately implement the objectives of the PDP in aligning with the parent Coastal Environment Chapter, and disagree with the relief sought by Forest & Bird.

Summary of Recommendations

560. **HS5-SUB-Rec110:** That SUB-R14 be confirmed as notified.
561. **HS5-SUB-Rec111:** That submission points relating to SUB-R14 are accepted/rejected as detailed in Appendix B.

3.12.6 SUB-R15: Subdivision of land within the coastal environment within coastal margins or riparian margins

Matters Raised by Submitters

562. WCC Environmental Reference Group [377.204] and the Director-General of Conservation [385.56] seek that SUB-R15 is retained as notified.
563. Forest & Bird [345.288] oppose the controlled status for this activity. As submitted in the Coastal Environment chapter, the requirement to protect natural character applies regardless of zoning. They also seek that the restricted discretionary rule include, as matters of discretion, policies aimed at the protection of natural character.

Assessment

564. In response to Forest & Bird [345.288] as to whether the requirement to protect natural character applies regardless of zoning, I consider this matter would be more appropriately addressed in the Coastal Environment hearing in response to similar submission points Forest & Bird have made on this same matter. However, as it relates to the subdivision chapter, it is my view that that the provision framework is consistent with the NZCPS, noting in particular that

²⁹ consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;

³⁰ encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;

³¹ consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;

Policy 6(1)(b)³², (c)³³ and (f)³⁴ are enabling of development in the coastal environment where other values of the coastal environment are not compromised.

565. Regardless, I consider that subdivision in the Port, Airport, Stadium, Waterfront, and City Centre Zones is appropriate as a Controlled Activity, on that basis that given the highly modified coastal environment within these zones there are unlikely to be any adverse effects on coastal or riparian margins. In this regard I note that ‘any measures proposed to protect the natural character values of the area, including the location and size of future building platforms’ is a matter of control for SUB-R15.1. Likewise, this is also a matter of discretion for SUB-R15.2 for all other zones. To this extent I am of the opinion that as consideration needs to be given to protecting natural character values, regardless of zoning that the concerns of Forest and Bird are suitably addressed.
566. As to the matter of ensuring that the matters of discretion policies aimed at the protection of natural character be included, I consider that this is already achieved by the notified provisions, noting that directives in SUB-P14 and SUB-P24 are referenced as matters of discretion in SUB-R15.2.

Summary of Recommendations

567. **HS5-SUB-Rec112:** That SUB-R15 be confirmed as notified.
568. **HS5-SUB-Rec113:** That submission points relating to SUB-R15 are accepted/rejected as detailed in Appendix B.

3.12.7 SUB-R16: Subdivision of land within the coastal environment within high coastal natural character areas

Matters Raised by Submitters

569. WCC Environmental Reference Group [377.205] and the Director-General of Conservation [385.57] seek that SUB-R16 is retained as notified.
570. Forest & Bird [345.289] submit that SUB-P16 be amended to apply to all areas of natural character in the coastal environment, also apply to the access to the building platform, and include, as matters of discretion, policies aimed at the protection of natural character.

Assessment

571. In response to Forest & Bird’s [345.289] request to amend SUB-R16 to apply to all areas of natural character in the coastal environment, I disagree for the reasons outlined in my related assessment of a similar request in section 3.12.2 on SUB-P22 above.

³² consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;

³³ encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;

³⁴ consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;

572. As to the matter of adding consideration of access in SUB-R16.1.a., I agree that it would be appropriate to require areas proposed to be used for access to a building platform to be identified where they are located outside the high coastal natural character area, for the reasons outlined in my related assessment of a similar request in paragraphs 491-492 of this report.
573. As to requesting matters of discretion aimed at the protection of natural character be included in SUB-R16, I disagree with the relief sought as I consider that this is already achieved by the notified provisions, noting the directives in SUB-P14 and SUB-P22 are referenced as matters of discretion in SUB-R16.1.

Summary of Recommendations

574. **HS5-SUB-Rec114:** That SUB-R16 be amended as set out below and detailed in Appendix A.

SUB-R16 Subdivision of land within the coastal environment within high coastal natural character areas

1. Activity status: Restricted Discretionary

Where:

a. A future building platform to contain a residential unit including areas for access to the building platform are identified for each new undeveloped allotment that:

- i. Complies with the underlying zone provisions for buildings; and
- ii. Is located outside of the significant natural area.

575. **HS5-SUB-Rec115:** That submission points relating to SUB-R16 are accepted/rejected as detailed in Appendix B.

3.13 Natural Hazards and Coastal Hazards

576. I have considered the National Planning Standards, in particular that Standard 24 requires 'subdivision provisions' to be under the Subdivision heading. As such the Subdivision Chapter should be the home for restrictions on the subdivision of land relating to natural and coastal hazards.
577. On this basis, I consider that for plan efficiency it would be beneficial if the panel were to consider the following:
- a. That the Natural Hazard³⁵ and Coastal Hazard policies³⁶ as they relate to subdivision be re-housed in the subdivision chapter;
 - b. That these policies be amended in a manner consistent with the recommendations of Mr Sirl as detailed in the Natural and Coastal Hazards s42A Report; and
 - c. References to the relevant policies throughout the subdivision natural and coastal hazards rule framework be updated.

³⁵ NH-P2, NH-P3, NH-P6, NH-P7, NH-P8, NH-P10, NH-P11, NH-P13, NH-P14

³⁶CE-P11, CE-P12, CE-P15, CE-P16, CE-P17, CE-P18, CE-P19, CE-P20, CE-P21, CE-P22

578. I consider this would be efficient and effective in aligning with the National Planning Standards and providing consistency and clear linkages with the ‘parent’ chapters, in line with the recommendations of Mr Sirl contained in the Natural and Coastal Hazards s42A Report.
579. These amendments can be made under Clause 16 of Schedule 1 as they pertain to the location of the policies rather than any amendment to the content or substance of the policies.
580. Given the interrelatedness of recommendations between Natural and Coastal Hazards and Subdivision, Mr Sirl and I have not set out these proposed amendments as part of our s42A Reports or Appendix A’s. Instead, if the panel were of mind to proceed with these amendments, we propose that this occur as part of the Right of Reply.

3.13.1 SUB-P25: Subdivision of land affected by natural hazards

Matters Raised by Submitters

581. FENZ [273.107], EQC [282.13], GWRC [351.186], WCC Environmental Reference Group [377.188], and Kāinga Ora [391.220] seek that SUB-P25 is retained as notified.
582. Forest & Bird [345.282] consider that the policy broadly replicates CE-P11 and seeks to amend SUB-P25 to align with their relief sought on CE-P11. For ease of reference, Forest & Bird’s submission point on CE-P11 [345.313] is set out on page 26 in the [Coastal Environment Summary of Submissions](#).

Assessment

583. I disagree with Forest and Bird [345.282] that SUB-P25 should be amended to align with their relief sought on CE-P11 to acknowledge the protection of natural character, natural landscape and biodiversity values. Mr Sirl in paragraph 680 of his s42A Report for Natural and Coastal Hazards has recommended that the relief sought to CE-P11 be rejected for the reason that the ‘*amendments go beyond the intended scope of this policy, noting that these matters are already specifically addressed in other existing policies in relation to the coastal environment (CE-P1, CE-P2, CE-P3, CE-P5, CE-P8, CE-P7)*’. I concur with this recommendation for the reason outlined.
584. In addition, the amendments sought to SUB-P25 are not appropriate in my view as CE-P11 relates to the identification of coastal hazards whereas SUB-P25 relates more broadly to the management of subdivision of land affected by natural hazards. Further, as in the Coastal Environment chapter, there are broader policies in the Subdivision chapter that specifically speak to the protection of natural character, natural landscape and biodiversity values within the coastal environment, including SUB-P22 and SUB-P24.

Summary of Recommendations

585. **HS5-SUB-Rec116:** That SUB-P25 be confirmed as notified.
586. **HS5-SUB-Rec117:** That submission points relating to SUB-P25 are accepted/rejected as detailed in Appendix B.

3.13.2 SUB-P26: Subdivision of land within the port and railway yards within the Wellington Fault Overlay

Matters Raised by Submitters

587. EQC [282.14], Forest & Bird [345.283], and WCC Environmental Reference Group [377.189] seek that SUB-P26 is retained as notified.
588. CentrePort [402.110] seeks to delete SUB-P26 in its entirety because the policy does not equate the process of subdivision to increased risk from the Wellington Fault.
589. GWRC [351.187] (supported by EQC [FS70.33]) seek amendments to bring the policy in line with Objectives 19 and 20 and Policies 51 and 52 in Proposed RPS Change 1, as follows:

SUB-P26 Subdivision of land within the port and railway yards within the Wellington Fault Overlay

Require subdivision of land within the port and railway yards within the Wellington Fault Overlay to incorporate mitigation measures that minimise the ~~reduce or avoid an increase in~~ risk to people, property and infrastructure from the ground shaking and fault rupture on the Wellington Fault.

Assessment

590. In response to GWRC [351.187], I firstly note that SUB-P26 directly responds to the outcomes sought in NH-O4. I refer to paragraph 256 of the Natural and Coastal Hazards s42A Report where Mr Sirl has recommended that this parent chapter objective be amended to ‘... *minimise the risk to people, property, and infrastructure*’. I also rely on the assessment of Mr Sirl where he responds to a similar submission point from GWRC [351.137]. As I understand it, ‘minimise’ largely directs the incorporation of mitigation to lower levels of risk as a result of being located in a hazard prone area, but also recognises that port and rail activities impacted by a high hazard area, in this case the Wellington Fault Overlay, may not be able to practicably reduce or avoid risk below the existing levels, i.e. an increase in risk may result. As such, I agree with GWRC and recommend that the policy be amended as per the relief sought.
591. In response to CentrePort [402.110] I disagree that SUB-P26 should be deleted. As set out in the paragraph above, SUB-P26 responds to NH-O4. I note there is a defined consenting pathway for operational port activities and passenger port activities in the Natural Hazards chapter (NH-O4, NH-P13, NH-P14, NH-R8) that applies a different hazard-sensitivity approach to most other activities. This is mirrored in the approach applied to subdivision of land within the port and railway yards within the Wellington Fault Overlay in recognition of the functional need, existing investment and social and economic benefit of these activities by providing a comparatively more enabling consenting pathway, particularly with respect to high hazard areas.
592. I therefore disagree with CentrePort as although subdivision in and of itself does not ‘create’ a risk, the outcome of subdividing land (i.e. providing the preconditions for more intensified development on a site) has the potential to accentuate an existing risk.
593. **Summary of Recommendations**
594. **HS5-SUB-Rec118:** That SUB-P26 be amended as set out below and detailed in Appendix A.

SUB-P26 Subdivision of land within the port and railway yards within the Wellington Fault Overlay

Require subdivision of land within the port and railway yards within the Wellington Fault Overlay to incorporate mitigation measures that minimise the ~~reduce or avoid an increase in~~ risk to people, property and infrastructure from the ground shaking and fault rupture on the Wellington Fault.

595. **HS5-SUB-Rec119:** That submission points relating to SUB-P26 are accepted/rejected as detailed in Appendix B.

3.13.3 SUB-R17: Subdivision that creates building platforms for less hazard sensitive activities within the low, medium or high hazard areas of the Coastal Hazard Overlays or within the Flood Hazard, Liquefaction, Wellington Fault, Ohariu Fault, Sheppards Fault or Terawhiti Fault Overlays

Matters Raised by Submitters

596. WCC Environmental Reference Group [377.206] seeks that SUB-R17 is retained as notified.
597. GWRC [351.188] submit that where the activity does not comply with SUB-R17.1.b, the activity should be non-complying, not discretionary, to allow full scrutiny of the application as part of the consent process and send a message to applicants that consents generally will not be granted.

Assessment

598. In response to GWRC [351.188], I firstly note that SUB-R17.1.b is a controlled activity where the building platform is not located within a stream corridor of the Flood Hazard Overlay. I disagree with the relief sought by GWRC on the basis that the discretionary activity status aligns with the parent chapter provisions. In particular, NH-P3 and the 'sister' rule framework as detailed below.
599. Under NH-R1.2 less hazard sensitive activities within the stream corridor are restricted discretionary, while under NH-R15 potentially hazard sensitive activities and hazard sensitive activities within the stream corridor are non-complying. As SUB-R17 pertains to subdivision that creates building platforms for less hazard sensitive activities, I consider discretionary activity status appropriate as it allows for full scrutiny of the application as part of the consent process.
600. Elevating to non-complying activity would mean that the activity would need to pass the 'gateway test', and resource consent would likely only be granted in exceptional circumstances. This would be disproportionate to the activity, being less hazard sensitive activities. In the absence of any compelling evidence, planning evaluation or s32AA evaluation provided by GWRC, I consider the notified provisions most appropriately implement the objectives of the PDP.

Summary of Recommendations

601. **HS5-SUB-Rec120:** That SUB-R17 be retained as notified.
602. **HS5-SUB-Rec121:** That submission points relating to SUB-R17 are accepted/rejected as detailed in Appendix B.

3.13.4 SUB-R18: Subdivision that creates building platforms for potentially hazard sensitive activities within the low hazard area of the Coastal Hazard Overlays, or within the inundation area of the Flood Hazard Overlay, or within the Liquefaction, Sheppards Fault or Terawhiti Fault Overlays

Matters Raised by Submitters

603. WCC Environmental Reference Group [377.207] seeks that SUB-R18 is retained as notified.
604. Poneke Architects [292.3] opposes the Coastal Environment and Coastal Inundation and Tsunami Hazard Overlays and provisions in relation to subdivision as they consider that these are too broad and will effectively stop development in Wellington.
605. GWRC [351.189] submit that the activity status for SUB-R18 should be restricted discretionary, not controlled, to give Council the ability to decline an application if it is considered inappropriate or mitigation measures are inadequate.

Assessment

606. In response to Poneke Architects [292.3] I disagree that the Coastal Environment, Coastal Inundation and Tsunami Hazard Overlays are too broad. Deletion of references to these overlays in provisions would result in the District Plan not achieving the purpose of the Act, specifically the requirements under s6(a) and (h) of the RMA, and not giving effect to the NZCPS, particularly Policies 24 and 25 in relation to coastal hazards. I also refer to Standard 28 of the National Planning Standards, which is as follows:

If the district has a coastline, a Coastal environment chapter must be provided that:

- a. sets out the approach to managing the coastal environment and giving effect to the NZCPS*
 - b. sets out provisions for implementing the local authorities functions and duties in relation to the coastal environment, including coastal hazards*
 - c. provides cross-references to any other specific coastal provisions that may be located within other chapters.*
607. In response to GWRC [351.189] I disagree with the relief sought by GWRC on the basis that the controlled activity status aligns with the parent chapter provisions. In particular, as NH-P6 is enabling in its phrasing: *'Provide subdivision, development and use for potentially hazard sensitive activities and hazard sensitive activities within the inundation area provided that mitigation measures are incorporated...'*
608. In the absence of any compelling evidence, planning evaluation or s32AA evaluation provided by GWRC, I consider the notified provisions most appropriately implement the objectives of the PDP.

609. However, as an administrative amendment, I consider that reference to the ‘ponding area’ in SUB-R18.1.2 should be amended to ‘inundation area’ as this is the correct terminology.

Summary of Recommendations

610. **HS5-SUB-Rec122:** That SUB-R18 be amended as set out below and detailed in Appendix A.

SUB-R18 Subdivision that creates building platforms for potentially hazard sensitive activities within the low hazard area of the Coastal Hazard Overlays, or within the inundation area of the Flood Hazard Overlay, or within the Liquefaction, Sheppards Fault or Terawhiti Fault Overlays

Matters of control are:

1. ...
2. The matters in NH-P6 for building platforms that are located in ~~ponding~~ inundation area of the Flood Hazard Overlay.

611. **HS5-SUB-Rec123:** That submission points relating to SUB-R18 are accepted/rejected as detailed in Appendix B.

3.13.5 SUB-R19: Subdivision that creates building platforms for potentially hazard sensitive activities within the medium hazard area of the Coastal Hazard Overlays

Matters Raised by Submitters

612. WCC Environmental Reference Group [377.208] seeks that SUB-R19 is retained as notified.

Assessment

613. No further assessment is required, other than where addressed in section 3.6 of this report.

Summary of Recommendations

614. **HS5-SUB-Rec124:** That SUB-R19 be confirmed as notified.

615. **HS5-SUB-Rec125:** That submission points relating to SUB-R19 are accepted/rejected as detailed in Appendix B.

3.13.6 SUB-R20: Subdivision that creates building platforms for potentially hazard sensitive activities within overland flow path of the Flood Hazard Overlay, the Wellington Fault Overlay or the Ohariu Fault Overlay

Matters Raised by Submitters

616. WCC Environmental Reference Group [377.209] seeks that SUB-R20 is retained as notified.

Assessment

617. No further assessment is required, other than where addressed in section 3.6 of this report.

Summary of Recommendations

618. **HS5-SUB-Rec126:** That SUB-R20 be confirmed as notified.
619. **HS5-SUB-Rec127:** That submission points relating to SUB-R20 are accepted/rejected as detailed in Appendix B.

3.13.7 SUB-R21: Subdivision that creates building platforms for potentially hazard sensitive activities within the stream corridor of the Flood Hazard Overlay or the high hazard area of the Coastal Hazard Overlays

Matters Raised by Submitters

620. WCC Environmental Reference Group [377.210] seeks that SUB-R21 is retained as notified.
621. Kāinga Ora [391.234 and 391.235] (opposed by GWRC [FS84.81] and EQC [FS70.60]) seek to amend the activity status from non-complying to discretionary to allow for the potential for managing the hazard risk for residential activities on the basis that SUB-R21 prevents subdivision for residential activities in existing urban areas subject to coastal hazards such as Kilbirnie.

Assessment

622. I consider that non-complying activity status is appropriate, and disagree with Kāinga Ora [391.234 and 391.235] that the activity status should instead be discretionary. In my view an avoidance approach as directed by Policy 25 of the NZCPS, the matter of national importance for the management of significant risks from natural hazards under s6(h) of the RMA, and the gateway test in section 104D, is appropriate to ensure that inappropriate subdivision does not occur in High Coastal Hazard Areas. Relying on the associated assessment of Mr Sirl at paragraph 1028 of his Natural and Coastal Hazards s42A Report, this would effectively increase the consequences of a hazard event and I therefore do not consider it appropriate to provide for a more enabling approach in high hazard area of the Coastal Hazard Overlays.
623. The identification of coastal hazards and levels of risk is established by the Coastal Environment chapter. To this extent, the approach of the subdivision chapter is consistent with the aims in the parent chapter, particularly CE-O5 that *“Subdivision, use and development in the Coastal Hazard Overlays reduces or does not increase the risk to people, property, and infrastructure.”* Further supported by the directive in CE-P18 to *“Avoid Hazard sensitive activities and potentially hazard sensitive activities in the high coastal hazard area or any subdivision where the building platform for a potentially hazard sensitive activity or hazard sensitive activity will be within the high coastal hazard area where it can be demonstrated that...”*. CE-P18 goes on to list four clauses, the first of which is *“The activity, building or subdivision has an operational or functional need to locate within the high coastal hazard area and locating outside of these high coastal hazard areas is not a practicable option;”*. On this basis, I consider that there is a strong directive for subdivision that creates building platforms for potentially hazard sensitive activities to be avoided in the high coastal hazard area.

Summary of Recommendations

624. **HS5-SUB-Rec128:** That SUB-R21 be confirmed as notified.
625. **HS5-SUB-Rec129:** That submission points relating to SUB-R21 are accepted/rejected as detailed in Appendix B.

3.13.8 SUB-R22: Subdivision that creates building platforms for hazard sensitive areas within the Sheppards Fault, Terawhiti Fault or Liquefaction Overlays

Matters Raised by Submitters

626. WCC Environmental Reference Group [377.211] seeks that SUB-R22 is retained as notified.

Assessment

627. No further assessment is required, other than where addressed in section 3.6 of this report.
628. However, as a minor and inconsequential amendment to correct an error in the rule title, I propose that reference to 'hazard sensitive areas' is amended to 'hazard sensitive activities' as this is the intent of the rule.

Summary of Recommendations

629. **HS5-SUB-Rec130:** That SUB-R22 be confirmed as notified, other than a minor and inconsequential amendment as set out below and detailed in Appendix A.

SUB-R22 Subdivision that creates building platforms for hazard sensitive ~~areas~~activities within the Sheppards Fault, Terawhiti Fault or Liquefaction Overlays

630. **HS5-SUB-Rec131:** That submission points relating to SUB-R22 are accepted/rejected as detailed in Appendix B.

3.13.9 SUB-R23: Subdivision that creates building platforms for hazard sensitive activities within the inundation area of the Flood Hazard Overlay or the low hazard area of the Coastal Hazard Overlays

Matters Raised by Submitters

631. WCC Environmental Reference Group [377.212] seeks that SUB-R23 is retained as notified.
632. GWRC [351.190] seeks to amend SUB-R23.1.1 to include reference to SUB-P25.

Assessment

633. In response to GWRC [351.190], I agree that SUB-R23 should reference SUB-P25 as a relevant matter of discretion, as SUB-P25 is a relevant policy for subdivision of land affected by natural hazards that provides direction on a risk-based approach.
634. Although beyond the scope of this submission, I consider more broadly that the natural hazard and coastal hazard rules should be amended to refer to relevant natural and coastal hazard policies as matters of control/discretion, replacing the general subdivision policies. By way of example, assessment criteria 1 of SUB-R23.1 is '*The matters in SUB-P1, SUB-P3, SUB-P4, SUB-P5, SUB-P7 and SUB-P8*' which in my view duplicates assessment matters which would more than likely be assessed via SUB-R2.2/SUB-R2.3, SUB-R3.2/SUB-R3.3, or SUB-R5, where the subdivision does not comply with permitted activity rules SUB-R2.1 or SUB-R3.1.

635. The reasoning underlying this suggestion is that matters of control/discretion should be targeted towards relevant matters sought to be assessed – whether those policies are located within the parent chapter or a subdivision-specific policy such as SUB-P25, as raised by GWRC.
636. My understanding is that the intention was that the natural hazard and coastal hazard specific subdivision rules³⁷ referenced the relevant natural hazard³⁸ and coastal hazard³⁹ policies, but that this inadvertently did not occur prior to notification.
637. To the extent that I have proposed rehousing the natural hazard and coastal hazard policies at paragraph 577, I consider that it would be advantageous to simultaneously amend the policy references in the rules to ensure there is a clear policy framework hierarchy.

Summary of Recommendations

638. **HS5-SUB-Rec132:** That SUB-R23 be amended as set out below and detailed in Appendix A.

SUB-R23 Subdivision that creates building platforms for hazard sensitive activities within the inundation area of the Flood Hazard Overlay or the low hazard area of the Coastal Hazard Overlays

1. Activity Status: Restricted Discretionary

Matters of discretion are:

1. The matters in SUB-P1, SUB-P3, SUB-P4, SUB-P5, SUB-P7, ~~and SUB-P8~~ and SUB-P25;
2. ...

639. **HS5-SUB-Rec133:** That submission points relating to SUB-R23 are accepted/rejected as detailed in Appendix B.

3.13.10 SUB-R24: Subdivision that creates building platforms for hazard sensitive activities within an overland flow path of the Flood Hazard Overlay or the medium hazard areas of the Coastal Hazard Overlays

Matters Raised by Submitters

640. WCC Environmental Reference Group [377.213] seeks that SUB-R24 is retained as notified.

Assessment

641. No further assessment is required.

Summary of Recommendations

642. **HS5-SUB-Rec134:** That SUB-R24 be confirmed as notified.
643. **HS5-SUB-Rec135:** That submission points relating to SUB-R24 are accepted/rejected as detailed

³⁷ SUB-R17, SUB-R18, SUB-R19, SUB-R20, SUB-R21, SUB-R22, SUB-R23, SUB-R24, SUB-R25, SUB-R26

³⁸ NH-P2, NH-P3, NH-P6, NH-P7, NH-P8, NH-P10, NH-P11, NH-P13, NH-P14

³⁹ CE-P11, CE-P12, CE-P15, CE-P16, CE-P17, CE-P18, CE-P19, CE-P20, CE-P21, CE-P22

in Appendix B.

3.13.11 SUB-R25: Subdivision that creates building platforms for hazard sensitive activities within the stream corridor of the Flood Hazard Overlay, the Wellington Fault Overlay, the Ohariu Fault Overlay or the high hazard area of the Coastal Hazard Overlays

Matters Raised by Submitters

644. WCC Environmental Reference Group [377.214] seeks that SUB-R25 is retained as notified.
645. Kāinga Ora [391.242 and 391.243] (opposed by GWRC [FS84.82] and EQC [FS70.62]) seek to amend the activity status from non-complying to discretionary to allow for the potential for managing the hazard risk for residential activities on the basis that SUB-R25 prevents subdivision for residential activities in existing urban areas subject to coastal hazards such as Kilbirnie.

Assessment

646. In response to Kāinga Ora [391.242 and 391.243] I refer to the parallel assessment and reasoning in section 3.13.7 of this report which responds to a similar subpoint on SUB-R21. I note that SUB-R21 manages potentially hazard sensitive activities whereas SUB-R25 addresses hazard sensitive activities within the high hazard area of the Coastal Hazard Overlays. On the basis of my assessment in section 3.13.7, I disagree with Kāinga Ora as there is a strong directive to avoid subdivision that creates building platforms for hazard sensitive activities in the high coastal hazard area.

Summary of Recommendations

647. **HS5-SUB-Rec136:** That SUB-R25 be confirmed as notified.
648. **HS5-SUB-Rec137:** That submission points relating to SUB-R25 are accepted/rejected as detailed in Appendix B.

3.13.12 SUB-R26: Subdivision within the Wellington Fault Overlay or medium or high coastal hazard areas on land occupied by City Centre Zone or Airport, operation port activities, passenger port facilities and rail activities

Matters Raised by Submitters

649. WCC Environmental Reference Group [377.215] seeks that SUB-R26 is retained as notified.
650. WIAL [406.281] supports SUB-R26 subject to their relief sought to CE-P20, or otherwise seeks that SUB-R26.1.5 is deleted.

Assessment

651. In response to WIAL [406.281], I note that Mr Sirl at paragraph 820 of the Natural and Coastal Hazards s42A Report has not recommended any changes in response to WIAL's relief sought to CE-P20. Regardless, I disagree that SUB-R26.5 should be deleted as it provides an important cross-reference to CE-P20 which addresses subdivision, use and development which will be occupied by members of the public, or employees associated with the Airport, operational port

activities, passenger port facilities and rail activities in the Coastal Hazards Overlays. In the absence of any compelling evidence, planning evaluation or s32AA evaluation provided by WIAL, I consider the notified provisions most appropriately implement the objectives of the PDP.

652. The intent of CE-P20 is to provide a more-enabling policy direction for new buildings in medium coastal hazard areas and high coastal hazard areas than policy direction for buildings not associated with the Airport, operational port Activities, passenger port facilities and rail activities in the Coastal Hazard Overlays. Given that the PDP seeks to encourage joint applications for subdivision and land use as set out in SUB-P4.1, it is appropriate to cross-reference the associated parent chapter policy. Further to this, as a consequential amendment, I propose that SUB-R26.1.5 should also reference CE-P19 being equally as relevant as CE-P20 in that both policies address the same matters but in respect of buildings that will or will not be occupied by members of the public and a certain number of employees.
653. As a further consequential amendment, I propose that SUB-R26.1.4 should be amended to reference SUB-P26 as it specifically relates to subdivision of land within the port and railway yards within the Wellington Fault Overlay. I also propose to correct 'operational port activities in the heading of the rule, and other instances throughout the subdivision chapter.

Summary of Recommendations

654. **HS5-SUB-Rec138:** That SUB-R26 be amended as set out below and detailed in Appendix A.

SUB-R26 Subdivision within the Wellington Fault Overlay or medium or high coastal hazard areas on land occupied by City Centre Zone or Airport, operational port activities, passenger port facilities and rail activities

Matters of discretion are:

...

4. The matters in [SUB-P26 and](#) NH-P14 for building platforms associated with operational port activities, passenger port facilities and rail activities that are located in the Wellington Fault Overlay;
5. The matters in [CE-P19 and](#) CE-P20 for subdivision on land occupied by the Airport, operational port activities, passenger port facilities and rail activities that are located in a medium or high coastal hazard areas; and

655. **HS5-SUB-Rec139:** That submission points relating to SUB-R26 are accepted/rejected as detailed in Appendix B.

3.14 National Grid and Gas Transmission Pipeline Corridor

656. To the extent possible I have assessed and made recommendations as applicable to subdivision provisions relevant to the Infrastructure chapter within this section, noting that submissions relating more broadly to these values will be heard and considered in Hearing Stream 9. Given the interrelated nature of the subdivision and parent chapter provisions, the outcome of Hearing

Stream 9 deliberations could have a material bearing on the recommendations contained in this section.

3.14.1 SUB-R27: Subdivision in the National Grid substation buffer

Matters Raised by Submitters

- 657. WCC Environmental Reference Group [377.216] seeks that SUB-R27 is retained as notified.
- 658. Transpower [315.170] and WCC [266.110] (supported by Transpower [FS29.39]) seek that SUB-R27 is deleted in its entirety.

Assessment

- 659. I agree with the submission points of Transpower [315.170] and WCC [266.110] which seek to delete SUB-R27, on the basis that the 'National Grid substation buffer' has been removed and there is no supporting definition of the substation buffer area to direct where the rule applies. I therefore reject the relief sought by WCC Environmental Reference Group [377.216].

Summary of Recommendations

- 660. **HS5-SUB-Rec140:** That SUB-R27 be deleted in its entirety as set out in Appendix A.
- 661. **HS5-SUB-Rec141:** That submission points relating to SUB-R27 are accepted/rejected as detailed in Appendix B.

3.14.2 SUB-R28: Subdivision in the National Grid subdivision corridor

Matters Raised by Submitters

- 662. WCC Environmental Reference Group [377.217] supports SUB-R28 as notified.
- 663. Transpower [315.171], submit that on the basis the National Grid is a qualifying matter, SUB-R28 should be assessed as part of the ISPP process.

664. Transpower [315.172 and 315.173] supports SUB-R28 in part and seeks amendments as follows:

SUB-R28 Subdivision in the National Grid subdivision corridor

...

Matters of discretion are:

1. ...
2. The provision for the on-going efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued reasonable access to existing transmission lines and support structures for maintenance, inspections and upgrading;
3. ...
4. ...
5. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid, and how such landscaping will impact on the operation, maintenance, upgrade and development (including access) of the National Grid;
6. The outcome of any consultation with Transpower; ~~and~~
7. The extent to which the design and layout of the subdivision demonstrates that a suitable building platform or platforms for a principal building or dwelling can be located outside of the National Grid Yard for each new allotment; and
8. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.

Assessment

665. In response to Transpower [315.171], I note that qualifying matters were addressed in Hearing Stream 1, and are now beyond consideration. This matter was assessed in the Hearing Stream 1 s42A Report⁴⁰ and in the Hearing Stream 1 Right of Reply,⁴¹ with the s42A Report noting that as elected representatives decided that the provisions identified by Transpower should not be progressed through the ISPP that this decision cannot be changed post notification of the PDP.

666. Through their submission, Transpower [315.175 and 315.173] has sought a number of amendments. As the changes are consistent with the purpose of the NPS-ET and the NZECP for safe separation distances, and for the reasons set out below, I agree with all of the requested amendments.

667. Amendments to SUB-R28.2: Including 'support structures' provides clarity and certainty that the matter also includes these. This is particularly useful as 'transmission lines' are not defined in the PDP. The definition of 'National grid' aligns with the NPS-ET and includes all assets used or owned by Transpower NZ Limited, which usefully narrows the interpretation of these terms to the intended scope. However, it was always intended that access would also be provided to the structures supporting transmission lines given that they are a necessary element to enabling the ongoing operation, maintenance, development and upgrade of the National Grid.

⁴⁰ Paragraphs 79-81, [Hearing Stream 1 s42A Report](#)

⁴¹ Pages 4-5 of Appendix 5, [Stream 1 Reporting Officer Right of Reply](#)

668. Amendments to SUB-R28.5: I am of the view that including reference to consideration of the potential impact of any landscaping on the operation, maintenance, upgrade and development of the National Grid is an important clarification and provides useful direction to inform the assessment of subdivision with the National Grid corridor. It also gives further effect to Policy 10 of the NPS-ET which directs that activities are managed to avoid reverse sensitivity effects and ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.
669. Amendments to SUB-R28.8: NPS-ET Policy 11 requires the creation of a buffer corridor to manage the issue of sensitive activities establishing too close to the existing transmission network. The NPS-ET defines sensitive activities as including ‘schools, residential buildings and hospitals’, with the supporting *Further Guidance on Risks of Development near High-voltage Transmission Lines section 2.2 – Risks to Persons and Property: Health, Safety and Well-being* outlining potential health, safety and well-being risks of locating sensitive activities too close to existing transmission networks. This guidance notes that the main risk from development occurring too close to the transmission network is the creation of electrical hazard. As electrical hazards pose a potential risk to the health, safety and well-being of those using or residing in sensitive activities I am of the view that the inclusion of specific reference to it in SUB-28.8 would be appropriate, noting further that it also reflects the policy direction of NPS-ET Policy 11 in terms of ensuring activities avoid exposure to health and safety risk from the National Grid.

Summary of Recommendations

670. **HS5-SUB-Rec142:** That SUB-R28 be amended as set out below and detailed in Appendix A.

SUB-R28 Subdivision in the National Grid subdivision corridor

...

Matters of discretion are:

1. ...
2. The provision for the on-going efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued reasonable access to existing transmission lines and support structures for maintenance, inspections and upgrading;
3. ...
4. ...
5. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid, and how such landscaping will impact on the operation, maintenance, upgrade and development (including access) of the National Grid;
6. The outcome of any consultation with Transpower; ~~and~~
7. The extent to which the design and layout of the subdivision demonstrates that a suitable building platform or platforms for a principal building or dwelling can be located outside of the National Grid Yard for each new allotment-; and
8. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.

671. **HS5-SUB-Rec143:** That submission points relating to SUB-R28 are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

672. In my opinion, the amendments recommended to SUB-R28 are the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that the amended rule:

- a. Is not inconsistent with the notified objective of the PDP regarding the efficient pattern of development for subdivision.
- b. Ensures alignment with the NPS-ET, particularly Policies 10 and 11.
- c. Provides clarity on the inclusion of ‘support structures’ into the rule.

673. The environmental, economic, social and cultural effects of the recommended amendments, as they vary somewhat from the existing plan s32 evaluation report, are below.

Environmental	<ul style="list-style-type: none"> • The amendments to the rule further give effect to the NPS-ET and avoid reverse sensitivity effects. • There are unlikely to be any environmental costs compared to the notified provisions.
Economic	<ul style="list-style-type: none"> • Compared to the notified proposal, the recommended approach is unlikely to have additional economic costs.
Social	<ul style="list-style-type: none"> • The amendments to the rule further give effect to the NPS-ET and ensures activities avoid exposure to health and safety risks from the National Grid. • There are unlikely to be any additional social costs or benefits compared to the notified proposal.
Cultural	<ul style="list-style-type: none"> • No cultural effects are identified.

3.14.3 SUB-R29: Subdivision of land containing a Gas Transmission Pipeline corridor

Matters Raised by Submitters

674. WCC Environmental Reference Group [377.218] (opposed by Firstgas Limited [FS97.12]) seeks that SUB-R29 is retained as notified.

675. Firstgas [304.39 and 304.40] (opposed by Kāinga Ora [FS89.64]) have sought to delete SUB-R29.1 (Controlled Activity) and amend SUB-R29.2 as follows:

Subdivision of land containing and/or within 10m of a Gas Transmission Pipeline Corridor or; Subdivision of land within 30m of above ground related infrastructure.

1. Activity status: ~~Controlled~~ **Restricted Discretionary**

Where:

- a. The subdivision will not result in any building(s) (or any part of any building) or ~~sensitive residential~~ activities being located within 10m of the gas transmission pipeline corridor and/or within 30m of above ground related infrastructure;
- b. New allotment boundaries are outside of, and do not cross, the gas transmission pipeline corridor and/or within 30m of above ground related infrastructure;
- c. The layout of allotments, including the balance area, and any associated earthworks, maintains physical and practical access to the Gas Transmission Pipeline; and
- d. The subdivision is not located in any Residential Zone.

Matters of ~~control~~ discretion are:

1. The extent to which the subdivision allows for the ongoing efficient operation, maintenance and upgrading of the gas transmission pipeline, including the ability for continued reasonable access for inspections, maintenance and upgrading;
2. The location of any future building platform as it relates to the gas transmission pipeline;
3. The risk of hazards affecting public or individual safety, and the risk of property damage;
4. The extent to which the subdivision design allows for activities to be setback from the Gas Transmission Network pipeline; Gas Transmission Network pipeline;
5. The nature and location of any vegetation to be planted in the vicinity of the Gas Transmission Network pipeline; and Gas Transmission Network pipeline; and
6. The outcome of any consultation with the owner and operator of the gas transmission pipeline.

Assessment

676. Firstly, I note that elsewhere in their submission Firstgas has sought to add a number of definitions as follows:

- a. a definition for Gas Transmission Pipeline Corridor [304.6] as follows:

Gas Transmission Pipeline Corridor:

The area of land within 10m either side of the centreline of the Gas Transmission Pipeline.

- b. a definition for Gas Transmission Network [304.7] as follows:

Gas Transmission Network:

Pipelines for the transmission of natural or manufactured gas or petroleum at a gauge pressure exceeding 2,000 kilopascals, including any associated above or below-ground fitting, appurtenance, fixture or equipment required for the conveyance of the product or material in the pipeline and/or for its safe, efficient or effective operation.

- c. a definition of Gas Transmission Pipeline [304.8] as follows:

Gas Transmission Pipeline:

Any high pressure gas pipeline to convey natural gas at a gauge pressure exceeding 2,000 kilopascals.

677. I also note that the inter-relationship between these definitions and the requested amendments to SUB-R29 is a complicating factor in undertaking a thorough assessment of the relief sought by Firstgas as these definitions are not particular to the Subdivision chapter and have wider reach across the PDP, with frequent use proposed in the INF, INF-CE, INF-NFL, INF-ECO and EW chapters. As such, I consider these definitions are more appropriately addressed in Hearing Stream 9.
678. To the extent this matter can be addressed in this s42A Report, I note that if the proposed definition of Gas Transmission Pipeline Corridor was to be accepted, then the addition of “and/or within 10m of” to the heading and SUB-R29.2.a would be redundant. Likewise, if the proposed definition of Gas Transmission Network was to be accepted I consider that, for reasons of efficiency and effectiveness, the heading should be rephrased to ‘and/or within 30m of any above-ground station site forming part of the Gas Transmission Network’. I note that doing so would aid in achieving regional consistency with SUB-R16 in the Porirua City PDP.
679. Policy 8 of the RPS requires that policies and rules are included in the PDP that protect regionally significant infrastructure, which includes transmission pipelines for gas, from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure. The explanation of the policy states that:
- Incompatible subdivisions, land uses or activities are those which adversely affect the efficient operation of infrastructure, its ability to give full effect to any consent or other authorisation, restrict its ability to be maintained, or restrict the ability to upgrade where the effects of the upgrade are the same or similar in character, intensity, and scale. It may also include new land uses that are sensitive to activities associated with infrastructure.*
680. As to Firstgas seeking to replace ‘sensitive’ with ‘residential’ I note that the latter has a narrower activity focus compared to ‘sensitive activities’, with this term encompassing marae/papakāinga, hospital, healthcare facility, educational facility, retirement village, visitor accommodation and places of worship. The submitter does not provide supporting reasons or evidence as to why SUB-29 should only be applicable to residential activities and not sensitive activities more broadly. As the operation of high pressure gas transmission pipelines can have adverse effects on health and safety if these are damaged by natural events or through the actions of people, I disagree with the requested amendment and consider it appropriate to

retain the term 'sensitive'.

681. As to the matter of amending SUB-R29.1 from a controlled activity to a restricted discretionary activity, I agree as I am of the view that restricted discretionary activity status more appropriately corresponds with the directive in INF-P7 in managing reverse sensitivity, and would act to provide a consistent regulatory approach to addressing both the National Grid and the Gas Transmission Network.

Summary of Recommendations

682. **HS5-SUB-Rec144:** Contingent on the response in Hearing Stream 9 to the request to include definitions of Gas Transmission Pipeline Corridor, Gas Transmission Network and Gas Transmission Pipeline that SUB-R29 be amended as set out below and detailed in Appendix A.

~~Subdivision of land containing a Gas Transmission Pipeline Corridor~~
Subdivision of land within the Gas Transmission Pipeline Corridor and/or within 30m of any above-ground station site forming part of the Gas Transmission Network

2. Activity status: ~~Controlled~~ Restricted Discretionary

Where:

- a. The subdivision will not result in any building(s) (or any part of any building) or sensitive activities being located within the gas transmission pipeline corridor and/or within 30m of above ground related infrastructure;
- b. New allotment boundaries are outside of, and do not cross, the gas transmission pipeline corridor and/or within 30m of above ground related infrastructure;
- c. The layout of allotments, including the balance area, and any associated earthworks, maintains physical and practical access to the Gas Transmission Pipeline; and
- d. The subdivision is not located in any Residential Zone.

Matters of ~~control~~ discretion are:

1. The extent to which the subdivision allows for the ongoing efficient operation, maintenance and upgrading of the gas transmission pipeline, including the ability for continued reasonable access for inspections, maintenance and upgrading;
2. The location of any future building platform as it relates to the gas transmission pipeline;
3. The risk of hazards affecting public or individual safety, and the risk of property damage;
4. The extent to which the subdivision design allows for activities to be setback from the Gas Transmission Network pipeline;
5. The nature and location of any vegetation to be planted in the vicinity of the Gas Transmission Network pipeline; and
6. The outcome of any consultation with the owner and operator of the gas transmission pipeline.

683. **HS5-SUB-Rec145:** That submission points relating to SUB-R29 are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

684. In my opinion, the amendments recommended to SUB-R23 are the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that the amended policy:

- a. Is not inconsistent with the notified objective of the PDP regarding the efficient pattern of development for subdivision.
- b. Better aligns with INF-P7 and Policy 8 of the RPS.

685. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation and more efficient plan administration.

3.15 Air Noise Boundary

3.15.1 General Points on the Air Noise Boundary

Matters Raised by Submitters

686. WIAL have made a number of submission points in relation to the Air Noise Boundary as follows:

- a. [406.255] (supported by BARNZ [FS139.68]) seeks that the subdivision chapter is amended to align with the decisions requested in submission points found in paragraph 4.68.1 to 4.68.3 of their original submission.
- b. [406.256] (supported by BARNZ [FS139.69]) seeks that the subdivision chapter is amended to discourage intensification of noise-sensitive activities through subdivision within the Air Noise Boundary or Outer Air Noise Overlay.
- c. [406.257] (supported by BARNZ [FS139.70]) seeks that objectives and policies in the subdivision are amended to ensure that Air Noise Boundary and the Outer Air Noise Overlay is sufficient to manage aircraft noise and reverse sensitivity effects.
- d. [406.258] (supported by BARNZ [FS139.71]) seeks that subdivision activities are restricted within the 60dB Ldn Boundary.

Assessment

687. In response to WIAL [406.255] seeking alignment with the decisions requested in submission points found in paragraph 4.68.1 to 4.68.3 of their original submission, I note that these relate to the land use management framework in the Noise chapter and are assessed in the Noise s42A Report. By way of background, NOISE-P6 is the policy which restricts the development of noise sensitive activities within the Inner Noise Overlay. The approach adopted in the PDP, in alignment with the best practice approach applied in most other plans, is to discourage noise sensitive development within identified aircraft noise overlay areas through the imposition of requirements relating to compliance with acoustic insulation and ventilation standards and limiting the number of residential units on a site.

688. WIAL submission points [406.256, 406.257, and 406.258] are addressed in the assessments below in relation to relevant policies and rules.
689. **Summary of Recommendations**
690. **HS5-SUB-Rec146:** No changes are recommended in response to submissions on general points on the Air Noise Boundary.
691. **HS5-SUB-Rec147:** That submission points relating to general points on the Air Noise Boundary are accepted/rejected as detailed in Appendix B.

3.15.2 New policy

Matters Raised by Submitters

692. WIAL [406.263] seeks a new policy to address subdivision within the Air Noise Boundary and 60dB Ldn Noise Boundary. The amendment sought by WIAL (opposed by Kāinga Ora [FS89.122] and supported by BARNZ [FS139.74]) is as follows:

SUB-PX Subdivision of land affected by the Air Noise Boundary or 60dB Ldn Noise Boundary

Avoid subdivision within the Air Noise Boundary or 60dB Ldn Noise Boundary where the potential future permitted density of noise sensitive activities will give rise to adverse reverse sensitivity effects on Wellington International Airport.

Assessment

693. In response to WIAL [406.263], I consider that it would be beneficial for the Subdivision Chapter to align with the parent Noise chapter in relation to intensification on sites within the Air Noise Boundary. However, I disagree with the request for a policy that specifically seeks avoidance of subdivision within the Air Noise Boundary or the 60db Ldn Noise Boundary due to the quantum of properties potentially affected by the proposal. Currently, as noted at paragraph 150 of the Noise s42A Report, there are 496 properties within the Air Noise Boundary, with this number likely to increase markedly if the suggested policy was incorporated into the PDP. I understand that including all properties within the 60db Ldn Noise Boundary would encompass an additional 1,282 properties. Given the developed nature of the residential and urban areas affected, I question whether the future levels of outdoor aircraft noise received at sites located between Ldn 60 dB and Ldn 65 dB contours would be significant enough to warrant subdivision controls for noise sensitivity reasons.
694. I consider that the Noise chapter controls on intensification and development are better placed to manage the actual reverse sensitivity effects of development (if the resultant lots are to be used for a noise sensitive activity). Control on the development of noise sensitive activities (including residential intensification) within areas affected by significant air noise is achieved under NOISE-R3.3.
695. I do however support the addition of a new policy to align the Subdivision chapter with the approach taken in the Noise chapter, particularly NOISE-P6. Further, the addition of a

subdivision policy for the Air Noise Boundary would provide a policy framework for SUB-R30 and give effect to Policy 39(b) of the RPS in giving particular regard to *'protecting regionally significant infrastructure from incompatible subdivision, use and development occurring under, over, or adjacent to the infrastructure'*.⁴² This also aligns with the outcome sought in the recommended version of SCA-O6⁴³ as follows:

'Infrastructure is protected from incompatible development and activities that may create reverse sensitivity effects or compromise its efficient and safe operation.'

696. Overall, I consider the new policy characterised above would be appropriate, noting that although no noise sensitive activities would be specifically enabled through the provisions in the subdivision chapter, subdivision should not be encouraged or facilitated where there is no reasonable expectation of sensitive activities establishing or more intensive development occurring. To this extent I agree in part with the relief sought by WIAL.
697. In this sense, I acknowledge that subdivision creates more 'sites' and in theory each site can achieve a degree of intensification, thereby exposing noise sensitive users to potentially unhealthy levels of noise and greater reverse sensitivity risks for WIAL. As I understand it, while the insulation standards can help protect against internal intrusion of that noise, there is little that can be done about outdoor acoustic amenity. If outdoor noise effects cannot be mitigated, this has the potential for increased risk of reverse sensitivity effects on Wellington International Airport's operations.

Summary of Recommendations

698. **HS5-SUB-Rec148:** I recommend a new policy as set out below and detailed in Appendix A.

SUB-PX Subdivision within the Air Noise Boundary

Provide for subdivision within the Air Noise Boundary where the potential future permitted density of noise sensitive activities will avoid adverse reverse sensitivity effects on Wellington International Airport.

699. **HS5-SUB-Rec149:** That submission points relating to new policy on Air Noise Boundary are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

700. In my opinion, the recommended new policy is the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that the new policy:
- a. Is not inconsistent with the notified objective of the PDP regarding the efficient pattern of development for subdivision.
 - b. Ensures consistency with the policy framework in the Noise chapter.
 - c. Gives effect to Policy 39(b) of the RPS.

⁴² Policy 39 Recognising the benefits from renewable energy and regionally significant infrastructure – consideration

⁴³ Page 87 of [Appendix A of the Hearing Stream 1 Section 42A Report](#)

701. The environmental, economic, social and cultural effects of the recommended amendments, as they vary somewhat from the existing plan s32 evaluation report, are below.

Environmental	<ul style="list-style-type: none"> The new proposed policy ensures subdivision is not encouraged or facilitated where there is no reasonable expectation of sensitive activities establishing or more intensive development occurring. There are unlikely to be any environmental costs compared to the notified provisions.
Economic	<ul style="list-style-type: none"> Compared to the notified proposal, the recommended approach is unlikely to have additional economic costs.
Social	<ul style="list-style-type: none"> There are unlikely to be any additional social costs or benefits compared to the notified proposal.
Cultural	<ul style="list-style-type: none"> No cultural effects are identified.

3.15.3 SUB-R30: Subdivision with the Air Noise Boundary

Matters Raised by Submitters

702. WCC Environmental Reference Group [377.219] seeks that SUB-R30 is retained as notified.
703. WIAL [406.282 and 406.283] support the discretionary activity status for subdivision within the Air Noise Boundary, but seek that this rule also apply to the 60dB Ldn Noise Boundary. The amendment sought by WIAL (opposed by Kāinga Ora [FS89.124] and supported by BARNZ [FS139.75]) is as follows:

SUB-R30 Subdivision with the Air Noise Boundary or 60dB Ldn Noise Boundary

1. Activity Status: Discretionary

Notification status: For a resource consent application made in respect of Rule SUB-R30, WIAL must be considered to be an affected person in accordance with Section 95E of the RMA.

Assessment

704. In response to WIAL's [406.282 and 406.283] request to be considered an affected person as far as the 60dB boundary I have concerns about the relief sought given the quantum of properties within the spatial extent of the area covered by this rule. In particular I question whether the outdoor aircraft noise levels are significant enough at sites located between Ldn 65dB and Ldn 60dB to warrant subdivision controls for noise effect reasons, including reverse sensitivity noise effects on airport operations, in the absence of any compelling reasons or supporting section 32AA evaluation being supplied by the submitter.

705. As noted in paragraph 157 of the Noise s42A Report there are approximately 1,282 properties located between Ldn 65 dB and Ldn 60 dB. As such, it seems inappropriate that WIAL is considered an affected person over the extent of the area contained within the 60dB Ldn Noise Boundary given the wide coverage and number of properties encompassed. However, I consider it reasonable for WIAL to be considered an affected person within the Air Noise Boundary (65dB) to address reverse sensitivity effects, particularly given that the approach adopted in the PDP is to discourage noise sensitive development within identified aircraft noise overlay areas. As I understand it, the Inner Air Noise Overlay covers approximately 496 properties. I therefore agree in part with WIAL as to adding a notification clause for subdivision within the Air Noise Boundary.
706. Further to this I also propose a minor amendment to the rule heading to correct reference to 'within' the Air Noise Boundary.

Summary of Recommendations

707. **HS5-SUB-Rec150:** That SUB-R30 is amended as set out below and detailed in Appendix A.

SUB-R30 Subdivision with <u>in</u> the Air Noise Boundary	
1. Activity Status: Discretionary	
<u>Notification status: For a resource consent application made in respect of Rule SUB-R29, WIAL must be considered to be an affected person in accordance with Section 95E of the RMA.</u>	

708. **HS5-SUB-Rec151:** That submission points relating to SUB-R30 are accepted/rejected as detailed in Appendix B.

Section 32AA Evaluation

709. In my opinion, the amendments recommended to SUB-R30 are the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that the amended rule:
- a. Is not inconsistent with the notified objective of the PDP regarding the efficient pattern of development for subdivision.
 - b. Further addresses reverse sensitivity effects within identified aircraft noise overlays.

710. The environmental, economic, social and cultural effects of the recommended amendments, as they vary somewhat from the existing plan s32 evaluation report, are below.

Environmental	<ul style="list-style-type: none"> • The amendments to the rule will assist in ensuring reverse sensitivity effects are appropriately addressed. • There are unlikely to be any environmental costs compared to the notified provisions.
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Economic	<ul style="list-style-type: none"> There are likely to be additional costs in requiring WIAL to be considered an affected person, however even without this requirement, they may have been considered an affected person through the regular consenting process.
Social	<ul style="list-style-type: none"> There are unlikely to be any additional social costs or benefits compared to the notified proposal.
Cultural	<ul style="list-style-type: none"> No cultural effects are identified.

4.0 Minor and inconsequential amendments

711. Pursuant to Schedule 1, clause 16 [2] of the RMA, a local authority may make an amendment, without using the process in this schedule, to its proposed plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.
712. Minor and inconsequential amendments relevant to this report have been assessed in the provision sections of this report, and/or otherwise notated in Appendix A as an administrative amendment.
713. Key 'minor and inconsequential amendments' to the Subdivision chapter include:
- a. The addition on of a left-hand 'zone' panel to the chapter to identify which rules apply to which zones. This will also aid in plan interpretation.
 - b. Updating the 'Other relevant District Plan provisions' section of the Subdivision to ensure that all relevant chapters are adequately cross referenced and that these references include specific relevant matters.

5.0 Conclusion

714. This report has provided an assessment of submissions received in relation to the Subdivision Chapter and Subdivision Design Guide.
715. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the PDP should be amended as set out in Appendix A of this report.
716. For the reasons set out in the Section 32AA evaluation included throughout this report, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
- a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives; and

- b. Achieve the relevant objectives of the PDP, in respect to the proposed provisions.

5.1 Recommendations

717. It is recommended that:

- a. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix B of this report; and
- b. The PDP is amended in accordance with the changes recommended in Appendix A of this report.

6.0 Appendices

6.1 Appendix A: Recommended Amendments to the Subdivision Chapter

Where I recommend changes in response to submissions, these are shown as follows:

- Text recommended to be added to the PDP is underlined.
- Text recommended to be deleted from the PDP is ~~struck through~~.

6.2 Appendix B: Recommended Responses to Submissions and Further Submissions on the Subdivision Chapter