

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2025] NZEnvC 195

IN THE MATTER OF an appeal under clause 14 of the First
Schedule to the Resource Management
Act 1991

BETWEEN BATHURST RESOURCES LIMITED
AND BT MINING LIMITED

(ENV-2022-AKL-000047)

Appellant

AND WAIKATO DISTRICT COUNCIL

Respondent

AND AMBURY PROPERTIES

DIRECTOR-GENERAL OF
CONSERVATION

KĀINGA ORA – HOMES AND
COMMUNITIES

OHINEWAI LANDS LIMITED AND
WAIKARE LAND LIMITED

TATA VALLEY LIMITED

TE WHAKAKITENGA O
WAIKATO

WAIKATO REGIONAL COUNCIL

Section 274 Parties

Court:

Environment Judge J A Smith, sitting alone under s 279 of the
Act

Appeals against the proposed Waikato District Plan – Topic 19: Quarries and extractive
industries



Last case event: 1 May 2025

Date of Order: 17 June 2025

Date of Issue: 17 June 2025

CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to amendment of the proposed Waikato District Plan in accordance with the red text in **Appendix A** to this Order (additions marked as underlined and deletions as strikethrough);
- (2) the planning maps of the proposed Waikato District Plan (decisions version) be amended in accordance with **Appendix B**; and
- (3) the remainder of the appeal with respect to Topic 19 is otherwise resolved.

B: Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] This consent determination relates to an appeal by Bathurst Resources Limited and BT Mining Limited (together referred to as **Bathurst**) against the decisions of Waikato District Council on the proposed Waikato District Plan (**PDP**). The appeal relates to provisions in the PDP concerning extractive industries and coal mining to protect access to and the enablement of the extraction of mineral resources. The PDP became the Waikato District Plan – Operative in Part on 30 October 2024 (**DP-OIP**).

[2] During the hearings on the PDP, the Independent Hearing Panel (**IHP**) made the decision to amend the notified PDP to adopt the National Planning Standards

(**NPS**) which came into force after notification of the PDP. As a result, the chapters and provisions referenced in submissions, further submissions, and in some notices of appeal do not reflect the chapter and provision references in the decisions version of the PDP. The decisions version provisions are referred to in this Order.

Background

[3] Bathurst is a publicly listed New Zealand resources company and New Zealand's leading producer of coal. Bathurst runs the business and assets of the Rotowaro and Maramarua mines which are located within the Waikato district.

[4] This Order resolves the parts of the appeal assigned to Topic 19: Quarries and extractive industries (paragraphs 32-37 and 41-43 of Bathurst's notice of appeal).

[5] Due to overlap in the provisions being amended in this consent order with Topic 16: Land use compatibility/reverse sensitivity issues (non-infrastructure) and Topic 3: Ecosystems and indigenous biodiversity, consent orders resolving Topics 3 and 16 have been issued contemporaneously with this Order. The text identified in blue and green in **Appendix A** are being introduced through consent orders for Topics 16 and 3 respectively.

The appeal

[6] Bathurst appeal sought the following relief with respect to Topic 19:

- (a) insert a new Strategic Objective and amend the General rural zone (**GRUZ**) provisions to better recognise and provide for existing and future coal mining operations (paragraph 31 of the appeal);
- (b) amendment to Policy GRZ-P7 in the General residential zone chapter (**GRZ**) by deleting the words "to the extent possible" (paragraph 32 of the appeal). It was subsequently established through discussions that the appeal point was in relation to Policy SUB-P10 in the Subdivision chapter (**SUB**);
- (c) further mapping of Coal Mining Areas beyond the decisions version to recognise and provide for coal resources, and existing and future coal

mining operations (as a single overlay rather than the use of ‘Extractive Resource Areas’ for mapping of coal mining operations) (paragraphs 33-37 of the appeal);

- (d) amend NFL-P2(3) in the Natural features and landscapes (**NFL**) chapter to remove reference to avoiding all adverse effects on Outstanding natural features (**ONF**) and Outstanding natural landscapes (**ONL**) (paragraph 41 of the appeal);
- (e) amend NFL-P2 to recognise the management of effects on ONF and ONL, including the ability of any particular feature or landscape to absorb change (paragraph 42 of the appeal); and
- (f) deletion of Rule GRUZ-R56 which renders any extractive industry in an ONF, ONL, High Natural Character Area and Outstanding Natural Character Area a non-complying activity (paragraph 43 of the appeal).

Parties to the appeal

[7] Ohinewai Lands Ltd and Waikare Land Ltd (**Ohinewai and Waikare Lands**), Kāinga Ora Homes and Communities (**Kāinga Ora**), Ambury Properties Limited (**APL**), Waikato Regional Council (**WRC**), Director-General of Conservation (**DGC**), Tata Valley Ltd (**Tata Valley**) and Te Whakakitenga o Waikato (**TWoW**) have each given notice of an intention to become a party to this appeal under s 274 of the Act.

[8] Kāinga Ora and Ohinewai and Waikare Lands opposed the relief sought in paragraphs 31-32 of Bathurst’s notice of appeal.

[9] Ohinewai and Waikare Lands, APL and WRC opposed the relief sought in paragraph 37 of Bathurst’s notice appeal.

[10] The relief sought in paragraphs 41-43 of Bathurst’s notice of appeal was supported by Tata Valley and opposed by the DGC and TWoW.

Agreement reached

[11] The parties have entered into direct discussions regarding the appeal points assigned to Topic 19. They have now agreed on a proposal which will fully resolve Bathurst's interest in Topic 19. The proposal is discussed below and the changes to the plan provisions are identified in red text in **Appendix A** attached to this Order (additions marked as underlined and deletions as strikethrough).

Mapping of Additional Coal Resource

[12] The DP-OIP currently includes a mapped overlay for coal mining areas based on the data derived from the New Zealand Petroleum and Minerals' website. The planning maps show the known areas of coal that have mining permits or licenses in accordance with the NZ Petroleum and Minerals' website. These areas are identified as a black hatched area on the planning maps in the DP-OIP.

[13] Bathurst seeks to include additional coal mining overlays on the DP-OIP planning maps to ensure the DP-OIP achieves the intent of the policy framework seeking to protect access to and enablement of the extraction of mineral resources. This is because the decisions version only mapped areas subject to permits and licenses and did not map significant coal resources outside those permits and licenses. The additional proposed coal mining areas in the appeal correspond with known significant coal deposits at Rotowaro and Maramarua as discussed further below.

[14] While the appeal originally sought to map additional coal mining areas at Ohinewai, a memorandum of counsel on behalf of Bathurst was filed on 16 August 2022 advising it no longer wished to pursue the identification of coal mining areas on land titles zoned Ohinewai zone or Future urban zone (**FUZ**).

[15] During negotiations, it was agreed that the Waikato Regional Policy Statement (**WRPS**) seeks to protect access to significant mineral resources and to achieve this it directs the mapping of significant mineral resources. 'Significant mineral resources' are defined as mineral resources identified as significant having regard to the criteria in Method UFD-M29 Identification of mineral resources. Based on the criteria in Method UFD-M29, the additional coal mining areas proposed by Bathurst qualify as

‘significant mineral resources’ and need to be mapped on the planning maps to ensure they receive the necessary protection and enablement through the DP-OIP provisions. The parties agreed that, with sufficient supporting information, additional areas could be included on the DP-OIP maps.

[16] Bathurst subsequently provided information to support the mapping of additional coal resources at Rotowaro and Maramarua not covered by a permit or license. The information to support these additional coal resources included justification for the geographical location and extent of the proposed coal resources and for the GIS mapping boundaries. The supporting information is based on various governmental studies and reports identifying known coal deposits in the Waikato area. These areas were then assessed against the criteria in WRPS UFD-M29 (scarcity, economic contribution, current and potential demands, constraints on extraction, quality and size of the deposit, importance of the mineral to tangata whenua, and importance for infrastructure development). The parties considered this is the best available information.

[17] Ohinewai and Waikare Land opposed the additional coal area being mapped on their properties that were outside the Ohinewai zone or FUZ. This was on the basis that the Ohinewai zone is being developed for the Sleepyhead Estate and both the FUZ and the WRPS settlement pattern (including Map 43) contemplates that Ohinewai and Waikare Land’s land will be urbanised in the future. Ohinewai and Waikare Land pointed to UFD-P5 which contemplates that the management of adverse effects of extraction may include avoiding mineral extraction in some areas. This is expanded on in the principal reasons UFD-PR5, which recognises that it will not be possible to protect access to all of the region’s minerals. The parties therefore agreed to exclude the additional coal mining area sought over the Ohinewai and Waikare Land properties in the Ohinewai area.

[18] To resolve this aspect of the appeal, the parties have agreed to amend the Rotowaro and Maramarua planning map as shown in **Appendix B** to this Order. A description of the changes follows:

- (a) the existing hatched areas mapped ‘Coal Mining Area’ in the decisions version are now referred to as ‘Coal Extraction Area’ in the legend; and

- (b) the additional mapped areas agreed by the parties are referred to in the legend as ‘Coal Resource Area’ (depicted by black dots).

[19] The reasons for the new terminology used on the planning map are explained in the section below headed consequential changes.

NFL-P2

[20] Bathurst seeks to amend Policy NFL-P2(3) in the NFL chapter to remove the reference to avoiding “all” adverse effects on ONL and ONF.

[21] During negotiations it was noted that the policy direction under the WRPS (Method NFL-M1(a)) seeks to avoid adverse effects of activities on the values of ONF and ONL in the coastal environment, whereas NFL-M1(b) provides that, for outside the coastal environment, adverse effects should be remedied and mitigated if avoidance is not possible.

[22] During negotiations it was noted that the policy direction under the WRPS (Method NFL-M1(a)) seeks to avoid adverse effects of activities on the values of ONF and ONL in the coastal environment, whereas NFL-M1(b) provides that, for outside the coastal environment, adverse effects should be remedied and mitigated if avoidance is not possible.

[23] The parties acknowledged that the current wording of NFL-P2(3) is inconsistent with this direction as it requires the avoidance of adverse effects of extractive industries and earthworks on the values of ONF and ONL without making any distinction between inside or outside the coastal environment. Policy NFL-P2(2) deals with activities on ONF and ONL outside the coastal environment. It was therefore agreed to delete NFL-P2(3) and amend NFL-P2(2) to add a new clause (d) to refer to ‘extractive activities’ and ‘earthworks’ separately (a new (i) and (ii)). These new subclauses refer to adverse effects being minimised, thus giving effect to the WRPS policy direction when outside the coastal environment.

GRUZ-R56

[24] With respect to the GRUZ chapter of the DP-OIP, it was acknowledged by the parties during negotiations that the WRPS implies that there can be a ‘management hierarchy’ or a lesser activity status applied, if an activity occurs outside the coastal environment. To give effect to this, the parties agreed to amend GRUZ-R56 to expressly provide that this rule applies to the listed character areas inside the coastal environment.

[25] The parties also agreed to insert a new discretionary Rule GRUZ-R56A for an extractive industry that is located in the listed character areas outside the coastal environment.

Strategic Objective and SUB-P10

[26] Bathurst have agreed not to pursue paragraph 32 of its appeal relating to the Strategic Objective. Paragraph 32 of Bathurst’s appeal relating to Policy GRZ-P7 is being resolved through wider consequential amendments discussed below.

Consequential changes to terminology

[27] It was acknowledged by the parties during negotiations that the terminology for extractive activities was used inconsistently across the PDP and did not reflect the intent of the IHP’s decision. For example, the IHP intended to map ‘Aggregate Extraction Area’, ‘Coal Extraction Areas’ and ‘Extractive Resource Area’. However, the decision did not insert definitions for ‘Coal Extraction Area’ or ‘Extractive Resource Area’. The term ‘Extractive Resource Area’ is referred to in provisions but does not appear on the planning maps or legend. The IHP intended that this term would apply to both aggregate and coal.

[28] ‘Aggregate Extraction Area’ is a defined term which states that the areas are identified on the planning maps. This term applies to established quarries, but not to coal mining activities.

[29] Further, the terms ‘Extractive Activity’ and ‘Extraction Industry’ are used interchangeably in provisions. The term ‘Extractive Activity’ is defined while the term

‘Extraction Industry’ is not defined. The parties considered this would create confusion for plan readers.

[30] For aggregates, the decision identifies the sites of current resources (‘Aggregate Extraction Areas’) and future resources (‘Aggregate Resource Areas’) on the planning maps. However, the decision does not mirror this approach for coal as it does not identify the sites of future coal extraction on the planning maps. This has resulted in a disconnect between the provisions and the planning maps and does not protect access to, or enable extraction of, mineral resources.

[31] The parties have agreed to make the following amendments to the Definitions chapter to ensure consistent and defined terminology is used throughout the provisions (all areas are identified on the planning maps):

- (a) amend the definition of ‘Aggregate Extraction Area’ to make it clear that this applies to an existing and operational aggregate extraction activity;
- (b) amend the definition of ‘Aggregate Resource Area’ to make it clear that this applies to areas where the aggregate may be extracted in the future;
- (c) amend the term ‘Coal Mining Area’ to ‘Coal Resource Area’ to apply to a coal resource which may be extracted in the future; and
- (d) insert a new term ‘Coal Extraction Area’ to apply to existing and operational coal mining areas and insert into the provisions as indicated in **Appendix A**.

[32] As a result of the amendments to the existing defined terms and new defined term in the Definitions chapter, a number of consequential changes are required to the provisions to reflect the amended and new defined terms. This includes the deletion of the terms ‘Extractive Resource Area’ and ‘Extractive Industry’ where they appear in provisions as they are no longer used. The consequential changes are made to the following chapters of the DP-OIP: Definitions, Noise, Subdivision, Ecosystems and indigenous biodiversity, GRUZ, Corrections zone, Heavy industrial zone and FUZ. The changes are set out in full in **Appendix A** to this Order.

Overlap with other topics

[33] There are three provisions in **Appendix A** where changes are being made through multiple appeal topics. These are identified and explained below:

- (a) In ECO-R11 Vegetation clearance outside a significant natural area, changes to be introduced through Topic 3: Ecosystems and Biodiversity seek to amend subclauses (1)(i), (ii) and (iii). These changes are shown in green in **Appendix A**. The changes introduced by Topic 19 (red text) relate to discrete clause (1)(vii) and are not impacted by the Topic 3 changes. Nevertheless, the consent orders resolving those Topics are issued contemporaneously.
- (b) In GRUZ-P13 Reverse sensitivity, changes to be introduced by Topic 16: Land use compatibility/reverse sensitivity issues (non-infrastructure), seek to amend subclauses (1), (2) and (3) into a single subclause (1). These changes are shown in blue text in **Appendix A**. The changes introduced by Topic 19 (red text) seek to delete the words “or Extractive Resource Areas” from amended clause (1). As the changes are not to discrete clauses, consent orders resolving both Topics 16 and 19 are issued contemporaneously.
- (c) In GRUZ-S13 Building setbacks – sensitive land use, Topic 16 seeks to insert a new clause GRUZ-S13(1)(xi) to provide a 100m setback from the boundary of another site containing a ‘Factory Wastewater Irrigation Farm’. This change is shown in blue text in **Appendix A**. The changes introduced by Topic 19 (red text) seek to delete the reference to “Extractive Resource Area” in clauses (ii) and (iii), insert reference to “Aggregate Resource Area” into clause (ii) and (iii) and insert new clause (iv) to include 500m from a Coal Extractive Area or Coal Resource Area. Although the change proposed by Topic 16 is to a discrete unrelated clause, the consent orders resolving both Topics 16 and 19 are issued contemporaneously so that the changes can be considered together.

[34] It should be noted that parts of GRUZ-S13 have already been amended by earlier consent orders as follows:

- (a) insertion of clause GRUZ-S13(1)(a)(x) requiring that any building for a sensitive land use be set back a minimum of 6m from the Gas network setback;
- (b) deletion of clauses GRUZ-S13(1)(a)(i) and (iii) that imposed setbacks from the designated boundary of the railway corridor and the Waikato Expressway respectively;
- (c) deletion of clause GRUZ-S13(2)(a) removing the road network safety and efficiency as a matter of discretion; and
- (d) insertion of clause GRUZ-S13(2)(e) giving the Council a further matter of discretion regarding the operation, maintenance and upgrade of the gas network.

[35] The joint memorandum in support of draft consent orders dated 22 December 2023 (in support of the orders in *HD Land Limited & ors v Waikato District Council (HD Land)*)¹ indicated that further changes to GRUZ-S13 were proposed by other live appeals and that consent documents resolving these other unrelated appeals on GRUZ-S13 would be filed at some point in the future. The changes proposed to be made to GRUZ-S13 through Topics 16 and 19 do not impact the changes made through the earlier decision.

[36] Following the filing of the consent documents resolving Topics 16 and 19, no further changes are proposed to Rule GRUZ-S13. Accordingly, the provision will be treated as operative under s 86F of the RMA upon the issue of consent orders for Topics 16 and 19. The Council notes that CORZ-S9 was also amended by the *HD Land* decision. That decision removed two clauses in subclause (1) relating to setbacks from the railway corridor and the Waikato Expressway. The parties advised that it was not possible to foreshadow the possibility of future changes to CORZ-S9 at the time of the earlier decision as the consequential changes arising from the Bathurst

¹ *HD Land Limited & ors v Waikato District Council* [2024] NZEnvC 054.

appeal were not known or foreseen at that time. However, Bathurst's proposed amendments to CORZ-S9 are to discrete clauses within the provision and are limited to updating the terminology used to refer to various extraction areas. These changes do not affect or prejudice the relief already granted.

Planning assessment

[37] Section 75(3) of the RMA requires district plans to give effect to higher order planning instruments. The national policy statement relevant to Topic 19 is the New Zealand Coastal Policy Statement (**NZCPS**).

NZCPS

[38] The NZCPS addresses activities within the context of protecting and sustainably managing the coastal environment. The NZCPS aims to strike a balance between supporting necessary activities within the coastal environment by safeguarding the integrity and health of the coastal environment. The relevant Objectives are:

- (a) Objective 2 which seeks to protect natural features and landscapes through identifying these areas where subdivision, use and development would be inappropriate and protecting them from such activities; and
- (b) Objective 6 which seeks to enable people and communities to provide for their social, economic and cultural wellbeing through subdivision, use and development.

[39] Related Policy 15 fundamentally seeks to protect natural features from inappropriate subdivision, use and development whereas Policy 6 seeks to recognise that activities such as the extraction of minerals are important to the social, economic and cultural wellbeing of people and communities.

[40] The parties consider that the amendment to Policy NFL-P2 appropriately maintains in clause (1) an 'avoid' approach when considering activities within the coastal environment. The DP-OIP maintains a non-complying activity status in Rule GRUZ-R56 for an extractive activity within the coastal environment. This gives effect

to the NZCPS policy framework. The amendment also introduces into clause (2) of the Policy a new clause (d) to recognise extractive activities and a new discretionary activity status Rule GRUZ-R56A for an extractive activity within an identified landscape if outside the coastal environment.

WRPS

[41] The WRPS addresses activities within the coastal environment by protecting the landscapes from adverse effects from development. Objective NFL-O1 and supporting Policy NFL-P1 seek to protect the values and characteristics of ONFs and ONLs.

[42] The objective and policy are implemented by Method NFL-M1 which provides:

NFL-M1-Protect values of outstanding natural features and landscapes

Regional and district plans shall:

1. identify and provide for the protection of the values and characteristics of outstanding natural features and landscapes from inappropriate subdivision, use and development, including those of regional significance identified in APP9 (Table 32) by:
 - a. avoiding adverse effects of activities on the values and characteristics of outstanding natural features and landscapes **in the coastal environment**; and
 - b. **outside of the coastal environment**, avoiding adverse effects of activities on the values and characteristics of outstanding natural features and landscapes, and if avoidance is not possible remedy or mitigate the adverse effects. [emphasis added]

[43] The WRPS has a hierarchy for protecting ONL and ONF depending on whether they are inside or outside the coastal environment. The parties consider that the amendments described in paragraph [39] above in the context of the NZCPS also give effect to the policy framework in the WRPS. The consenting process for any extractive activity will evaluate any adverse effects as appropriate.

[44] UFD-O1-Built Environment has relevance to extractive activities where the Objective seeks to manage development to enable positive environmental, social, cultural and economic outcomes. In relation to extractive activities, the Objective sets out in clause 6 the requirement to protect access to identified significant mineral resources. The Objective is supported by Policy UFD-P5 Access to minerals and is implemented through Methods UFD-M26 Identification of mineral resources and UFD-M30 Plan provisions and access to minerals.

[45] The Policy and supporting Methods recognise the importance of mineral resources and how access to minerals is to be managed in relation to the built environment and seeks to map the location of mineral resources.

[46] The WRPS directs significant mineral resources to be identified and mapped. The mapping amendment sought by Bathurst is consistent with this approach as it includes actual significant coal resources, beyond those that are permitted and licensed. Overall, the parties consider that the amendments to the provisions give effect to the WRPS and the NZCPS.

Section 32AA Assessment

[47] The Council's planner has prepared a comprehensive stand-alone s 32AA assessment for the proposed amendments to resolve Topic 19.

[48] In summary, the s 32AA assessment concludes that:

- (a) the objective of the appeal, and the subsequent proposed amendments, is the most appropriate to achieve the purpose of the Act on the following basis:
 - (i) the proposed amendments constitute sustainable management of natural and physical resources in accordance with s 5(1) and (2) of the Act as they enable extractive activities that will support future generations for infrastructure and construction materials and enables people and communities to provide for their social, economic and cultural wellbeing;

- (ii) the proposed amendments recognise that there may be adverse effects associated with extractive activities and seeks to avoid, remedy or mitigate them in accordance with s (2)(c);
 - (iii) the proposed amendments enable the efficient use and development of natural and physical resources while allowing for the maintenance and enhancement of the quality of the natural environment in accordance with s 7 of the Act by recognising that mineral resources can only be extracted from where they are located, while seeking to manage any adverse effects on the environment that the extraction may have.
- (b) While two options were initially considered, Option 2 (the proposed amendments) was the preferred option by the parties because:
- (i) the proposed amendments give effect to the WRPS by:
 - a. amending the terminology of the DP-OIP to be consistent with the WRPS in relation to aggregate and coal extraction and resource areas; and
 - b. recognising there may be a less stringent approach to the extraction activities that are outside of the coastal environment but still within a landscape policy overlay;
 - (ii) the proposed amendments are the most appropriate option to achieve the DP-OIP's Objective GRUZ-O4 as they provide for the recognition of the contribution of extractive activities; and
 - (iii) the proposed amendments are tailored to strike a balance between fulfilling the objective of the proposal and upholding the broader interests of the surrounding community and environment.

[49] In summary, it is agreed by all of the parties that the proposed amendments to the DP-OIP are the most appropriate to achieve the objectives of the Plan and give effect to higher order planning instruments.

Consideration

[50] The Court has read and considered the relevant documents including those relating to Topics 3 and 16.

[51] The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297.

[52] The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this Order; and
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act, including in particular Part 2.

[53] The Court is satisfied that the agreement reached seeks to balance the need for extractive industries with other concerns under the Plan. It is clear the parties have considered other reasonably practicable options and assessed costs and benefits. The Court concludes that the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, the Court considers the sustainable management purpose and the other relevant requirements of the Act are broadly met.

[54] The Court is satisfied that the changes sought are within the scope of Bathurst's submission and appeal. The rationalisation of the language around currently utilised resources and those with future potential is welcomed. This decision should be read with those under Topic 3 and 16.

Orders

[55] Accordingly, under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (a) the appeal is subject to amendment of the Waikato District Plan Operative in Part in accordance with the red text in **Appendix A** to this Order (additions marked as underlined and deletions as strikethrough);
- (b) the planning maps of the proposed Waikato District Plan (decisions version) be amended in accordance with **Appendix B**; and
- (c) the appeal with respect to Topic 19: Quarries and Extractive Industries is otherwise dismissed.

[56] There is no order as to costs.



J A Smith

Environment Judge | Kaiwhakawā o te Kōti Taiao



Appendix A: Proposed Amendments to the PDP

Red= Amendments made by Consent memorandum for Topic 19 Quarries and Extractive Activities

Green= Amendments made by Consent memorandum for Topic 3 Ecosystems and Biodiversity which resolves the following appeal point

- Federated Farmers appeal point 22

Blue= Amendments made by Consent memorandum for Topic 16 Reverse Sensitivity non-infrastructure which resolves the following appeal points

- Fonterra ENV-2022-AKL-000042-appeal point 1 and appeal point 8
- Hynds Pipe Systems Ltd and Hynds Foundation-appeal point 9

Part 1: Introduction and General Provisions

Interpretation

Definitions

Term	Definition
Aggregate Extraction Area	Means an area identified as an Aggregate Extraction Area on the planning maps. <u>Means an area identified on the planning maps and applies to an existing and operational activity.</u>
Aggregate Resource Area	Means an area identified as an Aggregate Resource Area on the planning maps. <u>Means an area identified on the planning maps and applies to an aggregate resource which may be extracted in the future.</u>
Coal Mining <u>Resource</u> Area	Means land identified as a Coal Mining Area on the planning maps. <u>Means an area identified on the planning maps and applies to a coal resource which may be extracted in the future.</u>
<u>Coal Extraction Area</u>	<u>Means an area identified on the planning maps and applies to an existing and operational activity and lawfully established extensions of these activities.</u>

Part 2: General District-Wide Matters

NOISE - Noise

Rules

NOISE-RI0	Noise – Extractive Activity	
GRUZ – General Rural Zone	(1) Activity status: PER Where: ... (b) Noise generated by new extractive activity located within a Coal Mining Area, <u>Coal Resource Area,</u> <u>Coal Extraction Area,</u> <u>Aggregate Resource</u>	(2) Activity status where compliance not achieved: DIS

	<p>Area, or Aggregate Extraction Area</p> <p>Extractive Resource Area shall be measured at the notional boundary of any residential, or at any site in a GRZ – General residential zone, MRZ - Medium density residential zone, LLRZ - Large lot residential zone, SETZ - Settlement zone or RLZ – Rural lifestyle zone;</p> <p>...</p>	
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Part 2: General District-Wide Matters

SUB – Subdivision

Policies

SUB-P10 Reverse Sensitivity

- (1) Other than in the GIZ – General industrial zone and HIZ – Heavy industrial zone, development and subdivision design minimises the potential for reverse sensitivity effects on adjacent sites, adjacent activities, or the wider environment; and
- (2) Avoid, to the extent possible, and otherwise minimise, potential reverse sensitivity effects of locating new sensitive land uses in the vicinity of an intensive farming, extractive ~~activity~~ ~~industry~~ or industrial activity and regionally significant infrastructure.

Rules

SUB-R51	Title Boundaries – Existing Buildings	
GRUZ – General rural zone	<p>(1) Activity status: RDIS</p> <p>Activity specific standards:</p> <p>...</p> <p>Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> (a) Reverse sensitivity effects; (b) Effects on existing buildings; (c) Effects on an intensive farming activity; (d) Effects on any Aggregate Extraction Area; <u>and</u> (e) <u>Effects on any Coal Extraction Area.</u> 	<p>(2) Activity status where compliance not achieved: DIS</p>
SUB-R53	Subdivision within identified areas	

GRUZ – General rural zone	(1) Activity status: DIS Activity specific standards: <ul style="list-style-type: none"> (a) Subdivision of any land containing any of the followings area: <ul style="list-style-type: none"> (i) High Natural Character Area; (ii) Outstanding Natural Character Area; (iii) Outstanding Natural Landscape; (iv) Outstanding Natural Feature; (v) Coal <u>Extraction Area Mining Area</u>; (vi) <u>Coal Resource Area</u>; (vi)(vii) Aggregate Resource Area; or (vii)(viii) Aggregate Extraction Area. 	(2) Activity status where compliance not achieved: n/a
SUB-R65	Subdivision of any lot containing any <u>of</u> these areas: <ul style="list-style-type: none"> (a) Coal <u>Extraction Area Mining Area</u>; (b) <u>Coal Resource Area</u>; (b)(c) Aggregate Resource Area; (c)(d) Aggregate Extraction Area; (d)(e) A natural hazard area. 	
RLZ – Rural lifestyle zone	(2)(1) Activity status: DIS Activity specific standards: Nil.	(3)(2) Activity status where compliance not achieved: n/a

Part 2: General District-Wide Matters / Natural Environment Values – Ecosystems and Indigenous Biodiversity
ECO - Ecosystems and Indigenous Biodiversity

ECO-R11	Vegetation clearance outside a Significant Natural Area	
All Zones	(1) Activity status: PER Where: (a) Indigenous vegetation clearance outside a Significant Natural Area for the following purposes: <ul style="list-style-type: none"> (i) Removing vegetation that endangers human life or existing buildings or structures, <u>including the removal of vegetation to protect existing buildings and structures from fire risk</u>; (ii) <u>Reconstructing</u> Mmaintaining existing tracks and fences; (iii) <u>Reconstructing</u> Mmaintaining existing farm drains; (iv) Conservation fencing to exclude stock or pests; 	(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (a) The extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats; (b) The extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services; (c) The cumulative effects of the vegetation clearance; (d) The extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;

	<p>(v) Gathering of plants in accordance with Maaori custom and values; or</p> <p>(vi) A building platform and associated access, parking and manoeuvring up to a total of 500m² clearance of indigenous vegetation and there is no practicable alternative development area on the site outside of the area of indigenous vegetation clearance;</p> <p>(vii) In the Aggregate Extraction Areas, <u>and Coal Extraction Areas</u> a maximum of 2000m² in a single consecutive 12 month period per record of title; or</p> <p>(viii) Conservation activities.</p>	<p>(e) The extent to which the indigenous biodiversity contributes to natural character and landscape values, including in areas of outstanding natural character, outstanding natural features, outstanding natural landscapes and <u>significant amenity landscapes; and</u></p> <p>(f) The extent to which adverse effects have been avoided, remedied, mitigated or if this is unable to be achieved, the extent of offsetting on significant residual adverse effects; <u>and</u></p> <p>(g) <u>The extent of adverse effects of vegetation clearance and the disturbance of habitats on the values of indigenous biodiversity by reference to the criteria in APP2 Criteria for determining significance of indigenous biodiversity.</u></p>
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Part 2: District-wide matters / Natural environment values / NFL – Natural features and landscapes

NFL - Natural Features and Landscapes

Policies

- NFL-P2 Protection from inappropriate subdivision, use and development.
- (1) Avoid adverse effects of activities on the attributes of Outstanding Natural Features and Outstanding Natural Landscapes in the coastal environment.
- (2) Avoid adverse effects of activities on the attributes of Outstanding Natural Features and Outstanding Natural Landscapes outside the coastal environment, and if avoidance is not possible remedy or mitigate the adverse effects, by:
- (a) Requiring buildings and structures to be integrated into the Outstanding Natural Landscape or feature to minimise any visual impacts;
 - (b) Managing the adverse effects of building platforms, driveways and roads through appropriate subdivision design; and
 - (c) Requiring subdivision and development to retain views of Outstanding Natural Landscapes and features from public places.
- (d) For extractive activities and earthworks:
- (i) Minimising the impact of extractive industries on the attributes of Outstanding Natural Features and

- Outstanding Natural Landscapes where no reasonably practicable alternative location exists, and
 (ii) Minimising the impact of earthworks on the attributes of Outstanding Natural Features and Outstanding Natural Landscapes.

~~(3)~~

~~Avoid the adverse effects of extractive industries activities and earthworks on the attributes of Outstanding Natural Features and Outstanding Natural Landscapes.~~

Part 3: Area-Specific Matters / Zones / Rural zones / GRUZ - General rural zone **GRUZ – General rural zone**

The relevant district-wide chapter provisions apply in addition to this chapter.

Purpose

The GRUZ - General rural zone provides predominantly for primary production activities, including intensive indoor primary production. The zone also provides for occasional community facilities, agricultural produce processing facilities, rural-related commercial and industrial activities, conservation activities, network infrastructure, and ~~quarrying extractive~~ activities. These diverse activities are set within a landscape that is visually dominated by openness and vegetation with significant separation between buildings and where natural character elements such as waterways, wetlands, water bodies, indigenous vegetation, and natural landforms are key contributors to the character of the rural zone.

Coal Resource Areas, Coal Extraction Areas, Aggregate Extraction Areas and Aggregate Resource Areas are identified on the planning maps.

- (a) The respective Extraction Areas identify lawfully established extractive activities and seek to enable the operation, expansion and protection of these activities including from reverse sensitivity effects that may arise from sensitive land uses establishing in close proximity.
- (b) The respective Resource Areas identify significant mineral resources within the District on the planning maps to protect access to and extraction of these resources in the future.

Objectives

- GRUZ-O4 Extractive Activities
 Recognise the contribution of extractive ~~activities industries~~ to the economic and social well-being of the district.

Policies

- GRUZ-PI3
 (+) ~~Reverse sensitivity and separation of incompatible activities. Contain, as far as practicable, adverse effects within the site where the effect is generated.~~
- (2) ~~Provide adequate separation of the activity from the site boundaries.~~
- (3) (1) ~~Ensure that new New or extended sensitive land uses avoid or minimise achieve adequate separation distances from and/or adopt appropriate measures to avoid, remedy or mitigate potential reverse sensitivity effects on, lawfully established activities including (but not limited to) productive rural activities, intensive farming, rural industry,~~

infrastructure, industrial activities, extractive activities, ~~or Extraction Resource Areas~~ by achieving adequate separation distances from site boundaries and/or adoption of appropriate measures.

GRUZ-PI7 Management of extractive activities.

- (1) Provide for extractive activities provided that adverse effects are appropriately avoided, remedied or mitigated; and, where this is not possible, off-set or compensated.
- (2) Protect access to, and extraction of, mineral, aggregate and coal resources by:
 - (a) Identifying lawfully established extractive activities on planning maps as either Aggregate Extraction Areas and or Coal Extraction Mining Areas on planning maps;
 - (b) Identifying on planning maps the site of a potential extractive activity and significant mineral resources in an Aggregate Resource Area or Coal Resource Area; Extractive Resource Area
- (3) Ensure that lawfully established extractive activities are not compromised by new subdivision, use or development;
- (4) Avoid locating sensitive land uses within specified building setbacks in order to ensure the effective operation of an Aggregate Extraction Area, Aggregate Resources Area, Coal Extraction Area or Coal Resource Area, Mining Area, or Extractive Resource Area.

Rules

GRUZ-R40	An extractive activity or waste management activity located within an Aggregate Extraction Area, <u>Aggregate Resource Area, Coal Extraction Area, or Coal Resource Area or Coal Mining Area, or Extractive Resource Area.</u>
(1) Activity status: RDIS Activity-specific standards: Nil Council's discretion is restricted to the following matters: (a) Effects on rural character and amenity; (b) Location, type and scale of development; (c) Nuisance effects including dust, noise, vibration, odour and light spill; (d) Industry best practice and use of management plans; (e) Traffic effects; (f) Erosion and sediment control; and	(2) Activity status where compliance not achieved: n/a

(g) Rehabilitation and end use including back filling.	
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GRUZ-R41	A waste management facility located outside an Aggregate Extraction Area, <u>Aggregate Resource Area, Coal Extraction Area, or Coal Resource Area</u> Coal Mining Area, or Extractive Resource Area
(I) Activity status: DIS	

GRUZ-R45	An extractive activity located outside an Aggregate Extraction Area, <u>Aggregate Resource Area, Coal Extraction Area, or Coal Resource Area</u> Coal Mining Area or Extractive Area.
(I) Activity status: DIS	

GRUZ-R56	An extractive activity <u>industry</u> located within all or part of any of the following landscape and natural character areas <u>inside the Coastal Environment:</u> (a) Outstanding Natural Feature; (b) Outstanding Natural Landscape; (c) High natural character area; or (d) Outstanding Natural Character area.
(I) Activity status: NC	

<u>GRUZ-R56A</u>	<u>An extractive activity located within all or part of any of the following landscape and natural character areas outside the Coastal Environment:</u> (a) <u>Outstanding Natural Feature;</u> (b) <u>Outstanding Natural Landscape;</u> (c) <u>High natural character area; or</u> (d) <u>Outstanding Natural Character area.</u>
<u>(I) Activity status: DIS</u>	

GRUZ-S13	Building Setbacks – Sensitive land use
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<p>(1) Activity status: PER Where:</p> <p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <p>(i) 15m from a regional arterial road;</p> <p>(ii) 200m from an Aggregate Extraction Area or Aggregate Resource Area or Extractive Resource Area containing a sand resource</p> <p>(iii) 500m from an Aggregate Extraction Area or Aggregate Resource Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area</p> <p><u>(iv) 500m from a Coal Extraction Area or Coal Resource Area;</u></p> <p>(v) 100m from a site in the Tamahere Commercial Areas A and C;</p> <p>(vi) 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity;</p> <p>(vii) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site;</p> <p>(viii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed;</p> <p>(ix) Not be located within the Te Uku wind farm setback shown on the planning maps; and</p> <p>(x) 6m from the Gas network setback shown on the planning maps.</p> <p><u>(xi) 100m from the boundary of another site containing a Factory Wastewater Irrigation Farm.</u></p>	<p>(2) Activity status where compliance not achieved: RDIS Councils discretion is restricted to the following matters:</p> <p>(a) On-site amenity values;</p> <p>(b) Odour, dust and noise levels received at the notional boundary of the building;</p> <p>(c) Mitigation measures;</p> <p>(d) Potential for reverse sensitivity effects; and</p> <p>(e) The safe, effective, and efficient operation, maintenance and upgrade of the gas network</p>
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Part 3: Area-Specific Matters / Zones / Special Purpose Zones / CORZ - Corrections zone

CORZ – Corrections zone

Rules

Land use - building

CORZ-S9	Building Setbacks – sensitive land use
<p>(1) Activity status: PER Where:</p> <p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <p>(i) 15m from a regional arterial road;</p>	<p>(2) Activity status where compliance not achieved: DIS</p>

<p>(ii) 200m from an Aggregate Extraction Area or Aggregate Resource Area or Extractive Resource Area containing a sand resource</p> <p>(iii) 500m from an Aggregate Extraction Area or Aggregate Resource Area or Extractive Resource Area containing a rock resource;</p> <p>(iv) 500m from a Coal Extraction Area or Coal Resource Area;</p> <p>(iv)(v) 100m from a site in the Tamahere Commercial Areas A and C;</p> <p>(v)(vi) 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity;</p> <p>(vi)(vii) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site;</p> <p>(vii)(viii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and</p> <p>(viii)(ix) Not be located within the Te Uku wind farm setback shown on the planning maps.</p>	
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Part 3: Area-specific matters / Zones / Industrial zones / HIZ – Heavy industrial zone

HIZ – Heavy industrial zone

Rules

HIZ-RI 7	An extractive activity industry .
Activity status: DIS	

Part 3: Area-specific matters / Zones / Special purpose zones / FUZ – Future urban zone

FUZ – Future urban zone

FUZ-P3 Retain Rural Character

- (1) Retain rural character and land uses, residential unit density and character as anticipated in the GRUZ – General rural zone;
- (a) Enable use and development consistent with the GRUZ - General rural zone;
 - (b) Avoid activities where they will compromise future urban development; and
 - (c) Avoid intensive farming, forestry and extractive ~~activity industry~~.

Appendix B: Proposed Amendments to planning map

