Planning Report
Plan Change 35 – Natural Hazards – Where the Hazard Does Not Exist

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1.0 Introduction

1.1 The purpose of this report is to provide recommendations on submissions to Plan Change 35 – Natural Hazards – Where the Hazard Does Not Exist.

1.2 The reason for the Plan Change, taken from the Section 32 Report is as follows:

The mapping of some natural hazards (notably flooding) is not 100% accurate because of the scale of the maps used. A rule is needed to avoid landowners having to apply for consent when it can be clearly proven that the hazard does not affect their proposal. Consideration should also be given to making certain buildings exempt such as carports and open sheds without formed floors.

1.3 For a full background to the Plan Change and the proposed provisions please refer to the Section 32 Report. For a list of the proposed provisions only, please refer to the document titled "Proposed Plan Notification Document".

1.4 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: Proposed New Rule 8.3.1 (c)

2.1 Background

The proposal is to add a new rule to waive the requirement for obtaining resource consent for buildings and structures with Natural Hazard (Floodable Areas) where evidence is provided that proves that the site is not subject to a Natural Hazard (Floodable Area).

The addition of Rule 8.3.1(c) was notified as follows:

Buildings/Structures where evidence proves that the site is not subject to the Natural Hazard (Floodable Area)

2.2 Submission Points

Two submission points were received in support subject to amendments. Two submission points were in opposition. No further submission points were received.

The main submission points made by submitters are as follows:

2.2.1 Federated Farmers made two submissions to the Proposed Plan Change. The first submission opposes the Plan Change as notified as they are concerned that the onus is placed on the applicant to disprove the threat from natural hazards and consider that the rule unnecessarily regulates areas of land and furthermore, are concerned that scientific reports will be required as evidence. Federated Farmers consider that it should be Councils responsibility to accurately map the Natural Hazard (floodable area) and requests that the floodable areas are accurately depicted on the Planning Maps.

In their second submission point, Federated Farmers oppose the addition of the permitted activity criteria and seek that uninhabited farm buildings such as pump sheds and farm implement sheds are permitted within floodable areas.

2.2.2 Powerco also made two submissions on the proposed Plan Change. The first submission supports the Plan Change with amendment and that additional criteria are amended to proposed Rule 8.3.1(c) to clarify where these exclusions apply.

The second submission supports the proposed Plan Change with amendment, to include support poles associated with electricity lines as a permitted activity.

2.3 Option 1 – As Proposed - Preferred option from Section 32

Advantages	▪ Provides for buildings and structures to be located within Natural Hazard (floodable areas) as a permitted activity where it can be clearly identified that there will be no risk from flooding ▪ Removes an unnecessary burden on applicant and processing staff without having to apply for/process resource consent applications
Disadvantages	▪ Lacks clarity on what suitable evidence may be ▪ Lacks clarity on what type of buildings and structures may be suitable.

2.4 Option 2 – Federated Farmers – Amend Planning Maps

Advantages	▪ Will provide better definition of actual floodable areas ▪ More certainly for land owners and applicants
Disadvantages	▪ Costly exercise and difficult to accurately map without field surveys

2.5 Option 3 – Federated Farmers & Powerco – Add additional Permitted Activity Rule

Advantages	▪ Provides additional clarity to what type of structures will be acceptable and provides additional clarity on information requirements
Disadvantages	▪ No apparent disadvantages

2.6 Discussion

Taking the Plan Change as notified, there is general agreement that where buildings/structures are proposed to be located within a floodable area, that are not correctly identified, then those buildings or structures should not require a resource consent, if it can be shown that the hazard does not actually affect the proposed location.

Federated Farmers suggest that the Planning Maps should be updated so that floodable areas are accurately identified. Council is currently in the process of updating floodable areas in Te Puke and Waihi Beach and will also endeavor as ongoing practice to update floodable areas on the maps where applicable.

Federated Farmers also suggests that uninhabited farm buildings should be exempt from requiring resource consent. Whilst this has merit, permitting a building within a floodable area has liability issues if damage is done to the building through flooding. However there are provisions within Sec 73 of the Building Act where a notice can be registered on the Certificate of Title to control this risk, which can adequately cover this as part of the building consent process.

Powerco has suggested that Council add additional criteria to clarify the type of evidence required and that power support structures can be included as a Permitted Activity also. It is considered that the clarification criteria would be appropriate to include so it is clear to all landowners and applicants regarding the type of evidence to be required to prove land is not floodable. As such it would be appropriate to add an "explanatory note" following Rule 8.3.1(e) to provide examples of suitable evidence.

It is also considered that it would be appropriate to include power support poles as a permitted activity.

Council will continue with mapping of floodable areas in Te Puke & Waihi Beach, and will progressively update maps as appropriate. However no immediate changes can be made at this time.

2.7 Recommendation

For the reasons outlined in this report it is recommended:

That the Permitted Activity Rule & Criteria be changed as outlined in Section 3.0 of the report below and that an explanatory note be added clarifying suitable evidence.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
21	5	Federated Farmers
24	2	Powerco

Accepted in Part

Submission	Point Number	Name
21	4	Federated Farmers
24	1	Powerco

2.8 Reason

It is recommended, that subject to amendment and the addition of new permitted activity rules relating to power poles and uninhabited farm buildings, and the addition of an explanatory statement the Plan Change be adopted per the recommendations in Section 3.0 below. This clarifies types of structures that will be acceptable and also provides details on evidence that can be provided.

3.0 Plan Change 35 - Recommended Changes to the District Plan First Review

3.1 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.

3.2 Recommended changes to the District Plan First Review are 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.

3.3 Amend proposed new Permitted Activity Rule 8.3.1(c) as follows:

8.3.1(c) Buildings/Structures where evidence establishes ~~proves that the site is not subject to the Natural Hazard (Floodable Area):~~

(i) A building/structure will be located clear of the Natural Hazard (floodable area) irrespective of the extent of Natural Hazard (floodable area) shown by the Planning Maps; or

(ii) A building/structure will not be affected by the Natural Hazard (floodable area)

3.4 Add a new Permitted Activity Rule 8.3.1(d) as follows:

(d) Support poles associated with electricity lines.

3.5 Add a new Permitted Activity Rule 8.3.1(e) as follows:

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

3.6 Add a new Explanatory Note following new Rule 8.3.1(e) as follows:

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.