

**BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS
AT WELLINGTON**

**I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHEKE
O TE WHANGANUI-A-TARA**

UNDER the Resource Management Act 1991 (**RMA**)

IN THE MATTER of the hearing of submissions on Te Mahere ā-Rohei
Tūtohua the Wellington City Proposed District Plan

HEARING TOPIC **Stream 5 – General District Wide Matters**

**LEGAL SUBMISSIONS ON BEHALF OF KĀINGA ORA - HOMES
AND COMMUNITIES**

Dated: 28 July 2023

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MAY IT PLEASE THE COMMISSIONERS

1. INTRODUCTION

- 1.1 These submissions and the evidence to be called are presented on behalf of Kāinga Ora - Homes and Communities (**Kāinga Ora**) in relation to Te Mahere ā-Rohei Tūtohua the Wellington City Proposed District Plan (**PDP**) for Hearing Stream 5 – General District Wide Matters (excluding Noise provisions).
- 1.2 These submissions should be read together with the legal submissions presented on behalf of Kāinga Ora for:
- (a) Hearing Stream 1: Strategic Overview, which set out the Kāinga Ora statutory mandate and provided initial comments on the statutory assessment framework;
 - (b) Hearing Stream 2: Residential, which provide more detailed comments on the statutory context that the PDP must give effect to, and which set out the Kāinga Ora position on the extent of the qualifying matters assessment that is required under the NPS-UD and the PDP; and
 - (c) Hearing Stream 4: Centres, which set out the Kāinga Ora position on ensuring consistency at a regional level and alignment with national direction.
- 1.3 The Kāinga Ora presentation at this hearing will be split between:
- (a) Natural Hazards, Coastal Environments, Subdivision, Earthwork and Three Waters, addressed in these legal submissions; and
 - (b) Noise, which will be addressed by Mr Matheson.
- 1.4 These legal submissions will:
- (a) confirm any submission points that have been resolved to the satisfaction of Kāinga Ora by recommendations made in the section 42A report;
 - (b) identify and discuss issues arising from Kāinga Ora submission points that remain in contention following the Council's section 42A report, including specific legal commentary on those issues; and
 - (c) introduce the Kāinga Ora witnesses for Hearing Stream 5.

2. SUBMISSIONS POINTS RESOLVED AND KĀINGA ORA CHANGES IN POSITION

2.1 A summary table of the Kāinga Ora submissions relevant to Hearing Stream 5 and the final Kāinga Ora position on those submission points is attached at **Appendix A**.

2.2 Kāinga Ora considers the following matters to be resolved following consideration of the section 42A reports recommendations for Hearing Stream 5:

- (a) Natural Hazards Rule NH-R12 – amending the activity status from Non-Complying to Discretionary to reflect that overland flowpaths are identified as a medium risk area;
- (b) Coastal Environment Objectives CE-O5 and CE-O8 – Kāinga Ora made submissions to amend the Coastal Environment Objectives to make it clear that the provisions applied to new subdivision, development and use. While the reporting officer did not consider these amendments were required, they did suggest other amendments, including the inclusion of a new Objective CE-O6. Kāinga Ora is satisfied that the proposed amendments to CE-O5 to CE-O9, including the new Objective CE-O6 appropriately address its concerns;
- (c) Coastal Environment Policies CE-P14, CE-P15, CE-P16, CE-P17, CE-P18 and CE-P22 - Kāinga Ora accepts the reporting officer's proposed provisions as set out in Appendix A of the section 42A report;¹
- (d) Earthwork Standard EW-S1 – Kāinga Ora sought the deletion of Assessment Criteria point 5, as it lacked clarity and there are other rules within the PDP which would more appropriately control and apply to adverse effects on terrestrial ecology. The reporting officer agreed with the Kāinga Ora submission point;
- (e) Subdivision Introduction – Kāinga Ora sought amendment to clarify the application of the objectives, policies and rules and the introduction of additional headings to categorise policies to assist with Plan useability and legibility. The reporting officer

¹ Section 42A Report, Appendix A – Natural and Coastal Hazards, proposed 30 June 2023.

recommends the introduction of the policy headings and amendments to the Introduction to provide clarity for Plan users;

- (f) Subdivision Policies and Rules SUB-P10, SUB-P11, SUB-P12, SUB-P13, SUB-R2, SUB-R3, SUB-R4, SUB-R17, SUB-R18, SUB-R22, SUB-R23 and SUB-R26 – the reporting officer has agreed to remove the references to the imposition of covenants and consent notices which can be imposed as a consent condition under the RMA. Kāinga Ora supports these amendments; and
- (g) Three Waters Policy THW-P2 – the reporting officer has recommended the removal of reference to specific routing material and an 'avoid' direction which contradicted the rule framework. Kāinga Ora supports these amendments.

2.3 Ms Woodbridge supports a number of amendments proposed to the District Wide provisions (Natural Hazards, Coastal Environment, Subdivision, Earthworks and Three Waters) which are outlined in Appendix A of her evidence.

3. KĀINGA ORA SUBMISSION POINTS IN CONTENTION

3.1 As outlined by Mr Liggett,² Kāinga Ora has lodged comprehensive submissions to the PDP in relation to the District-Wide Matters (Natural Hazards, Coastal Hazards, Earthworks, Subdivision, Three Waters; and as Mr Matheson outlines in his legal submissions, Noise). The Kāinga Ora submissions reflect a wider interest in delivering the strategic vision and outcomes through the objectives and policies of the NPD-UD.

3.2 Kāinga Ora continues to seek amendments to a number of District-wide provisions. The intent of the Kāinga Ora submissions and proposed amendments to the provisions on the Chapters listed below is to ensure:

- (a) the delivery of a planning framework in Wellington that provides for well-functioning urban environments that are sustainable, inclusive, and which contribute towards thriving communities; and

² Brendon Liggett, 18 July 2023, paragraph 3.1.

(b) a consistent planning framework across the Wellington region that collectively responds to regional growth and relationships between the Wellington regional urban environments.

3.3 Following review of the Council's section 42A reports and the evidence lodged by other submitters, Kāinga Ora considers the following key issues remain unresolved and require further amendments:

- (a) Natural Hazards and Coastal Hazard provisions (including their status as a qualifying matter);
- (b) Earthworks;
- (c) Subdivision; and
- (d) Three Waters.

Ms Woodbridge will discuss the proposed amendments in more detail.

3.4 These legal submissions address:

- (a) Qualifying matters;
- (b) The implications of the Obstacle Limitation Surface from the Wellington International Airport Designation G2 (addressed as a consequence of directions made to respond to the WIAL submission); and
- (c) Flood hazard mapping.

4. QUALIFYING MATTERS

4.1 Kāinga Ora remains concerned with the assessment processes undertaken by Council to establish qualifying matters in the PDP. Given the implications that a qualifying matter has on the application of the MDRS and Policy 3 of the NPS-UD, Kāinga Ora considers the qualifying matter assessment process must be adequately completed in order to justify the qualifying matter being established.

4.2 In relation to the qualifying matter for inundation, Kāinga Ora agrees that it is appropriate to limit development potential where there is significant safety risk due to natural hazards, which in some cases could include inundation areas where the depths of the 1% AEP flood hazard could pose a significant risk to people and property. However, Kāinga Ora is concerned that the appropriate assessment for the inundation qualifying matter has not been completed by the Council and

therefore queries whether those provisions within the Natural Hazard Chapter that restrict the application of the MDRS in the PDP have been adequately assessed.

Qualifying matters – legislative framework

- 4.3 As the Panel will be aware, every relevant residential zone in the PDP must have the MDRS incorporated into that zone,³ and the NPS-UD must be given effect to in every residential zone in an urban environment.⁴ The sole basis on which a territorial authority may reduce the application of the MDRS or Policy 3 by establishing a qualifying matter.⁵ The effect of these provisions is that a district plan may be less enabling than the MDRS and Policy 3 *only to the extent necessary to accommodate* a qualifying matter.
- 4.4 In practice, a qualifying matter can only be applied to specific matters, including but not limited to:⁶
- (a) A section 6 matter of national importance;
 - (b) A national policy statement or the New Zealand Coastal Policy Statement 2010;
 - (c) The safe or efficient operation of nationally significant infrastructure;
 - (d) Open space for public use;
 - (e) A designation or heritage order; and
 - (f) Any other matter that satisfies section 77L.
- 4.5 As set out in the flow chart provided by Kāinga Ora at Hearing Stream 2, before a qualifying matter can be established in a district plan, the council is required to undertake an assessment. The nature of that assessment will depend on the how the qualifying matter was introduced:
- (a) For existing qualifying matters,⁷ the assessment must satisfy either section 77J **OR** section 77K. A specified territorial

³ See section 77G(1) of the RMA.

⁴ See section 77G(2) of the RMA.

⁵ See Policy 4, clause 3.32 and 3.33 of the NPS-UD; sections 77I to 77M (residential) and sections 77O to 77R (non-residential).

⁶ See section 77I for residential; section 77O for non-residential.

⁷ As defined by section 77K(3) of the RMA as a qualifying matter referred to in section 77I(a) to (i) that is operative in the relevant district plan when the IPI is notified.

authority has the discretion to determine which assessment under these sections it wishes to complete; and

- (b) For all other qualifying matters, the assessment must satisfy both section 77J **AND** section 77L (i.e. after the completion of site-specific analysis). A specified territorial authority must complete both limbs of the assessment.

In both instances, the qualifying matter must also be assessed in accordance with section 32 of the RMA.

Natural hazards qualifying matter

- 4.6 The reporting officer has provided a section 77J assessment for the Natural Hazards qualifying matter, on the basis that the provisions restrict the application of the MDRS. However, as outlined above and confirmed by Ms Woodbridge,⁸ a section 77J assessment is required for existing qualifying matters – i.e. matters that relate to sections 77I(a) to 77I(i) matters only.
- 4.7 Of relevance to the Natural Hazards Chapter, section 77I(a) relates to a matter of national importance under section 6 of the RMA. Section 6(h) of the RMA provides for the management of significant risks from natural hazards.
- 4.8 However, the Natural Hazards Chapter goes beyond significant risks and addresses a broader range of Natural Hazard risks. For example, as outlined in the Council's section 32 report⁹ and the Natural Hazards Chapter itself, inundation areas have been identified as low-risk hazard areas – i.e. not a significant risk in accordance with section 6(h).
- 4.9 On that basis, in order to establish the Natural Hazards qualifying matter fully into the PDP, the Council was required to complete assessments in accordance with:
 - (a) Section 77J (or section 77K) for the management of significant risks from natural hazards; AND
 - (b) Section 77J, together with section 77L for those Natural Hazard risks that have a lesser severity due to these being 'any other' qualifying matter.

⁸ Victoria Woodbridge, 18 July 2023, paragraph 4.3.

⁹ Section 32 Evaluation Report – Part 2: Natural and Coastal Hazards, section 8.1.

- 4.10 While Council purports to have completed a section 77J assessment for the Natural Hazard qualifying matter as a whole, Kāinga Ora considers this assessment to be inadequate and that the qualifying matter cannot be established, for the following reasons:
- (a) As outlined by Ms Woodbridge in Appendix C of her evidence, the assessment completed by the Council is inadequate due to the lack of assessment completed for inundation areas. Further, it does not satisfy section 77J for the Natural Hazards that have been identified as a significant risk (and all other Natural Hazards identified by the PDP); and
 - (b) The Council has failed to complete a section 77L assessment that is required for all 'non-significant' natural hazard risks.
- 4.11 As a result, without the appropriate assessment, the Panel is not in a position to determine whether the qualifying matter restricts the application of the MDRS only to the extent necessary to accommodate the natural hazard risks. Kāinga Ora considers further assessment is required before the qualifying matter can be lawfully established.

5. THE IMPLICATIONS OF THE OBSTACLE LIMITATION SURFACE

- 5.1 Submissions on Designation WIAL 1 – Wellington Airport Obstacle Limitation Surfaces (**WIAL 1**), which provides for the application of the Obstacle Limitation Surface (**OLS**) across Wellington City from the Wellington International Airport, have been allocated to the Temporary Activities and Airport Zone hearing streams that will commence later this year. Despite this, WIAL considered Designation WIAL 1 should be more appropriately addressed as a District-Wide matter due to its spatial extent. Leave was granted to present evidence at this hearing.¹⁰
- 5.2 However, as identified in its primary submission points on the Designation WIAL 1, it is concerned with the lack of clarity and certainty around the height restrictions imposed by Designation WIAL 1 in light of the urban intensification requirements in the NPS-UD and Amendment Act.

¹⁰ Minute 24, 21 June 2023.

5.3 At Hearing Stream 1 the Council determined that the OLS is not a qualifying matter¹¹ although it is eligible to be established as such by virtue of sections 77I and 77O of the RMA. Irrespective of whether the OLS should have been treated as a qualifying matter and assessed as such, Kāinga Ora remains concerned with the lack of detailed mapping applying the OLS across the city. With respect to the Council's obligations under the MDRS and NPS-UD policies, Kāinga Ora understands the OLS GIS mapping is underway. However, until this is completed and the implications of the OLS are fully understood, Kāinga Ora does not consider it appropriate to include any additions to the PDP, including the note recommended by Ms O'Sullivan.¹²

6. FLOOD HAZARD MAPPING

6.1 The PDP proposed to include a mapped flood hazard overlay in the PDP. Kāinga Ora opposed this approach and continues to seek that natural hazard flooding overlays in the PDP be deleted, with the flood hazard maps to sit outside of the district plan as non-statutory GIS-based maps. Kāinga Ora considers this proposed approach to flood hazard mapping reflects the dynamic nature of flood hazards which are known to change over time due to updated flood modelling and technology. Given this, Kāinga Ora consider the most effective and efficient planning framework for flood hazard mapping would be for a GIS-based mapping tool which sits outside of the district plan that can be readily updated with the most recent modelling and information; and flood hazard provisions to be located within the Natural Hazard chapter of the district plan.

6.2 The reporting officer has rejected the Kāinga Ora proposed approach, largely due to a perceived lack of public participation as any changes to a non-statutory mapping framework would not require a formal Schedule 1 RMA process.¹³

6.3 In his supplementary statement, Mr Sirl agrees that holding flood mapping outside of the PDP is an option.¹⁴ However, he considers the Kāinga Ora position is only for when a flood hazard no longer impacts a

¹¹ Hearing Stream 1, Reporting Officer Right of Reply of Adam McCutcheon and Andrew Wharton, 14 April 2023, Appendix 5.

¹² Kirsty O'Sullivan, 18 July 2023, paragraphs 8.1-8.12, note at 8.11.

¹³ Section 42A report, Hearing Stream 5 – Natural Hazards and Coastal Hazards, para 132-133.

¹⁴ Jamie Sirl, 24 July 2023, paragraph 64.

property. However, this is a misinterpretation of Mr Liggett's evidence. Kāinga Ora considers its proposed approach will provide the Council a more dynamic and efficient process to manage the risk of flood hazards where these have also increased – i.e. where new or updated information exists or new risks are identified following an event.¹⁵

The Council approach is unworkable

6.4 Part 3 to Schedule 1 of the RMA deals with the incorporation by reference of material into a plan or proposed plan. While material can be incorporated by reference into a plan under these provisions, any amendments to that material can only be incorporated by way of a plan change or variation. Of particular relevance, hazard maps/overlays may come under clause 30(1)(c) as "*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*".

6.5 However, clause 31 of Schedule 1 provides:

31 *Effect of amendments to, or replacement of, material incorporated by reference in plans and proposed plans*

An amendment to, or replacement of, material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan only if—

- (a) a variation that has merged in and become part of the proposed plan under Part 1 states that the amendment or replacement has that effect;*
or
- (b) an approved change made to the plan under Part 1 states that the amendment or replacement has that effect.*

6.6 This means that any change to the planning maps would require an approved plan change / variation to be incorporated into the PDP. A provision in the plan itself along the lines of "any amendment to the hazard maps will have legal effect as part of the plan" would not be sufficient, because a plan change / variation is required to state that the particular amendment (or replacement) has legal effect.

6.7 However, clause 16(2) of Schedule 1 provides that "a local authority may make an amendment, without using the process in this schedule, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors".

¹⁵ Brendon Liggett, 18 July 2023, paragraph 5.5

- 6.8 Clause 16(2) would not be available in these circumstances. The test was described in *Re an Application by Christchurch City Council* as:¹⁶

In deciding what might or might not have drawn a submission I consider the touchstone should be; does the amendment affect (prejudicially or beneficially) the rights of some member of the public, or is it merely neutral. If neutral it is a permitted amendment under Clause 16, if not so then the amendment cannot be made pursuant to Clause 16.

- 6.9 As proposed by Council, any amendment to the rules applying to a particular property, by way of amending the flood hazard maps or otherwise (located in the district plan), would materially affect the rights of the owners of that property, and therefore require a Schedule 1 process in order to amend the maps.

Amendments could occur to non-statutory maps without a Schedule 1 process

- 6.10 Despite this, mapping flood hazards outside of a district plan is not a novel or untested approach, and amending those maps without the Schedule 1 process is possible. However, careful consideration of how the non-statutory maps influence the district plan rules is required to ensure private property rights are maintained.

- 6.11 As outlined by Ms Woodbridge, Auckland Council provides a working example of a Plan that has adopted a set of flood hazard maps that sit outside of a Plan using a GIS-mapping system. For the Proposed Auckland Unitary Plan (**AUP**), Auckland Council proposed to include non-statutory mapping layers which included flood hazards within the AUP mapping tool.¹⁷ However, the AUP IHP recommended that only "planning maps that serve a resource management purpose within the structure of the Unitary Plan"¹⁸ were to be included in the Plan. The non-statutory mapping layers were removed from the AUP mapping framework and included in a separate publicly available tool.

- 6.12 This approach has allowed Auckland Council to keep an up to date mapping system in an efficient and timely manner, as reflected by the

¹⁶ *Re an Application by Christchurch City Council* (1996) 2 ELRNZ 431

¹⁷ Section 32, Section 2.25 – Flooding - Section 32 evaluation for the Proposed Auckland Unitary Plan, 30 September 2013.

¹⁸ Auckland Unitary Plan Independent Hearings Panel, Topic 22 Natural Hazards and Flooding and General – other – pages 15 and 16; see <http://022026naturalhazardsflooding.pdf> (aucklandcouncil.govt.nz).

fact that over 51,000 modifications to the flood hazard mapping dataset have been made since 2010.¹⁹

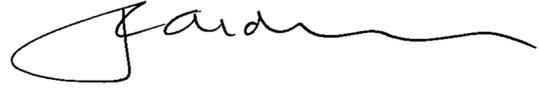
- 6.13 Ms Woodbridge considers that amendments to the definition of the term Natural Hazards Overlay could provide a key link between the non-statutory maps and the PDP. This approach has been successfully implemented in the Auckland context where the definition of floodplain in the AUP includes a reference note to the non-statutory maps where Council holds the publicly available information for the modelled extent of floodplains affecting specific properties, and that the Council will continue to update those maps to reflect the best information available.
- 6.14 The applicable AUP rule set does not refer to an overlay or area, and instead refers to the hazard itself (i.e. the 1 per cent annual exceedance probability or AEP). The non-statutory maps simply provide an indication of where this hazard may occur but can be challenged by an individual property owner through expert reports.
- 6.15 Ms Woodbridge has identified some amendments to the Natural Hazard provisions that should be made if the Kāinga Ora approach is accepted. However, in light of clauses 16, 30 and 31 of Schedule 1, the proposed amendments may not go far enough to support the location of the flood hazard maps outside the PDP. Kāinga Ora would be happy to reconsider the proposed amendments to the Natural Hazard provisions further and provide the Panel with an updated version of the proposed provisions if that would assist. In particular, the provisions should focus on the natural hazard event (i.e. being dynamic) rather than a static area.

7. EVIDENCE

- 7.1 Evidence by the following witnesses has been exchanged in support of submissions by Kāinga Ora for this hearing topic:
- (a) Brendon Liggett – Corporate evidence and Kāinga Ora representative; and
 - (b) Victoria Woodbridge – planning.

¹⁹ Metadata, Flood plains, Auckland Council Open Data, see [Flood Plains \(arcgis.com\)](https://arcgis.com).

Dated 28 July 2023

A handwritten signature in black ink, appearing to read 'J Caldwell', with a long, sweeping horizontal line extending to the right.

Jennifer Caldwell
Counsel for Kāinga Ora – Homes
and Communities

Appendix A – Kāinga(1 Ora position on Hearing Stream 5 submissions

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
Natural Hazards and Coastal Hazards						
391.154 & 391.155	Hazards and Risks / Natural Hazards / General NH	Support in part. Kāinga Ora sought amendment so that rules related to flood hazards do not refer to static maps.	Section 42A report rejects the submission and notes that mapping within the PDP is the most appropriate and effective approach in managing the natural hazard risks to people, property and infrastructure. While mapping natural hazards is less responsive than having information sit outside of the District Plan, it ensures that the community can participate in a formal process with much greater certainty of how an individual property is impacted.	Kāinga Ora seeks amendment to remove static maps from the Natural Hazards chapter.		Kāinga Ora still seeks flood hazard maps to be located outside of the PDP.
391.156 & 391.157	Hazards and Risks / Natural Hazards / General NH	Oppose in part. Kāinga Ora sought amendment to replace 'Natural Hazard Overlays' with the new defined term of 'Natural Hazard Areas.' Kāinga Ora sought that 'Natural Hazard Overlays' to be included as a non-statutory, information-only mapping layer that sits outside the Proposed District Plan.	Section 42A report rejects the submission and notes that the comparative unresponsiveness of the RMA plan-making process to new information is not reason enough to support removal of the flood mapping from the District Plan. Since the PDP is a framework, it does not prevent applicants from providing site specific flood hazard assessments to demonstrate that the risk from flooding to a proposal is low or avoided.	Kāinga Ora still seeks flood hazard maps to be located outside of the PDP.		Kāinga Ora still seeks flood hazard maps to be located outside of the PDP.
391.158 & 391.159 & 391.160	Hazards and Risks / Natural Hazards / NH-R11	Oppose in part. Kāinga Ora noted that the identified flooding inundation areas carry the lowest risk of natural hazard potential and are more than capable of being mitigated. Kāinga Ora sought amendment to have a permitted activity pathway for development that achieves the 1% Flood Annual Exceedance Probability level, including allowance for freeboard.	Section 42A report rejects the submission and notes that the amendment would allow for potential displacement of flooding onto adjacent properties to occur without adequate consideration. While other regional district plans take a more permissive approach, it is not clear that they appropriately manage the effects of displacement of flood waters, and the recent rainfall events in the North Island indicates the importance of adequately planning for flood hazards.	Kāinga Ora maintains its position from its original submission.		
391.161 & 391.162	Hazards and Risks / Natural Hazards / NH-R12	Support in part. Kāinga Ora sought amendment to have a discretionary activity status for overland flowpaths because these have been identified as a medium risk area in the chapter introduction.	Section 42A report accepts the submission and considers that a discretionary activity status still gives Council the ability to decline an application based on the merits of the proposal, and the more onerous s104 test required for a non-complying activity is unnecessary for potentially hazard sensitive activities.	NO CHANGE	NO CHANGE	NO CHANGE
391.31 & 391.36 & 391.37	Interpretation Subpart / Definitions / New definition	Oppose in part. Kāinga Ora sought amendment to replace 'Natural Hazard Overlays' with the new defined term of 'Natural Hazard Areas.'	Section 42A report rejects the submission and does not consider there to be a material difference between 'Natural Hazard Area' and 'Natural Hazard Overlay' as the	Kāinga Ora seeks amendment to the defined term Natural Hazard Overlays: means the combined mapped extent of:		Kāinga Ora still seeks amendments to the definition for 'Natural Hazard Overlays' and a new definition for 'Flood Hazard Areas'.

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
			collective term for the combined extent of the Natural Hazard Overlays contained in the PDP. Section 42A report notes that using 'Natural Hazard Overlays' as the collective term for all of the individual natural hazard overlays is clearer and avoids any potential confusion regarding the difference between a natural hazard overlay and a natural hazard area.	<p>a. within the district Plan of the following natural hazards <u>mapped within the district Plan:</u></p> <p>a. — Flood Hazards</p> <p>b i. Liquefaction Hazards;</p> <p>e ii. Fault Hazards; and</p> <p><u>b. the Council's publicly available flood hazard areas mapping and modelling information.</u></p> <p>Kāinga Ora also seeks new definition for 'Flood Hazard Areas':</p> <p><u>means mapped and modelled inundation areas, overland flowpaths and stream corridor areas which are located outside the district plan.</u></p>		
391.19 & 391.20	Mapping / Mapping General / Mapping General	Oppose in part. Kāinga Ora sought removal of the Flood Hazard Overlay from planning maps and for the data to be included in non-statutory GIS maps that are publicly available.	Section 42A report rejects the submission and notes that the comparative unresponsiveness of the RMA plan-making process to new information is not reason enough to support removal of the flood mapping from the District Plan. Since the PDP is a framework, it does not prevent applicants from providing site specific flood hazard assessments to demonstrate that the risk from flooding to a proposal is low or avoided.	Kāinga Ora still seeks flood hazard maps to be located outside of the PDP.		Kāinga Ora still seeks flood hazard maps to be located outside of the PDP.
391.30	Mapping / All Overlays / Flood Hazard Overlay	Oppose. Kāinga Ora sought deletion of the 'Natural Hazard Overlays' from the District Plan and instead hold this information in non-statutory GIS maps.	Section 42A report rejects the submission and disagrees with the deletion of all references to 'Natural Hazard Overlays' because it is contrary to the National Planning Standards 2019 which enables the use of overlays for natural hazards. Section 42A report notes that Lower Hutt City and Porirua City have undertaken plan reviews to retain flood hazard maps within their District Plans, so regional consistency is a matter worthy of consideration.	Kāinga Ora still seeks flood hazard maps to be located outside of the PDP.		Kāinga Ora still seeks flood hazard maps to be located outside of the PDP.
391.246 & 391.247	General District wide Matters / Coastal Environment / CE-O5	Support in part. Kāinga Ora sought amendment to better identify the effects of new subdivision, use and development may have on the existing environment.	Section 42A report rejects the submission and notes it is unnecessary to begin the objective title with 'new' as this is already inherent in the objective and reflects a drafting approach used throughout the PDP. Amending the provision to include 'new' could result in misinterpretation of other provisions that do not explicitly refer to 'new' activities.	Kāinga Ora accepts the position taken in the 42A report.		

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
391.248 & 391.249	General District wide Matters / Coastal Environment / CE-O8	Support in part. Kāinga Ora sought amendment to better identify the effects of new subdivision, use and development may have on the existing environment.	Section 42A report rejects the submission and notes it is unnecessary to begin the objective title with 'new' as this is already inherent in the objective and reflects a drafting approach used throughout the PDP. Amending the provision to include 'new' could result in misinterpretation of other provisions that do not explicitly refer to 'new' activities.	Kāinga Ora accepts the position taken in the 42A report.		Kāinga Ora accepts the position taken in the 42A report.
391.250	General District wide Matters / Coastal Environment / CE-P11	Supportive of CE-P11. Kāinga Ora sought for CE-P11 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.251 & 391.252	General District wide Matters / Coastal Environment / CE-P12	Support in part. Kāinga Ora sought amendment so the policy enables mitigation of hazard risk in high hazard areas.	Section 42A report rejects the submission and considers a nuanced approach that differentiates between high, medium and low hazard areas is necessary to ensure appropriate land use and development outcomes that reflect the hazard risk in these areas. Section 42A report disagrees with removal of policy limb directing the avoidance of activities in the high hazard areas as avoidance is the appropriate starting point, which is consistent with the NZCPS.	Kāinga Ora does not pursue this submission points any further.		Kāinga Ora does not pursue this submission points any further.
391.253	General District wide Matters / Coastal Environment / CE-P14	Supportive of CE-P14. Kāinga Ora sought for CE-P14 to be retained as notified.	Section 42A report rejects the submission and amends CE-P14 to enable uses of the same level of hazard sensitivity in additions to buildings as this adequately manages hazard risk while also enabling continued use of existing buildings.	<p>Kāinga Ora seeks amendment to CE-P14:</p> <p>Additions <u>and alterations</u> to buildings for potentially hazard sensitive activities and hazard sensitive activities within the medium coastal hazard area and high coastal hazard area</p> <p>Enable additions <u>and alterations</u> to buildings that accommodate existing potentially hazard sensitive activities and hazard sensitive activities within the medium coastal hazard area and high coastal hazard area, where:</p> <ol style="list-style-type: none"> 1. They enable the <u>continued-use same level of hazard sensitivity as of</u> the existing use of the building; and 2. The risk from the coastal hazard is low due to either: <ol style="list-style-type: none"> a. Proposed mitigation measures; or b. The size and the activity of the addition. 		Kāinga Ora continues to seek amendments to CE-P14.
391.254	General District wide Matters / Coastal Environment / CE-P15	Supportive of CE-P15. Kāinga Ora sought for CE-P15 to be retained as notified.	Section 42A report rejects the submission and amends CE-P15 so 'sensitive activities' is replaced with 'sensitive activity is' to improve the consistency of the wording with CE-P16. Section 42A report replaces 'do	Kāinga Ora accepts the position taken in the 42A report.		Kāinga Ora accepts the position taken in the 42A report.

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
			not increase the risk' with 'minimise the risk' to better reflect the enabling intent of the objective whilst also recognising that development should incorporate hazard resilience to minimise risk as low as practicably possible.			
391.255	General District wide Matters / Coastal Environment / CE-P16	Supportive of CE-P16. Kāinga Ora sought for CE-P16 to be retained as notified.	Section 42A report rejects the submission and replaces 'do not increase the risk' with 'minimise the risk' as this provides a more achievable consenting pathway subject to demonstrating that reasonably practicable measures to minimise hazard risk have been incorporated into a proposal.	Kāinga Ora accepts the position taken in the 42A report.		Kāinga Ora accepts the position taken in the 42A report.
391.256	General District wide Matters / Coastal Environment / CE-P17	Supportive of CE-P17. Kāinga Ora sought for CE-P17 to be retained as notified.	Section 42A report rejects the submission and amends CE-P17 to delete the word 'where.' Section 42A report replaces 'do not increase the risk' with 'minimise the risk' for consistency with other provisions.	Kāinga Ora accepts the position taken in the 42A report.		Kāinga Ora accepts the position taken in the 42A report.
391.257 & 391.258	General District wide Matters / Coastal Environment / CE-P18	Support in part. Kāinga Ora sought amendment to enable the potential for hazard sensitive activities and potentially hazard sensitive activities in the High Coastal Area where the risks can be managed through mitigation measures.	Section 42A report rejects the submission and considers that avoidance of development within high hazard areas is the most appropriate approach and most effective in achieving the purpose of s6(h) of the Act. Section 42A report notes that more enabling policy direction would be inconsistent with the directives of the NZCPS.	Kāinga Ora does not pursue these submission points further.		Kāinga Ora does not pursue these submission points further.
391.259	General District wide Matters / Coastal Environment / CE-P21	Oppose. Kāinga Ora sought deletion of CE-P21 because it places inappropriate restrictions on the City Centre Zone and more appropriate outcomes are achieved by CE-P22.	Section 42A report rejects the submission and notes that with the exception of the parts of the CCZ that are within a High Coastal Hazard Area, the High Coastal Hazard Area is relatively limited in extent in the context of the entire urban area of the City.	Kāinga Ora does not pursue these submission points further.		NO CHANGE
391.260	General District wide Matters / Coastal Environment / CE-P22	Supportive of CE-P22. Kāinga Ora sought for CE-P22 to be retained as notified.	Section 42A report rejects the submission and amends the provision to correct minor punctuation and replaces 'reduce or not increase' with 'minimise' because the intent of CE-O8 is to recognise the significance of the CCZ by providing for further development in those areas impacted by the Coastal Hazard Overlays whilst ensuring that hazard risk is appropriately managed.	Kāinga Ora does not pursue these submission points further.		NO CHANGE
391.267 & 391.268	General District wide Matters / Coastal Environment / CE-R27	Support in part. Kāinga Ora sought amendment to change the activity status of Hazard Sensitive Activities within the High Coastal Hazard Area	Section 42A report rejects the submission and considers an avoidance approach as directed by NZCPS and s6(h) of the Act and the	Kāinga Ora does not pursue these submission points further.		NO CHANGE

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
		from Non-Complying to Discretionary to enable the potential for these activities to be provided where the risks can be managed through mitigation measures.	s104D test is appropriate to ensure that inappropriate activities and development does not occur in High Coastal Hazard Areas.			
391.23	Mapping / Mapping General / Mapping General	Support in part. Kāinga Ora sought amendment to display the high, medium and low coastal hazards as separate layers that can be turned on and off individually in the GIS viewer.	Section 42A report accepts in part and agrees that mapping amendments can be made to improve the ease of interpreting low, medium and high hazard areas. Section 42A report proposes to re-organise the map legend to clarify the hazard ranking for each of the coastal hazard overlays and to make similar amendments with respect to natural hazards.	Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE
Subdivision						
391.187 & 391.188	Subdivision chapter / Subdivision / General SUB	Support in part. Kāinga Ora sought amendment to clarify how the effects of effects of poorly designed subdivisions are related to vacant lot subdivisions where the land use activities have not been designed.	Section 42A report accepts in part and agrees to add 'the District Plan provides a more enabling framework for combined land use and subdivision applications' into the provision. Section 42A report disagrees with other amendments as it is not the purpose or intent of the subdivision chapter that it addresses vacant lots.	NO CHANGE		NO CHANGE
391.189	Subdivision chapter / Subdivision / General SUB	Support in part. Kāinga Ora sought amendment 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.	Section 42A report accepts in part and agrees to add '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.	NO CHANGE		NO CHANGE
391.190 & 391.191	Subdivision chapter / Subdivision / General SUB	Support in part. Kāinga Ora sought amendment to have additional headings added to the chapter to categorise the policies.	Section 42A report accepts in part and agrees that headings in the Subdivision Chapter will help plan legibility and usability. Section 42A further considers 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.	NO CHANGE		NO CHANGE
391.192 & 391.193	Subdivision chapter / Subdivision / General SUB	Support in part. Kāinga Ora sought amendment to include a notification preclusion statement for activities under Restricted Discretionary.	Section 42A report rejects the submission and disagrees that public participation by way of limited or public notification will unlikely add anything to the consideration of the effects of these breaches and a blanket preclusion statement is inappropriate.	Kāinga Ora seeks an amendment to SUB-R17 to SUB-R26 to include a preclusion for public notification for these rules as adverse effects are likely to be limited to specific landowners rather than on the wider environment.		NO CHANGE
391.194 & 391.195	Subdivision chapter / Subdivision / General SUB	Oppose in part. Kāinga Ora sought amendment to remove reference to 'any consent notices, covenants, easements or other legal instructed necessary' as it should not be a	Section 42A report accepts the submission and does not consider it appropriate for these matters to be included in a restricted discretionary or controlled activity rule because in some	NO CHANGE		NO CHANGE

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
		determining matter for control / discretion when granting consent.	cases it may unnecessarily and unintentionally provide the consenting authority with too much discretionary scope where it is not necessary.			
391.198	Subdivision chapter / Subdivision / New SUB	Kāinga Ora sought introduction of an additional objective which speaks directly to the outcomes sought for subdivision within or on land identified as having historical values, natural environmental values and coastal values.	Section 42A report rejects the submission and notes that 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. Section 42A report notes that a new objective 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.	Kāinga Ora seeks introduction of a new objective: Subdivision in areas of historical, natural environmental and coastal values 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.		Kāinga Ora continues to seek the new objective in the Subdivision chapter.
391.199 & 391.200	Subdivision chapter / Subdivision / SUB-O1	Support in part. Kāinga Ora sought amendment to recognise that the zone purpose, form and function along with amenity values will change overtime.	Section 42A report rejects the submission and notes that SUB-O1 sets the overarching outcome relating to achieving efficient patterns of developer for Wellington City as a whole whereas SUB-P5 is specific to subdivision for residential activities. Section 42A report believes that 'local context' provides for the scenario where the form, function and amenity values of the zone changes over time.	Kāinga Ora seeks amendment to 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 flexibility, innovation and choice for 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.		Kāinga Ora continues to seek the amendments to SUB-O1.
391.201	Subdivision chapter / Subdivision / SUB-P1	Supportive of SUB-P1. Kāinga Ora sought for SUB-P1 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.202 & 391.203	Subdivision chapter / Subdivision / SUB-P2	Support in part. Kāinga Ora sought amendment to recognise what is anticipated by the underlying zone.	Section 42A report rejects the submission and notes that although the local context may deviate from the anticipated nature and scale of the underlying zone, a boundary adjustment or site amalgamation may still be compatible with the local context. Section 42A report is satisfied that 'local context' provides for the scenario where the form, function and amenity values of the zone changes over time.	Kāinga Ora seeks amendment of 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 local context anticipated purpose, form and function of the underlying zone.		Kāinga Ora continues to seek amendments to SUB-P2.

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
391.204 & 391.205	Subdivision chapter / Subdivision / SUB-P3	Support in part. Kāinga Ora sought amendment to provide flexibility where practicable to achieve such outcomes as not all developments can achieve and attain all aspects in design and layout. Kāinga Ora also sought to remove reference to renewable energy as it is already captured under 'natural and physical resources.'	Section 42A report rejects the submission and notes that SUB-P3 is sufficiently enabling in its phrasing and does not require subdivisions to achieve all clauses of the policy – 'provide for' offers stronger direction than 'encouraging' or 'promoting'. Section 42A report disagrees with removing reference to 'renewable energy' and notes that SUB-P3 aligns with SRCC-O1 and that SUB-P3 is not requiring renewable energy facilities to be provided but provides policy support for proposals that do.	Kāinga Ora seeks amendment of SUB-P3: Sustainable design Provide for subdivision design and layout that is resilient and adaptive to the effects of climate change , 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 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.		Kāinga Ora continues to seek amendments to SUB-P3.
391.206	Subdivision chapter / Subdivision / SUB-P4	Supportive of SUB-P4. Kāinga Ora sought for SUB-P4 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.207	Subdivision chapter / Subdivision / SUB-P5	Supportive of SUB-P5. Kāinga Ora sought for SUB-P5 to be retained as notified	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.208	Subdivision chapter / Subdivision / SUB-P6	Supportive of SUB-P6. Kāinga Ora sought for SUB-P6 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.209	Subdivision chapter / Subdivision / SUB-P7	Supportive of SUB-P7. Kāinga Ora sought for SUB-P7 to be retained as notified.	Section 42A report rejects the submission and amends SUB-P7.3. to include 'Suitable connections to telecommunications' as it is more directive of what subdividers can actually achieve/supply.	Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE
391.210	Subdivision chapter / Subdivision / SUB-P8	Supportive of SUB-P8. Kāinga Ora sought for SUB-P8 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.211	Subdivision chapter / Subdivision / SUB-P9	Supportive of SUB-P9. Kāinga Ora sought for SUB-P9 to be retained as notified.	Section 42A report rejects the submission and amends SUB-P9.1. to delete 'the extent to which' so it reads 'Consultation undertaken with mana whenua.'	Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE
391.212 & 391.213	Subdivision chapter / Subdivision / SUB-P10	Support in part. Kāinga Ora sought amendment to remove reference to 'whether covenants or consent notices can be imposed on new allotment to manage any anticipated development.'	Section 42A report accepts in part and recommends the phrase to be removed from the policies and agrees with Mr McCutcheon that the placement of a notice on a resource consent is a matter for the resource consent process, and also standard practice.	Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE
391.214 & 391.215	Subdivision chapter / Subdivision / SUB-P11		Section 42A report is of the view that if the panel wishes to retain these	Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE
391.216 & 391.217	Subdivision chapter / Subdivision / SUB-P12			Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
391.218 & 391.219	Subdivision chapter / Subdivision / SUB-P13		references, the following phrasing is recommended: 'whether a consent notice or other legal mechanism is required to protect identified historic heritage or cultural values.'	Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE
391.220	Subdivision chapter / Subdivision / SUB-P25	Supportive of SUB-P25. Kāinga Ora sought for SUB-P25 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.221 & 391.222	Subdivision chapter / Subdivision / SUB-R1	Support in part. Kāinga Ora sought amendment so that its matters of control are more consistent with other rules and standards in the Subdivision chapter.	Section 42A report rejects the submission and notes that 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.	Kāinga Ora does not pursue these submission points further.		NO CHANGE
391.223	Subdivision chapter / Subdivision / SUB-R2	Supportive of SUB-R2. Kāinga Ora sought for SUB-R2 to be retained as notified.	Section 42A report accepts in part but notes that in the absence of sufficient detail being supplied that outlines what/how the relief sought applies to SUB-R2, it is difficult to provide any further assessment of this relief.	NO CHANGE		NO CHANGE
391.224	Subdivision chapter / Subdivision / SUB-R3	Supportive of SUB-R3 subject to the relief sought elsewhere in our submission.	Section 42A report accepts in part but notes that in the absence of sufficient detail being supplied that outlines what/how the relief sought applies to SUB-R2, it is difficult to provide any further assessment of this relief.	NO CHANGE		NO CHANGE
391.225	Subdivision chapter / Subdivision / SUB-R4	Supportive of SUB-R3 subject to the relief sought elsewhere in our submission.	Section 42A report accepts in part but notes that in the absence of sufficient detail being supplied that outlines what/how the relief sought applies to SUB-R2, it is difficult to provide any further assessment of this relief.	NO CHANGE		NO CHANGE
391.226 & 391.227	Subdivision chapter / Subdivision / SUB-R5	Support in part. Kāinga Ora sought amendment so that the Discretionary Activity status is given when minimum lot size and shape standards are not met.	Section 42A report rejects the submission and does not consider it 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.	Kāinga Ora does not pursue these submission points further.		NO CHANGE
391.228 & 391.229	Subdivision chapter / Subdivision / SUB-R17	Oppose in part. Kāinga Ora sought amendment to remove references to flood hazard overlays in the PDP and to remove references to 'Any consent	Section 42A report rejects the submission and relies on the assessment of Mr Sirl who believes that reference to flood hazard overlays is appropriate. Section 42A report	Kāinga Ora seeks amendment of SUB-R17 to include a notification status for Controlled and Restricted Discretionary Activities.		Kāinga Ora continues to seek changes to SUB-R17.

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal		
		notices, covenants, easements or other legal instruments necessary'.	accepts submission to remove 'Any consent notices, covenants, easements or other legal instruments necessary' as per 391.194.	Notification status: Applications under this rule are precluded from being publicly notified.				
391.230 & 391.231	Subdivision chapter / Subdivision / SUB-R18			Kāinga Ora seeks amendment of SUB-R18 to include a notification status for Controlled Activity. Notification status: Applications under this rule are precluded from being publicly notified.		Kāinga Ora continues to seek changes to SUB-R18.		
391.232 & 391.233	Subdivision chapter / Subdivision / SUB-R19			Kāinga Ora seeks amendment of SUB-R19 to include a notification status for Restricted Discretionary Activity. Notification status: Applications under this rule are precluded from being publicly notified.		Kāinga Ora continues to seek changes to SUB-R19.		
391.234 & 391.235	Subdivision chapter / Subdivision / SUB-R21	Oppose in part. Kāinga Ora sought amendment to change the activity status to Discretionary to allow for the potential for managing the hazard risk for residential activities and to remove reference to flood hazard overlays.	Section 42A report rejects the submission and considers the non-complying activity status to be appropriate. An avoidance approach is directed by Pol 25 of NZCPS, s6(h) of RMA and s104D gateway test – must ensure that inappropriate subdivision does not occur in High Coastal Hazard Areas.	Kāinga Ora does not pursue these submission points further.		NO CHANGE		
391.236 & 391.237	Subdivision chapter / Subdivision / SUB-R22	Oppose in part. Kāinga Ora sought amendment to remove references to flood hazard overlays in the PDP and to remove references to 'Any consent notices, covenants, easements or other legal instruments necessary'.	Section 42A report rejects the submission and relies on the assessment of Mr Sirl who believes that reference to flood hazard overlays is appropriate. Section 42A report accepts submission to remove 'Any consent notices, covenants, easements or other legal instruments necessary' as per 391.194.	Kāinga Ora seeks amendment of SUB-R22 to include a notification status for Controlled Activity. Notification status: Applications under this rule are precluded from being publicly notified.		Kāinga Ora continues to seek changes to SUB-R22.		
391.238 & 391.239	Subdivision chapter / Subdivision / SUB-R23			Kāinga Ora seeks amendment of SUB-R23 to include a notification status for Restricted Discretionary Activity. Notification status: Applications under this rule are precluded from being publicly notified.		Kāinga Ora continues to seek changes to SUB-R23.		
391.240 & 391.241	Subdivision chapter / Subdivision / SUB-R24							
391.242 & 391.243	Subdivision chapter / Subdivision / SUB-R25	Oppose in part. Kāinga Ora sought amendment to change the activity status to Discretionary to allow for the potential for managing the hazard risk for residential activities and to remove the reference to flood hazard overlays in the District Plan.	Section 42A report rejects the submission and notes there is a strong directive to avoid subdivision that creates building platforms for hazard sensitive activities in the high coastal hazard area.	Kāinga Ora does not pursue these submission points further.		NO CHANGE		
391.244 & 391.245	Subdivision chapter / Subdivision / SUB-S6	Support in part. Kāinga Ora sought amendment to exclude minimum lot size requirements and limits as applied	Section 42A report accepts in part and notes that removal of minimum allotment size would go further to	Kāinga Ora seeks amendment of SUB-S6: <table border="1" data-bbox="1484 1900 1973 1932"> <tr> <td>Standard</td> <td>Limit</td> </tr> </table>	Standard	Limit		Kāinga Ora continues to seek changes to SUB-S6.
Standard	Limit							

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal				
		by this standard and that a minimum shape factor standard is added for vacant allotments, to match with SUB-R5.	encouraging and supporting a wider range of housing typologies. Section 42A report notes that 8x15m is a proxy for a minimum lot size and shape that would enable medium density housing but given that subdivision for residential activities is a Controlled Activity in the MRZ and HRZ, it is not appropriate that a minimum lot size be added for vacant residential lots.	<table border="1"> <tr> <td colspan="2">Residential Zones (MRZ and HRZ)</td> </tr> <tr> <td>Minimum shape of any vacant allotment following subdivision</td> <td>Accommodate a rectangle of 8m x 15m</td> </tr> </table>	Residential Zones (MRZ and HRZ)		Minimum shape of any vacant allotment following subdivision	Accommodate a rectangle of 8m x 15m		
Residential Zones (MRZ and HRZ)										
Minimum shape of any vacant allotment following subdivision	Accommodate a rectangle of 8m x 15m									
Three Waters										
391.92 & 391.93	Energy Infrastructure and Transport / Three Waters / General THW	Support in part. Kāinga Ora sought to remove references to 'Natural Hazard Overlays' and replace it with 'Natural Hazard area'.	Section 42A report rejects the submission and notes that the term 'overlay' is consistent with the rest of the District Plan and consistent with the terminology in the National Planning Standards.	Kāinga Ora does not pursue these submission points further.		NO CHANGE				
391.94	Energy Infrastructure and Transport / Three Waters / THW-O2	Supportive of THW-O2. Kāinga Ora sought for THW-O2 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE				
391.95	Energy Infrastructure and Transport / Three Waters / THW-O3	Supportive of THW-O3. Kāinga Ora sought for THW-O3 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE				
391.96	Energy Infrastructure and Transport / Three Waters / THW-P1	Supportive of THW-P1. Kāinga Ora sought for THW-P1 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE				
391.97 & 391.98	Energy Infrastructure and Transport / Three Waters / THW-P2	Support in part. Kāinga Ora sought amendment to match the rule wording, where it may be appropriate to use these building materials in some instances where there are no impacts on the stormwater system	Section 42A report accepts the submission.	NO CHANGE		NO CHANGE				
391.99	Energy Infrastructure and Transport / Three Waters / THW-P3	Supportive of THW-P3. Kāinga Ora sought for THW-P3 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE				
391.100 & 391.101	Energy Infrastructure and Transport / Three Waters / THW-P4	Support in part. Kāinga Ora sought amendment to recognise that development in urban areas may necessitate additional public investment in expansion of three waters infrastructure.	Section 42A report rejects the submission and does not consider that it is within the scope of s30 of the RMA for district plan policy to direct public investment for three waters infrastructure as that sits within the Local Government Act 2002.	<p>Kāinga Ora seeks amendment to THW-P4:</p> <p>Three waters infrastructure servicing Subdivision or development in urban areas is serviced by three waters infrastructure that:</p> <ol style="list-style-type: none"> 1. Meets the Wellington Water Regional Standard for Water Services v3.0 December 2021; 2. Has sufficient capacity to accommodate the development; and 3. Is in position prior to the commencement of construction. <p>Limit subdivision and development in urban areas where existing three waters capacity and/or level of service is</p>		Kāinga Ora continues to seek amendments to THW-P4.				

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
				insufficient to service further development unless: 1. It can be demonstrated there is an alternative solution to avoid or mitigate any adverse effects on the three waters infrastructure network and the health and wellbeing of water bodies and freshwater ecosystems; and 2. The additional demand generated will not necessitate additional unplanned public investment in, or expansion of, the three waters infrastructure network or compromise its ability to service other activities permitted within the zone.		
391.102	Energy Infrastructure and Transport / Three Waters / THW-R2	Supportive of THW-R2. Kāinga Ora sought for THW-R2 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
Earthworks						
391.269 & 391.270	General District wide Matters / Earthworks / EW-O1	Support in part. Kāinga Ora sought amendment to specify the effect being managed as 'visual amenity value' is too vague.	Section 42A report rejects the submission and disagrees that 'visual amenity values' is vague. Section 42A report notes that 'amenity values' is a term defined in the PDP and is consistent with the RMA definition.	Kāinga Ora does not pursue these submission points further.		NO CHANGE
391.271 & 391.272	General District wide Matters / Earthworks / EW-P2	Support in part. Kāinga Ora sought amendment to specify the effect being managed as 'visual amenity value' is too vague.	Section 42A report rejects the submission and disagrees that 'effects on visual amenity' is vague. Section 42A report notes that 'amenity values' is a term defined in the PDP and is consistent with the RMA definition	Kāinga Ora does not pursue these submission points further.		NO CHANGE
391.273 & 391.274	General District wide Matters / Earthworks / EW-P3	Support in part. Kāinga Ora sought amendment to remove reference to examples to simplify the policy.	Section 42A report rejects the submission and notes that the examples provided are deliberate in that they directly reference the type of hazards that can impact stability while directly responding to Strategic Objectives SRCC-O2 and SRCC-O3.	Kāinga Ora seeks amendment to EW-P3: Maintaining stability Require earthworks to be designed and carried out in a manner that maintains slope stability and minimises the risk of slope failure associated with natural hazards such as earthquakes and increased rainfall intensities arising from climate change		Kāinga Ora continues to seek amendments to EW-P3.
391.275 & 391.276	General District wide Matters / Earthworks / EW-P5	Support in part. Kāinga Ora sought amendment to specify the effect being managed as 'visual amenity value' is too vague.	Section 42A report rejects the submission and disagrees that 'effects on visual amenity' is vague. Section 42A report notes that 'amenity values' is a term defined in the PDP and is consistent with the RMA definition	Kāinga Ora does not pursue these submission points further.		NO CHANGE
391.277	General District wide Matters / Earthworks / EW-R6	Supportive of EW-R26. Kāinga Ora sought for EW-R26 to be retained as notified.	Retain as notified - no changes made in section 42A report.	NO CHANGE		NO CHANGE
391.278 & 391.279	General District wide Matters / Earthworks / EW-R17	Support in part. Kāinga Ora sought amendment so that the ability to undertake earthworks associated with	Section 42A report rejects the submission and does not consider it appropriate for Kāinga Ora be listed as	Kāinga Ora does not pursue these submission points further.		NO CHANGE

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
		natural hazard mitigation as a permitted activity is extended beyond the parties currently listed in this rule	they do not have a natural hazard mitigation works or emergency works mandate and should instead work with other agencies to undertake earthworks where relevant.			
391.280 & 391.281	General District wide Matters / Earthworks / EW-S1	Support in part. Kāinga Ora sought amendment to ensure the assessment criteria reflects the effects sought to be managed, and to align with the objectives and policies of the chapter. Kāinga Ora also sought amendment to thresholds for permitted activity earthworks across the different zones to recognise that different thresholds are appropriate across different zones.	Section 42A report accepts in part but does not agree that an increase in total area of earthworks is needed as national direction policy sets out that matters are to be protected and where possible enhanced.	Kāinga Ora accepts the position taken in the 42A report.		NO CHANGE
391.282 & 391.283	General District wide Matters / Earthworks / EW-S2	Support in part. Kāinga Ora sought amendment to align the matters of discretion more appropriately with the issue being managed by this standard, in this case stability and visual effects resulting from cut faces/retaining structures.	Section 42A report rejects the submission and considers that assessment criteria address relevant effects arising from cut faces / retaining structures.	Kāinga Ora seeks amendment to EW-S2: 9. The need for, and effectiveness of, measures to reduce the visual prominence and particularly visual intrusiveness of the earthworks, and any buildings and other structures associated with or subsequently located on them, including: a. Designing and engineering to reflect natural landforms and natural features such as cliffs, escarpments, streams and wetlands; b. Avoiding unnatural scar faces; c. Favouring untreated cut faces over artificial finishes in areas where bare rock is common; d. Favouring alternatives to the use of sprayed concrete on cut faces, such as anchored netting; e. Designing and finishing retaining walls or stabilising structures to reflect existing buildings and structures, in urban settings; f. Designing and finishing retaining walls or stabilising structures to reduce their apparent size by, for example, employing features that break up the surface area and create patterns of light and shadow; g. Retaining existing vegetation above, below and at the sides of earthworks and associated structures; h. Integrating new landscaping and associated planting to conceal or soften the appearance of earthworks and associated structures; i. Concealing views of earthworks and associated structures from streets, other public places and other properties through		Kāinga Ora continues to seek amendments to EW-S2.

Submission Number	Plan Provision	Submission summary	Section 42A report position	Kāinga Ora position following section 42A report	Council rebuttal evidence	Kāinga Ora position following Council rebuttal
				the positioning of proposed or future buildings; and j. Placing pipes below ground or integrating them into earthworks and associated structures		