

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan – Stage 2

Hearing 27E: Chapter 15: Natural Hazards and Climate Change – Land Stability, Liquefaction, Mine Subsidence

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List of submitters and further submitters addressed in this report

Original Submitter	Submission number
Blair Everett	2032
Chris & Sue Harris	2128
Collier Consultants Ltd	2105
Dennis Warrick Young	2177
Dilworth Trust Board	2161
Elaine & Eric Wright	2024
Falesa & Leitu Fesolai Sila	2183 2185 2186
Federated Farmers of New Zealand	2103 2173
Heritage New Zealand Pouhere Taonga	2107
Huntly Community Board	2189
Kainga Ora Homes and Communities	2094
Pokeno Village Holdings Limited	2147
Ports of Auckland Limited	2139
Raglan Collective	2133
RG de Leeuw Construction Limited	2138
Scott Foster	2090
Shand Properties Ltd	2136
Spark New Zealand Trading Limited	2040
Sushil Kumar	2120 2145
Tamara Pairaudeau	2064
Transpower New Zealand Ltd	2101
Waikato District Council	2146
Waikato Regional Council	2102
Waikato-Tainui Te Kauhanganui Incorporated	2151
WEL Networks Limited	2106

Further Submitter	Submission number
<i>Blair Everett</i>	<i>FS3019</i>
<i>Horticulture New Zealand</i>	<i>FS3027</i>
<i>Kainga Ora – Homes and Communities</i>	<i>FS3033</i>
<i>KiwiRail Holdings Limited</i>	<i>FS3010</i>
<i>Noel Smith</i>	<i>FS3017</i>
<i>Shand Properties Limited</i>	<i>FS3020</i>
<i>Timberline Contracting</i>	<i>FS3032</i>
<i>Transpower New Zealand Ltd</i>	<i>FS3003</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 full name is Grant Robert Eccles.
2. I hold the qualification of a Bachelor of Resource and Environmental Planning from Massey University and I am a principal planner for Tonkin and Taylor based in Hamilton. I was admitted as a Member of the New Zealand Planning Institute in 2001. I have 24 years' professional planning experience and have been a planning consultant based in Hamilton for the last 22 years. As a result, I have worked with various versions of the Waikato District Plan, and I am familiar with the historic and current resource management issues facing the Waikato District.
3. I am familiar with and experienced in both the preparation of plans and the processing of resource consents under the Resource Management Act 1991 (RMA). From 2008 to 2013 I lead the review of the Ruapehu District Plan, from the inception of consultation through to the resolution of Environment Court appeals. Throughout my career I have prepared submissions to District and Regional planning documents throughout the North Island on behalf of numerous clients in the private and public sectors.
4. I have given expert planning evidence at local authority hearings, Environment Court, District Court, and Board of Inquiry hearings. I have provided planning assistance to the Boards of Inquiry established to hear the applications for the Te Mihi and Tauhara II Geothermal developments near Taupo, and the King Salmon Plan Change and Consent applications in the Marlborough Sounds.
5. I have also assisted a client in the agricultural sector in the preparation of submissions and further submissions to Proposed Plan Change I to the Waikato Regional Plan (known as the "Healthy Rivers" Plan Change). The Healthy Rivers Plan Change proposes to regulate discharges from land use in the rural sector in order to improve the water quality of the Waipa and Waikato Rivers.

I.2 Code of Conduct

6. 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.
7. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan ("PWDP") hearings commissioners. I have had no prior involvement in the preparation of the PWDP.

I.3 Conflict of Interest

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

I.4 Preparation of this report

9. The scope of evidence relates to evaluation of submissions and further submissions received in relation to the provisions in Chapter 15 related to the specific natural hazards of land stability, liquefaction and mine subsidence.
10. 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.

11. In preparing this report I rely on expert advice sought from Mr Eric Bird and Mr Doug Johnson (from Tonkin + Taylor) with regard to technical aspects of the land stability, liquefaction and mine subsidence risk topics respectively.

2 Scope of Report

2.1 Matters addressed by this report

12. This report is prepared in accordance with section 42A of the RMA and considers submissions that were received by the Council in relation to the provisions relating to the management of land stability, liquefaction and Huntly mine subsidence hazards in Chapter 15: Natural Hazards and Climate Change.

2.2 Overview of the topic / chapter

13. The PDP manages land stability, liquefaction and mine subsidence risk by including objectives, policies and rules which require geotechnical investigations to be undertaken prior to any subdivision or development. The level of mitigation required is also determined via these assessments, with the intention of ensuring that the site is suitable for the intended use in accordance with the RMA.
14. While land stability and liquefaction risk are assessed on a site-by-site basis, the PDP retains and expands the existing 'Mine Subsidence Risk Area' overlay in Huntly East to identify the sites with possible subsidence risk, where associated land use rules and restrictions will apply. The expansion of the extent of the overlay relied upon expert advice provided by Ian R Brown Associates Ltd (IRBA), TerraFirma Mining Limited and Resource Development Consultants Ltd (RDCL).
15. The Natural Hazards Section 32 report notes the following:

21. Mine Subsidence Risk Area

The Mine Subsidence Risk Area identifies land in Huntly East that is currently at risk of subsidence due to historic underground coal mining activities and the subsequent closure and refilling of the Huntly East underground mine.

22. Liquefaction

Liquefaction areas have not been identified on the plan maps, however additional assessment matters have been included in some subdivision and land use rules which may require a liquefaction assessment to be carried out before subdivision or development takes place.

23. Slope Instability

Areas of slope instability have also not been identified on the planning maps. To comprehensively identify these areas over the entire district is not practical given the size of the district and the changing circumstances in which slope instability occurs (often after high rainfall or seismic events). Therefore, a set of policies have been developed and assessment matters included in relevant rules to ensure assessment of this hazard occurs before subdivision or development takes place.'

16. Further discussion on these reports is included in the technical review report from Doug Johnson (Tonkin + Taylor) attached to this report as Appendix 4.

2.3 Statutory requirements

17. Natural hazard risk is largely regulated by the Building Act 2004. However, this statute does not cover the effects of natural hazards on land use activities. These issues are covered by the Resource Management Act 1991 (RMA).

Resource Management Act 1991

18. Part II and section 6 of the RMA are particularly relevant to this hearing, given that a matter of national importance is 'the management of significant risks from natural hazards.'

19. Under the RMA, regional councils and territorial authorities have specific functions to manage natural hazards.
20. The definition of natural hazard in Section 2 of the RMA is as follows:
***Natural hazard** means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.*
21. Section 106 of the RMA outlines the basis upon which a consent authority may refuse subdivision consent where there is a significant risk from natural hazards. An assessment of the risk requires a combined assessment of the likelihood of natural hazards occurring (whether individually or in combination), the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage. Conditions can be included in consents for the purpose of avoiding, remedying or mitigating the effects assessed.
22. Section 108 of the RMA sets out the types of conditions which can be included in resource consents.

Building Act 2004

23. Section 71 of the Building Act sets out limitations and restrictions for building on land subject to natural hazards. 'Natural hazard' includes erosion, falling debris, subsidence, inundation or slippage. It is noted that this definition is narrower than the RMA definition, excluding earthquakes, and consequently liquefaction as a contemplated effect.
24. Building consent is refused if the construction will be subject to natural hazards, or is likely to accelerate, worsen, or result in a natural hazard. However, this does not apply if provision has been made to protect the land and building work from the natural hazard, or restore damage to the land or property.
25. Section 72 of the Building Act sets out circumstances where building consent must be granted, particularly in the case where the work will not accelerate, worsen or result in a natural hazard and a waiver can be granted.
26. Sections 73 and 74 set out the notification process for consents processed under section 72, particularly with regard to entry of the relevant information on the Record of Title.
27. There are limited situations in which a Council can prevent new buildings in natural hazard areas, therefore the RMA is important for land use management in this regard.

National Policy Statements/Ministry for the Environment Publications

28. There are no National Policy Statements that are relevant to this hearing topic.
29. The Ministry for the Environment¹ notes that '*Although a National Policy Statement (NPS) on natural hazards was signalled on the Forward agenda for national direction in 2016, this is being reconsidered in light of the recommendations of the Climate Change Adaptation Technical Working Group in the publication: Adapting to climate change in New Zealand: Recommendations from the Climate Change Adaptation Technical Working Group released in 2018.*'
30. I further note that the Ministry for the Environment guidance document publication 'Planning and engineering guidance for potentially liquefaction-prone land – Resource Management Act and Building Act aspects', issued by MBIE and MfE in September 2017 is relevant in this case.

¹ Ministry for the Environment. 2021. <https://www.mfe.govt.nz/more/natural-hazard-management/managing-natural-hazards>

31. Further discussion on this document is included in the technical report from Eric Bird (Tonkin + Taylor) attached to this report in Appendix 4.

National Environmental Standards

32. There are no National Environmental Standards that are relevant to this hearing topic.

National Planning Standards

33. The National Planning Standards (planning standards) were introduced as part of the 2017 amendments to the RMA.
34. Chapter 7 of the National Planning Standards provides mandatory direction for a stand-alone chapter on 'Natural Hazards'.
35. To that end, the Proposed District Plan structure is consistent with the National Planning Standards.

Waikato Regional Policy Statement

36. The Waikato Regional Policy Statement (WRPS) includes the following policy for natural hazards:

4.2.10 Natural Hazards

For the purposes of avoiding or mitigating natural hazards, territorial authorities shall be responsible for the control of the use of land except for the following, which shall be the responsibility of the Waikato Regional Council:

- a) the control of the use of land in the coastal marine area and the beds of lakes and rivers; and
b) the control of structures in primary hazard zones.*

37. With regard to natural hazards, the WRPS includes policies 13.1 Natural hazard risk management approach, 13.2 Manage Activities to reduce the risks from natural hazards, and 13.3 High impact, low probability natural hazard events.

Vision and Strategy for the Waikato River

38. The Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa o Waikato is relevant to this hearing topic, to the extent that the management of land to address the natural hazards to which this hearing relates has the potential to have adverse effects on the health and wellbeing of the Waikato River.

Waikato Regional Plan

39. The Waikato Regional Plan does not include any specific controls for the management of natural hazards.

Iwi Management Plans

40. There are two relevant iwi management plans that have been considered as part of this hearing report. They are:

Waikato-Tainui Environmental Plan

41. In the Waikato-Tainui Environmental Plan, Chapter 17 sets out the issues, objectives, policies and methods with regard to natural hazards. The three objectives cover land use and structures (17.3.1), risk management (17.3.2), and climate change (17.3.3).

42. Objective 17.3.1 states:

'Land use and the construction of structures occurs in a way that does not increase the risk or magnitude of a natural hazard event, and that does not increase the risk or effects on human life or activity in the event that a natural hazard event occurs.'

Maniapoto Environmental Management Plan

43. Part 20 of the Maniapoto Environment Management Plan sets out the issues, objectives, policies and actions relating to natural hazards. The three objectives cover land use and activities (20.3.1, 20.3.2) and Preparedness and Resilience (20.3.3).

44. Objective 20.3.1 states:

To ensure land use activities are located to avoid significant risk of damage from natural hazards and to avoid the need for expensive natural hazard defence or mitigation infrastructure.

2.4 Procedural matters

45. There are no procedural matters to consider for this hearing topic.

3 Consideration of submissions received

3.1 Overview of submissions

46. 29 submissions and nine further submissions were received that are relevant to this hearing topic. 140 submission points were received in total (12 on land stability, 32 on liquefaction, and 96 on mine subsidence). The amendments sought to the PWDP can be generally summarised as follows:

- Amend the Land Stability policies to recognise the contribution that stormwater disposal can make to coastal flooding.
- Amend the approach to managing Liquefaction to undertake a Council-funded district-wide assessment rather than requiring individual site assessments for every subdivision or development.
- Amend the approach to managing Mine Subsidence at Huntly to include further assessments to either retain the existing operative spatial extent of the mine subsidence hazard overlay, or undertake further research to provide greater justification, certainty and accuracy for the new overlay extent. The Huntly mine subsidence overlay is believed by submitters to have been inappropriately modelled and mapped, applying to properties that are not at risk.
- Amend the activity status of development, earthworks and subdivision to a less stringent status in the Mine Subsidence Risk Area overlay. At present all activity, apart from earthworks, that cannot comply as a permitted activity, defaults to discretionary status. Subdivision is a discretionary activity.

3.2 Structure of this report

47. Given the number, nature and extent of the submissions and further submissions received, I have structured the Section 42A report based on topics as follows:

Topic 1: Land Stability

4.1 Policy 15.2.1.19

4.2 Policy 15.2.1.21

Topic 2: Liquefaction

5.1 Chapter 15

- 5.2 Provision 15.1 (6)
- 5.3 Provision 15.1 (14)
- 5.4 Policy 15.2.1.22
- 5.5 Policy 15.2.1.23
- 5.6 Liquefaction 15.12
- 5.7 Overview of method 15.12.1
- 5.8 Additional matters 15.12.2
- 5.9 Additional matters 15.12.3
- 5.10 Information requirements 15.13.2
- 5.11 Definitions 15.14

Topic 3: Mine Subsidence

- 6.1 Policy 15.2.1.20
- 6.2 Mine Subsidence Risk Area 15.11
- 6.3 Permitted Activities 15.11.1
- 6.4 Permitted Activity Rule 15.11.1 P1
- 6.5 Permitted Activity Rule 15.11.1 P2
- 6.6 Permitted Activity Rule 15.11.1 P3
- 6.7 Permitted Activity Rule 15.11.1 P4
- 6.8 Restricted Discretionary Activities 15.11.2
- 6.9 Restricted Discretionary Activity Rule 15.11.2 RD1
- 6.10 Discretionary Activities 15.11.3
- 6.11 Discretionary Activity Rule 15.11.3 D1
- 6.12 Discretionary Activity Rule 15.11.3 D2
- 6.13 Definitions 15.14
- 6.14 Map 20.2

4 Topic 1: Land Stability

48. Discussion and analysis of the submissions on land stability are arranged as follows:

- 4.1 Policy 15.2.1.19
- 4.2 Policy 15.2.1.21

4.1 Policy 15.2.1.19

4.1.1 Introduction

49. Policy 15.2.1.19 – Development on land subject to instability or subsidence states:
- (a) *Avoid locating new subdivision, use and development, including rezoning, on land assessed as being subject to, or likely to be subject to, instability or subsidence, unless appropriate mitigation is provided and the activity does not increase the risk to people, property or infrastructure.*

4.1.2 Submissions

50. Six submission points (see table below) were received regarding this policy. Four submissions request amendments and two are in support of the notified text [2094.14], [2106.6].
51. Two of the submissions requesting amendments seek the inclusion of further elements [2107.13], [2102.46].
52. One of the submissions does not state the amendment requested [2177.3].
53. One of the submissions requests development to be allowed when assessed as acceptable and tolerable [2173.21].
54. The following submissions were made:

Submission point	Submitter	Summary of submission
2107.13	Heritage New Zealand Pouhere Taonga	Amend Policy 15.2.1.19(a) - as follows: “(a) Avoid locating new subdivision, use and development, including rezoning, on land assessed as being subject to, or likely to be subject to, instability or subsidence, unless appropriate mitigation is provided and the activity does not increase the risk to people, property or infrastructure <u>or historic heritage sites and areas of significance to Maaori.</u> ”
2177.3	Dennis Warrick Young	Amend Policy 15.2.1.19 - Development on land subject to instability or subsidence.
2173.21	Federated Farmers of New Zealand	Amend Policy 15.2.1.19 – Development on land subject to instability or subsidence as follows: “...does not increase the risk to people, property or infrastructure <u>beyond acceptable or tolerable levels</u> .”AND Any consequential amendments that may be required.
2094.14	Kainga Ora Homes and Communities	Retain Policy 15.2.1.19 - Development on land subject to instability or subsidence as notified
2106.6	WEL Networks Limited	Retain Policy 15.2.1.19 as proposed.
2102.46	Waikato Regional Council	Amend Policy 15.2.1.19 - Development on land subject to instability or subsidence as follows: “(a) Avoid locating new subdivision, use and development, including rezoning, on land assessed as being subject to, or likely to be subject to, instability or subsidence, unless appropriate mitigation is provided and the activity does not increase the risk to people, property, or infrastructure <u>or the environment.</u> ”

4.1.3 Analysis

55. Two of the submissions - [2107.13, 2102.46] - seek to expand the breadth of aspects included in this policy (to specifically extend to historic heritage sites, areas of significance to Maori, and the environment).

56. It is considered that by using the words “people, property, or infrastructure” the policy as currently drafted adequately encompasses the additional matters sought to be included by the submitters, therefore this addition would not aid in the interpretation of the policy.
57. The submission from Federated Farmers [2173.21] seeks to include the words “beyond acceptable or tolerable levels” in the policy. It is considered that the inclusion of this phrase (which is open to interpretation) would increase uncertainty within the policy and conflict with the directive wording of ‘avoid’.

4.1.4 Recommendations

58. For the reasons outlined above, it is recommended that the policy be retained as notified.
59. The submissions from Heritage New Zealand [2107.13], J Gooding [2173.21], and Waikato Regional Council [2102.46] are recommended to be rejected.
60. The two submissions from Kainga Ora [2094.14] and WEL Networks Limited [2106.6] seeking to retain the policy as proposed are recommended to be accepted.
61. No particular relief, or changes to Chapter 15 of the Plan, were sought within the submission from D Young [2177.3]. Given the lack of information or direction expressed in the submission, it is recommended that the submission be rejected.

4.2 Policy 15.2.1.21

4.2.1 Introduction

62. Policy 15.2.1.21 – Stormwater management in areas subject to risk of land instability or subsidence - states:
- (a) *Avoid discharge of stormwater directly to ground on land that is potentially at risk of land instability or subsidence unless:*
- (i) *an assessment has been undertaken by an appropriately-qualified geotechnical specialist, indicating that the site is suitable for the proposed discharges; and*
- (ii) *any adverse effects on the site and receiving environment can be appropriately mitigated.*

4.2.2 Submissions

63. Six submission/further submission points were received regarding this policy. Three submissions/further submissions request amendments to the policy and three support the policy as notified [2103.20, 2173.23 and FS3027.10].
64. The three submissions seeking amendments [2133.4, 2128.5, 2102.47] request the inclusion of coastal flooding, impacts of stormwater magnifying the risk of flooding in coastal areas, and high risk coastal hazard areas to the policy.
65. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2133.4	Adam Marsh for Raglan Collective on behalf of Adam Marsh & Carol McColl	Amend Policy 15.2.1.21 - Stormwater management in areas subject to risk of land instability or subsidence - to include areas subject to coastal flooding.

2103.20	Fire and Emergency New Zealand	Retain Policy 15.2.1.21 as proposed.
2128.5	Chris & Sue Harris	Amend policy 15.2.1.21 - Stormwater management in areas of land instability or subsidence to include impacts of stormwater magnifying risk of flooding in coastal areas.
2173.23	Federated Farmers New Zealand	Retain Policy 15.2.1.21 – Stormwater management in an area subject to risk of land instability or subsidence as notified.
2102.47	Waikato Regional Council	Amend Policy 15.2.1.21 - Stormwater management in areas subject to risk of land instability or subsidence as follows: “Policy 15.2.1.21 - Stormwater management in areas subject to risk of land instability or subsidence <u>and other high-risk coastal hazard areas</u> “(a) Avoid discharge of stormwater directly to ground on land that is potentially at risk of land instability or subsidence <u>and other high-risk coastal hazard areas</u> unless: [...]”
FS3027.10	Horticulture New Zealand	Support – Retain Policy 15.2.1.21 as proposed. OS2173.21

4.2.3 Analysis

66. Eric Bird has undertaken a technical assessment with regard to the inclusion of coastal flooding hazards in this policy (refer to the letter in Appendix 4). Mr Bird notes the following in Section 2:

‘I agree that the effects of stormwater discharge to ground should be considered in terms of how it may affect other hazards such as flooding, and that the plan provisions should adequately address this concern.’

He also notes the following in Section 5:

‘For stormwater management in areas subject to the risk of land instability or subsidence: the effects of stormwater discharge to ground should be considered in terms of how it may affect other hazards such as flooding. WDC should ensure that the provisions of the plan adequately address this concern.’

67. Policy 15.2.21 as set out above focuses on areas that are subject to land instability or subsidence – it is not limited in extent to historic mine subsidence risk areas in Huntly. However, the implications of stormwater discharge in coastal hazard areas are best dealt with in a policy sense in the policy provisions of the plan that relate to coastal hazards (such as Policies 15.2.1.1 - 15.2.1.7). This will ensure clarity and avoid complication of provisions. The submission points are confined to Policy 15.2.1.21, therefore do not give scope to amend other policy provisions.

4.2.4 Recommendations

68. For the reasons outlined above, it is recommended that Policy 15.2.1.21 be retained as notified.

69. The submissions from Fire and Emergency New Zealand [2103.20], and Federated Farmers New Zealand [2173.23], and the further submission from Horticulture New Zealand [FS3027.10] are recommended to be accepted.
70. The submissions from Raglan Collective [2133.4], C & S Harris [2128.5] and Waikato Regional Council [2102.47] are recommended to be rejected.

5 Topic 2: Liquefaction

71. Discussion and analysis of the submissions on liquefaction are organised as follows:
- 5.1 Chapter 15
 - 5.2 Objective 15.1 (6)
 - 5.3 Objective 15.1 (14)
 - 5.4 Policy 15.2.1.22
 - 5.5 Policy 15.2.1.23
 - 5.6 Liquefaction 15.12
 - 5.7 Overview of method 15.12.1
 - 5.8 Additional matters 15.12.2
 - 5.9 Additional matters 15.12.3
 - 5.10 Information requirements 15.13.2
 - 5.11 Definitions 15.14

5.1 Chapter 15: Natural Hazards and Climate Change

5.1.1 Introduction

72. Chapter 15: Natural Hazards and Climate Change includes provisions relating to liquefaction. The approach to liquefaction risk adopted by the Proposed District Plan is based on the commissioning of individual site assessments by the applicant at the time of development or subdivision. Those assessments are required to identify whether liquefaction is a risk on a site and, if it is, to set out measures to mitigate the risk.
73. Section 15.1(6) Introduction states:
New Zealand in general is a high earthquake hazard region and earthquake (and associated fault movement, ground shaking and liquefaction) considerations are integral to the design of the built environment [1]. Location of faults in Waikato District may be problematic, due to alluvial sediment and associated processes masking fault traces. While liquefiable soils are generally found within Holocene sediments in river valleys, more work is required within the Waikato District to determine areas where the liquefaction risk is high.

5.1.2 Submissions

74. The following submission/further submission points were received, relating variously to the overall approach to liquefaction embodied within Chapter 15 and requesting amendments to Section 15.1(6):

Submission point	Submitter	Summary of submission
2094.89	Kainga Ora Homes and Communities	Amend the approach to liquefaction by Council identifying areas subject to liquefaction risk and providing a framework to appropriately manage the risk to people's safety, well-being and property.
2102.43	Waikato Regional Council	" Amend Chapter 15.14 - Definitions to confirm how liquefaction risk may be identified by plan users without the need for expert assessment. OR Amend Section 15.1 (6) - Introduction to confirm how liquefaction risk may be identified by plan users without the need for expert assessment. "
FS3027.38	Horticulture New Zealand	Supports OS 2102.43 Support the intent of submission, to make it clearer how a plan user would identify liquefaction without expert assessment.
2147.5	Pokeno Village Holdings Limited	Add, at a minimum, non-statutory hazard maps showing areas that warrant detailed liquefaction investigations and flood assessments.
FS3034.69	Fraser Graafhuis on behalf of Mercury NZ Limited	Support OS 2147.5
2094.69	Kainga Ora Homes and Communities	Amend the approach taken to hazard overlay in the Planning Maps by adopting the Auckland Unitary Plan wording/approach for 'Liquefaction Management Areas' and for any other maps that are not sufficiently accurate to determine if a site is affected. This approach comprises non-statutory interactive maps of hazard areas outside the district plan..... AND Add text to clarify that the rules of the plan are not applied on the basis of mapping where a non-statutory mapping approach is adopted.

5.1.3 Analysis

75. The Kainga Ora and Pokeno Village Holdings Limited submissions (the latter supported by Mercury NZ Limited) seek to amend the approach to managing liquefaction risk by introducing a mapped liquefaction overlay. The WRC submission, supported by Horticulture New Zealand, effectively seeks the same outcome.

76. In his technical review, Mr Bird advises that:

'WDC should adopt the current industry best practice approach for managing liquefaction hazards and carry out a high-level assessment of the Waikato district, to identify areas where liquefaction is possible. In areas where liquefaction is possible (or where liquefaction hazard is undetermined), appropriate rules should be developed, requiring applicants to carry out further liquefaction assessment as relevant for the proposed activity. In other areas where liquefaction is unlikely no further requirements should apply.'

This map should be produced as non-statutory map to enable the WDC with the flexibility to alter it as necessary.’ (Section 5).

77. I agree with the advice from Mr Bird. Providing district-wide liquefaction information will reduce the onus placed on applicants, reduce complexity and cost, and ensure consistency across the district in terms of liquefaction hazard management. The provision of such a district-wide liquefaction risk overlay would, in my view, be entirely consistent with the approach taken to other natural hazards in the Proposed District Plan - such as flooding and coastal erosion - where areas of risk are identified and mapped and District Plan controls apply (or not) accordingly. For those hazards the onus is not placed on the applicant to establish whether or not there is the potential for the hazard in the first place.
78. The Section 32 report outlines the notified approach in section 54 and 55, stating that:
‘While the LWZNHMP recommends the identification of liquefaction susceptible areas in the Region, including the Waikato district, no work to date has been completed. However, there are proposed changes to the Building Act that will require mapping of liquefaction risk and this work is being progressed. The WRC is working on more detailed liquefaction information taking into account groundwater and predicted earthquake shaking intensities.’
79. In this regard, it is understood that Waikato Regional Council is conducting a high-level (Level A) desktop liquefaction mapping assessment of the Waikato Region in 2021. However, this Level A assessment on its own will not be detailed enough to be relied on for the purposes of the Waikato District Plan. A more specific (Level B) liquefaction assessment of the district will be required that builds on the Level A assessment being undertaken by WRC, and refines it further through fieldwork and site investigations.
80. The production of a Level B district-wide liquefaction assessment will take some time to prepare and is unlikely to be completed in sufficient time for provision amendments associated with it to be included in the decisions version of the Proposed District Plan. This means that a Variation or Plan Change will be required at some point in the future to introduce new or amended relevant provisions. In the meantime, the site-specific liquefaction assessment rules will need to continue to apply as a ‘stopgap’ to ensure that liquefaction risk is addressed.

5.1.4 Recommendations

81. For the reasons outlined above, it is recommended that the submissions from Kainga Ora [2094.89] and Pokeno Village Holdings Ltd [2147.5], and the further submission from Mercury NZ Ltd [FS3034.69] be accepted and that the submissions from Kainga Ora [2094.69] and the Waikato Regional Council [2102.43] and the further submission from Horticulture New Zealand [FS3027.38] be accepted in part.

5.1.5 Recommended amendments

82. The following amendments are recommended to be carried out by way of a Variation or Plan Change:

The development of a non-statutory map identifying areas in the district where liquefaction is possible, unlikely or undetermined, and the introduction of associated District Plan provisions to reflect the content of the map.

5.1.6 Section 32AA evaluation

Other reasonably-practicable options

83. The only other reasonably-practical option is to retain the plan provisions as they are currently drafted – i.e. require individual applicants to provide assessments.

Effectiveness and efficiency

84. The recommended amendment improves the effectiveness and efficiency of the liquefaction provisions and provides greater guidance as to where further geotechnical assessment is required.

Costs and benefits

85. There are financial costs to Council associated with the commissioning and preparation of a district-wide Level B liquefaction assessment. However, in my view it is more equitable for Council to bear this cost than impose costs on individual applicants to establish whether their site is susceptible to liquefaction or not.
86. There are economic benefits - being time and cost savings associated with the processing of building consents and resource consents - as well as property enquiries, compliance and monitoring. These will ensure that unnecessary assessments or restrictions do not hinder economic growth.
87. There are benefits, with a consistent and timely assessment approach undertaken for Building Consent applications and Resource Consent applications.
88. There is wider benefit to the local and regional community, as it reduces costs for development, enabling economic growth. Due diligence and scoping exercises will also be more straightforward.
89. There are benefits for the environment with the revised overlay approach, as it is clearer about where the liquefaction effects are likely to occur and how the effects will be managed. Other benefits are clearer guidance to plan users regarding the effects of liquefaction on the environment.

Risk of acting or not acting

90. 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 plan.

Decision about most appropriate option

91. The recommended amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified approach.

5.2 Section 15.1 (14)

5.2.1 Introduction

92. Section 15.1 (14) states:

While liquefaction areas have not been identified on the planning maps, provisions in the district plan require this seismically-induced natural hazard to be assessed before new zonings or subdivision and development are undertaken. This will primarily be achieved through resource consent or plan change processes.

5.2.2 Submissions

93. Two submission points were received regarding Provision 15.1 (14).
94. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2105.2	Perry Group Limited	"Amend Section 15.1 (14) - Introduction as follows: "(14) While liquefaction areas have not been identified on the planning maps, provisions in the District Plan require this seismically induced natural hazard to be assessed before new zonings or subdivision and development are undertaken." "
FS3031.115	Waikato Regional Council	Oppose 2105.2 RPS implementation method 6.1.8(e) requires that district plan zoning for new urban development supported by information which identifies potential natural hazards and how the related risks will be managed.

5.2.3 Analysis

95. Mr Bird notes the following in Section 4.2.2 of his memo:

'This is correct; there will be cases where at the time of land rezoning, the implications of liquefaction on the final land development will not necessarily be fully known. However, it is important that liquefaction is considered when land use decisions are being made. Under the proposed plan, WDC has discretion to consider whether liquefaction assessment is relevant for a proposed activity (15.12.1). Additionally, as discussed in 4.1 of this letter, the MBIE/MfE (2017) guidance document provides a framework that allows for differing levels of detail in the investigation and assessment of liquefaction, depending on the information required for a specific purpose.'

96. I agree with this assessment and the further submission made by Waikato Regional Council. Regardless of whether or not a district-wide liquefaction assessment has been undertaken by Council, natural hazard risk (of which liquefaction is a legitimate matter) needs to be assessed before land can be zoned for an intended purpose.

5.2.4 Recommendations

97. For the reasons outlined above, it is recommended that the submission from Perry Group [2105.2] be rejected.

98. It is recommended that the further submission from Waikato Regional Council [FS3031.115] be accepted.

5.3 Policy 15.2.1.22

5.3.1 Introduction

99. Policy 15.2.1.22 Liquefaction-prone land risk assessment states:

(a) *On land potentially prone to liquefaction, ensure that:*

- (i) *an assessment by a geotechnical specialist occurs before new subdivision, use or development takes place; and*
- (ii) *the level of assessment reflects the type and scale of the subdivision, use or development and the overall vulnerability of the activity to the effects of liquefaction.*

5.3.2 Submissions

100. Six submission points were received regarding this policy. Four submissions request amendments and two are in support of the notified version [2103.21], [2173.24].

101. The following submissions were made:

Submission point	Submitter	Summary of submission
2103.21	Fire and Emergency New Zealand	Retain Policy 15.2.1.22 as proposed.
2173.24	Federated Farmers of New Zealand	Retain Policy 15.2.1.22 – Liquefaction-prone land risk assessment as notified.
2094.15	Kainga Ora Homes and Communities	Delete Policy 15.2.1.22 - Liquefaction-Prone Risk Assessment
2102.44	Waikato Regional Council	Amend Policy 15.2.1.22 - Liquefaction-prone land risk assessment as follows: “Policy 15.2.1.22 - Liquefaction- prone <u>susceptible</u> land risk assessment “(a) On land potentially prone <u>susceptible</u> to liquefaction, ensure that: (i) an assessment by a geotechnical specialist occurs before new subdivision, use or development takes place <u>is provided for</u> ; and [...]”
2101.10	Transpower New Zealand Ltd	Amend Policy 15.2.1.22(a) as follows: “(a) On land <u>identified as</u> potentially prone to liquefaction, ensure that: (i) ...”. OR Amend Policy 15.2.1.22(a) as follows: “(a) On land <u>assessed as</u> potentially prone to liquefaction...”.
2146.8	Waikato District Council	Add to Policy 15.2.1.22(a) - Liquefaction-prone land risk assessment a sub-section to read as follows: “(iii) <u>the assessment confirms that the land is suitable for the proposed development</u> ”, AND Amend Policy 15.2.1.22(a)(i) and (ii) - Liquefaction-prone land risk assessment to read “(i) an assessment by a geotechnical specialist occurs before new subdivision, use or development takes place; and (ii) the level of assessment reflects the type and scale of the subdivision, use or development and the overall vulnerability of the activity to the effects of liquefactions . , <u>and</u> ”, AND Any consequential amendments as required, AND Any other change necessary to give effect to the intent of this relief sought and to achieve the purpose of the Resource Management Act 1991.

5.3.3 Analysis

102. Mr Bird notes the following in Section 4.2.3 of his memo:

‘The proposed rules for liquefaction apply to restricted discretionary activities. Where activities are permitted and are building work (such as the construction of retaining structures), the work is subject to the Building Act and is required to comply with the Building Code. As such, the Building Consent

Authority should consider liquefaction when processing Building Consents in areas subject to a liquefaction hazard to ensure that the building work takes appropriate account of liquefaction.'

103. In line with the above advice I consider that retention of the policy is warranted. I agree that the policy would be improved by the inclusion of the word “susceptible” instead of “prone” as sought by WRC, to be consistent with the terminology used in Policy 15.2.23 that also addresses liquefaction. For the same reason I agree with the latter of the amendment options sought by Transpower (i.e. introduce “assessed as”). I also agree with the amendments sought by Waikato District Council to make it clear that the required assessment needs to confirm land suitability.

5.3.4 Recommendations

104. For the reasons outlined above, it is recommended that the submissions from Fire and Emergency New Zealand [2103.21], Federated Farmers of New Zealand [2173.24] and Kainga Ora [2094.15] be rejected.
105. It is recommended that the submissions from Waikato Regional Council [2102.44], Transpower New Zealand [2101.10] and Waikato District Council [2146.8] be accepted.

5.3.5 Recommended amendments

106. The following amendments are recommended:

Policy 15.2.1.22 – Liquefaction-~~susceptible prone~~ land risk assessment

(a) On land assessed as potentially ~~susceptible prone~~ to liquefaction, ensure that:

- (i) an assessment by a geotechnical specialist occurs before new subdivision, use or development takes place; and*
- (ii) the level of assessment reflects the type and scale of the subdivision, use or development and the overall vulnerability of the activity to the effects of liquefaction; and*
- (iii) the assessment confirms that the land is suitable for the proposed development.*

5.3.6 Section 32AA evaluation

Other reasonably-practicable options

107. Other reasonably-practical options are to retain the plan provisions as they are currently drafted.

Effectiveness and efficiency

108. The recommended amendment improves the effectiveness and efficiency of the plan.

Costs and benefits

109. The costs and benefits of the change will be largely the same as the status quo. There are no financial costs to either Council or applicants.

Risk of acting or not acting

110. There is sufficient information available to ascertain that there are no additional risks in acting on the recommended amendment to the plan.

Decision about most appropriate option

111. The recommended amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified approach.

5.4 Policy 15.2.1.23

5.4.1 Introduction

112. Policy 15.2.1.23 Control activities on land susceptible to damage from liquefaction states:
 (a) *Control subdivision, use and development on land assessed as being susceptible to liquefaction induced ground damage, to ensure that appropriate mitigation is provided so that the level of risk to people, property, infrastructure and the environment is acceptable.*

5.4.2 Submissions

113. Five submission points were received regarding this policy. Two submissions request amendments to the policy, and three are in support of the notified version [2103.22], [2173.25], [2101.11].
114. The following submissions were made:

Submission point	Submitter	Summary of submission
2103.22	Fire and Emergency New Zealand	Retain Policy 15.2.1.23 as proposed.
2173.25	Federated Farmers of New Zealand	Retain Policy 15.2.1.23 – Control activities on land susceptible to damage from liquefaction as notified.
2094.16	Kainga Ora Homes and Communities	Amend Policy 15.2.1.23 as follows: “Control subdivision, use and development on land assessed <u>identified</u> as being susceptible to liquefaction-induced ground damage ...”.
2102.45	Waikato Regional Council	Amend Policy 15.2.1.23 – Control activities on land susceptible to damage from liquefaction as follows: “Policy 15.2.1.23 – Control activities on land susceptible to damage from liquefaction “(a) Control subdivision, use and development on land assessed as being susceptible to liquefaction-induced ground damage, to ensure that <u>where</u> appropriate <u>avoidance, remediation or</u> mitigation is provided so that the level of risk to people, property, infrastructure and the environment is acceptable.”
2101.11	Transpower New Zealand Ltd	Retain Policy 15.2.1.23.

5.4.3 Analysis

115. I agree with the submitters who request that the policy be retained as notified. In my view, the requirement and intent of the policy are easily understood with the current wording, and the requested amendments would not improve the policy in that regard.

5.4.4 Recommendations

116. For the reasons outlined above it is recommended that the submissions from Kainga Ora [2094.16] and Waikato Regional Council [2102.45] be rejected.
117. It is recommended that the submissions from Fire and Emergency New Zealand [2103.22], Federated Farmers of New Zealand [2173.25], and Transpower New Zealand [2101.11] be accepted.

5.5 Liquefaction 15.12

5.5.1 Introduction

118. Section 15.12 contains the Overview of method and Additional matters of restricted discretion.

5.5.2 Submissions

119. Four submission points were received regarding this section. Two of the submissions request amendments, and two are in support of the current drafting [2161.13], [2139.13].
120. The following submissions were made:

Submission point	Submitter	Summary of submission
2161.13	Dilworth Trust Board	Retain Section 15.12 Liquefaction (whole section) as notified.
2147.2	Pokeno Village Holdings Limited	Amend all rules within the zone chapters that state ... including liquefaction risk (refer to Chapter 15), as follows: ... including liquefaction risk (refer Rule 15.12 Liquefaction to Chapter 15)
2147.3	Pokeno Village Holdings Limited	Amend Chapter 15.12 Liquefaction, approach to assessing effects of liquefaction to (a) Provide a high-level study to identify areas of likely liquefaction risk and that these are shown within a non-statutory overlay; and (b) Required detailed investigations into liquefaction risks for any proposed development within these identified areas.
2139.13	Ports of Auckland Limited	Retain Section 15.12 Liquefaction as notified.

5.5.3 Analysis

121. In line with the analysis provided earlier in terms of my recommendation that Council undertake a district-wide liquefaction assessment and incorporate it by way of a future Variation or Plan Change, with the as notified plan provisions to apply in the meantime, I agree with all of the above submission points.

5.5.4 Recommendations

122. For the reasons outlined above, it is recommended that the submissions from Pokeno Village Holdings [2147.2 and 2147.3] be accepted in part, and the submissions from Dilworth Trust Board [2161.13] and Ports of Auckland Limited [2139.13] be accepted.

5.6 Overview of method 15.12.1

5.6.1 Introduction

123. The overview of method is contained in Section 15.12.1.

5.6.2 Submissions

124. Two submission points were received regarding this section.
125. The following submissions were made:

Submission point	Submitter	Summary of submission
2094.50	Kainga Ora Homes and Communities	Delete Section 15.12.1 Overview of method regarding liquefaction
2101.22	Transpower New Zealand Ltd	Amend Section 15.12.1 - Liquefaction – Overview of methods to clarify that the requirement to assess and address liquefaction risk does not apply to all resource consents only to specifically identified subdivision, multi-unit, and comprehensive development activities.

5.6.3 Analysis

126. Mr Bird notes the following in Section 4.2.1 of his memo:
- ‘Fundamentally, it is important to ensure that in areas susceptible to liquefaction, all structures including infrastructure are appropriately designed to accommodate the effects of liquefaction.’*
127. I agree with this assessment, as it relates to the Transpower submission point. The RMA, by virtue of s6(h), does not place restriction on the nature of the land use that must have natural hazard risk assessed. As a result, the Proposed District Plan liquefaction provisions should not be limited in their extent and effect, as sought by the submitter.
128. The Kainga Ora submission point flows from the submitter’s fundamental position that a district-wide liquefaction assessment should be prepared. The analysis earlier in this report is relevant to this point, and to that end leads to a recommendation to reject the submission point on the basis that the as-notified liquefaction provisions need to apply in the meantime until a future Variation or Plan Change can be prepared.

5.6.4 Recommendations

129. For the reasons outlined above, it is recommended that Section 15.12.1 be retained as notified.
130. The submissions from Transpower [2102.22] and Kainga Ora [2094.50] are recommended to be rejected.

5.7 Additional matters of restricted discretion 15.12.2

5.7.1 Introduction

131. Provision 15.12.2 outlines Additional matters of restricted discretion for subdivision to create one or more additional vacant lots where liquefaction risk is identified.

5.7.2 Submissions

132. Three submission/further submission points were received regarding this section.
133. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2094.51	Kainga Ora Homes and Communities	Retain Rule 15.12.2, provided Council identifies areas susceptible to liquefaction.
2101.23	Transpower New Zealand Ltd	Amend rule 15.12.2 by adding matters of restricted discretion to clarify that the requirement to assess and address liquefaction risk does not apply to all resource consents only to specifically identified subdivision, multi-unit, and comprehensive development activities.
FS3033.4	Kainga Ora – Homes and Communities	Oppose OS2101.23 Kainga Ora opposes this submission. [Please refer to the rationale provided in response to submission 2102.22 above].

5.7.3 Analysis

134. The analysis set out in Section 5.7 above applies to these submissions and further submission points. Accordingly, no changes to the relevant provisions are recommended.

5.7.4 Recommendations

135. The submission from Kainga Ora [2094.51] is recommended to be accepted and the further submission from Kainga Ora [FS3033.4] is recommended to be accepted in part. The submission from Transpower [2102.23] is recommended to be rejected.

5.8 Additional matters 15.12.3

5.8.1 Introduction

136. Provision 15.12.3 outlines Additional matters of restricted discretion for new land use (e.g. multi-unit development) – liquefaction risk.

5.8.2 Submissions

137. Four submission/further submission points were received regarding this section.
138. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
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2094.52	Kainga Ora Homes and Communities	Delete Rule 15.12.3
2101.24	Transpower New Zealand Ltd	Amend rule 15.12.3 by adding matters of restricted discretion to clarify that the requirement to assess and address liquefaction risk does not apply to all resource consents only to specifically identified subdivision, multi-unit, and comprehensive development activities.
FS3033.5	<i>Kainga Ora – Homes and Communities</i>	<i>Oppose OS 2102.24 Kainga Ora opposes this submission. [Please refer to the rationale provided in response to submission 2102.22 above].</i>
FS3027.49	<i>Horticulture New Zealand</i>	<i>Supports OS 2101.24 Support clarification that this should not apply to equally to all applications.</i>

5.8.3 Analysis

139. The analysis set out in Sections 5.7 and 5.8 above applies to these submissions and further submission points. Accordingly, no changes to the relevant provisions are recommended.

5.8.4 Recommendations

140. The submissions from Transpower [2102.24] and Kainga Ora [2094.52] are recommended to be rejected.
141. The further submission from Kainga Ora [FS3033.5] is recommended to be accepted in part.
142. The further submission from Horticulture New Zealand [FS3027.49] is recommended to be rejected.

5.9 Information requirements

5.9.1 Introduction

143. The information requirements for all resource consent applications addressing natural hazards – Liquefaction Potential are contained in Section 15.13.2.

5.9.2 Submissions

144. Two submission/further submission points were received regarding this section.
145. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2094.53	Kainga Ora Homes and Communities	Delete Section 15.13.2 Liquefaction potential.
FS3027.54	<i>Horticulture New Zealand</i>	<i>Supports OS 2094.53 HortNZ shares the concerns that the requirements place a large onus on applicants (for what may in some cases be minor activities - particularly if</i>

		<i>HortNZ's submission points regarding farm buildings are not accepted).</i>
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5.9.3 Analysis

146. The analysis set out in Sections 5.7 and 5.8 above applies to these submissions and further submission points. Accordingly, no changes to the relevant provisions are recommended.

5.9.4 Recommendations

147. The submission from Kainga Ora [2094.53] and the further submission from Horticulture New Zealand [FS3027.54] are recommended to be rejected.

5.10 Definitions 15.14

5.10.1 Introduction

148. The definitions are contained in Section 15.14.

5.10.2 Submissions

149. Two submission/further submission points were received regarding this section.
150. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2102.43	Waikato Regional Council	" Amend Chapter 15.14 - Definitions to confirm how liquefaction risk may be identified by plan users without the need for expert assessment. OR Amend Section 15.1 (6) - Introduction to confirm how liquefaction risk may be identified by plan users without the need for expert assessment. "
FS3027.38	Horticulture New Zealand	<i>Supports OS 2102.43 Support the intent of submission, to make it clearer how a plan user would identify liquefaction without expert assessment.</i>

5.10.3 Analysis

151. The analysis set out in Sections 5.7 and 5.8 above applies to these submissions and further submission points. Further, even when a district-wide liquefaction risk layer is made available, expert assistance and assessment will still be required by plan users when a site is identified as being susceptible to liquefaction risk.

5.10.4 Recommendations

152. The submission from Waikato Regional Council [2094.43] and the further submission from Horticulture New Zealand [FS3027.38] are recommended to be rejected.

6 Topic 3: Mine Subsidence

153. Discussion and analysis of the submissions on subdivision are organised as follows:

- 6.1 Policy 15.2.1.20
- 6.2 Mine Subsidence Risk Area 15.11
- 6.3 Permitted Activities 15.11.1
- 6.4 Permitted Activity Rule 15.11.1 P1
- 6.5 Permitted Activity Rule 15.11.1 P2
- 6.6 Permitted Activity Rule 15.11.1 P3
- 6.7 Permitted Activity Rule 15.11.1 P4
- 6.8 Restricted Discretionary Activities 15.11.2
- 6.9 Restricted Discretionary Activity Rule 15.11.2 RD11
- 6.10 Discretionary Activities 15.11.3
- 6.11 Discretionary Activity Rule 15.11.3 D1
- 6.12 Discretionary Activity Rule 15.11.3 D2
- 6.13 Definitions 15.14
- 6.14 Map 20.2

6.1 Policy 15.2.1.20

6.1.1 Introduction

154. Policy 15.2.1.20 – Development of land in the Mine Subsidence Risk Area - states:

- (a) *On land identified within the Mine Subsidence Risk Area, ensure that:*
- (i) *an assessment by an appropriately qualified engineer occurs before subdivision, use or development takes place to confirm that the land is suitable for development; and*
 - (j) *buildings are designed and constructed, and uses appropriate materials, to effectively minimise the risk of damage to the buildings from ground subsidence.*

6.1.2 Submissions

155. Four submission/further submission points were received regarding this policy - three in support and one requesting amendments.

156. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2103.19	Fire and Emergency New Zealand	Retain Policy 15.2.1.20 as proposed.
2173.22	Federated Farmers of New Zealand	Retain Policy 15.2.1.20 – Development of land in the Mine Subsidence Risk Area as notified.
FS3020.12	Shand Properties Limited	Support OS 2173.22

FS3032.24	Timberline Contracting	<p>Oppose OS 2173.22</p> <p>Changes need to be made to Policy 15.2.1.20 (and as a consequence section 15.11) to be more enabling of development, including less stringent activity status. Huntly needs development for economic and social wellbeing and does not need additional barriers. The response of the proposed plan is too onerous given the small risk of mine subsidence.</p>
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6.1.3 Analysis

157. The further submission from Timberline Contracting [FS3032.24] seeks to amend the policy to reflect changes to the rules to make them more enabling. Although I recommend later in this report that certain plan provisions be amended, Policy 15.2.1.20 is not required to be altered to reflect this. The policy remains appropriate to address mining-generated subsidence as a natural hazard, as noted by the submitters in support of the policy seeking its retention as notified.

6.1.4 Recommendations

158. For the reasons outlined above, it is recommended that the policy be retained as notified.
159. The submissions from Fire and Emergency New Zealand [2103.19], Federated Farmers of New Zealand [2173.22] and further submission from Shand Properties [FS3020.12] are recommended to be accepted.
160. The further submission from Timberline Contracting [FS3032.24] is recommended to be rejected.

6.2 Mine Subsidence Risk Area 15.11

6.2.1 Introduction

161. Section 15.11 sets out the Mine Subsidence Risk Area Rules.

6.2.2 Submissions

162. Eight submission/further submission points were received regarding this general section.
163. Two of the submissions seek to retain the section as notified - [2103.39] and [2151.20].
164. Five of the submissions/further submissions seek to include Controlled Activity rules in the Section and alter the circumstances where the Discretionary rules apply (Shand Properties [2136.1] and [FS3020.11], Timberline Contracting [FS3032.15], [FS3032.16] and [FS3032.27]).
165. The submission from Dennis Warrick Young [2177.4] seeks amendments to the rule section but does not seek any specific changes or other relief.
166. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2103.39	Fire and Emergency New Zealand	Retain Section 15.11 as proposed.

2136.1	Shand Properties Ltd	<p>"Add a new rule under Section 15.11 Mine Subsidence Risk Area for Controlled Activities as follows:</p> <p><u>CI: The construction or alteration of a building that is not provided for under District Plan Rule 15.11.1 where a Consent Notice is registered against the Record of Title confirming that a geotechnical assessment has been approved at the time of subdivision and the approved geotechnical report confirms that the ground is suitable for development and the development is in accordance with any recommendations of the geotechnical report.</u></p> <p><u>Control is restricted to:</u></p> <ul style="list-style-type: none"> • <u>The requirements and recommendations of the geotechnical report approved at the time of subdivision.</u> • <u>That confirmation is provided from a suitably experienced and qualified geotechnical engineer that confirms the proposed development is consistent with the recommendations and requirements of the geotechnical report approved at the time of subdivision.</u> <p><u>AND</u></p> <p><u>Amend rule 15.11.3 Discretionary Activities, D1 to read "Construction of a building or additions to an existing building not provided for in Rule 15.11.1 PI- P3 or C1",</u></p> <p><u>AND</u></p> <p><u>Any consequential and subsequent amendments, including renumbering, as required.</u></p> <p><u>OR</u></p> <p><u>Amend Section 15.11 Mine Subsidence Risk Area for Controlled Activities to reflect similar drafting relief that avoids the inefficiencies of a duplicate discretionary activity status between subdivision and land use consenting stages."</u></p>
FS3032.15	Timberline Contracting	<p><i>Support OS 2136.1</i></p> <p><i>A controlled activity status for all other buildings not listed as a permitted activity is appropriate</i></p>
FS3032.16	Timberline Contracting	<p><i>Support OS 2136.1</i></p> <p><i>15.11 A discretionary activity is too stringent an activity status for all other buildings not listed as a controlled activity</i></p>
2151.20	Waikato-Tainui Te Kauhanganui Incorporated	<p>Retain 15.11 Mine Subsidence Risk Area.</p>
FS3020.11	Shand Properties Limited	<p><i>Neutral OS 2151.20</i></p>

		<i>Shand Properties Limited supports the retention of Section 15.11 Mine Subsidence Risk Area within the PDP subject to the changes that have been recommended through the Submitters original submission.</i>
2177.4	Dennis Warrick Young	Amend Chapter 15.11 Mine Subsidence Risk Area.
FS3032.27	Timberline Contracting	<i>Support OS 2177.4 Changes need to be made to section 15.11 to be more enabling of development, including less stringent activity status. Huntly needs development for economic and social wellbeing and does not need additional barriers. The response of the proposed plan is too onerous given the small risk of mine subsidence.</i>

6.2.3 Analysis

167. In the as-notified rules for Mining Subsidence, there is currently a duplication of consenting requirements where a site is subdivided (discretionary activity – with mining subsidence risk assessed and addressed) and then buildings to be placed on the sites that are the subject of the subdivision consent also require discretionary activity consent (given that the permitted activity building opportunities are very limited).
168. I agree with the Shand Properties submission (2136.1) that this duplicative approach is inefficient and not warranted. The Controlled Activity rule sought by Shand Properties focuses on ensuring that any buildings that occur on land subdivided in the Mine Subsidence Risk area are constructed in accordance with the requirements of the geotechnical assessment undertaken and approved at the time of subdivision, with control reserved over those matters. While a controlled activity cannot be declined, in this instance I do not consider that this exposes Council to undue risk, given that geotechnical matters will have been clearly and satisfactorily addressed at the time of subdivision and consent declined if the site was not deemed suitable for development. However, I consider that on sites where such geotechnical risk assessment and approval has not occurred through the subdivision process, a consent status allowing decline of a land use consent for building is warranted.
169. Accordingly, I recommend that the Controlled Activity rule and associated amendments set out in the Shand properties submission be included in the Proposed District Plan. Because of this recommended change, and others recommended in following sections of this report, I have (although agreeing with their sentiment) recommended rejection of the submissions and further submissions set out above that seek to retain the section as drafted.
170. Restricted Discretionary rules are introduced and discussed in Sections 6.11 and 6.12 below to make the rules more enabling of development than currently drafted.
171. No particular relief, or changes to Chapter 15 of the Plan, were sought in the submission from D Young [2177.3]. Given the lack of information or direction expressed in the submission, it is recommended that the submission be rejected.

6.2.4 Recommendations

172. For the reasons outlined above, the submissions from Fire and Emergency New Zealand [2103.39], Waikato-Tainui Te Kauhanganui Incorporated [2151.20] and D Young [2177.4], and

the further submissions from Timberline Contracting [FS3032.15 and FS 3032.16] are recommended to be rejected.

173. The submission and further submission from Shand Properties [2136.1] and [FS3020.11], and the further submission from Timberline Contracting [FS3032.27] are recommended to be accepted.

6.2.5 Recommended amendments

174. The following amendments are recommended:

Rule 15.11.1A Controlled Activities

<u>(a) The activity listed below is a Controlled Activity in the Mine Subsidence Risk Area.</u>	
<u>Activity</u>	<u>Matters of Control</u>
<u>CI</u>	<p><u>The construction or alteration of a building that is not provided for under Rule 15.11.1 where a Consent Notice is registered against the Record of Title confirming that a geotechnical assessment has been approved at the time of subdivision and the approved geotechnical report confirms that the ground is suitable for development and the development is in accordance with any recommendations of the geotechnical report.</u></p> <p><u>The requirements and recommendations of the geotechnical report approved at the time of subdivision.</u></p> <p><u>That confirmation is provided from a suitably experienced and qualified geotechnical engineer that confirms the proposed development is consistent with the recommendations and requirements of the geotechnical report approved at the time of subdivision.</u></p>

<u>(a) The activities listed below are Discretionary Activities in the Mine Subsidence Risk Area.</u>	
<u>DI</u>	<u>Construction of a building or additions to an existing building not provided for in Rule 15.11.1 PI - P3 or CI.</u>

6.2.6 Section 32AA evaluation

Other reasonably-practicable options

175. Other reasonably-practical options are to retain the plan provisions as they are currently drafted, i.e. retain discretionary status for buildings post-subdivision, or to amend the activity status to restricted discretionary instead of controlled.

Effectiveness and efficiency

176. The recommended amendment improves the effectiveness and efficiency of the plan, as it allows for control to be exerted over relevant geotechnical matters without requiring unnecessary administration and processing costs and time associated with discretionary activity status, such as notification and policy assessments.

Costs and benefits

177. The costs and benefits of the change will be largely the same as the status quo, although there will be some measure of economic benefits to applicants through a potentially less time-consuming consenting process for buildings. There are no financial costs to either Council or applicants.

Risk of acting or not acting

178. There is sufficient information available to ascertain that there are no additional risks in acting on the recommended amendment to the plan.

Decision about most appropriate option

179. The recommended amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified approach.

6.3 Permitted Activities 15.11.1

6.3.1 Introduction

180. Section 15.11.1 sets out the Mine Subsidence Risk Area Permitted Activity Rules.

6.3.2 Submissions

181. Twelve submission points were received regarding the general permitted activity rules. Seven of the submissions/further submissions seek to retain the permitted activity rules as notified (Falesa & Leitu Fesolai Sila [2183.1], [2185.1]), [2186.1] and Shand Properties Limited [FS3020.8], [FS3020.14], [FS3020.15], [FS3020.16]).
182. Two of the submissions seek to have the construction of single dwellings included as a permitted activity (RG de Leeuw Construction Limited [2138.2] and Timberline Contracting [FS3032.17]).
183. Three of the submissions seek to include a permitted activity rule for all earthworks, all extensions (gross floor area/length of wall extensions) and all garages (Timberline Contracting [FS3032.28], [FS3032.33] and [FS3032.30]).
184. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2138.2	RG de Leeuw Construction Limited	Amend Rule 15.11.1 Mine Subsidence Risk Area, Permitted Activities to include single dwellings as a permitted activity. <ul style="list-style-type: none"> The PDP places additional restrictions on very minor works including establishment of a dwelling on an infill site. It places unnecessary uncertainty on future development potential at submitters site at 84 Bailey Street and Meadows Lane, Huntly.
FS3020.8	Shand Properties Limited	Oppose OS 2138.2 Rule 15.11.1 shall not be amended to include the construction of single dwellings as a Permitted activity in the Mine Subsidence Risk Area. It is considered that this places risk on Council and on property owners, the level of mine subsidence risk is

		<i>unknown without geotechnical input and investigation.</i>
<i>FS3032.17</i>	<i>Timberline Contracting</i>	<i>Support OS 2138.2</i>
2183.1	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.1 Mine Subsidence Risk Area, Permitted Activities.
<i>FS3020.14</i>	<i>Shand Properties Limited</i>	<i>Support OS 2183.1</i>
<i>FS3032.28</i>	<i>Timberline Contracting</i>	<i>Oppose OS 2183.1</i> <i>The gross floor area and length of wall extension as a permitted activity is not sufficient and it should be unlimited. There should be no limitations on the floor area and wall length associated with a garage as a permitted activity. There should be no limitations on the earthworks as a permitted activity.</i>
2185.1	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.1 Mine Subsidence Risk Area, Permitted Activities.
<i>FS3020.15</i>	<i>Shand Properties Limited</i>	<i>Support OS 2185.1</i>
<i>FS3032.30</i>	<i>Timberline Contracting</i>	<i>Oppose OS 2185.1</i>
2186.1	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.1 Mine Subsidence Risk Area, Permitted Activities.
<i>FS3020.16</i>	<i>Shand Properties Limited</i>	<i>Support OS 2186.1</i>
<i>FS3032.33</i>	<i>Timberline Contracting</i>	<i>Oppose OS 2186.1</i> <i>The gross floor area and length of wall extension as a permitted activity is not sufficient and it should be unlimited. There should be no limitations on the floor area and wall length associated with a garage as a permitted activity. There should be no limitations on the earthworks as a permitted activity.</i>

6.3.3 Analysis

185. As noted by Shand Properties [FS3020.8], the inclusion of dwellings, unlimited extensions, garages and earthworks as a permitted activity would expose the Council to unlimited risk without the appropriate geotechnical assessments undertaken. Council should retain the ability to decline an application where the risk is high and a geotechnical assessment has not been undertaken.

6.3.4 Recommendations

186. For the reasons outlined above, it is recommended that the amendments sought not be accepted.
187. The submissions from Falesa & Leitu Fesolai Sila [2183.1, 2183.5 and 2183.6] and the further submissions from Shand Properties [FS3020.8, FS3020.14, FS3020.15 and FS3020.16] are recommended to be accepted.
188. The submission from RG de Leeuw Construction Limited [2138.2] and the further submissions from Timberline Contracting [FS3032.17, FS3032.28, FS3032.30 and FS3032.33] are recommended to be rejected.

6.4 Permitted Activity Rule 15.11.1 P1

6.4.1 Introduction

189. Permitted Activity Rule 15.11.1 P1 states:

PI	Addition to an existing building.	(a) Additions do not increase the gross floor area of the building by more than 15m ² ; and (b) Additions do not result in the length of any wall of the building exceeding 20m.
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6.4.2 Submissions

190. Three submission/further submission points were received regarding this rule - two requesting to retain the rule as notified [2094.44], [FS3020.1] - and one requesting to amend the rule to include unlimited gross floor area and wall extensions as a permitted activity.

191. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2094.44	Kainga Ora Homes and Communities	Retain Rule 15.11.1 P1 as notified
FS3020.1	Shand Properties Limited	Support OS 2094.44
FS3032.6	Timberline Contracting	Oppose OS 2094.44 The gross floor area and length of wall extension as a permitted activity is not sufficient and it should be unlimited.

6.4.3 Analysis

192. The inclusion of all building extensions of unlimited dimensions as a permitted activity exposes the Council to unnecessary risk where geotechnical assessments have not been undertaken to determine the land as suitable for development. Council should retain the ability to decline an application where the risk is high and a geotechnical assessment has not been undertaken.

6.4.4 Recommendations

193. For the reasons outlined above, it is recommended that the rule be retained as notified.

194. The submission from Kainga Ora [2094.44] and further submission from Shand Properties [FS3020.1] are recommended to be accepted.

195. The further submission from Timberline Contracting [FS3032.6] is recommended to be rejected.

6.5 Permitted Activity Rule 15.11.1 P2

6.5.1 Introduction

196. Permitted Activity Rule 15.11.1 P2 states:

P2	Standalone garage	(a) The gross floor area of the building does not exceed 55m ² ; and (b) The maximum length of any wall does not exceed 20m.
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6.5.2 Submissions

197. Three submission/further submission points were received regarding this rule - two requesting to retain the rule as notified ([2094.45] and [FS3020.2]), and one requesting to amend the rule to include unlimited garages as a permitted activity.
198. The following submission/further submissions were made:

Submission point	Submitter	Summary of submission
2094.45	Kainga Ora Homes and Communities	Retain Rule 15.11.1 P2 as notified
FS3020.2	Shand Properties Limited	Support OS 2094.45
FS3032.7	Timberline Contracting	Oppose OS 2094.45 There should be no limitations on the floor area and wall length associated with a garage as a permitted activity.

6.5.3 Analysis

199. The inclusion of all garages as a permitted activity exposes the Council to unnecessary risk where geotechnical assessments have not been undertaken to determine the land as suitable for development. Council should retain the ability to decline an application where the risk is high.

6.5.4 Recommendations

200. For the reasons outlined above, it is recommended that the rule be retained as notified.
201. The submission/further submission from Kainga Ora [2094.45] and Shand Properties [FS3020.2] are recommended to be accepted.
202. The submission from Timberline Contracting [FS3032.7] is recommended to be rejected.

6.6 Permitted Activity Rule 15.11.1 P3

6.6.1 Introduction

203. Permitted Activity Rule 15.11.1 P3 states:

P3	Construction, replacement, repair, minor upgrading, upgrading or maintenance of utilities	Nil
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6.6.2 Submissions

204. Two submission/further submission points were received regarding this rule, which request the inclusion of unlimited earthworks associated with utilities as a permitted activity.
205. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
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2106.26	WEL Networks Limited	"Amend Rule 15.11.1 P3 as follows: Construction, replacement, repair, minor upgrading, upgrading or maintenance of utilities <u>and associated earthworks.</u> "
FS3010.7	KiwiRail Holdings Limited	Support OS 2106.26

6.6.3 Analysis

206. The inclusion of utility earthworks as a permitted activity is considered to be appropriate in this case, as Utility Operators will consider the risk of mine subsidence at the time of undertaking their works. It will also avoid the unintended consequence of utility works being captured by the earthworks standard.

6.6.4 Recommendations

207. For the reasons outlined above, it is recommended that the rule be amended to include associated earthworks as a permitted activity.

208. The submissions/further submissions from WEL Networks [2106.26] and Kiwirail Holdings [FS3010.7] are recommended to be accepted.

6.6.5 Recommended amendments

209. The following amendments are recommended:

Rule 15.11.1

P3	Construction, replacement, repair, minor upgrading, upgrading or maintenance of utilities <u>and associated earthworks</u>	Nil
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6.6.6 Section 32AA evaluation

Other reasonably-practicable options

210. The only other reasonably-practicable option is to not amend the policy as requested.

Effectiveness and efficiency

211. The recommended amendment to Rule 15.11.1 ensures that the rule remains efficient and effective by not requiring resource consents for earthworks associated with utility works.

Costs and benefits

212. There are no additional costs, therefore costs are likely to be the same. There are benefits for the environment with the amendment as, it is clearer about how the effects will be managed. Other benefits are clearer guidance to plan users regarding the effects.

Risk of acting or not acting

213. 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 rule.

Decision about most appropriate option

214. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version of the rule.

6.7 Permitted Activity Rule 15.11.1 P4

6.7.1 Introduction

215. Permitted Activity Rule 15.11.1 P4 states:

P4	Earthworks	(a) The maximum volume of filling does not exceed 20m ³ per site; and (b) The maximum depth of any excavation or filling does not exceed 1m above or below ground level.
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6.7.2 Submissions

216. Five submission/further submission points were received regarding this rule.
217. Three of the submissions/further submissions are in support of the current notified version - [2094.46], [FS3020.3] and [2106.27].
218. One of the submissions requests that telecommunication utilities be exempt from the maximum earthworks limit [2040.12].
219. One of the further submissions requests that all earthworks, without restriction, be a permitted activity [FS3032.8].
220. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2040.12	Spark New Zealand Trading Limited	Amend Rule 15.11.1 P4 such that it does not apply to telecommunications utilities.
2094.46	Kainga Ora Homes and Communities	Retain Rule 15.11.1 P4 as notified
FS3020.3	Shand Properties Limited	Support OS 2094.46
FS3032.8	Timberline Contracting	Oppose OS 2094.46 There should be no limitations on the earthworks as a permitted activity.
2106.27	WEL Networks Limited	Retain Rule 15.11.1 P4, subject to the amendment sought in 15.11.1 P3.

6.7.3 Analysis

221. The amendment made to permitted activity standard P3 to include utility-related earthworks means that all telecommunication utilities are exempt from the earthworks limitation rule P4.
222. The inclusion of all non-utility-related earthworks as a permitted activity without any restrictions exposes the Council to unnecessary risk where geotechnical assessments have not been undertaken to determine the land as suitable for development. Council should retain the ability to require resource consent and undertake appropriate assessments for earthworks activities exceeding the permitted activity standard.

6.7.4 Recommendations

223. For the reasons outlined above, it is recommended that permitted activity P4 be retained as notified.
224. The submissions/further submissions from Kainga Ora [2094.46], Shand Properties [FS3020.3] and WEL Networks Limited [2106.27] are recommended to be accepted.
225. The submission from Spark [2040.12] and the further submission from Timberline Contracting [FS3032.8] are recommended to be rejected.

6.8 Restricted Discretionary Activities 15.11.2

6.8.1 Introduction

226. Section 15.11.2 sets out the Mine Subsidence Risk Area Restricted Discretionary Activity Rules.

6.8.2 Submissions

227. Eleven submission/further submission points were received regarding these general rules.
228. Six of the submissions/further submissions - [2183.2], [FS3020.17], [2185.2], [FS3020.18], [2186.2] and [FS3020.19] - request that the rules be retained as notified.
229. Two of the submissions/further submissions [2138.3], [FS3032.18] request that subdivision is included as a restricted discretionary activity.
230. The further submission from Shand Properties submissions [FS3020.9] requests that a controlled activity rule be introduced, as recommended earlier in this report.
231. Two of the further submissions - [FS3032.31] and [FS3032.34] - request that earthworks be made a permitted activity rather than restricted discretionary.
232. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2138.3	RG de Leeuw Construction Limited	Amend Rule 15.11.2 Mine Subsidence Risk Area, Restricted Discretionary Activities to include subdivision as a restricted discretionary activity and retain the identified matters to which discretion is restricted.
FS3020.9	Shand Properties Limited	Oppose OS 2138.3 Shand Properties Limited agrees with the suggested lesser activity status for Rule 15.11.2 however, considers that the introduction of a controlled activity status rule suggested through the Submitters original submission is a more appropriate way to manage development within the Mine Subsidence Risk Area. The ability to trigger a Controlled activity status is considered to be more appropriate as a Discretionary activity status would still be triggered under PDP Rule 15.11.3 D2 at the time of subdivision. A Controlled

		<i>activity status will provide the Applicant with more assurance and therefore investment certainty, given that the consent would be granted. However, Council will retain the ability to apply discretion at the time of subdivision consent application.</i>
<i>FS3032.18</i>	<i>Timberline Contracting</i>	<i>Support OS 2138.3</i>
2183.2	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.2 Mine Subsidence Risk Area, Restricted Discretionary Activities.
<i>FS3020.17</i>	<i>Shand Properties Limited</i>	<i>Support OS 2183.2</i>
2185.2	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.2 Mine Subsidence Risk Area, Restricted Discretionary Activities.
<i>FS3020.18</i>	<i>Shand Properties Limited</i>	<i>Support OS 2185.2</i>
<i>FS3032.31</i>	<i>Timberline Contracting</i>	<i>Oppose OS 2185.2 There should be no limitations on the earthworks and therefore no need for an activity cascade to restricted discretionary.</i>
2186.2	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.2 Mine Subsidence Risk Area, Restricted Discretionary Activities.
<i>FS3020.19</i>	<i>Shand Properties Limited</i>	<i>Support OS 2186.2</i>
<i>FS3032.34</i>	<i>Timberline Contracting</i>	<i>Oppose OS 2186.2 There should be no limitations on the earthworks and therefore no need for an activity cascade to restricted discretionary.</i>

6.8.3 Analysis

233. As noted earlier, the inclusion of all earthworks as a permitted activity exposes the Council and landowners to unnecessary and inappropriate risk, where geotechnical assessments have not been undertaken to determine the land suitable for development. Council should retain the ability to decline an earthworks application where the risk is high. On that basis, restricted discretionary remains an appropriate status.
234. Two of the submissions/further submissions [2138.3], [FS3032.18] request that subdivision be included as a restricted discretionary activity rather than discretionary. I do not agree with those submissions – retaining full discretionary status for subdivision is important, as the ability to fully assess geotechnical risk and impose conditions to avoid, remedy or mitigate that effect at the subdivision stage - is critical. This is especially the case in light of the amendment that I recommended earlier to introduce a controlled activity for buildings where a geotech report that addresses subsidence risk has been approved through the subdivision process.
235. Retaining discretionary activity status will also be consistent with the remainder of the Stage 2 Natural Hazard rules (for example, the rules related to Coastal Hazards).

6.8.4 Recommendations

236. For the reasons outlined above, it is recommended that Rule 15.11.2 be retained as notified.
237. The submissions from Falesa & Leitu Fesolai Sila [2183.2, 2185.2 and 2186.2] and the further submissions from Shand Properties [FS3020.09, FS3020.17, FS3020.18, FS3020.19] are recommended to be accepted.
238. The submission from RG de Leeuw Construction Limited [2138.3] and the further submissions from Timberline Contracting [FS3032.18, FS3032.31 and FS3032.34] are recommended to be rejected.

6.9 Restricted Discretionary Activity Rule 15.11.2 RDI

6.9.1 Introduction

239. Restricted Discretionary Rule 15.11.2 RDI states:

RDI	Earthworks that do not comply with Rule 15.11.1 P4.	Discretion is restricted to (a) Location and scale of earthworks; (b) Geotechnical and geological stability of the site following the completion of earthworks; (c) Risk to people and property from subsidence as a result of earthworks; (d) Any other mitigation measures to reduce risk.
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6.9.2 Submissions

240. Three submission/further submission points were received regarding this rule.
241. Two of the submissions/further submissions - [2094.47] and [FS3020.4] - support the rule as notified.
242. One of the submissions - [FS3032.9] - requests that earthworks (without any restrictions) are allowed for as a permitted activity rather than a restricted discretionary activity.
243. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2094.47	Kainga Ora Homes and Communities	Retain Rule 15.11.2 RDI as notified
FS3020.4	Shand Properties Limited	Support OS 2094.47
FS3032.9	Timberline Contracting	Oppose OS 2094.47 There should be no limitations on earthworks and therefore should be no activity cascade to restricted discretionary activity.

6.9.3 Analysis

244. As noted above, the inclusion of all earthworks as a permitted activity exposes the Council to unnecessary risk where geotechnical assessments have not been undertaken to determine the land as suitable for development. Council should retain the ability to decline an application where the risk is high.

6.9.4 Recommendations

245. For the reasons outlined above, it is recommended that the rule be retained as notified.
246. The submission and further submission from Kainga Ora [2094.47] and Shand Properties [FS3020.4] are recommended to be accepted.
247. The submission from Timberline Contracting [FS3032.9] is recommended to be rejected.

6.10 Discretionary Activities 15.11.3

6.10.1 Introduction

248. Section 15.11.3 sets out the Mine Subsidence Risk Area Discretionary Activity Rules. These rules as notified capture construction of a building or additions to an existing building not complying as permitted (or controlled as per my prior recommendation), and any subdivision that creates an additional vacant lot(s) other than for utilities, access or reserve purposes.

6.10.2 Submissions

249. Twelve submission/further submission points were received regarding this overall section.
250. Six submissions/further submissions - [2183.3], [FS3020.20], [2185.3], [FS3020.21], [2186.3], [FS3020.22] - request that the discretionary rules be retained as notified.
251. Two submissions/further submissions - [2138.4], [FS3032.19] - request that all discretionary activity rules be deleted.
252. Two further submissions - [FS3032.32] and [FS3032.35] - request that all discretionary activity rules be converted to restricted discretionary rules.
253. One further submission [FS3020.10] requests that development which has a subdivision consent be a controlled activity.
254. One further submission [FS3032.29] requests that all earthworks be a permitted activity.
255. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2138.4	RG de Leeuw Construction Limited	Delete Rule 15.11.3 Mine Subsidence Risk Area, Discretionary Activities.
FS3020.10	Shand Properties Limited	<p><i>Oppose OS 2138.4</i></p> <p><i>Shand Properties Limited opposes the deletion of Rule 15.11.3 (Mine Subsidence Risk Area). While the Submitter agrees that the current rule framework is overly restrictive. The requirement for a Discretionary resource consent for the construction of a dwelling or undergoing subdivision to any extent is deemed appropriate where the geotechnical risk is unknown. As requested through the Submitters original submission, where a Discretionary resource consent has already been applied for and granted under Rule 15.11.3 D2 a second Discretionary resource consent shall not be</i></p>

		<i>required at the time of development under Rule 15.11.3 D1.</i>
FS3032.19	Timberline Contracting	Support OS 2138.4
2183.3	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.3 Mine Subsidence Risk Area, Discretionary Activities.
FS3020.20	Shand Properties Limited	Support OS 2183.3
FS3032.29	Timberline Contracting	Oppose OS 2183.3 <i>There should be no limitations on earthworks and therefore should be no activity cascade to restricted discretionary activity.</i>
2185.3	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.3 Mine Subsidence Risk Area, Discretionary Activities.
FS3020.21	Shand Properties Limited	Support OS 2185.3
FS3032.32	Timberline Contracting	Oppose OS 2185.3 <i>Discretionary activity status is too restrictive, and the effects are well understood for the appropriate activity status to be restricted discretionary.</i>
2186.3	Falesa & Leitu Fesolai Sila	Retain Rule 15.11.3 Mine Subsidence Risk Area, Discretionary Activities.
FS3020.22	Shand Properties Limited	Support OS 2186.3
FS3032.35	Timberline Contracting	Oppose OS 2186.3 <i>Discretionary activity status is too restrictive, and the effects are well understood for the appropriate activity status to be restricted discretionary.</i>

6.10.3 Analysis

256. Allied to the submission points discussed in the next section of this report, the difference between discretionary and restricted discretionary activity status in practice is simply that Council's discretion is not restricted in a full discretionary activity assessment of effects. Notification provisions are the same for each status (note that the public notification exclusion for restricted discretionary and discretionary activity subdivisions and residential activities was repealed in the September 2020 RMA amendments). Crucially, either status allows for a consent application to be granted or declined.
257. In this case, the risks associated with historic mining-related subsidence are a very confined matter which, in a landuse sense, lend themselves well to restricted discretionary status. Accordingly, I agree with the submissions set out above that seek restricted discretionary status but only to the extent that it would apply to buildings or additions not holding either permitted or controlled activity status. In terms of subdivision, my view is that discretionary status remains appropriate to allow for an unrestricted assessment of effects – this is important, because the subdivision stage will be where geotechnical stability and suitability risk

issues will need to be resolved in order for subsequent landuse to occur in an efficient manner. Providing discretionary status for subdivision is one of the mechanisms that can ensure that this occurs.

6.10.4 Recommendations

258. For the reasons outlined above, it is recommended that discretionary rule DI be converted to an equivalent restricted discretionary activity rule (RD2).
259. The submissions from RG de Leeuw Construction [2138.4], Falesa & Leitu Fesolai Sila [2183.3], [2185.3], [2186.3] and the further submissions from Timberline Contracting [FS3032.19], [FS3032.29] [FS3032.32], [FS3032.35] and Shand Properties [FS3020.20], [FS3020.21], [FS3020.22] are recommended to be accepted in part.
260. The assessments are undertaken in Sections 6.11 and 6.12 below.

6.11 Discretionary Activity Rule 15.11.3 DI

6.11.1 Introduction

261. Discretionary Rule 15.11.3 DI states:

DI	Construction of a building or additions to an existing building not provided for in Rule 15.11.1 P1-P3.
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6.11.2 Submissions

262. Three submission/further submission points were received regarding this rule.
263. Two of the submissions/further submissions request that the activity status be amended to Restricted Discretionary - [2094.48] and [FS3032.10] - and one requests that the activity status be amended to Controlled [FS3020.5].
264. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2094.48	Kainga Ora Homes and Communities	"Amend the activity status of Rule 15.11.3 DI from Discretionary activity to Restricted Discretionary Activity AND Amend Rule 15.11.3 DI as follows: Construction of a new building, <u>or accessory building or the reconstruction of</u> or additions to an existing building not provided for in Rule 15.11.1 P1 – P3. AND Add the following matters of discretion as follows: <u>(a) Construction standards and materials.</u> <u>(b) Suitability of the site for development.</u> <u>(c) The potential effects on health and safety."</u>

FS3020.5	Shand Properties Limited	Oppose OS 2094.48 <i>15.11.3 D1 Shand Properties Limited agrees in principal with the suggested Restricted Discretionary consent status in that it suggests a less stringent activity status than the proposed consent status of Discretionary. For the reasons outlined in the Submitters original submission on Stage 2 the inclusion of a Controlled activity status rule is considered to be more appropriate, as a Discretionary activity status would still be triggered under PDP Rule 15.11.3 D2 at the time of subdivision. A Controlled activity status will provide the Applicant with more assurance and certainty, given that the consent would be granted if the matters of control are satisfied. Shand Properties Limited supports the additional matters to be included in the PDP as matters of control rather than matters of discretion: (a) Construction standards and materials. (b) Suitability of the site for development. (c) The potential effects on health and safety. The Submitter opposes this submission overall as, a Discretionary activity resource consent shall still be required at the time of constructing a building where a subdivision consent has not previously been applied for and approved by Council.</i>
FS3032.10	Timberline Contracting	Support OS 2094.48

6.11.3 Analysis

265. As discussed in the preceding report section, restricted discretionary activity status is considered appropriate in this case for building development that cannot comply as either a permitted or controlled activity. This RD rule will effectively capture only larger-scale additions, and additions or new builds on sites where the ground suitability has been confirmed through a geotechnical report at the time of subdivision, and an associated consent notice recorded on the relevant Certificate of Title.

6.11.4 Recommendations

266. For the reasons outlined above, it is recommended that discretionary rule D1 be converted to an equivalent restricted discretionary activity rule (RD2).
267. The submissions from Kainga Ora [2094.48] and the further submissions from Shand Properties [FS2020.5] and Timberline Contracting [FS3032.10] are recommended to be accepted in part.

6.11.5 Recommended amendments

268. The following amendments are recommended:

15.11.2 Restricted Discretionary Activities

<u>RD2</u>	<u>Construction of a building or accessory building or the reconstruction of or additions to an existing building not</u>	<u>Discretion is restricted to:</u> (a) <u>Construction standards and materials.</u>
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	<u>provided for in Rule 15.11.1 P1-P3 or CI.</u>	(b) <u>Suitability of the site for development.</u> (c) <u>The potential effects on health and safety.</u>
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~~15.11.3 Discretionary Activities~~

~~State 2 Content~~

~~(a) The activities listed below are discretionary activities in the Mine Subsidence Risk Area~~

D1	Construction of a building or additions to an existing building not provided for in Rule 15.11.1 P1-P3.
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6.11.6 Section 32AA evaluation

Other reasonably-practicable options

269. The only other reasonably-practical option is to retain the plan provisions as they are currently drafted.

Effectiveness and efficiency

270. The recommended amendment to Rule D1 ensures that the adverse effects on mine subsidence and the environment are minimised, while providing opportunities for economic growth and focused assessment. The amendments improve the effectiveness of the rule in implementing the objectives and provide suitable guidance to plan users for the assessment of activities that affect the management of mine subsidence.

Costs and benefits

271. There are no additional costs, therefore costs are likely to be the same. There are benefits to the environment with the amendment, as it is clearer about how the effects will be managed. Other benefits are clearer guidance to plan users regarding the effects.

Risk of acting or not acting

272. There is sufficient information available to ascertain that there are no additional risks in acting on the recommended amendment to the plan.

Decision about most appropriate option

273. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version of the rule.

6.12 Discretionary Activity Rule 15.11.3 D2

6.12.1 Introduction

274. Discretionary Rule 15.11.3 D2 states:

D2	Subdivision to create one or more additional vacant lot(s) other than a utility allotment, access allotment or subdivision to create a reserve allotment.
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6.12.2 Submissions

275. Three submission/further submission points were received regarding this rule.

276. One of the submissions - [2094.49] - supports the rule as notified.
277. One of the further submissions [FS3020.6] requests that the rule be limited to the construction of a building where a subdivision consent has not been previously granted.
278. The other further submission [FS3032.11] requests that the rule be amended to a Restricted Discretionary activity.
279. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2094.49	Kainga Ora Homes and Communities	Retain Rule 15.11.3 D2 as notified, subject to re numbering as D1
FS3020.6	Shand Properties Limited	Oppose OS 2094.49 <i>Shand Properties Limited considers that the Discretionary activity status for the construction of a building where a subdivision consent has not been previously granted is appropriate.</i>
FS3032.11	Timberline Contracting	Oppose OS 2094.49 <i>The activity status is more appropriate as restricted discretionary for subdivision as the potential effects are well known, and restricted discretionary is a more appropriate activity status for subdivision.</i>

6.12.3 Analysis

280. The analysis in Section 6.10.3 above is applicable to the amendments sought, as set out above. In short, discretionary status for subdivision should be retained.

6.12.4 Recommendations

281. For the reasons outlined above, it is recommended that Rule D2 be retained as a discretionary activity (subject to consequential renumbering as Rule D1).
282. The submission from Kainga Ora [2094.9] and the further submission from Shand Properties [FS3020.6] are recommended to be accepted.
283. The further submission Timberline Contracting [FS3032.11] is recommended to be rejected.

6.13 Definitions 15.14

6.13.1 Introduction

284. The key definitions for this chapter are located in Section 15.14.

285. The definition of 'Mine Subsidence Risk Area' is as follows:

'Means an area identified on the planning maps which is currently at risk of surface subsidence as a result of historic underground coal mining operations.'

286. The definition of 'Standalone Garage' is as follows:

'Means a roofed and enclosed building which is detached from the main residential unit and designed to accommodate one or more motor vehicles.'

6.13.2 Submissions

287. Nine submission/further submission points were received regarding this section - seven regarding the Mine Subsidence Risk Area definition, and two regarding the Standalone Garage definition.
288. Three of the submissions/further submissions are in support of the definition of 'Mine Subsidence Risk Area' being retained only in Section 15.14 - [2173.82], [FS3020.13] and [FS3032.25].
289. Three of the submissions are in support of the definition of 'Mine Subsidence Risk Area' being located in both Section 15.14 and Chapter 13 [2094.64], [FS3017.3] and [FS3032.12].
290. One of the further submissions [FS3020.7] seeks to locate the 'Mine Subsidence Risk Area' definition in Chapter 13 of the Plan.
291. One of the submissions - [2173.85] - seeks to retain the definition of 'Standalone Garage' in Chapter 15.14 as notified, and another - [2094.67] - seeks to retain it in Chapter 15.14 as well as in Chapter 13.
292. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2094.64	Kainga Ora Homes and Communities	Retain the definition of "Mine subsidence risk area" in section 15.14, and definition these to Chapter 13 of PWDP.
FS3017.3	Noel Smith	Support OS 2094.64
FS3020.7	Shand Properties Limited	Oppose OS 2094.64 The definition of Mine Subsidence Risk Area shall be within the Definitions section of the PDP to ensure consistency with all other PDP Chapters.
FS3032.12	Timberline Contracting	Support OS 2094.64
2173.82	Federated Farmers of New Zealand	Retain the definition of Mine Subsidence Risk Area in Chapter 15.14 Definitions, subject to appropriate refinement through the Schedule 1 process.
FS3020.13	Shand Properties Limited	Support OS 2173.82
FS3032.25	Timberline Contracting	Support OS 2173.82
2173.85	Federated Farmers of New Zealand	Retain the definition of Standalone Garage in Chapter 15.14 Definitions as notified.
2094.67	Kainga Ora Homes and Communities	Retain the definition of "Standalone garage" in section 15.14, and relocate definition to Chapter 13 of PWDP.

6.13.3 Analysis

293. For clarity and consistency in terms of the layout and use of the Proposed District Plan, it is recommended that both definitions be relocated from Chapter 15.14 to Chapter 13 - Definitions.

6.13.4 Recommendations

294. For the reasons outlined above, it is recommended that the two definitions be included in Chapter 13.
295. The submissions/further submissions from Kainga Ora [2094.64], N Smith [FS3017.3], and Timberline Contracting [FS3032.12] are recommended to be accepted.
296. The submissions/further submissions from Shand Properties - [FS3020.7] and [FS3020.13], Federated Farmers - [2173.82] and [2173.85], Timberline Contracting [FS3032.25] and Kainga Ora [2094.67] are recommended to be accepted in part.

6.14 Planning Map 20.2

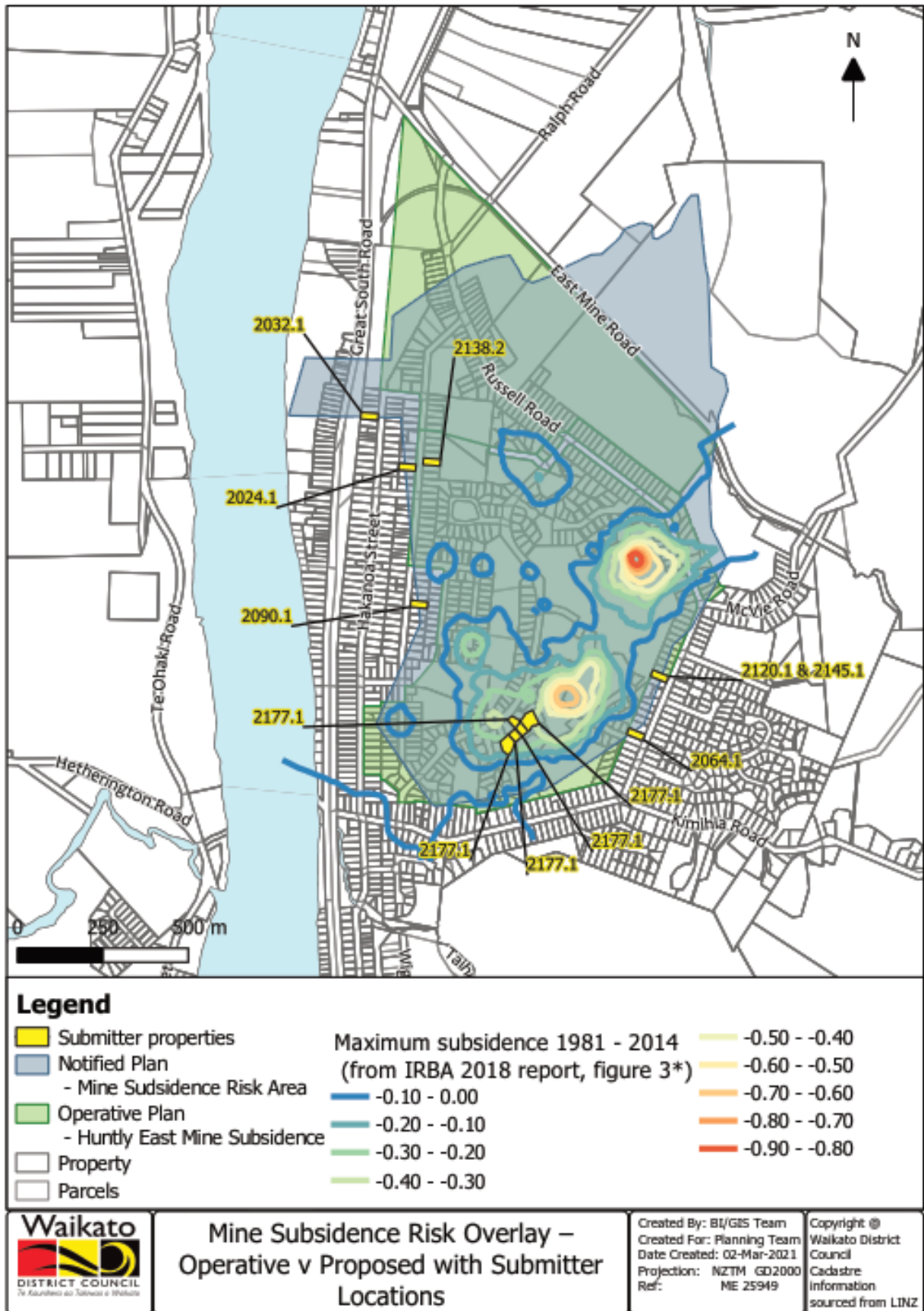
6.14.1 Introduction

297. The relevant planning map showing the 'Mine Subsidence Risk Area' overlay is Map 20.2.

6.14.2 Submissions

298. Eighteen submission /further submission points were received regarding the mapped 'Mine Subsidence Risk Area' overlay in Huntly East. All of these request that the overlay be removed from the submitters' properties, or in the case of the Huntly Community Board submission, that the extent of the overlay in the Proposed District Plan be amended to match the extent of the overlay in the Operative District Plan.
299. Figure I below shows the extent of the Mine Subsidence Risk Overlay in both the Operative and Proposed District Plans, along with the locations of submitters to this topic and the subsidence zones identified in technical reporting to date.

Figure I – Mine Subsidence Risk Overlays with submitter locations



300. The following submissions/further submissions were made:

Submission point	Submitter	Summary of submission
2024.1	Elaine & Eric Wright	Amend Map 20.2 Huntly East to remove Mine Subsidence Risk Area off 81 Bailey Street , Huntly.
<i>FS3032.1</i>	<i>Timberline Contracting</i>	<i>Support OS 2024.1</i>
2032.1	Blair Everett	Amend the Mine Subsidence Risk Area overlay on Map 20.2 Huntly East by removing the overlay area entirely from the property at 201 Hakanoa St.
<i>FS3032.2</i>	<i>Timberline Contracting</i>	<i>Support OS 2032.1</i>
2064.1	Tamara Pairaudeau	Amend Map 20.2 Huntly East to exclude 15 Russell Road , Huntly from the Mine Subsidence Risk Zone.
<i>FS3032.4</i>	<i>Timberline Contracting</i>	<i>Support OS 2064.1</i>
2090.1	Scott Foster	"Clarification sought on the determination of the Mine Subsidence Risk Area boundary within 42 Bailey Street Huntly. And Potentially amend the Mine Subsidence Risk Area within 42 Bailey Street , Huntly."
<i>FS3032.5</i>	<i>Timberline Contracting</i>	<i>Support OS 2090.1</i>
2120.1	Sushil Kumar	Amend Planning Map 20.2 - Huntly East so that Mine Subsidence Risk Area does not affect the area around the property located at 35 Russell Road Huntly.
<i>FS3032.14</i>	<i>Timberline Contracting</i>	<i>Support OS 2120.1</i>
2145.1	Sushil Kumar	Amend Map 20.2 Huntly East so that the Mine Subsidence Risk Area is not added at 35 Russell Road , Huntly.
<i>FS3032.20</i>	<i>Timberline Contracting</i>	<i>Support OS 2145.1</i>
2177.1	Dennis Warrick Young	Amend Map 20.2 Huntly East the Mine Subsidence Risk Area on: 44 Rosser Street, Huntly; 3, 5, 7, 9, 11, 13 Vincent Aspley Place; and 5 Willoughby Place.
<i>FS3032.26</i>	<i>Timberline Contracting</i>	<i>Support OS 2177.1</i>
2189.1	David Whyte on behalf of Huntly Community Board	Amend section 15.11 Mine Subsidence Risk Area Overlay. Reduce overlay of subsidence risk modelling to align with the spatial extent already identified by the Huntly Subsidence Zone.

FS3019.3	Blair Everett	Support OS 2189.1
FS3020.23	Shand Properties Limited	Neutral OS 2189.1 <i>15.11 Provided Council are able to justify the change in area/boundary location of the Mine Subsidence Risk Area Overlay Shand Properties Limited does not consider that any change is necessary to the area as notified.</i>
FS3032.36	Timberline Contracting	Support OS 2189.1

6.14.3 Analysis

301. Doug Johnson has undertaken an assessment of the mapping methodology, concluding the following in Section 4:

- *The subsidence risks associated with the Huntly East Mine are well defined and understood.*
- *The difference between the operative Huntly East Mine Subsidence Area overlay and the proposed Mine Subsidence Risk Area overlay are mostly related to different interpretations of how the risk of subsidence is managed about the edge of the potential subsidence and where the risks are lowest.*
- *The operative Huntly East Mine Subsidence Area overlay provides for the most practical management of the subsidence risk (by virtue of the boundaries of the overlay aligning with property boundaries).*
- *The group of properties that submitted against inclusion located within both the operative and proposed subsidence overlays should be rejected. They should remain with the subsidence zone.*
- *Properties outside of the operative overlay but within the proposed overlay are at low risk to subsidence.*
- *If the new overlay is adopted, I consider the properties now added to the subsidence zone should be recognised as being at a lower risk and should be treated differently compared to the properties within the operative overlay with known subsidence. The five submitters from properties in this area should be recognised as being at lower risk than those properties within the current subsidence zone.*
- *If the proposed Mine Subsidence Risk Area overlay is adopted, it will require modification as it currently crosses through properties and will be difficult to interpret and administer.*
- *I do not consider gas accumulation is a risk to subsidence and it should not be used for subsidence zoning management purposes.*

302. I rely on the expert review and advice of Mr Johnson, which generally aligns with the thrust of the submission from the Huntly Community Board [2189.1]. Accordingly, my view in planning terms is that there is an insufficient level of subsidence hazard risk on the properties that have been newly captured by the expansion of the mining subsidence overlay to justify their inclusion. Thus, retention of the current extent of the mining subsidence overlay, as set out in the Operative District Plan, is an appropriate method of recognising and providing for mine-related subsidence as a natural hazard, as required by s6(h) of the RMA.

6.14.4 Recommendations

303. For the reasons outlined above, it is recommended to retain the existing operative overlay spatial extent (the 'Huntly East Mine Subsidence Area' overlay).

304. It is recommended to accept the submissions/further submissions relating to properties which are located within the Proposed District Plan overlay, but are not located in the Operative District Plan overlay (i.e. to remove the proposed overlay from the property):

- 201 Hakanoa St [2032.1 B Everett, FS3032.2 Timberline Contracting].
- 81 Bailey Street [2024.1 E & E Wright, FS3032.1 Timberline Contracting].
- 42 Bailey Street [2090.1 S Foster, FS3032.5 Timberline Contracting].
- 35 Russell Road [2120.1 S Kumar, FS3032.14 Timberline Contracting, 2145.1 S Kumar, FS3032.20 Timberline Contracting].
- 15 Russell Road [2064.1 T Pairaudeau, FS3032.4 Timberline Contracting].
- [2189.1 Huntly Community Board], [FS3019.4 B Everett], [FS3020.23 Shand Properties], [FS3032.36 Timberline Contracting].

305. It is recommended to reject the submissions/further submissions relating to properties which are located within both the operative and proposed overlays:

- 84 Bailey Street [2138.2 RG de Leeuw Construction Limited]
- 44 Rosser Street, 3-13 Vincent Aspey Place, 5 Willoughby Place [2177.1 D Warrick Young, FS3026.26 Timberline Contracting].

6.14.5 Recommended amendments

306. The following amendments are recommended:

Amend the spatial extent of the 'Huntly East Mine Subsidence Area' overlaying the Proposed District Plan to match the extent of the overlay in the Operative District Plan.

6.14.6 Section 32AA evaluation

Other reasonably-practicable options

307. Other options would include:

- (a) Retain the proposed overlay spatial extent and establish a hierarchy of activity status' for each Zone (A, B, C, Mine Roadways) to reflect the different subsidence risk profiles.

Effectiveness and efficiency

308. The recommended amendment to the 'Mine Subsidence Risk Area' spatial overlay ensures that the adverse effects on property and people are minimised. The amendment improves the effectiveness of the overlay map and provides suitable guidance to plan users for the assessment of activities that have the potential to be affected by the historic mining subsidence.

Costs and benefits

309. There are no additional costs from the proposed change, therefore costs are likely to be the same. There are benefits to the individual landowners who will have their property removed from the overlay, and who will thus avoid being the subject of land use and subdivision controls.

Risk of acting or not acting

310. The information available with regard to the risk of historical mining-induced subsidence in Huntly is extensive. Enough certainty and completeness of the information is available to ensure that the risk of acting to remove the relevant properties from the overlay, and apply it to the same extent as in the Operative District Plan, is acceptable.

Decision about most appropriate option

311. The amendment is more appropriate in achieving the purpose of the RMA than the notified extent of the overlay.

6 Conclusion

312. In conclusion, I consider that the submissions in this chapter should be accepted, accepted in part or rejected, as set out in Appendix 1 below, for the reasons set out in this report.
313. I recommend that provisions in Chapter 15 and 13 be amended as set out in Appendix 2 below, for the reasons set out in this report.
314. I have recommended that Waikato District Council prepare a district-wide liquefaction risk assessment to provide better guidance to plan users and landowners as to whether a site is at risk of liquefaction or not. That assessment will need to be worked into the Proposed District Plan by way of Variation or through a Plan Change, if the plan has been made operative by the time the district-wide assessment is prepared.
315. I have recommended that the extent of the Mine Subsidence Risk overlay in the Proposed District Plan be amended to match the extent of the equivalent overlay in the Operative District Plan.
316. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken and included in relevant Sections of this report.