Western Bay of Plenty District Council

Plan Change 74 – Coastal Hazards

Planning Report

April 2016

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1.0 Introduction

1.1 The purpose of this report is to provide recommendations on submissions and further submissions to Plan Change 74 – Coastal Hazards. Plan Change 74 proposes to update the District Plan Maps in response to a review of the 'coastal protection areas' at Waihi Beach and Pukehina. This review has identified land susceptible to coastal erosion and/or coastal inundation (flooding) within these areas over the next 100 years.

1.2 This Plan Change also reviews the rules within Section 8 – Natural Hazards of the District Plan to ensure the risks that coastal hazards pose to people and buildings can be avoided or mitigated. This review of the rules also affects the coastal protection areas along the rural open coastline (rural zoned land within 100m of MHWS) including Matakana Island, Maketu and the land east of Pukehina.

1.3 Council prepared the Plan Change to ensure that the identification and management of coastal hazards was kept up to date with latest scientific knowledge and best practice as well as the requirements of New Zealand Coastal Policy Statement (NZCPS) and Regional Policy Statement (RPS).

1.4 Tonkin & Taylor was commissioned by Council to undertake the review of the coastal protection areas at Waihi Beach and Pukehina. 'Stage One' was first of all to look at whether a re-assessment was necessary or not and determined it was due to advancements over the last 20 years in scientific knowledge, techniques, methodology and observations of the factors used to determine the location of coastal hazards. 'Stage Two' was the re-assessment.

1.5 Potentially affected landowners were informed of the review when it commenced in September 2014 and were then advised in early May 2015 that the Stage Two technical report was available. Public open days were held at Pukehina and Waihi Beach later that month. Council's webpage was kept up to date with all key information throughout the process. Landowners were also encouraged throughout to contact the project manager if they had any questions or wanted further information.

1.6 For a full background to the Plan Change and the proposed changes to the District Plan text and maps please refer to the Section 32 Report.

1.7 There were 24 submissions and three further submissions received on the Plan Change. This report is divided into nine topics to address the various submission points. The submission points are highlighted and followed by a response. Where one or more submission points were the same or similar these have been addressed together.

1.8 Any recommended amendments to rules in this report will be shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

2.0 Topic 1: General support/opposition and whether to proceed or not with the Plan Change

2.1 Background

2.1.1 In the Section 32 Report, it was recommended to proceed with the Plan Change for the following reasons:

- Council now has up-to-date research available on the areas at Waihi Beach and Pukehina that are susceptible to coastal hazards over the next 100 years. Council would be negligent to overlook this research.
- Proceeding with the Plan Change allows Council to keep the District Plan updated and in line with the requirements of the NZCPS.
- It will also correctly inform landowners and buyers of which land is at risk and help them prepare for the possible impacts of coastal hazards.
- While not proceeding with a Plan Change at this stage may alleviate the concerns that existing landowners hold for the short term, it ignores the impacts that existing or future landowners may face in the long term which will be more significant.

2.2 Submission Points and Discussion

Science and methodology

2.2.1 Bay of Plenty Regional Council support the Plan Change as it gives effect to the natural hazard provisions of the Regional Policy Statement (RPS) and is consistent with the coastal hazard provisions of the Proposed Regional Coastal Environment Plan (Proposed RCEP) which are technically operative. Other submitters (including Powerco) have given their general support subject to their other specific submission points being addressed. Another supports the Plan Change on the basis of it using reviewed and accepted scientific evidence.

2.2.2 This support is acknowledged.

2.2.3 Tonkin and Taylor's report has not been peer reviewed. Some other peer reviews of Tonkin and Taylor's reports have highlighted errors and they have been successfully challenged in Christchurch, Kapiti and Auckland (Omaha).

2.2.4 It is not necessary to get a peer review. Tonkin & Taylor were selected by open tender to undertake this review based on their high level of relevant experience and proven track record in preparing similar coastal hazard assessments for other district councils (including within the Bay of Plenty). Tonkin & Taylor's methodology is based on a proven approach tested in the Environment Court. The method for coastal erosion was further developed recently to provide more clarity on uncertainty and likelihood based on the probabilistic approach recommended by best practice guidelines and required under the NZCPS. This revised methodology, the same as being used for Western Bay of Plenty District Council, was first used by Tonkin & Taylor in the coastal erosion assessment for the Northland Regional Council in 2014 and was upheld following peer review.

2.2.5 Claims from submitters that other Tonkin & Taylor coastal hazard assessments have been successfully challenged in Christchurch, Kapiti and Auckland (Omaha) are misguided. For example, while the government has recently withdrawn coastal hazards as a topic from Christchurch City Council's District Plan Review, this is **not** the result any peer reviews of Tonkin & Taylor's coastal erosion and inundation assessment. In fact, peer review has shown that the results were valid and the assessment methods used were appropriate. Instead, the topic was withdrawn in recognition of community concerns and that coastal planning issues relating to potential sea level rises over 100 years do not need to be fast-tracked as part of Canterbury's earthquake recovery and are better dealt with through the normal District Plan Review process.

2.2.6 In the case of the Kapiti District Plan Review, while coastal erosion hazard assessments were prepared (in 2008 & 2012) these were **not** prepared by Tonkin & Taylor. It's also relevant to note that while this assessment was later withdrawn by Council, the peer review had agreed with the general methodology and proposed two modifications (which would further increase hazard width) before inclusion in the District Plan. In the Omaha example, it was **not** Tonkin & Taylor's 2006 coastal inundation hazard assessment that was challenged but rather the wording used on the LIM reports for the identified properties. This wording was subsequently amended to reflect the outcome of the assessment which was to identify properties which could be affected by inundation in the future, not those at immediate risk.

2.2.7 Tonkin and Taylor's report relies on science which is incomplete, unreliable, not fully accepted and overly conservative (based on a worst case scenario). There is no perceivable change in past sea level rise and no evidence for future sea level rise.

2.2.8 Tonkin & Taylor's re-assessment for Council relies on the latest scientific information available on sea level rise. As explained in their report, historical sea level rise figures have been sourced from Hannah and Bell (2012) which show sea levels in New Zealand have risen an average of 1.7 ± 0.1 mm/year. Future sea level rise projections have been sourced from the latest assessment report from the International Panel on Climate Change (IPCC) (2014) which is the leading international body on this topic.

2.2.9 Tonkin & Taylor have adopted the IPCC's RCP8.5 emission scenario identified by NIWA and MfE as a "business as usual" climate change scenario for potential future sea level rise projections, in accordance with legislative requirements and best practice guidelines.

2.2.10 The NZCPS requires a precautionary approach towards the use and management of coastal resources potentially vulnerable to effects from climate change and requires identification of areas in the coastal environment that are potentially affected by coastal hazards over 100 years. The RPS also sets the required sea level rise projections over a 100 year timeframe. The same approach is also recommended in the MfE guidelines and IPCC report.

2.2.11 The Tonkin & Taylor report uses a range of sea level rise projections and shoreline response models to account for uncertainty. This is further supported by Envirolink (2012) which recommended taking a probabilistic approach towards identification of natural hazards to account for such uncertainty.

2.2.12 While it is acknowledged that not all people believe that climate change is a reality, Council is nevertheless required to proceed with the identification of coastal hazards which could be influenced by climate change and must rely on the best information which is available at the time.

2.2.13 Sea level projections do not take into account the commitment to reduce greenhouse gas emissions through the Kyoto Protocol and the agreement from the United Nations Climate Change Conference in Paris (December 2015).

2.2.14 These international agreements are not factored into sea level rise projections because there is no certainty that they will be properly implemented and there is no evidence yet that they are leading to a stabilising of emissions. However, these mitigation measures may be incorporated into future assessments if proven successful.

2.2.15 The status quo should be kept until sufficient data has been recorded and nationally consistent sea level rise figures are agreed through central government.

2.2.16 The status quo cannot be kept because Council is required to give effect to both the NZCPS and RPS which require a response to climate change despite the uncertainty associated with it. The government has announced that it will develop a national policy statement to provide guidance to local authorities on natural hazards. However, the government has not indicated this will include a nationally agreed sea level rise figure and there is no certainty regarding when it will be completed.

2.2.17 Tonkin and Taylor's forecasts overlook the potential benefits of erosion control measures such as coastal plantings, proposed improvements to erosion control at Two Mile Creek, and future options previously not considered possible.

2.2.18 Erosion control measures were purposely overlooked because there is no certainty that they will be maintained and remain effective over the time period considered. This is explained in Tonkin & Taylor's Stage Two technical report regarding the exclusion of the rock revetment constructed at Waihi Beach. The same applies to coastal plantings and other erosion protection structures such as those proposed at two mile creek. However, these mitigation measures may be incorporated into future assessments if proven successful.

Consistency with legislation

2.2.19 The proposal does not meet the sustainable management provisions of the RMA.

2.2.20 This proposal is consistent with the purpose of the RMA. The proposed rules control subdivision and development to avoid or mitigate adverse effects on people and property from natural hazards. However, they also enable people to provide for their social, economic and cultural wellbeing by continuing to allow properties to have a dwelling and garage of any size plus some other ancillary activities as would be expected by any residential landowner. The proposal also provides for people's health and safety. It also needs to be noted that the RMA requires councils to have particular regard to the effects of climate change and to control the actual or potential effects of land use to avoid or mitigate natural hazards.

2.2.21 The proposal does not meet Objectives 1-4 of the NZCPS and does not fully meet Objectives 5-7 of the NZCPS.

2.2.22 The NZCPS addresses a wide range of resource management issues other than coastal hazards including provision of public open space and protection of natural processes, ecosystems, water quality, landscapes and natural character. Such issues are required to be addressed by regional and/or district councils depending on their respective functions under the RMA, therefore not all issues can be addressed by a district council.

Furthermore, there are no requirements to address all issues relating to a district council's function in a single proposal.

2.2.23 The Minister for the Environment has announced that the government is to release a national policy statement on natural hazards. Plan Change 74 should be withdrawn on the basis that the Council knew, or should have known, of the release by the Minister of the impending guidance for coastal protection.

2.2.24 This announcement, made in August 2015, explained that the government would be developing national policy statements for a number of topics including natural hazards. The topic of natural hazards is currently the lowest on the list of priorities and is given an indicative completion date of 2018. There is also no certainty that it will be completed by then. It is also unknown what specific guidance will be provided and whether it would change the outcome of Tonkin & Taylor's re-assessment. Council began the process for the coastal protection areas review in early 2014 and Tonkin & Taylor's re-assessment had already been completed and consulted on before the announcement was made. Until the national policy statement is in force, councils can continue to address hazards under existing guidance.

Council's process and decision making

2.2.25 It is arguably unlawful to push through changes on erroneous information.

2.2.26 As explained in the discussion above, the information available to Council is not erroneous and therefore can be relied upon for the purpose of the Plan Change.

2.2.27 Showing the changes on LIMs is unfounded.

2.2.28 Councils are required by law to include all known information relating to natural hazards on LIM reports. It has been confirmed in High Court decisions in the case of Weir v Kapiti Coast District Council that a council has no discretion over this other than the wording it uses to inform of any hazard.

2.2.29 Consultation involving one letter, one two hour open day and a letter on the eve of notification is not good practice. Only using 20 minimum working days (for submissions) is poor practice.

2.2.30 Potentially affected landowners were sent letters at the start of the project, the start of the consultation phase, and then prior to notification so they could make a submission. The letters advised people that all information relating to the project was on Council's website and they were encouraged to contact the project manager if they had any questions at any stage. Public open days were held at Pukehina and Waihi Beach in May 2015 which were followed by a detailed copy of the presentation and

answers to frequently asked questions being added to the website. The RMA requires that councils allow a minimum of 20 working days for the making of submissions on a plan change. This timeframe was suitable given the significant length of time the information had been available prior to notification.

2.2.31 Council has not identified or properly investigated other mitigation plans and alternatives. Council needs to explain its strategy for managing erosion over the next 50 to 100 years.

2.2.32 As explained in the Section 32 Report, it is not the purpose of this Plan Change to prevent coastal erosion or coastal inundation from occurring. However, Council does have other initiatives currently in place (outside of the District Plan) to attempt to manage coastal erosion. This includes rock revetment, stream training, dune planting through the 'Coast Care Bay of Plenty' program and dune re-nourishment through targeted rates.

2.2.33 Council is also in the process of developing a 'Harbour and Coastal Erosion Policy' to respond to erosion over the next 30 years. This is exploring a number of options including managed retreat, 'soft' defences such as dune planting, 'hard' defences such as rock revetment, and reclamation of land. Consultation on this policy took place in November and December 2015 and a draft policy will be presented for further feedback shortly.

2.2.34 It is important to note that the original rock revetment at Waihi Beach was built by Ohinemuri County Council and Western Bay of Plenty Council inherited the responsibility for these structures as part of the 1989 local government amalgamation. The new rock revetment is a response to that legal obligation rather than a reflection of Council's current approach to this issue. The NZCPS and RPS now discourage 'hard' defences and any resource consents for such activities will need to be considered by the Bay of Plenty Regional Council against this legislation.

2.2.35 In areas of significant existing development, priority should be given to mitigating coastal hazards.

2.2.36 There is no certainty that preventative measures will be successful in the longer term and in some cases it is uncertain whether they will even be approved under current legislation. It is prudent to use a mix of preventative measures and controls on development to ensure people and property are protected from coastal hazards.

2.2.37 By implementing these changes, the legal liability or indemnity risk of the Council has been reduced. Council will also be less likely to invest in erosion protection measures as their risk of litigation would be reduced.

2.2.38 By implementing these changes, Council is giving effect to the NZCPS's requirements for the identification and management of coastal hazards. Also, coastal hazards have been identified and development controls have been in the District Plan for many years and this hasn't prevented Council from investing in preventative measures concurrently. This is continuing as Council develops its 'Harbour and Coastal Erosion Policy' for the next 30 years.

2.2.39 Council needs to provide analysis from an economics expert on the public and private costs and benefits of each of the scenarios considered under the Plan Change.

2.2.40 The Section 32 Report has identified the actual and potential financial costs and benefits of the proposal. There is nothing to indicate that the proposal will be a significant financial burden for landowners or the wider community, as is the case with the similar existing approach in the District Plan. There are also clear financial benefits from planning for natural hazards instead of reacting when they occur. Further analysis is not considered necessary for the purpose of deciding whether to proceed with the Plan Change or not.

Effects on landowners and the wider community

2.2.41 The proposed changes are significant and life changing for property landowners. They will have significant negative effects on property values and sales, the ability to get insurance, landowners' rights to protect land, and the fair and reasonable development of land. They will have a huge economic and social impact on the community and see less investment towards the ability to physically counter any threats from erosion.

2.2.42 The Section 32 Report has identified the actual and potential effects on landowners. Actual effects include an increase in development costs because of resource consent requirements and a loss of development potential in a small number of cases where properties are not already restricted or fully developed. It also needs to be taken into account that the proposal still allows one dwelling and garage of any size which for most people is the expected level of development for a residential property.

2.2.43 Potential effects include decreased property values and sales and difficulties with getting insurance. These were identified by landowners during consultation but no evidence was provided to show that these concerns were based on actual occurrences. Council staff sought informal advice from property valuers and insurance companies during this same period with the general feedback being that these were not likely to be significant issues. Also, the Plan Change does not influence a landowner's ability, or Council's willingness, to seek to protect land.

2.2.44 To put these concerns into context, coastal hazards have been identified and restrictions in place in these areas for a number of years. Many landowners within these areas have purchased properties knowing that they are identified with and restricted by a coastal hazard. Property values have also increased over this time and there have been no reports of people being unable to sell properties. A number of landowners also said during the recent consultation that they hadn't had any difficulties with getting insurance other than higher premiums in some cases.

2.2.45 Showing the changes on LIMs is unfair. People should instead be encouraged to access available information on the Council website. Information on LIMs will be regarded as fact.

2.2.46 Councils are required by law to include all known information relating to natural hazards on LIM reports. Including such information on a LIM may seem unfair to an existing landowner looking to sell but if it wasn't included it would be unfair to a potential buyer. LIMs are the mechanism used by Council to encourage people to access available information. Coastal hazards projected 50 and 100 years into the future cannot be regarded as fact. If people are genuinely interested in purchasing a property they will research further.

2.3 Recommendation

2.3.1 To proceed with the Plan Change subject to any recommended changes in the topics to follow.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
19	1	Bay of Plenty Regional Council
FS31	1, 2, 3, 4, 5	Bay of Plenty Regional Council
6	1	Longdill, Peter

Accepted in Part

Submission	Point Number	Name
2	1	Lovell, Alastair
1	1	Lovell, Warwick
20	1	Powerco

Rejected

Submission	Point Number	Name
26	1	Hall, Geoff
24	1	Hall, Josephine
22	1	Hope, Robert and Susan
11	1	Lloyd, Natalie
5	1	Mahar, Judith
25	1	Mander, Kenneth
21	1	Pukehina Beach Ratepayers Association
15	1	Treloar, Judy
8	1	Vernon, Gordon
27	1	Wallace, Gavin

2.4 Reasons

2.4.1 Council now has up-to-date research available on the areas at Waihi Beach and Pukehina that are susceptible to coastal hazards over the next 100 years. Council would be negligent to overlook this research.

2.4.2 Proceeding with the Plan Change allows Council to keep the District Plan updated and give effect to the NZCPS.

2.4.3 It will also correctly inform landowners and buyers of which land is at risk and help them prepare for the possible impacts of coastal hazards.

2.4.4 While not proceeding with a Plan Change at this stage may alleviate the concerns that existing landowners hold for the short term, it ignores the impacts that existing or future landowners may face in the long term which will be more significant.

2.4.5 Tonkin & Taylor's re-assessment for Council relies on the latest scientific information available on sea level rise and a proven methodology based on current best practice. They were selected by open tender to undertake the review based on their high level of relevant experience and proven track record in preparing similar coastal hazard assessments for other district councils.

2.4.6 The Plan Change has been prepared in accordance with relevant legislation.

2.4.7 Council's process for making the changes has been as fair as possible. There was a long consultation period where all relevant information was readily available and sufficient time was allowed for understanding the changes, talking with Council staff and making a submission.

2.4.8 While the Plan Change is not focused on preventing coastal hazards, it does not in any way prevent Council from continuing to deploy preventative measures at the same time.

2.4.9 The Section 32 Report has identified the actual and potential effects on landowners and the wider community. There is nothing to indicate that the proposal will be a significant financial burden for landowners or the wider community, as is the case with the similar existing approach in the District Plan.

3.0 Topic 2: Naming of the Coastal Hazards

3.1 Background

3.1.1 For the purpose of the District Plan, the 'coastal erosion hazard zone' and 'coastal inundation hazard zone' (both 2065 & 2115) identified in the Stage Two technical report were renamed by Council as coastal erosion area (primary and secondary risk) and coastal inundation area. In the current District Plan, they are combined and called coastal protection areas (primary and secondary risk).

3.2 Submission Points and Discussion

3.2.1 The plan change is not clear on what constitutes the coastal erosion areas and how these are applied. Include an explanation of the wording 'coastal erosion area' and their relationship with the objectives, polices and rules and the District Plan Maps to ensure a clear and consistent approach.

3.2.2 The coastal erosion areas have been explained in the supporting information for the Plan Change (Stage Two technical report and Section 32 Report). They are also explained in the proposed Explanatory Statement for Section 8 – Natural Hazards and identified on the proposed District Plan Maps. Improvements are needed though as the explanatory statement doesn't explain why the coastal erosion areas are divided into 0-50 and 50-100 year timeframes and why the coastal inundation area is not. The proposed Planning Map Legend also needs amending as it still refers to "coastal protection".

3.2.3 It is acknowledged that the relationship of the coastal erosion area to the objectives, policies and rules may be unclear to those who do not regularly use the District Plan. To assist, the District Plan provides a 'Plan Overview' (Section 2) to explain the Plan's structure and the relationship between issues, objectives, policies and rules. It also further explains the rules by describing each activity type (permitted, controlled, restricted discretionary, discretionary, non-complying and prohibited). In hindsight, it is recognised that this would have been beneficial to explain at the time of notification and should be explained for any future Plan Changes involving substantial changes to a Section.

3.2.4 It is also acknowledged that there is some uncertainty for landowners about how rules will be applied to buildings which cross between areas of primary risk, secondary risk or no risk. This same uncertainty also exists in relation to other hazards like flood and stability areas and other features such as ecological and landscape. None of these features follow property boundaries so this problem will always exist, however it is generally well understood that compliance (e.g. relocatable design, floor levels, geotechnical reports, colour etc) is only required within an identified feature. This leaves landowners with decisions about building location and how to design i.e. building on the same property but clear of any District Plan feature allows for greater flexibility.

3.2.5 The term coastal protection area could give the impression that the Council is providing protection to the coast but the term 'coastal erosion area' could not be further from this. A 2002 Environment Court hearing confirmed that the areas should be identified as primary risk and secondary risk based on a 100 year projection. There is no justification since to warrant a name change. This will create an alarmist scenario, is contrary to the Objectives of the NZCPS, and is completely unnecessary in the short term. It is likely this would have a very adverse affect on the economic wellbeing of ratepayers in these areas.

3.2.6 As already explained in the Section 32 Report, the name coastal protection area has not been re-used because it does not clearly identify the hazards (erosion and inundation) and wrongly implies that its purpose is to prevent these. The term 'coastal erosion area' removes both of these problems with respect to erosion.

3.2.7 It could however be interpreted by some to mean that all identified areas are currently affected by erosion. The number of these people is expected to be low given most people understand coastal erosion is generally a long term process, so it is unlikely the name change will create an alarmist scenario or have a very adverse effect on economic wellbeing. The Explanatory Statement of Section 8 – Natural Hazards does also make it clear that primary risk is based on a 0-50 year timeframe and secondary risk on a 50-100 year timeframe. The submitter has not explained why the name change is contrary to the NZCPS.

3.3 Recommendation

3.3.1 That the explanatory note in Section 8 - Natural Hazards is amended as follows:

"Areas considered most at risk from coastal erosion and coastal inundation are those already developed for urban purposes and which adjoin the open coastline ~~(~~e.g. Waihi Beach (including

Bowentown) and Pukehina). These stretches of coastline concerned have been the subject of a detailed study commissioned by *Council* to identify land at risk to these coastal hazards over 0-50 and 50-100 years. The study findings are reflected in that land identified on the District Plan Maps as being within the 'Coastal Protection Area' through the identification of 'Coastal Erosion Areas' and 'Coastal Inundation Areas'.

The Coastal Erosion Areas have been divided into primary risk and secondary risk based on 0-50 year and 50-100 year risk timeframes with more restrictive rules applying in the primary risk area. The Coastal Inundation Areas have not been divided into risk timeframes because the same restrictions would apply within both. There is also a 'Coastal Erosion Area – Rural' in place for rural zoned areas adjoining the open coastline e.g. Matakana Island, Maketu and east of Pukehina."

3.3.2 That the legend is corrected to rename the hazards as proposed by the Plan Change as follows:

Coastal Protection Erosion Area – Primary Risk
Coastal Protection Erosion Area – Secondary Risk
Coastal Protection Erosion Area – Access Yard
Coastal Protection Erosion Area – Open Coastline Rural
Coastal Protection Inundation Area – Inundation

The following submissions are therefore:

Accepted in Part

Submission	Point Number	Name
2	17	Lovell, Alistair
1	17	Lovell, Warwick

Rejected

Submission	Point Number	Name
27	2	Wallace, Gavin

3.4 Reasons

3.4.1 The name coastal protection area has not been re-used because it does not clearly identify the hazards plus also implies that the District Plan is seeking to prevent coastal erosion and coastal inundation from occurring which is not the case. The name coastal erosion area removes both of these problems with respect to coastal erosion. It is also unlikely to create an alarmist scenario or have a very adverse effect on economic well-being as most people understand that coastal erosion is generally a long term process.

3.4.2 Changes to the explanatory statement have been recommended to explain why the coastal erosion areas have been divided into primary risk and secondary risk (because more restrictive rules will apply within the primary risk).

4.0 Topic 3: Coastal Erosion Area Maps

4.1 Background

4.1.1 The Stage Two technical report identifies the coastal erosion hazard zone at Waihi Beach and Pukehina as lines on maps. Three options were considered for how to use these lines to identify the coastal erosion areas (primary and secondary risk) on the District Plan maps. The option selected was to show only those parts of properties identified as being within a coastal erosion hazard zone as coastal erosion areas on the District Plan maps. See **Attachment A** for these proposed maps.

4.2 Submission Points

4.2.1 The Director-General of Conservation supports showing land potentially affected by coastal hazards over the next 100 years as required to give effect to the NZCPS. Bay of Plenty Regional Council generally support the methodology set out in the technical report. Both support showing only those parts of properties identified by the Stage Two technical report on the District Plan maps. Another submitter accepts the revision of these maps.

4.2.2 This support is acknowledged.

4.2.3 Ground truthing should have been completed for properties partially captured by secondary risk.

4.2.4 Ground truthing is not required as the secondary risk line is based on the equation described in the Stage Two report. This line shouldn't be changed to align with property boundaries as coastal erosion will have no regard for such boundaries.

4.2.5 The 100 year coastal erosion line does not intercept Pukehina Road. This appears a somewhat contrived approach to avoid responsibility and potential cost but to transfer the risk to property owners.

4.2.6 This is incorrect. The secondary risk line intercepts Pukehina Road at a number of different points.

4.2.7 Four submitters have requested that portions of either primary risk or secondary risk be removed from their properties. Reasons include that the area is minor, there are no current buildings, the rules should not affect future buildings, it would re-align them with neighboring properties, and that coastal erosion is not evident.

4.2.8 A number of these requests were made during the consultation period which is why the Section 32 report had already considered this option of removing identified hazards from properties if they were 'minor'. The reasons for not selecting this option included failure to meet the NZCPS, failure to provide the most accurate information to landowners and buyers, difficulties with defining 'minor' and issues of fairness that may result from attempting to do so. Making allowances for even a small number of specific properties will still lead to all of these problems. In terms of impacts on future development, there will be few impacts if the areas identified with hazards are 'minor'.

4.3 Recommendation

4.3.1 That the coastal erosion areas shown on the District Plan maps are retained as notified.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
19	2	Bay of Plenty Regional Council
4	1	Director-General of Conservation
6	2	Longdill, Peter

Rejected

Submission	Point Number	Name
9	1	Allen, John
7	1	Hill, Pamela and David
2	2	Lovell, Alistair
1	2	Lovell, Warwick
8	3	Vernon, Gordon
27	3	Wallace, Gavin

4.4 Reasons

4.4.1 The option selected for showing coastal erosion areas on the District Plan maps is the most accurate way of identifying land susceptible to coastal erosion over the next 100 years as it is directly based on the Stage Two technical report. It also meets the requirements of the NZCPS. Landowners and buyers will be

correctly informed of which land is at risk because it will not be over or under identified. It also means District Plan rules will apply to all land at risk, but not to any land which is not at risk. This is the fairest approach and is less restrictive than the status quo. It also goes some way towards recognising landowner concerns about effects on development potential, property values and sales and getting insurance by not mapping or restricting land unnecessarily.

5.0 Topic 4: Coastal Inundation Area Maps

5.1 Background

5.1.1 The Stage Two technical report identifies the coastal inundation hazard zone at Waihi Beach and Pukehina as areas on maps. These areas were used to identify the coastal inundation areas on the District Plan maps. See **Attachment A** for these proposed maps.

5.2 Submission Points and Discussion

5.2.1 Bay of Plenty Regional Council generally support the methodology set out in the technical report to identify coastal inundation areas. They have however been working with NIWA to develop the 'coastal calculator' to identify the extent of coastal inundation which will enable a region-wide consistent methodology for coastal inundation identification. They envisage any future changes to the District Plan will employ the coastal calculator to establish the extent of coastal hazards. Another submitter accepts the revision of the District Plan maps.

5.2.2 This support is acknowledged. Council has recently agreed with the Bay of Plenty Regional Council to work together on any future changes relating to natural hazards including using the NIWA coastal calculator for coastal inundation.

5.2.3 Add a line indicating the expected sea level rise due to global warming for 20/50/100 years and remove the storm surge tsunami lines from the maps because there is no scientific evidence to predict accurately the type and magnitude of any future event.

5.2.4 The purpose of this Plan Change is not to identify sea level rise. It is to identify land that is potentially susceptible to coastal inundation (the actual hazard) to help plan for its effects. Tonkin & Taylor's re-assessment relies on the latest scientific information and methodology needed to predict this as accurately as possible. Only showing projected sea level rise on the District Plan maps does not identify the full extent of the hazard or help plan for its effects.

5.3 Recommendation

5.3.1 That the coastal inundation areas shown on the District Plan maps are retained as notified.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
19	3	Bay of Plenty Regional Council
6	3	Longdill, Peter

Rejected

Submission	Point Number	Name
3	1	Palmer, Noel and Tineke

5.4 Reasons

5.4.1 The option selected for showing coastal inundation areas on the District Plan maps is the most accurate way of identifying land susceptible to coastal inundation over the next 100 years as it is directly based on the Stage Two technical report.

6.0 Topic 5: Significant Issues, Objectives and Policies

6.1 Background

6.1.1 No substantial changes were made to the significant issues, objectives and policies because the proposed rules were consistent with the direction already provided. This now needs to be reconsidered in response to the points raised in submissions. See **Attachment B** for the significant issues, objectives and policies.

6.2 Submission Points and Discussion

Objectives and Policies - General

6.2.1 The Director-General of Conservation is concerned that the objectives and policies do not give effect to the requirement in the NZCPS to avoid increasing the risk of harm, or provide a suitable basis for non-complying or prohibited status rules. They point out Objective 1 only requires minimisation of the threat of all natural hazards and Policies 1, 2 and 3 encourage avoidance of adverse effects but do not require it. They say this could potentially result in non-complying activities being granted with only partial mitigation required. They request a new policy that

requires avoiding increases in the risk of adverse effects from coastal hazards.

6.2.2 Powerco support this provided that any new policy relates only to those activities that are already identified as non-complying or prohibited and does not extend to all activities in general. They say it may not be possible or necessary to avoid any increase in risk for all activities.

6.2.3 With respect to giving effect to the NZCPS, the existing wording in Objective 1 about "minimisation" of risk is considered to be sufficient to "avoid increasing" risk as required by Policy 25 of the NZCPS. Minimisation of risk would be to achieve the lowest level of risk practicable which would involve not increasing risk. Objective 1 is written generally in respect to all natural hazards so aims for an overall minimisation of risk (rather than indicating a preference for minimisation in all cases).

6.2.4 Policies 1, 2 and 3 then allow for either avoidance or mitigation to achieve this. These policies recognise that there will be instances where mitigation is appropriate and other instances where avoidance is necessary. The rules then include a mix of both responses in accordance with the policies. For coastal erosion areas, avoidance has been proposed with respect to the issue of further subdivision and intensification. Further comment is invited from the Director-General of Conservation at the hearings if this is still not considered to meet the NZCPS.

Objectives

6.2.5 Council to provide clarification on the relationship between 'natural and physical environment' and 'property' in Objective 1.

6.2.6 Powerco accept this submission point provided that the word 'threat' is substituted by the word 'risk' instead.

6.2.7 Objective 1 was proposed to be reworded as follows;

"Minimisation of the threat of natural hazards to human life, property and the natural and physical environment."

6.2.8 The word "property" was added to be consistent with Significant Issue 1 which identifies the issue of adverse effects on "human life and property". However, as the submitter points out, it has added confusion because "property" is part of the "physical environment". This submission point has also highlighted further inconsistencies between Issue 1, Objective 1 and Policy 2 in terms of how they describe what is being protected. The most accurate description is contained within Policy 2 which refers to "human life" and "the natural or built environment" (clearly showing the three distinct things being protected) and this should be used elsewhere for accuracy and consistency.

6.2.9 It is also appropriate to refer to “risk” instead of “threat”. Council cannot remove the threat of natural hazards but can mitigate the risk they pose e.g. through limiting the number of dwellings which could be affected.

6.2.10 Objectives are very narrow and contradictory to current practice i.e. natural character of coastline at Waihi Beach destroyed by rock walls.

6.2.11 The submitter is correct in saying that rock revetment is contrary to protecting natural character. Topic 1 of this report explains the reasons for the existing rock revetment at Waihi Beach.

6.2.12 There could have been an objective for secondary risk such as "monitor next 20 years" rather than spatially mapping.

6.2.13 The NZCPS requires Council to identify (spatially map) land potentially at risk to coastal hazards over 100 years. Past (including recent) monitoring was used to help identify the coastal erosion areas and future monitoring will be carried out by both Council and the Bay of Plenty Regional Council.

Policies

6.2.14 The policies could be a little more flexible for the 'second 50 years' (secondary risk).

6.2.15 The rules in place to give effect to these are actually more flexible for the secondary risk area (second 50 years). For example, buildings are restricted discretionary rather than full discretionary and there are fewer matters of discretion to be considered when making a decision on a resource consent.

6.2.16 Include a new policy or similar wording to this effect; "Minimise the threat of natural hazards to human life, and the natural and physical environment, including through the use of appropriate setbacks, buffers and protection mechanisms at the time of subdivision and development."

6.2.17 The Director-General of Conservation supports this new policy but wants to ensure that it directs the avoidance of increases in the risk of harm from coastal hazards as required by the NZCPS.

6.2.18 Powerco accept the submission point provided that the new policy substitutes the word ‘threat’ with the word ‘risk’ instead.

6.2.19 The suggested new policy has used wording from Objective 1 with an added explanation of what rules are used to achieve this. Such a policy is not required. There isn’t any need to repeat the objective, and policies by their nature are not intended to be

so detailed that they also list the methods (rules) in place to give effect to them and which follow directly after them.

6.2.20 Council to provide clarification on how Policy 8 will be applied to the different coastal erosion areas (i.e. wholly within one of the areas or straddling the areas).

6.2.21 Policy 8 prevents the use of concrete and block work foundations, floors and walls in coastal erosion areas. This is the same for both the primary risk area (8.5.2 (b) (ii)) and secondary risk area (8.5.1.1 (b)). Compliance is only required within the part of a property in a coastal erosion area which leaves landowners with decisions relating to building location and how to design i.e. building on the same property but clear of the hazard feature allows for greater flexibility.

6.3 Recommendation

6.3.1 Amend Issue 1 as follows:

"The Western Bay of Plenty District is subject to a range of actual or potential natural hazards which will or may adversely affect ~~human life, property or other aspects of the environment~~ human life or the natural or built environment."

6.3.2 Amend Objective 1 as follows:

"Minimisation of the threat of natural hazards to ~~human life, property and the natural and physical environment~~ human life and the natural and built environment."

The following submissions are therefore:

Accepted

Submission	Point Number	Name
2	4, 6	Lovell, Alistair
1	4, 6	Lovell, Warwick
FS29	1	Powerco

Accepted in Part

Submission	Point Number	Name
4	5	Director-General of Conservation
FS29	3	Powerco
8	4	Vernon, Gordon
8	5, 6	Vernon, Gordon

Rejected

Submission	Point Number	Name
FS30	1	Director-General of Conservation
2	5	Lovell, Alistair
1	5	Lovell, Warwick
FS29	2	Powerco

6.4 Reasons

6.4.1 Issue 1 and Objective 1 have been reworded to be consistent with Policy 2 which contains the most accurate description of the three things being protected by the rules which are human life, the natural environment and the built environment. This also removes the confusion from Objective 1 regarding whether property is part of the physical environment.

6.4.2 The objectives and policies are considered to already give effect to the direction provided in the NZCPS regarding avoiding the increase in risk to coastal hazards. The existing wording in Objective 1 about "minimisation" of risk is considered to be sufficient to "avoid increasing" risk as required by Policy 25 of the NZCPS. Minimisation of risk would be to achieve the lowest level of risk practicable which would involve not increasing risk. Objective 1 is written generally in respect to all natural hazards so aims for an overall minimisation of risk. The policies then allow for either avoidance or mitigation to achieve this. The rules then include a mix of both responses. For coastal erosion areas, avoidance has been proposed with respect to the issue of further subdivision and intensification.

7.0 Topic 6: Coastal Erosion Area Rules

7.1 Background

7.1.1 The purpose of the proposed coastal erosion area rules is to allow for the continued residential use of properties while at the same time controlling building design and location (to mitigate risk) and preventing further intensification. The rules can be summarised as follows:

Coastal Erosion Area - Primary and Secondary Risk

- Continue allowing one dwelling per title, small accommodation/education facilities and sheds/garages subject to resource consent (to address relocatable design and setbacks from the hazard) in both the primary and secondary risk areas.

- Make a change to prohibit additional dwellings, minor dwellings and large scale accommodation and education facilities in both the primary and secondary risk areas.

- Continue to prohibit subdivision in the primary risk area.

- Make a change to prohibit subdivision in the secondary risk area.

- Make a change to allow conversions of fully developed cross lease titles to freehold titles in both the primary and secondary risk areas.

Coastal Erosion Area - Rural

- Continue to allow one dwelling per title, small accommodation/education facilities and sheds/garages subject to resource consent (to address relocatable design and setbacks from the hazard).

- Make a change to prohibit additional dwellings, minor dwellings and large scale accommodation and education facilities.

- Make a change to prohibit subdivision.

7.1.2 The matters of discretion for buildings/structures in these coastal erosion areas were also amended. This was to provide consistent wording between similar matters in the coastal erosion areas, to improve readability, and to give more certainty as to what conditions may or may not be imposed on resource consents.

7.2 Submission points and discussion

Rule 8.3.1 and 8.3.2 - Permitted and Controlled Activities

7.2.1 For properties which only partly straddle the secondary risk, include new permitted and controlled activities for new buildings/dwellings and minor buildings such as fences, sheds and glass houses, and subdivision where 'access' and 'building platform' can be identified outside of the coastal erosion areas.

7.2.2 For clarification, it is only the part of the property identified as secondary risk where building/structures are subject to resource consent. The balance of the property is subject to the normal residential rules which permit dwellings and sheds for example. With respect to ‘minor’ building/structures, these still are subject to risk and cannot be classified as permitted, however Council will investigate whether the standard resource consent fee is appropriate for activities such as fences or poles (for example) which may not require the same level of assessment as a

dwelling or shed. With respect to subdivision, this cannot be a permitted activity as it must go through the resource consent process. Controlled activity status is not appropriate for any of these as applications cannot be declined.

Rule 8.3.3 (a) - Restricted Discretionary Activities – Secondary Risk

7.2.3 Include an explanation which clarifies that new buildings/dwellings must be inside the coastal erosion areas to be affected by the rule.

7.2.4 The heading already shows that the rule only relates to the secondary risk area which is clearly shown on the maps. No further explanation is required.

Rule 8.3.5 - Non-Complying Activities (subdivision of titles partially within a coastal erosion area) and Rule 8.5.2 (c) – Matters of Discretion

7.2.5 The Director-General of Conservation supports non-complying activity status as it ensures that any proposal, where the effects are greater than minor, can be declined if they are contrary to the objectives and policies of the Plan or increase risk from coastal hazards (to be avoided under NZCPS). They support the matters of discretion as necessary guidance of activities to achieve no increase in risk.

7.2.6 This support is acknowledged.

7.2.7 Another submitter requests that this to be changed to a restricted discretionary activity where 'access' and 'building platform' can be identified outside of the Coastal Erosion Areas.

7.2.8 Non-complying activity status is appropriate for the reasons given by the Director-General of Conservation.

Rule 8.3.5 - Non-Complying Activities (other)

7.2.9 Oppose non-complying status for vegetable gardens and fences in the secondary risk area.

7.2.10 These are not actually non-complying activities in the secondary risk area. The submitter is likely referring to the list of restricted discretionary activities for the coastal inundation area which includes specific mention of raised gardens and closed board fences.

Rule 8.3.6 - Prohibited Activities (subdivision of titles wholly within a coastal erosion area)

7.2.11 The Director-General of Conservation supports prohibition of subdivision of any title that is entirely identified within a coastal erosion area as it will prevent the creation of additional development rights and result in the avoidance of increases in coastal hazard risk. Another submitter also supports making subdivision prohibited.

7.2.12 This support is acknowledged.

Rule 8.3.6 – Prohibited Activities (additional dwellings, minor dwellings, accommodation and education facilities for more than four people)

7.2.13 The Director-General of Conservation supports this for ensuring that intensification will not occur to increase development potentially affected by coastal hazards in the future.

7.2.14 Bay of Plenty Regional Council supports this as not allowing these activities in the coastal erosion area is consistent with Policy CH 2 of the Proposed RCEP and Policy 25 of the NZCPS. They seek to retain Rule 8.3.6(a) as notified.

7.2.15 This support is acknowledged.

7.2.16 The requirement to apply for resource consent to do alterations at a significantly increased cost plus the worry that any alterations could be restricted is unacceptable. Plan Change 74 should not prohibit additional dwellings, minor dwellings or larger scale accommodation, based on the information made available, which is incomplete and unproven.

7.2.17 Bay of Plenty Regional Council opposes the relief sought saying Plan Change 74 gives effect to NZCPS Policy 25 and is consistent with the Proposed RCEP Policy CH 13 (f) which states where risk reduction measures are insufficient to avoid exacerbating potential threats to human life, property or the environment, new subdivision or development shall only be provided for at a low intensity or avoid specific hazard locations altogether.

7.2.18 For clarification, it is only external alterations/additions which will be restricted by the coastal erosion area rules. Internal alterations will not be subject to these rules. Additions need to be controlled to mitigate risk. The information available to Council can be relied upon as discussed in Topic 1 of this report.

7.2.19 Western Bay of Plenty District Council have made a staff submission to clarify Rules 8.3.6(a)(i) and 8.3.6(a)(ii). These need re-wording to reflect their intention which is only to restrict that part of a title within a coastal erosion area from having more than one dwelling or minor dwelling (combined).

7.2.20 This will require deleting the separate listings for "Minor Dwellings" and "Additional Dwellings" and creating a new listing saying "No more than one dwelling (either a dwelling or minor dwelling)".

Rule 8.5.1.1 and 8.5.2 (b) - Matters of Discretion

7.2.21 The Director-General of Conservation supports the matters of discretion in 8.5.2(b) for primary risk and rural.

7.2.22 This support is acknowledged.

7.2.23 Bay of Plenty Regional Council supports the intent of these provisions but seek amendment to provide greater certainty regarding the matters that should be considered when assessing whether a relocation proposal is appropriate. They request additional matters including ability to rehabilitate the site (including the removal of services), achievable timeframes for relocation, and whether a site for relocation is available.

7.2.24 The Director-General of Conservation supports this request.

7.2.25 This support is acknowledged. It is also agreed that a property shouldn't be developed in a way which prevents it from being rehabilitated once vacated by owners or occupiers due to coastal erosion. It would need to be made clearer though what rehabilitation actually involves. Rehabilitation should include the removal of all parts of buildings, structures and services and the reinstatement of land to protect natural character and the ability of dunes to act as a buffer against erosion. Council needs to be able to decline resource consents if this will not be achievable. It is not clear though how to define or impose achievable timeframes as it will depend on the circumstances e.g. nature of erosion, relocatability of buildings, safety, accessibility and any other issues beyond a property e.g. damaged infrastructure.

7.2.26 It is also agreed in principle that having an alternative building site available for buildings to be relocated further back from the dunes when required is a good outcome. However, in this case, the matters of discretion already require new buildings to be set back from the hazard as far as practicable in the first instance. If an alternative (landward) building site was required, this would create a conflict as it would force dwellings to be established closer to the hazard and needing to be relocated sooner. This is not a better outcome than what is already planned for.

7.2.27 Bay of Plenty Regional Council seek that in-ground swimming pools be added to the list of discretionary activities for the primary risk and rural Coastal Protection Areas in Rule 8.3.4 (a).

7.2.28 The definition of building/structure includes "any pool or tank exceeding 1m in height above natural ground level" meaning these already fall within the list of discretionary activities. Other swimming pools do not but are nevertheless activities which would be at risk to coastal erosion. They should therefore be added to the list of discretionary activities for the primary risk and rural coastal protection areas but not to the definition of 'building/structure' as this intentionally excludes these so they don't need to comply with yard (distance to boundary) rules.

7.2.29 Bay of Plenty Regional Council support imposing consent conditions relating to a relocation trigger as this is consistent with Policy CH 13(d) of the proposed RCEP.

7.2.30 This support is acknowledged.

7.2.31 The use of concrete block walls for garage areas should be allowed. Most houses within the secondary risk area have concrete block lower floors and additional works must allow for this and not prohibit use of that material. Concrete foundations and walls will have the highest reduction in impact from a tsunami. Additions to existing block walls should be allowed under the existing use right provisions.

7.2.32 New concrete block walls are prevented because they are generally not relocatable and as a result could also block access of other buildings needing to be taken off-site. They may be allowed though if it can be demonstrated that they are designed to be relocatable. Council cannot allow non-compliance for additions just because existing buildings were established with concrete block walls. Existing use rights need to be proven in accordance with Section 10 of the RMA. Of note, existing use rights do not apply to any alterations or extensions to buildings which increase the degree to which the building fails to comply with any rule in a District Plan or proposed District Plan.

7.2.33 Please explain the cost of the scientific information required from a suitably qualified coastal expert to demonstrate that land is not under any actual or potential risk.

7.2.34 It has been advised by a suitably qualified coastal expert that for a single property this may cost between $5,000 and $10,000.

7.3 Recommendation

7.3.1 Retain the coastal erosion area rules as notified other than as recommended below:

7.3.2 Amend Rule 8.3.6 (a) (i) and (ii) as follows:

~~(i) *Minor dwellings*~~
~~(ii) Additional *dwellings*~~
(i) No more than one dwelling (either a *dwelling* or *minor dwelling)*

7.3.3 Add the following to the discretionary activity list for the primary risk area (Rule 8.3.4 (a));

(v) In-ground swimming pools and swimming pools 1m or less in *height* above natural *ground level* not within an *Approved Building Site*

7.3.4 Amend Rule 8.5.1.1 (a) as follows:

(a) Extent to which the *building/structure* is relocatable, taking into account the design, location and materials of the *building/structure*, ~~and~~ access to remove the *building/structure*, and the ability to rehabilitate the site including the removal of all parts of *buildings/structures* and services and the reinstatement of land to protect natural character and the ability of dunes to act as a buffer against erosion.

7.3.5 Amend Rule 8.5.2 (b) (i) as follows:

(i) Extent to which the *building/structure* is relocatable, taking into account ~~T~~the design, location and materials of the *building/structure*, ~~and~~ access to remove the *building/structure*, and the ability to rehabilitate the site including the removal of all parts of *buildings/structures* and services and the reinstatement of land to protect natural character and the ability of dunes to act as a buffer against erosion.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
19	4, 5, 8	Bay of Plenty Regional Council
FS31	6, 7, 8, 9	Bay of Plenty Regional Council
4	2, 3, 4	Director-General of Conservation
6	4	Longdill, Peter
10	1	Western Bay of Plenty District Council

Accepted in Part

Submission	Point Number	Name
19	6, 7	Bay of Plenty Regional Council
FS30	2, 3	Director-General of Conservation
2	7, 18	Lovell, Alistair
1	7, 18	Lovell, Warwick

Rejected

Submission	Point Number	Name
11	2, 3	Llyod, Natalie
6	5, 7	Longdill, Peter
2	7, 9, 10, 12, 13, 15	Lovell, Alistair
1	7, 9, 10, 12, 13, 15, 16	Lovell, Warwick
5	2, 3	Mahar, Judith
8	2, 7	Vernon, Gordon
27	4, 5	Wallace, Gavin

7.4 Reasons

7.4.1 The notified rule changes avoid intensification within areas at risk to coastal erosion over the next 100 years. This will lead to fewer people and buildings being put at risk and will reduce costs to landowners over the long term. The rule changes also prevent multiple dwellings on-site so will avoid any further access issues with relocating buildings off-site.

7.4.2 The prohibited activity listings for minor dwellings and additional dwellings have been replaced with a single prohibited activity listing to clarify the intention which is only to restrict that part of a title within a coastal erosion area from having more than one dwelling (either a dwelling or minor dwelling).

7.4.3 In-ground swimming pools and swimming pools less than 1m above ground level are activities which would be at risk to coastal erosion. They should therefore be added to the list of discretionary activities for the primary risk and rural coastal protection areas.

7.4.4 Properties shouldn't be developed in a way which prevents them from being rehabilitated once vacated by owners or occupiers due to coastal erosion. Additional wording has been added to the matters of discretion in 8.5.1.1 (a) and 8.5.2 (b) (i) to allow Council to consider this when making decisions on resource consent applications. Rehabilitation should include the removal of all parts of buildings, structures and services and the

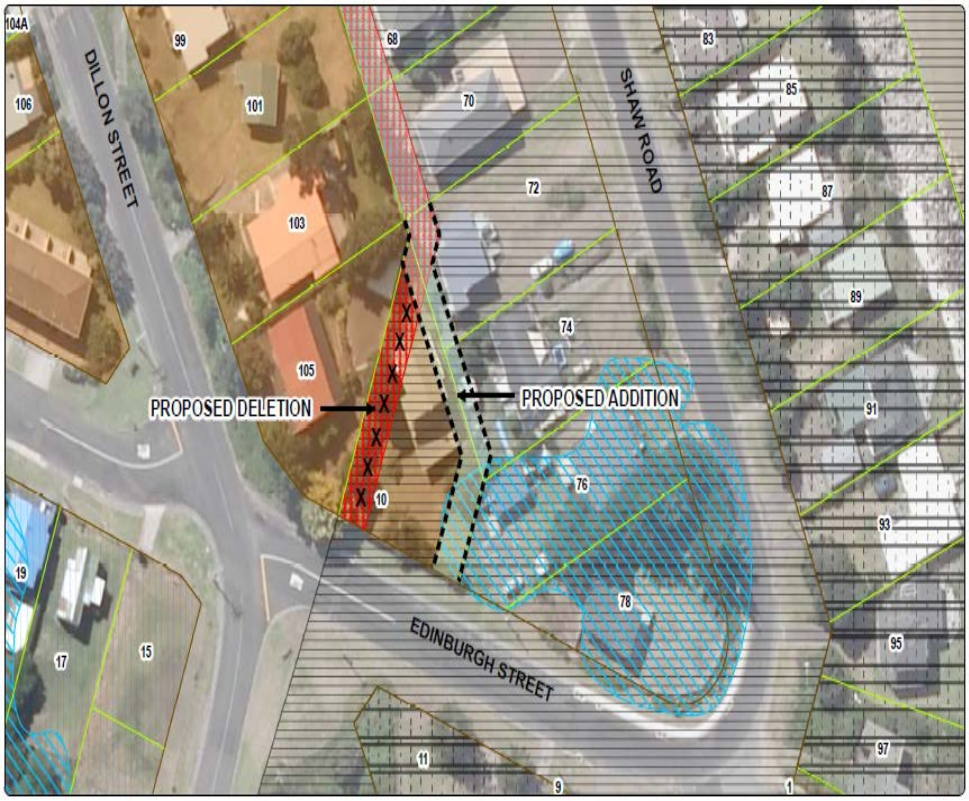
reinstatement of land to protect natural character and the ability of dunes to act as a buffer against erosion.

8.0 Topic 7: Coastal Erosion Area Access Yard

8.1 Background

8.1.1 The owner of 10 Edinburgh Street approached Council staff with a request for this access yard to be removed from 'going through' the dwelling because of its implications on selling the property. Council staff met with them and this highlighted other issues with the alignment. One is that the current alignment goes through and is therefore already blocked by the dwelling on 10 Edinburgh Street. Others are that the access yard goes through part of the dwelling at 72 Shaw Road and 74 Shaw Road is overlooked so will have no alternative legal access if ever needed.

8.1.2 Council staff drafted a proposed re-alignment to resolve those issues. This is shown below.



8.2 Submission Points and Discussion

8.2.1 The owner of 10 Edinburgh Street supports the change saying that while overall it is still detrimental to the property it is a practical solution providing benefits for all affected parties.

8.2.2 This support is acknowledged.

8.2.3 Two submitters support the relocation of the coastal erosion area access yard and discretionary activity 8.3.4 (b) subject to clarification on the intent of the rule and Council's strategy behind its location and when it will be delivered.

8.2.4 This support is acknowledged. As explained in the Section 32 Report, these access yards at the back of secondary risk properties adjoining the landward side of Shaw, Loop and Broadway Roads are in place to provide alternative legal vehicle access if ever those roads are inaccessible due to coastal erosion. Council's strategy is to keep these areas clear from buildings/structures so the alternative legal vehicle access can be constructed in the future if or when needed. Council achieves this by requiring resource consent for any new building/structure within an access yard so that any blocking can be avoided. The timing will be directly linked to when normal access to these roads is no longer achievable due to coastal erosion.

8.2.5 Changing the alignment of the access way just to please one landowner (at the expense of two others) would set a dangerous precedent as there are multiple dwellings in the same access way on Broadway Rd e.g. 76, 78 and 82.

8.2.6 The alignment was not changed to please one landowner. It was changed because the request from that landowner highlighted a number of opportunities to improve the alignment which benefited not just them but also two adjoining properties (as described in the background above) and other properties depending on that access way in the future. It is acknowledged that the two adjoining neighbours were also affected by the change as it either increased the extent of access yard shown on their property or introduced it for the first time.

8.2.7 This opportunity was only possible because 10 Edinburgh Street is landward of the adjoining properties on Shaw Road and offered enough additional land (3m) to still provide a total of 6m of access way. The situation at Broadway Road (between Marlin and Dolphin Avenues) is different. Although there are two buildings clearly blocking part of the access way, there is no opportunity to re-align the access way at the rear of these properties or combine with an landward neighbour (also identified with an access yard) to provide a suitably wide and clear access way.

8.3 Recommendation

8.3.1 That the realignment of the access way is retained as notified.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
2	3, 11	Lovell, Alistair
1	3, 11	Lovell, Warwick
12	1	Tait-Jamieson, Marguerite

Rejected

Submission	Point Number	Name
6	6	Longdill, Peter

8.4 Reason

8.4.1 The re-alignment clears the access yard for those properties that may depend on it if ever Shaw Road is lost to coastal erosion. This provides a long term benefit for future landowners. It also resolves particular issues for each of the three properties. It largely removes the access yard from the dwelling at 10 Edinburgh and moves it to the non-elevated part of the site. It removes the access yard from the dwelling at 72 Shaw Road. It also allows 74 Shaw Road to have future legal access. The positioning of the access yard 3m on either side of the property boundary reduces the possible level of restriction on the properties at 72 and 74 Shaw Road.

9.0 Topic 8: Coastal Inundation Area Rules

9.1 Background

9.1.1 Section 8 - Natural Hazards does not currently contain any controls on development that are specifically to deal with the risks of coastal inundation. Now that a coastal inundation area has been identified, rules need to be put in place to ensure effects from this hazard can be avoided or mitigated. The rules can be summarised as follows:

- Continue allowing for all buildings but require resource consent to allow minimum floor levels to be imposed.
- Make a change to require resource consent for earthworks and other activities which may affect the ability of overland flow paths or ponding areas to assist with managing flood risk.
- Continue allowing for subdivision so long as flood risk can be managed.

9.2 Submission Points and Discussion

Rule 8.3.3 (b) – Restricted Discretionary Activities – Coastal Inundation Areas

9.2.1 Powerco oppose Rule 8.3.3 (b) (ii) which limits earthworks to $5m^3$. They say in order to effectively maintain, upgrade or reliably operate their underground electricity network; they require reasonable provisions that allow this. They explain ground will be reinstated to its current condition and works generally do not involve re-contouring or the movement of earth offsite. They seek Rule 8.3.3 (b) (ii) to be amended to provide for permitted earthworks for the maintenance, operation, upgrade and development of network utilities.

9.2.2 It is accepted that this rule will unnecessarily restrict Powerco and that allowing the described earthworks will have minimal impacts on flow paths and ponding areas needed to manage flood risk. However, Powerco's suggested wording would apply to all network utilities. This could include larger scale activities such as schools, roads or wastewater plants for example which could have a greater effect on flow paths and ponding areas. Also, it cannot be assumed that all operators will reinstate the ground to the same condition. Therefore, any exemption should only provide for the outcome Powerco are seeking. It is recommended that the exemption relates to underground network utilities and requires land to be re-instated to its condition as existed prior to the works.

9.2.3 The requirement to apply for resource consent to do alterations at a significantly increased cost plus the worry that any alterations could be restricted is unacceptable. Plan Change 74 should not make a change to require resource consent and require minimum floor levels based on the information made available, which is incomplete and unproven. Recommendations can be made by architects and Council but these should not be mandatory requirements as they may prove completely unnecessary.

9.2.4 For clarification, it is only external alterations/additions which will be restricted by the coastal inundation area rules. Internal alterations will not be subject to these rules. Additions need to be controlled to mitigate risk. Architects are highly unlikely to recommend minimum floor levels unless this is a mandatory requirement. Council cannot rely on optional compliance. The information available to Council can be relied upon as discussed in Topic 1 of this report.

Rule 8.5.1.2 – Matters of Discretion - Coastal Inundation Areas

9.2.5 Powerco say that the matters to which the Council has restricted its discretion, outlined in section 8.5.1.2 (floodable areas and coastal inundation areas), do not include any specific reference to earthworks, such that it is uncertain what effects the Council is seeking to control.

9.2.6 The matters of discretion consider the effect of the "proposal" on ponding areas and flow paths. This includes earthworks as per the list of restricted discretionary activities to which these matters directly relate. It isn't necessary to re-list every single activity; however the specific reference to buildings/structures may appear to imply that other activities are not included. This specific mention was to make it clearer for landowners that there are building design requirements other than just minimum floor levels (which is a general perception). The wording will need to address both of these concerns.

9.2.7 Amend Rule 8.5.1.2 (b) to allow alterations to existing buildings/structures sited above the predicted coastal flooding level without the restriction of raising existing floor levels.

9.2.8 Based on e-mail correspondence with this submitter prior to them making this submission, the issue at hand is whether they would be able to alter or replace an existing building on their property (which they say is above the anticipated level of flooding). Council's aerial maps show that this building is outside of the coastal inundation area. Therefore, provided that any alteration or replacement will remain outside of the coastal inundation area, these will not have not to comply with the coastal inundation area rules i.e. Rule 8.5.1.2 (b) will not affect them. If any part of an alteration or replacement does fall within the coastal inundation area; compliance will only be required for those particular parts.

Rules - Other

9.2.9 Do not allow further development within the coastal inundation areas or as a second choice do not allow buildings to exceed daylight boundaries or filling of sections.

9.2.10 Further development is still appropriate provided that flood risk can be mitigated. However, the other two requests are already met or partially met. This Plan Change does not propose allowing buildings to exceed daylight boundaries as was specifically introduced for existing and replacement dwellings in the Waihi Beach floodable areas. Also, filling is only allowed if it can be demonstrated that it will not have an adverse effect on flow paths or the capacity of ponding areas.

9.2.11 Two submitters wish to acknowledge Council for allowing property owners to subdivide with due consideration being given to flood risk.

9.2.12 This is acknowledged.

9.3 Recommendation

9.3.1 Amend Rule 8.3.3 (b) as follows:

(ii) *Earthworks* over 5m^3 (except for maintenance, operation, upgrade and development of underground network utilities where the ground is reinstated to the same contour as existed immediately prior to the works being undertaken)

9.3.2 Amend Rule 8.5.1.2 (a) as follows:

(a) The effect of the ~~proposal~~ ~~(including the design of any *building/structure)*~~ proposed activity (including its location and design) ~~proposed *buildings/structures*~~ on the capacity of ponding areas and function of overland flow paths.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
FS31	10, 11	Bay of Plenty Regional Council
26	2	Hall, Geoff
24	2	Hall, Josephine

Accepted in Part

Submission	Point Number	Name
14	1	Harray, Kenneth
20	3	Powerco
20	4	Powerco
13	1	Steward, Caroline

Rejected

Submission	Point Number	Name
11	4	Lloyd, Natalie
5	4	Mahar, Judith

9.4 Reasons

9.4.1 The notified controls on development are needed to ensure that people and buildings are protected from coastal inundation. Putting in place the same controls that apply to floodable areas brings a consistent approach to the management of all areas subject to flooding in the District. It also uses rules that have already been established and tested.

9.4.2 Rule 8.3.3 (b) (ii) has been amended to recognise that Powerco and any other network utility operator needing to maintain, operate, upgrade or develop underground network utilities should be able to do this without continually needing to apply for resource consent for earthworks. This is provided that the ground is reinstated to the same contour as existed immediately prior to the works being undertaken.

9.4.3 Rule 8.5.1.2, which seeks to manage effects on the capacity of ponding areas and functioning of flow paths, has been amended to make it clear that this requirement relates to all proposed activities (listed as restricted discretionary for this assessment). Specific reference to building/structure design has been removed so it cannot be misunderstood that it only applies to these and not to other activities such as earthworks. References to design and location (with respect to all activities) are included to provide guidance to Plan users about what responses may be required to manage the effects of these activities.

10.0 Topic 9: Rules covering all Natural Hazards

10.1 Background

10.1.1 The Plan Change was used to clarify which activities were intended to be permitted within all hazards. This required the removal of support poles associated with electricity lines, and uninhabited farm buildings (such as sheds), which are currently permitted within all hazards because of a drafting error. These were only intended to be permitted within the floodable areas and now also within the proposed coastal inundation areas. A new controlled activity was also added for the conversion of fully developed cross lease titles to freehold titles.

10.2 Submission Points and Discussion

Rule 8.3.1 – Permitted Activities (for all Natural Hazards)

10.2.1 Powerco seek that Rule 8.3.1 (a) is amended by adding the following new permitted activities under 'All Identified Natural Hazards'; (ii) support poles associated with electricity lines, (iii) earthworks associated with the maintenance, operation, upgrade and development or network utilities. They also seek that 8.3.1 (c) is amended to delete "(ii) support poles associated with

electricity lines" from floodable areas only. They say the proposed rules only permit support poles within floodable areas, however, in the Operative Plan these are a permitted activity in all natural hazards areas.

10.2.2 The existing permitted activity for support poles in the Operative Plan was introduced through Plan Change 35 (Natural Hazards – Where the Hazard Does Not Exist) which despite its name was focused on floodable areas. Likewise, the discussion in Powerco's submission on this Plan Change was specifically focused on seeking permitted activity status for support poles within floodable areas only. This was further evident in the planning report which discusses support poles (and uninhabited farm buildings) with respect to flooding issues. However, the permitted rules for these activities were inserted into the District Plan incorrectly and as result showed them being permitted within all hazards (as pointed out by Powerco). This wasn't the intention as no justification was provided for such an outcome.

10.2.3 There is also no explanation within Powerco's submission on Plan Change 74 as to why earthworks should be permitted within all hazard features. Their submission only puts forward their case with respect to floodable areas and coastal inundation areas.

Rule 8.4 – Matters of Control

10.2.4 Two submitters support the matters of control in 8.4 subject to consequential amendments to address their other submission points.

10.2.5 These matters of control relate to the Stability Area C in the Minden Lifestyle Zone and cross lease subdivision in all hazards. The support for these is acknowledged. It is assumed the consequential amendments anticipated by the submitters related to requests for new controlled activities. These were recommended against in Topic 6 of this report.

10.3 Recommendation

10.3.1 That the rules covering all natural hazards are retained as notified.

The following submissions are therefore:

Accepted in Part

Submission	Point Number	Name
2	14	Lovell, Alistair
1	14	Lovell, Warwick

Rejected

Submission	Point Number	Name
20	2	Powerco

10.4 Reasons

10.4.1 The existing permitted activity status for support poles was originally only requested by Powerco in relation floodable areas under Plan Change 35 (Natural Hazards - Where the Hazard Does Not Exist). However, this was inserted into the District Plan incorrectly and as result showed them being permitted within all hazards. This wasn't the intention as no justification was provided for such an outcome. This can be corrected as an edit.

11.0 Plan Change 74 – Recommended Changes to the District Plan First Review

11.1 Purpose

11.1.1 The purpose of this part of the report is to show the Proposed Plan Change in full including any recommended changes in response to the submissions and further submissions.

11.1.2 Recommended changes to the District Plan First Review text are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations from this Planning Report in blue.

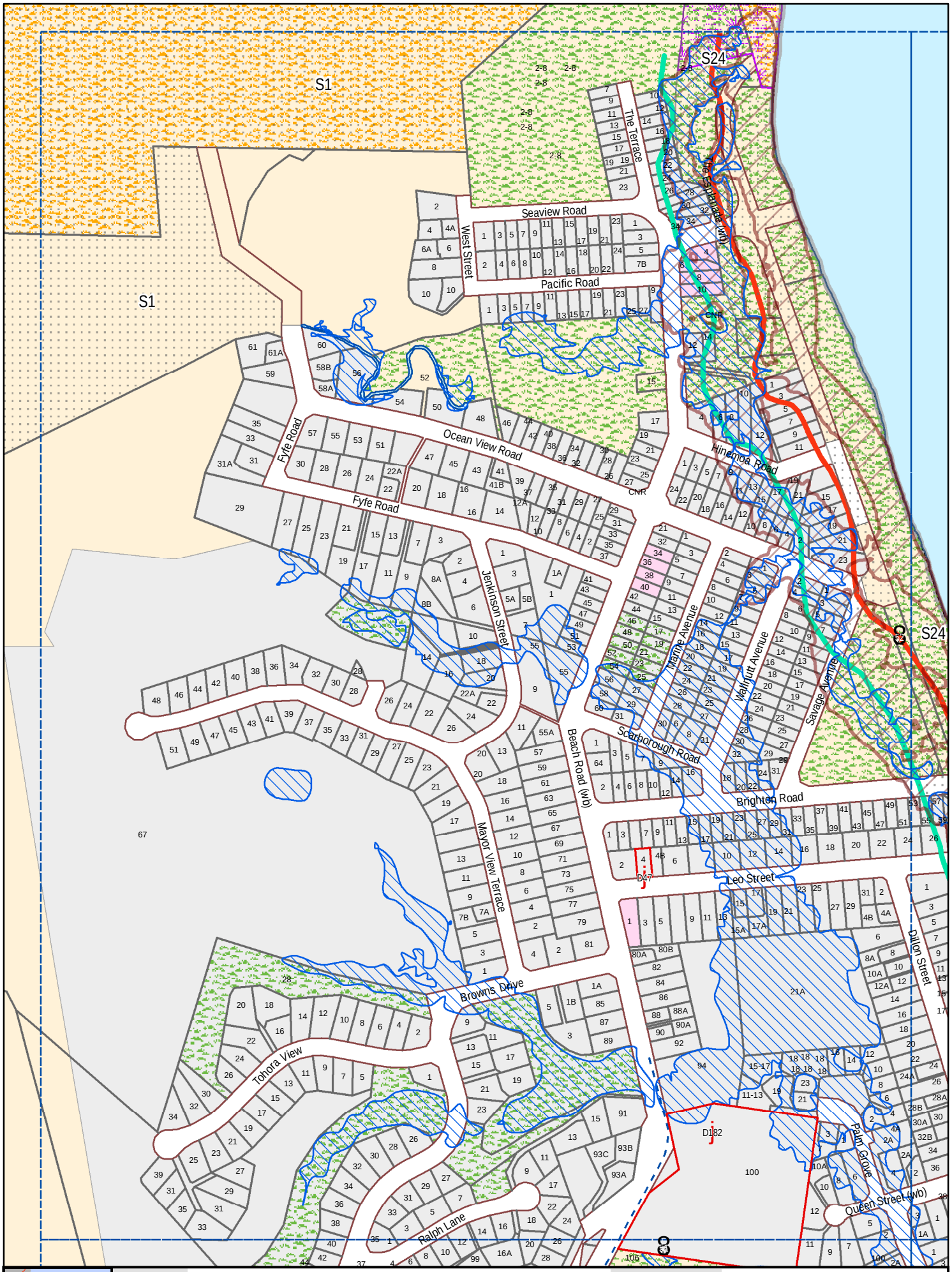
11.2 Recommended Changes

11.2.1 Amend the District Plan maps/legend as per **Attachment A.**

11.2.2 Amend Section 8 – Natural Hazards as per **Attachment B.**

Attachment A

District Plan Maps/Legend



U01

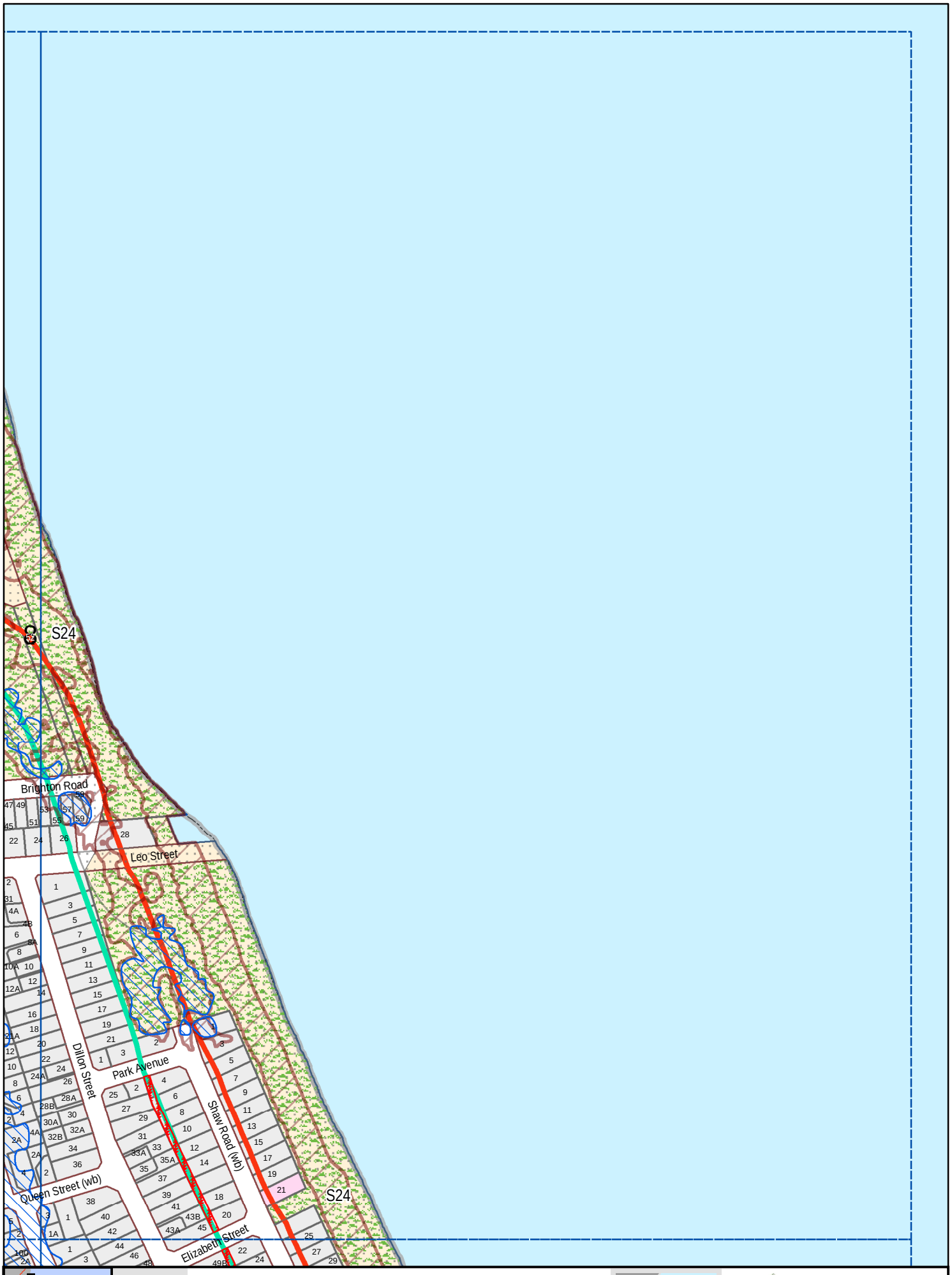
Waihi Beach

Western Bay of Plenty District Council

0 50 100 150 200 250m

Scale 1:5000 (A4)

Revision Date: PC 74
September 2015



U02

Waihi Beach

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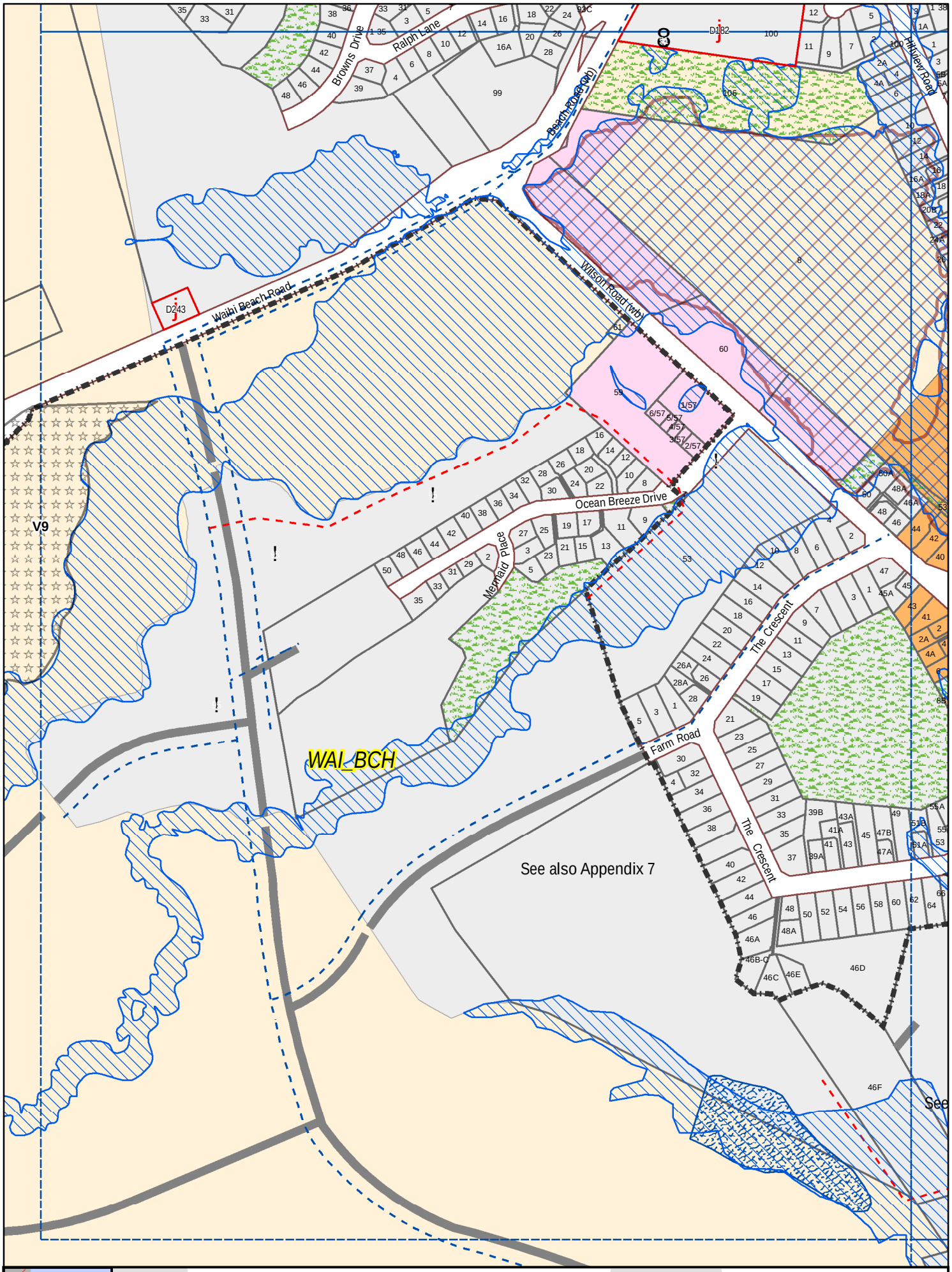
Scale 1:5000 (A4)

U01 U02 U03 U04

Western Bay of Plenty District Council

Revision Date: PC 74
September 2015



U03

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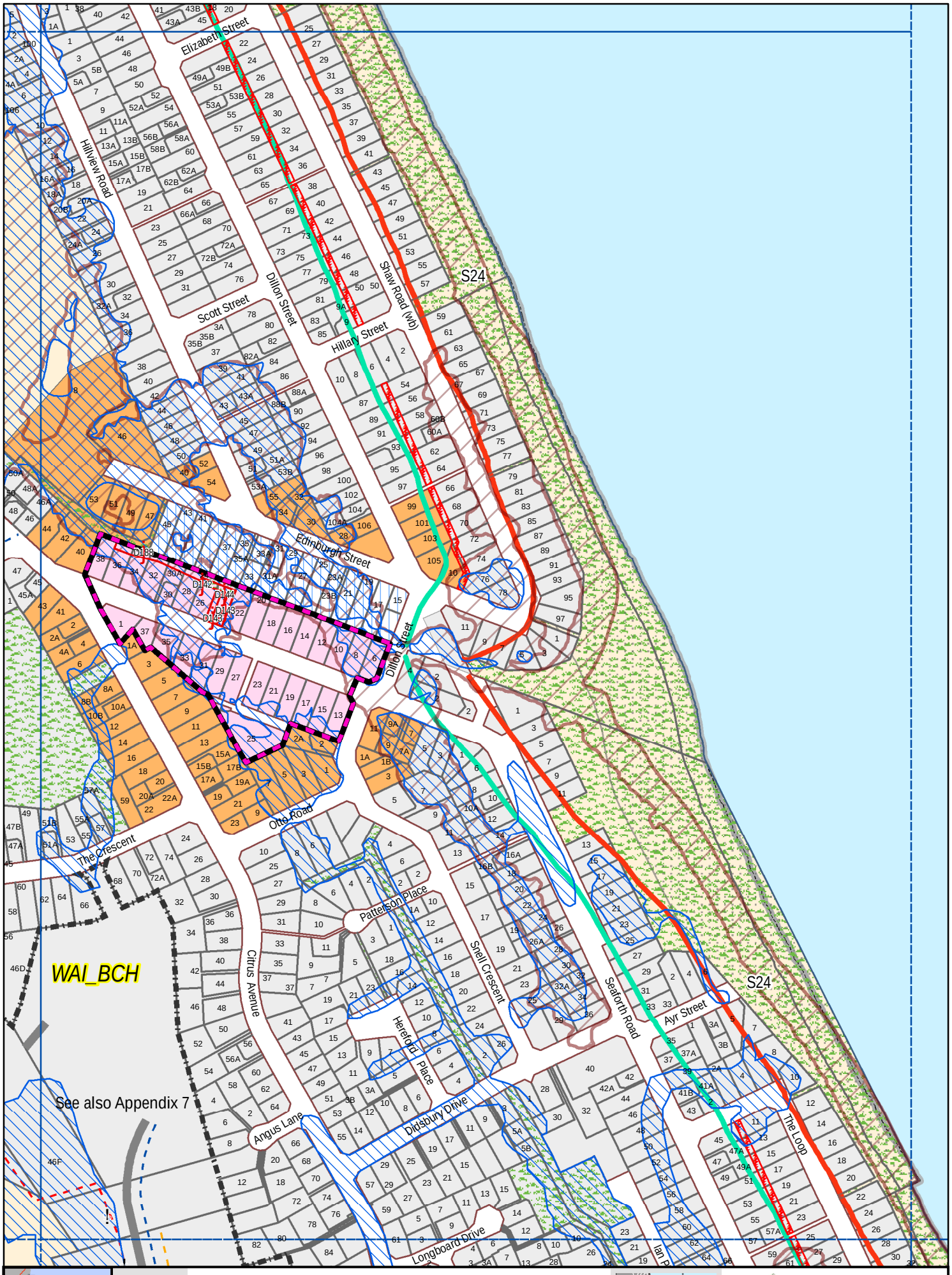
U01 U02 U03 U04 U05

Western Bay of Plenty District Council

Revision Date: PC 74
September 2015



U04

Waihi Beach

U01 U02 U03 U04 U05 U06

Western Bay of Plenty District Council

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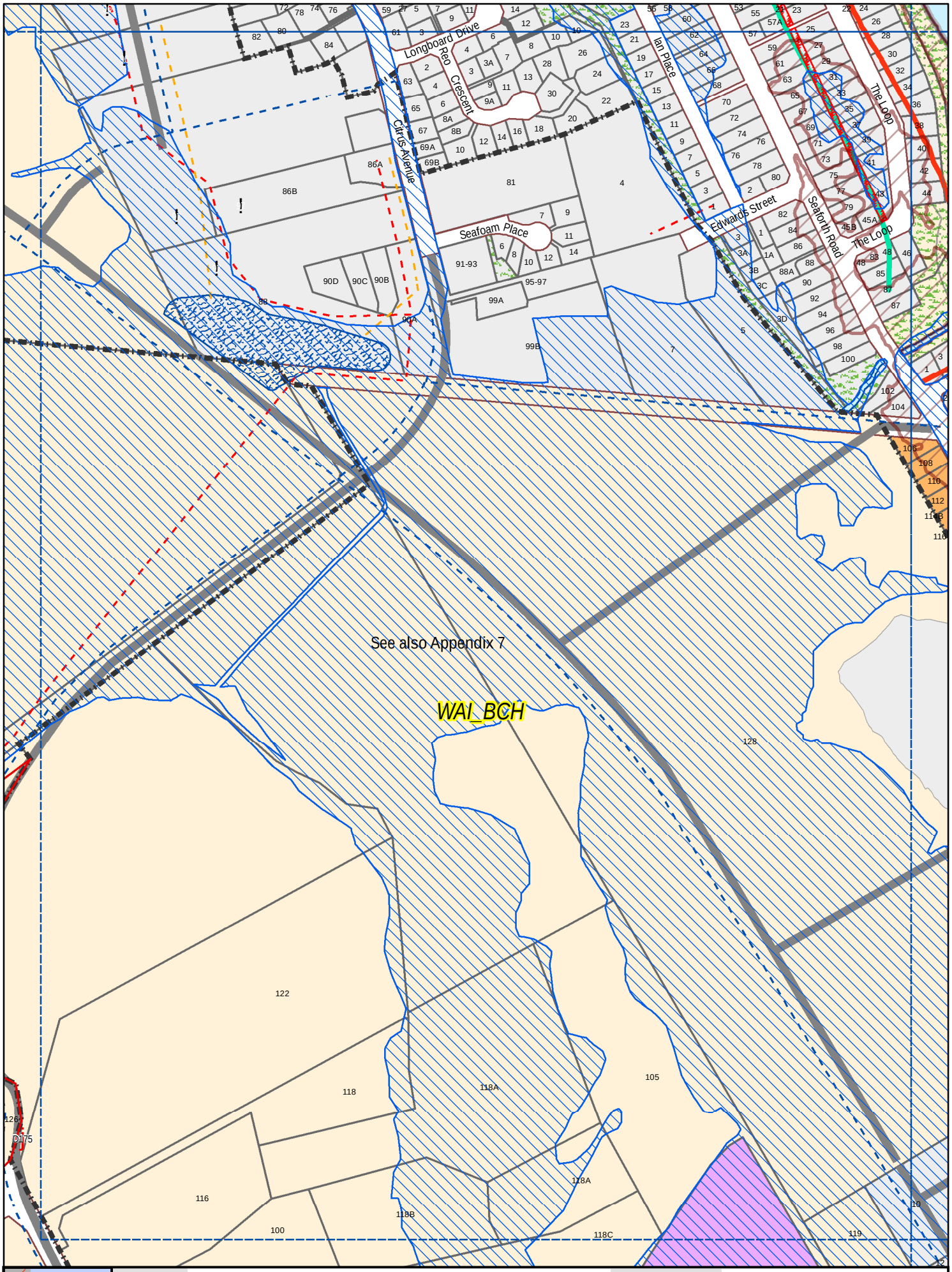
Scale 1:5000 (A4)

Revision Date: PC 74
September 2015



U05

Waihi Beach

Western Bay of Plenty District Council

0 50 100 150 200 250m

Scale 1:5000 (A4)

Revision Date: PC 74
September 2015

U06

Waihi Beach

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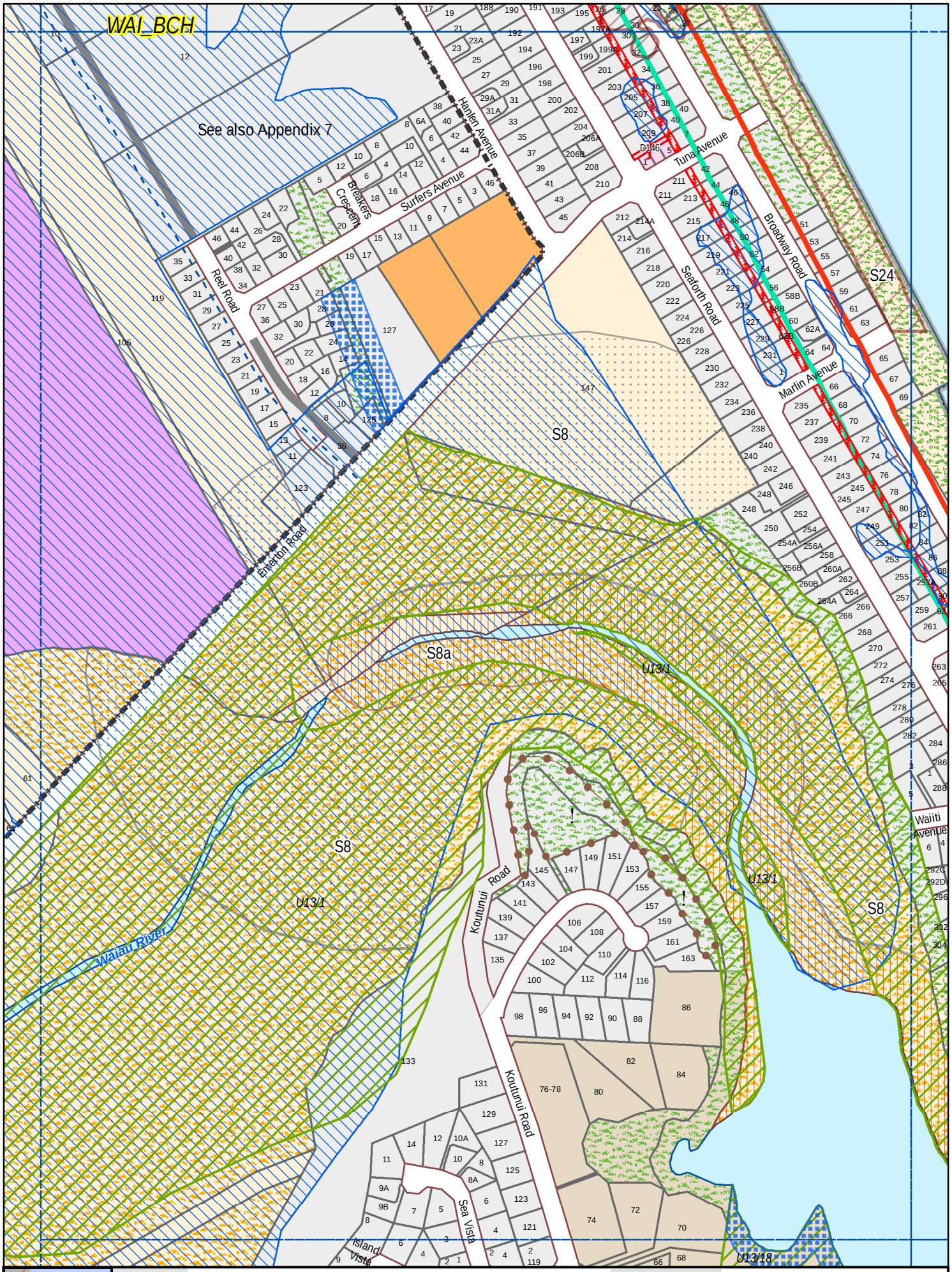
Scale 1:5000 (A4)

U04 U05 U06 U07 U08

Western Bay of Plenty District Council

Revision Date: PC 74
September 2015



U07

Athenree

U05 U06 U07 U08 U09 U10

Western Bay of Plenty District Council

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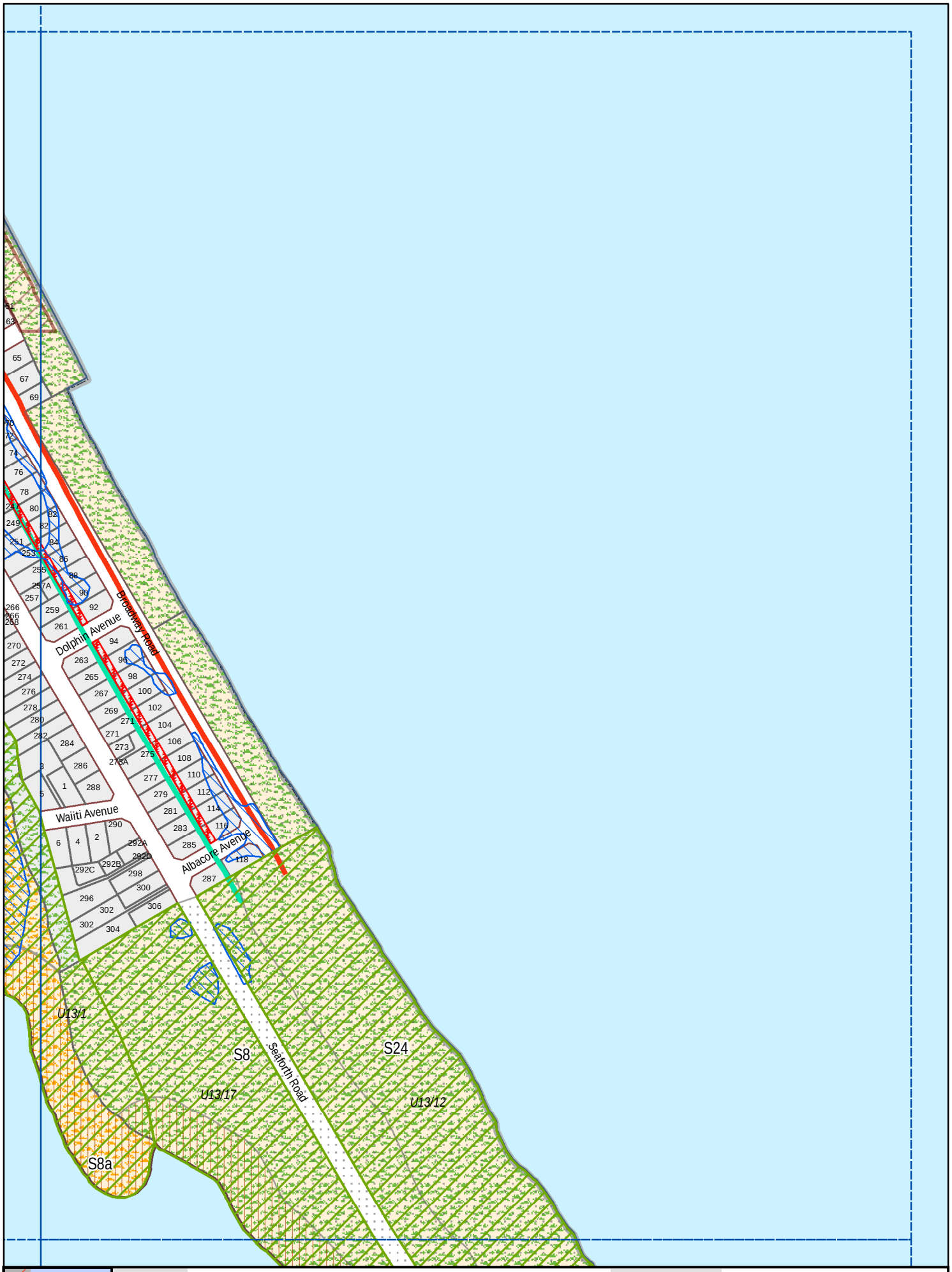
Revision Date: PC 74
September 2015



U08

Athenree

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U06 U07 U08 U09 U10

Western Bay of Plenty District Council

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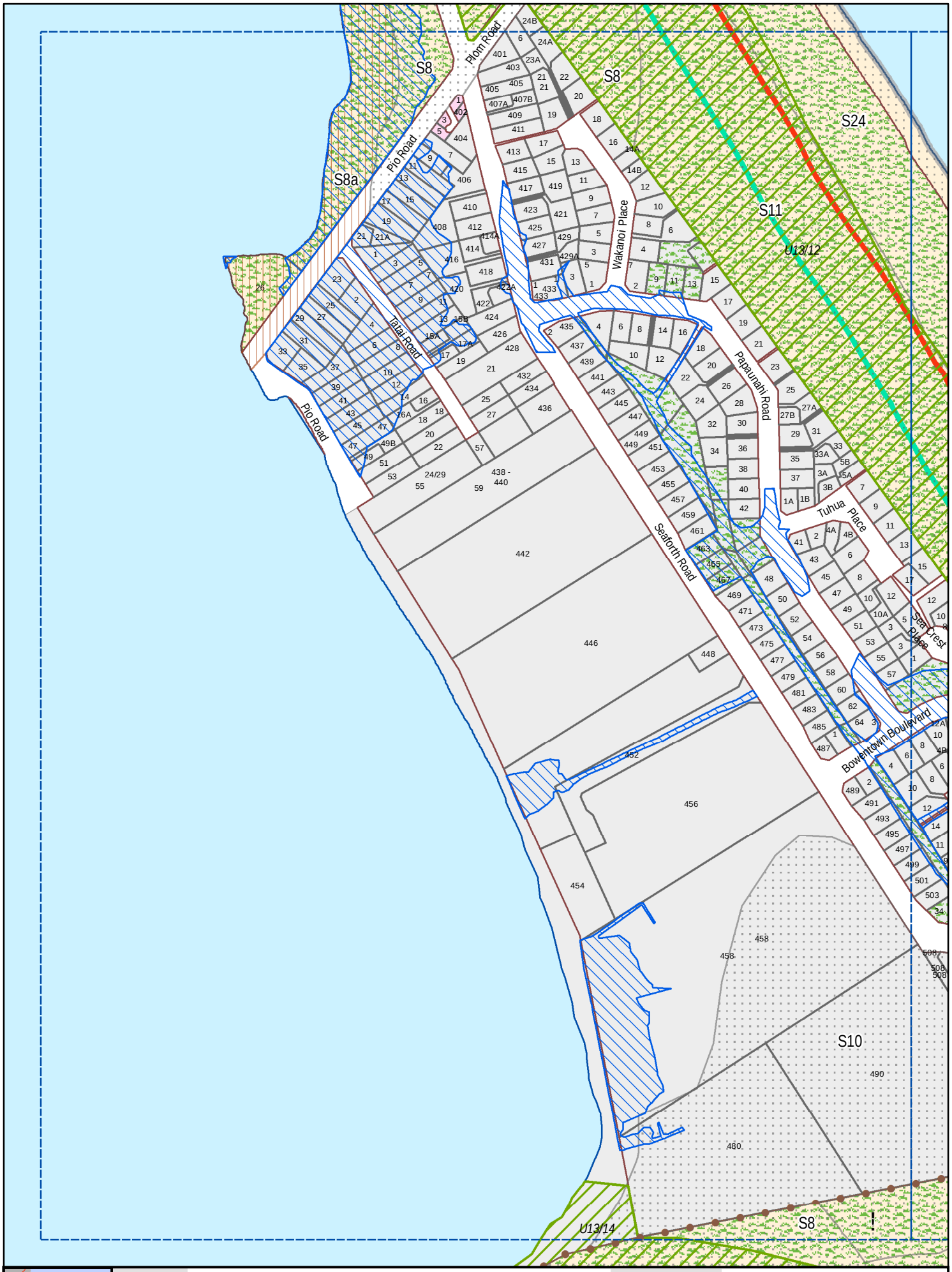
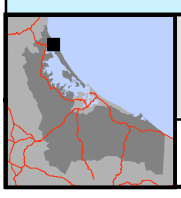
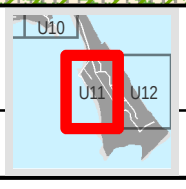
September 2015



U11

Pios Beach





Western Bay of Plenty District Council

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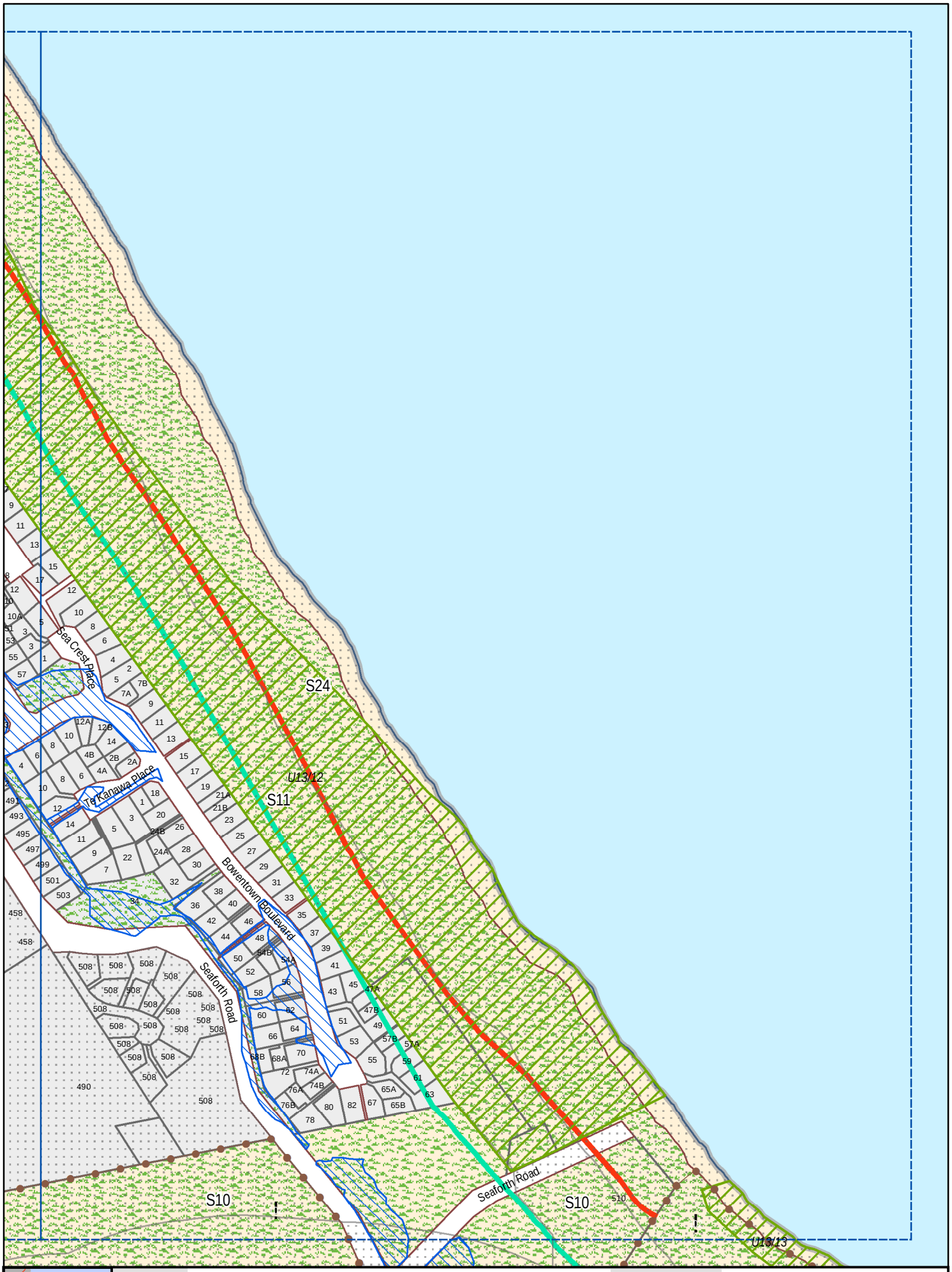
Scale 1:5000 (A4)

Revision Date: PC 74
September 2015



U12

Pios Beach

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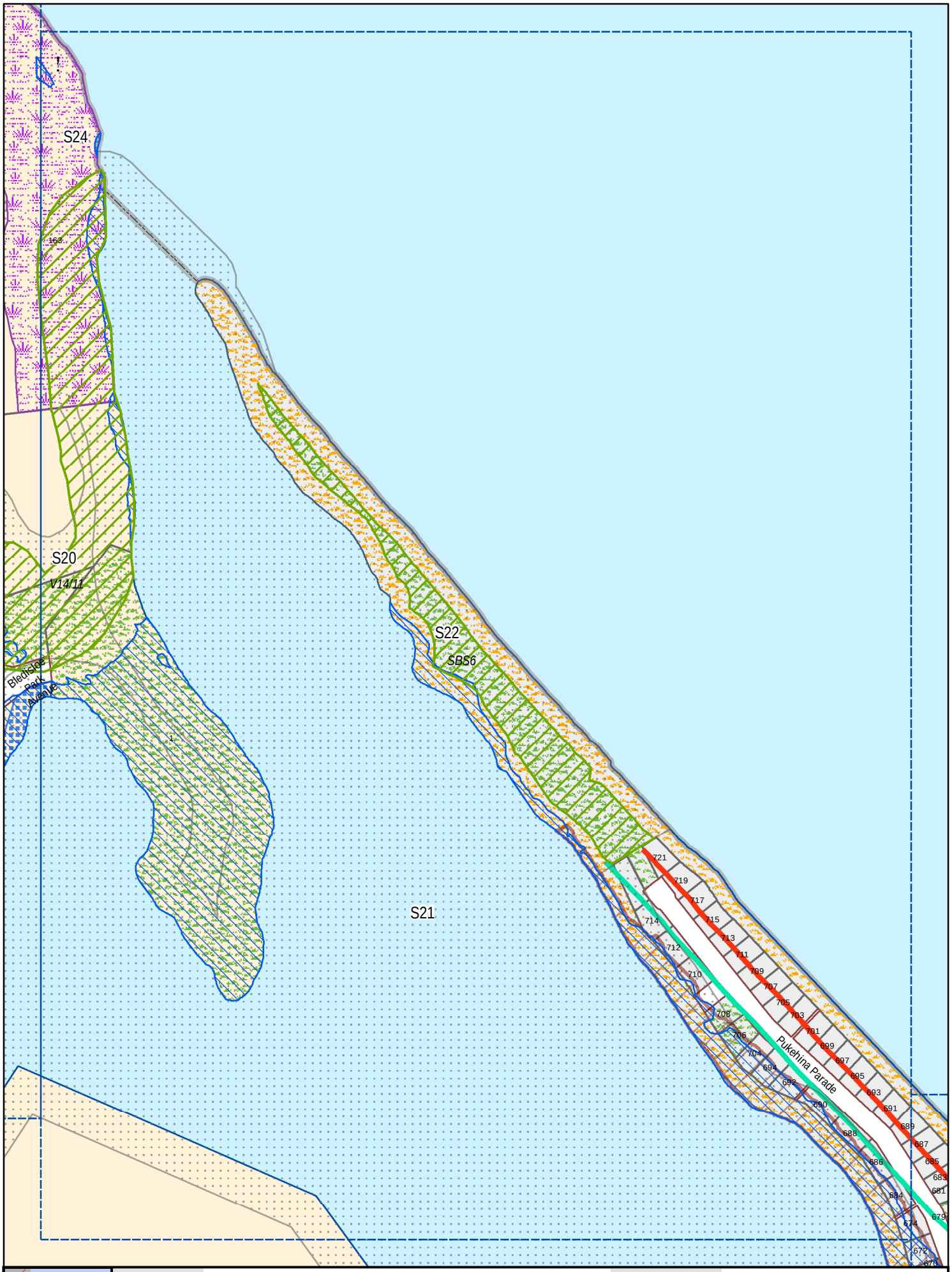
Scale 1:5000 (A4)

U11 U12

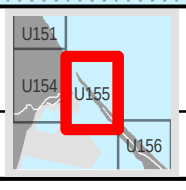
Western Bay of Plenty District Council

Revision Date: PC 74
September 2015



U155

Pukehina



Western Bay of Plenty District Council

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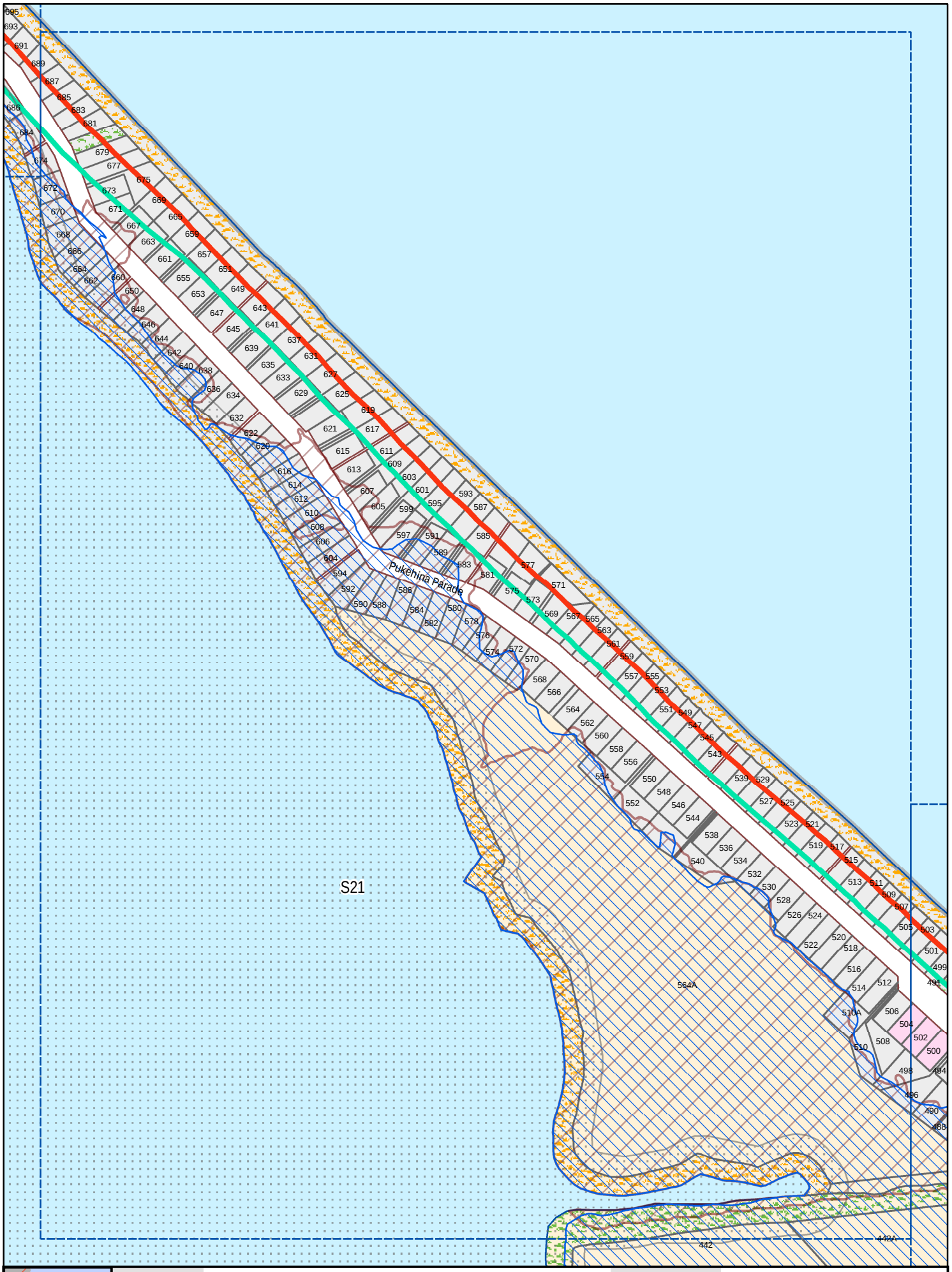
Revision Date: PC 74
September 2015



U156

Pukehina

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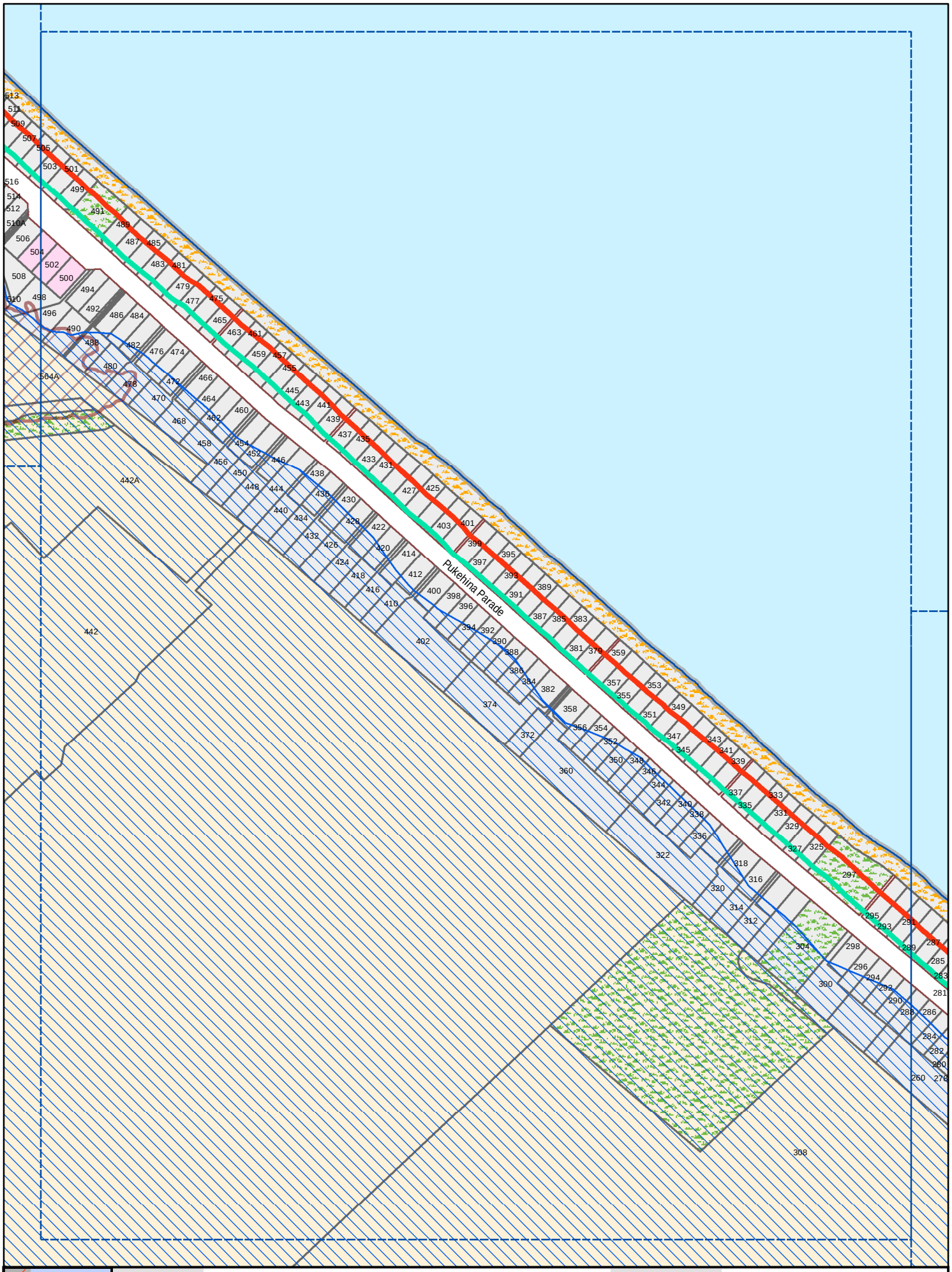
Western Bay of Plenty District Council

Revision Date: PC 74
September 2015



U157

Pukehina

0 50 100 150 200 250m

Scale 1:5000 (A4)

U156 U157 U158

Western Bay of Plenty District Council

Revision Date: PC 74
September 2015

Infrastructure

- Airport Approach Surface
- Designation
- Formed Roads
- Limited Access
- Stop Bank

Reserves

- Esplanade Strip
- Proposed Esplanade Strip / Reserve
- Kaimai - Mamaku Forest Park Boundary
- Reserve
- Reserve, Department of Conservation

Significant Features

- Viewshaft
- Significant Ecological Feature / RAP
- Outstanding Landscape Feature - 50m (S7a & S8a) - 40m (S9a)
- Outstanding Landscape Feature
- Cultural Heritage Feature Boundary
- Built Heritage Feature
- Cultural Heritage Feature
- Notable Trees

Structure Plan

- Structure Plan Boundary
- Greenlane
- Road
- Stormwater
- Wastewater
- Water Supply
- Walk/Cycleway
- Reserve Area
- Stormwater Pond
- Minden Lifestyle Structure Plan Area Overland Flowpaths & Local Ecological Features

Land Hazards

- Coastal Erosion Area - Primary Risk
- Coastal Erosion Area - Secondary Risk
- Coastal Erosion Area - Access Yard
- Coastal Erosion Area - Rural
- Coastal Inundation Area
- Flood Hazard
- Stability Area - Minden A
- Stability Area - Minden B1
- Stabilty Area - Minden B2
- Stability Area - Minden C
- Stability Area - Minden U
- Stability Area - General
- Stability Area - Landslip

Zones

- All Terrain Park (ATP)
- Commercial
- Commercial Transition
- Horticultural Post Harvest
- Industrial
- Residential
- Medium Density Residential
- Rural Residential
- Rural
- Lifestyle
- Future Urban

Zone Overlays

- District Boundary
- Electricity Transmission Line
- Electricity Transmission Line Buffer 16m (1)
- Firing Range Exclusion Zone
- Identified Area (2)
- Quarry Effects Management Area
- TNL 100m Building Line Setback
- Town Centre Boundary
- Matakana Island Forested Sand Barrier

Bay of Plenty Regional Council should be consulted before undertaking any activity in the vicinty of Mean High Water Springs to establish the actual line of Mean High Water Springs.
Formed roads are indicated as white shading on the road land parcels. Unformed roads have the underlying zone indicated.

(1) Compliance with NZECP 34:2001 is required in this area for *buildings/structures* and *earthworks*. The distance quoted is from the centreline of the transmission line.
(2) The identified areas include; the community service area at Rangiuru, the central hub site within the All Terrain Park and buffer zones in Stage 2 Omokoroa and Binnie Road.

Legend

Revision Date: September 2015

Western Bay of Plenty District Council

Attachment B

Section 8 – Natural Hazards

Section Contents

Natural Hazards

8. Natural Hazards

Explanatory Statement

The Western Bay of Plenty District is subject to a range of actual or potential natural hazards which will or may adversely affect human life, property or other aspects of the environment. The principal hazards affecting the *District* are coastal erosion and coastal inundation (temporary flooding from storm surge), tsunami, land instability, flooding, earthquake, and volcanic eruption.

While acknowledging the *Council's* statutory responsibilities, this section recognises the constraints imposed by the nature of some potential hazards affecting the ~~Western Bay of Plenty~~ *District* as well as the limitations of the level of existing information.

Areas considered most at risk from coastal erosion and coastal inundation are those already developed for urban purposes and which adjoin the open coastline ~~(~~e.g. Waihi Beach (including Bowentown) and Pukehina~~)~~. These stretches of coastline ~~concerned~~ have been the subject of a detailed study commissioned by *Council* to identify land at risk to these coastal hazards over 0-50 and 50-100 years. The study findings are reflected ~~in that land identified~~ on the District Plan Maps ~~as being within the 'Coastal Protection Area'~~ through the identification of 'Coastal Erosion Areas' and 'Coastal Inundation Areas'. The Coastal Erosion Areas have been divided into primary risk and secondary risk based on 0-50 year and 50-100 year risk timeframes with more restrictive rules applying in the primary risk area. The Coastal Inundation Areas have not been divided into risk timeframes because the same restrictions would apply within both. There is also a 'Coastal Erosion Area – Rural' in place for rural zoned areas adjoining the open coastline e.g. Matakana Island, Maketu and east of Pukehina.

~~The Coastal Protection Area has been divided into two parts, the Primary Risk Area and the Secondary Risk Area. The Primary Risk Area includes all private properties within the Coastal Protection Area that are considered to be subject to an immediate threat from coastal hazards. The Secondary Risk Area includes all land in the remainder of the Coastal Protection Area. All private property within the Secondary Risk Area is likely to be affected by coastal hazards at some future time but within the next 100 years.~~

The main area of known land instability is in the Minden where there exists land with the potential to slip when saturated. These and other potentially unstable areas have been identified on the District Planning Maps.

Heavy rain is a common feature of the Bay of Plenty Region and this may increase with global climate change. Low-lying areas, especially those in proximity to watercourses are at risk from inundation, scour and sedimentation. Within established urban areas land known to be susceptible to flooding exists in

parts of Waihi Beach, Katikati, Te Puke and Pukehina. Again, such land has been identified on the Planning Maps.

Land identified on the Planning Maps as being at risk from the foregoing hazards is subject to various controls on *development* either through District Plan rules or other methods outside the District Plan. In many cases because of the quality of existing information such identification is very 'broad brush' and where more detailed study of specific areas eliminates land from the identified potential hazard then otherwise complying *development* will be able to proceed through the resource or building consent processes without additional restriction (e.g. consent or Section 74 Building Act 2004 notices). Nevertheless there are some areas where *Council* has good information on the level of hazard risk and in these areas it is considered appropriate to control the intensification of *development*.

The Western Bay of Plenty adjoins the Taupo Volcanic Zone and is therefore considered to be subject to a high risk from earthquakes as well as at risk from volcanic eruptions originating from outside the *District*. Notwithstanding the limitations of addressing these potential natural hazards through the District Plan, much is achievable in terms of public education and preparedness through other methods such as emergency management plans.

8.1 Significant Issues

1. The Western Bay of Plenty District is subject to a range of actual or potential natural hazards which will or may adversely affect ~~human life, property or other aspects of the environment~~ human life or the natural or built environment. The principal hazards affecting the *District* are coastal erosion, ~~and~~ coastal inundation, tsunami, land instability, flooding, earthquake, and volcanic eruption.

2. Areas actually or potentially under threat from such natural hazards as coastal erosion, coastal inundation, ~~and~~ land instability and flooding can be identified in advance. Specific areas more at risk than others from some hazards such as earthquakes and volcanic eruptions are more difficult to identify in advance and the potential effects of the hazards themselves so widespread and devastating that avoidance or control through the District Plan is not realistically possible.

3. Some areas now known to be at risk from actual or potential hazards have already been developed for urban purposes.

4. Some natural hazard avoidance, remedial, or mitigation measures have the potential to adversely impact on natural character and on significant ecological values existing within the coastal and other environments.

8.2 Objectives and Policies

8.2.1 Objectives

1. Minimisation of the threat of natural hazards to ~~human life, property and the natural and physical environment~~ human life and the natural and built environment.

2. Protection of the existing natural character of the coastal environment and other natural features having recognised ecological, landscape or other significance to the *District*.

8.2.2 Policies

1. Adopt the best practicable options (including the 'do nothing' option) in the management of areas actually or potentially at risk from natural hazards and where possible adopt avoidance rather than mitigation or remedial measures.

2. Control or prevent the establishment of activities which have the potential to increase the extent to which natural hazards have or may have an adverse effect on human life or the natural or built environment.

3. Enable the *development* or redevelopment of land already subdivided or otherwise developed for urban purposes in areas now known to be at risk from natural hazards only where any likely adverse effects can be avoided or appropriately mitigated.

4. Ensure that new subdivision, land use activities or other *development* is located and designed so as to avoid the need for further hazard protection works.

5. Ensure that where hazard protection works are necessary their form, location and design are such as to avoid or mitigate potential adverse environmental effects.

6. Enable natural ecosystems in currently undeveloped areas to migrate inland as a result of dynamic coastal processes (including sea level rise as predicted by recognised national or international agencies).

7. Encourage the conservation and enhancement of natural features such as sand dunes and *wetlands* which have the capacity to protect existing developed land.

8. Prevent the use of concrete and block work foundations, floors and *walls* in the ~~Primary Risk Area~~ Coastal Erosion Areas.

8.3 Activity Lists

The following rules apply to those activities which are located within Natural Hazard Features identified on the District Planning Maps.

Explanatory Note:
For the purpose of interpretation, the Coastal ~~Protection~~ Erosion Area – Rural ~~Open Coastline~~ means land adjoining the open coastline, zoned Rural and within 100m of *MHWS*, and this description shall take priority over the District Planning Maps with regard to location.

8.3.1 Permitted Activities

(a) All Identified Natural Hazards

~~(a)~~ (i) *Buildings/Structures* within an *Approved Building Site – Natural Hazards.*

(b) Stability Areas – Minden

~~(b)~~ (i) *Buildings/Structures* within Stability Area - Minden C.

(c) Floodable Areas (not including Coastal Inundation Areas)

~~(c)~~ (i) *Buildings/Structures* where evidence establishes:

- A *building/structure* will be located clear of the ~~natural hazard~~ ~~(~~floodable area~~)~~ irrespective of the extent of the ~~natural hazard~~ ~~(~~floodable area~~)~~ shown by the Planning Maps; or

- A building/structure will not be affected by the ~~natural hazard~~ ~~(~~floodable area~~)~~

~~(b)~~ (ii) Support poles associated with electricity lines.

~~(b)~~ (iii) Uninhabited farm *buildings* including, but not limited to, pump sheds, implement sheds and storage sheds, provided that an appropriate notice under s73 of the Building Act has been attached to the title.

Explanatory Note
Suitable evidence may include, but is not limited to, aerial photographs, site inspections from *Council* engineers, and engineering assessments from a suitably qualified person.

8.3.2 Controlled Activities

(a) All Identified Natural Hazards

(i) Updates to cross lease flat plans which incorporate consented building developments

(ii) Conversion of cross lease titles to freehold titles where each cross lease title has at least one lawfully established *dwelling*

~~(a)~~(b) Stability Areas – Minden

(i) Subdivision where all of the proposed privateways and building sites are within Stability Area - Minden C

8.3.3 Restricted Discretionary Activities

(a) Coastal ~~Protection~~ Erosion Area – Secondary Risk

(i) *Buildings/Structures* not within an *Approved Building Site – Natural Hazards*

(b) Floodable Areas and Coastal Inundation Areas

(i) *Buildings/Structures* not within an *Approved Building Site – Natural Hazards*

(ii) *Earthworks* over $5m^3$ (except for maintenance, operation, upgrade and development of underground network utilities where the ground is reinstated to the same contour as existed immediately prior to the works being undertaken)

(iii) Closed board fences, retaining walls, raised gardens, concrete and block walls

(c) Stability Areas – Minden (A, B1, B2 & U)

(i) *Buildings/Structures* not within an *Approved Building Site – Natural Hazards*

(ii) Subdivision, except if in accordance with 8.3.2 (a)

(iii) Filling, excavation and other *development*

(iv) Vegetation removal

(v) Disposal of stormwater and wastewater

8.3.4 Discretionary Activities

(a) Coastal ~~Protection~~ Erosion Areas – Primary Risk and Rural ~~Open Coastline~~

(i) *Buildings/Structures* not within an *Approved Building Site*
(ii) Construction of new public roads
(iii) *Reticulated Infrastructure*
(iv) Coastal and river protection works including groynes and sea walls
(v) In-ground swimming pools and swimming pools 1m or less in *height* above natural *ground level* and not within an *Approved Building Site*
~~(v) Subdivision within the Coastal Protection Area - Open Coastline~~
~~(vi) *Buildings/Structures* within the identified access yard~~

(b) Coastal Erosion Area – Access Yard (Waihi Beach only)

(i) *Buildings/Structures*

~~(b)~~(c) Floodable Areas and Coastal Inundation Areas

(i) Subdivision

~~(c)~~(d) Stability Areas – Landslip and General

(i) *Buildings/Structures* not within an *Approved Building Site – Natural Hazards*
(ii) Subdivision
(iii) Construction of new roads
(iv) *Reticulated Infrastructure*

8.3.5 Non-Complying Activities

~~(a) Coastal Protection Area – Primary Risk~~

~~(i) *Minor dwellings*~~
~~(ii) Additional *dwellings*~~
~~(iii) *Education Facilities* for no more than four persons~~
~~(iv) *Accommodation Facilities* for no more than four persons~~

~~(b) Coastal Protection Area – Secondary Risk~~

~~(i) Subdivision (excluding minor boundary adjustments)~~

(a) Coastal Erosion Areas

(i) Subdivision of titles which are partially identified within a Coastal Erosion Area, excluding:

- Minor boundary adjustments
- Updates to cross lease flat plans which incorporate consented building developments as provided for in Rule 8.3.2 (a) (i)
- Conversion of titles from cross lease to freehold as provided for in Rule 8.3.2 (a) (ii)

Explanatory Note:
For the purpose of this rule, minor boundary adjustments means an adjustment of boundary between two adjoining *lots* and which will not increase the risk or potential risk to existing *buildings* or future *buildings* from coastal erosion or inundation.

8.3.6 Prohibited Activities

(a) Coastal ~~Protection~~ Erosion Areas

~~(i) *Minor dwellings*~~
~~(ii) Additional *dwellings*~~
(i) No more than one dwelling (either a *dwelling* or *minor dwelling*)
(ii) *Education facilities* for more than four persons
(iii) *Accommodation facilities* for more than four persons
(iv) Fixed (i.e. non-portable) solid waste management facilities including sanitary landfills and the disposal of *hazardous substances* (public or private) ~~in the Primary and Secondary Risk Areas~~.
(v) Subdivision of titles which are wholly identified within a Coastal Erosion Area, excluding:
- Minor boundary adjustments
- Updates to cross lease flat plans which incorporate consented building developments as provided for in Rule 8.3.2 (a) (i)
- Conversion of titles from cross lease to freehold as provided for in Rule 8.3.2 (a) (ii)

Explanatory Note:
For the purpose of this rule, minor boundary adjustments means an adjustment of boundary between two adjoining *lots* and which will not increase the risk or potential risk to existing *buildings* or future *buildings* from coastal erosion.

~~(iii) Subdivision (excluding minor boundary adjustments) within the Primary Risk Area of the Coastal Protection Area. See Rule 8.3.5(b) for definition of minor boundary adjustment.~~

8.4 Matters of Control

8.4.1 Controlled Activities – Subdivision and Buildings within Stability Area - Minden C

Council reserves control over the following matters

(a) Protecting each *lot* and surrounding *lots* from instability or erosion by:

(i) Managing *earthworks* within the site.

(ii) Controlling the location and formation of building sites, roads, accessways, tracks or *privateways* within the subdivision.

(iii) Controlling the location and type of wastewater and stormwater treatment and disposal systems.

(iv) Detailing requirements for the retention or planting of vegetation including species selection that will help stabilize any cut slope or fill batter.

(v) Requiring the collecting and piping of stormwater, or its management by way of soakage or discharge to ground or to natural waterways, including the collection of roof water, as appropriate. The preference is for collection and discharge of stormwater to the base of gulleys at a rate that mimics natural catchment flow rates.

(vii) Avoiding erosion or natural hazards or mitigating these hazards when they cannot be avoided;

(b) Building sites should be set back from existing waterbodies and ephemeral flowpaths to the extent that any risks to buildings from instability and flooding are avoided.

(c) For subdivision and *development* in the Minden Stability Areas regard shall be had to the stability information requirements in Rule 8.6.

8.4.2 Controlled Activities – Updates to cross lease flat plans and conversion of cross lease titles to freehold titles

Council reserves control over the following matters:

(a) The relevant provisions of Section 12 – Subdivision and Development.

(a) The subdivision activity performance standards and matters of control which apply to controlled activity subdivisions within the applicable zone.

8.5 Matters of Discretion

8.5.1 Restricted Discretionary Activities

8.5.1.1 Coastal ~~Protection~~ Erosion Area – Secondary Risk

(a) Extent to which the *building/structure* is relocatable, taking into account the design, location and materials of the *building/structure*, ~~and~~ access to remove the *building/structure*, and the ability to rehabilitate the site including the removal of all parts of *buildings/structures* and services and the reinstatement of land to protect natural character and the ability of dunes to act as a buffer against erosion.

(b) ~~Types of building materials used,~~ Avoidance of the use of concrete and block wall foundations, *walls* and flooring, except that for sheds and garages (used for non-habitable purposes) all of these are allowed other than concrete and block walls.

(c) *Buildings/structures* should be located as far away from the hazard as possible.

(d) Any new information or assessment undertaken by a suitably qualified person/s which confirms that the land is not in fact subject to the natural hazard concerned.

(e) The potential environmental effects of or likely to result from the proposal.

8.5.1.2 Floodable Areas and Coastal Inundation Areas

(a) The effect of the ~~proposal (including the design of any *building/structure)*~~ proposed activity (including its location and design) ~~proposed *buildings/structures*~~ on the capacity of ponding areas and function of overland flow paths.

~~(b) The design of the *building/structure.*~~

(b) The appropriate minimum finished floor level of the proposed *building/structure.*

Notes:

This is the combination of the flood level plus an additional freeboard height as stipulated in *Council's* Development Code.

Council can provide specific flood levels for all Coastal Inundation Areas and for some but not all of the Floodable Areas. Where specific flood levels are unknown, applicants may be required to engage a suitably qualified engineer to undertake a flood level assessment for the property.

For Waihi Beach Floodable Areas (Planning Maps A03 and U01-U04) this shall be based on the 2% AEP (inclusive of climate change). ~~and an additional freeboard height, as stipulated in *Council's* Development Code.~~

(d) Verifiable new information which demonstrates that the subject site is not in fact under threat from ~~flooding~~ the identified hazard.

8.5.1.3 Stability Areas – Minden A, B1, B2 & U

Council shall have regard to the following matters in addition to 8.4.1:

(a) Subdivision shall be accompanied by a geotechnical report prepared by a suitably qualified person showing a building site capable of being approved and confirming as a minimum that:

(i) *Earthworks* required in forming each building site and access roads and/or *privateways* in the subdivision shall avoid or mitigate adverse effects on the stability of the land within the site and will have no adverse effects on the stability of adjacent land

(ii) Each building site will be required to be set back an appropriate distance, as recommended by a geotechnical engineer, from any terraces or steep slopes to the extent that there are no adverse effects on the stability of the land or any adjacent land.

(iii) Stormwater and wastewater systems can be constructed and operated within each lot with no adverse effects on the stability of the adjacent land.

(iv) For subdivision and *development* in the Minden Stability Areas regard shall be had to information requirements in Rule 8.6

8.5.2 Discretionary / Non Complying Activities

The matters in 8.4.1 and 8.5.1 and the following matters shall be used as a guide for assessing Discretionary Activities and Non-Complying Activities:

(a) Stability Areas

(i) The design, location and materials of the *building/structure*

(ii) The extent to which the proposal addresses any identified natural hazard.

(iii) Any verifiable information which confirms that the property is in fact not under any threat from the hazard.

(iv) For subdivision and *development* in the Minden Stability Areas regard shall be had to information requirements in Rule 8.6.

(b) Coastal ~~Protection~~ Erosion Areas – Primary Risk and Rural

(i) Extent to which the *building/structure* is relocatable, taking into account ~~T~~the design, location and materials of the *building/structure*, ~~and~~ access to remove the *building/structure*, and the ability to rehabilitate the site including the removal of all parts of *buildings/structures* and services and the reinstatement of land to protect natural character and the ability of dunes to act as a buffer against erosion.

(ii) Avoidance of the use of concrete and block wall foundations, walls and flooring, except that for sheds and garages (used for non-habitable purposes) all of these are allowed other than concrete and block walls.

(iii) The degree to which the ability of *buildings* or *structures* to be relocated is affected.

(iv) The extent to which the proposal addresses any identified natural hazard and the degree to which the physical risk to *buildings/structures* from coastal erosion can be avoided or mitigated.

~~(ii)~~(v) Additions and alterations to existing *buildings* should be landward of the existing *building.*

~~(iii)~~(vi) New *buildings* or significant redevelopment of existing *buildings* should be situated as far back from the toe of the foredunes as practicable. The most recent measurements of the toe of the foredune are available from *Council.*

(vii) Imposition of consent conditions requiring that where the toe of the foredune comes within a distance of a *building/structure* which may put it at immediate risk (minimum of 8m), the *building/structure* is to be relocated a sufficient distance back from the toe of the foredune to mitigate that risk. The distances specified in the conditions will depend on the latest scientific information available to *Council.*

~~(iv) The extent to which the proposal addresses any identified natural hazard.~~

(viii) The impact that the proposal will have on the natural character of the coastal environment, recognising the ecological values of the dune area, and dune restoration.

(ix) Registration of an encumbrance instrument on the title to address any of the matters above.

~~(vi) Any verifiable information which confirms that the property is in fact not under any threat from the hazard.~~

~~(vii)~~(x) Scientific information from a suitably qualified coastal expert which demonstrates that the land within the ~~Secondary Risk Area of the~~ Coastal ~~Protection~~ Erosion Area is not under any actual or potential risk from coastal erosion ~~hazard~~. For the purpose of meeting this rule any assessment of coastal hazards shall include those standards outlined in the Bay of Plenty Regional Coastal Environment Plan.

~~(viii) The degree to which the ability of *buildings* or *structures* to be relocated is affected.~~

~~(ix) The degree to which the physical risk to *buildings* or *structures* from coastal erosion can be avoided and coastal inundation can be avoided or mitigated.~~

(c) Coastal Erosion Areas

For subdivision of titles which are partially identified within a Coastal Erosion Area:

(i) There shall be no increase in the number of titles located (wholly or partially) within the Coastal Erosion Area.

(ii) All approved buildings sites are to be located outside of the Coastal Erosion Area.

(iii) The extent to which new title boundaries and new building sites affect the ability of any new or existing *buildings/structures* within the Coastal Erosion Area to be relocated.

8.6 Stability Requirements - The Minden Lifestyle Structure Plan Area

The Minden Lifestyle Structure Plan area is divided into five stability risk areas i.e. A, B1, B2, C and U Stability Areas (see Planning Maps). The following provisions set out a description of each stability area followed by the stability requirements applying to *development* in that area.

(a) Stability Area A

Description

'An area in which processes or factors have been identified which indicate that past or active erosion or mass movement is evident or is likely to occur and which presents or may present an identifiable hazard to *structures* within the delineated area'.

Area A may be summarised as land subject to or likely to be subject to instability.

Stability Assessment

Building, subdivision or other *development* including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will not be permitted unless the following documentation is produced to the satisfaction of the *Council*.

Geomorphological and geological evidence and a 'stability analysis' demonstrating that the proposed *development* area will not be subject to instability or be inundated by debris from upslope, and

how the proposed *development* will ensure that any *structure* will not become damaged by land slippage arising on or off the site.

A **stability analysis** shall include:

(i) Topographical Survey (if not already available);

(ii) Definition of the nature and continuity of the strata over the whole area of land involved and to a depth below which slipping is most unlikely, by means of test pits and/or continuous recovery core drilling;

(iii) Definition of the density, effective stress shear strength parameters, residual shear strength parameters and the sensitivity of the soil in each stratum in which sliding is possible;

(iv) Definition of ground water levels and piezometric pressures in the strata during extreme infiltration conditions;

(v) Analysis of possible mechanisms of failure, relevant to the specific geomorphology of the site using effective stresses;

(vi) A professional opinion as to the stability of the ground.

Even with a thorough stability analysis, complete avoidance of all risk cannot be obtained and no guarantee of safety expected.

(b) Stability Area B1

Description

'Area B1 is land where mass movement is evident or where the slope gradient is such that instability or erosion could occur, particularly if developed'.

Area B1 may be summarised as land potentially subject to instability.

Stability Assessment

Building, subdivision or other *development* including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will not be permitted unless the following documentation is produced to the satisfaction of the *Council*.

Geomorphological and geological evidence and a 'stability analysis' as outlined in 8.6(a) demonstrating that the proposed *development* area will not be subject to instability or be inundated by debris from

upslope, and how the proposed *development* will ensure that any *structure* will not become damaged by land slippage on or off the site.

Restrictions on and requirements for subdivision, *building* or other *development* are the same as for Area A but it shall be sufficient to demonstrate that the risks of instability and damage are at an acceptable level.

(c) Stability Area B2

Description

'Area B2 is land where the slope gradient is such that instability is not considered likely to occur, and no mass movement is evident, but is similar to land where instability and erosion has occurred elsewhere in the Western Bay of Plenty in similar materials due to cutting and/or filling and/or on site disposal of stormwater'.

The risk of instability or erosion is greater in areas delineated B1 than B2.

Area B2 may be summarised as land potentially subject to instability but less so if there is no onsite disposal of sewage or stormwater concentration, no significant vegetation removal, no significant cutting or filling.

Stability Assessment

Buildings, subdivision or other *development* such as excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will be allowed to proceed only if supported by the following documentation to the satisfaction of the *Council*.

A 'stability assessment' demonstrating that the proposed *development* will not result in the risks of instability or damage being at an unacceptable level.

A stability assessment shall include:

(i) Topographical Survey (if not already available);

(ii) (Definition of the nature and continuity of the strata over the whole area of land involved and to a depth below which slipping is most unlikely, by means of test pits and/or drilling, and/or auguring;

(iii) Assessment of the density, relative strength and the sensitivity of the soil in each stratum in which sliding is possible;

(iv) Assessment of ground water levels and piezometric pressures in the strata during extreme infiltration conditions;

(v) A professional opinion as to the stability and instability of the ground.

A stability assessment is likely to be sufficient where there will be no significant interference with existing vegetation, no cutting or filling in excess of 0.5m in depth and no in ground disposal of stormwater runoff.

(d) Stability Area C

Description
'Area C is land not considered to be at risk from instability. A stability analysis or stability assessment would not generally be required'.

Council reserves control however over a number of matters relating to subdivision and *development* to ensure the protection of each *lot* and surrounding *lots* from any potential instability or erosion.

(e) Stability Area U

Description
'Area U is land that has not undergone geotechnical analysis and therefore the risk of instability is uncertain'.

Because of this unknown risk, all subdivision and *development* occurring within Area U requires Restricted Discretionary resource consent and applications must be accompanied by a specific stability analysis to determine the level of risk and appropriate mitigation measures.

8.7 Other Methods

8.7.1 Building Act 2004

Where as a result of stability investigations the land in question is found to be subject to or likely to be subject to slippage, but the building work itself will not accelerate or worsen the situation or affect other land, then *Council* may grant a building consent subject to the title being notated that the land is subject to or is likely to be subject to slippage pursuant to Section 72 of the Building Act 2004.

This will be used to exercise control over *buildings* within identified hazard prone areas. Such controls may include restrictions relating to building design and damage liability. Information on known site specific potential natural hazards

will be recorded on *Council's* Geographic Information System and provided with all Project and Land Information Memoranda.

8.7.2 Coastal Protection Works

The *construction*, repair and *maintenance* of coastal protection structures such as sea walls and the implementation of 'dune care' programmes will be achieved pursuant to *Council's* powers under other legislation including the Reserves Act 1977 and the Local Government Act 1974.

Resource consents from the *Regional Council* are required for any coastal protection works within the coastal marine area (i.e. below *MHWS)*.

8.7.3 Earthworks and Vegetation Removal

Consents to these activities are likely to be also required from the *Regional Council.*

8.7.4 Civil Defence

Civil Defence plays an important education role. This, along with the emergency management plans is aimed at mitigating potential hazards as well as preparedness for emergencies.