

# **SECTION 42A REPORT**

Report on submissions and further submissions on the  
Proposed Waikato District Plan

## **Hearing 27F: Natural Hazards – Fire, Climate Change and Definitions**

Report prepared by: Neil Taylor

Date: 31 March 2021



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**List of submitters and further submitters addressed in this report:**

<b>Original Submitter</b>	<b>Submitter number</b>
Director General of Department of Conservation	2108
Federated Farmers of New Zealand	2173
Fire and Emergency New Zealand	2103
Fleming Ranch Trust	2075
Heritage New Zealand Pouhere Taonga	2107
Horticulture New Zealand	2149
Kainga Ora Homes and Communities	2094
Mercury NZ Limited	2053
Perry Group Limited	2105
Will Phelps	2037
Pokeno Community Committee	2091
Pokeno Village Holdings Limited	2147
Rangitahi Limited	2115
Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust	2097
Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust	2096
Transpower New Zealand Ltd	2101
Waikato Regional Council	2102
Waikato-Tainui Te Kauhanganui Incorporated	2151
WEL Networks Limited	2106
Whaingaroa Environment Defence	2074
Dennis Warrick Young	2177

<b>Further Submitter</b>	<b>Submission number</b>
<i>Counties Power</i>	<i>FS3021</i>
<i>Federated Farmers New Zealand</i>	<i>FS3030</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FS3013</i>
<i>Horticulture New Zealand</i>	<i>FS3027</i>
<i>Kainga Ora - Homes and Communities</i>	<i>FS3033</i>
<i>Mercury NZ Limited</i>	<i>FS3034</i>
<i>Raglan Collective Incorporated Society</i>	<i>FS3016</i>
<i>Shand Properties Limited</i>	<i>FS3020</i>
<i>Waikato Regional Council</i>	<i>FS3031</i>

**Please refer to Appendix I to see where each submission point is addressed within this report.**

# I Introduction

## I.1 Qualifications and experience

1. My name is Neil Christopher Taylor. I am employed by Waikato District Council as a Team Leader Resource Management Policy. I hold the qualifications of Bachelor of Laws and a Post Graduate Diploma in Natural Resources. I was a full member of the New Zealand Planning Institute from 2010 to 2018, and since 2018 have been an associate member after retiring from full-time employment.
2. I have been employed in local government planning roles for over 20 years, mostly developing new district and regional plans for the Tasman, Nelson, Whangarei, North Sydney, Hamilton, Waikato district, and Waikato regional councils. I was team leader for the Waikato District Plan review in 2002-2008, becoming Environmental Policy Manager in 2005. My experience includes the development of a wide range of district plan provisions and reporting on these.

## I.2 Code of Conduct

3. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
4. I am authorised to give this evidence on behalf of Waikato District Council to the hearings commissioners.

## I.3 Conflict of Interest

5. I confirm that I have no real or perceived conflict of interest.

## I.4 Preparation of this report

6. I am the author of this report. My evidence relates to evaluation of submissions and further submissions received on the proposed plan provisions related to fire and climate change.
7. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

# 2 Scope of Report

## 2.1 Matters addressed by this report

8. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA). This report considers submissions that were received by the Council on the fire and climate change provisions in Stage 2 of the Waikato Proposed District Plan – Natural Hazards and Climate Change. This is one of six section 42A reports on Stage 2 submissions.

## 2.2 Overview of the topics: fire, climate change and definitions

9. Fire is included in the definition of natural hazards in the Resource Management Act. In Waikato District, fire hazard is less significant than in some other districts, therefore the Proposed Waikato District Plan (PWDP) provisions focus on residential subdivision and development in elevated fire risk areas.

10. Climate change provisions also have limited scope in the PWDP, confined to the projected effects of climate change which result in worsening natural hazards. The plan does not address wider aspects of climate change.
11. Terms used in Chapter 15 of PWDP are defined in section 15.14. Submissions on the definitions are addressed across the section 42A reports, as best fits the context. This report addresses submissions that are not addressed elsewhere.

### **2.3 Statutory requirements**

12. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019, paragraphs 18-32). The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45). The following sections identify statutory documents with particular relevance to this report.
13. National Policy Statements (NPS): no national policy statements are relevant to the contents of this report.
14. National Environmental Standards (NES): The NES on Plantation Forestry is referred to in this report.
15. Waikato Regional Policy Statement (WRPS): Chapter 13 of WRPS addresses natural hazards, which are defined to include fire. WRPS Objective 3.24, and Policies 13.1 and 13.2 and related methods apply to all natural hazards including fire. The WRPS does not contain provisions specific to fire.
16. The National Planning Standards seek to provide a standard format for district plans across New Zealand. The Hearings Panel has indicated that it wishes to adopt National Planning Standards approaches where possible during the current hearings. This report relies on the National Planning Standards defined terms (14 – Definitions) that were recommended for adoption in Hearing 5.
17. Section 32 of the RMA requires that an evaluation report be prepared in which the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules or other methods) of the proposal to be examined for their efficiency, effectiveness, costs, benefits and risk. Section 32 reports for natural hazards were published when the PWDP Stage 2 was notified in 2020. This report updates that earlier analysis in RMA “section 32AA evaluations” where material changes to the plan are recommended.

### **2.4 Procedural matters**

18. There have been no pre-hearing meetings with submitters or consultation after notification in relation to the content of this report.

## **3 Consideration of submissions received**

### **3.1 Overview of submissions**

19. This report addresses submissions relating to fire and climate change provisions and definitions in Chapter 15. Eight submissions and 11 further submissions were received on the fire provisions. On climate change, 62 submissions and 32 further submissions were received. On definitions, 26 submissions and 18 further submissions were received. I address the further submissions together with the primary submissions that they relate to.

### 3.2 Structure of this report

20. This report groups submissions by topics, relating to fire, climate change and definitions. Submissions on climate change are further grouped by the relevant plan provision. The definitions submissions are grouped in that section by the relevant defined term.
21. The section headings are:
- 4 Fire
  - 5 Climate Change – General
  - 6 Climate Change – Introduction
  - 7 Climate Change – Objective 15.2.3
  - 8-12 Climate Change Policies
  - 13 Chapter 15.14 Definitions.

### 3.3 Amendments to plan text

22. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in red underlined, and deleted text in ~~red-through~~. All recommended amendments are brought together in Appendix 2.

## 4 Fire

### 4.1 Introduction

23. In Waikato District, fire risk is considered to be of local scale and of lower significance at present. The section 32 report, Natural Hazards and Climate Change (2020), on page 45 states:

“Overall, this issue [wild fire] is considered to be of local scale and of lower significance at present. The significance of this issue is expected to increase over time with climate change.”

And at page 94:

“Elevated fire risk from wild fires is a matter that can be assessed and addressed through mitigation at the time of subdivision. Assessing the location of all potentially at-risk areas across the district is not required. The risks of not acting may be significant with possible injury to people and damage to property if the risk is not reduced.”

24. Reflecting these considerations, Chapter 15.1 (paragraph 7) says that “less frequent natural hazards in the Waikato District, such as wild fires, ... may not need a district plan response.” It notes the roles of civil defence, insurance and emergency services in addressing wild fire and (at paragraph 17) that fire hazards are controlled by other government agencies and legislation other than the RMA. Accordingly, the PWDP contains only limited provisions on wild fire, with a focus on assessment of subdivision proposals.
25. Policy 15.2.1.18 calls for buffer areas or setbacks around new residential subdivision and development in areas subject to elevated fire risk. Eight submissions were made on this.
26. Variation 2 amends restricted discretionary activity subdivision rules in the residential, rural, country living, and village zones. In some of these zones Variation 2 adds new matters of discretion to consider natural hazards including fire risk, and in other zones it amends existing

references to natural hazards to include fire. No submissions were received on the Variation 2 amendments with respect to the fire-related provisions.

#### 4.2 Submissions

27. Eight submissions and 11 further submissions were received regarding the proposed fire provisions.

Submission point	Submitter	Decision requested
2123.2	Counties Power Limited	<b>Add</b> a new rule in Chapter 15 to address the risk from fire on existing infrastructure.
FS3025.7	<i>Alec Duncan for Beca on behalf of Fire and Emergency New Zealand</i>	<i>Support 2123.2</i>
2123.3	Counties Power Limited	<b>Amend</b> policy 15.2.1.18 (a) - Residential Development potentially subject to fire risk to include existing utilities. <b>And</b> <b>Add</b> a new rule to Chapter 15 to address the risk of fire on existing infrastructure.
FS3025.8	<i>Alec Duncan for Beca on behalf of Fire and Emergency New Zealand</i>	<i>Support OS 2123.3</i>
2123.4	Counties Power Limited	<b>Add</b> new objectives, policies and rules to Chapter 15 that specify setbacks (10m from each side of the line) for plantation forestry activities from power lines and structures to address risk from fires.
FS3025.9	<i>Alec Duncan for Beca on behalf of Fire and Emergency New Zealand</i>	<i>Support OS 2123.4</i>
2094.13	Kainga Ora Homes and Communities	<b>Retain</b> Policy 15.2.1.18 - Residential development potentially subject to fire risk as notified
FS3021.3	<i>Shravan Miryala for Align Ltd on behalf of Counties Power</i>	<i>Support OS 2094.13</i>
FS3025.1	<i>Alec Duncan for Beca on behalf of Fire and Emergency New Zealand</i>	<i>Support OS 2094.13</i>
2102.42	Miffy Foley on behalf of Waikato Regional Council	<b>Amend</b> Policy 15.2.1.18 - Residential development potentially subject to fire risk as follows: Policy 15.2.1.18 - Residential <del>d</del> -Development and <u>subdivision</u> potentially subject to fire risk (a) In areas assessed or identified as being potentially subject to elevated fire risk, <u>consider</u>

		<p><del>the design and layout of the subdivision or development to ensure that an appropriate buffer area or setback is provided around new residential subdivision and development</del> the following matters are considered:</p> <p>(i) <u>Access for emergency service vehicles;</u>  (ii) <u>Provisions of and access to emergency firefighting water supply;</u>  (ii) Separation and management of vegetation (with regard to slope, aspect, management regimes, conflicts with biodiversity; use of less flammable vegetation); and  (iv) <u>The design and materials of any buildings.</u></p>
FS3021.8	Shravan Miryala for Align Ltd on behalf of Counties Power Limited	Support OS 2102.42
FS3025.5	Alec Duncan for Beca on behalf of Fire and Emergency New Zealand	Support OS 2102.42
2103.18	Alec Duncan for Beca Limited on behalf of Fire and Emergency New Zealand	<b>Retain</b> Policy 15.2.1.18 as proposed.
FS3021.10	Shravan Miryala for Align Limited on behalf of Counties Power	Support OS 2103.18
2173.20	Jesse Gooding on behalf of Federated Farmers of New Zealand	<b>Retain</b> Policy 15.2.1.18 – Residential development potentially subject to fire risk as notified.
FS3027.9	Lucy Deverall on behalf of Horticulture New Zealand	Support OS 2173.20
FS3021.25	Shravan Miryala for Align Limited on behalf of Counties Power	Support OS 2173.20
FS3025.12	Alec Duncan for Beca on behalf of Fire and Emergency New Zealand	Support OS 2173.20
2177.2	Dennis Warrick Young	<b>Amend</b> Policy 15.2.1.18 - Residential development potentially subject to fire risk.

### 4.3 Analysis

#### Policy 15.2.1.18 – residential development and subdivision

28. Policy 15.2.1.18 states:

**“Residential development potentially subject to fire risk**

- (a) In areas assessed or identified as being potentially subject to elevated fire risk, ensure that an appropriate buffer area or setback is provided around new residential subdivision and development.”
29. Kainga Ora [2094.13], Fire and Emergency New Zealand [2103.18], and Federated Farmers [2173.20] ask for Policy 15.2.1.18 to be retained. These are supported by further submissions from Counties Power [FS3021.3, FS3021.10, FS3021.25], Fire and Emergency New Zealand [FS3025.1, FS3025.12], and Horticulture New Zealand [FS3027.9]. I recommend accepting all these in part, subject to amendments to the policy in response to other submissions.
30. Waikato Regional Council [2102.42] seeks to amend Policy 15.2.1.18 to read:
- “Policy 15.2.1.18 - ~~Residential~~ Development and subdivision potentially subject to fire risk
- (a) In areas assessed or identified as being potentially subject to elevated fire risk, consider the design and layout of the subdivision or development to ensure that an appropriate buffer area or setback is provided around new residential subdivision and development the following matters are considered:
- (i) Access for emergency service vehicles;
- (ii) Provisions of and access to emergency firefighting water supply;
- (iii) Separation and management of vegetation (with regard to slope, aspect, management regimes, conflicts with biodiversity; use of less flammable vegetation); and
- (iv) The design and materials of any buildings..”
31. This is supported by further submissions from *Counties Power* [FS3021.8] and *Fire and Emergency New Zealand* [FS3025.5].
32. These changes would widen the scope of the policy by:
- changing the title of the policy
  - covering all development rather than just residential subdivision and development;
  - considering the design and layout of subdivision or development rather than just the need for buffers and setbacks;
  - introducing the design and layout considerations (i) to (iv).

These changes are assessed in the following paragraphs.

33. I agree with including “subdivision” in the title, since subdivision is referred to in the words of the policy and is the subject of the related rules. I disagree with dropping the residential reference, for reasons below.
34. I disagree with widening the scope to include all development, because this does not respond to the risks that need to be managed. Most of the fire risks to buildings and other property can be addressed through insurance. Rural residential activities are the key risk area for the district plan to address, especially because of more likely proximity to elevated fire risk areas, remoteness from neighbours and emergency services, and because people are not always as alert to their surroundings (e.g. when sleeping) as in workplaces or other contexts. The section 32 report (page 41) states:

“More homes (and people) are likely to be at risk as a result of expanding urban development and increasing lifestyle block development in close proximity to forestry. An increase in exotic plantation forests will also add to the risk.”

At page 45:

“Overall, this issue is considered to be of local scale and of lower significance at present.”

35. The submitter has not disagreed with that analysis, but nevertheless seeks to expand the range of development to be assessed. The issue being addressed in the PWDP is limited to risks to homes and people for the reasons given. The wording of Policy 15.2.1.18 and the rule amendments reflect this. I see no justification to widen the scope beyond residential subdivision and development, bearing in mind the lower scale and significance of the issue being addressed.
36. The section 32 report mentions insurance as a means to mitigate natural hazards in several places. While not stated in the s32 report, it seems implicit that property damage from wildfire can be most cost-effectively mitigated through insurance. In contrast, residential development increases risks to human health and safety, for which insurance is an inadequate response, and therefore justifies a district plan response. I recommend against widening the scope of the policy to include all development.
37. I agree with adding “design and layout” of subdivision or development. This would cover points of discretion in the rules amended by Variation 2 that are wider than buffers and setbacks. I recommend retention of the reference to buffers and setbacks. These are particularly relevant to rural-residential subdivision.
38. I see some merit in adding points (i) to (iv) to Policy 15.2.1.18. Some of these duplicate existing PWDP provisions (e.g. water supply for firefighting in urban areas) are already covered in Policy 6.4.3 and Rule 14.3.1.8. Other points are of doubtful relevance, such as conflicts with biodiversity. However, acknowledging that there may be overlaps, I recommend that points (i) to (iv) be added to the policy, excluding “conflicts with biodiversity.” These matters of detail can then be included in assessment of resource consents where relevant.
39. I recommend that Waikato Regional Council [2102.42], *Counties Power* [FS3021.8] and *Fire and Emergency New Zealand* [FS3025.5] be accepted in part, to the extent that Policy 15.2.1.18 be amended by including “subdivision” in the title and adding “design and layout” considerations, so that it reads:
- “Residential development and subdivision potentially subject to fire risk
- (a) In areas assessed or identified as being potentially subject to elevated fire risk, ensure that an appropriate design and layout, including a buffer area or setback, is provided around for new residential subdivision and development and the following matters are considered:
- (i) Access for emergency service vehicles;
- (ii) Provision of and access to emergency firefighting water supply;
- (iii) Separation and management of vegetation (with regard to slope, aspect, management regimes; use of less flammable vegetation); and
- (iv) The design and materials of any buildings.”
40. Counties Power Limited [2123.3] seeks to amend Policy 15.2.1.18 to include existing utilities. *Fire and Emergency New Zealand* [FS3025.8] support this.
41. The submission does not suggest wording or say what risks it is seeking to address. The second part of the submission asks consequentially for a new rule “that addresses fire risk on existing infrastructure.”
42. I infer that the submitter envisages adding to the end of the policy words along these lines:

“... buffer area or setback is provided around new residential subdivision and development, including buffers or setbacks from existing utilities.”

43. I am not aware of any fire risk that residential development might generally pose to utilities. I am aware that electrical lines and equipment can spark fires in vegetation, which has been documented overseas<sup>1</sup>, but I am not sure that this submission intended to canvas that issue.
44. I invite the submitter to clarify in their evidence what they have in mind under this submission, and how in practical terms setting back residential development from existing utilities might be effective to mitigate fire risks and outcomes. Their evidence might also usefully address the detail of whether any policy amendment needs to distinguish electricity utilities from other and kinds of utilities.
45. Counties Power request in [2123.3] a new rule that addresses fire risk on existing infrastructure. This is repeated in their separate submission [2123.2] and supported by *Fire and Emergency New Zealand [FS3025.7]*.
46. Counties Power’s reasons under [2123.2] include that Variation 2 refers to fire risk as a matter of discretion for subdivisions in some zones, but that Chapter 15 contains no rules to address this. I do not see a gap in the plan provisions: Chapter 15 and Variation 2 have merged into the PWDP. Chapter 15 is not standalone and does not contain the subdivision rules. The amended subdivision rules will be subject to Policy 15.2.1.18. Again, I am not sure what was intended, and ask that this too be clarified in the submitter’s evidence, including draft wording for a rule.
47. In the absence of that evidence, I recommend that Counties Power [2123.2 and 2123.3] and *Fire and Emergency New Zealand [FS3025.7 and FS3025.8]* be rejected.
48. Submission [2177.2] from Dennis Warrick Young has been summarised to refer to amending Policy 15.2.1.18. This appears to be an error, as Mr Young’s submission relates to the mine subsidence risk area, not the fire issues mentioned in Policy 15.2.1.18. His submission [2177.1] on mine subsidence will be considered in report H27E. No specific relief is sought in relation to Policy 15.2.1.18, and I recommend that [2177.2] be treated as an error and rejected.

### ***New objectives, policies and rules***

49. Counties Power Limited [2123.4] seeks to add new objectives, policies and rules to Chapter 15 that specify setbacks (10m from each side of the line) for plantation forestry activities from power lines and structures, to address risk from fires. *Fire and Emergency New Zealand [FS3025.9]* supports this.
50. I consider that a rule of that kind is precluded by the NES on Plantation Forestry.<sup>2</sup> Plantation forestry is a permitted activity under the NES, subject to specified standards. District plan rules requiring setbacks of plantation forestry from power lines would amount to additional (more stringent) standards. NES Reg 6 states situations where plan rules may be more stringent than the regulations, but these do not include setbacks from powerlines. If a rule is not possible, there seems little value in adding objectives and policies to that effect.
51. I recommend that the Panel reject Counties Power [2123.4] and *Fire and Emergency New Zealand [FS3025.9]*.

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<sup>1</sup> Los Angeles Times 17.10.2017: “Power lines and electrical equipment are a leading cause of California wildfires”

<sup>2</sup> Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

#### 4.4 Recommendations

52. For the reasons above I recommend that the Hearings Panel:

- (a) **Accept in part** Kainga Ora [2094.13], Fire and Emergency New Zealand [2103.18], Federated Farmers [2173.20], *Counties Power* [FS3021.3, FS3021.10, FS3021.25], *Fire and Emergency New Zealand* [FS3025.1, FS3025.12], and *Horticulture New Zealand* [FS3027.9]: to the extent that the policy 15.2.1.18 be retained, subject to amendments in response to other submissions.
- (b) **Accept in part** Waikato Regional Council [2102.42], *Counties Power* [FS3021.8] and *Fire and Emergency New Zealand* [FS3025.5], to the extent that Policy 15.2.1.18 be amended by including “subdivision” in the title and adding “design and layout” and considerations (i) to (iv), as worded in the amendments section below.
- (c) **Reject** *Counties Power* [2123.2 and 2123.3] and *Fire and Emergency New Zealand* [FS3025.7 and FS3025.8].
- (d) **Reject** Dennis Warrick Young [2177.2].
- (e) **Reject** *Counties Power* [2123.4] and *Fire and Emergency New Zealand* [FS3025.9].

#### 4.5 Recommended amendments

53. The following amendments are recommended:

**Policy 15.2.1.18 Residential development and subdivision potentially subject to fire risk**

- (a) In areas assessed or identified as being potentially subject to elevated fire risk, ensure that an appropriate design and layout, including a buffer area or setback, is provided around for new residential subdivision and development, and the following matters are considered:
  - (i) Access for emergency service vehicles;
  - (ii) Provision of and access to emergency firefighting water supply;
  - (iii) Separation and management of vegetation (with regard to slope, aspect, management regimes; use of less flammable vegetation); and
  - (iv) The design and materials of any buildings.<sup>3</sup>

#### 4.6 Section 32AA evaluation

54. The section 32 report ‘Natural Hazards and Climate Change’ (2018) evaluates this policy. No additional evaluation of the amended text under section 32AA is required, because the section 32 evaluation of the original text adequately covers and justifies the minor amendments now proposed.

55. These amendments do not change the general scope or application of the policy but add guidance to decision-makers as to matters to be considered in assessing applications. This will improve the effectiveness and efficiency of the policy to achieve the objectives, especially Objectives 15.2.1 and 15.2.3.

<sup>3</sup> Waikato Regional Council [2102.42], *Counties Power* [FS3021.8] and *Fire and Emergency New Zealand* [FS3025.5]

## 5 Climate Change – General

### 5.1 Introduction

56. The PWDP provisions on climate change are focused on natural hazards. This section of the report addresses submissions asking for wider or narrower climate change provisions to be included in the plan.

### 5.2 Submissions

57. Six submissions and six further submissions were received.

General		
Submission Point	Submitter	Decision requested
2037.1	Will Phelps	Delete all reference to climate change from rates assessments. <i>(Note: decision sought does not apply to the Proposed District Plan (Stage 2)).</i>
FS3031.5	Waikato Regional Council	Oppose OS 2037.1
2102.83	Waikato Regional Council	Amend the plan to strengthen links to climate change objectives and policies in Chapter 15: Natural Hazards and Climate Change where land use change, subdivision and development are proposed (outside of hazard areas), including reference to water storage and use and drought resistance. And Amend other chapters or strengthen links to chapter 15 to ensure that objective 15.2.3 and associated policies are considered in relation to land use change, subdivision, use and development (outside of hazard areas).
FS3027.42	Horticulture New Zealand	Support OS 2102.83
FS3030.23	Federated Farmers NZ	Support OS 2102.83
FS3034.152	Mercury NZ Limited	Support OS 2102.83
2074.1	Whaingaroa Environment Defence	Amend Chapter 15 to better integrate with Stage 1 of the Proposed District Plan by incorporating the WDC Climate Response and Resilience Policy 2020, specifically including points 7.3, 7.5 and 7.9 from the Policy.
FS3030.2	Federated Farmers NZ	Oppose OS 2074.1
FS3034.13	Mercury NZ Limited	Support OS 2074.1

2091.2	Pokeno Community Committee	Add a plan to support people displaced due to climate change, including Port Waikato residents impacted by climate change.
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### 5.3 Analysis

58. Will Phelps [2037.1] asks to delete all reference to climate change from rates assessments. This is opposed by *Waikato Regional Council* [FS3031.5]. The submission is beyond the scope of the district plan and should be rejected.
59. Waikato Regional Council [2102.83] seeks to amend the plan to strengthen links to climate change objectives and policies in Chapter 15: Natural Hazards and Climate Change where land use change, subdivision and development are proposed (outside of hazard areas), including reference to water storage and use and drought resistance. It also seeks to amend other chapters or strengthen links to Chapter 15 to ensure that Objective 15.2.3 and associated policies are considered in relation to land use change, subdivision and use and development (outside of hazard areas). This is supported by *Horticulture New Zealand* [FS3027.42], *Federated Farmers New Zealand* [FS3030.23] and *Mercury NZ Limited* [FS3034.152].
60. The submitter raises broad issues that would entail significant restructuring and expansion of the notified plan provisions. Some of the ideas are already in notified provisions, such as water storage in Policy 15.2.3.2. While the other suggestions may have some merit, this cannot realistically be considered within the scope of the current process. The submission does not contain wording for any amended or new plan provisions to provide a starting point. The details would need to be developed through research, public engagement and policy development over time, leading to a plan change or notified variation. I recommend that the submission and further submissions be rejected.
61. Whaingaroa Environment Defence [2074.1] seeks to amend Chapter 15 to better integrate with Stage 1 of the Proposed District Plan by incorporating the WDC Climate Response and Resilience Policy 2020, specifically including points 7.3, 7.5 and 7.9 from the Policy. This is opposed by *Federated Farmers New Zealand* [FS3030.2] but supported by *Mercury NZ Limited* [FS3034.13].
62. Waikato District Council's Climate Response and Resilience Policy 2020<sup>4</sup> was approved by Council on 31 August 2020, after Stage 2 of the PWDP was notified. It is an internally directed policy, providing guidance on Council's responses to climate change, including how the organisation undertakes actions that minimise the effects of Climate Change. The submitter mentions sections 7.3, 7.5, and 7.9, which read:
- 7.3 Ensure that low emission, climate-resilient development is adopted as a key tenet into development and land-use decisions, including our district plans, annual plans, long term plans, urban design and development, building control, energy use, transport planning and waste management.
- 7.5 Incorporate emissions reduction targets into investment decisions that it makes on transport, fleet procurement, waste management, buildings, and energy use.

<sup>4</sup> Policy can be found at: [https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/policies/climate-response-and-resilience-policy-2020-inc-appendix-\(1\).pdf?sfvrsn=58018ac9\\_6](https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/policies/climate-response-and-resilience-policy-2020-inc-appendix-(1).pdf?sfvrsn=58018ac9_6)

7.9 Promote and encourage the conservation and enhancement of natural environments to aid in emissions reduction (mitigation) and climate change effects (adaptation).

63. I consider that 7.3 is largely encompassed in the plan, where possible. Lowering emissions is outside the scope of the RMA, which is concerned only with addressing the effects, not causes, of climate change. Climate-resilient development is already contained in Chapter 15 - in Objective 15.2.3 and Policy 15.2.3.1. Section 7.5 is clearly directed at internal council investment unrelated to the district plan. Section 7.9 calls for conservation of natural environments, which the plan already does to some extent, albeit for other reasons. Whether the district plan should include conservation provisions to mitigate climate change effects, and if so, the method to be adopted, cannot realistically be considered within the scope of the current process. The details could only be developed by research and policy development over time, leading to a plan change or notified variation. I recommend rejecting this submission and the further submissions.
64. Pokeno Community Committee [2091.2] asks for an addition to the plan to support people displaced due to climate change, including Port Waikato residents impacted by climate change. This is beyond the scope of the notified PWDP provisions, and in my opinion beyond the scope of the RMA. The council supports people displaced during serious events through its civil defence emergency management activities. Longer term responses require new legislation. A proposed “Climate Change Adaptation Act” has recently been announced by the Government to address the issues comprehensively.<sup>5</sup> If this goes ahead, it will provide a response to the issues raised by the submitter. However, in the absence of that legislation, I recommend that the submission be rejected.

#### 5.4 Recommendations

65. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Will Phelps [2037.1] and **accept** Waikato Regional Council [FS3031.5].
  - (b) **Reject** Waikato Regional Council [2102.83], *Horticulture New Zealand* [FS3027.42], *Federated Farmers New Zealand* [FS3030.23] and *Mercury NZ Limited* [FS3034.152].
  - (c) **Reject** Whaingaroa Environment Defence [2074.1], **reject** *Mercury NZ Limited* [FS3034.13] and **accept** *Federated Farmers New Zealand* [FS3030.2].
  - (d) **Reject** Pokeno Community Committee [2091.2].

#### 5.5 Recommended amendments

66. There are no recommended amendments.

## 6 Climate Change – 15.1 Introduction

### 6.1 Introduction

67. Introductory section 15.1(18) contains a discussion of climate change. This section of the report addresses submissions in relation to that text.

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<sup>5</sup> Minister for the Environment announcement 10 February 2021: <https://www.mfe.govt.nz/rma/resource-management-system-reform>

## 6.2 Submissions

68. Two submissions and two further submissions were received on section 15.1.

15.1		
Submission Point	Submitter	Decision requested
2053.15	Mercury NZ Limited	<b>Retain</b> Chapter 15.1, paragraph (9).
<i>FS3031.26</i>	<i>Waikato Regional Council</i>	<i>Neutral OS 2053.15</i>
2107.3	Heritage New Zealand Pouhere Taonga	<b>Amend</b> section 15.1 (18) and other parts of the introduction as relevant by adding an explanation of the purpose and place of adaptive management strategies in relation to the District Plan and the administration and implementation of Chapter 15. <b>and</b> <b>Add</b> a new section within the chapter entitled " <u>Other methods</u> " that discusses adaptive management strategies and any other methods to manage hazards and climate change, including a discussion of all historic heritage as the District Plan only provides protection to scheduled items.
<i>FS3016.7</i>	<i>Raglan Collective Incorporated Society</i>	<i>Support OS 2107.3</i>
2107.2	Heritage New Zealand Pouhere Taonga	<b>Amend</b> section 15.1 (18) as follows: (18) Methods to increase resilience to projected changes in climatic conditions will increasingly be incorporated into all aspects of land use planning and natural hazard management. Further to this, there will be an increased focus on environmental protection and facilitating inland migration of biodiversity. <del>Historic heritage and sites and areas of Significance to Maaori will also require sensitive consideration and management.</del> <u>Historic heritage and sites and areas of Significance to Maaori will also require sensitive consideration and management.</u> Methods in this district plan will include promoting low impact urban design and green infrastructure, and increased coastal hazard setbacks to provide a more sustainable and adaptive approach to development. <b>And</b> <b>Add</b> separate headings for Hazards and Climate change within the introduction section.

## 6.3 Analysis

69. Mercury NZ Limited [2053.15] ask to retain Chapter 15.1, paragraph (9). *Waikato Regional Council* [FS3031.26] is neutral. I consider that the definition is most appropriate. I recommend

that Mercury NZ Limited [2053.15] be accepted and *Waikato Regional Council* [FS3031.26] be rejected.

70. Heritage New Zealand Pouhere Taonga [2107.3] seeks to expand references to adaptive management in 15.1 (18) and other parts of the introduction. *Raglan Collective Incorporated Society* [FS3016.7] supports this.
71. The submission asks for an explanation of the purpose and place of adaptive management strategies to be added in relation to the district plan and the administration and implementation of Chapter 15.
72. Chapter 15.1(18) says that methods in the plan provide for adaptive approaches to development. The adaptive approaches in the plan are all very specific. For example, rules require new buildings in hazard areas to be relocatable (e.g. Rule 15.7.2 RD1.) There is no rule that calls in any unspecified way for “adaptive management” or adaptation.
73. Adaptation is referred to in an objective and two policies:
- Objective 15.2.3 calls for a well-prepared community that is able to adapt to the effects of climate change.
  - Policy 15.2.3.2 seeks to increase the ability of the community to adapt to the effects of climate change, and in (iv) mentions discussion of adaptive pathways.
  - Policy 15.2.1.8(b) speaks of areas where an “adaptive management strategy” has been prepared and requires coastal protection structures to be consistent with the strategy.
74. There is no detail in these provisions about who might prepare an adaptive management strategy or pathway, or what these might contain. However, given that the rules in Chapter 15 require only very specific actions such as relocatable buildings, it is unnecessary for the purposes of the plan to provide more detailed discussion on the topic.
75. I believe that this may change in the medium term and that material about adaptive management will be added to the plan through future plan changes. The Government has recently announced new legislation proposed to be called the Climate Change Adaptation Act.<sup>6</sup> When the content of the legislation and the local authority functions become clear, councils will be in a position to develop more detailed policy.
76. I therefore recommend that Heritage New Zealand Pouhere Taonga [2107.3] and *Raglan Collective Incorporated Society* [FS3016.7] be rejected.
77. Heritage New Zealand Pouhere Taonga [2107.2] seeks to amend section 15.1 by adding to para (18): “Historic heritage and sites and areas of Significance to Maaori will also require sensitive consideration and management.” I assume that the submission is referencing the opening words of para 15.1(18), about “methods to increase resilience” to climate change, with the concern that increasing resilience might somehow threaten heritage values. Options for increasing resilience that are inconsistent with heritage values will be caught by other plan provisions that protect heritage: for example, rules require new development to be set back at least 10m from heritage items. A proposed new seawall or stopbank would be subject to these rules. I consider that the suggested words would be redundant and clutter the plan, especially as 15.1 is simply an introductory section. I recommend that the submission be rejected.

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<sup>6</sup> Minister for the Environment announcement 10 February 2021: <https://www.mfe.govt.nz/rma/resource-management-system-reform>

78. Heritage New Zealand Pouhere Taonga [2107.2] also requests that separate headings be added for Hazards and Climate change within 15.1. I recommend that this be rejected, as the climate change provisions are entirely related to natural hazards. It would give a misleading signal to present these as separate topics. I recommend that Heritage New Zealand Pouhere Taonga [2107.2] be rejected.

#### 6.4 Recommendations

79. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Mercury NZ Limited [2053.15] and reject *Waikato Regional Council* [FS3031.26].
  - (b) **Reject** Heritage New Zealand Pouhere Taonga [2107.3] and *Raglan Collective Incorporated Society* [FS3016.7].
  - (c) **Reject** Heritage New Zealand Pouhere Taonga [2107.2].

#### 6.5 Recommended amendments

80. There are no amendments in this section.

## 7 Climate Change – Objective 15.2.3

### 7.1 Introduction

81. Objective 15.2.3 - Climate change reads:  
 “A well-prepared community that:
- (a) is able to adapt to the effects of climate change; and
  - (b) has transitioned to development that prioritises lower greenhouse gas emissions.”

### 7.2 Submissions

82. Seven submissions and four further submissions were received on Objective 15.2.3.

15.2.3		
Submission Point	Submitter	Decision requested
2173.29	Federated Farmers of New Zealand	<b>Delete</b> Objective 15.2.3(b) – Climate Change AND Any consequential amendments that may be required.
FS3034.97	<i>Mercury NZ Limited</i>	<i>Oppose 2173.29</i>
FS3031.140	<i>Waikato Regional Council</i>	<i>Oppose 2173.29</i>
2053.37	Mercury NZ Limited	<b>Retain</b> Objective 15.2.3.
FS3031.48	<i>Waikato Regional Council</i>	<i>Neutral</i>

2094.17	Kainga Ora Homes and Communities	<b>Amend</b> Objective 15.2.3 Climate Change to read: A well-prepared community that: a) Is <del>resilient able to adapt to the current and future</del> effects of climate change; and b) <del>Supports reductions in</del> <del>Has transitioned to development that prioritises lower</del> greenhouse gas emissions.
2102.72	Waikato Regional Council	Amend Section 15.2 Objective and policies to consider the layout of the objectives and policies to increase the consideration of Objective 15.2.3 and associated policies when undertaking the assessment of discretionary or non-complying activities.
<i>FS3034.147</i>	<i>Mercury NZ Limited</i>	<i>Support OS 2102.72</i>
2102.84	Waikato Regional Council	<b>Amend</b> Objective 15.2.3 - Climate change by relocating it to sit with Objective 15.2.1.
2103.26	Fire and Emergency New Zealand	<b>Retain</b> Objective 15.2.3 as proposed.
2151.16	Waikato-Tainui Te Kauhanganui Incorporated	<b>Retain</b> Objective 15.2.3 - Climate change.

### 7.3 Analysis

83. Fire and Emergency New Zealand [2103.26], Waikato-Tainui Te Kauhanganui Incorporated [2151.16] and Mercury NZ Limited [2053.37] seek retention of Objective 15.2.3. *Waikato Regional Council* [FS3031.48] lodged a neutral further submission to the Mercury submission. I recommend rejecting all of these, given that I am recommending significant change to the objective in response to other submissions as outlined below.
84. Federated Farmers of New Zealand [2173.29] seeks to delete Objective 15.2.3(b). The reason given is that the focus of the objective should be on the adverse effects of climate change, under RMA s7(i), rather than avoiding or remedying climate change itself. *Mercury NZ Limited* [FS3034.97] and *Waikato Regional Council* [FS3031.140] oppose this.
85. Para (b) calls for a transition to development that prioritises lower greenhouse gas emissions. I agree that this seems outside the scope of the RMA. The section 32 report finds that Objective 15.2.3 is most appropriate to give effect to the RMA s7(i). In relation to (b), the section 32 report (page 51) states that (b) gives appropriate regard to the Climate Change Response (Zero Carbon) Amendment Act 2019.
86. No specific sections of that Act are cited, and I am not aware that it requires or empowers district plan responses. The RMA provisions refer to the effects rather than the causes of climate change. Section 7(i) requires particular regard to the effects of climate change. Section 31 gives territorial authorities a function to control the effects of land use and development to avoid or mitigate natural hazards.
87. Similarly, the WRPS refers to the effects of climate change rather than the causes. Method 4.1.13 requires district plans to recognise and provide for the projected effects of climate

change. WRPS section 6A requires new development to be appropriate with respect to projected effects of climate change.

88. I conclude that Objective 15.2.3(b) cannot be reconciled with the RMA provisions or the relevant provisions of the WRPS, with their emphasis on effects, and that (b) should be deleted. I am strengthened in this by noting that there are no policies or methods that would implement (b). I recommend that Federated Farmers of New Zealand [2173.29] be accepted, and *Mercury NZ Limited* [FS3034.97] and *Waikato Regional Council* [FS3031.140] be rejected.
89. Kainga Ora Homes and Communities [2094.17] seeks to amend Objective 15.2.3 Climate Change to read:  
 “A well-prepared community that:  
 (a) Is resilient ~~able to adapt~~ to the current and future effects of climate change; and  
 (b) supports reductions in ~~Has transitioned to development that prioritises lower~~ greenhouse gas emissions.”
90. In para (a), I support the introduction of “resilient,” for consistency with Objective 15.2.1, and other PWDP provisions that already use the term. This is a grammatical change that will have no material effect on planning outcomes. I do not support adding “current and future”, which seems to merely duplicate parts of the RMA definition of effects. In regard to (b), I consider that the proposed rewording does not overcome the problem identified in the analysis above. The wording would still go outside the effects of climate change and stray into the causes. I recommend that Kainga Ora Homes and Communities [2094.17] be accepted in part, to the extent that the word ‘resilient’ replaces the words “able to adapt.”
91. Waikato Regional Council [2102.72] asks to change the layout of the objectives and policies to increase the consideration of Objective 15.2.3 and associated policies in resource consent assessment. This is supported by *Mercury NZ Limited* [FS3034.147]. More specifically, Waikato Regional Council [2102.84] seeks to Amend Objective 15.2.3 - Climate change by relocating it to sit with Objective 15.2.1.
92. I recommend that Objective 15.2.3 be relocated to follow Objective 15.2.1. Apart from the reason given by the submitter, it is a requirement of the National Planning Standards that objectives in each chapter of a district plan be grouped together.
93. The National Planning Standards may also require some rearrangement of policies along the lines requested in [2102.72]. It is obvious that many of the policies in the chapter respond to more than one objective, and the chapter layout could better reflect that. However, given that the submission does not specify any changes to be made, I consider that the chapter layout is best considered later when the whole chapter is restructured as part of the implementation of the planning standards.
94. Accordingly, I recommend rejecting Waikato Regional Council [2102.72], and accepting in part [2102.84] and *Mercury NZ Limited* [FS3034.147], to the extent that Objective 15.2.3 be moved to follow Objective 15.2.1, with any consequential changes required by the National Planning Standards.

#### 7.4 Recommendations

95. For the reasons above, I recommend that the Hearings Panel:  
 (a) **Reject** Fire and Emergency New Zealand [2103.26], Waikato-Tainui Te Kauhanganui Incorporated [2151.16], *Mercury NZ Limited* [2053.37] and *Waikato Regional Council* [FS3031.48].

- (b) **Accept** Federated Farmers of New Zealand [2173.29] and **reject** Mercury NZ Limited [FS3034.97] and Waikato Regional Council [FS3031.140].
- (c) **Accept in part** Kainga Ora Homes and Communities [2094.17], to the extent that the word ‘resilient’ replaces the words “able to adapt” in Objective 15.2.3(a).
- (d) **Reject** Waikato Regional Council [2102.72].
- (e) **Accept** Waikato Regional Council [2102.84] and **accept in part** [2102.72] and Mercury NZ Limited [FS3034.147], to the extent that Objective 15.2.3 be moved to follow Objective 15.2.1.

## 7.5 Recommended amendments

### Objective 15.2.3 Climate Change

A well-prepared community that:

- a) Is ~~resilient~~ ~~able to adapt~~<sup>7</sup> to the effects of climate change; ~~and~~
- b) ~~Has transitioned to development that prioritises lower greenhouse gas emissions.~~<sup>8</sup>

96. Objective 15.2.3 is also to be moved within the chapter to be grouped with other objectives.<sup>9</sup>

## 7.6 Section 32AA evaluation

97. No s32AA evaluation is required for the above changes:

- The change to para (a) is a minor grammatical change to promote consistency in the plan, making no material change to planning outcomes.
- Para (b) is deleted because it is outside the scope of the RMA, being unrelated to the effects of climate change, addressing instead the causes of climate change. Objective (b) is therefore not the most appropriate way to achieve the purpose of the Act. There are no plan provisions that would implement para (b) and therefore no consequential changes to be made.
- The National Planning Standards require moving Objective 15.2.3 within Chapter 15, into a group of objectives.

# 8 Climate Change - Policy 15.2.3.1

## 8.1 Introduction

98. Policy 15.2.3.1 – Effects of climate change on new subdivision and development – reads:

- (a) Ensure that adequate allowances are made for the projected effects of climate change in the design and location of new subdivision and development throughout the district, including undertaking assessments where relevant that provide for:

<sup>7</sup> Kainga Ora Homes and Communities [2094.17]

<sup>8</sup> Federated Farmers of New Zealand [2173.29]

<sup>9</sup> National Planning Standards and Waikato Regional Council [2102.72].

- i) the projected increase in rainfall intensity, as determined by national guidance, but being not less than 2.3°C by 2120;
- ii) the projected increase in sea level, where relevant, as determined by national guidance, but being not less than 1m by 2120;
- iii) in respect to new urban zoning, stress testing under the RCP 8.5 scenario for rainfall [1] and RCP 8.5H+ for sea level rise [2]; and
- iv) in respect to the coastal environment, increases in storm surge, waves and win (Footnotes [1] and [2] reference RCP sources.)

## 8.2 Submissions

99. Twelve submissions and two further submissions were received on Policy 15.2.3.1.

15.2.3.1		
Submission Point	Submitter	Decision requested
2053.38	Mercury NZ Limited	<b>Retain</b> Policy 15.2.3.1.
<i>FS3031.49</i>	<i>Waikato Regional Council</i>	<i>Neutral OS 2053.38</i>
2075.2	Fleming Ranch Trust	<b>Amend</b> Policy 15.2.3.1 to clarify changes this will make to building code beyond those required around heights over the Motariki Datum.
2094.18	Kainga Ora Homes and Communities	<b>Retain</b> Policy 15.2.3.1 - Effects of climate change on new subdivision and development as notified
2097.1	Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust	<b>Amend</b> typo in Policy 15.2.3.1 (iv) Effects of climate change on new subdivision and development, so it reads “wind” instead of “win”.
2102.85	Waikato Regional Council	<b>Amend</b> Policy 15.2.3.1 (a) (i) to (iv) - Effects of climate change on new subdivision and development to consider a range of RCPs that are projected to result in a range of sea level rise effects before and beyond 2100; and to further consider the inclusion of detailed directives in clauses (i) to (iv).
2102.86	Waikato Regional Council	<b>Amend</b> Policy 15.2.3.1 - Effects of climate change on new subdivision and development as follows: <b>Policy 15.2.3.1</b> - Effects of climate change on new subdivision, <u>use</u> and development Ensure that <del>adequate allowances are made for</del> the projected effects of climate change <u>are reflected through dynamic adaptive options</u> in the design and location of new subdivision, <u>use</u> and development <u>including new urban zoning</u> throughout the district, including undertaking assessments where relevant that provide for:

		<p>...</p> <p>(ii) The projected increase in sea level, where relevant, as determined by national guidance <u>and the best available information</u>, but being not less than 1m by 2120;</p> <p>...</p> <p>(v) <u>The ability for natural systems to respond and adapt to the projected changes included in (i) to (iv) above;</u></p> <p>(vi) <u>A consideration of regionally specific vertical land movement.</u></p>
2103.27	Fire and Emergency New Zealand	<b>Retain</b> Policy 15.2.3.1 as proposed.
2105.7	Perry Group Limited	<b>Amend</b> Policy 15.2.3.1 to be specific to natural hazard areas as follows: (a) Ensure that adequate allowances are made for the projected effects of climate change in the design and location of new subdivision <u>located in natural hazard areas and</u> development throughout the district, ...
<i>FS3031.116</i>	<i>Waikato Regional Council</i>	<i>Oppose OS 2105.7</i>
2108.12	Ray Scrimgeour on behalf of Lou Sanson, Director General of Department of Conservation	<b>Amend</b> Policy 15.2.3.1 (a)(i) to include a more appropriate measure for rainfall.
2108.13	Director General of Department of Conservation	<b>Amend</b> Policy 15.2.3.1(a)(iv) to complete the sentence.
2147.6	Pokeno Village Holdings Limited	<b>Amend</b> Policy 15.2.3.1 - Effects of climate change on new subdivision and development to provide greater guidance on how this policy is applied or the circumstances in which the specific requirements are provided.
2151.17	Waikato-Tainui Te Kauhanganui Incorporated	<b>Amend</b> Policy 15.2.3.1 - Effects of climate change on new subdivision and development to clarify if it applies to current or future mapping, AND Amend Policy 15.2.3.1 - to refer to an RCP 8.5 scenario if future mapping for hazard identification applies, OR A worst-case scenario could be communicated in regard to implementing awareness and education rather than within planning maps per se.

2173.30	Federated Farmers of New Zealand	<b>Retain</b> Policy 15.2.3.1 – Effects of climate change on new subdivision and development as notified.
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### 8.3 Analysis

100. Fire and Emergency New Zealand [2103.27], Kainga Ora Homes and Communities [2094.18], Mercury NZ Limited [2053.38] (with *Waikato Regional Council* [FS3031.49] neutral) and Federated Farmers of New Zealand [2173.30] seek to Retain Policy 15.2.3.1 as notified. I recommend that these be accepted in part, subject to amendments made in response to other submissions as outlined below.
101. Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.1] seek to amend the typo in Policy 15.2.3.1(iv) so it reads “wind” instead of “win”. The Director General of Department of Conservation [2108.13] submits similarly. I recommend that these submissions be accepted, as it is an obvious error.
102. Fleming Ranch Trust [2075.2] seeks to amend Policy 15.2.3.1 to clarify changes that this will make to the building code beyond those required around heights over the Motariki Datum. In my opinion the policy is best left as a high-level statement, rather than containing specific measures and standards. Details of the kind mentioned would be better placed in the non-statutory information published outside the plan. I recommend rejection of this submission.
103. Waikato Regional Council [2102.85] seeks to amend Policy 15.2.3.1(a) to consider a range of RCPs that are projected to result in a range of sea level rise effects before and beyond 2100; and to further consider the inclusion of detailed directives in clauses (i) to (iv).
104. A Representative Concentration Pathway (RCP) is a greenhouse gas concentration (not emissions) trajectory adopted by the Intergovernmental Panel on Climate Change (IPCC).
- “Four pathways were used for climate modelling and research for the IPCC fifth Assessment Report (AR5) in 2014. The pathways describe different climate futures, all of which are considered possible depending on the volume of greenhouse gases (GHG) emitted in the years to come. The RCPs – originally RCP2.6, RCP4.5, RCP6, and RCP8.5 – are labelled after a possible range of radiative forcing values in the year 2100.”<sup>10</sup>
105. The submitter raises broad issues that cannot realistically be considered within the scope of the current process. The policy including the RCPs was evaluated in the section 32 report “Natural Hazards and Climate Change (2020). I rely on the conclusion of that report that the policy is the most appropriate way to achieve the objectives. I am not aware of any challenge to that conclusion.
106. The submission also calls for changes to paras (i) to (iv). Apart from para (ii), addressed under another submission below, the submission does not contain wording for any amendments to provide a starting point. Substantive changes to those provisions would entail restructuring and redesigning of the Planning Maps and other plan provisions. That would require detailed research, engagement and policy development, which is well outside the scope of the current process. I recommend that Waikato Regional Council [2102.85] be rejected.
107. Waikato Regional Council [2102.86] seeks to further amend Policy 15.2.3.1 to read:

<sup>10</sup> [https://en.wikipedia.org/wiki/Representative\\_Concentration\\_Pathway](https://en.wikipedia.org/wiki/Representative_Concentration_Pathway)

- (a) ~~Ensure that adequate allowances are made for the projected effects of climate change are reflected through dynamic adaptive options in the design and location of new subdivision, use and development including new urban zoning throughout the district, including undertaking assessments where relevant that provide for:~~

...

- (ii) The projected increase in sea level, where relevant, as determined by national guidance and the best available information, but being not less than 1m by 2120;

...

- (v) The ability for natural systems to respond and adapt to the projected changes included in (i) to (iv) above;  
 (vi) A consideration of regionally specific vertical land movement.

108. I do not support the proposed amendments to (a). The words “adequate allowances” should be retained, as these, in the policy context, ensure flexibility of responses determined in resource consents. The replacement of those words with the jargon phrase “dynamic adaptive options” would hinder the readability of the policy, close off some consenting options, and in practice add nothing to the current references to adaptation in the adjacent Objective 15.2.3 and Policy 15.2.3.2. Adding in “use” is not required here, as the policy is concerned with permanent changes to land. The addition of the reference to new urban zoning is redundant, as rezoning is effectively changing subdivision, use and development, which are already covered in the policy. Consideration of natural hazards will be inherent in any rezoning decision.
109. I support the change to (ii). The proposed amendment is a useful addition, as the best available information can include local modelling that will not be available through national guidance. I recommend accepting this change.
110. The proposed new (v) relates to the ability of natural systems to respond and adapt to climate change. I am not sure what is intended to be covered by natural systems and invite the submitter to clarify this in evidence.
111. The proposed new (vi) would add considerations of vertical ground movement. I understand this as relating to earthquake risks, which are not linked to climate change, and I recommend rejecting that part of the submission.
112. I recommend that Waikato Regional Council [2102.86] be accepted in part, to the extent that Policy 15.2.3.1 (a)(ii) be amended as submitted.
113. Perry Group Limited [2105.7] (opposed by *Waikato Regional Council [FS3031.116]*) seeks to Amend Policy 15.2.3.1 to be specific to natural hazard areas as follows:
- “(a) Ensure that adequate allowances are made for the projected effects of climate change in the design and location of new subdivision located in natural hazard areas and development throughout the district.”
114. I consider that this would reduce the scope of the policy, restricting it to currently known hazard areas. The policy needs to be able to encompass additional areas, if and when these are identified in future with expanding knowledge of the effects of climate change. I read the submission as a call for certainty around future development. I think that sufficient certainty is delivered by the rules, which mainly apply to mapped overlays. I would reject Perry Group Limited [2105.7].

115. The Director General of Department of Conservation [2108.12] seeks to amend Policy 15.2.3.1 (a)(i) to include a more appropriate measure for rainfall. The submission reason is that clarification is required to ensure that this policy makes sense.
116. I understand this submission to be asking for grammatical changes to clarify the wording. I agree that the wording could be improved, and recommend that this submission be accepted in part, with the following change to (i):
- (i) the projected increase in rainfall intensity, as determined by national guidance, ~~but~~ being in the event of a temperature rise of not less than 2.3°C by 2120;
117. Pokeno Village Holdings Limited [2147.6] seeks to amend Policy 15.2.3.1 to provide greater guidance on how this policy is applied or the circumstances in which the specific requirements are provided. The submission highlights the reference in the policy to undertaking assessments where relevant.
118. I understood the submission as asking for clarification of where an assessment might be relevant. I think sufficient guidance can be found in the plan, especially in 15.13 (Information requirements for resource consents) and rules detailing effects to be managed in mapped overlays. Information requirements for the unmapped hazard of liquefaction are detailed in 15.13. Information for land instability and fire is by its nature difficult to specify. However, I note that subdivision rules in the zone chapters already require geotechnical assessment of earthworks and building platforms<sup>11</sup>, and the parameters for land stability assessment are well known. In the case of fire, the rule only requires setbacks for residential development, so assessment needs to address only a narrow range of considerations. I see no need to amend the policy, and I recommend that Pokeno Village Holdings Limited [2147.6] be rejected.
119. Waikato-Tainui Te Kauhanganui Incorporated [2151.17] seeks to amend Policy 15.2.3. in various ways. Firstly, it seeks clarity on whether the policy applies to current or future mapping, and if future mapping, then it should refer to an RCP 8.5 scenario. I consider that this is already clear. The policy applies an RCP 8.5 scenario across the district, without reference to mapped areas. This is the best approach for a high-level policy that is intended to fix the policy settings based on particular forecast climate change parameters. Since mapping is not a factor, the third part of the submission does not need to be considered. I recommend that Waikato-Tainui Te Kauhanganui Incorporated [2151.17] be accepted in part, to the extent that the policy already includes the points raised.

#### 8.4 Recommendations

120. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** Fire and Emergency New Zealand [2103.27], Kainga Ora Homes and Communities [2094.18], Mercury NZ Limited [2053.38] and Federated Farmers of New Zealand [2173.30] and **reject** *Waikato Regional Council* [FS3031.49].
  - (b) **Accept** Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.1] and Director General of Department of Conservation [2108.13].
  - (c) **Reject** Fleming Ranch Trust [2075.2].
  - (d) **Reject** Waikato Regional Council [2102.85].

<sup>11</sup> E.g. geotechnical assessment required by rules 22.2.3.1 and 22.4.9.

- (e) **Accept in part** Waikato Regional Council [2102.86], to the extent that Policy 15.2.3.1 (a)(ii) be amended as submitted.
- (f) **Reject** Perry Group Limited [2105.7] and **accept** *Waikato Regional Council [FS3031.116]*.
- (g) **Accept in part** Director General of Department of Conservation [2108.12] to the extent that grammatical changes be made to that Policy 15.2.3.1 (a)(i).
- (h) **Reject** Pokeno Village Holdings Limited [2147.6].
- (i) **Accept in part** Waikato-Tainui Te Kauhanganui Incorporated [2151.17], to the extent that the policy already includes the points requested.

## 8.5 Recommended amendments

Policy 15.2.3.1 – Effects of climate change on new subdivision and development –

(a) Ensure that adequate allowances are made for the projected effects of climate change in the design and location of new subdivision and development throughout the district, including undertaking assessments where relevant that provide for:

- (i) the projected increase in rainfall intensity, as determined by national guidance, ~~but~~ being in the event of a temperature rise of<sup>12</sup> not less than 2.3°C by 2120;
- (ii) the projected increase in sea level, where relevant, as determined by national guidance and the best available information<sup>13</sup>, but being not less than 1m by 2120;
- (iii) in respect to new urban zoning, stress testing under the RCP 8.5 scenario for rainfall [1] and RCP 8.5H+ for sea level rise [2]; and
- (iv) in respect to the coastal environment, increases in storm surge, waves and wind.<sup>14</sup>

## 8.6 Section 32AA evaluation

121. The s32 report 'Natural Hazards and Climate Change' (2020) evaluates this policy. No additional evaluation of the amended text under s32AA is required, because the s32 evaluation of the original text adequately covers and justifies the minor amendments now proposed.

# 9 Climate Change – Policy 15.2.3.2

## 9.1 Introduction

122. The policy as notified reads:

“Policy 15.2.3.2 - Future land use planning and climate change

- (a) Increase the ability of the community to adapt to the effects of climate change when undertaking future land use planning by:
  - (i) ensuring the potential environmental and social costs of climate change, including effects on indigenous biodiversity (inland migration), historic heritage, Maaori Sites and Areas of Significance, mahinga kai, public health and safety, public access to the coast and waterway margins, and the built environment are addressed.

<sup>12</sup> Director General of Department of Conservation [2108.12]

<sup>13</sup> Waikato Regional Council [2102.86],

<sup>14</sup> Tainui Hapu Environmental Management Committee [2097.1] and Department of Conservation [2108.13]

- (ii) encouraging the incorporation of sustainable design measures within new subdivision, land use and development, including:
  - (A) low impact, stormwater management, urban design and green infrastructure;
  - (B) of relocatable buildings and structures in areas potentially at risk due to sea level rise or increased flood levels;
  - (C) efficient water storage;
  - (D) provision of renewable energy generation; and
  - (E) transferring to activities with lower greenhouse gas emissions.
- (iii) providing ongoing monitoring of changes to the environment due to climate change; and
- (iv) facilitating community discussion on adaptive pathways to manage the risks associated with climate change and incorporating them, where appropriate, into the district plan through plan changes.”

## 9.2 Submissions

123. Nine submissions and four further submissions were received on Policy 15.2.3.2.

<b>15.2.3.2</b>		
<b>Submission Point</b>	<b>Submitter</b>	<b>Decision requested</b>
2173.31	Federated Farmers of New Zealand	<b>Retain</b> Policy 15.2.3.2 – Future land use planning and climate change as notified.
2053.39	Mercury NZ Limited	<b>Retain</b> Policy 15.2.3.2
<i>FS3031.50</i>	<i>Waikato Regional Council</i>	<i>Neutral OS 2053.39</i>
2094.19	Kainga Ora Homes and Communities	<b>Retain</b> Policy 15.2.3.2(ii) Future land use planning and climate change as notified
2101.12	Transpower New Zealand Ltd	<b>Amend</b> Policy 15.2.3.2(ii)(D) as follows: (D) provision of renewable energy generation and its connection to the <u>National Grid</u> ; and [...].
2102.87	Waikato Regional Council	<b>Amend</b> Policy 15.2.3.2 - Future land use planning and climate change as follows: <del>Policy 15.2.3.2 - Future Land use planning and climate change</del> (a) Increase the ability of the community to adapt to the effects of climate change when undertaking <del>future land use planning</del> <u>and considering applications for subdivision, use and development</u> by: (i) [...] (ii) <del>encouraging</del> <b>requiring</b> the incorporation of sustainable design measures within new subdivision, land use and development, including: [...]

FS3027.34	Horticulture New Zealand	Oppose OS 2102.87
FS3033.22	Kainga Ora - Homes and Communities	Oppose OS 2102.87
2103.28	Fire and Emergency New Zealand	<b>Retain</b> Policy 15.2.3.2 as proposed.
2107.14	Heritage New Zealand Pouhere Taonga	<b>Retain</b> Policy 15.2.3.2
2149.6	Horticulture New Zealand	<b>Amend</b> Policy 15.2.3.2(a)(i) - Future land use planning and climate change to read: ... effects on indigenous biodiversity (inland migration), <u>food security</u> , <u>historic heritage</u> , <u>Maaori Sites</u> ...
FS3030.28	Federated Farmers New Zealand	Support OS 2149.6
2151.18	Waikato-Tainui Te Kauhanganui Incorporated	<p><b>Amend</b> Policy 15.2.3.2 (a) - to read</p> <p>(a) Increase the ability of the community to adapt to the effects of climate change when undertaking future land use planning by:</p> <p>(i) <del>Taking into consideration</del> <b>Ensuring</b> the potential environmental and social costs of climate change, including effects on indigenous biodiversity (inland migration), historic heritage, <b>Maaori Sites and Areas of Significance</b>, mahinga kai, public health and safety, public access to the coast and waterway margins, and the built environment <b>are addressed</b> when undertaking future land use planning.</p> <p>(ii) encouraging the incorporation of sustainable design measures within <del>new</del> subdivision, land use and development, including:</p> <p>(C) efficient water storage <b>for re-use</b>;</p> <p>(D) provision of renewable energy generation; and</p> <p>(E) transferring to activities with lower greenhouse gas emissions.</p> <p>(iii) providing ongoing monitoring of changes to the environment due to climate change; <del>and</del></p> <p>(iv) facilitating community discussion on adaptive pathways to manage the risks associated with climate change <b>including matters addressed in Policy 3.2.1(e)</b>, and incorporating them, where appropriate, into the district plan through plan changes.</p> <p>(v) <b>Raising community awareness of worst-case scenarios associated with climate change</b>, <b>AND</b></p> <p><b>Add new clause (b) to</b> Policy 15.2.3.2 - to include reference to the need to investigate and establish funding for adaption efforts, including reference to Maaori Freehold Land and a</p>

		reference to Council encouraging further direction and support from central government.
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### 9.3 Analysis

124. Federated Farmers of New Zealand [2173.31], Mercury NZ Limited [2053.39], Kainga Ora Homes and Communities [2094.19], Fire and Emergency New Zealand [2103.28], and Heritage New Zealand Pouhere Taonga [2107.14] seek to retain Policy 15.2.3.2. *Waikato Regional Council* [FS3031.50] lodged a neutral further submission to Mercury [2053.39]. I recommend that these submissions be accepted.
125. Waikato Regional Council [2102.87] seeks to amend Policy 15.2.3.2. The submission suggests a reference to consent applications in para (a) and a change to para (a)(ii), being to change “encouraging sustainable design measures” to “requiring” these. *Horticulture New Zealand* [FS3027.34] and *Kainga Ora* [FS3033.22] oppose the changes.
126. I consider those changes to be inappropriate. This policy comes under Objective 15.2.2, which is, in summary, a well-informed community aware of natural hazards and able to respond. The opening words of the policy are to increase the ability of the community to adapt to the effects of climate change. This includes “(iv) facilitating community discussion...”. The tone of the objective and policy are to change community attitudes through educative processes.
127. It would be out of place to add “requirements” or refer to consent applications in this context as this could undermine the intended approach and therefore prove counter productive. Also, I note that there are no rules that would implement the new policy wording.
128. I recommend Waikato Regional Council [2102.87] be rejected, and *Horticulture New Zealand* [FS3027.34] and *Kainga Ora* [FS3033.22] be accepted.
129. Transpower New Zealand Ltd [2101.12] seeks to amend Policy 15.2.3.2(ii)(D) to read as follows:
- “(D) provision of renewable energy generation and its connection to the National Grid.”
130. While I understand the value and importance of being able to connect renewable energy generation to the National Grid, I consider the proposed amendment to be out of place in this context, which concerns subdivision, land use and development at the scale of individual land parcels. I therefore believe that the reference in (D) to renewable energy is mainly referring to small on-site generation rather than large-scale projects. National grid decisions are made at a much broader scale, and the outcomes sought by the submitter would be better secured by the exercise of their designation powers. I recommend that this submission be rejected.
131. Horticulture New Zealand [2149.6] seeks to add “food security” to the effects to be addressed under 15.2.3.2(a)(i). *Federated Farmers New Zealand* [FS3030.28] supports this.
132. I accept that there are issues of food security related to climate change. Reduced crop yields as a result of drought are one example. However, I do not believe that food security has a place in Chapter 15, which addresses climate change only to the extent that it will affect natural hazards. Food security is not within the current definition of natural hazards; therefore I recommend that Horticulture New Zealand [2149.6] and *Federated Farmers New Zealand* [FS3030.28] be rejected.
133. Waikato-Tainui Te Kauhanganui Incorporated [2151.18] seeks to amend Policy 15.2.3.2 (a) to amend para (ii) and (iv) and add a new (v) and (b).

134. The proposed change to paragraph (a)(ii)(C) is for it to read: “efficient water storage for reuse”. I do not support the addition of those words. Reuse is only one of the reasons to promote water storage. Fire-fighting and drought resilience are other reasons for water storage linked to climate change. Adding the words sought would unnecessarily limit the scope of (C). Leaving the words out leaves it open for the consideration of water reuse along with other issues and options. I would reject this part of the submission.
135. The change sought to paragraph (a)(iv) is to add a cross reference to “Policy 3.2.1(e).” There is no policy with that number in Chapter 15 or Stage 1 PWDP, and I was not able to find reasons that clarified the intention. I invite the submitter to provide evidence around this. In the absence of that evidence, I would reject this part of the submission.
136. The new para (v) suggested would read: “(v) Raising community awareness of worst-case scenarios associated with climate change.” I believe that this is already covered in the plan. The plan adopts RCP 8.5, which is the currently recognised worst-case scenario. Para (iv) provides for facilitating community discussion on the risks associated with climate change, so I believe this aspect of the submission is covered adequately and the additional para (v) is not needed.
137. The last part of the submission asks for further clauses to be added to Policy 15.2.3.2 to refer to the need to investigate and establish funding for adaption efforts, including reference to Maaori Freehold Land and a reference to Council encouraging further direction and support from central government.
138. I was not able to find supporting reasons for this part of the submission. From the above wording, I consider that the issues raised are not RMA issues but matters that could be raised in submissions to the council on the long-term plan, especially issues around funding and interactions between council and Government. I am not clear about what reference to Maaori Freehold Land would be appropriate in the context of raising public awareness of climate change issues. I invite the submitter to address this in their hearing evidence.
139. For the reasons given, I recommend that Waikato-Tainui Te Kauhanganui Incorporated [2151.18] be rejected.

#### 9.4 Recommendations

140. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Federated Farmers of New Zealand [2173.31], Mercury NZ Limited [2053.39], Kainga Ora Homes and Communities [2094.19], Fire and Emergency New Zealand [2103.28], and Heritage New Zealand Pouhere Taonga [2107.14] and *Waikato Regional Council* [FS3031.50].
  - (b) **Reject** Waikato Regional Council [2102.87] and **accept** *Horticulture New Zealand* [FS3027.34] and *Kainga Ora* [FS3033.22].
  - (c) **Reject** Transpower New Zealand Ltd [2101.12].
  - (d) **Reject** *Horticulture New Zealand* [2149.6] and *Federated Farmers New Zealand* [FS3030.28].
  - (e) **Reject** Waikato-Tainui Te Kauhanganui Incorporated [2151.18].

#### 9.5 Recommended amendments

141. There are no amendments in this section.

## 10 Climate Change – Policy 15.2.3.3

### 10.1 Introduction

142. Policy 15.2.3.3 reads:

“Policy 15.2.3.3 Precautionary approach for dealing with uncertainty

- a) In areas throughout the district likely to be affected by climate change over the next 100 years, adopt a precautionary approach towards new subdivision, use and development which may have potentially significant or irreversible adverse effects, but for which there is incomplete or uncertain information.

### 10.2 Submissions

143. Five submissions and three further submissions were received.

15.2.3.3		
Submission Point	Submitter	Decision requested
2094.20	Kainga Ora Homes and Communities	<b>Retain</b> Policy 15.2.3.3 - Precautionary approach for dealing with uncertainty as notified.
2102.88	Waikato Regional Council	<b>Amend</b> Policy 15.2.3.3 - Precautionary approach for dealing with uncertainty as follows: (a) In areas through the district likely to be affected by climate change over <u>at least</u> the next 100 years, adopt a precautionary approach towards <u>land use change</u> , new subdivision, use and development which may have potentially significant or irreversible adverse effects, but for which there is incomplete or uncertain information.
<i>FS3033.23</i>	<i>Kainga Ora - Homes and Communities</i>	<i>Support OS 2102.88</i>
2103.29	Fire and Emergency New Zealand	<b>Retain</b> Policy as proposed.
2173.32	Federated Farmers of New Zealand	<b>Retain</b> Policy 15.2.3.3 – Precautionary approach for dealing with uncertainty as notified.
<i>FS3034.98</i>	<i>Mercury NZ Limited</i>	<i>Support OS 2173.32</i>
2053.40	Mercury NZ Limited	<b>Amend</b> Policy 15.2.3.3(a) to limit the burden of responsibility and limit the extent of the policy to areas where valid data sets exist. And <b>Add</b> a Council funded risk assessment within the Waikato River Catchment and within proposed land use zones and areas that are the subject of submissions for up zoning, and base risk upon available data sets including modelled effects, as well as photographic

		evidence, event reporting, and other relevant information.
FS3031.51	Waikato Regional Council	Neutral OS 2053.40

### 10.3 Analysis

144. Kainga Ora Homes and Communities [2094.20], Fire and Emergency New Zealand [2103.29], and Federated Farmers of New Zealand [2173.32] seek to retain Policy 15.2.3.3. *Mercury NZ Limited* [FS3034.98] supports [2173.32]. I recommend these be accepted.
145. Waikato Regional Council [2102.88] supported by *Kainga Ora - Homes and Communities* [FS3033.23] seeks to amend Policy 15.2.3.3 with two minor grammatical changes. The first change sought is to add “at least” before “the next 100 years”. I consider that this change would have no practical value, in a plan with an expected 10-year lifespan dealing with rapidly changing public expectations and climate change projections. The policy already acknowledges that there is incomplete and uncertain information in this field. I see 100 years as a suitable time horizon for current district plan purposes, and any longer-term projections would have little credibility.
146. The second change sought is to add “land use change” before “new subdivision, use and development.” I do not agree that adding these words would add value to the policy. District plans address land use change through controls on subdivision, use and development. The current words place no limit on the considerations that might contribute to future controls. I recommend that Waikato Regional Council [2102.88] and *Kainga Ora - Homes and Communities* [FS3033.23] be rejected.
147. Mercury NZ Limited [2053.40] seeks to amend Policy 15.2.3.3 to limit the burden of responsibility and limit the extent of the policy to areas where valid data sets exist. This would negate the purpose of the policy. A precautionary approach, by definition, arises in situations such as climate change, where there is incomplete and uncertain information, but significant risks if the worst-case scenario occurs. I recommend that this part of the submission be rejected.
148. Mercury NZ Limited [2053.40] also seeks a council-funded risk assessment within the Waikato River Catchment and within proposed land use zones and areas that are the subject of submissions for up-zoning, and base risk upon available data sets including modelled effects, as well as photographic evidence, event reporting, and other relevant information.
149. This has already been accomplished. The PWDP reflects expert advice obtained by the council and new modelling in relation to the Waikato River flood hazards. Natural hazards have long been important considerations in rezoning decisions, and this approach continues throughout the current district plan review. I recommend that Mercury NZ Limited [2053.40] be rejected along with *Waikato Regional Council* [FS3031.51].

### 10.4 Recommendations

150. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Kainga Ora Homes and Communities [2094.20], Fire and Emergency New Zealand [2103.29], Federated Farmers of New Zealand [2173.32] and Mercury NZ Limited [FS3034.98].
- (b) **Reject** Waikato Regional Council [2102.88] and *Kainga Ora - Homes and Communities* [FS3033.23].

(c) **Reject** Mercury NZ Limited [2053.40] along with *Waikato Regional Council* [FS3031.51].

## 10.5 Recommended amendments

151. There are no amendments in this section.

# 11 Climate Change – Policy 15.2.3.4

## 11.1 Introduction

152. This policy reads:

“Policy 15.2.3.4 - Provide sufficient setbacks for new development

- (a) Protect people, property and the environment from the projected adverse effects of climate change, including sea level rise, by providing sufficient setbacks from water bodies and the coast when assessing new development.
- (b) Ensure that, in establishing development setbacks, adequate consideration is given to:
- i) the protection of natural ecosystems, including opportunities for the inland migration of coastal habitats;
  - ii) the vulnerability of the community;
  - iii) the maintenance and enhancement of public access to the coast and public open space;
  - iv) the requirements of infrastructure; and
  - v) natural hazard mitigation provision, including the protection of natural defences.”

## 11.2 Submissions

153. Ten submissions and five further submissions were received.

15.2.3.4		
Submission Point	Submitter	Decision requested
2053.41	Mercury NZ Limited	<b>Retain</b> Policy 15.2.3.4.
<i>FS3031.52</i>	<i>Waikato Regional Council</i>	<i>Neutral OS 2053.41</i>
2094.21	Kainga Ora Homes and Communities	<b>Retain</b> Policy 15.2.3.4 Provide sufficient setbacks for new development except for the amendments sought below, and <b>Amend</b> Policy 15.2.3.4(b) to read: (b) Ensure that, in establishing development setbacks <u>for new development</u> , adequate consideration is given to: [...]
2097.2	Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust	<b>Delete</b> policy 15.2.3.4 (b)(iii). <b>Or</b> <b>Amend</b> Policy 15.2.3.4 to enable tangata whenua to maintain tino rangatiratanga over Maori Freehold land regarding foreshore access.

2096.1	Te Whaanga 2B3B2 & 2BI Ahu Whenua Trust	No specific decision sought
2101.13	Transpower New Zealand Ltd	<b>Retain</b> Policy 15.2.3.4 (b)(iv) as notified.
2102.89	Waikato Regional Council	<b>Amend</b> Policy 15.2.3.4 to further consider the implementation of this policy and the ability to amend (and increase) the setback requirements identified and actioned across the zone chapters or located in Chapter 15, <b>And</b> <b>Amend</b> the setback provisions across the Proposed Waikato District Plan (primarily located in the zone chapters as well as Chapter 15) to address concerns raised in the submission. <b>And</b> <b>Retain</b> Policy 15.2.3.4 (b) (i) to (v).
FS3020.45	Shand Properties Limited	Oppose OS 2102.89
FS3027.35	Horticulture New Zealand	Oppose OS 2102.89
2103.30	Fire and Emergency New Zealand	<b>Retain</b> Policy 15.2.3.4 as proposed.
2107.15	Heritage New Zealand Pouhere Taonga	<b>Add</b> new Policy 15.2.3.4(b)(vi) as follows: <u>(vi) the location and retention of historic heritage and sites and areas of significance to Maaori.</u>
2115.2	Rangitahi Limited	<b>Amend</b> Policy 15.2.3.4 (a) – Provide sufficient setbacks for new development, as follows: (a) Protect people, property and the environment from the projected adverse effects of climate change, including sea level rise, by providing sufficient setbacks, <u>as necessary</u> , from water bodies and the coast when assessing new development.
FS3034.49	Mercury NZ Limited	Oppose OS 2115.2
2149.7	Horticulture New Zealand	<b>Amend</b> Policy 15.2.3.4 by adding new provisions to Policy 15.2.3.4 - Provide for artificial crop protection structures and exclude artificial crop protection structures from building coverage, setback and daylight angle controls as sought in Appendix 3 of the evidence of Ms Wharfe <b>AND</b> <b>Amend</b> 15.2.3.4 - Provide sufficient setbacks for new development so that setback from waterbodies controls as sought in Appendix 3 of the evidence of Ms Wharfe.
2173.33	Federated Farmers of New Zealand	<b>Amend</b> Policy 15.2.3.4 – Provide sufficient setbacks for new development as follows: (a) <del>Protect people, property and the environment from the projected adverse effects</del>

		<p>of climate change, including sea level rise, <u>are managed</u> by providing sufficient setbacks from water bodies and the coast when assessing new <u>built</u> development.</p> <p>(b) Ensure that, in establishing development setbacks, adequate consideration is given to: (i) the <del>protection of</del> <u>effects on</u> natural ecosystems, including opportunities for the inland migration of coastal habitats.</p> <p>AND Any consequential amendments that may be required.</p>
FS3034.99	Mercury NZ Limited	Oppose OS 2173.33

### 11.3 Analysis

154. Fire and Emergency New Zealand [2103.30] and Mercury NZ Limited [2053.41] seek to retain Policy 15.2.3.4. *Waikato Regional Council* [FS3031.52] is neutral on [2053.41]. Transpower New Zealand Ltd [2101.13] seeks to retain Policy 15.2.3.4 (b)(iv) as notified. I rely on the s32 report that the policy is most appropriate, and I recommend that these submissions be accepted.
155. Waikato Regional Council [2102.89] seeks (in part) to retain Policy 15.2.3.4 (b) (i) to (v). It also seeks to amend Policy 15.2.3.4 to increase the setback requirements across the PWDP zone chapters or Chapter 15 to address concerns raised in the submission. *Shand Properties Limited* [FS3020.45] and *Horticulture New Zealand* [FS3027.35] oppose [2102.89].
156. The concern raised in the submission is that the coastal sensitivity areas extend further landward than the notional setbacks. I do not accept that there is a practical problem. The coastal sensitivity area rules (Rules 15.7.2 and 15.8.2) require restricted discretionary activity applications to be made for construction of a new building in a coastal sensitivity area. Applications will be assessed by reference to a range of natural hazard considerations, including alternative locations within a site.
157. I note that the submitter made a similar submission on Policy 15.2.1.17, which was assessed in the Natural Hazards (Coastal) H27C report and recommended to be rejected. Policies 15.2.1.17 and 15.2.3.4 both refer to setbacks without stating standard measurements. The policies allow for an appropriate setback distance to be assessed through the resource consent process, and this is included in the rules. I believe that this is the appropriate approach - whereby the policies set a broad direction and the rules and consent processes add the necessary detail for each site and development.
158. The request to change setbacks stated in zone chapters must be taken as a submission on Variation 2. While the variation does propose changes to rules in several zone chapters, it does not propose to change the setbacks, and I consider that this is out of scope of Variation 2.
159. I recommend that Waikato Regional Council [2102.89], *Shand Properties Limited* [FS3020.45] and *Horticulture New Zealand* [FS3027.35] be accepted in part, to the extent that Policy 15.2.3.4(b)(i) to (v) be retained.
160. Kainga Ora Homes and Communities [2094.21] seeks to amend the opening words of Policy 15.2.3.4(b) to read:
- “(b) Ensure that, in establishing development setbacks for new development, adequate consideration is given to: [...]”

161. I do not support this change. I consider that by its nature the policy can only apply to new development and it is not clear to me what outcomes would be changed by adding these words. In any case, the application of the policy to any kind of development is better stated in the rules, rather than loading the policy with detail. I consider that it is better to keep the policy wording general, and I recommend that Kainga Ora Homes and Communities [2094.21] be rejected.
162. Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.2] seek to delete Policy 15.2.3.4 (b)(iii) or amend the policy to enable tangata whenua to maintain tino rangatiratanga over Maaori Freehold land regarding foreshore access.
163. Related to this, Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust [2096.1] express support for Tainui Hapu Environmental Management Committee and Tainui o Tainui Trust submissions, and the ability for tangata whenua to exercise their tino Rangatiratanga over their whenua by sustainably managing via appropriate planning, mitigation and adaptation. No specific decision is requested.
164. The maintenance and enhancement of public access to and along the coast is a matter of national importance stated in the RMA, section 6. The link between public access and climate change is explained in the Waikato Regional Policy Statement Policy 12.1, which requires that public access be maintained and enhanced by “ensuring that subdivision, use and development do not constrain the ability of the land/water edge to adjust over time in response to natural processes, including the effects of climate change ...”.
165. Equally, as a matter of national importance, the plan needs to recognise and provide for the relationship of Maaori and their culture and traditions with their ancestral lands. This has been done in Objective 2.12. supported by Policies in Chapter 2. Other plan provisions recognise Te Tiriti o Waitangi as the founding legal document for New Zealand.
166. To satisfy all these considerations, the plan needs to provide flexibility around assessment of individual development proposals and sites. I believe the policy achieves that, noting that it is not giving priority to public access, simply requiring that “adequate consideration” be given to access, allowing other considerations to take precedence where appropriate. It is necessary to include the reference to public access, to give effect to the WRPS. I conclude that no amendment to the policy should be made in this respect, and I recommend that [2097.2] and [2096.1] be rejected.
167. Heritage New Zealand Pouhere Taonga [2107.15] seeks to add to Policy 15.2.3.4(b) new para (vi) as follows: “(vi) the location and retention of historic heritage and sites and areas of significance to Maaori.”
168. I do not support this addition because it is unrelated to management of natural hazard risks. Chapter 7 of PWDP contains objectives and policies in relation to heritage, implemented by rules in the zone chapters. Those provisions will apply to any new development that might affect heritage items, alongside any natural hazard issues. I consider that it is unnecessary and unhelpful to clutter the natural hazards provisions in the way proposed. I recommend that Heritage New Zealand Pouhere Taonga [2107.15] be rejected.
169. Rangitahi Limited [2115.2], opposed by *Mercury NZ Limited* [FS3034.49], seeks to amend Policy 15.2.3.4 (a) as follows:
- “(a) Protect people, property and the environment from the projected adverse effects of climate change, including sea level rise, by providing sufficient setbacks, as necessary, from water bodies and the coast when assessing new development.”

170. The explanation given in the submission is that 15.2.3.4(a) as proposed, does not account for recommendations or conclusions that are determined from site-specific investigation. In some cases, setbacks may not be required to achieve Objective 15.2.3. I consider that the existing wording of the policy (calling for “sufficient” setbacks) allows site-specific evidence to be taken into account in assessing development proposals. I do not agree that it is necessary to add “as necessary”, nor do I consider that those words would make any difference to outcomes. I recommend that *Rangitahi Limited* [2115.2] be rejected and *Mercury NZ Limited* [FS3034.49] be accepted.
171. Horticulture New Zealand [2149.7] seeks to amend Policy 15.2.3.4 to exclude artificial crop protection structures from building coverage, setback and daylight angle controls as sought in Appendix 3 of the evidence of Ms Wharfe.
172. This is one of several submissions from Horticulture New Zealand asking for crop protection structures to be excluded from natural hazards provisions. Artificial crop protection structures are described in the submission as consisting of poles and permeable netting. The submitter says that these structures are unlikely to have any implications for the listed considerations in Policy 15.2.3.4(b)(i)-(v). It seeks amendments to Policy 15.2.3.4 to exclude crop protection structures from setbacks. No specific wording is given, and I was unable to find any assistance in the evidence of Ms Wharfe, as mentioned in the submission.<sup>15</sup>
173. Policy 15.2.3.4 applies generally to “development” - a wide term that includes structures and buildings of all kinds. While the policy does encompass crop protection structures as described, it is worded to provide a flexible approach to assessment of resource consent applications and produce outcomes that respond to the true effects of any development.
174. I think that the issue perceived by the submitter is more apparent than real. There is no rule in Chapter 15 that would require resource consent for crop protection structures. There is no default rule in Chapter 15 requiring consents for activities not mentioned. This means that Policy 15.2.3.4 will rarely need to be applied to crop protection structures. The rare cases where the policy might apply could be where a rule in another chapter of the plan triggers a consent requirement for a crop protection structure, or the structure is a component of a wider development proposal that triggers a consent application.
175. I conclude that no change to the policy is warranted, given the wide discretion that it contains, and it will rarely apply to crop protection structures. Nor is any change required to rules, because there are no rules that mention crop protection structures. I recommend that Horticulture New Zealand [2149.7] be rejected.
176. In case the Panel wishes to consider plan amendments further, I would also comment that it will be challenging to define structures that can be exempted from natural hazard controls. I do not agree that crop protection structures as described are necessarily benign in regard to the effects of natural hazards. I am aware that ordinary farm fences can sometimes catch floating debris in a flood and have adverse effects by damming or diverting flood water. Unless there is a strict definition, it would be arguable that other structures such as tunnel houses are “crop protection structures”, even though they might also fall within the definition of “building” and have different effects in relation to natural hazards. A clear definition would be needed.
177. Federated Farmers of New Zealand [2173.33], opposed by *Mercury NZ Limited* [FS3034.99], seek to amend Policy 15.2.3.4 as follows:

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<sup>15</sup> Evidence of Ms Wharfe for Horticulture NZ to Hearing 18 Rural.

- (a) ~~Protect people, property and the environment from~~ the projected adverse effects of climate change, including sea level rise, are managed by providing sufficient setbacks from water bodies and the coast when assessing new built development.
- (b) Ensure that, in establishing development setbacks, adequate consideration is given to: (i) the ~~protection of effects on~~ natural ecosystems, including opportunities for the inland migration of coastal habitats...

178. I do not support these changes, which would unduly weaken the policy. In para (a) the proposed change of “protect people, property and the environment” to “adverse effects are managed” would remove the purpose of the assessment, making the policy less effective. The policy as notified accords with the RMA definition of natural hazards in focusing on effects on human life, property, and the environment. An amendment to confine the policy to built development would unreasonably exclude consideration of other relevant and important activities such as vegetation clearance and earthworks.
179. The proposed amendment to para (b) would similarly weaken the original wording. Changing “protect” to “consider effects” would not give the same signal to decision makers. Protection is used in RMA s6, in relation to significant indigenous vegetation and habitats, and I consider that it is legitimate to use the term “protect” in this context. The assessment process can determine the degree of protection that might be needed in the case.
180. I recommend that Federated Farmers of New Zealand [2173.33] be rejected and *Mercury NZ Limited* [FS3034.99] be accepted.

#### 11.4 Recommendations

181. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Fire and Emergency New Zealand [2103.30], Mercury NZ Limited [2053.41] and Transpower New Zealand Ltd [2101.13] and **reject** *Waikato Regional Council* [FS3031.52].
  - (b) **Accept in part** Waikato Regional Council [2102.89], *Shand Properties Limited* [FS3020.45] and *Horticulture New Zealand* [FS3027.35], to the extent that Policies 15.2.3.4(b)(i) to (v) be retained.
  - (c) **Reject** Kainga Ora Homes and Communities [2094.21].
  - (d) **Reject** Tainui Hapu Environmental Management Committee & Tainui o Tainui Charitable Trust [2097.2], and Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust [2096.1].
  - (e) **Reject** Heritage New Zealand Pouhere Taonga [2107.15].
  - (f) **Reject** Rangitahi Limited [2115.2] and **accept** *Mercury NZ Limited* [FS3034.49].
  - (g) **Reject** Horticulture New Zealand [2149.7].
  - (h) **Reject** Federated Farmers of New Zealand [2173.33] and **accept** *Mercury NZ Limited* [FS3034.99].

#### 11.5 Recommended amendments

182. There are no amendments in this section.

## 12 Climate Change – Policy 15.2.3.5

### 12.1 Introduction

183. Policy 15.2.3.5 reads:

“Policy 15.2.3.5 - Assess the impact of climate change on the level of natural hazard risks.

- (a) For all new subdivision, use and development requiring rezoning or a resource consent, ensure that account is taken of the projected effects of climate change over the next 100 years when assessing any identified risks from natural hazards, and their effects on people, property, infrastructure and the environment.
- (b) Ensure that, when assessing the effects of climate change on the level of natural hazard risk in accordance with Policy 15.2.3.5(a) above, the allowances in Policy 15.2.3.1(a)(i)-(iv) are applied.
- (c) Where the assessment required by Policy 15.2.3.5(a) and Policy 15.2.3.5(b) above indicates that natural hazards are likely to be exacerbated by climate change, ensure that subdivision and development are designed and located to avoid, or appropriately mitigate, any increased and cumulative risk, including increased risk of flooding, liquefaction, coastal inundation, coastal erosion, slope instability, fire, and drought.

### 12.2 Submissions

184. Seven submissions and five further submissions were received.

15.2.3.5		
Submission Point	Submitter	Decision requested
2053.42	Mercury NZ Limited	<b>Amend</b> Policy 15.2.3.5 to limit the burden of responsibility and limit the extent of policy to areas where valid data sets exist. And <b>Add</b> a Council funded risk assessment within the Waikato River Catchment and within proposed land use zones and areas that are the subject of submissions for up zoning, and base risk upon available data sets including modelled effects, as well as photographic evidence, event reporting, and other relevant information.
FS3027.47	Horticulture New Zealand	Support OS 2053.42
FS3031.53	Waikato Regional Council	Neutral OS 2053.42
2094.22	Kainga Ora Homes and Communities	<b>Retain</b> Policy 15.2.3.5 (a) and (c) Assess the impact of climate change on the level of natural hazard risk as notified
2101.14	Transpower New Zealand Ltd	<b>Amend</b> Policy 15.2.3.5 to confine its scope of application to resource consents for activities and natural hazards that are of relevance.

FS3013.3	Heritage New Zealand Pouhere Taonga	Oppose OS 2101.14
2102.90	Waikato Regional Council	<b>Amend</b> Policy 15.2.3.5 to ensure the policy can be more clearly applied in relation to individual policies, including through cross referencing. <b>Or</b> <b>Amend</b> Policy 15.2.3.5 - Assess the impact of climate change on the level of natural hazard risks, by locating the policy earlier in the provisions.
2102.91	Waikato Regional Council	<b>Amend</b> Policy 15.2.3.5(c) - Assess the impact of climate change on the level of natural hazard risks as follows: (c) Where the assessment required by Policy 15.2.3.5(a) and Policy 15.2.3.5(b) above indicates that natural hazards are likely to be exacerbated by climate change, ensure that subdivision and development are designed and located to <u>first avoid, or managed to acceptable levels</u> <del>appropriately mitigate</del> , any increased and cumulative risk <del>from natural hazards including increased risk of flooding, liquefaction, coastal inundation, coastal erosion, slope instability, fire, and drought.</del>
FS3021.9	Counties Power	Support OS 2102.91
FS3034.153	Mercury NZ Limited	Support OS 2102.91
2103.31	Fire and Emergency New Zealand	<b>Retain</b> Policy 15.2.3.5 as proposed.
2106.7	WEL Networks Limited	<b>Retain</b> Policy 15.2.3.5 as proposed.
2107.16	Heritage New Zealand Pouhere Taonga	<b>Amend</b> Policy 15.2.3 .5(a) as follows: (a) For all new subdivision, use and development requiring rezoning or a resource consent, ensure that account is taken of the natural effects of climate change over the next 100 years when assessing any identified risks from natural hazards, and their effects on people, property, infrastructure and the environment <u>including on historic heritage and sites and areas of significance to Maaori.</u>
2115.3	Rangitahi Limited	<b>Amend</b> Policy 15.2.3.5 -Assess the impact of climate change on the level of natural hazard risks, as follows: (a) [...] (b) Ensure that, when assessing the effects of climate change on the level of natural hazard risk in accordance with Policy 15.2.3.5(a) above, the allowances in Policy 15.2.3.1(a(i)-(iv), <u>where relevant</u> , are applied. (c) [...]

FS3034.50	Mercury NZ Limited	Oppose OS 2115.3
2173.34	Federated Farmers of New Zealand	<b>Retain</b> Policy 15.2.3.5 – Assess the impact of climate change on the level of natural hazard risks as notified.

### 12.3 Analysis

185. Fire and Emergency New Zealand [2103.31], WEL Networks Limited [2106.7], and Federated Farmers of New Zealand [2173.34] seek to retain Policy 15.2.3.5. Kainga Ora Homes and Communities [2094.22] seek to retain Policies 15.2.3.5 (a) and (c). I rely on the section s32 report that the policy is most appropriate to achieve the objectives, and I recommend that Fire and Emergency New Zealand [2103.31], WEL Networks Limited [2106.7], Federated Farmers of New Zealand [2173.34] and Kainga Ora Homes and Communities [2094.22] be accepted.
186. Mercury NZ Limited [2053.42] seek to amend Policy 15.2.3.5 to limit the burden of responsibility and limit the extent of policy to areas where valid data sets exist. And  
Add a Council funded risk assessment within the Waikato River Catchment and within proposed land use zones and areas that are the subject of submissions for up-zoning, and base risk upon available datasets including modelled effects, as well as photographic evidence, event reporting, and other relevant information.
187. This is supported by *Horticulture New Zealand* [FS3027.47], and *Waikato Regional Council* [FS3031.53] is neutral.
188. I disagree with changing Policy 15.2.3.5 in this way. It does not rely on any specified knowledge of climate change effects but allows these to be assessed as resource consent applications over time. Each assessment can utilise the information that exists at the time. With the existing wording the policy will never become outdated, because assessment will adjust as climate change research provides new insights in future.
189. The second part of the submission asks for council-funded risk assessments of the Waikato River Catchment. I consider that these have already been done, as detailed in the section 32 report. The modelling was not done at the scale of individual properties or developments, but it is reasonable for that to be left to be done by developers as needed.
190. I disagree with both parts of the submissions, and I recommend that Mercury NZ Limited [2053.42], *Horticulture New Zealand* [FS3027.47] and *Waikato Regional Council* [FS3031.53] be rejected.
191. Transpower New Zealand Ltd [2101.14] seek to amend Policy 15.2.3.5 to confine its application to resource consents for activities and natural hazards that are of relevance. *Heritage New Zealand Pouhere Taonga* [FS3013.3] oppose this.
192. I am not sure how the submitter would determine “relevance”. The policy is worded to require assessments to determine the relevance of climate change to a specific development proposal. I consider that that provides an effective and efficient approach, and I recommend that Transpower New Zealand Ltd [2101.14] be rejected and *Heritage New Zealand Pouhere Taonga* [FS3013.3] accepted.
193. Waikato Regional Council [2102.90] seek to amend Policy 15.2.3.5 to ensure that the policy can be more clearly applied in relation to individual policies, including through cross referencing or by locating the policy earlier in the provisions.

194. The submission states that the submitter supports the inclusion of the policy, but seeks wording changes so that it is more clearly applied in relation to other policies. No specific wording change is given in the submission. I do not understand what is being sought, and I invite the submitter to clarify this in their evidence. In the absence of that evidence, I recommend that Waikato Regional Council [2102.90] be rejected.
195. Waikato Regional Council [2102.91] seek to amend Policy 15.2.3.5(c) as follows:  
“(c) Where the assessment required by Policy 15.2.3.5(a) and Policy 15.2.3.5(b) above indicates that natural hazards are likely to be exacerbated by climate change, ensure that subdivision and development are designed and located to first avoid, or managed to acceptable levels ~~appropriately mitigate, any increased and cumulative risk from natural hazards including increased risk of flooding, liquefaction, coastal inundation, coastal erosion, slope instability, fire, and drought.~~”
196. *Counties Power [FS3021.9]* and *Mercury NZ Limited [FS3034.153]* support this.
197. I support these changes, with some rewording to improve the original and submitted drafting. For the change to “first avoid”, “avoid” was awkwardly placed originally and out of step with the WRPS Method 13.1.1. That method requires district plans to ensure that intolerable risk is reduced to tolerable or acceptable levels, and I would include those WRPS words in the text, to provide for reduction as well as avoidance, in accordance with the WRPS. I accept that “managed to acceptable levels” better aligns with the Waikato Regional Policy Statement (WRPS) Method 13.1.1, and I support that amendment. I support substituting “natural hazards” for the words at the end as a worthwhile simplification.
198. I recommend the following revised wording:  
“(c) Where the assessment required by Policy 15.2.3.5(a) and ~~Policy 15.2.3.5(b)~~ indicates that natural hazards are likely to be exacerbated by climate change, ensure that subdivision and development are designed and located so that any increased and cumulative risk from natural hazards is managed to acceptable levels, and any intolerable risks are avoided or reduced to tolerable or acceptable levels ~~to avoid, or appropriately mitigate, any increased and cumulative risk, including increased risk of flooding, liquefaction, coastal inundation, coastal erosion, slope instability, fire, and drought.~~”
199. The phrase “managed to acceptable levels” appears before “avoidance of intolerable risks”, in accordance with good drafting practice, which is to state the general case first.
200. I recommend that Waikato Regional Council [2102.91], *Counties Power [FS3021.9]* and *Mercury NZ Limited [FS3034.153]* be accepted in part, to the extent that Policy 15.2.3.5(c) be amended as indicated.
201. Heritage New Zealand Pouhere Taonga [2107.16] seek to amend Policy 15.2.3.5(a) by adding at the end, “including on historic heritage and sites and areas of significance to Maaori.”
202. I do not support this addition because it is unrelated to management of natural hazard risks. Chapter 7 of the PWDP contains objectives and policies in relation to heritage, implemented by rules in the zone chapters. Those provisions will apply to any new development that might affect heritage items, alongside any natural hazard issues. I consider it unnecessary and unhelpful to clutter the natural hazards provisions in the manner proposed. I recommend that Heritage New Zealand Pouhere Taonga [2107.16] be rejected.
203. Rangitahi Limited [2115.3], opposed by *Mercury NZ Limited [FS3034.50]*, seek to amend Policy 15.2.3.5(b) as follows:

“(b) Ensure that, when assessing the effects of climate change on the level of natural hazard risk in accordance with Policy 15.2.3.5(a) above, the allowances in Policy 15.2.3.1(a)(i)-(iv), where relevant, are applied.”

204. The submitter’s reason is that this amendment would better align (b) with the proposed wording of Policy 15.2.3.1. I do not support that change, because it would raise doubts as to whether Policy 15.2.3.5(a) applies to all new subdivision use and development, as it states, or whether there are exceptions. I consider that that would undermine the effectiveness of the provision. Subdivision, use and development that is unaffected by climate change is best identified in the resource consent assessment. I recommend that Rangitahi Limited [2115.3] be rejected and *Mercury NZ Limited [FS3034.50]* be accepted.

## 12.4 Recommendations

205. For the reasons above I recommend that the Hearings Panel:

- (a) **Accept** Fire and Emergency New Zealand [2103.31], WEL Networks Limited [2106.7], Federated Farmers of New Zealand [2173.34] and Kainga Ora Homes and Communities [2094.22].
- (b) **Reject** Mercury NZ Limited [2053.42], *Horticulture New Zealand [FS3027.47]* and *Waikato Regional Council [FS3031.53]*.
- (c) **Reject** Transpower New Zealand Ltd [2101.14] and **accept** *Heritage New Zealand Pouhere Taonga [FS3013.3]*.
- (d) **Reject** Waikato Regional Council [2102.90]
- (e) **Accept in part** Waikato Regional Council [2102.91], *Counties Power [FS3021.9]* and *Mercury NZ Limited [FS3034.153]*, to the extent that Policy 15.2.3.5(c) be amended as shown below.
- (f) **Reject** *Heritage New Zealand Pouhere Taonga [2107.16]*.
- (g) **Reject** Rangitahi Limited [2115.3] and **accept** *Mercury NZ Limited [FS3034.50]*.

## 12.5 Recommended amendments

### Policy 15.2.3.5:

- (c) ~~Where the assessment required by Policy 15.2.3.5(a) and Policy 15.2.3.5(b) indicates that natural hazards are likely to be exacerbated by climate change, ensure that subdivision and development are designed and located so that any increased and cumulative risk from natural hazards is managed to acceptable levels and any intolerable risks are avoided or reduced to tolerable or acceptable levels to avoid, or appropriately mitigate, any increased and cumulative risk, including increased risk of flooding, liquefaction, coastal inundation, coastal erosion, slope instability, fire, and drought.”<sup>16</sup>~~

## 12.6 Section 32AA evaluation

206. No section 32AA evaluation is required for the amendments to Policy 15.2.3.5. The changes are minor wording changes to better align the policy with the WRPS. The planning outcomes will not be materially changed by these amendments.

<sup>16</sup> Waikato Regional Council [2102.91], Counties Power [FS3021.9] and Mercury NZ Limited [FS3034.153],

## 13 Chapter 15.14 Definitions

### 13.1 Introduction

207. Chapter 15.14 contains definitions of terms used in Chapter 15. Definitions are also contained in Chapter 13 of the PWDP. Both sets of definitions are potentially affected by definitions set out in the National Planning Standards.

### 13.2 Submissions

208. 25 submission points and 18 further submission points were received, referring to seven definitions.
209. The following submissions were made:

Submission point	Submitter	Decision requested
2146.10	Waikato District Council	Move all definitions in Chapter 15.14 Definitions to Chapter 13 Definitions, AND any consequential amendments as required.
2149.18	Horticulture New Zealand	<b>Retain</b> Rule 15.13.1 Information requirements for all resource consent applications addressing natural hazards, <b>AND</b> <b>Amend</b> Chapter 13 Definitions so that the definition of earthworks excludes ancillary rural earthworks, <b>AND</b> Adopt changes sought elsewhere in the submission relating to farm buildings or habitable/non-habitable buildings.
FS3030.38	Federated Farmers New Zealand	Support OS 2149.18
2102.24	Waikato Regional Council	<b>Amend</b> the definition of Emergency service facility in Chapter 15.14 Definitions as follows: <b>Emergency or critical community service facility</b> <u>Means a fire station, ambulance station, police station or an emergency co- ordination facility that functions as a critical community facility utilised for emergency response and recovery.</u>
FS3025.4	Fire and Emergency New Zealand	Oppose OS 2102.24
FS3034.127	Mercury NZ Limited	Support OS 2102.24
2094.57	Kainga Ora Homes and Communities	<b>Retain</b> the definition of “Emergency Service facility” in section 15.14, and relocate definition to Chapter 13 of PWDP.
2103.40	Fire and Emergency New Zealand	<b>Retain</b> definition for Emergency Service Facilities in Section 15.14 Definitions as proposed.

2173.75	Federated Farmers of New Zealand	<b>Retain</b> the definition of Emergency service facility in Chapter 15.14 Definitions as notified.
<i>FS3025.13</i>	<i>Fire and Emergency New Zealand</i>	<i>Support OS 2173.75</i>
2094.58	Kainga Ora Homes and Communities	<b>Retain</b> the definition of “Farm building” in section 15.14, and relocate definition to Chapter 13 of PWDP.
2149.20	Horticulture New Zealand	<b>Amend</b> Chapter 15.14 definition for farm building to read: For the purposes of Chapter 15, means a building that supports the primary use of the site for farming. It excludes residential units <u>and artificial crop protection structures.</u>
2173.76	Federated Farmers of NZ	<b>Retain</b> the definition of Farm building in Chapter 15.14 Definitions as notified.
<i>FS3027.26</i>	<i>Horticulture NZ</i>	<i>Support OS 2173.76</i>
2139.15	Ports of Auckland Limited	<b>Retain</b> Section 15.14 Definitions as notified, except as set out in submission
2094.65	Kainga Ora Homes and Communities	<b>Retain</b> the definition of “Minor upgrading” in section 15.14, and relocate definition to Chapter 13 of PWDP.
2101.25	Trans-power NZ Ltd	<b>Retain</b> definition for “Minor upgrading” in Section 15.14 - Definitions as proposed.
2104.10	Genesis Energy Limited	<b>Amend</b> the definition for Minor Upgrading in Section 15.14 - Definitions as follows: Minor upgrading For the purposes of Chapter 15 means an increase in the capacity, efficiency or security of existing <u>infrastructure and utilities</u> where this utilises existing structures and networks and/or structures and networks of a similar scale and character.
<i>FS3003.4</i>	<i>Transpower NZ Ltd</i>	<i>Support OS 2104.10</i>
2106.28	WEL Networks Limited	<b>Retain</b> the definition for minor upgrading in Section 15.14 Definitions as proposed.
<i>FS3021.21</i>	<i>Counties Power</i>	<i>Support OS 2106.28</i>
2123.9	Counties Power Limited	<b>Retain</b> Section 15.14 – Definition of Minor upgrading.
2173.83	Federated Farmers of New Zealand	<b>Retain</b> the definition of Minor upgrading in Chapter 15.14 Definitions as notified.
2102.19	Waikato Regional Council	<b>Add</b> a new definition – ‘Natural hazard sensitive land use’ to Chapter 15.14 as follows: <b>Natural hazard sensitive land use</b>

		<u>Means any residential activity, education facility (including a childcare facility, wananga and koohanga reo), papakaainga building, resthome, retirement village, travellers' accommodation, home stay, health facility or hospital.</u>
FS3011.1	Ministry of Education	Oppose OS 2102.19
FS3030.9	Federated Farmers New Zealand	Oppose OS 2102.19
FS3033.9	Kainga Ora - Homes and Communities	Oppose OS 2102.19
FS3020.38	Shand Properties Limited	Neutral OS 2102.19
FS3027.39	Horticulture New Zealand	Support OS 2102.19
FS3034.124	Mercury NZ Limited	Support OS 2102.19
2094.66	Kainga Ora Homes and Communities	<b>Delete</b> the definition of "Risk Assessment" from chapter 15.14.
2102.93	Waikato Regional Council	<b>Amend</b> the definition of risk assessment in Chapter 15.14 – Definitions, to better reflect national or regional guidance and assessment requirements. Suggested wording from the Waikato Regional Council Risk Assessment Framework as follows: <u>A methodology to determine the nature and extent of risk by analysing potential hazards and evaluating existing conditions of vulnerability that together could potentially harm exposed people, property, services, livelihoods and the environment on which they depend.</u>
2173.84	Federated Farmers of New Zealand	<b>Retain</b> the definition of Risk assessment in Chapter 15.14 Definitions as notified.
2053.82	Mercury NZ Limited	<b>Retain</b> 15.14 - Definitions of Utility.
FS3031.93	Waikato Regional Council	Neutral OS 2053.82
2094.68	Kainga Ora Homes and Communities	<b>Retain</b> the definition of "Utility" in section 15.14, and relocate definition to Chapter 13 of PWDP.
FS3021.4	Counties Power	Support OS 2094.68
2101.26	Transpower New Zealand Ltd	<b>Amend</b> the definition of "Utility" in section 15.14 - Definitions by adding text to para (1) (a) as follows; transmission lines and <u>substations</u> , electricity distribution lines, and associated equipment; and [...]

FS3021.6	Counties Power	Support OS 2101.26
2106.29	WEL Networks Limited	<b>Retain</b> the definition for utility in Section 15.14 Definitions as proposed.
FS3021.22	Counties Power	Support OS 2106.29
2123.10	Counties Power Limited	<b>Retain</b> section 15.14 - Definitions for Utility
2173.86	Federated Farmers of New Zealand	<b>Retain</b> the definition of Utility in Chapter 15.14 Definitions as notified.
FS3021.26	Counties Power	Support OS 2173.86

### 13.3 Analysis

210. Waikato District Council [2146.10] seeks to move all definitions in Chapter 15.14 to Chapter 13 Definitions, with any consequential amendments as required. Kainga Ora [2094.57, 2094.58, and 2094.68] makes the same request. I consider that moving the definitions into Chapter 13 is a logical step that will simplify the plan layout, benefiting plan users. There is also a legislative requirement to do this, as the National Planning Standards 14.7 require district plans to have a single definitions list.
211. The planning standards allow definitions to specify their context. In Chapter 15, several of the definitions (farm building, minor upgrading and utility) are intended to apply only to Chapter 15. These are all prefaced “For the purposes of Chapter 15...” and that wording should be retained in Chapter 13.
212. I recommend that all the definitions in Chapter 15 be moved to Chapter 13, and that submissions [2146.10], [2094.57], [2094.58], and [2094.68] be accepted.
213. Ports of Auckland Limited [2139.15] expresses general support for the 15.14 definitions as notified. I recommend that [2139.15] be accepted in part, subject to changes made in response to other submissions as outlined below. Ports of Auckland [2139.16] separately ask for changes to the definition of “flood ponding area”. That submission is addressed in report H27C Flood hazards.

#### Earthworks

214. Horticulture New Zealand [2149.18] seeks to amend the definition of “earthworks” to exclude ancillary rural earthworks. *Federated Farmers New Zealand* [FS3030.38] support this.
215. There is no definition of “earthworks” in Chapter 15, and I consider that this submission is outside of the scope of Stage 2 and should be rejected.
216. If the Panel wishes to consider this submission further, I note that this submitter made a submission - [419.118] - to the same effect on Stage 1 of PWDP. This was assessed in report H5 Definitions, para 674, and recommended to be rejected because earthworks are defined in the National Planning Standards and cannot be changed.
217. In my opinion, if the outcomes sought by Horticulture New Zealand were to be considered further, these would be better implemented by amending rules to give appropriate activity status to named activities, instead of by amending definitions. The term “earthworks” appears

in many policies and rules throughout the plan, and any amendment to the definition to fit one specific context could easily produce unanticipated outcomes elsewhere.

218. I recommend that Horticulture New Zealand [2149.18] and *Federated Farmers New Zealand [FS3030.38]* be rejected.

### **Emergency service facility**

219. A definition of “Emergency service facility” does not appear in the National Planning Standards. It is defined in Chapter 15.14 of the PWDP as:

“Means a fire station, ambulance station, police station or an emergency co-ordination facility.”

220. The term is used in Policy 15.2.1.3 (avoid locating emergency service facilities in significant risk areas) and Rules 15.5.4, 15.9.3 and 15.10.3 make emergency service facilities a non-complying activity.

221. Submissions to retain the definition of “Emergency service facility” were received from Kainga Ora Homes and Communities [2094.57], Fire and Emergency New Zealand [2103.40], and Federated Farmers of New Zealand [2173.75], and *Fire and Emergency New Zealand [FS3025.13]* support Federated Farmers. Kainga Ora also ask for the definition to be relocated to Chapter 13 of the PWDP.

222. Report H5 Definitions (para 968) recommends that a definition of “emergency services” (police, fire and ambulance) be added to Chapter 13. Consistent with this, it is desirable to reword the definition of “Emergency service facility” in Chapter 15 to incorporate the term “emergency services.” I recommend the following change to the wording, to promote the internal consistency of defined terms, without changing the planning outcomes:

“ ‘Emergency service facility’ means a ~~fire station, ambulance station, police station~~ facility used by emergency services, or an emergency co-ordination facility.”

223. Accordingly, I recommend that Kainga Ora Homes and Communities [2094.57], Fire and Emergency New Zealand [2103.40] and *[FS3025.13]*, and Federated Farmers of New Zealand [2173.75] be accepted in part, to the extent that the definition be retained, subject to the amendments recommended.

224. Waikato Regional Council [2102.24] seeks to amend the definition of “Emergency service facility” in Chapter 15.14 Definitions as follows:

“Emergency or critical community service facility

Means a fire station, ambulance station, police station or an emergency co- ordination facility that functions as a critical community facility utilised for emergency response and recovery.”

225. *Fire and Emergency New Zealand [FS3025.4]* opposes and *Mercury NZ Limited [FS3034.127]* supports this submission.

226. The suggested amendment would narrow the scope of emergency co-ordination facilities to those utilised for emergency response and recovery. If there is a case for narrowing the scope, then that would be better addressed in the wording of the rules, not the definition. I consider that the changes requested would overcomplicate and make the definition unworkable.

227. I recommend that Waikato Regional Council [2102.24] and *Mercury NZ Limited [FS3034.127]* be rejected, and *Fire and Emergency New Zealand [FS3025.4]* be accepted.

### **Farm building**

228. “Farm building” as defined in 15.14, “means a building that supports the primary use of the site for farming. It excludes residential units.” Rules permit some farm buildings in hazard areas. Other buildings require consents.
229. Kainga Ora Homes and Communities [2094.58] and Federated Farmers of New Zealand [2173.76] seek to retain the definition of “farm building”. Kainga Ora also ask for the definition to be relocated to Chapter 13 of the PWDP, as discussed previously. *Horticulture New Zealand* [FS3027.26] supports Federated Farmers.
230. I consider the definition to be the most appropriate. I recommend that Kainga Ora Homes and Communities [2094.58], Federated Farmers of New Zealand [2173.76] and *Horticulture New Zealand* [FS3027.26] be accepted.
231. Horticulture New Zealand [2149.20] seeks to amend Chapter 15.14 definition for “farm building” to read:  
     “For the purposes of Chapter 15, means a building that supports the primary use of the site for farming. It excludes residential units and artificial crop protection structures.”
232. This submission relates to the submitter’s points [2149.7] addressed above, as well as [2149.3, 2149.4 and 2149.12], which are addressed in report H27C Flood hazards. Those submissions seek new provisions relating to the control of artificial crop protection structures. I express no opinion on the merits of those submissions and leave the assessment to the author of report H27C Flood hazards.
233. My comments are limited to the requested change to the definition of “farm building”. Farm buildings need to be considered a subset of “buildings”, as defined separately in PWDP Chapter 13.
234. The Horticulture New Zealand submission describes artificial crop protection structures as large supporting posts around the boundary of the crop, with netting or permeable material covering horizontal and vertical surfaces.
235. Structures fitting that description are not “buildings” within the PWDP definition, which excludes (in para e) a structure that is permeable and less than 4 metres in height to protect crops for agricultural use. It follows from this that the amendment proposed in the submission is redundant. Structures that are not buildings could not be “farm buildings”, therefore it is unnecessary to exclude them.
236. I recommend that Horticulture New Zealand [2149.20] be rejected. I note there is duplication of this submission point in Horticulture New Zealand [2149.3], and I recommend that [2149.3] be rejected in part, to the extent that it seeks the same amendment to the definition of farm building.

### **Minor upgrading**

237. Minor upgrading is defined in Chapter 15.14:  
     “For the purposes of Chapter 15 means an increase in the capacity, efficiency or security of existing utilities where this utilises existing structures and networks and/or structures and networks of a similar scale and character.”
238. “Minor upgrading” appears in Policy 15.2.1.5, and numerous rules (e.g. 15.4.1 P5 and P6) that provide for minor upgrading of existing utilities to be a permitted activity.

239. Submissions to retain the definition of “Minor Upgrading” were received from Kainga Ora Homes and Communities [2094.65], Transpower New Zealand Ltd [2101.25], Federated Farmers of New Zealand [2173.83], Counties Power Limited [2123.9] and WEL Networks Limited [2106.28]. *Counties Power [FS3021.21]* supports WEL. I consider that the definition is the most appropriate, and recommend the submissions be accepted.
240. Genesis Energy Limited [2104.10], supported by *Transpower New Zealand Ltd [FS3003.4]*, seeks to amend the definition for Minor Upgrading as follows:  
 “For the purposes of Chapter 15 means an increase in the capacity, efficiency or security of existing infrastructure and utilities where this utilises existing structures and networks and/or structures and networks of a similar scale and character.  
*Transpower New Zealand Ltd [FS3003.4]* supports this.
241. If agreed to, this amendment would have the effect of extending permitted activity status to the minor upgrade of infrastructure as well as utilities. This would reverse a specific decision made in the design of Chapter 15.
242. The term utility was used instead of infrastructure in Chapter 15 rules, due to the broad nature of the infrastructure definition in Chapter 13 of the Proposed District Plan. Some infrastructure and utilities will be included by both definitions, so some infrastructure upgrades will enjoy the permitted activity status under the Chapter 15 rules.
243. I consider that if a change to that approach is found to be desirable, it would be better implemented by amending rules to give appropriate activity status to named activities, instead of by amending a definition. Submissions to that effect are considered in other reports.
244. I recommend that Genesis Energy Limited [2104.10] and *Transpower New Zealand Ltd [FS3003.4]* be rejected.

**New definition – “Natural hazard sensitive land use”**

245. Waikato Regional Council [2102.19] seeks to add a new definition – ‘Natural hazard sensitive land use’ to Chapter 15.14. This is to support rule amendments proposed in other submissions<sup>17</sup> from this submitter that would introduce the term to the rules. The proposed rule amendments were considered in reports H27C and H27D and recommended to be rejected. The proposed definition is redundant if the Panel accept those recommendations, and I recommend that [2102.19] be rejected.
246. Consequentially, I recommend acceptance of further submissions opposing [2102.19] from *Ministry of Education [FS3011.1]*, *Federated Farmers New Zealand [FS3030.9]* and *Kainga Ora - Homes and Communities [FS3033.9]*. I recommend that the Panel reject supporting further submissions from *Horticulture New Zealand [FS3027.39]* and *Mercury NZ Limited [FS3034.124]*, and reject the neutral further submission of *Shand Properties Limited [FS3020.38]*.
247. If the Panel decides to further consider adopting a definition of “Natural hazard sensitive land use”, I suggest rewording to avoid overlaps with National Planning Standards definitions along these lines:  
 “... means any residential activity, education facility (~~including a childcare facility, wananga and kōhanga reo~~), papakaainga building, ~~resthome~~, retirement village, travellers’ visitor accommodation, home stay, health facility or hospital.”

<sup>17</sup> Submissions WRC [2102.19, 2102.20, 2101.63, 2102.64.]

### **Risk assessment**

248. Risk assessment is defined in Chapters 13 and 15 of the PWDP and means “the overall process of risk identification, risk analysis and risk evaluation”.
249. The words “risk” and “assessment” appear frequently by themselves throughout Chapter 15, but the defined term “risk assessment” appears in only five places, plus one imprecise reference:
- Policy 15.2.1.16 calls for a “detailed site-specific **risk assessment**” of development in the coastal sensitivity areas.
  - Policy 15.2.1.22 contains the defined term in its title, “Liquefaction prone land **risk assessment**” but does not employ the term in the body of the policy, which refers to “an assessment by a geotechnical specialist”.
  - Rules 15.7.2 and 15.8.2 control new buildings in coastal sensitivity areas as restricted discretionary activities. Both rules contain a matter of discretion (d) referring to a site-specific coastal hazard **risk assessment**.
  - Section 15.13.1(1)(b) (information requirements) requires resource consent applications to include an **assessment** of natural hazard **risk** for all hazard types and provides some content requirements.
  - Section 15.13.4 (information requirements) provides:  
 “For any Restricted Discretionary Activity land use and subdivision applications within the Defended Area, the following information is required to the extent relevant to the scale of the proposal: a **risk assessment**, carried out by a suitably qualified and experienced **risk assessment practitioner**, which identifies the nature and level of residual risk, and details of appropriate methods to further reduce residual risk, where appropriate.” (My emphasis.)
250. The only provision of general application is Section 15.13.1(1)(b) (information requirements), but this does not use the defined term in its exact form. The other occurrences of the definition are limited to particular contexts: Policy 15.2.1.16 and Rules 15.7.2 and 15.8.2 are specific to coastal sensitivity areas; Rule 15.2.1.22 applies to liquefaction rules; Section 15.13.4 is specific to the Defended Area.
251. The sparse wording of the definition seems to accord with its limited appearance in plan provisions. There are many other references to assessments in Chapter 15 that can be interpreted as requiring assessment of risk. I conclude that this definition is not intended to determine the assessment methodology applied to consent applications, but depending on context, to provide no more than a starting point for other considerations and assessment approaches.
252. Kainga Ora Homes and Communities [2094.66] seeks to delete the definition of “Risk Assessment” from 15.14 because Chapter 13 already includes this definition. Federated Farmers of New Zealand [2173.84] seeks to retain the definition of “Risk assessment”.
253. The definitions of “risk assessment” in Chapters 13 and 15 are the same. Given my earlier recommendation to move the definitions to Chapter 13, I recommend that Kainga Ora Homes and Communities [2094.66] and Federated Farmers of New Zealand [2173.84] be accepted in part, to the extent that the definition of “risk assessment” be deleted from Chapter 15 but retained in Chapter 13.

254. It is relevant to note that the definition in Chapter 13 attracted no submissions and is therefore settled. If the Panel were to decide to change the definition in response to Stage 2 submissions, I suggest that the amended definition be added to Chapter 13 alongside the original definition, with the qualification “Risk assessment means, in relation to natural hazards ...”.
255. Waikato Regional Council [2102.93] seeks to amend the definition of “risk assessment” in Chapter 15.14 to read:
- “A methodology to determine the nature and extent of risk by analysing potential hazards and evaluating existing conditions of vulnerability that together could potentially harm exposed people, property, services, livelihoods and the environment on which they depend.”
256. The submitter says that this better reflects national or regional guidance and assessment requirements. The suggested wording is from a WRC Risk Assessment Framework.
257. I note that the suggested wording includes consideration of “vulnerability”, which is an important aspect of risk assessment not mentioned in the existing definition (but neither does it rule out consideration of vulnerability). Apart from that I see little practical difference between them. Both wordings leave practitioners wide scope to develop methodologies suitable for each context. In practice, I expect that neither definition will make much difference to risk assessment methodologies adopted for each case. Methodologies are much more likely to be determined by local expertise coupled with scientific literature on risk assessment and climate change.
258. I am not convinced by the evidence I have that there is much value in changing the definition as submitted. I invite the submitter to include in their evidence an explanation of the practical difference it might make. In the absence of that evidence, I recommend that Waikato Regional Council [2102.93] be rejected.

### **Utility**

259. The definition for Utility was developed specifically for Chapter 15 so that certain infrastructure and network utilities could be provided for within the rule as permitted, restricted discretionary or discretionary activities. This approach ensured that each utility was not required to be listed within each rule and avoided the use of the wider term “infrastructure” defined in Chapter 13.
260. Numerous rules refer to utilities, with different consent status in some hazard overlays. Generally, the rules permit maintenance and minor upgrading of existing utilities. New utilities generally require consents.
261. Submissions to retain the definition of utility were received from Mercury NZ Limited [2053.82], Kainga Ora Homes and Communities [2094.68], WEL Networks Limited [2106.29], Counties Power Limited [2123.10] and Federated Farmers of New Zealand [2173.86]. Kainga Ora also asked for the definition to be relocated to Chapter 13 of the PWDP.
262. *Waikato Regional Council [FS3031.93]* was neutral on Mercury. *Counties Power [FS3021.4, FS3021.22 and FS3021.26]* supported Kainga Ora, WEL and Federated Farmers.
263. I recommend that the definition be retained, subject to an amendment made under another submission outlined below. Accordingly, I recommend acceptance in part of Mercury NZ Limited [2053.82], Kainga Ora Homes and Communities [2094.68], WEL Networks Limited [2106.29], Counties Power Limited [2123.10], Federated Farmers of New Zealand [2173.86]

and *Counties Power* [FS3021.4, FS3021.22 and FS3021.26]. I recommend that *Waikato Regional Council* [FS3031.93] be rejected.

264. Transpower New Zealand Ltd [2101.26], supported by *Counties Power* [FS3021.6], seeks to amend the definition of Utility by adding “substation” to para (1)(a):
- “... transmission lines and substations, electricity distribution lines, and associated equipment; and ...”.
265. The most obvious practical change that this would bring about is that the plan would then generally permit maintenance and minor upgrading of existing substations in hazard areas. In this respect, the amendment seems to me to be appropriate and reasonable.
266. New substation developments would still require consent following the amendment. The consent status would vary between hazard areas. In the High Risk Coastal Areas, a new substation would be a utility and at least discretionary. It would be non-complying if the substation facility included a building (under Rules 15.9.2 D5 and 15.9.3 NCI).
267. In the High Risk Flood Area as notified, a new substation is not provided for in the rules, therefore would be a discretionary activity. With the submitted amendment to the definition, a new substation would be included as a utility, and have restricted discretionary activity status under Rule 15.5.2, but would still be assessed for natural hazard-related considerations. Again, it would be non-complying if the substation facility included a building (Rule 15.5.4 NCI).
268. In summary, I conclude that a new substation would be at least a restricted discretionary activity after this amendment. In these circumstances, there will be adequate assessment of future proposals for new substations, and I support the change.
269. I note also that network utility operators such as Transpower have designation powers to enable their activities, so the rules are not a determining factor in controlling development of this nature.
270. I recommend that Transpower New Zealand Ltd [2101.26] and *Counties Power* [FS3021.6] be accepted, and “substation” be added to the definition of Utility para (1)(a).
271. Polices 15.2.1.4 and 15.2.1.5 provide identical policies for new and existing infrastructure and utilities.

### 13.4 Recommendations

272. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** Waikato District Council [2146.10] and Kainga Ora [2094.57, 2094.58, and 2094.68].
  - (b) **Accept in part** Ports of Auckland Limited [2139.15], and retain the definitions subject to changes made in response to other submissions.
  - (c) **Reject** Horticulture New Zealand [2149.18] and *Federated Farmers New Zealand* [FS3030.38].
  - (d) **Accept in part** Kainga Ora Homes and Communities [2094.57], Fire and Emergency New Zealand [2103.40] and [FS3025.13], and Federated Farmers of New Zealand [2173.75], to the extent that the definition of “emergency service facility” be retained, subject to the amendments recommended.
  - (e) **Reject** Waikato Regional Council [2102.24] and *Mercury NZ Limited* [FS3034.127] and **accept** *Fire and Emergency New Zealand* [FS3025.4].

- (f) **Accept** Kainga Ora Homes and Communities [2094.58], Federated Farmers of New Zealand [2173.76] and *Horticulture New Zealand* [FS3027.26].
- (g) **Reject** Horticulture New Zealand [2149.20] and **reject in part** Horticulture New Zealand [2149.3], to the extent that it seeks the same amendment to the definition of farm building.
- (h) **Accept** Kainga Ora Homes and Communities [2094.65], Transpower New Zealand Ltd [2101.25], Federated Farmers of New Zealand [2173.83], Counties Power Limited [2123.9] and WEL Networks Limited [2106.28], and *Counties Power* [FS3021.21]
- (i) **Reject** Genesis Energy Limited [2104.10], and *Transpower New Zealand Ltd* [FS3003.4].
- (j) **Reject** Waikato Regional Council [2102.19], *Horticulture New Zealand* [FS3027.39], *Mercury NZ Limited* [FS3034.124] and *Shand Properties Limited* [FS3020.38]. **Accept** Ministry of Education [FS3011.1], *Federated Farmers New Zealand* [FS3030.9] and *Kainga Ora - Homes and Communities* [FS3033.9].
- (k) **Reject** Waikato Regional Council [2102.93].
- (l) **Accept in part** Kainga Ora Homes and Communities [2094.66] and Federated Farmers of New Zealand [2173.84], to the extent that the definition of risk assessment be deleted from Chapter 15, but retained in Chapter 13.
- (m) **Accept in part** Mercury NZ Limited [2053.82], Kainga Ora Homes and Communities [2094.68], WEL Networks Limited [2106.29], Counties Power Limited [2123.10], Federated Farmers of New Zealand [2173.86] and *Counties Power* [FS3021.4, FS3021.22 and FS3021.26], to the extent that the definition of utility is retained, subject to amendment under another submission. **Reject** *Waikato Regional Council* [FS3031.93].
- (n) **Accept** Transpower New Zealand Ltd [2101.26] and *Counties Power* [FS3021.6] and add "substation" to the definition of Utility para (1)(a).

### 13.5 Recommended amendments

273. The following amendments are recommended:

**Move** the definitions in Chapter 15.14 into Chapter 13, subject to recommended changes.<sup>18</sup>

**Remove** duplication of the definition of “risk assessment” when moving definitions between Chapter 15.14 and Chapter 13.<sup>19</sup>

**Amend** the Chapter 15.14 definition of “Emergency service facility” as follows:

~~‘Emergency service facility’ Means a fire station, ambulance station, police station or an emergency co-ordination facility.’~~  
 ‘Emergency service facility’ means a facility used by emergency services, or an emergency co-ordination facility.’<sup>20</sup>

**Amend** the Chapter 15.14 definition of “utility” as follows:

**Utility**  
 For the purpose of Chapter 15 Natural Hazards means:

<sup>18</sup> [2146.10], [2094.57, 2094.58, and 2094.68]; National Planning Standards.

<sup>19</sup> [2094.66]

<sup>20</sup> Clause 16

- (l) Transformation, transmission, generation or distribution of electricity provided by network utility operators or requiring authorities, including:
- (a) transmission lines and substations, electricity distribution lines and associated equipment; and ...<sup>21</sup>

### 13.6 Section 32AA evaluation

274. No section 32AA evaluation is required for moving definitions in Chapter 15.14 into Chapter 13, as this is required by the National Planning Standards and will make no difference to planning outcomes.
275. No section 32AA evaluation is required for removing duplicated definitions, as this will make no difference to planning outcomes.

#### ***Amendment to add “substation” to the definition of utility***

276. The section 32 report 'Natural Hazards and Climate Change' (2020) evaluates the rules and associated definitions. Little additional evaluation of the amended text of the amended definition of “utility” under section 32AA is required, because the section 32 evaluation of the original text adequately covers and justifies the minor amendments now proposed.
277. The recommended change to the plan has limited scope. In practical terms, it will enable maintenance and minor upgrade of existing Transpower substations as a permitted activity. This represents an improvement in the effectiveness and efficiency of rules, saving unnecessary consenting costs and delays, while preserving infrastructure in working order and delivering service to the community with less than minor adverse effects.
278. A new substation would continue to require resource consent, with slightly different consent status in some hazard areas. In all areas, consent is required at least for a restricted discretionary activity, ensuring assessment of effects in all cases. Risks from natural hazards will still be avoided or appropriately mitigated. The section 32 report evaluation does not require amendment in this respect.
279. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the definition.

#### ***Decision about most appropriate option***

280. The relevant objective is 15.2.1: “A resilient community where the risks from natural hazards on people, property, infrastructure and the environment from subdivision, use and development of land are avoided or appropriately mitigated.”
281. For the reasons above, the amendment to the definition is considered to be the most appropriate way to achieve the objective.

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<sup>21</sup> Transpower New Zealand Ltd [2101.26] and Counties Power [FS3021.6]