

# District Plan - Plan Changes 47-68

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9<sup>th</sup> December 2014

Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

By Email: [districtplan@westernbay.govt.nz](mailto:districtplan@westernbay.govt.nz)

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## TRUSTPOWER SUBMISSION: DISTRICT PLAN CHANGES 47 - 68

Trustpower Limited (Trustpower) appreciates the opportunity to make a submission on Plan Changes 47 – 68 of the District Plan.

### 1 Introduction

Trustpower's generation assets consist of 22 small to medium sized generation schemes strategically located around New Zealand to ensure power is generated close to where it is consumed. Trustpower has grown to become one of New Zealand's largest electricity retailers, serving just under a quarter of a million customers throughout the country, utilising solely renewable energy generation.

Within the Western Bay of Plenty District, Trustpower currently operate the Kaimai Hydro Scheme. This Scheme is an important and strategic physical resource that warrants protection under Part 2 of the Resource Management Act 1991 ("RMA") because of its contribution to the district's economic, social and cultural wellbeing.

The Kaimai Scheme is located in the Kaimai Range some 20km southwest of Tauranga. This complex scheme comprises four hydroelectric power stations in a cascade system with a total installed capacity of 42MW.

There are two scheduled built heritage features associated with the Kaimai Scheme, namely the McLaren Falls Power Station and Omanawa Falls Power Station. Of these, Trustpower retain ownership of the McLaren Falls Power Station.

Western Bay of Plenty District Council have proposed plan changes on provisions of the District Plan relating to Electricity Generating Infrastructure (Plan Change 47) and Scheduled Cultural or Built Features (Plan Change 66). Of these two plan changes, one submission is lodged relating to Plan Change 47. The details of Trustpower's submission are provided below.

### 2 Submission

Currently the Western Bay of Plenty District Plan ('WBOPDP') does not specifically exempt network utilities, electricity generating infrastructure, reserves and public

spaces from the minimum subdivision standards, which results in these activities being classified as non complying.

Proposed Plan Change 47 of the WBOPDP seeks to clarify that subdivision for network utilities, electricity generating infrastructure, reserves and public space in all zones is a controlled activity.

Trustpower supports the proposed amendment to Rule 12.3.2.1. The proposed amendments increase clarity of to the District Plan and appropriately provides for activities such as electricity generating infrastructure. This will enable efficient land use where subdivision may be required to enable infrastructure development, particularly within a rural zone.



### Relief Sought

Trustpower requests that the proposed amendments are accepted in full as follows:

#### 12.3.2.1 Controlled Activity Subdivision

*In any zone, the minimum standards for lots shall not apply in the following cases:*

*As a controlled activity, in any zone, lots can be created for the purposes listed in (a) – (c) below without having to comply with the minimum lot sizes and other minimum standards for lots which would otherwise apply within the zone where the subdivision is being undertaken.*

*(a) Where land is for a purpose required by a network utility operator or electricity generator.*

*(b) Where land is to be set aside or vested as a reserve.*

*Where land is to become open space owned by Council.*

### 3 Trustpower does not wish to be heard in support of its submission

Signature:

Paula Zinzan, for and on behalf of Trustpower Limited.

Date:

9<sup>th</sup> December 2014

Address for Service:

Trustpower Limited  
Private Bag 12023  
Tauranga Mail Centre  
TAURANGA 3143

Attention: Paula Zinzan

Telephone:

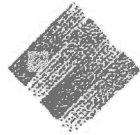
(07) 574 4888 ext 8504

Facsimile:

(07) 574 4877

E-mail:

paula.zinzan@trustpower.co.nz



Western Bay of Plenty  
District Council

PEOPLE • PLAN • PROGRESS

Submission No

02

## District Plan Changes 47-68

### Submission Form

You can deliver your submission to the Katikati, Te Puke, Omokoroa or Waihi Beach Library and Service Centre, Main Council Office at Barks Corner, email it to [districtplan@westernbay.govt.nz](mailto:districtplan@westernbay.govt.nz), fax it to 07 577 9820, or mail it to:

Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

For Office Use Only

Date stamp

### Submissions close 4.00pm on Friday 12 December 2014

Name: Mr John Downey

Mr/Mrs/Ms/Miss

Organisation: Downey Survey Consultants Ltd

Address for Service: P O Box 263

Tauranga **3140**

E-mail address: dosurvey@clear.net.nz probably changing to dosurvey@kinect.co.nz in new year

Telephone Number: 07 5763641 075763681

(home) (work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes  No  Please tick

Signed:  Date: 9-12-14

(Signature of person making submission or person authorised to sign on behalf of person making submissions)

**Please use the reverse of this form for your submission**

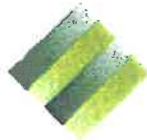
**Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).**

Privacy Act 1993 Note: Please be aware when providing personal information that submissions form part of the public consultation process for the District Plan.

Name:

Submission Sheet No:

Specific Plan Change	Submission (State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons)	Decision Sought (Give precise details)	Submission Ref. No. Office Use Only
<p>Example: PC 101</p>	<p>Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.</p>	<p>Add to the District Plan Maps for Te Puke an area for higher density development.</p>	
<p>PC 58</p>	<p>I support the proposed change with an extension to also exempt the conversion of cross-lease titles to freehold titles.</p> <p>The change acknowledges that the inability to update cross-lease titles in the Primary Risk Coastal Protection Area was unintended. The logic outlined applies equally to the conversion of cross-lease titles to freehold titles. The logic could also apply to the situation where consented dwellings are established but have not yet been formally cross-leased.</p> <p>The additional exemptions would still only result in a change of land tenure and would not place additional demands on services or result in additional risk to the protection area.</p>	<p>Adopt Option 2 with an amendment to Rule 8.3.6(a)(ii) that reads</p> <p>"Subdivision (excluding minor boundary adjustments, updates to cross-lease Flats Plans and upgrading to freehold titles which incorporate consented building developments)...."</p>	<p>1</p>



# District Plan Changes 47-68

## Submission Form

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Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

For Office Use Only

Date stamp

## Submissions close 4.00pm on Friday 12 December 2014

Name:

Mr/Mrs/Ms/Miss

MIKE FOSTER fox

Organisation

PROGRESSIVE ENTERPRISES LTD

Address for Service:

C/- ZOMAC PLANNING SOLUTIONS LTD

P.O. BOX 103, WHANGAPARA OA

Post Code:

0932

E-mail address:

mike@zomac.co.nz

Telephone Number:

—

094282101

(home)

(work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes

No

Please tick

Signed:

(Signature of person making submission or person  
authorised to sign on behalf of person making submissions)

Date:

9 / 12 / 2014

Please use the reverse of this form for your submission

Please submit only **one** copy of your submission to Council (don't email plus hardcopy plus fax).

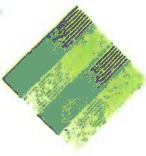
Privacy Act 1993 Note: Please be aware when providing personal information that submissions form part of the public consultation process for the District Plan.

Name:

Submission Sheet No:

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Example: PC 101	Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.	Add to the District Plan Maps for Te Puke an area for higher density development.		
PC 6Z	Progressive supports the thrust of Plan Change 6Z	That the plan change as notified be approved unchanged	①	





# District Plan Changes 47-68

## Submission Form

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Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

For Office Use Only

RECEIVED

Date stamp

12 DEC 2014

WBOPDC  
WAIHI BEACH

## Submissions close 4.00pm on Friday 12 December 2014

Name:

Mr/Mrs/Ms/Miss

Mervyn &amp; Joan Price

Organisation

Address for Service:

Hutchinson Road RD1

Morrinsville

Post Code:

9371

E-mail address:

joanpriceextra.co.nz

Telephone Number:

07-887-3744

(home)

(work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes

No

Please tick

Signed:

J.P. Price

(Signature of person making submission or person  
authorised to sign on behalf of person making submissions)

Date:

9-12-2014

**Please use the reverse of this form for your submission**

**Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).**

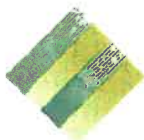
Privacy Act 1993 Note: Please be aware when providing personal information that submissions form part of the public consultation process for the District Plan.

Name: *Price.*

Submission Sheet No: *1*

*70*

Specific Plan Change	Submission (State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons)	Decision Sought (Give precise details)	Submission ref. No. Office Use Only
Example: PC 101	Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.	Add to the District Plan Maps for Te Puke an area for higher density development.	
<i>P.C. 51</i>	<i>Support Plan change 51</i>		<i>1</i>
	<i>regarding Residential Zones</i>		
	<i>to restrict telecommunication,</i>		
	<i>radio communication that complies</i>		
	<i>with district plan.</i>		

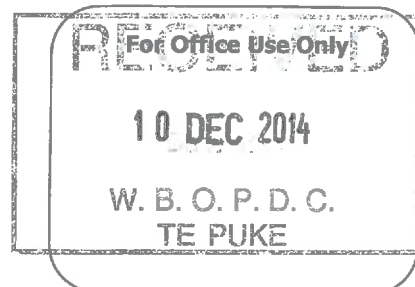


# District Plan Changes 47-68

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Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143



## Submissions close 4.00pm on Friday 12 December 2014

**Name:** Mr/Mrs/Ms/Miss John Lewis

**Organisation** Stratum Consultants Ltd

**Address for Service:** PO Box 301

Te Puke 3153 **Post Code:** \_\_\_\_\_

**E-mail address:** John.lewis@stratumnz.co.nz

**Telephone Number:** \_\_\_\_\_

(home) 07 573 7717 (work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes  No  Please tick

Signed:

Date: 10 December 2014 \_\_\_\_\_

(Signature of person making submission or person authorised to sign on behalf of person making submissions)

**Please use the reverse of this form for your submission**

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Name:

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<p>Example: PC 101</p>	<p>Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.</p>	<p>Add to the District Plan Maps for Te Puke an area for higher density development.</p>	
<p>Plan Change 54 (Boundary Adjustments Rural Zone)</p>	<p>Oppose the Plan Change.</p> <ul style="list-style-type: none"> <li>The proposed plan change seeks to add an explanatory note to the Boundary Adjustment Provisions relating to the Rural Zone requiring compliance with either the current 40ha controlled activity minimum lot size or the 6ha rural production lot size depending on the land use of the titles to be boundary adjusted.</li> <li>Boundary adjustments are often undertaken to rationalise existing land use and occupation more often than not resulting in very effective land use intensification.</li> <li>In many cases a lot over 6ha may contain 1ha of elevated land and 5ha of bush covered sidling or river margin and is not a rural production lot or a general farming lot by definition. Reverse qualification criteria will be very subjective – surely Council will not be requiring a horticultural investigation to disqualify land.</li> <li>Requiring assessment of the rural production lot criteria makes boundary adjustments restrictive and will add further costs and time implications for applicants when this is unnecessary taking into account the criteria under which they were originally created. The boundary adjustment rules were made more restrictive through the District Plan review in 2009 and there is no need to make them more restrictive.</li> </ul>	<p>Decline the proposed plan change and retain the status quo.</p> <p>If the explanatory note is to be added, then this should be amended to reflect only those properties which have been created through the Rural Production Lot provisions, not historical titles. This would more reasonably reflect the criteria under which they were created.</p> <p>The provisions should also acknowledge and allow for boundary adjustments as controlled activities for those lots that are neither production lots nor general farming allotments as the current boundary adjustment provisions provide for.</p>	<p>①</p>

<p>Plan Change 58 (Cross lease Flat Plans - Primary Risk Coastal Protection Area)</p>	<ul style="list-style-type: none"> <li>No additional titles are created through boundary adjustments and Council still has control over access, house sites through the listed matters of control and through the performance standards of the Rural Zone to assess boundary adjustment proposals.</li> </ul> <p>Support with amendments.</p> <p>The proposed plan change to remove updates to cross lease plans from being a prohibited activity in the Primary Risk Coastal Protection Area is supported.</p> <p>It is also that conversion of cross lease titles to freehold title and subdivision of properties containing two existing dwellings be excluded from the Prohibited Activity Status where the development of the site has been completed (i.e. dwellings/buildings have been lawfully established and constructed). In this case, the development is existing and has been authorised and there will be no effect on the Primary Risk Coastal Protection Area as the proposal only results in a change of legal land tenure.</p>	<p>Approve the proposed plan change, with the addition of excluding cross lease to freehold subdivision and subdivision of properties containing two existing dwellings with from being a prohibited activity.</p>	<p style="text-align: center;">②</p>
<p>Plan Change 56 (Frost Protection Fans)</p>	<p>Oppose the Plan Change with regard to cumulative noise.</p> <p>As it stands, this will mean that land owners that had the opportunity and means to establish frost fans already effectively have an advantage on a first in first served basis.</p>	<p>Decline the proposed cumulative noise provisions from Rule 4C.1.3.7.</p> <p>Written approval is already required for dwellings/properties within close proximity to frost fans which is adequate to assess potential effects generated.</p>	<p style="text-align: center;">③</p>
<p>Plan Change 57 (Additional Dwellings &amp; Recreation Leisure Financial Contributions)</p>	<p>Oppose the Plan Change.</p> <p>In the case of additional dwellings, these often occur on properties that have already been subdivided and contain existing dwellings that have paid a recreation and leisure financial contribution.</p> <p>Simply requiring a recreational and leisure financial contribution for a non-complying activity, is unjust and does not relate directly to an effect created by the activity. For example, in the case of an additional dwelling it is almost certain that the dwelling would utilise the roading network and therefore a transportation financial contribution would be appropriate, however there is no certainty that occupants would utilise</p>	<p>Decline the Plan Change and retain the status quo.</p> <p>There is no legitimate reason to charge a recreational and leisure financial contribution for additional dwellings just because consent is required as a Non-Complying Activity and this does not relate directly to an effect created by the activity.</p>	<p style="text-align: center;">④</p>

<p>Plan Change 55 (Cumulative Effects of Multiple Accessory Buildings on Rural Lots 2ha or less)</p>	<p>recreational and leisure facilities within the District.</p> <p>The underlying property is rated on the basis that there will be more than one dwelling on the property and this is adequate.</p> <p>Oppose the Plan Change.</p> <p>The proposed plan change is restrictive.</p> <p>For example, a pump shed, garden shed or garage would be included within the 200m<sup>2</sup> combined gross floor area of accessory buildings and limit the reasonable size of an accessory building. A 200m<sup>2</sup> limit for one shed is sufficient to maintain Rural Amenity in this case.</p>	<p>Decline the Plan Change and retain the status quo.</p>	<p>5</p>
<p>Plan Change 52 (Protection Lot Rule)</p>	<p>Support the provisions of the Protection Lot Rule changes with amendments.</p> <p>In general we support the proposed plan change to alter the protection lot provisions.</p> <p>In addition, we seek that the protection lot provisions be altered to allow transferable development rights in other areas, particularly Te Puke. The Te Puke Lifestyle Zone is unfeasible and unusable as it stands and is effectively providing a monopoly for development in the Minden Area. This represents an unfair and disproportionate development opportunity across the District.</p> <p>There are a number of other areas and sites in the District that provide similar characteristics to that of the Minden Lifestyle Zone (i.e. have the ability to be serviced, don't contain productive land etc.) that would be suitable for lifestyle development.</p>	<p>Approve the Plan Change with Amendments to include additional areas/sites with complying criteria where transferable development rights can be utilised.</p>	<p>6</p>



# District Plan Changes 47-68

## Submission Form

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Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143



10-10AM

## Submissions close 4.00pm on Friday 12 December 2014

Name:

Mr/Mrs/Ms/Miss

Organisation

GIPTONS VALLEY TRUST

Address for Service:

P.O Box 1028

SEVENTH AVENUE

Post Code:

3140

E-mail address:

cowied@ruelfoundation.com

Telephone Number:

07-543 3233  
(home)

021-447-699  
(work)

Council has set aside 28 and 29 April 2015 to hear submissions.

We would like to speak in support of my/our submission at the Council hearing.

Yes

No

Please tick

Signed:

*[Signature]*

(Signature of person making submission or person authorised to sign on behalf of person making submissions)

Date:

11<sup>TH</sup> Dec 2014

**Please use the reverse of this form for your submission**

**Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).**

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**Submission Sheet No:**

**Name:**

Specific Plan Change	Submission (State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons)	Decision Sought (Give precise details)	Submission No. Office Use Only	Ref.
Example: PC 101	Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.	Add to the District Plan Maps for Te Puke an area for higher density development.		
	We oppose the taking of the esplanade in Gideon's Valley for multiple reasons.	Allow us to keep our property to the edge of the stream, (Cubimapu)	①	



12 December 2014

The Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

Dear Sir or Madam

**Re: Proposed Western Bay of Plenty District Council Plan Changes**

Heritage New Zealand welcomes the opportunity to make submissions on the Western Bay of Plenty District Council Proposed Plan Changes: Plan Change: 52 Protection Lot Rule and Plan Change: 66 Clarification of Whether Particular Rules Apply to Cultural or Built features.

Heritage New Zealand is New Zealand's lead heritage agency and operates under the Heritage New Zealand Pouhere Taonga 2014 (HNZPTA). Included as the purpose of the HNZPTA is: *"To promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand."* Heritage New Zealand meets this purpose in a number of ways, including advocacy and active involvement in the resource management process for heritage.

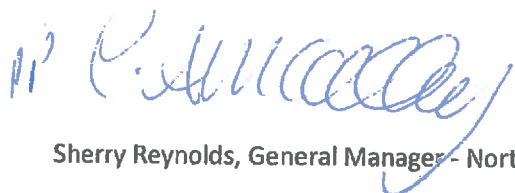
After reviewing the Plan Changes Heritage New Zealand has provided comments in the attached table, Appendix 1, Submission of Heritage New Zealand to the Proposed Bay of Plenty District Council Plan Changes 52 and 66, primarily in support of the Plan Changes, as they relate to historic heritage. However Heritage New Zealand seeks some further amendments to clarify the intention of the rules and provide a greater level of protection to historic heritage.

#### Conclusion

Heritage New Zealand wishes to thank the Western Bay of Plenty District Council for the opportunity to make a submission on Plan Changes 52 and 66. If you have any queries regarding this submission please contact Carolyn McAlley, on ph. 07 577 4535, in the first instance.

Heritage New Zealand wishes to be heard in support of its submission.

Yours Sincerely



Sherry Reynolds, General Manager - Northern

**Attachments :** Appendix 1, Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council Plan Changes 52 and 66

## Appendix 1

### Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council Proposed Plan Change:52 Protection Lot Rule Proposed Plan Change:66 Clarification of Whether Particular Rules Apply to Cultural or Built features (Strike: ~~abc~~ =delete and underline: abc = addition) WPOPDC = Western Bay of Plenty Regional District Council

Proposed Plan: Part & provision number	Support or Oppose	Reasons for submission	Relief sought
<b>Plan Change 52 Protection Lot Rule</b>			
<p>Rule 18.4.2 Subdivision Activity Performance Standards, (h)- Protection Lots, (vi) Standards for the creation of on-site Protection Lots or Transferable Protection lots credits based on Cultural Heritage Features, 3.</p>	<p>Support in part</p>	<p>Heritage New Zealand supports the inclusion in the WPOPDC District Plan of Protection Lots rules related to Cultural Heritage sites. The use of such an incentive provision has the potential to provide ongoing protection to the cultural heritage resource identified in Appendix 3-Schedule of Identified Significant Historic Heritage Features.</p> <p>With regard to the proposed amendments to the Protection Lot rules, Heritage New Zealand seeks to gain clarity regarding a proposed standard for the creation of on-site protection Lots, being:</p> <p style="padding-left: 40px;">3. <i>The whole of the cultural heritage feature falling within the subject existing lot shall be protected</i></p> <p>Heritage New Zealand seeks clarity relating to this performance standard, as the wording potentially precludes the possibility of improved protection of a cultural heritage feature at the time of protection lot subdivision, by only referring to the portion of the cultural heritage within the existing lot. Heritage New Zealand seeks that the whole of the cultural heritage feature is protected within one lot, at the time of protection lot subdivision to ensure the retention of its integrity. This could be achieved through the</p>	<p><i>That 18.4.2.(h),(vi),3 is amended as follows: The whole of the cultural heritage feature falling within the subject existing lot shall be protected in one lot</i></p>

**Appendix 1**  
**Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council**  
**Proposed Plan Change:52 Protection Lot Rule**  
**Proposed Plan Change:66 Clarification of Whether Particular Rules Apply to Cultural or Built features**  
 (Strike: ~~abc~~ =delete and underline: abc = addition) WPOPDC = Western Bay of Plenty Regional District Council

Proposed Plan: Part & provision number	Support or Oppose	Reasons for submission	Relief sought
		following amendment; <i>The whole of the cultural heritage feature falling within the subject                      existing lot shall be protected in one lot</i>	

## Appendix 1

### Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council Proposed Plan Change:52 Protection Lot Rule Proposed Plan Change:66 Clarification of Whether Particular Rules Apply to Cultural or Built features (Strike: ~~abc~~ =delete and underline: abc = addition) WPOPDC = Western Bay of Plenty Regional District Council

Proposed Plan: Part & provision number	Support or Oppose	Reasons for submission	Relief sought
Rule 18.5.11- Restricted Discretionary activities- Protection Lot subdivision	Oppose in part	<p>Heritage New Zealand supports the inclusion in the WPOPDC District Plan of Protection Lots related to Cultural Heritage sites. The use of such an incentive provision has the potential to provide ongoing protection to the cultural heritage resource identified in Appendix 3-Schedule of Identified Significant Historic Heritage Features.</p> <p>With regard to the proposed amendments to the Rule 18.5.11-Restricted Discretionary activities-Protection Lot subdivision, Heritage New Zealand notes that there are matters of discretion for situations where a proposal does not comply with the rules and performance standards at 18.4, as follows:</p> <p><i>With respect to on-site Protection Lot subdivision, Council shall restrict its discretion to the extent to which the number, size, and location of the lots</i></p> <p>(i) <i>Maintains the productive capability of the rural land resource, in particular where lots greater than 1ha in area are proposed to be created;</i></p> <p>(ii) <i>maintains existing rural character and amenity values;</i></p> <p>(iii) <i>Avoids the creation of adverse traffic and roading effects;</i></p> <p>Heritage New Zealand notes that there is no provision to address the matter of the cultural heritage feature that is the subject of the protection lot subdivision, not being retained within one lot at the time of the protection lot</p>	Heritage New Zealand seeks the inclusion of a new rule, a discretionary activity to assess non-compliance with performance standard 18.4.2(h), (vi), 3 the retention of the cultural heritage feature in one lot.



**Appendix 1**  
**Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council**  
**Proposed Plan Change:52 Protection Lot Rule**  
**Proposed Plan Change:66 Clarification of Whether Particular Rules Apply to Cultural or Built features**  
 (Strike: ~~abc~~ =delete and underline: abc = addition) WPOPDC = Western Bay of Plenty Regional District Council

Proposed Plan: Part & provision number	Support or Oppose	Reasons for submission	Relief sought
		<p>subdivision. Heritage New Zealand notes that at a practical level that if the cultural heritage feature is not retained within one lot, the retention of the integrity of the Cultural heritage features actually becomes quite difficult to achieve when over more than one lot. For example a feature may spread over two lots and be protected by covenant but practical issues of fencing are difficult to achieve without damaging the feature. Therefore this matter may not be suited to being a matter of discretion for example "the extent to which the cultural heritage features is retained in one lot.</p> <p>As the retention of the cultural heritage feature within one lot is central to the protection lot provisions, there must be a provision that addresses non-compliance with the performance standards at 18.4.2, h, (vi), 3.</p> <p>Therefore Heritage New Zealand seeks the inclusion of a new rule, being a discretionary activity for the non-compliance with Rule:18.4.2, (h), (vi), 3.</p>	
<p align="center"><b>Plan Change 66 Historic heritage-Clarification of Whether Particular Rules Apply to Cultural or Built Features</b></p>			
Rule 7.3.3 (c) and Rule 7.3.3 (f)	Support in part	<p>The Rule 7.3.3 (c) and the Rule 7.3.3(f) are discretionary activity rules.</p> <p>Rule 7.3.3 (c) reads as follows:</p> <p>"(c) <i>Excavation, alteration, or reconstruction of any scheduled historic heritage</i></p>	<p>That preferred option 3 with revised rule 7.3.3. is retained, and amended as follows;</p> <p>"(f) <i>Alteration or reconstruction of any cultural heritage feature or excavation, construction, or any other work on or within a 20m radius of the-scheduled any</i></p>

**Appendix 1**

**Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council  
Proposed Plan Change:52 Protection Lot Rule  
Proposed Plan Change:66 Clarification of Whether Particular Rules Apply to Cultural or Built features  
(Strike: abc =delete and underline: abc = addition) WPOPDC = Western Bay of Plenty Regional District Council**

Proposed Plan: Part & provision number	Support or Oppose	Reasons for submission	Relief sought
		<p><i>feature."</i></p> <p>Rule 7.3.3 (f) reads as follows:  <i>"(f) Excavation, construction or any other work on or within a 20m radius of the scheduled feature including the use of heavy machinery and the planting of trees on or adjoining an archaeological site. Land for which historic heritage issues have already been assessed and consent granted shall be exempt from this rule."</i></p> <p>Both rules pertain to works in and around cultural heritage items.</p> <p>Heritage New Zealand supports the proposed amendment to Rules 7.3.3 (c) and 7.3.3 (f), which deletes most of the Rule 7.3.3(c) and brings the wording "alteration or reconstruction of any cultural heritage feature to the amended Rule 7.3.3 (f.) While this creates clarity that the rule only pertains to cultural heritage features, Heritage New Zealand seeks that the word "scheduled" is retained in the wording to ensure that the consideration of the cultural heritage features is of those within the schedule of the Plan.</p> <p>Heritage New Zealand acknowledges that the removal of words archaeological sites in this instance is acceptable as the heritage schedule includes significant archaeological sites as a result of a previous plan change.</p>	<p><i>scheduled cultural heritage feature including the use of heavy machinery and the planting of trees on or adjoining any scheduled cultural heritage feature on archaeological site. Land for which historic heritage issues have already been assessed and consent granted shall be exempt from this rule."</i></p>



**Appendix 1**  
**Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council**  
**Proposed Plan Change:52 Protection Lot Rule**  
**Proposed Plan Change:66 Clarification of Whether Particular Rules Apply to Cultural or Built features**  
 (Strike: ~~abc~~ =delete and underline: abc = addition) WPOPDC = Western Bay of Plenty Regional District Council

Proposed Plan: Part & provision number	Support or Oppose	Reasons for submission	Relief sought
		Heritage New Zealand seeks the revised wording as follows; " <u>(f) Alteration or reconstruction of any cultural heritage feature or excavation, construction, or any other work on or within a 20m radius of the <del>scheduled</del> any scheduled cultural heritage feature including the use of heavy machinery and the planting of trees on or adjoining any scheduled cultural heritage feature <del>on archaeological site</del>. Land for which historic heritage issues have already been assessed and consent granted shall be exempt from this rule.</u> "	
Rule	Support	Heritage New Zealand supports the introduction of a new discretionary activity rule protecting those parts of built heritage features which are "non-built" but which contribute to the significance of that feature, as follows: (x) <u>Alteration, reconstruction or removal of, or excavation, construction or any other work on, any part of a built heritage feature which is not a building or structure but which has been identified as contributing to the significance of that feature.</u> Note: <u>This includes but is not limited to items such as trees, graves, subsurface remains, bridge embankments and land within domains and reserves.</u>	That the proposed rule; (x) <u>Alteration, reconstruction or removal of, or excavation, construction or any other work on, any part of a built heritage feature which is not a building or structure but which has been identified as contributing to the significance of that feature.</u> Note: <u>This includes but is not limited to items such as trees, graves, subsurface remains, bridge embankments and land within domains and reserves.</u>

is retained.

**Appendix 1**  
**Submission of Heritage New Zealand to the Proposed Western Bay of Plenty District Council**  
**Proposed Plan Change:52 Protection Lot Rule**  
**Proposed Plan Change:66 Clarification of Whether Particular Rules Apply to Cultural or Built features**  
 (Strike: a be =delete and underline: abc = addition) WPOPC = Western Bay of Plenty Regional District Council

Proposed Plan: Part & provision number	Support or Oppose	Reasons for submission	Relief sought
Rule 7.3.4-Non Complying activity	Support	Heritage New Zealand supports the proposed amendment to Rule 7.3.4;  <i>The demolition or destruction of any scheduled historic heritage feature"</i>  as the word "destruction" more helpfully covers the destruction of cultural or archaeological sites, whereas demolition usually refers to demolition of built items. The addition is important as this rule applies to all these types of features.	That the proposed amendment; <i>The demolition or destruction of any scheduled historic heritage feature."</i>  is retained.





HERITAGE NEW ZEALAND  
POUHERE TAONGA

11 Dec 2014

Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga Mail Centre  
Tauranga 3143

Dear Sir/Madam

**EXPERT ADVICE LETTER FROM HERITAGE NEW ZEALAND POUHERE TAONGA ON WESTERN BAY OF PLENTY DISTRICT COUNCIL PLAN CHANGE 68 – DELETION OF BUILT HERITAGE FEATURE 31 (FORMER UNION BANK BUILDING) FROM APPENDIX 3 SCHEDULE OF IDENTIFIED SIGNIFICANT HISTORIC HERITAGE FEATURES, OF THE WESTERN BAY OF PLENTY DISTRICT PLAN**

Heritage New Zealand Pouhere Taonga is an autonomous Crown Entity with statutory responsibility under the Heritage New Zealand Pouhere Taonga Act 2014 for the identification, protection, preservation and conservation of New Zealand's historical and cultural heritage. Heritage New Zealand is New Zealand's lead historic heritage agency.

This expert advice letter is in relation to Plan Change 68 – Deletion of built heritage feature 31-former Union Bank building (the heritage feature) from Appendix 3 Schedule of Identified Significant Historic Heritage Features (Appendix 3) of the Western Bay of Plenty District Plan (the Plan)

**Background to the Plan change:** The owner of the building, as outlined at 4.0 of the s32 report, has approached the Western Bay of Plenty District Council (the Council) to remove the built heritage feature from the Plan. The owner has previously operated a commercial activity from the building however has ceased to undertake the activity and now wishes to sell the building. There is a concern by the owner that the current heritage scheduling in the Plan creates an uncertainty with regard the potential future uses of the building or if the building could be demolished. This plan change has been developed by the Council in response to the owner concerns.

**Heritage New Zealand response**

Heritage New Zealand notes at pg. 5 of 6 of the s32 report, in the cost benefit analysis table under the heading "Risks of Acting/Not acting if there is uncertain or insufficient information about the subject matter", that the Council Planner has stated that this consideration is "not applicable as sufficient information is available". In addition in the same table under the discussion relating to benefits of the deletion of the heritage feature, the planner cites a benefit of "removes a feature which arguably should not have been classified as significant due to its poor condition". On the basis of this analysis the planner promotes the preferred option of the deletion of the heritage feature from Appendix 3.

Heritage New Zealand considers that this is a flawed analysis, as there is not sufficient information available. The preferred option has not been supported and informed by a heritage assessment from a suitably qualified heritage expert, related to the removal of the heritage feature from Appendix 3. Heritage New Zealand does note that the s32 contains a brief heritage assessment related to the time

the heritage feature was included in the Plan, when it was also considered to be in poor condition, yet its condition did not stop its inclusion as a heritage feature at that time. Heritage New Zealand expects that the building would only be eligible for removal from the heritage schedule if it retains insufficient heritage values to justify retention on the schedule.

In addition the s32 cites (pg.6) the poor condition of the heritage feature and that an engineer's report

*"indicates that it is not viable to repair the building and that instead it would need to be removed or demolished and rebuilt. However, there is no certainty under the District Plan that a resource consent application for the removal or demolition would be granted".*

Effectively the s32 report is arguing that delayed maintenance/neglect is a reason for the current owner to not have to bear the perceived additional cost of complying with any heritage rules. This is despite the Plan providing for :

the waiving consent application fees and part building consent fees in section 7.6:

7.6 Other Methods

7.6.1 Council Fees and Advice

**(a) Application fees shall be waived for resource consents for works on scheduled historic heritage items including applications to trim, poll or surgically treat any scheduled tree and Council shall apply a 50% reduction on building and other fees associated with preservation works on scheduled historic heritage sites.**

Heritage New Zealand is concerned that this same thought process could in turn be applied to other heritage features, and has concerns regarding the possible impacts of this on the wider heritage resource. Heritage New Zealand urges the Council to address the matter of precedent in making a decision solely based on the physical condition of the building.

**The reasons for Heritage New Zealand's position are as follows:**

The Resource Management Act 1991 (RMA) identifies the protection of historic heritage from inappropriate subdivision, use and development as a matter of national importance at section 6(f). The definition of historic heritage includes archaeological sites, land buildings and structures.

**As the primary reason for the proposed removal of the built heritage feature Appendix 3 is to enable its demolition, Heritage New Zealand cannot support this plan change. The removal of the heritage feature from Appendix 3 will potentially enable the demolition of the heritage feature, without the scrutiny and or conditions of the resource consent process. Certainly this plan change process has not provided a robust assessment or reasons for the removal of the heritage feature from Appendix 3.**

Heritage New Zealand advises that it encourages retention of heritage buildings, a finite resource and supports proposals to repair, retain and creatively re-use buildings, with demolition usually considered as an option of last resort. This same approach is reflected in the heritage section of the District Plan that makes provision for repair and maintenance of heritage buildings as permitted activities and demolition as non-complying.

**Heritage New Zealand seeks the following decision:**

That Plan Change 68 is placed on hold until a heritage assessment is undertaken by a suitability qualified heritage expert to assess the current heritage values of Built Heritage Feature 31 (former Union Bank Building) and its worthiness or otherwise of being retained within Appendix 3 Schedule of Identified Significant Historic Heritage Features within the Western Bay of Plenty District Plan.

If you have any queries regarding this expert advice letter from Heritage New Zealand please contact Carolyn McAlley, on ph. 07 577 4535 In the first instance.

Yours sincerely



Sherry Reynolds  
General Manager Northern

Address for Service

Carolyn McAlley  
Heritage Advisor – Planning  
New Zealand Historic Places Trust Pouhere Taonga  
PO Box 13339  
Tauranga 3141  
[cmcalley@heritage.org.nz](mailto:cmcalley@heritage.org.nz)

Your Ref:  
Our Ref: 7.00191



10 December 2014

Attn: Phillip Martelli

Western Bay of Plenty District Council  
Private Bag 12803,  
Tauranga Mail Centre,  
Tauranga 3143

Dear Phillip

**Bay of Plenty Regional Council Submissions to Proposed Plan Changes 47 - 68 to the Western Bay of Plenty District Plan**

Thank you for the opportunity to make submissions on Proposed Plan Changes 47 – 68 to the Western Bay of Plenty District Plan.

Our submissions relate to Proposed Plan Changes 52, 53, 65, 66, and 67.

As you are aware, district plans must give effect to the Regional Policy Statement. A number of our submission points request alignment of the Western Bay of Plenty District Plan with the newly Operative Bay of Plenty Regional Policy Statement.

One aim of the Protocol for Bay of Plenty RMA Policy and Plans, agreed by our councils, is to generate time and cost efficiencies by avoiding duplication of roles. Another aim is to provide forewarning of pending plan changes and opportunity for discussion prior to the schedule 1 process commencing. We encourage Western Bay of Plenty District Council to act in the spirit of the protocol for future plan changes and demonstrate how the Regional Policy Statement and regional plan provisions have been considered in its section 32 analyses.

Bay of Plenty Regional Council wishes to be heard in support of its submissions.

Please contact Beverley Hughes (Senior Planner) on 0800 884 881 extension 8329 to discuss any matters in this submission.

Yours sincerely

Fiona McTavish  
General Manager Strategy

A1995083

Bay of Plenty Regional Council submission on Plan Change 52 to the Operative Western Bay of Plenty District Plan

1 2

1	2	3
Provisions that submission relates to:	Nature of submission	Support/oppose or seek amendments and reason
Plan change	Description	
<p>PC52 Protection Lot Rule Page 3</p> <p>4.0 Issue 1 – Activity Status for Protection Lot Rule applying to view shafts and heritage features</p>	<p>The intent to provide scope for RDA Activity Status for the creation of two and five additional on-site Protection Lots is supported in principle to promote the protection of various natural and cultural heritage features and enhance public access to reserves.</p> <p>Regional Council have residual concerns about the assessment criteria and matters to which discretion is reserved. In particular to ensure that additional lots created do not result in unforeseen constraints/ reverse sensitivity effects on rural production activities and the fragmentation of versatile land, which is a finite resource.</p>	<p>Amend district plan consistent with the preferred Option 3 set out in Section 4.3 (page 5) of the Section 32 Report.</p> <p>Amend the matters of discretion in new Section 18.5.11(a)(i) as follows:</p> <p>Maintains the productive capability of the rural land resource, by <u>avoiding reverse sensitivity effects on rural production activities and the fragmentation of versatile land</u>, in particular where additional lots greater than 1ha are proposed to be located.</p> <p>As a consequential amendment, and to clarify the amendment sought above, insert a new definition in Section 3 'Definitions' for 'Rural production activities' to read: <u>'Rural production activities' means rural land use activities that rely on the productive capacity of land or have a functional need for a rural location such as agriculture, pastoral farming, dairying, poultry farming, pig farming, horticulture, forestry, quarrying and mining. Also included in this definition are processing and research facilities that directly service or support those rural land use activities.'</u></p>

Bay of Plenty Regional Council submission on Plan Change 52 to the Operative Western Bay of Plenty District Plan

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1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Support/oppose or seek amendments and reason	
PC52 Protection Lot Rule Page 6	5.0 Issue 2 - Landscape features as a basis for Protection Lot subdivision	<p>District provisions must:</p> <ul style="list-style-type: none"> <li>Consider NZCPS and RCEP especially ONFL, and areas of outstanding and high natural character.</li> <li>Be consistent with objectives, policy and methods in the BOPRPS and criteria for the assessment of Natural Character (Set 1) and Natural Features &amp; Landscapes (Set 2) in Appendix F of the BOPRPS.</li> <li>Not be inconsistent with RCEP provisions including those relevant to Outstanding Natural Features and Landscapes (ONFL's).</li> </ul>	<p>Landscape Protection Lots create opportunities to protect and enhance landscape values in large areas such as the Kaimai Range (including peaks and ridgelines), Wairoa River and Tauranga Harbour. Consistently applied assessments of natural character, natural features and landscape values in a Protection Lot Rule can achieve cumulative positive effects over time.</p> <p>A Protection Lot can be used to protect an identified significant feature including those specified in Appendices 1, 2 and 3 of the District Plan.</p> <p><b>WBOPDC preferred Option 2 is opposed</b> in favour of the retention of landscape features in Appendix 2 and development of a set of criteria for assessment of natural character and natural features and landscape (as required by the NZCPS, the BOPRPS and RCEP), that are consistent with criteria in Sets 1 &amp; 2 of Appendix F in the Operative Bay of Plenty Regional Policy Statement and which can be inserted into the District Plan as new Performance Standards 18.4.2 (h) (x).</p> <p>It is anticipated the amendment will ensure consistent assessment and protection of natural character and natural features and landscapes and development of corresponding monitoring tools to result in meaningful overall benefits to the community in respect to significant features currently identified in the District Plan.</p>	<p>Retain identified landscape features in Appendix 2.</p> <p>Develop and add new Subdivision Performance Standards Criteria for Assessment of Protection Lots for Natural Character, Natural Features and Landscape Values as 18.4.2 (h) (x) of the WBOPDP noting existing Landscape Criteria in Section 6 of the Operative WBOPD Plan relate to applications for subdivision and not applications for Protection Lots.</p> <p>Assessment criteria for Protection Lots should be consistent with the criteria in Sets 1 &amp; 2 in Appendix F of the Operative Bay of Plenty Regional Policy Statement.</p> <p>The criteria will:</p> <ul style="list-style-type: none"> <li>Provide for consistent assessment (and monitoring) of natural character and natural features and landscape values present at locations subject to Protection Lot provisions and subdivision applications.</li> <li>Assist the protection of view-shafts and natural character, natural features and landscape values that at the present time occur over large areas of land (noting that adverse effects on natural character, natural features and landscape values tend to diminish incrementally as development spreads across a district).</li> </ul>
A1995062				

Bay of Plenty Regional Council submission on Plan Change 52 to the Operative Western Bay of Plenty District Plan

1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Support/oppose or seek amendments and reason	
PC52 Protection Lot Rule Page 7	6.0 Issue 3 – Ability to create multiple lots	Support in principle the need to amend the rule provisions to be clearer about situations where multiple or single Protection Lots only can be created based on the type of feature being protected.	Support in principle Option 2 to amend the rule provisions to be more explicit about circumstances where multiple or single lots may be created and the amendments proposed to give effect to this option as set out in Section 7.0.	Proceed in accordance with Option 2 in Section 6.5.

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Bay of Plenty Regional Council submission on Plan Change 53 to the Operative Western Bay of Plenty District Plan



1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Plan change	Heading and reference
PC53 Protection Lots for Esplanades	General comment	<p>To be effective a planning regime for esplanade reserves should require assessment of ecological values to inform Council decisions before establishment and management of esplanades in potentially sensitive areas.</p> <p>Esplanades that provide trails for walking and cycling access can present ongoing and repeated ecological disturbance if they are located too close to habitats of significant indigenous flora and fauna. Trails can also provide for the introduction or proliferation of pest plants, pest animals, and pets that may not be kept under the control of their owners.</p> <p>Fragmentation of biodiversity sites can arise including, for example, in riparian areas like harbour margins and saltmarsh roosting and feeding areas used by wading birds including migratory species.</p>	<p>Regional Council acknowledges that WBOPDP Objective 12A.2.1 (3) seeks 'the integration of methods to secure strategic access along riparian margins and protect riparian conservation values'.</p> <p>Policy 12A.2.2 (4) enables action that ensures 'the significant ecological values are not adversely affected by the provision of public access to reserves'. And Rule (18.4.2(h) 1(a)) 'Subdivision Activity Performance Standards' (relevant to Section 12) states in respect to Ecological Features, 'in the case of those Identified Significant Ecological Features referred to in Appendix 1 of the District Plan or of other ecological features, certification from an appropriately qualified independent person that the feature in question meets the criteria in 1(b) below shall be submitted with the application for subdivision consent. Such certification shall be accompanied by the certifier detailing the attributes of the feature recommended for preservation and include a management plan specifying any protective or enhancement measures deemed necessary. The subsequent Criteria for ecological features are consistent with those in Appendix F Criteria Set 3 for Indigenous Vegetation and Habitats of Indigenous Fauna.'</p> <p>It is anticipated these existing planning instruments will be implemented alongside preferred Option 3. Preferred Option 3 seeks to 'target specific waterways for esplanades' with potential to be 'effective at extending and potentially completing the esplanade linkage on targeted waterways'.</p>	Amend district plan consistent with the preferred Option 3 laid out in Section 4.4.



Bay of Plenty Regional Council submission on Plan Change 53 to the Operative Western Bay of Plenty District Plan

1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Plan change	Heading and reference
PC53 Protection Lots for Esplanad es Page 7	4.0 Issue – Protection Lot incentive provision of esplanades	Enhancing public access to and along specified high value waterways within the district.	<p>Support in principle Plan Change 53 and preferred Option 3 to target specific waterways for esplanade acquisition. The Plan Change recognises the enhancement of public access to and along rivers is a matter of national importance under Section 6(d) of the Resource Management Act 1991. The preferred option is considered to be consistent with Policy MN 5B of the Operative Bay of Plenty Regional Policy Statement which states:</p> <p><b>Policy MN 5B: Encouraging public access to and along the coast lakes and rivers</b></p> <p>Retain or establish public access to and along the coast, lakes and rivers, giving priority to public access rights where:</p> <ul style="list-style-type: none"> <li>(a) Connections between existing public areas can be provided;</li> <li>(b) Improving access would promote outdoor recreation;</li> <li>(c) Physical access for people with disabilities is desirable;</li> <li>(d) The long-term availability of public access is threatened by erosion or sea level rise;</li> <li>(e) Walking access to the coastal marine area, lakes and rivers can be provided;</li> <li>(f) Access to areas or sites of cultural significance is important to tangata whenua; and</li> <li>(g) Subdivision, use, or development of land adjacent to the Coastal Marine Area, lakes and rivers has reduced public access, or has the potential to do so.</li> </ul>	Amend District Plan consistent with the preferred Option 3 laid out in Section 4.4.

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Bay of Plenty Regional Council submission on Plan Change 65 to the Operative Western Bay of Plenty District Plan



1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Plan change	Heading and reference
Plan Change 65 Landscape Features in Residential Zones Page 6	4.4 Preferred Option 3	Option 3 – Only remove landscape features from 'developed' residential zones specified	<p>Support Option 3 in principle to amend Natural Features and Landscape overlays at the specified locations in the residential zone only. Preferred Option 3 recommends removal of the district Natural Features and Landscape overlays at the following specific locations:</p> <ul style="list-style-type: none"> <li>Remove S10 (Bowentown Heads) from the land shown as 508 Seaforth Road on Planning Map U12 and from legal description Allot 1B1 Katikati Parish ML 21951 only.</li> <li>Remove S20 (Ōkurei Point and Headland) and S21 (Waihi Estuary) from the Lyndhurst Avenue Residential Zone at Little Waihi as shown on Planning Map U154 only.</li> <li>Remove S21 (Waihi Estuary) from all affected residential properties on Pukehina Parade. The first being the one adjoining the WBOPDC Recreation Reserve as far as 598 Pukehina Parade.</li> </ul> <p>Where these Natural Features and Landscape overlays encompass broader areas than those lots specified, they will remain in place.</p> <p>Review of the Bay of Plenty Regional Coastal Environment Plan and the Proposed Regional Coastal Environment Plan shows that there are no Outstanding Natural Features and Landscape or Regionally Significant Features and Landscape overlays at any of the three areas specified. We note however hearings on the Proposed Regional Coastal Environment Plan are still to occur and the ONFL areas could alter as a result of Council's decisions on submissions.</p> <p>Bay of Plenty Regional Council notes that all three sites are within the coastal environment and will therefore be subject to Policy 15 of the New Zealand Coastal Policy Statement. We note that district significance was established by technical assessment of landscapes recorded in "The Visual Landscape – Western Bay of Plenty District Visual Landscape Evaluation" Boffa Miskell, October 1993. The level of significance was</p>	Amend district plan consistent with the preferred Option 3 laid out in Section 4.4.

Bay of Plenty Regional Council submission on Plan Change 65 to the Operative Western Bay of Plenty District Plan

1 Provisions that submission relates to:	2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Heading and reference
		<p><b>Plan change</b></p> <p>confirmed in the Western Bay of Plenty Landscape Review of 2008. To avoid setting a precedent for removal of district landscape overlays without having relied on technical assessments, Regional Council encourages WBOPDC to ensure its implementation of preferred option 3 for removal of the overlay has regard to Policy 15, particularly subsection (c) of that policy, and clearly records exceptional specialist reasons that explain why the landscape overlay is being removed.</p>	

Bay of Plenty Regional Council submission on Plan Change 66 to the Operative Western Bay of Plenty District Plan

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1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Plan change	Heading and reference
PC66 Historic Heritage – Clarification of whether particular rules apply to cultural or built features Page 7	4.0 Issue 1 – Discretionary Activities 7.3.3(c) and (f)	Protecting scheduled cultural heritage features	<p>Support the recommendation to implement Option 3 to delete Discretionary Activity 7.3.3(c) and merge 'alteration' and 'reconstruction' components into Discretionary Activity 7.3.3(f), while making it clear this rule only applies to cultural heritage features. The amendments will avoid duplication in the plan and align the rule with its original intent while providing certainty to iwi and hapū what types of activities are covered by the rule. The changes proposed are considered consistent with the following iwi resource management provisions in the Operative Bay of Plenty Regional Policy Statement:</p> <p><b>Policy IW 5B: Adverse effects on matters of significance to Māori</b></p> <p>When considering proposals that may adversely affect any matter of significance to Māori recognise and provide for avoiding, remedying or mitigating adverse effects on:</p> <p>(d) Places sites and areas with significant spiritual or cultural historic heritage value to tangata whenua; and</p> <p><b>Policy IW 2B: Recognising matters of significance to Māori</b></p> <p>Proposals which may affect the relationship of Māori and their culture and traditions must:</p> <p>(a) Recognise and provide for:</p> <ul style="list-style-type: none"> <li>(i) Traditional Māori uses and practices relating to natural and physical resources such as mahinga mātaītai, waahi tapu, papakāinga and taonga raranga;</li> <li>(ii) The role of tangata whenua as kaitiaki of the mauri of their resources;</li> <li>(iii) The mana whenua relationship of tangata whenua with, and their role as kaitiaki of, the mauri of natural resources;</li> <li>(iv) Sites of cultural significance identified in Iwi and Hapū Resource Management Plans; and</li> </ul> <p>(b) Recognise that only tangata whenua can identify and</p>	Amend plan as detailed in Section 4.4.

Bay of Plenty Regional Council submission on Plan Change 66 to the Operative Western Bay of Plenty District Plan

1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Plan change	Heading and reference
PC66 Pages 10 and 11	5.0 Issues 2 – Built heritage features with aspects other than buildings and structures which contribute to their significance	Adequately addressing 'non-built' elements of built heritage features in the District Plan.	<p>evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.</p> <p>Support addressing Issue 2 in Plan Change 66 acknowledging that for some built features there are elements which are non-built which contribute to their heritage significance. These non-built heritage values should also be factored into decisions affecting the management of built heritage features.</p> <p>The preferred option is supported which introduces a new Discretionary Activity (x) to protect non-built parts of heritage features which contribute to the significance of built heritage features, and to combine the bridge embankment (T13/341) with the bridge heritage features 66. This is consistent with Policy MN 1B 'Recognise and provide for matters of national importance' as it clearly identifies the matters of national importance relevant to Section 6(f) 'historic heritage' in the District Plan and provides for their protection from inappropriate subdivision, use and development.</p>	Amend plan as detailed in Section 5.4.
PC66 Page 12	6.0 Issue 3 – Non-complying Activity 7.3.4	Clarifying that the destruction of scheduled cultural heritage features is covered by Non-complying Activity 7.3.4.	<p>Support the recommendation in Section 6.3 to amend Non-complying Activity 7.3.4 to include 'or destruction' to make it clear the rule applies to cultural heritage features. Regional Council agrees there is a risk the current wording could be argued against encompassing the protection of cultural heritage features as the word 'demolition' is commonly applied in the context of buildings only. Inserting the words 'or destruction' should close this gap and to the end is supported.</p> <p>The changes proposed are considered consistent with the following iwi resource management provisions in the Operative Bay of Plenty Regional Policy Statement: <b>Policy IW 5B: Adverse effects on matters of significance to Māori</b></p> <p>When considering proposals that may adversely affect any matter of significance to Māori recognise and provide for</p>	Amend plan as detailed in Section 6.3.

Bay of Plenty Regional Council submission on Plan Change 66 to the Operative Western Bay of Plenty District Plan

1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions	
Plan change	Heading and reference	Description	Plan change	Heading and reference	
			<p>avoiding, remedying or mitigating adverse effects on:</p> <p>(d) Places sites and areas with significant spiritual or cultural historic heritage value to tangata whenua; and</p> <p><b>Policy IW 2B: Recognising matters of significance to Māori</b></p> <p>Proposals which may affect the relationship of Māori and their culture and traditions must:</p> <p>(c) Recognise and provide for:</p> <p>(v) Traditional Māori uses and practices relating to natural and physical resources such as mahinga mātaītai, waahi tapu, papakāinga and taonga raranga;</p> <p>(vi) The role of tangata whenua as kaitiaki of the mauri of their resources;</p> <p>(vii) The mana whenua relationship of tangata whenua with, and their role as kaitiaki of, the mauri of natural resources;</p> <p>(viii) Sites of cultural significance identified in iwi and hapū resource management plans; and</p> <p>(d) Recognise that only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.</p>		

Bay of Plenty Regional Council submission on Plan Change 67 to the Operative Western Bay of Plenty District Plan

12

1 Provisions that submission relates to:		2 Nature of submission	3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Heading and reference
PC67 Rural Contractors Depots - Setbacks for Sensitive Activities Pages 6 & 7	Preferred option	Reverse sensitivity effects on rural production activities should be avoided.	Retain Proposed Plan Change 67 as notified.
<p><b>Plan change</b></p> <p>The Regional Council's submission is in support of Plan Change 67 'Rural Contractors Depots - Setbacks for Sensitive Activities'. Regional Council emphasises the need to protect the productive potential of rural production activities from potential reverse sensitivity effects. To that end the District Plan must give effect to the following relevant Operative RPS rural development objective and policies:</p> <p><b>Objective 26</b> 'The productive potential of the region's rural land resource is sustained and the growth and efficient operation of rural production activities are provided for.'</p> <p><b>Policy UF 18B: Managing rural development and protecting versatile land</b></p> <p>The productive rural land resource shall be protected by ensuring that to the extent practicable subdivision, use and development in rural areas does not result in versatile land being used for non-productive purposes outside existing and planned urban-zoned areas, or outside the urban limits for the Western Bay of Plenty shown in Appendix E.</p> <p>Particular regard shall be given to whether the proposal will result in a loss of productivity of the rural area, including loss of versatile land, and cumulative impacts that would reduce the potential for food or other primary production.</p> <p><b>Policy UF 20B: Managing reverse sensitivity effects in rural areas</b></p> <p>Require that subdivision, use and development of rural land does not compromise or result in reverse sensitivity effects on rural production activities and on the operation of infrastructure located beyond the urban limits or existing and planned urban zone areas.</p> <p><b>Policy UG 23B: Providing for the operation and growth of rural production activities</b></p> <p>In providing for the operation and growth of rural production activities, regard should be had to:</p>		<p><b>Plan change</b></p> <p>The Regional Council's submission is in support of Plan Change 67 'Rural Contractors Depots - Setbacks for Sensitive Activities'. Regional Council emphasises the need to protect the productive potential of rural production activities from potential reverse sensitivity effects. To that end the District Plan must give effect to the following relevant Operative RPS rural development objective and policies:</p> <p><b>Objective 26</b> 'The productive potential of the region's rural land resource is sustained and the growth and efficient operation of rural production activities are provided for.'</p> <p><b>Policy UF 18B: Managing rural development and protecting versatile land</b></p> <p>The productive rural land resource shall be protected by ensuring that to the extent practicable subdivision, use and development in rural areas does not result in versatile land being used for non-productive purposes outside existing and planned urban-zoned areas, or outside the urban limits for the Western Bay of Plenty shown in Appendix E.</p> <p>Particular regard shall be given to whether the proposal will result in a loss of productivity of the rural area, including loss of versatile land, and cumulative impacts that would reduce the potential for food or other primary production.</p> <p><b>Policy UF 20B: Managing reverse sensitivity effects in rural areas</b></p> <p>Require that subdivision, use and development of rural land does not compromise or result in reverse sensitivity effects on rural production activities and on the operation of infrastructure located beyond the urban limits or existing and planned urban zone areas.</p> <p><b>Policy UG 23B: Providing for the operation and growth of rural production activities</b></p> <p>In providing for the operation and growth of rural production activities, regard should be had to:</p>	

Bay of Plenty Regional Council submission on Plan Change 67 to the Operative Western Bay of Plenty District Plan

1 Provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Plan change	Heading and reference	Description	Plan change	Heading and reference
			(a) <i>Appropriate plan provisions, including zoning of land;</i> (b) <i>Access to and use of resources;</i> (c) <i>Transportation and infrastructure requirements; and</i> (d) <i>Protection from reverse sensitivity effects.</i> The plan change is a practicable means towards giving effect to these Operative RPS provisions and is therefore supported.	





## Plan change 62

①

- 1) Oppose the Omokoroa Financial contributions plan change as proposed.
- 2) Support in part – the deletion of the Prole road to Francis road structure plan road that transverses a future stormwater valley.

3) Objection is based on the importance of connectivity in the long term for a vibrant community.

4) Believe affordability of development is better addressed through other available options  
eg – remission of finco's

5) Due to debt already incurred in this area, believe it inequitable to reduce finco's in this catchment below other WBOP urban areas of Waihi Beach, Katikati & Te Puke.

6) Development alternative offered at end of submission.



## WBOPDC growth forecast

From the LTP 2012 -22,  
the following growth was assumed

Year ended 30 June	Growth rate	New lots created	Rateable Properties
2014			20207 actual
2015	1.0 %	197	v/s 20689 <sub>forecast</sub>
2016	.9 %	198	
2017	1.6 %	322	
2018	1.6 %	325	
2019	1.5 %	325	
2020	1.7 %	361	
2021	1.7 %	362	
2022	1.7 %	363	

## WBOPDC Debt

A significant portion of WBOPDC debt has already been expended on Omokoroa land for future roads.

Activity	Total debt	% total debt
Wastewater	57,767,000	38%
Stormwater	27,444,000	18%
Water	25,310,000	17%
Corporate	17,668,000	12%
Omokoroa land purchased for future roads	16,195,000	11%
Reserves	2,832,000	2%
Roading	1,589,000	1%
Communities	951,000	1%
Solid waste	874,000	1%
<b>TOTAL</b>	<b>150,632,000</b>	

# ***Connectivity & Growth***

***example 1***

***Northern Bethlehem***

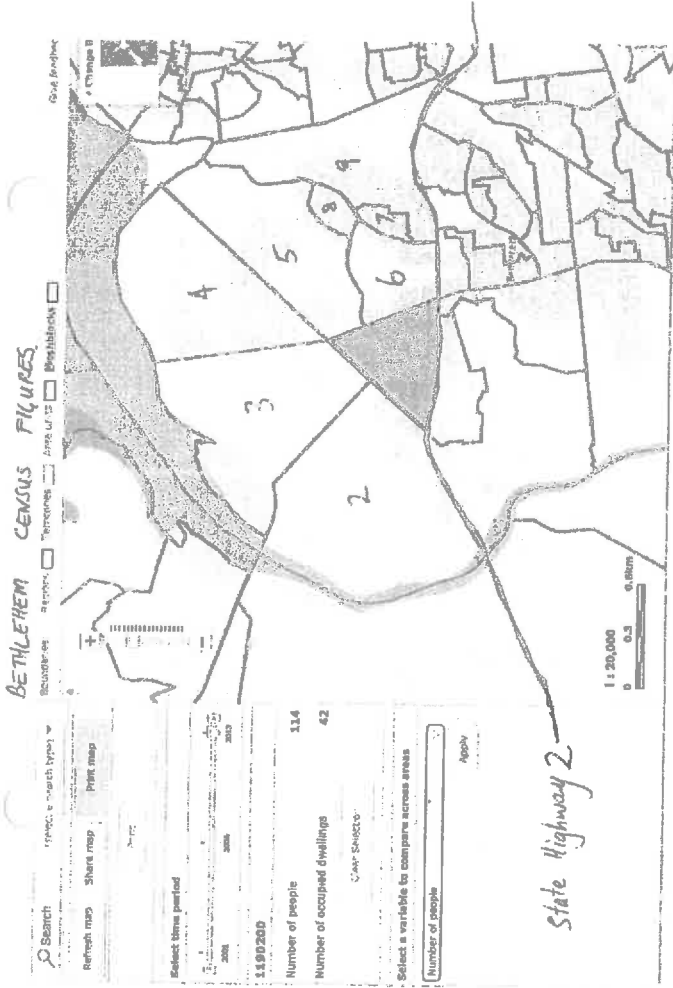
***Population 2265 ( 2013 census )***





# **Carmichael Road extension**

- very popular connecting road**
- especially for parents and students  
accessing schools**



1	114
2	162
3	114
4	384
5	633
6	147
7	132
8	147
9	432

2265  
POPULATION  
NORTHERN BETHLEHEM

# ***Connectivity & Growth***

***example 2***

***Eastern Bethlehem***

***Population 3393 (2013 census)***

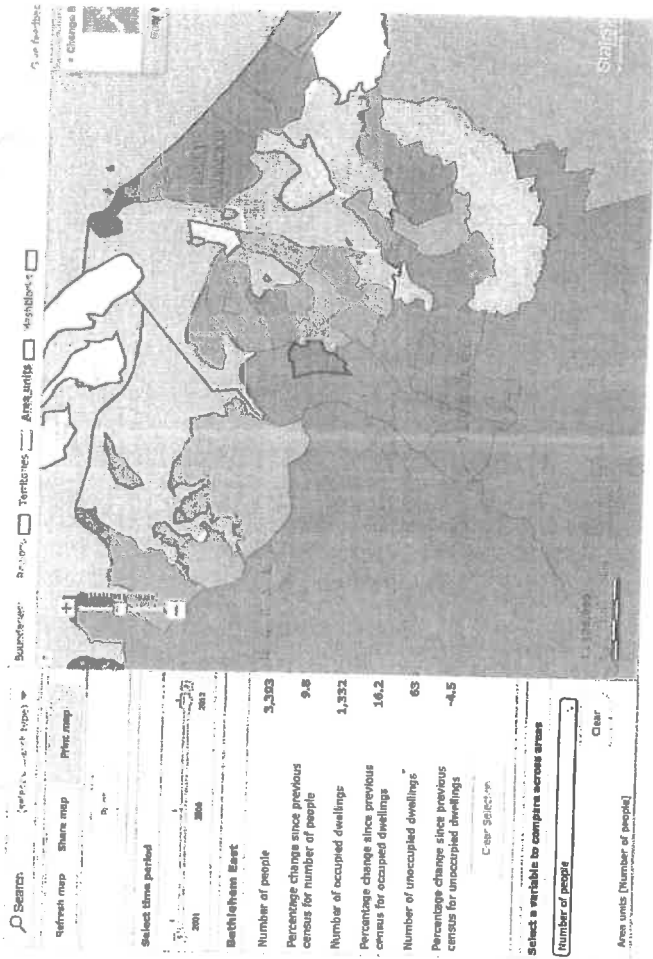


*Bethlehem east cont'd*

The connection of Beaumaris Link and Sterling Gate Drive was initially not favoured by some living nearby

But TCC ensured the project was completed and now it provides safe connectivity within this popular community.

**A completed Hamurana Road Omokoroa will deliver similar benefits to the Omokoroa community.**



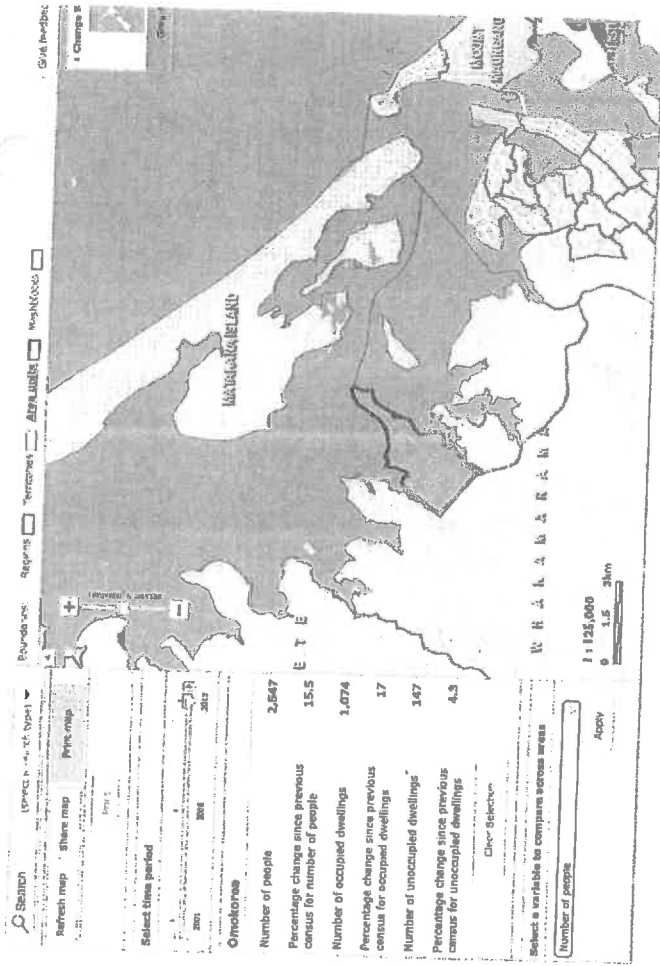
# ***Connectivity & Growth***

***example 3***

## ***Omokoroa***

***Population 2547 ( 2013 census )***





# ***Omokoroa's Future.....?***

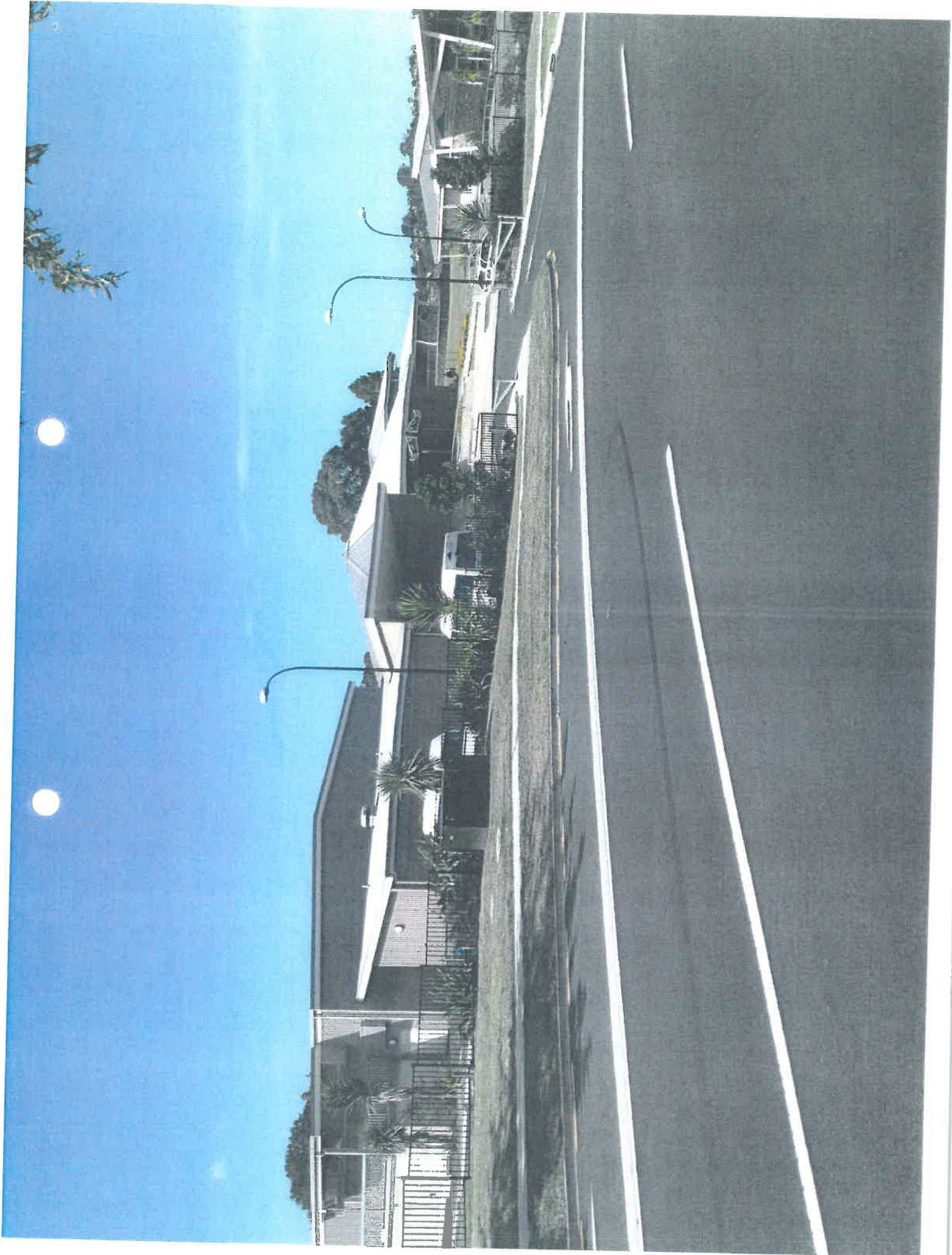
***The eventual completion of Hamurana Road  
through to Prole road.***

***The bringing forward of a commercial zone and road  
development to enable growth to start from the  
southern end of Omokoroa***

# ***The catalysts***







# ***Others***

***Building supply company***

***Nursery / garden centre***

***Landscape supply***

***Cafes***

***shops***

***many more...***

# ***The partners***

***Private Enterprise***

***Developers***

***NZTA***

***MOE***



*The Catchment*

***Omokoroa***

*Whakamarama*

*Pahoia*

*Apata*

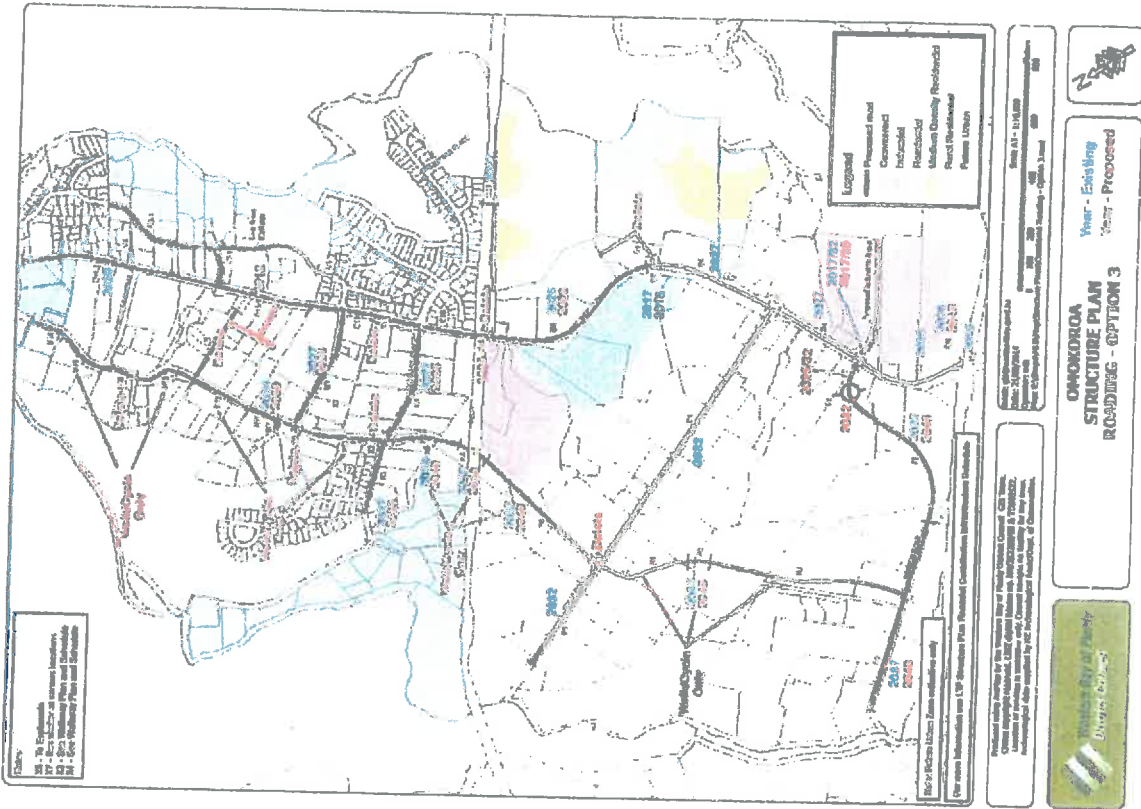
*Southern Katikati commuters*

***SH2 traffic***

# **Plan Change 62 proposal**

**Deletion of the structure plan roads  
that will deliver development**

Attachment A



# The blue line

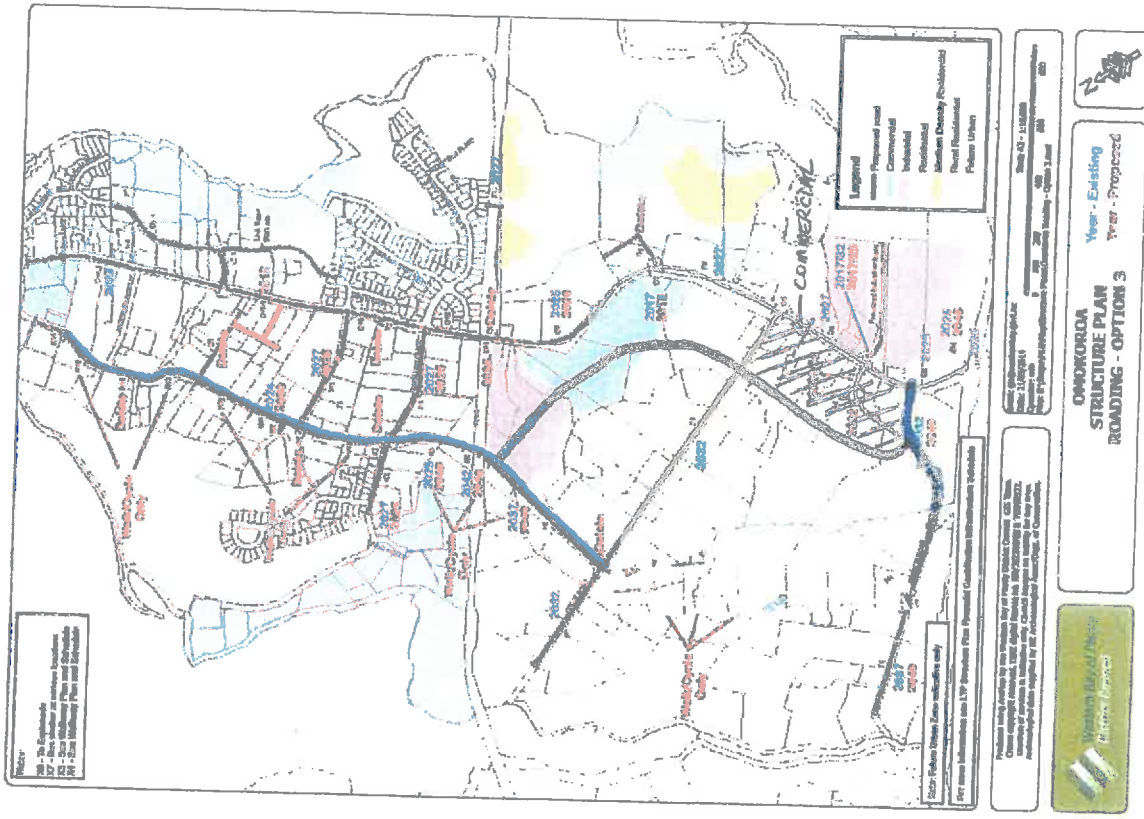
(next slide)

**Shows the commitment required by WBOPDC**

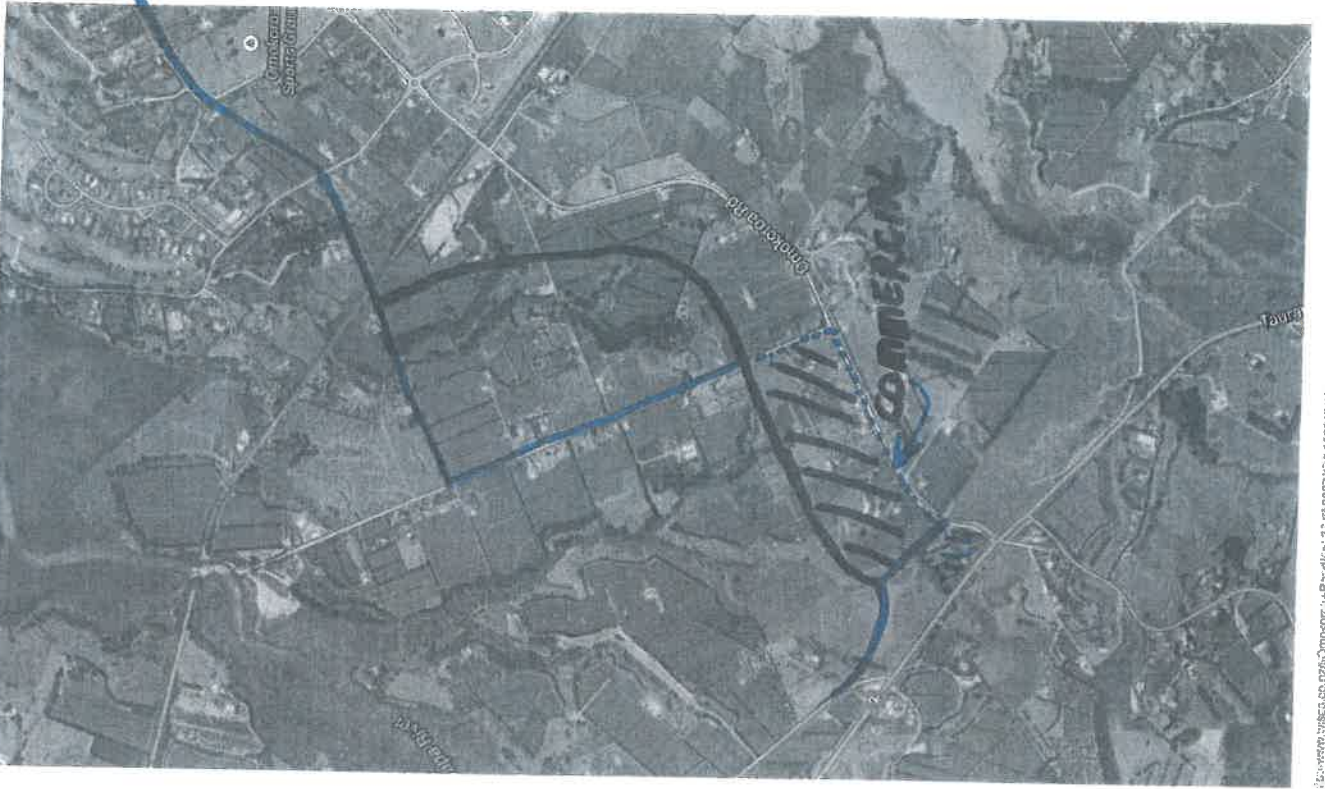
# The black line

**Shows an internal road network that could facilitate  
from the southern end of Omokoroa.**

**Also a possible commercial area to hasten and facilitate  
The desirability of Omokoroa**



WISES.CO.NZ



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Page 1 of 1

***To deliver***

# Omokoroa





# Omokoroa



## **CONCLUSION**

- \* oppose WBOPDC plan change 62**
- \* Believe WBOPDC need to endorse the Omokoroa structure plan road links from Prole road to Hamurana road to support development over the long term.**
- \*Timing of construction and funding reflective on development**

***Affordability of development throughout the whole WBOP is a key issue, but this plan change is not the way to address this problem.***

## **Conclusions cont'd**

**With over \$ 60 million of WBOPDC debt tied up in Omokoroa growth infrastructure and land purchases,**

**Innovative ways of encouraging development must be explored**

*thank you.*

**SUBMISSION ON PLAN CHANGE 57 OF THE WESTERN BAY OF  
PLENTY DISTRICT PLAN**

**To:** Chief Executive Officer  
Western Bay of Plenty District Council,  
Private Bag 12803  
Tauranga 3143

**Submission On:** Plan Change 57 to the Western Bay of Plenty District Plan

**Name of Submitter:** The Ministry of Education

**Address:** C/- Tim Wilson  
Opus International Consultants Ltd  
Private Bag 3057  
HAMILTON 3240

**1. THE PARTS OF THE PLAN THIS SUBMISSION RELATES TO ARE:**

- Requiring Educational Facilities to provide Recreation and Leisure Financial Contributions.

**2. MINISTRY OF EDUCATION BACKGROUND INFORMATION**

The Ministry of Education (Ministry) is the Government's lead advisor on the education system, shaping direction for education agencies and providers, and contributing to the Government's goals for education.

The Ministry has the principal role of facilitating the operation of all state primary, intermediate and secondary schools throughout New Zealand. In facilitating the operation of any state school, the Ministry has the function of working alongside school boards of trustees, who have the responsibility to provide a safe, physical and emotional environment for students and staff.

The Ministry has responsibility for strategic leadership, policy development and a substantial operational role in the early childhood and schooling sectors. In the tertiary sector the Ministry is focused on leadership and setting direction, stewardship and governance and monitoring and evaluation.

The Ministry's activities occur in seven key areas:

- Strategic leadership in the sector
- Support and resources for the community
- Support and resources for education providers
- School property portfolio management

- Support and resources for teachers
- Interventions for target student groups
- Strategic leadership in the tertiary system

### 3. THE MINISTRY OF EDUCATION SUBMISSION

Plan Change 57 seeks to impose recreational and leisure financial contributions for all activities that require a discretionary and/or non-comply activity resource consent. The District Plan currently lists educational facilities as a discretionary activity and the proposed change will therefore apply to all educational facilities, including schools, where a designation is not in place.

Given the Ministry's requirement to provide outdoor recreational and leisure areas within their facilities, which are often used by the local community, the Ministry is of the view that it is unnecessary that the Ministry is required to provide financial contributions for recreational or leisure areas, over and above those provided by schools, where a discretionary or non-complying consent is needed.

Accordingly, the Ministry submits in support of Plan Change 57 provided the inclusion of the following amendment to Rule 11.3.4.2(a) to exclude educational facilities, as follows:

***(a) Recreation and Leisure***

*This will be charge in accordance with 11.3.3 (a) for all activities excluding educational facilities and seasonal worker accommodation.*

### 4. THE MINISTRY WISHES TO BE HEARD IN SUPPORT OF ITS SUBMISSION

.....  
Tim Wilson

As authorised agent for  
The Ministry of Education  
12 December 2014

[Tim.wilson@opus.co.nz](mailto:Tim.wilson@opus.co.nz)

Telephone: (07) 838 9344

DD: (07) 838 9785

IN THE MATTER OF: The Resource Management  
Act 1991

AND

IN THE MATTER OF: Western Bay of Plenty  
District Council Proposed  
Plan Change 67

**SUBMISSION BY DAVID AND HELEN STEWART**

To: Western Bay of Plenty District Council

**Name of Submitter:** David and Helen Stewart  
C/: Aurecon Limited  
PO Box 2292  
Tauranga

Attention: Harriet McKee

The nature of our submission is as follows:

1. We own a property at Pukakura Road, Katikati and operate Stewart Contractors from the site.
2. We support Plan Change 67 with respect to setbacks of sensitive activities from rural contractor depots. We consider that all dwellings should be set back a minimum of 60m from contractor depots to avoid reverse sensitivity effects.
3. We seek that Council grant the Plan Change.

We wish to be heard in terms of our submission.

If others make a similar submission we would be prepared to consider a joint case with them at any hearing.

**David and Helen Stewart**  
**12 December 2014**

C/: Aurecon Limited  
PO Box 2292  
Tauranga

Attention: Harriet McKee



IN THE MATTER OF: The Resource  
Management Act 1991

AND

IN THE MATTER OF: Western Bay of Plenty  
District Council  
Proposed Plan Change  
62.

**SUBMISSION BY JCM PROJECTS LIMITED**

To: Western Bay of Plenty District Council

**Name of Submitter:** JCM Projects Limited  
C/: Aurecon Limited  
PO Box 2292  
Tauranga

Attention: Harriet McKee

The nature of our submission is as follows:

1. We own a property at Kayelene Place in Omokoroa, and have resource consent for an 11 lot subdivision of the land for residential purposes.
2. We support Plan Change 62 with respect to financial contributions in the Omokoroa area, on the basis that it will facilitate growth, and we support any further reduction in Development Contributions in the future. We agree with the Section 32 analysis that currently, the feasibility of development at Omokoroa is marginal. The Plan Change will encourage development to occur at Omokoroa and will provide for the social, economic and cultural wellbeing of Omokoroa as required by Section 5 of the RMA.
3. We seek that the plan change be adopted and that Council continues to refine and make changes to the current calculation of financial contributions in the Omokoroa area to reduce the cost of development which is currently significantly higher than other areas such as Tauranga.

We wish to be heard in terms of our submission.

If others make a similar submission we would be prepared to consider a joint case with them at any hearing.

**JCM Projects Limited**  
**12 December 2014**

C/: Aurecon Limited  
PO Box 2292  
Tauranga

Attention: Harriet McKee



**SUBMISSION ON PROPOSED PLAN CHANGE UNDER CLAUSE 6 OF THE FIRST  
SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

**TO:** Western Bay of Plenty District Council

**SUBMISSION ON:** Plan Change 62 to the Western Bay of Plenty District Plan

**SUBMITTER:** Omokoroa Developments Limited  
C/: Aurecon Limited  
PO Box 2292  
Tauranga  
Attention: Harriet McKee

**Scope of submission**

1. The specific provisions of the Proposed Plan to which this submission relates are Plan Change 62 in its entirety. Omokoroa Development Limited (ODL) are developers and land owners in the urban growth area at Omokoroa. ODLs land is affected by the change to Omokoroa's financial contributions (FINCO's) as proposed by Plan Change 62.

**Nature of submission**

2. The nature of our submission is that we support the plan change which is appropriate.

**Reasons for submission**

3. The reasons for this submission are:
  - (a) That the Proposed Plan change:
    - (i) will promote the sustainable management of resources;
    - (ii) will achieve the purpose of the Resource Management Act 1991 ("the RMA");
    - (iii) is not contrary to Part 2 and other provisions of the RMA;
    - (iv) will meet the reasonably foreseeable needs of future generations by enabling growth at Omokoroa;
    - (v) will enable the social, economic and cultural well-being of the Omokoroa community;
    - (vi) represents the most appropriate means of exercising the Western Bay of Plenty District Councils District Council's ("Council")



functions, having regard to the efficiency and effectiveness of other available means and is therefore not appropriate in terms of section 32 and other provisions of the Act.

- (b) In particular, but without limiting the generality of the above, for those additional reasons set out below.
4. We support the Council for taking some positive action to reduce the level of roading contribution payable. Council's philosophical approach to infrastructure provision has been based on a "growth pays for growth" approach. Significant Infrastructure has been provided on the basis that the total cost of infrastructure would therefore be recovered using financial contributions under the Resource Management Act (RMA) from development at the time of subdivision. Because the entire cost of infrastructure is to be recovered, factors such as the affordability/quantum of FINCO's have not been considered to ensure that the levels of contributions are sustainable. We note that plan change 62 is the first time that Council have acknowledged this as a consideration in terms of its s.32 analysis.
  5. The Councils "growth provides for growth approach" requires reconsideration. Although Council have significantly reduced the level of roading infrastructure provided through changes to the Omokoroa Structure plan (Hamurana Road), Council should further review the rates funded component in the contribution schedule attached to the Plan Change to more fairly apportion additional costs to ratepayers. This is appropriate given that existing ratepayers and the overall Districts economy will benefit from the growth and the improved infrastructure it creates. Currently the District Rates contribution in the schedule is insufficient.
  6. A further issue is that there is still a significant imbalance in the "cost" of developing a section between Tauranga City and the Western Bay of Plenty District. Until this cost imbalance is corrected and the cost to produce a section in the District is on par with Tauranga, the growth of Omokoroa will continue to struggle when Tauranga is a more affordable alternative.
  7. Although the quantum of FINCO's payable per lot is proposed to be reduced under plan change 62, the timing applied to the payment will continue to have a significant impact on the number of sections created. Issue 2 of the Plan Change deals with the timing of charging of financial contributions. In addition to the options considered, Council should consider the option of changes to the charging mechanisms in the context of this timing of charging. This includes partial deferral of payment to the building consent for dwellings as currently undertaken by Tauranga City Council. This will act to reduce the front end cost to subdividers. It will stimulate and increase the supply of sections and subsequent cash flow recovery for Council. We seek that this further option is considered and incorporated in the timing of charging.
  8. Currently FINCOs for Omokoroa are charged on a per-lot/per-dwelling basis, so costs are allocated on the basis of a dwelling unit equivalent. We consider that the option of charging on a per-hectare approach to divide the cost of servicing across an area of land instead of on a per-lot basis should be incorporated. This approach would minimize the risk of under collection, would result in an incentive for intensification and increased yield (with FINCOs a fixed cost for developers) and aligns with the primary cost driver for infrastructure which is ultimately based on an area of land to be serviced. We seek that this further option is considered and incorporated in the Plan Change as appropriate.

9. Infrastructure costs are determined largely through the Council's structure planning process. The Omokoroa structure plan identifies infrastructure to be provided and its costs, and apportions the cost through the FINCO model. Structure plans have the potential to be reviewed through the District Plan process to determine the need and "full" extent of infrastructure to be provided. Plan Change 62 has shown that the removal of large items can have a significant effect on costs (i.e. Hamarana Road). The review of further aspects of the Omokoroa structure plan, in particular stormwater infrastructure requirements is seen as a critical consideration for further reducing overall costs. Further infrastructure not required or necessary to service development at Omokoroa should be removed. We seek that Council considers amendments to address this and clarifies what other changes were considered to reduce the level of reserve and stormwater contributions at Omokoroa.

#### **Decision sought**

10. The decision sought from the local authority is that the plan change be approved, with:
- (a) amendments to address the submitters concerns set out above.
  - (b) such further other orders, relief or other consequential amendments as considered appropriate and necessary to address the concerns set out above.
11. I desire to be heard in support of this submission.
12. If others make a similar submission, I am prepared to consider presenting a joint case with them at any hearing.

**PHILLIP BELL**

**OMOKOROA DEVELOPMENTS LIMITED**

**Date:** 12 December 2014

**Address for Service:**

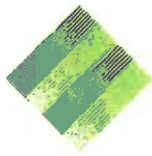
Omokoroa Developments Limited

C/: Aurecon Limited

PO Box 2292

Tauranga

Attention: Harriet McKee



# District Plan Changes 47-68

## Submission Form

You can deliver your submission to the Katikati, Te Puke, Omokoroa or Waihi Beach Library and Service Centre, Main Council Office at Barkes Corner, email it to [districtplan@westernbay.govt.nz](mailto:districtplan@westernbay.govt.nz), fax it to 07 577 9820, or mail it to:

Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

For Office Use Only

Date stamp

## Submissions close 4.00pm on Friday 12 December 2014

**Name:** \_\_\_\_\_

**Mr/Mrs/Ms/Miss** Christopher Clarke

**Organisation** Te Mana o Ngāti Rangitahi Trust

**Address for Service:** P.O.Box 831

Whakatane **Post Code:** 3158

**E-mail address:** kaitiaki@ngatirangitahi.iwi.nz

**Telephone Number:** (07) 3229 155 (07) 3222 452

(home) (work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes  No  Please tick

**Signed:** \_\_\_\_\_  
(Signature of person making submission or person authorised to sign on behalf of person making submissions)

**Date:** 19 November 2014

**Please use the reverse of this form for your submission**

**Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).**

Privacy Act 1993 Note: Please be aware when providing personal information that submissions form part of the public consultation process for the District Plan.

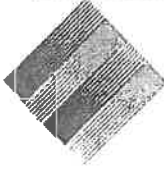
Name:

Submission Sheet No:

Specific Plan Change	Submission (State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons)	Decision Sought (Give precise details)	Submission No. Office Use Only	Ref.
Example: PC 101	Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.	Add to the District Plan Maps for Te Puke an area for higher density development.		
PC 66	Support the propose plan change 66. Historic Heritage.	The protection of Cultural Heritage is upheld and adhered to.	1	

Submission No

PEOPLE • PLAN • PROGRESS



**Western Bay of Plenty  
District Council**

## District Plan Changes 47-68

### Submission Form

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Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

**Submissions close 4.00pm on Friday 12  
December 2014**

<b>Name: Mr</b>	<u>Andrew Marc Rolleston</u>	
<b>Organisation</b>	<u>Poripori Farm A Trust as registered proprietor of Pt Poripori Farm A Block</u>	
<b>Address for Service:</b>	<u>Te Awanui Huka Pak Ltd, PO Box 4626, Mt Maunganui South</u>	
		<b>Post Code:3149</b>
<b>E-mail address:</b>	<u>andy@pelco-nz.com, amy@teawanui.co.nz, bm.whetu@clear.net.nz</u>	
<b>Telephone Number:</b>	<u>027 495 8419</u>	<u>07 574 9335</u> (home) (work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes  No  Please tick

Signed:  1

Date: 11.12.14

(Signature of person making submission or person authorised to sign on behalf of person making submissions)

Please use the reverse of this form for your submission

Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).



Name: Andrew Marc Rolleston

Submission Sheet No:1

Specific Change	Plan	Submission (State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons)	Decision Sought (Give precise details)
Example: PC 101		Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.	
			Add to the District Plan for medium density development.

PC 53	<p>Oppose the PC 53 so far as it applies to Pt Poripori Farm A Block.</p> <p>This opposition is based on the following grounds:</p> <ul style="list-style-type: none"> <li>• Pt Poripori Farm A Block is Maori freehold land;</li> <li>• Pt Poripori Farm A Block is subject to alienation restrictions under the trust order and the Te Ture Whenua Maori Act 1993;</li> <li>• Any protection of riparian margins on Pt Poripori Farm A Block and along the Wairoa river will be at the sole discretion of the trust;</li> <li>• Any protection of riparian margins will by way of a Maori reservation under the Te Ture Whenua Maori Act 1993 with access solely for the benefit of the owners and their descendants.</li> <li>• The trust opposes any public access to Pt Poripori Farm A Block.</li> </ul>	<p>Remove Pt Poripori Farm A Block from the Schedule of Proposed Esplanade Protection Lots.</p> <p style="text-align: center;">①</p>



IN THE MATTER OF:

The Resource  
Management Act 1991

AND

IN THE MATTER OF:

Plan Change 52 to the  
Western Bay of Plenty  
District Plan

**SUBMISSION ON PLAN CHANGE 52  
TO THE WESTERN BAY OF PLENTY DISTRICT PLAN**

**To:** Western Bay of Plenty District Council

**Submission on:** Plan Change 52.

**Name of Submitter:** Brian Flegg

**Address:** 233 Athenree Road  
ATHENREE

1. The nature of my submissions is as follows:

1.1 I support in part the plan change to create protection lots for expansion of or access to, reserves but seek further amendments. ①

1.2 The reason for my submission is that I consider that the proposed provisions will enable the social and cultural wellbeing of the community as required by Section 5 of the RMA because the plan change will facilitate public access to reserves, their expansion, and the enhancement of public access to and along the coastal marine area as required by Section 6(d) of the RMA, but can be further enhanced to better achieve these outcomes.

1.3 The further specifics of my submission are as follows:

i. That reference in the plan change rules to reserves "*not otherwise shown in the District Plan*" be deleted. The reason for this is that it is irrelevant as to whether access is shown or not. There should be no disadvantage to landowners who have access ways or proposed reserves already identified on planning maps. ②

ii. In terms of the protection lot rules, where complying applications are made in accordance with the Plans standards, there should be a specific non-notification rule which applies to enable such applications to be processed by council on a non-notified basis or without the approval of other parties. ③

iii. Any applications for expansion of or access to reserves should be provided for on a restricted discretionary basis. It is unclear from the complicated numbering of the plans protection lot provisions whether this is the case or not. This needs to be clarified. ④

iv. Criteria in 18.5.11(a) should not apply to applications for expansion of or access to reserves as these matters are irrelevant. Further matters of ⑤

restricted discretion should be applied under 18.5.11(b) (ii) to consider whether the access or further reserve is necessary to service *future urban growth requirements* and 18.5.11(b)(iii) should be amended as follows to refer to ... ~~other Council reserves plan or strategy or other relevant plans, strategies or policies.~~

- v. Lots for community benefit provisions should contain enabling provisions relating to the enhancement and creation of further wetland areas particularly around the margin of Tauranga harbour where the harbour edge where much of the edge is degraded and reclaimed. Flooding of low-lying areas which are currently considered to be land for the purposes of the District Plan (as defined by Section 2 of the RMA) should be encouraged as Councils District Plan encourages enhancement of ecological areas and values. Councils interpretation that MHWS applies and that such land (which may be covered coastal waters) is outside the jurisdiction of the District Plan and therefore its rules, is incorrect. This conclusion is based on the relevant definitions in the RMA and the extent of Councils jurisdiction relating to land. The location of MHWS is only assessed at the time of survey under s.223 of the RMA. The deletion of reference to MHWS from the rule framework will enable the flooding of low lying areas adjacent to the harbour and their enhancement as required by the Objectives and policies of the District Plan with significant ecological and natural character benefits as required by Section 6 of the RMA.

6

- 1.4 The decision sought from the local authority is that the plan change be approved, with:
- i. Amendments to address the submitters concerns set out above; and
  - ii. Such further other orders, relief or other consequential amendments as considered appropriate and necessary to address the concerns set out above.

1

2. I wish to be heard in the support of my submission.
3. If others make a similar submission, I would be prepared to present a joint case with them at any hearing.

**Brian Flegg**

**12 December 2014**

Address for service:

C/- Aurecon

PO Box 2292

TAURANGA

Attention: Harriet McKee



Western Bay of Plenty

Submission No

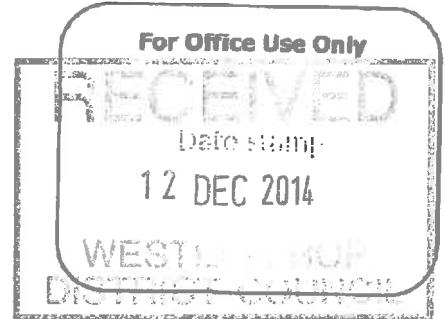
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# District Plan Changes 47-68

## Submission Form

You can deliver your submission to the Katikati, Te Puke, Omokoroa or Waihi Beach Library and Service Centre, Main Council Office at Barks Corner, email it to [districtplan@westernbay.govt.nz](mailto:districtplan@westernbay.govt.nz), fax it to 07 577 9820, or mail it to:

Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143



## Submissions close 4.00pm on Friday 12 December 2014

Name: Mr (Mrs) Ms/Miss Adrienne BUTLER

Organisation Waihi Beach Amenity Protection Society

Address for Service: 11 Mayor View Tee. Waihi Beach.

Post Code: 3611

E-mail address: gypsybutlers@actrix.co.nz.

Telephone Number: 07 863 4595  
(home) (work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes  No  Please tick

Signed: *Adrienne Butler* Date: 11/12/2014  
(Signature of person making submission or person authorised to sign on behalf of person making submissions)

**Please use the reverse of this form for your submission**

**Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).**

Privacy Act 1993 Note: Please be aware when providing personal information that submissions form part of the public consultation process for the District Plan.

*A. Butler Side 1*

A. Butler Side 2.

Name:

Submission Sheet No:

Specific Plan Change	Submission (State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons)	Decision Sought (Give precise details)	Submission Ref. No. Office Use Only
Example: PC 101	Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.	Add to the District Plan Maps for Te Puke an area for higher density development.	
PC 51	Support the changes to section 10.3 clauses 5, 7, and 8, as shown with 4.6 preferred option. This change remedies confusion.		1

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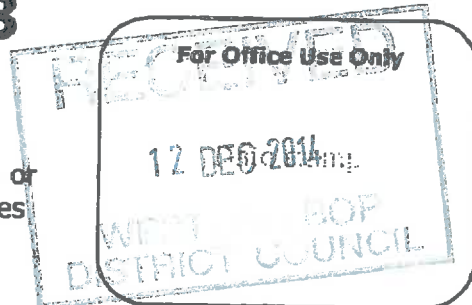
Western Bay of Plenty District Council

Submission No 018

# District Plan Changes 47-68

## Submission Form

You can deliver your submission to the Katikati, Te Puke, Omokoroa or Waihi Beach Library and Service Centre, Main Council Office at Barkses Corner, email it to [districtplan@westernbay.govt.nz](mailto:districtplan@westernbay.govt.nz), fax it to 07 577 9820, or mail it to:



Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143

### Submissions close 4.00pm on Friday 12 December 2014

**Name:**  
Mr/Mrs/Ms/Miss Dennis Butler

**Organisation** Waihi Beach Amenity Protection Society.

**Address for Service:** 11. Mayer View Terrace. Waihi Beach

**Past Code:** 3611

**E-mail address:** gypsybutlers@adrix.co.nz.

**Telephone Number:** 07 863 4595  
(home) (work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes  No  Please tick

Signed: [Signature] Date: 11-12-2014  
(Signature of person making submission or person authorised to sign on behalf of person making submissions)

**Please use the reverse of this form for your submission**

**Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).**

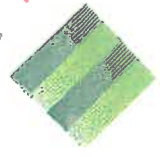
Privacy Act 1993 Note: Please be aware when providing personal information that submissions form part of the public consultation process for the District Plan.

Name:

Submission Sheet No:

Specific Plan Change	Submission	Decision Sought	Submission Ref. No. Office Use Only
Example: PC 101	(State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons) Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.	(Give precise details) Add to the District Plan Maps for Te Puke an area for higher density development.	
PC 51	Support the changes to section 10.3 Clauses 5, 7 and 11, as shown with 4-6 Preferred Option. This change remedies confusion.		①

*D. Butler Side 2*



# District Plan Changes 47-68

## Submission Form

You can deliver your submission to the Katikati, Te Puke, Omokoroa or Waihi Beach Library and Service Centre, Main Council Office at Barkes Corner, email it to [districtplan@westernbay.govt.nz](mailto:districtplan@westernbay.govt.nz), fax it to 07 577 9820, or mail it to:

Chief Executive Officer  
Western Bay of Plenty District Council  
Private Bag 12803  
Tauranga 3143



(12:13pm.)

### Submissions close 4.00pm on Friday 12 December 2014

Name: Brian Heywood  
 Mr/Mrs/Ms/Miss

Organisation: Tauranga Emergency Communications Group (Inc)

Address for Service: 41 Merriman Place, Veda Glen  
Tauranga 3112

E-mail address: (not to be listed in any public document)

Telephone Number: 543 3677 n/a  
 (home) (work)

Council has set aside 28 and 29 April 2015 to hear submissions.

I/We would like to speak in support of my/our submission at the Council hearing.

Yes  No  Please tick

Signed: Brian Heywood Date: 12 December 2014  
 (Signature of person making submission or person authorised to sign on behalf of person making submissions)

Please use the reverse of this form for your submission

Please submit only one copy of your submission to Council (don't email plus hardcopy plus fax).

**Name: Tauranga Emergency Communications Group (Inc)**

**Submission Sheet No:**

Specific Plan Change	Submission (State in summary your submission. Clearly indicate whether you support or oppose the provision or wish to have amendments made, giving reasons)	Decision Sought (Give precise details)	Submission No. Office Use Only
<p>Example: PC 101</p>	<p>Support the provision of medium density housing in identified areas but seek the addition of a specific medium density area for Te Puke to give certainty to Te Puke residents that this area will be used for medium density development.</p>	<p>Add to the District Plan Maps for Te Puke an area for higher density development.</p>	
<p><b>PC 51</b></p>	<p>Support the PC 51, but seek permitted activity for amateur radio operators</p>	<p>Add subsequent clauses to <b>(s)(iv) and (t)(v)</b> making reasonable accommodation for aerials of an amateur radio configuration.</p> <p><b>Definitions</b>  <b>"Amateur radio configuration"</b> means the <i>antennas, aerials</i> (including rods, wires and tubes) and associated supporting <i>structures</i>, which are owned and used by licensed amateur radio operators.</p>	<p>①</p>



Toi Te Ora – Public Health Service  
 PO Box 2120  
 TAURANGA 3140  
[www.ttophs.govt.nz](http://www.ttophs.govt.nz)



12 December 2014

Chief Executive Officer  
 Western Bay of Plenty District Council  
 Private Bag 12803  
 TAURANGA 3143

### **Submission to Proposed Changes 47-68 to Western Bay of Plenty District Plan**

#### **Introduction**

I appreciate this opportunity to submit to the proposed plan changes as part of Council's first review.

Toi Te Ora – Public Health Service (Toi Te Ora) is a public health unit funded by the Ministry of Health, through the Bay of Plenty District Health Board. It serves both the Lakes District Health Board and the Bay of Plenty District Health Board areas.

Public health approaches wellbeing and health in terms of the social, economic, cultural, environmental, and political context and from a “determinants of health” perspective. Many of the crucial underlying factors that contribute to population health and wellbeing are directly influenced by the decisions and activities of councils.

I am keen to ensure that public health considerations are adequately provided for by Council when considering the proposed district plan changes. This position is derived from our responsibility to support local authority decisions which will improve and protect public health.

#### **Submission**

*Plan Change 48, Future Urban and Rural Residential Yards for Habitable Buildings*

▫ Issue 1 – Unintended opportunity to use the written approval rule to avoid obtaining resource consents for dwellings and other habitable buildings

Toi Te Ora supports Council's intention for dwellings and other habitable buildings to be sited at least five metres from a site boundary. Safeguarding amenity values is important for the protection of public health. No dwelling should be overshadowed by a neighbour. The proposed changes will add to the amenity of an area, and add to individual and community health and wellbeing.

Decision sought: that Council adopts option 2 and amend performance standards 15.4.1(c) and 16.4.1(c) to make dwellings, minor dwellings, accommodation facilities and education facilities not complying with the five metre yard a restricted discretionary activity.

①  
⑥



*Plan Change 56, Frost Protection fans – Height and Cumulative Noise*

▪ Issue 1 – Permitted Height

The inconsistency in height between the permitted and controlled activity performance standards of nine metres and 15 metres respectively is acknowledged and the technical changes proposed for Issue 1 are supported. (2)

▪ Issue 2 – Cumulative Noise

Issue 2 recognises a potential for the combined noise from frost fans in close proximity to each other to cause a nuisance to health. The proposed changes require an assessment of cumulative noise from all frost protection fans in the locality before a land owner is allowed to install an additional frost fan. This proposal is supported in part. The benefits identified in the section 32 report highlight the need for more accurate assessment of potential noise effects as the presence of other fans in close proximity to a proposed new fan has the potential to exceed controlled activity standards. While I support the proposed changes, I consider they do not go far enough to protect public health from frost fan noise. The district plan enables a frost fan to be erected as a permitted activity when the rural performance standards for noise are met. Frost fans could continue to be erected without an assessment to determine whether a new stand-alone fan or in combination with other fans is a controlled activity requiring an assessment of cumulative noise. Council needs to consider retaining involvement with frost fan land use to ensure that the single sound level performance standards for permitted noise are maintained for the protection of public health. (3)

Decision sought: that Council adopts the proposed plan change 56 and adds a rule to require an assessment of cumulative noise for new frost fans.

*Plan Change 60, Definition of Cleanfill*

Local authorities have responsibilities for reducing conditions within their district which are likely to cause disease or be injurious to health. Improperly disposed waste can lead to public health risk, eg by encouraging vermin which carry disease, create odour or contaminate land and water. A recent rural waste survey<sup>1</sup> conducted by Waikato and Bay of Plenty Regional Councils identifies rural waste streams of concern and highlights the potential environmental risk of rural waste disposal activities. The proposal to include a definition of cleanfill in the district plan is supported. Such a definition will raise awareness of what solid waste may be disposed on private land and provide an opportunity for Council to improve the management of rural waste. (4)

Decision sought: that Council includes a definition of 'Cleanfill' in Section 3 – Definitions of the District Plan.

*Plan Change 61, Parking Provisions for Dwellings in Town Centres*

Existing parking requirements are based on the demand for free parking at the peak hour of each individual site. This creates an oversupply and fails to recognise the value of land used for car parks. It also reduces the availability of land and thus drives up the price of urban land available for productive uses (residential, commercial and retail) and distributes the costs of "free parking" throughout the economy. Minimum parking requirements undermine sustainable development by inhibiting compact growth and subsidising single-occupant vehicle trips. This is at odds with multiple objectives and actions of the Western Bay of Plenty sub region SmartGrowth strategy. (5)

It is suggested that Council consider a fourth option which is to remove minimum parking requirements in town centres and explore other responses to parking management. Council

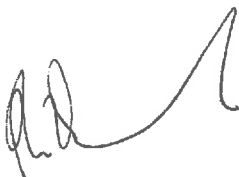
<sup>1</sup> Rural Waste Surveys Data analysis, Waikato and Bay of Plenty Regional Councils, July 2014:

should also ensure this activity is complemented by public education on the hidden costs of providing minimum and free parking.

Decision sought: that Council

- amend proposed plan change 61 to remove minimum parking requirements in town centres and;
- identifies other suitable responses to parking management.

I do not wish to be heard in support of this submission.



**Dr Phil Shoemack**  
Medical Officer of Health

**Address for Service**

Dr Phil Shoemack  
Toi Te Ora - Public Health Service  
PO Box 2120  
TAURANGA 3140

Phone: 07 577 3770

Fax: 07 578 0883

Email: [phil.shoemack@bopdhb.govt.nz](mailto:phil.shoemack@bopdhb.govt.nz)

**SUBMISSION ON DISTRICT PLAN CHANGES 48, 56 AND 67 TO THE WESTERN BAY OF PLENTY DISTRICT PLAN**

**TO:** The Western Bay of Plenty District Council

**SUBMISSION ON:** District Plan Changes 48, 56 and 67 to the Western Bay of Plenty District Plan

**NAME:** Horticulture New Zealand and NZ Kiwifruit Growers Inc (NZKGI)

**ADDRESS:** PO Box 10 232  
WELLINGTON

**1. Horticulture New Zealand and NZKGI's submission, and the decisions sought, are detailed in the attached schedules:**

Schedule 1: Plan Change 56 Frost Protection Fans – Height and Cumulative Noise  
Schedule 2: Plan Change 48 Future Urban and Rural Residential Yards for habitable buildings  
Schedule 3: Plan Change 67 Rural Contractors Depots – setbacks for sensitive activities

1.1 Horticulture New Zealand acts as an 'umbrella' organisation for 22 affiliated Product Groups. The chairs and managers of these Product Groups meet regularly with Horticulture New Zealand to discuss national representation of the industry on issues like resource management planning, biosecurity protection and labour needs. In terms of this submission, particular consultation has occurred with NZ Kiwifruit Growers Incorporated being an industry body representing kiwifruit growers and seeking to ensure the ongoing viability of the industry. The kiwifruit sector is an extremely important sector in the Western Bay of Plenty. NZ Kiwifruit Growers Incorporated was involved in the development of the Western Bay of Plenty District Plan in conjunction with Horticulture New Zealand.

**2. Horticulture New Zealand and NZKGI wish to be heard in support of this submission.**

**3. Background to Horticulture New Zealand and its RMA involvement:**

3.1 Horticulture New Zealand was established on 1 December 2005, combining the New Zealand Vegetable and Potato Growers' and New Zealand Fruitgrowers' and New Zealand Berryfruit Growers Federations.

3.2 On behalf of its 5,454 active grower members Horticulture New Zealand takes a detailed involvement in resource management planning processes as part of its National Environmental Policies. Horticulture New Zealand works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications. The principles that Horticulture New Zealand considers in assessing the implementation of the Resource Management Act 1991 (RMA) include:

- The effects based purpose of the Resource Management Act,
- Non-regulatory methods should be employed by councils;

- Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
- Early consultation of land users in plan preparation;
- Ensuring that RMA plans work in the growers interests both in an environmental and sustainable economic production sense.

#### 4. Trade Competition

Pursuant to Schedule 1 of the Resource Management Act Horticulture NZ and NZKGI are not bodies that could gain an advantage in trade competition through this submission.

Thank you for the opportunity to submit on the District Plan Changes 48, 56 and 67 to the Western Bay of Plenty District Plan.



**Chris Keenan**  
**Manager – Resource Management and Environment**  
**Horticulture New Zealand**

Dated: 12 December 2014

Address for service:

Chris Keenan  
Manager – Resource Management and Environment  
Horticulture New Zealand  
PO Box 10-232 WELLINGTON

Tel: 64 4 472 3795

DDI: 64 4 470 5669

Fax: 64 4 471 2861

Email: [chris.keenan@hortnz.co.nz](mailto:chris.keenan@hortnz.co.nz)

## SCHEDULE 1: Plan Change 56 Frost Protection Fans – Height and Cumulative Noise

### 1.1 Issue 1 – Permitted Height

Issue 1 in the Section 32 report for Plan Change 56 Frost Protection Fans – Height and Cumulative Noise, describes an anomaly in the District Plan concerning the maximum height of structures in the Rural Zone.

The permitted height standard for structures within the Rural Zone is 9 metres which is less than the height of frost protection fans. This by default causes all frost protection fans to be a restricted discretionary activity requiring resource consent.

The controlled activity height standard for frost protection fans is 15 metres. The effect of the current rule framework is to require otherwise complying frost fans to unnecessarily require resource consent for the non-complying height.

The Section 32 assessment reaches the recommendation that the Rule 18.4.1(a) Height of Buildings should be amended to provide an exemption for frost protection fans as follows:

Amend Rule 18.4.1(a) as follows:

(a) Height of Buildings

Maximum – 9m excluding frost protection fans which shall be a maximum of 15m inclusive of blades.

Delete Rule 4C.1.3.7 (b) Frost Protection Fans – Performance Standard for Controlled Activity – Height of Frost Fans.

~~(b) The overall height for the fan including the fan blade shall not exceed 15m.~~

Horticulture New Zealand supports the change for the reason stated in the section 32 report:

*“The change to the permitted height for frost protection fans in the Rural Zone overcomes an inconsistency in heights between the permitted and controlled activity performance standards and avoids the situation where a frost protection fan that meets all other standards will default to a restricted discretionary activity. The increase to 15m for frost protection fans recognises these structures are legitimate rural horticultural practices which should be provided for as permitted activities.”*

#### Decision sought:

Amend Rule 18.4.1(a) as follows:

(a) Height of Buildings

Maximum – 9m excluding frost protection fans which shall be a maximum of 15m inclusive of blades.



## 1.2 Issue 2 – Cumulative Noise

Issue 2 in the Section 32 report for Plan Change 56 Frost Protection Fans – Height and Cumulative Noise, describes an issue with the controlled activity noise standards for frost protection fans failing to account for the cumulative effects of multiple fans close to a dwelling.

2

The controlled activity performance standards require that noise from the operation of frost protection fans shall not exceed 55dBA Leq and 65dBA Lmax at any point within the notional boundary of any dwelling in a Rural or Lifestyle Zone (excluding a residential dwelling on the same property on upon which the fan is operating). Where a fan does not meet these controlled activity performance standards it is deemed a restricted discretionary activity.

The section 32 states that the presence of other fans in close proximity to a proposed fan has the potential to cause a fan that meets the controlled activity performance standards operation alone, to exceed the controlled activity standards when considered with other fans in the locality. A change is proposed to Rule 4C.1.3.7(a) to state that:

the noise from the operation of frost protection fans (either stand-alone or in combination with other frost protection fans in close proximity to a receiving site) shall not exceed 55dBA Leq and 65dBA Lmax at any point within the notional boundary of any dwelling in a Rural or Lifestyle Zone.

While Horticulture New Zealand understands the cumulative effect issue the approach proposed is not the most effective or efficient and the effects of the change are far more significant than stated in the section 32. Furthermore, the effects are such that consultation undertaken by Council in the promulgation of Plan Change 56 is deficient and this part of the Plan Change should be withdrawn. We restate section 3 of the Section 32 report:

*“Due to the minor and technical nature of this proposed change there has been no specific consultation with the public.*

*Council engaged with the surveying and planning community in the Western Bay of Plenty and Tauranga area via the “Surveyors Newsletter.”*

There has been no consultation with the horticultural sector who are most affected by the Plan Change. The change proposed is not minor in nature and will impact on the horticultural sector and create uncertainty for growers in carrying out their activities.

It is the submitter’s opinion that consideration of cumulative effects should be undertaken in an assessment of a controlled activity application. However, defining a cumulative total noise limit at a notional boundary as a rule is not a reasonable approach.

The rule is unfair, unworkable and impossible to enforce.

How is the measurement to be undertaken?

How can the applicant be responsible for the compliance of other landowner’s frost protection fans?

A well maintained and operated frost protection fan will operate well below 55dBA, yet a poorly positioned and maintained fan may remove any 'capacity' for additional fans in an environment.

Compliance will ultimately depend on who turns their fan on first in a frost situation.

There is no evidence put forward in the section 32 that this is an issue requiring the approach recommended by the Western Bay District Council.

There is no account for section 16 of the RMA "Duty to avoid unreasonable noise".

**Decision sought:**

That amendments proposed to Rule 4C.1.3.7(a) and Rule 4C.1.3.7 are opposed and this part of Plan Change 56 should be withdrawn.

**1.3 Issue 2 – Matters of Control**

Issue 2 in the Section 32 report for Plan Change 56 Frost Protection Fans – Height and Cumulative Noise, describes a drafting issue whereby the matters of control listed for frost protection fans that are deemed controlled activity, do not align with the controlled activity performance standards. 3

Horticulture New Zealand agrees that not specifying relevant matters of control creates uncertainty for the applicant and raises issues for the vires of any condition on a consent which seeks to control matters other than those currently listed in the rule.

The performance standards for frost protection fans as deemed controlled activities is set out in Rule 4C.1.3.7 of the District Plan as follows:

- a) *Noise from the operation of frost protection fans shall not exceed 55dBA Leq and 65dBA Lmax at any point within the notional boundary of any dwelling in a Rural or Lifestyle Zone (excluding a residential dwelling on the same property on upon which the fan is operating) nor at any point within the boundary of any property within a Residential, Rural-Residential or Future Urban Zone.*
- b) *The overall height for the fan including the fan blade shall not exceed 15m.*
- c) *When the frost protection fan is in operation for frost protection the frost protection fan must not start up until the air at canopy height drops to 2°C, and shall cease operation when the rising temperature reaches 4°C at canopy height.*
- d) *When the frost protection fan is operating for maintenance purposes the machine shall only be used from Monday to Friday 8am to 5pm.*

The current matters of control are specified in Rule 4C.1.4.1 as:

*Without limitation, Council will assess the proposed model of fan(s), location(s), possible alternatives, and any proposed noise mitigation measures.*



The recommendation of the section 32 report is include specific matters of control that relate to points a) to d) above as follows:

(a) Council shall exercise control over the following:

- (i) The noise level that is permitted to be emitted from the frost protection fan;
- (ii) The operational requirements of the frost protection fan;
- (iii) The operation of the frost protection fan for maintenance purposes;
- (iv) The hours of operation and times when the fan is permitted to operate.

Horticulture New Zealand supports the change for the reason stated in the section 32 report:

*"Amending the rule to include more relevant matters will allow Council to better control the potential effects of the frost protection fans through the resource consent process."*

**Decision sought:**

Amend Rule 4C.1.4.1, Matters of Control - Frost Protection Fans, as follows;

~~*Without limitation, Council will assess the proposed model of fan(s), location(s), possible alternatives, and any proposed noise mitigation measures.*~~

(a) Council shall exercise control over the following:

- (i) The noise level that is permitted to be emitted from the frost protection fan;
- (ii) The operational requirements of the frost protection fan;
- (iii) The operation of the frost protection fan for maintenance purposes;
- (iv) The hours of operation and times when the fan is permitted to operate.

## SCHEDULE 2: Plan Change 48 Future Urban and Rural Residential Yards for habitable buildings

The Plan Change seeks to ensure that habitable buildings in the Future Urban and Rural Residential Zones are not located closer than 5m to the boundary unless resource consent is obtained.

The yard setback for dwellings in the Rural Zone is 30 metres. It is considered that a habitable building on the boundary with the Rural Zone should be 30 metres so the same setbacks provisions apply to protect the rural production activities in both the Rural Zone and adjoining zones.

### Decision sought:

Amend Standard 15.4.1 c) by adding

- i) Dwellings, minor dwellings, accommodation facilities, education facilities - 5 m minimum
- ii) Where Dwellings, minor dwellings, accommodation facilities, educations facilities are located on the boundary of the Rural Zone – 30m minimum
- iii) All other Structures – 5m minimum

Provided that: such other structures may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

### 15.3.3 Restricted Discretionary Activities

X ) Any Dwelling, minor dwelling, accommodation facility, or education facility that fails to comply with the performance standard 15.4.1.c) i) or ii)

Amend Standard 16.4.1 c)

- i) Dwellings, minor dwellings, accommodation facilities, educations facilities 5 m minimum
- ii) Where Dwellings, minor dwellings, accommodation facilities, educations facilities are located on the boundary of the Rural Zone – 30m minimum
- iii) All other Structures – 5m minimum

Provided that: such other structures may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

### 16.3.3 Restricted Discretionary Activities

X ) Any Dwelling, minor dwelling, accommodation facility, or education facility that fails to comply with the performance standard 16.4.1.c) i) or ii)

4

5

**Schedule 3: Plan Change 67 Rural Contractors Depots – setbacks for sensitive activities**

Plan Change 67 establishes a setback for sensitive activities from rural contractors depots.

The setback only applies to sensitive activities in the Rural Zone. Should a rural contractors yard be established on the boundary of the Rural Zone then the setback should also apply to sensitive activities on the adjoining zone boundary.

6

**Decision Sought:**

Amend Future Urban and Rural Residential Zone setback provisions to apply the setbacks of 30m from rural contractor depots where they are located adjoining the boundary with the Rural Zone.

IN THE MATTER OF: The Resource Management Act  
1991

AND

IN THE MATTER OF: Plan Changes 52 and 53 to the  
Western Bay of Plenty District Plan

---

**SUBMISSION BY D155 LIMITED**

To: Western Bay of Plenty District Council

Name of Submitter: D155 Limited

Address for Service: c/- Aurecon  
PO Box 2292  
TAURANGA  
Attention: Aaron Collier

Our submission is as follows:

1. We support the use of protection lots as a mechanism under the District Plan to protect and enhance ecological areas and features in the District, particularly adjacent to Tauranga Harbour through the creation of onsite and transferable subdivision rights. ①
2. Under Plan Change 52 and 53, we oppose the use of protection lots being restricted to just those features as identified in the District Plan. The reason for our submission is that the Plan does not schedule all features of significance to the community within the District and a more flexible approach is required. We seek that more enabling provisions be included to provide for features regardless of whether these are currently scheduled in the plan or not (including heritage features). We consider that the Plan should provide for protection lots in exchange for the setting aside of large areas of land which may be of significant community benefit but which may not necessarily be vested as a reserve. ②  
⑦

3. As part of the settlement for the appeal ENV-2013-AKL-000128 (D155 Limited v Western Bay of Plenty District Council relating to Plan Change 39 protection lots) it was agreed that the minimum size criteria for gaining a protection lot (500m for esplanade reserves and 0.5ha for other reserves) needed to be reviewed. This was to ensure that the provisions were not overly restrictive such that they were not practicable and workable, and would not achieve the outcomes supported by the objectives and policies of the plan as well as Section 6 (d) of the RMA. On the basis of the s.32 analysis for Plan Change 52 and 53, we do not consider that this has been reassessed. We consider that the standards proposed by Plan Change 52 and 53 are inappropriate and that further consideration needs to be given to introducing workable standards to replace these minimum sizes. Without such changes, the rule framework will not achieve the Plans Objectives. We also consider that the strategic value of the reserves in question should be assessed, rather than just length or width attributes and that the consideration in terms of sites should not be restricted solely to those in Appendix 4A of the Plan. ③
4. D155 Limited were advised as part of their appeal settlement that Council had approved the investigation of a plan change to allow protection lots for reversing reclamations around the Tauranga Harbour. This project was to look at the extent of the opportunities available and implications if protection lots were offered as an incentive for conversion. This plan change investigation was scheduled to occur in time for notification of a plan change by mid-2014 but was not incorporated in Plan Changes 52 and 52 and has obviously been delayed. Given the definition of land and water under Section 2 of the RMA we seek that the references to "above MWHS" in relation to riparian margins and wetlands should be deleted from the "feature type table" to allow for the protection and enhancement of such features in the District, particularly where they are located adjacent to the harbour and can be enhanced to qualify for a protection lot. We consider that this can be done as part of the current Plan Change 52 and 53 process. Much of the coastal margin and environment around Tauranga, and its rivers and streams is highly modified and degraded and the Plan should incentivise and encourage restoration and enhancement of features in exchange for the creation of protection lots. The current rules are inadequate in incentivising ecological restoration and enhancement and as a result the quality of the environment remains degraded particularly along riparian margins and around Tauranga Harbour which is contrary to the Bay of Plenty Regional Policy Statement and the NZ Coastal Policy Statement. ④
5. The Plan Changes require a certification process for features already scheduled in the District Plan. Given the Plan scheduling and assessment process, this is unnecessary. We seek that the provisions are simplified and changed to instead focus on ongoing management measures and maintenance requirements to be recommended at resource consent stage. The significance of these features has already been identified and assessed as part of the District Plan process. ⑤

6. We oppose the advice note in the Plan changes in relation to the matter of compensation under s.237(E) of the RMA. The District Plan cannot contain a rule which overrides the obligations of s.237 of the RMA

⑥

**Decision Sought:**

7. The decision sought from the local authority is that the plan change be approved, with:
- (a) amendments to address the submitters concerns set out above.
  - (b) such further other orders, relief or other consequential amendments as considered appropriate and necessary to address the concerns set out above.
8. We wish to be heard in support of this submission.
9. If others make a similar submission, we are prepared to consider presenting a joint case with them at any hearing.



Aaron Collier

12 December 2014

**Address for Service:**

D155 Limited  
C/: Aurecon Limited  
PO Box 2292  
Tauranga  
Attention: A.M Collier

IN THE MATTER OF: The Resource Management Act  
1991

AND

IN THE MATTER OF: Plan Changes 52, 53, 59, 55, 48,  
and 54 to the Western Bay of Plenty  
District Plan

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**SUBMISSION BY AURECON TAURANGA**

To: Western Bay of Plenty District Council

Name of Submitter: Aurecon (Tauranga)

Address for Service: c/- Aurecon  
PO Box 2292  
TAURANGA  
Attention: Aaron Collier

Our submission is as follows:

**1. Plan Change 54 – Boundary Adjustments – Rural Zone**

The plan change is based on the fact that there are two minimum lot sizes. This is not the case. For example the District Plan provides for lots around additional dwellings and protection lots (which are not 6ha or 40ha as a minimum) and no lot sizes exist for utilities. It is unclear from the s.32 analysis as to what exactly the plan change is trying to achieve, whether there has been an existing problem which justifies a change and what the benefits and efficiencies of the Plan Change would be. We consider that the plan change is potentially unnecessary given that the District has always adopted the philosophy that boundary adjustments of existing titles can proceed to allow the rationalisation of boundaries in so long as the outcome produces no further non-compliance if lots were created under a specific rule like that for rural production lots. What is relevant is the rule under which the lot was created in the first instance and perhaps that is what should be considered and noted in the change proposed.



2. **Plan Change 48** – Future Urban and Rural Residential yards

The Plan change is generally supported, however the yard rule needs to be drafted in a manner consistent with the rural yard rule to avoid confusion around dwellings and buildings and to ensure that the variation criteria also applies to 15.4.1(c).

Rule 15.4.1(c)(ii) should be amended to refer to ...a building (*including dwellings*) may be located..... This will clarify that dwellings are also subject to the “provided that” variation criteria in the rule. Unlike the rural zone, there are no reverse sensitivity or productive land issues in the rural residential zone which prohibit the adoption of variation criteria for dwelling yard requirements as this is effectively a privacy matter between neighbours which should not involve Council.

3. **Plan Change 55** - Multiple Buildings

We oppose the adoption of a combined Gross Floor area of 200m<sup>2</sup> for all accessory buildings as it is unclear from the s.32 analysis whether there has been an existing problem which justifies a change and why the change is therefore needed. How the rule will be enforced and monitored is also problematic. The rule must also be for a resource management purpose.

In our experience sheds, barns and outbuildings which are all captured under this rule are more in keeping with rural character and amenity (by their very nature as rural buildings) than modern dwellings and the Council is not yet to restrict the size of dwellings. It is considered that there is no existing problem identified with current rules and any evidence existing of cumulative effects of large numbers of multiple buildings being established on titles which would justify such a restriction. For this reason we seek that the plan change is withdrawn.

4. **Plan Change 59** – Soils Engineers Definition.

We support in part the definition, however the Councils current practice as outlined in the Development Code has been to accept and adopt the TCC accredited soils engineer (Category 1&2 Geotechnical Engineer classification) system developed and implemented by Tauranga City Council and adopted by Western Bay of Plenty District Council many years ago to reduce risk to Council. Accreditation can only be achieved through long serving practice and expert knowledge of soils and ground conditions in the District/s. Certification is granted following an interview process before a panel of experts. It is critically important that the high standard currently in place is upheld and that the definition includes a cross reference to this accredited Category 1 certification process. We seek that the definition be specifically amended to refer to “accredited” and the Category 1&2 geotechnical engineers qualifying under the definition. Alternatively adopt the wording from the Tauranga City IDC is appropriate.



**Decision sought**

The decision sought is that the plan changes be approved (with the exception of plan change 55 which should be withdrawn) with:

- (a) amendments to address the submitters concerns set out above.
- (b) such further other orders, relief or other consequential amendments as considered appropriate and necessary to address the concerns set out above.

We wish to be heard in support of this submission.

If others make a similar submission, we are prepared to consider presenting a joint case with them at any hearing.



Aaron Collier

12 December 2014

**Address for Service:**

Aurecon Tauranga  
PO Box 2292  
Tauranga  
Attention: A.M Collier