

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan - Stage 1

Hearing 23: Rangitahi Peninsula Zone

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Date: 2 November 2020



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List of submitters and further submitters addressed in this report

Original Submitter	Submission number
Federated Farmers of New Zealand	680
Fire and Emergency New Zealand	378
Heritage New Zealand Lower Northern Office	559
Housing New Zealand Corporation	749
Greig Metcalfe	602
Ministry of Education	781
Raglan Naturally	831
Rangitahi Limited	343
Troy Fell	454
Waikato District Council	697
Waikato District Health Board	923
Waikato Regional Council	81

Further Submitter	Submission number
<i>Federated Farmers</i>	<i>FS1342</i>
<i>Mercury NZ Limited for Mercury D and E</i>	<i>FS1387 FS1388</i>
<i>Pareoranga Te Kata</i>	<i>FS1035</i>
<i>Rangitahi Limited</i>	<i>FS1208</i>

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

I Introduction

I.1 Qualifications and experience

1. My full name is Chloe Trenouth. I am a Director (Planner) at Hill Young Cooper Ltd. I have been in this position since April 2016. I have been employed at Hill Young Cooper Ltd since July 2012.
2. I hold the qualification of Bachelor of Planning from the University of Auckland and am a full member of the New Zealand Planning Institute.
3. I have been employed in planning roles in private consultancy, central government and local government for over 20 years. My relevant experience to this hearing includes being the s42A reporting planner on the Ohinewai Rezoning requests (Hearing 19). I am also preparing the s42A report for rezoning requests at Tuakau. I was the lead planner for the hearings process on the urban growth regional policy statement provisions of the Auckland Unitary Plan, on behalf of Auckland Council. I was an expert planning witness for several appeals to the Environment Court on the Rural Urban Boundary location in the Auckland Unitary Plan, and non-complying subdivision in the Future Urban Zone.
4. I have also prepared and processed a number of district plan changes and been involved in planning for greenfields areas within Auckland including Takanini, Whenuapai, Warkworth and Drury South.

I.2 Code of Conduct

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

I.3 Conflict of Interest

7. I, as well as other Hill Young Cooper Ltd staff, have had no prior involvement in the preparation of the Proposed Waikato District Plan (PWDP) or any submissions on the PWDP. I confirm that I have no real or perceived conflict of interest.

I.4 Preparation of this report

8. The scope of my evidence relates to evaluation of submissions and further submissions received in relation to the provisions related to Rangitahi Peninsula Zone.
9. I am the author of this s42A report. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2 Scope of Report

2.1 Matters addressed by this report

10. This report is prepared in accordance with section 42A of the RMA. This report considers submissions that were received by the Council in relation to the provisions that specifically relate to the Rangitahi Peninsula Zone. Provisions relating to management of the Rangitahi Peninsula Zone include objectives, policies, and rules for activities, buildings, effects and subdivision.

2.2 Overview of the topic

11. The Rangitahi Peninsula Zone is identified as a Specific Zone in Chapter 9 of the PWDP, with specific objectives and policies in Section 9.3 and a set of plan provisions in Chapter 28. It is a standalone zone that does not apply anywhere else in the District. There are also some Rangitahi-specific definitions in Chapter 13 Definitions. The Rangitahi Peninsula Zone was originally included in the Operative Waikato District Plan – Waikato Section as a private plan change (PC12) to enable a comprehensively-planned and designed residential neighbourhood with capacity for 500 dwellings.
12. Rangitahi Peninsula is located on the Raglan harbour, southwest of the existing Raglan township at the southern end of Oporu Road. With a total area of 117 hectares, parts of the peninsula have been subdivided and are currently under development. A causeway and bridge to provide access to the peninsula from Oporu Road and roads and services have been constructed for the first stage of development.
13. The Section 32 Report (s32 report) identifies that the Rangitahi Peninsula Structure Plan is included as Chapter 15B of the Operative Waikato District Plan, and sets out the issue, objectives, policies and methods of implementation. The Structure Plan also contains maps which indicate where land uses (such as development precincts, residential, retail/mixed-use, reserves, and the Balance lot (farm management)) are to be located, the location and type of open space networks, proposed roading networks, and detailed guidance as to the design of roads and neighbourhoods/precincts within the Structure Plan area.
14. The provisions for the Rangitahi Peninsula Structure Plan were introduced to recognise and protect particular attributes of Raglan and its seaside village character, coastal and other environmental elements specific to the Rangitahi Peninsula. The rules were designed to accommodate the future growth of Raglan whilst avoiding, remedying or mitigating adverse effects on the environment. In particular, the rules were designed to ensure that natural values of the coastline can be protected, and to ensure extensive open spaces between developed areas to achieve a high quality environment, whilst enabling development in the area to accommodate an expected modest increase in population in Raglan.
15. The PWDP seeks to largely roll over the operative plan in its provisions for the Rangitahi Structure Plan. However, additional plan provisions are proposed to address the fact that the Comprehensive Development Plan process previously relied upon is *ultra vires*, therefore is not an appropriate method to implement the structure plan.
16. Approximately 500 residential lots are enabled by the Rangitahi Peninsula Zone, as well as a variety of other uses such as commercial and community uses. There are seven 'precincts' to be developed in the Structure Plan area. Each precinct is physically separated from the others by areas which will be retained as farmland or as open space. The precincts will be connected to each other by a walking/cycling and transport network.

17. Precinct 'A' was granted resource consent in March 2017, for subdivision of 96 single dwelling lots, three mixed use lots, one comprehensive residential development lot, one commercial lot, one recreation reserve, and two drainage reserves, along with walkways, cycleways, accessways and roads to vest.
18. Subdivision consent for Precincts B and D were granted in April 2018 for a further 175 lots, including five large lots within Precinct D for future integrated developments centred around a community recreation reserve.

2.3 Statutory requirements

19. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019, paragraphs 18-32.) The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45). The following sections identify statutory documents with particular relevance to this report.
20. The relevant statutory requirements were addressed in the s32 report and any recommended amendments are required to address these accordingly. In addition, the following new statutory documents have been adopted since the s32 report:
 - a. National Policy Statement for Urban Development (2020)
 - b. National Statement for Freshwater Management (2020)
 - c. National Environmental Standards for Freshwater Management (2020)
21. The New Zealand Coastal Policy Statement (NZCPS) is relevant to this topic because the Rangitahi Peninsula is within the coastal environment. Development of the peninsula has already been determined to give effect to the NZCPS through the original plan change process. The NZCPS policies of relevance to this topic are Policy 6 enabling activities in the coastal environment, and Policy 11 protecting indigenous biological diversity.
22. Relevant provisions of the Waikato Regional Policy Statement (RPS) include Objective 3.7 and 3.12 and policies are listed in Appendix 2 of the s32 report. I also consider Objective 3.19 Ecological integrity and indigenous biodiversity and policies in Chapter 11 to be relevant because Significant Natural Areas are mapped within the peninsula.
23. Waikato 2070 was adopted in May 2020 and identifies the development plan for Raglan over the next 50 years. The Rangitahi Peninsula is identified for residential growth within the first decade. This is consistent with the earlier Waikato District Development Strategy.
24. The s32 report for the PDWP evaluated the proposed objectives, including assessment against relevant statutory documents. I rely on this assessment and refer to relevant statutory documents where amendments are recommended.
25. The National Planning Standards seek to provide a standard format for district plans across New Zealand. The Hearings Panel has indicated that it wishes to adopt National Planning Standards approaches where possible during the current hearings. This report relies on the National Planning Standards defined terms (14 – Definitions) that were recommended for adoption in Hearing 5.
26. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules or other methods) of the proposal to be examined for their efficiency, effectiveness and risk.

Section 32 reports were published when the PWDP was notified in 2018. This report updates that earlier analysis in “section 32AA evaluations” where material changes to the plan are recommended.

2.4 Procedural matters

27. Submissions from Gabrielle Parson on behalf of Raglan Naturally [831] were received late on 16 October 2018. The submissions represent the views of the community as identified through the recent review of Raglan Naturally community consultation process, which was completed around the time submissions closed. I have considered this submission, and I understand that the Hearings Panel has previously determined to accept this late submission.
28. I liaised with Mr Ben Inger the planner for Rangitahi Ltd to discuss its submission and recommended amendments to the provisions. The amendments recommended are agreed with the submitter, but there are also some additional amendments sought by the submitter to be addressed in evidence.

3 Consideration of submissions received

3.1 Overview of submissions

29. There are 12 submitters making 47 individual submission points. Almost half of the submission points are from Rangitahi Limited, which is the landowner/developer.
30. Submissions by Rangitahi Limited generally seek minor amendments to provide consistency with operative provisions, additional clarity, and flexibility, including where subdivision consents have been approved.
31. Other submissions cover a wide range of issues - mostly individual submission points seeking retention of, or minor amendment to, specific provisions.
32. The following matters raised in previous hearings are relevant to the matters discussed in this report:
 - a. There are no Maaori Sites of Significance scheduled at Rangitahi Peninsula, therefore in Hearing 20 it was recommended to delete Rule 28.2.4.2 Earthworks – Maaori Sites and Maaori Areas of Significance.
 - b. Submissions relating to real estate signs were addressed in the relevant zones, i.e. Residential Zone in Hearing 10.
 - c. Definitions specific to Rangitahi Peninsula were not addressed in Hearing 5.
 - d. Relocation of impervious surfaces rules from Chapter 14 Infrastructure to relevant zones in Hearing 22.
 - e. Significant Natural Areas management policy and Rangitahi rules in Hearing 21A.

3.2 Further submissions

30. There are 11 further submissions that will be addressed within this report. These generally oppose or support primary submissions points within the main issues identified above.

3.3 Structure of this report

33. I have structured this report to reflect the submissions received, starting with the Chapter 9 objectives and policies. The report then considers submissions on definitions, and then the

rules in Chapter 28 in the order that they appear in the PWDP. The report contains these sections:

- 4 Retain objectives and policies
- 5 Objective and Policies - Development
- 6 Objective and Policies – Non-residential Activities
- 7 Objective and Policies – Natural Features
- 8 Policy 9.3.5.4 – Secondary Access
- 9 Definitions
- 10 Rule 28.1.1 Permitted Activities
- 11 Rule 28.1.3 Restricted Discretionary Activities
- 12 Rule 28.2.1.2 Noise
- 13 Rule 28.2.4.3 Earthworks
- 14 Rule 28.2.6 Signs
- 15 Rule 28.2.8 Significant Natural Areas
- 16 Rule 28.3 Land use – Building
- 17 Rule 28.4 Subdivision
- 18 Conclusion
- Appendix 1 Table of submission points
- Appendix 2: Recommended amendments
- Appendix 3 Provisions cascade.

3.4 Amendments to plan text

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

4. Retain objectives and policies

4.1 Introduction

35. Section 9.3 in Chapter 9 of the PWDP contains the objectives and policies that specifically relate to the Rangitahi Peninsula Zone.

4.2 Submissions

31. Five submission points were received supporting the objectives and policies as notified or seeking retention of specific objectives and policies.
32. These submissions were made:

Submission point	Submitter	Decision requested
454.2	Troy Fell	Retain Chapter 9.3 Rangitahi Peninsula.
559.282	Heritage New Zealand	Retain Objective 9.3.4 Heritage.
831.34	Raglan Naturally	Retain and strengthen Policy 9.3.4.1 Cultural and historic sites of significance, to celebrate and protect archaeological sites.
559.283	Heritage New Zealand	Retain Policy 9.3.4.1 Cultural and historic sites of significance.
559.284	Heritage New Zealand	Retain Policy 9.3.4.2 Heritage protection.

4.3 Analysis

33. The submission points seek that the objectives and policies in Chapter 9.3 be retained. **Troy Fell [454.2]** supports the retention of all objectives and policies for the Rangitahi Peninsula. **Heritage New Zealand [559.282-284]** specifically supports objectives and policies for heritage, to protect archaeological sites.
34. **Raglan Naturally [831.34]** seeks to retain and strengthen Policy 9.3.4.1 to celebrate and protect archaeological sites, so as to enhance understanding of our history. However, no suggested wording is recommended or indication of how the policy should be strengthened.
35. Objective 9.3.4 and Policies 9.3.4.1 and 9.3.4.2 address the retention of cultural and historic heritage on the Rangitahi Peninsula. The provisions roll over the provisions of the Operative District Plan – Waikato Section (Operative Plan).
36. I support the retention of the objectives and policies for heritage as notified, because they carry over the operative provisions determined through PCI2 and are appropriate.

4.4 Recommendations

36. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Heritage New Zealand [559.282 to 284] and accept in part Raglan Naturally [831.34]: to retain the objective and policies for heritage
 - (b) **Accept in part** Troy Fell [454.2]: to the extent that the objectives and policies in Chapter 9.3 are retained with amendments under other submissions.

4.5 Recommended amendments

37. No amendments are recommended.

5 Objective and Policies – Development

5.1 Introduction

38. Section 9.3.1 of the PWDP contains the objectives and policies that relate to development in the Rangitahi Peninsula Zone.

5.2 Submissions

39. One submission point was received on the topic of development, seeking a minor amendment to the wording of Policy 9.3.1.1.
40. The following submission was made:

Submission point	Submitter	Decision requested
343.3	Rangitahi Limited	Retain Policy 9.3.1.1 Development, except for the amendments sought below AND Amend Policy 9.3.1.1 Development to include "physical characteristics." AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.

5.3 Analysis

41. **Rangitahi Limited [343.3]** supports Policy 9.3.1.1(b), subject to a minor amendment to ensure that development may also need to respond to 'physical' characteristics or constraints such as poor ground or soil conditions. The submitter identifies that Policy 9.3.1.1(b) as notified provides for some flexibility, in that the policy allows for subdivision layouts to respond to natural characteristics.
42. The proposed policy is not rolled over from the operative plan. Policy 9.1.1.1(b) was introduced to provide a certain amount of variance to the structure plan to provide flexibility. The s32 report identifies that without the Comprehensive Development Plan stage, the degree to which the development is consistent with the structure plan will be more important. Therefore, the proposed policy establishes some basis for diverging from the structure plan.
43. I agree that Policy 9.3.1.1(b) provides for some flexibility while ensuring that development is consistent with the Rangitahi Structure Plan. The term 'natural characteristics' already addresses the potential ground or soil conditions, in my opinion. The Oxford dictionary defines 'natural' as meaning existing in or derived from nature. I do not consider the amendments to be needed, as sufficient flexibility exists within the notified policy. I have discussed this with the submitter and understand that this issue will not be pursued.

5.4 Recommendations

44. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept in part** Rangitahi Limited [343.3]: to the extent that Policy 9.3.1.1(b) is retained and provides flexibility for considering natural constraints.

5.5 Recommended amendments

45. No amendments are recommended.

6 Objectives and Policies - Non-Residential Activities

6.1 Introduction

46. Section 9.3.2 of the PWDP contains objectives and policies which relate to non-residential activities within the Rangitahi Peninsula Zone.

6.2 Submissions

47. Four submission points were received on the topic, all seeking amendments. Two further submissions were received on one submission - one opposes, and one supports the original submission.

48. These submissions were made:

Submission point	Submitter	Decision requested
343.4	Rangitahi Limited	Amend Objective 9.3.2 Non-Residential Activities, to refer to significant adverse traffic effects. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.20	Rangitahi Limited	Amend Policy 9.3.2.1 Commercial activities, to provide greater flexibility with regards to the location of activities at ground level, including residential. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.5	Rangitahi Limited	Amend Policy 9.3.2.1(b)(i) Commercial Activities, to split the two separate matters relating to active ground-floor business activities and frontages and residential activities above ground floor. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
378.6	Fire and Emergency New Zealand	Retain Policy 9.3.2.2 Community facilities, except for the amendments sought below AND Amend Policy 9.3.2.2 (a)(ii) Community facilities, as follows:(ii) <u>Provide a service or function that provides for the health, safety and well-being to the local neighbourhood;</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FS1388.18	Mercury NZ Limited	Opposes

Submission point	Submitter	Decision requested
FS1035.111	Pareoranga Te Kata	Supports

6.3 Analysis

49. Amendments sought by the submissions seek to address a range of issues:
- Significant adverse traffic effects
 - Flexibility regarding the location of activities at ground level
 - Community facilities.
50. **Rangitahi Limited [343.4]** seeks amendment to Objective 9.3.2 Non-Residential Activities, to refer to significant adverse traffic effects consistent with Objective 15B.3.10 of the Operative District Plan.
51. Objective 9.3.2 as notified refers to ‘traffic effects’ in relation to non-residential activities. I acknowledge that the operative provision refers to ‘significant adverse’ traffic effects. Therefore, the notified objective potentially sets a higher threshold than that originally adopted through PC12.
52. **Rangitahi Limited [343.5 and 20]** seeks amendments to Policy 9.3.2.1 relating to commercial activities. Firstly, the submitter seeks to split clause (b)(i) into two separate matters relating to ground-floor business activities and active frontages and residential activities above ground floor. Secondly, the submitter seeks greater flexibility within the policy for ground floor activities, including residential, because the total floor area of commercial activities permitted at Rangitahi is limited, and in some circumstances it may not be possible for the entire ground floor level to accommodate business activities. The submitter considers that good urban design outcomes can also be achieved for mixed-use developments with some residential activities at ground level.
53. Policy 9.3.2.1(b) manages the location and design of mixed-use developments. Clause (b)(i) as notified requires ‘active ground floor business activities and frontages to public spaces and residential activities that are above ground floor with adequate amenity’.
54. I agree with the submitter that clause (b)(i) should be split into two separate matters. This is a drafting error. The second part of the clause is specific to residential activities above ground floor and the need to ensure such activities have adequate amenity.
55. The operative policies do not specifically address commercial activities. Instead, operative Policy 15B.3.11 requires non-residential activities to be managed to ensure that:
- commercial activities will meet local needs and, above a scale identified by rules, are subject to assessment of potential traffic impacts and potential adverse effects on the role, amenity, commercial and social function of the Raglan town centre,*
 - non-residential activities are designed and located to contribute to village character within the Rangitahi Peninsula Living Zone,*

(c) *potential for small scale local business enterprise (such as but not limited to primary produce processing, craft industry and tourism facilities and services) is provided for through the Rangitahi Peninsula Structure Plan.*

56. Although Objective 15B.3.10 has been carried over into the PWDP, Policy 15B.3.11 has not. Instead, the objective is achieved by Policies 9.3.2.1 for commercial activities and 9.3.2.2 for community facilities. This approach provides greater clarity regarding which non-residential activities are being managed, and is consistent with the PWDP. Policy 9.3.2.1(a) is essentially consistent with the operative policy. However, Policy 9.3.2.2 introduces provision for mixed-use developments, including active ground-floor business activities.
57. The submitter is concerned that the policy requires residential above ground on mixed use sites. However, I do disagree. While the policy seeks active ground-floor business activities, it does not require residential above ground, and also seeks to retain a residential character and amenity.
58. I acknowledge that commercial activities are limited to a total gross floor area of 400m² within the whole structure plan area as a permitted activity. I accept and that there could be locations identified on Plan 5 Development Outcomes Plan as potential commercial activities that are not utilised. As a restricted discretionary activity, the permitted cap can be exceeded up to 600m² within any of the seven neighbourhoods, or a total GFA not exceeding 1,000m² within the whole structure plan area. If these caps are not met, then consent is required as a discretionary activity. The conditions of permitted and restricted discretionary activities do not require residential above ground floor and could be considered in relation to the matter of discretion 'character and amenity of development'. There is considerably more provision for commercial activities than what is provided for as a permitted activity, and I support the policy direction to address public-facing commercial sites. However, the rules do not prevent residential activities from locating at ground floor within mixed use developments or comprehensive residential developments. Therefore, I do not consider that amendment is required.
59. **Fire and Emergency New Zealand [378.6]** seek amendment to Policy 9.3.2.2(a)(ii) relating to community facilities to emphasise the purpose of providing a service or function. *Paraeoranga Te Kata [FS1035.111]* supports the submission for fire safety and fire prevention to undertake training activities for firefighters within the region.
60. Policy 9.3.2.2(a)(ii) identifies that community facilities should provide a service or function to the local neighbourhood. Whilst I acknowledge that some community facilities, such as firefighting, will serve an area greater than the immediately-adjacent community, there is nothing to suggest that 'local community' is confined as such.
61. I note that Hearing 5 recommended replacing the definition of 'community facilities' with the definition for 'community facility', in accordance with the National Planning Standards. The new definition of 'community facility' includes the health, safety and wellbeing of the community. I do not consider it necessary to amend the policy to address the relief of the submitter because it is already included in the definition of 'community facility'.
62. Chapter 28 refers to 'community activities' and 'community facilities'. To address the concerns raised by the submitter, I consider that consequential amendments are required to refer to 'community facilities', to align with the recommendations in Hearing 5. I also note that the definition of 'community activity' is recommended to be deleted, because it is similar to

‘community facilities’. I agree that these terms are used interchangeably in Chapter 28, and amendment is required to reflect the new definition. Furthermore, the policy refers to ‘community facilities’, so rules should use this term consistently.

6.4 Recommendations

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

- (a) **Accept** Rangitahi Limited [343.4]: amend Objective 9.3.2 to consider ‘significant’ traffic effects.
- (b) **Accept in part** Fire and Emergency New Zealand [378.6], and further submission *Paraeoranga Te Kata [FS1035.111]*: to the extent that the definition of ‘community facility’ includes health, safety and wellbeing of the community.
- (c) **Accept** Rangitahi Limited [343.5]: to split Policy 9.3.2.2(b)(ii) into two separate matters.
- (d) **Reject** Rangitahi Limited [343.20].

6.5 Recommended amendments

64. The following amendments are recommended:

9.3.2 Objective – Non-residential activities

- (a) Non-residential activities contribute to village character without significant adverse effects on the role, amenity, commercial and social function of the Raglan town centre or significant adverse¹ effects on traffic.

9.3.2.1 Policies – Commercial activities

- (a) Commercial activities are managed to ensure that:
 - (i) They are in locations consistent with the Rangitahi Peninsula Structure Plan;
 - (ii) Activities will meet local needs;
 - (iii) Traffic impacts are managed;
 - (iv) Adverse effects on the role, amenity, commercial and social function of the Raglan town centre are minimised;
 - (v) They are designed and located to contribute to village character;
 - (vi) They are at a scale that retains the overall residential character of the Peninsula.
- (b) Mixed-use developments should be located and designed to:
 - (i) Provide active ground-floor business activities and frontages to public spaces at ground level. Provide residential activities that are above ground floor with adequate amenity;²
 - (ii) Enable commercial activities that are compatible with residential uses;
 - (iii) Retain residential character and amenity.
 - (iv) Provide residential activities that are above ground floor with adequate amenity.

65. The following consequential amendments to Rule 28.1.1 P5 and Rule 28.1.3 RDI to replace ‘community activity’ with ‘community facility’ are recommended, to reflect recommended changes to the definitions and ensure consistency with Policy 9.3.2.1:

28.1.1 Specific Activities – Permitted Activities

¹ Rangitahi [343.4]

² Rangitahi [343.5]

P5	A community activity <u>activity facility</u> ³	<p>(a) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or any approved subdivision</u>; and</p> <p>(b) Is located within Plan 1 Structure Plan Area Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8); and</p> <p>(c) The total gross floor area does not exceed a total of 200m² within the whole of the Rangitahi Peninsula Structure Plan Area (Appendix 8).</p>
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28.1.3 Specific Activities - Restricted Discretionary Activities

RDI	<p>(a) Any activity that does not comply with a condition for Rule 28.1.1(P5) or Rule 28.1.1(P6) is a restricted discretionary activity provided that:</p> <p>(i) For a community activity <u>activity facility</u>⁴, the total gross floor area within the Rangitahi Peninsula Structure Plan Area does not exceed 300m² within the whole of the Structure Plan Area.</p> <p>(b)-(ii) For Rangitahi commercial activity:</p> <ol style="list-style-type: none"> 1. (i)A. The total gross floor area does not exceed 600m² within any of the seven neighbourhoods shown on the Rangitahi Peninsula Structure Plan (Appendix 8), or 2. (ii)B. The total gross floor area does not exceed 1000m² within the whole of the Structure Plan Area.⁵ 	<p>(a) Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> (i) Effects on the role, function, and vitality, of the Raglan town centre; (ii) Traffic impacts on the safety and efficiency of the road network; (iii) Consistency with the Rangitahi Peninsula Structure Plan (Appendix 8); (iv) Character and amenity of development within the Rangitahi Peninsula Structure Plan (Appendix 8).
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6.6 Section 32AA evaluation

66. The recommended amendments are for clarification only and are not policy changes. A s32AA evaluation is therefore not required.

³ Hearing 5 recommendation to delete 'commercial activity' and rely on the national planning standards definition of 'community facility'.

⁴ Hearing 5 recommendation to delete 'commercial activity' and rely on the national planning standards definition of 'community facility'.

⁵ Rangitahi Ltd [343.25]

7 Objectives and Policies - Natural Features

7.1 Introduction

67. Chapter 9.3.3 of the PWDP contains objectives and policies that specifically relate to natural features in the Rangitahi Peninsula Zone.

7.2 Submissions

68. Eight submission points were received in relation to the natural features objectives and policies - all seeking amendments or deletions. Three further submission points were received opposing original submissions.

69. These submissions were made:

Submission point	Submitter	Decision requested
831.55	Raglan Naturally	Amend Policy 9.3.3.2 Coastal margins, to extend to all areas with water pollution caused by livestock.
831.83	Raglan Naturally	Amend Policy 9.3.3.3 Stormwater management, to extend to all areas with water pollution caused by livestock.
81.228	Waikato Regional Council	Add to Policy 9.3.3.3 Stormwater management as follows: <i>(a) Stormwater management systems shall be designed to minimise the erosion potential and rate of run-off into the coastal marine area. (b) Stormwater management systems designed in accordance with low impact design philosophies. (c) Provide a high level of water quality treatment. (d) Minimise change to the existing hydrological cycle.</i>
831.84	Raglan Naturally	Amend Policy 9.3.3.4 Stock exclusion, to extent to all areas with water pollution caused by livestock.
<i>FSI 342.243</i>	<i>Federated Farmers</i>	<i>Opposes</i>
343.6	Rangitahi Limited	Delete Policy 9.3.3.5(b) Environmental Improvement. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
831.85	Raglan Naturally	Amend Policy 9.3.3.5 Environmental improvement, to extend to all areas with water pollution caused by livestock.
<i>FSI 342.244</i>	<i>Federated Farmers</i>	<i>Opposes</i>
831.86	Raglan Naturally	Amend Policy 9.3.3.6 Landscape values, to extend to all areas with water pollution caused by livestock.
<i>FSI 342.245</i>	<i>Federated Farmers</i>	<i>Opposes</i>
343.7	Rangitahi Limited	Amend Policy 9.3.3.7(b) Ecological and Habitat Values, to adopt the same approach as in Policy 15B.2.23 of the Operative Plan, which seeks: " <i>The loss of significant indigenous vegetation and significant habitat of indigenous fauna should be avoided. Short term, minor, or localised degradation effects should be mitigated if they cannot be</i>

Submission point	Submitter	Decision requested
		<p><i>practically avoided."</i> AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.</p>

7.3 Analysis

70. Several submissions from Raglan Naturally address issues relating to water pollution, by seeking amendments to the natural environment policies at Rangitahi to extend to all areas with water pollution caused by livestock. The submitter identifies that Raglan Naturally Natural Environment Snapshot identifies the problem of pollution from agricultural run-off, with all the rivers entering the Whaingaroa Harbour having unsatisfactory pollution levels (such as the Waitetuna). Further submissions by Federated Farmers oppose these submissions.
71. The policies identified specifically address coastal margins, stormwater management, stock exclusion, environmental improvement, and landscape values. The submitter provides no specifics regarding how these policies could be amended to address their relief. I do not consider all of these policies to be relevant to water pollution issues, for example Policy 9.3.3.2 Coastal Margins and Policy 9.3.3.6 Landscape value, address planting. Policy 9.3.3.3 Stormwater Management requires adverse effects from stormwater runoff to be minimised, Policy 9.3.3.4 Stock Exclusion requires stock to be excluded from steep slopes and gully systems, and Policy 9.3.3.5 Environmental improvement requires planting of gully systems and stream margins. I consider the policy framework to adequately manage potential adverse effects of water pollution without the need for further amendments. I also note that water quality is a regional plan issue.
72. **Waikato Regional Council [81.228]** seeks amendment to Policy 9.3.3.3 Stormwater management to include additional clauses requiring low impact design, a high level of water quality treatment, and to minimise change to the existing hydrological cycle.
73. I support the outcomes sought by Waikato Regional Council in terms of stormwater management. I note that the PWDP contains Objective 6.4.6 and Policy 6.4.7 requiring the hydrological characteristics of the natural drainage processes to be retained by adopting, where appropriate, a low impact design approach. Although Rangitahi Peninsula has a stand-alone suite of provisions, the provisions for infrastructure in Chapters 6 and 14 still apply. As a permitted activity, Rule 14.11.1.1(a)(v) Stormwater systems for new development or subdivision, must implement low impact design measures. These plan provisions already apply to subdivision and development at Rangitahi, therefore I do not consider there to be any further amendment required to Policy 9.3.3.3, as this would duplicate existing policy.
74. **Rangitahi Limited Ltd [343.6]** seeks deletion of Policy 9.3.3.5(b) Environmental Improvement, which requires planting and management of gully systems and stream margins to result in a net environmental gain. The submitter considers this clause to go further than the outcome sought by Objective 9.3.3 to maintain and enhance natural ecosystems; furthermore, it is already required by Policy 9.3.3.5(a).
75. Operative Policy 15B.3.18 specifically requires environmental gain associated with development. Policy 9.3.3.5(b), as notified, has previously been determined to be the most

appropriate to achieve the objective. I do not support the submitter's relief to delete Policy 9.3.3.5(b). Discussions with the submitter indicate that this issue will not be pursued because the policy is similar to the Operative Plan.

76. **Rangitahi Limited Ltd [343.7]** seeks amendments to Policy 9.3.3.7(b), which states that the loss of significant indigenous vegetation and significant habitat of indigenous fauna should be avoided. The submitter considers that the policy fails to recognise that there will be some unavoidable minor and localised loss of indigenous vegetation and habitat required to give effect to the Rangitahi Structure Plan. The submitter's relief adopts the same approach to the Operative Plan Policy 15B.3.23 (Rangitahi Peninsula Structure Plan).
77. Operative Policy 15B.3.23 requires avoidance but also identifies that short term, minor or localised degradation effects should be mitigated if they cannot be practically avoided.
78. Objective 9.3.3 as notified requires that the natural features of the Rangitahi Peninsula including landscape, ecology, habitat and the coastal environment, be maintained and enhanced. The relief sought would continue to achieve this objective because mitigation would be required where effects cannot be avoided. Subdivision as a restricted discretionary activity (Rule 28.4.1 RDI) requires environmental improvements required by the Rangitahi Peninsula Structure Plan, including but not limited to restoration planting shown on the indicative Open Space Framework Plan. This would result in enhancement of the SNA areas that are retained.
79. Rule 28.2.8 P3 identifies indigenous vegetation clearance as a permitted activity for building, access, parking and manoeuvring areas in an SNA, provided there is no alternative development area on the site outside the SNA, and total indigenous clearance does not exceed 250m². If indigenous vegetation clearance does not meet the conditions for permitted activities, it becomes a discretionary activity. I note that the s42A report for Hearing 21A does not alter this rule other than to remove the reference to SNAs 'identified on the planning maps'.⁶
80. As the area is located within the coastal environment, the plan provisions must give effect to the NZCPS. Specifically, Policy 11(b) of the NZCPS requires the avoidance of significant adverse effects, and to avoid, remedy or mitigate other adverse effects of activities on areas of predominantly indigenous vegetation in the coastal environment and habitats and ecological corridors.
81. The objectives and policies in Chapter 3 of the PWDP also apply in terms of SNAs. Objective 3.2.1 seeks the protection and enhancement of SNAs, and Policy 3.2.3 establishes a management hierarchy and requires avoidance of significant adverse effects, while Policy 3.2.6 provides for vegetation clearance in limited specific instances. This policy framework supports the SNA rules at Rangitahi.
82. SNAs are addressed in the s42A report for Hearing 21A. The direction to avoid adverse effects, particularly in the coastal environment, is discussed along with the requirement for certainty in mapping SNAs. In Hearing 21A it is currently recommended to remove mapped SNAs where the Council is not certain and retain the maps where they are in the s42A report for Hearing 21A. However, it is not recommended to remove the mapped SNA at Rangitahi,

⁶ Hearing 21A Significant Natural Areas, section 24.4.4.

given that the SNAs in this development have been catalogued in detail as part of the development of the structure plan.

83. Recommended amendments in Hearing 21A to Policy 3.2.3 require the avoidance of all adverse effects rather than ‘significant’ adverse effects’ as notified. Several amendments are also recommended in relation to SNAs at Rangitahi, including to remove references to the planning maps in the rules and including permitted activities for:
- a. earthworks for the maintenance of existing tracks, fences or drains under the general earthworks rule (Rule 28.1.4.1 P3).
 - b. Removal of manuka and/or kanuka outside of the coastal environment (Rule 28.2.8 P2).
 - c. Trimming or pruning of indigenous vegetation in an SNA (Rule 28.2.8 P7).
 - d. Vegetation clearance of non-indigenous species in an SNA (Rule 28.2.8 P8).
 - e. Vegetation clearance outside a SNA (Rule 28.2.8 P9).
84. Recommended amendments in Hearing 21A also clarify that indigenous vegetation clearance in a SNA not listed as a permitted activity, or within the coastal environment, is a discretionary activity.
85. I rely on the analysis and recommendations on SNAs in Hearing 21A in this report. However, I consider that Policy 11(b) of the NZCPS requires absolute avoidance of significant adverse effects. Given that the structure plan and ability to develop within the coastal environment has already been deemed appropriate, it is reasonable to allow development to occur and adverse effects (provided they are not significant) to be avoided, remedied or mitigated. The original plan change for the Rangitahi Peninsula (2015) was determined after the Supreme Court’s decision on King Salmon (2014). Therefore, the original plan change was determined to have given effect to the NZCPS in light of the King Salmon decision.
86. I support the submitter’s relief sought because it is consistent with the operative plan and recognises that the structure plan identifies the need for some road and infrastructure construction through identified SNA. Therefore, it is not possible to avoid adverse effects, but nor does it create significant adverse effects, provided the effects are mitigated. Rule 28.2.8 P3 provides for some clearance where there is no alternative, and the policy should be amended to support this.
87. I consider that further clarification should also be included as to when short term impacts are appropriate. The submitter has similar submissions relating to earthworks for the construction of roads and other infrastructure within SNA where these are in accordance with the Rangitahi Structure Plan. I consider it appropriate to include wording in the amended Policy 9.3.3.7 to reflect the need for effects to be in accordance with the effects that were anticipated by the structure plan. Resource consent would still be required as a discretionary activity in accordance with Rule 28.2.8, and the policy would clarify when clearance would be considered acceptable.
88. The submitter has indicated that the mapping of the SNA at Rangitahi is not entirely accurate. Therefore in the first stage of subdivision there are some sites identified in the mapped SNA, although there is no indigenous vegetation present. The submitter does not seek the removal of the mapped SNA, but seeks flexibility to implement the approved structure plan. Although

the mapping of SNAs is not within the scope of these submissions or this hearing, the submitter may wish to offer further explanation regarding this issue as it may be possible to rectify this issue through wider submissions on SNA mapping addressed in Hearing 21A.

7.4 Recommendations

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

- (a) **Accept** Rangitahi Limited Ltd [343.7]: amend Policy 9.3.3.7(b) Ecological and habitat values.
- (b) **Reject** Raglan Naturally [831.55, 83 to 86] and accept further submissions by Federated Farmers [FS/342.243 to 245].
- (c) **Reject** Waikato Regional Council [81.228].
- (d) **Reject** Rangitahi Limited Ltd [343.6]: to delete Policy 9.3.3.5(b).

7.5 Recommended amendments

90. The following amendments are recommended:

9.3.3.7 Policy – Ecological and habitat values

- (a) The significant ecological and habitat values of the Rangitahi Peninsula are maintained and enhanced.
- (b) The loss of significant indigenous vegetation and significant habitat of indigenous fauna should be avoided.
- (c) Short term, minor or localised degradation effects for the construction of roads in accordance with the Rangitahi Structure Plan should be mitigated if they cannot be practically avoided.⁷

7.6 Section 32AA evaluation

- 91. The recommended amendments are to provide greater certainty and address consistency issues with the Rangitahi Structure Plan, which identifies roads through Significant Natural Areas.
- 92. The alternative is to retain Policy 9.3.3.7 as notified, which would not support Rule 28.2.8 P3 or enable the efficient implementation of the approved structure plan. Costs of consenting would be reduced because greater certainty is provided by the amended policy. The risk of not acting is that the policy creates uncertainty and is inconsistent with the approved structure plan.
- 93. The policy gives effect to the NZCPS Policy 11(b) by avoiding significant adverse effects and avoiding or mitigating other adverse effects, and RPS policies by mitigating effects so that there is no net loss of biodiversity.

⁷ Submission 343.7

8 Policy 9.3.5.4 – Secondary Access

8.1 Introduction

94. Chapter 9.3.5 of the PWDP contains the objectives and policies that relate to the transport network in the Rangitahi Peninsula Zone.

8.2 Submissions

95. Two submission points were received specifically seeking amendments to Policy 9.3.5, which relates to secondary access.

96. These submissions were made:

Submission point	Submitter	Decision requested
343.21	Rangitahi Limited	Amend Policy 9.3.5.4 Secondary access, to require the permanent secondary access to be constructed prior to the completion of Precincts F or G. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.8	Rangitahi Limited	Amend Policy 9.3.5.4 Secondary access to fix the list level error as follows: Policy 9.3.5.4(a)(i) should be Policy 9.3.5.4(b) Policy 9.3.5.4(a)(ii) should be Policy 9.3.5.4(b)(i) Policy 9.3.5.4(a)(iii) should be Policy 9.3.5.4(b)(ii) (a) From the beginning of development of the Rangitahi Peninsula Structure Plan Area up to completion... (i)(b) A permanent secondary access must be constructed: (ii)(i) Prior to development of any of the Precincts E, F or G; and (iii)(ii) In accordance with access and road performance standards suitable for its secondary function. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.

8.3 Analysis

97. **Rangitahi Ltd [343.8 and 21]** seeks amendments to fix the list level errors within Policy 9.3.5.4 as well as amendments to require permanent secondary access to be constructed prior to the completion of Precincts F or G. The submitter acknowledges the need for greater certainty as to the timing of the permanent secondary access, but is concerned that it will be a significant cost to construct the access and should be undertaken to mitigate effects on the safe and efficient operation of the primary access and surrounding road network.

98. Policy 9.3.5.4 as notified requires that an interim alternative access be provided to a usable standard for use any time where the primary access may be closed, and that this must be constructed prior to development of Precincts E, F or G.

99. Opotoru Road is the primary access for the Rangitahi Peninsula and involves an upgrade of the existing tidal driveway to a bridge/causeway which has recently been constructed and is now open and fully operational.
100. Proposed Policy 9.3.5.4 differs from the operative policy (15B.3.34) by requiring that construction of a permanent secondary access be constructed prior to development. The operative policy requires an interim solution for the duration of development, with a permanent solution to be provided either:
- a. *At an appropriate time to more fully complement and provide access choices for the full development enabled within the Structure Plan Area; or*
 - b. *At any time additional access is considered necessary to ensure safe and efficient operation of the primary access and surrounding road network.*
101. The operative policy provides greater flexibility to the timing of constructing the permanent secondary access, enabling this to be determined at the time of subdivision. However, it does not provide certainty regarding when it is to be provided. Therefore, the decision is left to the resource consent stage, whereas the proposed policy links construction with the development of precincts. The s32 report identifies that the current provisions do not make it clear when the access is required, and there is no trigger in the rules to ensure that the secondary access is provided.
102. The notified provisions relating to a secondary access are confusing. I note that the secondary access, although required by Policy 9.3.5.4 and as a condition of subdivision under Rule 28.4.1(a)(v) and Rule 28.4.2(a)(v), is not identified in the Rangitahi Structure Plan itself on either Plan 4 – Indicative Movement Network, or Plan 1 – Structure Plan Area. There is a difference between the condition for general subdivision compared to boundary adjustments, with the later identifying that *a metalled access route protected by easement is sufficient for this purpose*. To further add to the confusion the conditions for provide for allowable variances to the location of secondary access locations. If a secondary legal access is not provided, then subdivision would not meet this condition, triggering consent as a discretionary activity. The policy is inconsistent with the subdivision rules, and the subdivision rules are inconsistent with each other.
103. Secondary road access was proposed to be provided via an existing metalled farm track across the applicant's property to Benseman Road. This access has been considered as an interim secondary access for Precinct A consents (SUB0108/17 and LUC0211/17) in the event of the Opotoru Road access being unavailable. I understand that the consent identifies this current access as an interim secondary access until a permanent route can be constructed to Te Hutewai Road, for which consent will be sought separately at a later date. It is unclear to what extent this interim secondary access will be sufficient for the development of future precincts, but it could be assumed that if it is formed and accessible to other precincts, that the conditions would be met for future subdivisions.
104. Subdivision consents have been granted for Precinct A (March 2017) and Precincts B and D (April 2018), which provide for over half of the development sites. Policy 9.3.5.4 seeks to ensure that the secondary access is established before the remaining precincts are developed.
105. In discussions with the Council it is apparent that the key issue is certainty. The operative policy indicates that the secondary access is to provide access choices for the full development.

It is unclear whether this is actually required now that the bridge is in place, and if it is, when it is reasonable to require it. I consider the need for the secondary road to be unclear.

106. Through discussions with the submitter, I understand that the secondary access is for emergency access. It remains unclear to me what type of emergency may require secondary access or why this is required here, given that there are other communities in New Zealand that are likely to have only one access road.
107. Currently an interim access is formed (metalled) and used as a haul road - it traverses private land owned by the developer. However, there is no legal instrument that protects this access (i.e. easement). If the secondary access is indeed required then I consider that the current form of the road constitutes a useable standard consistent with the policy, because it has been deemed as such through an approved subdivision consent. However, the final form of the road as a permanent secondary access is not clear. I understand that to provide full public access to this road would create significant management issues for the farm and would be very expensive to construct. I am also concerned that construction effects would result in potentially more significant environmental adverse effects than not having the secondary access.
108. I support the relief sought by the submitter to amend the policy. However, I also invite the submitter to provide traffic evidence on the necessity of the secondary access so as to consider whether further amendments are appropriate, or to remove the requirement completely.
109. I note that land west of Rangitahi is identified in Waikato 2070 for future growth. Through future investigation of development in this location it may be appropriate to identify a road that links through to Rangitahi. I consider this to be the most appropriate method for determining the outcome of a road, and not through subdivisions for development at Rangitahi.
110. The submitter's relief does not seek to remove the requirement for a secondary access. However, through investigating this issue and during discussions with the submitter it has become clear that while the notified plan aims to provide certainty it does this without sufficient consideration of the purpose of the secondary access and the implications of such certainty. I prefer the operative policy, which provides flexibility, and note that there is now an interim access in place through an approved subdivision. Unless there is deemed to be a need for a permanent formed accessway then the notified approach is not required. I consider it sufficient to rely on clause (a) of the policy and recommend that clause (b) is deleted.
111. Consequential amendments are required to the subdivision rules to address this issue to provide consistency and clarity including:
- a. Amending the condition in Rule 28.4.1 to be consistent with the condition in Rule 28.4.2 identifying that '*A metalled access route protected by easement is sufficient for this purpose*'.
 - b. Amend variances for general subdivision and boundary adjustments to refer to primary and secondary route locations to reflect Indicative Movement Network Plan 4 to avoid confusion with requirements for secondary access.

8.4 Recommendations

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

- (a) **Accept in part** Rangitahi Ltd [343.8 and 21]: to the extent that the policy is amended.

8.5 Recommended amendments

113. The following amendments are recommended:

9.3.5.4 Policy – Secondary access

- (a) From the beginning of development of the Rangitahi Peninsula Structure Plan Area up to completion of the permanent secondary access, an interim alternative access shall be provided to a usable standard for use at any time where the primary access may be closed.

~~(i) A permanent secondary access must be constructed:⁸~~

~~(ii) Prior to development of any of the Precincts E, F or G; and~~

~~(iii) In accordance with access and road performance standards suitable for its secondary function.~~

114. The following consequential amendments are recommended to Rule 28.4.1(a)(v):

RDI	<p>(a) Subdivision must comply with the following conditions:</p> <p>(i) Subdivision must be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8), including the density ranges specified therein for each neighbourhood in the Neighbourhood Outcomes Plans; and</p> <p>(ii) Compliance with the following variances will be determined to be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) (the base figures and locations are as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Peninsula Structure Plan):</p> <p>(i) Development Precinct areas (hectares) – variance up to and including 10%;</p> <p>(ii) Development Precinct boundaries – variance up to and including 100m;</p> <p>(iii) Development Precinct densities – variance up to and including 10% from the upper and lower end of the range specified;</p> <p>(iv) Collector Road locations – variance up to and including 50m movement outside of the road reserve;</p> <p>(v) Secondary access location – any variance and up to and including 30% variance in length; and⁹</p> <p>(iii) Environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8) (including, but not limited to, restoration planting shown on the Indicative Open Space Framework Plan and provision of walkways and cycle ways shown on the Indicative Movement Network Plan) have been implemented to the extent required;</p> <p>(iv) The primary access to the Rangitahi Peninsula Structure Plan Area by way of an upgraded Oporu Road (inclusive of the Oporu Road/Wainui Road intersection and the bridge/causeway at each end) has been formed; and</p> <p>(v) There must be secondary legal access for all road users when the Oporu Road connection is not available for any reason. <u>A metalled access route protected by easement is sufficient for this purpose.¹⁰</u></p> <p>(vi) Council shall consider Tainui Hapuu as an affected party and require that its written approval be obtained or that notice be served on a limited notified basis.</p> <p>(vii) Proposed lots must be able to connect to public-reticulated water supply.¹¹</p>
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⁸ Rangitahi Ltd [343.8 and 21]

⁹ Rangitahi Ltd [343.16]

¹⁰ Consequential amendment to Rangitahi Ltd [343.21]

¹¹ FENZ [378.80]

	<p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Extent to which subdivision is consistent with the Rangitahi Peninsula Structure Plan (Appendix 8) <u>(allowing for the following variances from the base figures and locations as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Structure Plan);</u> <ul style="list-style-type: none"> <u>A. Development Precinct areas (hectares) - variance up to and including 10%;</u> <u>B. Development Precinct boundaries - variance up to and including 100m;</u> <u>C. Development Precinct densities - variance up to and including 10% from the upper and lower end of the range specified;</u> <u>D. Primary route locations - variance up to and including 50m movement outside of the road reserve;</u> <u>E. Secondary route location - any variance and up to and including 30% variance in length; and</u> (ii) Extent of variation in allotment sizes from provisions of the Rangitahi Peninsula Structure Plan (Appendix 8); (iii) Matters referred to in Chapter 14 Infrastructure and Energy; (iv) Amenity and streetscape; (v) Vehicle and pedestrian networks; (vi) Implementation of environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8). (vii) <u>Provision of infrastructure, including water supply for firefighting purposes.¹²</u> (viii) <u>Effects on archaeological sites and cultural values.¹³</u>
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8.6 Section 32AA

115. The recommended amendments reflect the operative plan and enable provision of an interim secondary access prior to completion of development within the structure plan area. The risk of not acting is that development may be stalled in the event that a permanent secondary access cannot be easily constructed. The amended policy is the more appropriate method to achieve Objective 9.3.5 Transport network because adequate access is provided to the area by way of upgraded Oporu Road, and flexibility is retained to provide a permanent secondary access. Consequential amendments are recommended to provide greater clarity and therefore certainty.

9. Definitions

9.1 Introduction

116. Chapter 13 of the PWDP contains several definitions that specifically relate to the Rangitahi Peninsula Zone.

9.2 Submissions

117. Four submission points raised issues with definitions, with one further submission. The submitters seek amendments to three definitions:
- a. Rangitahi Commercial Activity,

¹² FENZ [378.80]

¹³ Consequential change to Rangitahi Ltd [343.19]

- b. Rangitahi Integrated Development, and
- c. Landscape Restoration Area

118. These submissions were made:

Submission point	Submitter	Decision requested
343.10	Rangitahi Limited	Amend the definition for "Rangitahi Commercial Activity" in Chapter 13 Definitions to exclude childcare facilities. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.12	Rangitahi Limited	Retain the definition for "Rangitahi Integrated Development" in Chapter 13 Definitions, except for the amendments sought below AND Amend the definition for "Rangitahi Integrated Development" in Chapter 13 Definitions to include "or an approved subdivision". AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
680.254	Federated Farmers of New Zealand	Delete the definition of "Landscape Restoration Area" in Chapter 13 Definitions. AND Any consequential amendments needed to give effect to this relief.
<i>FS1208.7</i>	<i>Rangitahi Limited</i>	<i>Oppose</i>
749.53	Housing New Zealand Corporation	Amend the definition of "Landscape restoration area" in Chapter 13 Definitions as follows: Means an area shown on the planning maps, within the Rangitahi Peninsula Zone, where existing native vegetation is to be complemented by additional landscape restoration planting. The purpose of the area is to promote stabilisation of steep slopes, encourage ecological and habitat linkages and enhance landscape amenity, particularly in and near coastal areas and on visually-prominent landforms. AND Amend the Proposed District Plan as consequential or additional relief as necessary to address the matters raised in the submission as necessary.

9.3 Analysis

119. Hearing 5 did not address definitions specific to Rangitahi, as it only addressed defined terms that were relevant across the Plan or District.
120. **Rangitahi Limited [343.10]** seeks to amend the definition of 'Rangitahi Commercial Activity' to exclude childcare facilities, to avoid any confusion that the maximum floor area limits for commercial activities may include childcare facilities.
121. The definition of 'Rangitahi Commercial Activity' within the PWDP is consistent with the definition of the Operative District Plan.

122. I understand that the submission seeks greater certainty that the Rangitahi commercial activity rules do not apply to childcare facilities. This is because under Rule 28.1.1 P6 Rangitahi commercial activities are limited to a total gross floor area (GFA) of 400m² within the whole structure plan area, and the GFA for each individual premises must not exceed 100m².
123. The PWDP contains a specific definition for ‘childcare facilities’, being land or buildings used for the care or training of predominantly pre-school children, and includes Playcentres and kindergartens. Childcare facilities are explicitly identified in the Rangitahi Peninsula Zone as a controlled activity under Rule 28.1.2 C1 without any conditions relating to gross floor area. I consider the rules to be very clear and do not consider that an amendment to the definition of Rangitahi commercial activity is warranted.
124. Hearing 5 recommends amendments to definitions to address the national planning standards, including ‘commercial activities’. Table 1 below compares the national planning standards definition of commercial activity with the PWDP definition of Rangitahi commercial activity. The key difference is that the Rangitahi definition specifically identifies healthcare facilities, repair services, sports and recreation equipment manufacture and sales. However, the Rangitahi definition does not limit commercial activities to those that are listed. Sale, distribution or supply of goods and services is a broad category and is consistent with the national planning standards definition.

Table 1 Definition of Commercial activity

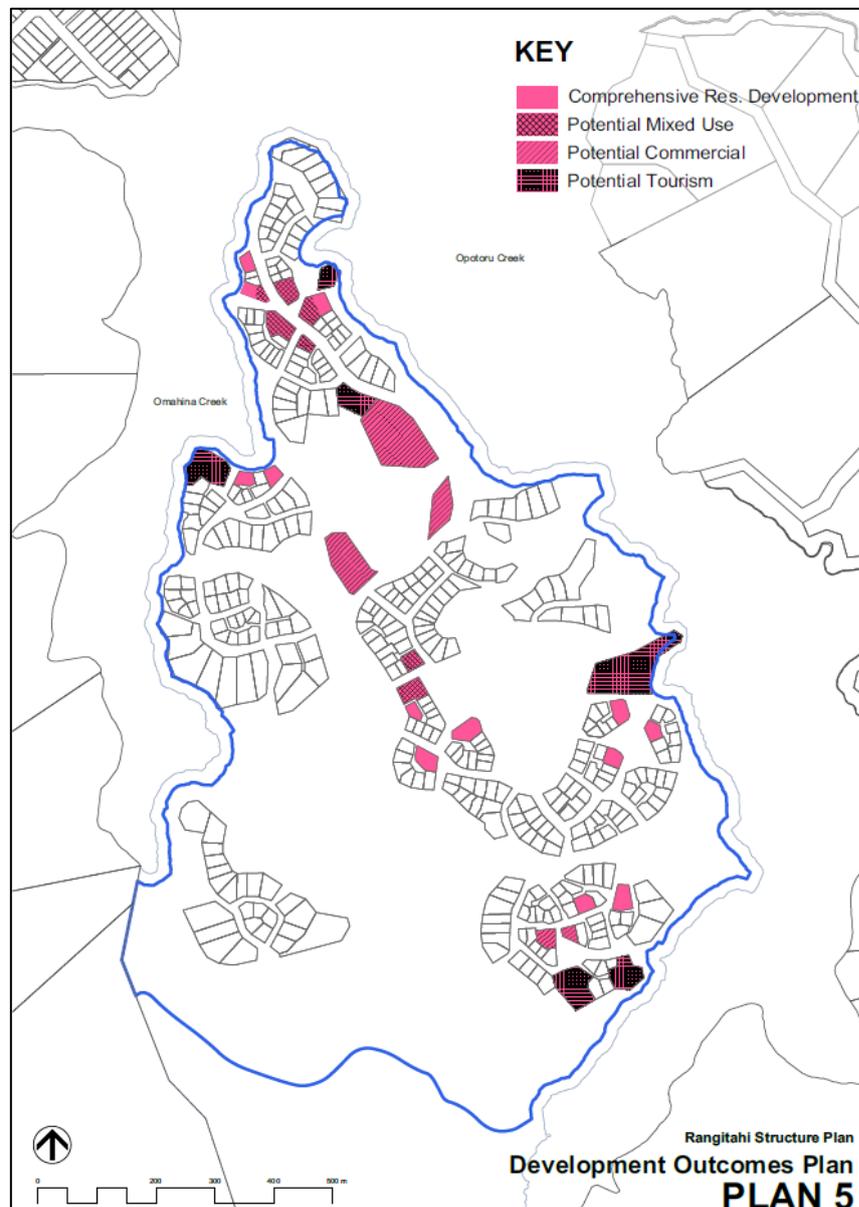
National Planning Standards	PWDP
<p>Commercial activity</p> <p>Means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices)</p>	<p>Rangitahi commercial activity</p> <p>Means within the Rangitahi area, one or any combination of the following activities:</p> <ol style="list-style-type: none"> 1. the sale, distribution or supply of goods and services; 2. healthcare facilities; 3. repair services; 4. sports and recreation equipment manufacture and sales.

125. Part of the Rangitahi commercial activity definition would be covered by the national planning standards definition, but it would not include healthcare facilities. As such these would not be provided for in Rangitahi without specific rules. Either the definition of Rangitahi commercial activity could be retained as notified, or alternatively the rules could be amended to specifically include health facilities as per the PWDP definition. In my opinion it is appropriate to apply the standard definition of ‘commercial activity’ and amend the relevant rules to provide for health facilities. This would be more consistent with the national planning standards.
126. **Rangitahi Limited [353.12]** supports the inclusion of the definition for ‘Rangitahi Integrated Development’ but seeks amendment to recognise an approved subdivision, providing flexibility to allow changes between the Development Outcomes Plan 5 and approved subdivision consents.
127. The Operative Plan includes a definition for ‘Rangitahi Comprehensive Development Plan’, which means a plan formulated in conjunction with the Council for development of the Rangitahi Structure Plan Area that sets out the intended pattern of development and enables

full implementation of the structure plan. The Operative Plan required resource consent for a Comprehensive Development Plan as a controlled activity prior to any subdivision or development taking place. This process is no longer required under the PWDP, instead enabling activities that are in accordance with the structure plan.

128. The PWDP requires resource consent as a restricted discretionary activity for Comprehensive Residential Developments (Rule 28.1.3 RD2), provided it meets a series of conditions, including being located within the Comprehensive Residential Development locations in Plan 5. If this condition is not met, then it becomes a discretionary activity.
129. Development Plan 5 identifies specific locations for comprehensive residential developments, including potential mixed use, commercial and tourism, as illustrated in Figure 3 below. Development Plan 5 itself is not included in the definition, but is included as part of the Rangitahi Structure Plan in Appendix 8 in Chapter 29.

Figure 1 Development Plan 5 - Rangitahi Structure Plan



130. The PWDP replaces the definition of ‘Comprehensive Development Plan’ with a new definition for ‘Rangitahi Integrated Development’:
- Means development in the locations shown on Development Outcomes Plan 5 of the Rangitahi Peninsula Structure Plan, comprising multiple residential units which are planned and designed in an integrated and comprehensive manner and achieve compatibility between all buildings on a single site or multiple sites. A Rangitahi Integrated Development may also include a Rangitahi commercial activity. Residential activities within a Rangitahi Integrated Development may include duplexes and apartments.*
131. There is a disconnect between the rules for Comprehensive Residential Development and the definition of ‘Rangitahi Integrated Development’. My reading of the PWDP indicates that these two activities are the same. Appendix 8 also refers to both types of activities, but uses the term ‘Comprehensive Development’, describing this as “integrated developments.” The PWDP does not use the term “integrated developments” elsewhere or define the term.
132. The PWDP includes definitions for ‘comprehensive land development consent’ and ‘comprehensive subdivision consent’ that specifically relate to the Te Kauwhata Lakeside Precinct Plan Area. However, there are no general definitions for ‘comprehensive residential development’ or ‘integrated development’. I note that this issue was discussed in Hearing 5 Definitions in response to evidence from Kainga Ora (formerly Housing NZ Corporation), where it was determined that the definition of ‘comprehensive land development consent’ be retained as notified because it could not be unpicked from the Te Kauwhata Lakeside Precinct Plan Area.
133. Another option is to use the term ‘Multi-unit development’ which would be consistent with the rest of the PWDP. Table 2 below illustrates the difference between the definition of ‘Rangitahi Integrated Residential Development’ and the recommended definition of ‘Multi-unit development’. While I consider the type of development to be consistent, the key difference is that ‘Rangitahi Integrated Residential Development’ refers to the locations for development on Development Outcomes Plan 5 to ensure development is in accordance with the approved structure plan. I consider this an important differentiation, and for reasons similar to those discussed in Hearing 5 regarding terms used at Te Kauwhata Lakeside Precinct it is not possible to interchangeably apply ‘multi-unit development’ in the same manner.

Table 2 Comparison of Definitions for multi-unit developments

PWDP	Hearing 5 - S42A Recommendations ¹⁴
<p>Rangitahi Integrated Residential Development</p> <p>Means development in the locations shown on Development Outcomes Plan 5 of the Rangitahi Peninsula Structure Plan, comprising multiple residential units which are planned and designed in an integrated and comprehensive manner and achieve compatibility between all buildings on a single site or multiple sites. A Rangitahi Integrated Development may also include a Rangitahi commercial activity. Residential activities within a Rangitahi Integrated</p>	<p>Multi-unit development</p> <p>Means multiple residential units or buildings, being attached or detached, which are planned and designed in an integrated and comprehensive manner, and achieve compatibility between all buildings on a single or multiple sites. It includes any of the following:</p> <p>(a) an apartment building; and</p> <p>(b) a duplex;</p> <p>(c) terraced housing; and</p>

¹⁴ Refer to Section 42A Addendum Report - Appendix 1 Recommended Amendments to Chapter 13 Definitions

Development may include duplexes and apartments.	(d) town houses. It excludes: (a) retirement villages; (b) papakaainga housing development; and or (c) papakaainga building.
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134. I therefore consider it appropriate to replace the term ‘Rangitahi Integrated Development’ with ‘Rangitahi Comprehensive Residential Development’ to provide consistency between the rules and the Structure Plan. I note that this is not specifically what the submitter has requested, however the amendment would provide greater consistency within the PWDP and facilitate greater certainty as a consequential amendment.
135. Turning to the submitters’ issue of flexibility, I do not consider it appropriate to amend a definition to rely on the outcome of a resource consent. In my opinion it would be more appropriate to amend the rule itself to recognise that Comprehensive Residential Development in accordance with an approved subdivision would meet the conditions of RD2. I consider this to be within the scope of the submission requesting consequential relief, as is necessary to satisfy the concerns of the submitter.
136. Two submitters seek amendments to the definition of ‘Landscape Restoration Area’. **Federated Farmers of New Zealand [680.254]** seeks that the definition be deleted, and **Housing New Zealand Corporation [749.53]** seeks that it be amended so that it does not only apply to the Rangitahi Peninsula Zone. The further submission from *Rangitahi Limited [FS/208.7]* opposes submission 680.254.
137. The PWDP defines ‘landscape restoration area’ in Chapter 13 with specific reference to the Rangitahi Peninsula Zone, where existing native vegetation is to be complemented by additional landscape restoration planting. Housing New Zealand Corporation does not support the proposed definition solely relating to and only applying in the Rangitahi Peninsula Zone because it is a general term and should be allowed to apply in any precinct area or zone.
138. I understand the Housing NZ Corporation concerns are to provide a general definition that can be applied in other locations where appropriate. I agree that the term ‘landscape restoration area’ is a generic term, although the definition itself specifies that it applies to the Rangitahi Peninsula Zone.
139. Chapters 9.3 and 28 contain no references to ‘landscape restoration area’, and this term only appears in Appendix 8 on Plan 1 depicting the Rangitahi Structure Plan. The proposed plan provisions require subdivision to be consistent with the structure plan, including environmental improvements such as restoration planting shown on the Indicative Open-space Framework Plan (Rule 28.4.1 RDI), which identifies proposed new native vegetation.
140. There is no apparent reason for retaining the definition of ‘landscape restoration area’ because it has no application within the plan provisions. I therefore support the submission of Federated Farmers to delete it.
141. Consistent with the findings of the reporting planner on Hearing 5 in response to Housing NZ Corporation’s submission on ‘comprehensive land use consent’, I consider a future plan change

to be the appropriate process for introducing a relevant definition for landscape protection that could apply throughout the district. Given that the definition has no application currently within the plan, there is no justification for retaining or amending it. If it is determined that the definition is to be retained, then I support the amended wording proposed by Housing NZ Corporation for it to be used elsewhere in the district.

9.4 Recommendations

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

- (a) **Accept in part** Rangitahi Limited [343.12]: to the extent that the definition be amended to refer to 'Rangitahi Comprehensive Residential Development' and Rule 28.1.3 RD2 be amended to identify approved subdivision.
- (b) **Accept** Federated Farmers of New Zealand [680.254] and reject Rangitahi Limited [FS/208.7], **reject** Housing NZ Corporation [749.53]: to the extent that the definition of 'landscape restoration area' is recommended to be deleted.
- (c) **Reject** Rangitahi Limited [343.10].

9.5 Recommended amendments

143. The following amendments are recommended to the definition of Rangitahi Integrated Development:

Rangitahi Integrated Comprehensive Residential Development

Means development in the locations shown on Development Outcomes Plan 5 of the Rangitahi Peninsula Structure Plan, comprising multiple residential units which are planned and designed in an integrated and comprehensive manner and achieve compatibility between all buildings on a single site or multiple sites. A Rangitahi Integrated Comprehensive Residential Development may also include a Rangitahi commercial activity. Residential activities within a Rangitahi Integrated Comprehensive Residential Development may include duplexes and apartments.

144. The following amendments are recommended to Rule 28.3.1:

RD2	<p>(a) A <u>Rangitahi</u> Comprehensive Residential Development that meets the following conditions:</p> <ul style="list-style-type: none"> (i) The Land Use – Effects in Rule 28.2; and (ii) The Land Use – Building in Rule 28.3; and <ul style="list-style-type: none"> A. Rule 28.3.3 (Building height) does not apply; and B. Rule 28.3.7 (Living court) does not apply; and (iii) The site is located within the Comprehensive Residential Development locations shown in Plan 5 of the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or approved subdivision consent</u>¹⁵; and (iv) Construction or alteration of a building does not exceed 11m height; and 	<p>(a) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Adequacy of the information provided to address matters specified, and outcomes sought, within the Multi-Unit Design Guide (Appendix 3.4); (ii) The extent to which the development contributes to and engages with adjacent streets and public open space; (iii) The extent to which the access, car parking and garaging is integrated into the development in a way that is safe for pedestrians and cyclists;
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¹⁵ Submission 343.12

	<p>(v) A detailed site plan is provided that identifies proposed title boundaries for each residential unit and any common areas (including access and services), ensuring that a freehold (fee simple) or unit title subdivision could occur in accordance with Appendix 8 - Rangitahi Peninsula Structure Plan; and</p> <p>(vi) The residential unit is designed and constructed to comply with Table 14 - Internal Sound Levels in Appendix I (Acoustic Insulation); and</p> <p>(vii) A communal service court area is provided; and</p> <p>(viii) Outdoor living courts are provided to meet the following minimum requirements for each residential unit:</p> <table border="1" data-bbox="438 795 997 1086"> <thead> <tr> <th>Duplex Dwelling</th> <th>Living Court Area</th> <th>Minimum Dimension</th> </tr> </thead> <tbody> <tr> <td>Studio unit or 1 bedroom</td> <td>30m²</td> <td>4m</td> </tr> <tr> <td>2 bedroom</td> <td>40m²</td> <td>4m</td> </tr> <tr> <td>3 bedroom</td> <td>40m²</td> <td>4m</td> </tr> </tbody> </table> <table border="1" data-bbox="438 1153 997 1556"> <thead> <tr> <th>Apartment Building Ground Level Residential Unit</th> <th>Living Court Area</th> <th>Minimum Dimension</th> </tr> </thead> <tbody> <tr> <td>Studio unit or 1 bedroom</td> <td>20m²</td> <td>4m</td> </tr> <tr> <td>2 bedroom</td> <td>30m²</td> <td>4m</td> </tr> <tr> <td>3 bedroom</td> <td>30m²</td> <td>4m</td> </tr> </tbody> </table> <table border="1" data-bbox="438 1612 997 1993"> <thead> <tr> <th>Apartment Building Upper Level Residential Unit</th> <th>Living Court Area</th> <th>Minimum Dimension</th> </tr> </thead> <tbody> <tr> <td>Studio unit or 1 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>15m²</td> <td>2m</td> </tr> <tr> <td>3 bedroom</td> <td>15m²</td> <td>2m</td> </tr> </tbody> </table>	Duplex Dwelling	Living Court Area	Minimum Dimension	Studio unit or 1 bedroom	30m ²	4m	2 bedroom	40m ²	4m	3 bedroom	40m ²	4m	Apartment Building Ground Level Residential Unit	Living Court Area	Minimum Dimension	Studio unit or 1 bedroom	20m ²	4m	2 bedroom	30m ²	4m	3 bedroom	30m ²	4m	Apartment Building Upper Level Residential Unit	Living Court Area	Minimum Dimension	Studio unit or 1 bedroom	10m ²	2m	2 bedroom	15m ²	2m	3 bedroom	15m ²	2m	<p>(iv) The extent to which the development incorporates environmental efficiency measures such as passive solar principles;</p> <p>(v) Amenity values for occupants and neighbours in respect of outlook, privacy, noise, light spill, access to sunlight, outdoor living court orientation, site design and layout;</p> <p>(vi) The extent to which staging is necessary to ensure that development is carried out in a coordinated and timely manner;</p> <p>(vii) Avoidance or mitigation of natural hazards;</p> <p>(viii) The safety and efficiency of roads due to traffic associated with the development;</p> <p>(ix) Geotechnical stability for building;</p> <p>(x) Consistency with (Appendix 8) Rangitahi Peninsula Structure Plan.</p>
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145. The following amendments are recommended to the definitions:

<p>Landscape Restoration Area</p> <p>Means an area shown on the planning maps, within the Rangitahi Peninsula Zone, where existing native vegetation is to be complemented by additional landscape restoration planting. The purpose of the area is to promote stabilisation of steep slopes, encourage ecological and habitat linkages and enhance landscape amenity, particularly in and near coastal areas and on visually prominent landforms.¹⁶</p>
<p>Rangitahi commercial activity</p> <p>Means within the Rangitahi area, one or any combination of the following activities:</p> <ol style="list-style-type: none"> 1. the sale, distribution or supply of goods and services; 2. healthcare facilities; 3. repair services; 4. sports and recreation equipment manufacture and sales.¹⁷

146. The following consequential amendments are recommended to Rule 28.1.1:

P6	Rangitahi commercial activity (including health facilities) ¹⁸	<p>(a) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) or any approved subdivision; and</p> <p>(b) Is located within Plan 1 Structure Plan Area – Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8); and</p> <p>(c) The total gross floor area does not exceed a total of 400m² gross floor area within the whole of the Rangitahi Peninsula Structure Plan Area (Appendix 8); and</p> <p>(d) Gross floor area of each individual premise does not exceed 100m².</p>
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147. The following consequential amendments are recommended to Rule 28.1.3:

RDI	<p>(b) Any activity that does not comply with a condition for Rule 28.1.1(P5) or Rule 28.1.1(P6) is a restricted discretionary activity provided that:</p> <p>(ii) For a community activity, the total gross floor area within the Rangitahi Peninsula Structure Plan Area does not exceed 300m² within the whole of the Structure Plan Area.</p> <p>(b)–(ii) For Rangitahi commercial activity (including health facilities):¹⁹</p> <p>(i)A. The total gross floor area does not exceed 600m² within any of the seven</p>	<p>(b) Council’s discretion is restricted to the following matters:</p> <p>(v) Effects on the role, function, and vitality, of the Raglan town centre;</p> <p>(vi) Traffic impacts on the safety and efficiency of the road network;</p> <p>(vii) Consistency with the Rangitahi Peninsula Structure Plan (Appendix 8);</p> <p>(viii) Character and amenity of development within the</p>
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¹⁶ Federated Farmers [680.254]

¹⁷ National planning standards definition of ‘commercial activity’ means that a separate definition at Rangitahi is not required.

¹⁸ Consequential amendment to applying the national planning standards definition of commercial activity as per Hearing 5.

¹⁹ Consequential amendment to applying the national planning standards definition of commercial activity as per Hearing 5.

	neighbourhoods shown on the Rangitahi Peninsula Structure Plan (Appendix 8), or (ii)B. The total gross floor area does not exceed 1000m ² within the whole of the Structure Plan Area. ²⁰	Rangitahi Peninsula Structure Plan (Appendix 8).
RD3	(a) Any mixed use activity comprising of a Rangitahi comprehensive residential development and a Rangitahi commercial activity (including health facilities) ²¹ or a community facility is a restricted discretionary activity and shall meet the conditions in Rules 28.1.1 P5-P6 and 28.1.3 RD1 and RD2; (b) Mixed use activities provided for under Rule RD3(a) are exempt from the requirements of Rule 28.3.6 (Accessory buildings)	Council's discretion is restricted to the matters of discretion of Rules 28.1.3 RD1 (a) and RD2 (a).

9.6 Section 32AA evaluation

148. The recommended amendments provide certainty and address inconsistencies in relation to terms used. Definitions are not required because there are no plan provisions that utilise them. It would therefore not be efficient or effective to retain these definitions. Therefore, a s32AA evaluation is not required.
149. The consequential amendments proposed in response to the submission to include a reference to 'an approved subdivision consent' is the most appropriate method for achieving Objective 9.3.1, while enabling some flexibility to respond to approved subdivisions. The amended rule is an effective and efficient way to address inconsistency between future development and previously approved subdivision consents because it does not require a discretionary consent where issues of inconsistencies have already been considered. The risk of not acting is that every development that is in accordance with an approved subdivision, but not the Rangitahi Structure Plan, would trigger consent as a discretionary activity.

10. Rule 28.1.1 Permitted Activities

10.1 Introduction

150. Rule 28.1.1 identifies permitted land use activities in the Rangitahi Peninsula Zone.

10.2 Submissions

151. Two submission points were received on the topic seeking amendments.

152. These submissions were made:

Submission point	Submitter	Decision requested
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²⁰ Rangitahi Ltd [343.25]

²¹ Consequential amendment to applying the national planning standards definition of commercial activity as per Hearing 5.

343.13	Rangitahi Limited	Delete Rule 28.1.1 (b) Permitted Activities. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.22	Rangitahi Limited	Amend the activity conditions in Rule 28.1.1 Permitted Activities, to refer to the location of residential activities being in accordance with the Rangitahi Peninsula Structure Plan or any approved subdivision. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.

10.3 Analysis

153. Rule 28.1.1 lists the permitted activities along with the conditions that must be complied with. Conditions are listed for each activity. Conditions (a) and (b) for each activity are the same for each permitted activity:
- a. *An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8)*
 - b. *Is located within Plan 1 Structure Plan Area – Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8)*
154. **Rangitahi Limited [343.13 and 22]** seeks amendments to Rule 28.1.1 to delete (b) and amend the activity conditions. The submitter considers that clauses (a) and (b) are very similar, and that (b) is superfluous. The submitter also identifies that conditions (a) and (b) do not reflect that changes to activity locations may occur through the subdivision process for each precinct, with the subdivision standards providing more flexibility for variations. The submitter therefore seeks that the permitted activity conditions in Rule 28.1.1 refer to the location of residential activities being in accordance with the Rangitahi Peninsula Structure Plan or any approved subdivision. The submitter has a similar submission [343.12] in relation to the definition of ‘Integrated Residential Development’ discussed above, for the same reasons.
155. I agree that the conditions appear similar. Condition (a) refers to the entire structure plan in Appendix 8, which includes a series of plans including Plan 1 Structure Plan Area – Development Precincts as well as precinct plans, a development outcomes plan, indicative movement network and indicative open space plans. In contrast, condition (b) refers specifically to Plan 1 Structure Plan Area - Development Precincts. Condition (b) could therefore be considered to be contained within condition (a).
156. I consider condition (b) to be more certain as it identifies where activities are to be located in relation to a specific plan. I therefore do not support the relief sought to delete condition (b). Instead, I support the deletion of condition (a) because it does not provide sufficient clarity to enable compliance to be determined as a permitted activity. I therefore consider condition (a) to be superfluous.
157. A subdivision is also required to be in accordance with the structure plan under Rule 28.4.1(a)(i), although some flexibility is provided for under Conditions (a)(ii), including the boundaries of Development Precincts. Therefore, it is clear that the PWDP anticipates that development may occur outside the Development Precincts.

158. Regarding concerns about flexibility, it is important to recognise that Rule 28.1.1 identifies permitted activities. Therefore, resource consent is not required. Permitted activities P1-P4 and P6 that do not comply with one or more conditions are a discretionary activity. I agree that where there is an approved subdivision consent, it would be inefficient to require a resource consent as a discretionary activity. The actual and potential adverse effects of development being inconsistent with the structure plan would have already been considered as part of the subdivision consent process. The subdivision rules provide for some flexibility, and this should be reflected in the permitted activity conditions. Therefore, I consider that Condition (a) for permitted activities be deleted and Condition (b) amended to refer to an approved subdivision consent.

10.4 Recommendations

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

- (a) **Accept in part** Rangitahi Limited [343.13]: to the extent that Rule 28.1.1 condition (a) be deleted.
- (b) **Accept in part** Rangitahi Limited [343.22]: to the extent that Rule 28.1.1 condition (b) be amended to recognise approved subdivisions.

10.5 Recommended amendments

160. The following amendments are recommended to Rule 28.1.1 to delete Condition (b) and amend Condition (a) to include reference to an approved subdivision:

Activity		Conditions
P1	Residential activity	(a) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8); and ²² (b) Is located within Plan 1 Structure Plan Area - Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or any approved subdivision.</u> ²³
P2	A temporary event	(a) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8); and (b) Is located within Plan 1 Structure Plan Area - Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or any approved subdivision;</u> and (c) The event occurs no more than 3 times per calendar year; and (d) It operates between 7.30am to 8:30pm Monday to Sunday; and (e) Temporary structures are: (f) Erected no more than 2 days before the event occurs; and (g) Removed no more than 3 days after the end of the event; and (h) The site is returned to its original condition no more than 3 days after the end of the event; and (i) There is no direct site access from a national route or regional arterial road.
P3	A home occupation	(a) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8); and

²² Rangitahi Limited [343.13]

²³ Rangitahi Limited [343.22]

		<p>(b) Is located within Plan I Structure Plan Area - Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or any approved subdivision</u>; and</p> <p>(c) It is wholly contained within a building; and</p> <p>(d) The storage of materials or machinery associated with the home occupation are wholly contained within a building; and</p> <p>(e) No more than 2 people who are not permanent residents of the site are employed at any one time; and</p> <p>(f) There is no unloading and loading of vehicles or the receiving of customers or deliveries before 7:30am or after 7:00pm on any day; and</p> <p>(g) There is no operation of machinery before 7:30am or after 9pm on any day.</p>
P4	A homestay	<p>(a) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8); and</p> <p>(b) Is located within Plan I Structure Plan Area - Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or any approved subdivision</u>; and</p> <p>(c) Provides accommodation for no more than 4 temporary residents.</p>
P5	A community activity <u>facility</u> ²⁴	<p>(d) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8); and</p> <p>(e) Is located within Plan I Structure Plan Area - Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or any approved subdivision</u>; and</p> <p>(f) The total gross floor area does not exceed a total of 200m² within the whole of the Rangitahi Peninsula Structure Plan Area (Appendix 8).</p>
P6	<u>Rangitahi commercial</u> ²⁵ activity (including health facilities)	<p>(e) An activity that is in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8); and</p> <p>(f) Is located within Plan I Structure Plan Area - Development Precincts shown on the Rangitahi Peninsula Structure Plan (Appendix 8) <u>or any approved subdivision</u>; and</p> <p>(g) The total gross floor area does not exceed a total of 400m² gross floor area within the whole of the Rangitahi Peninsula Structure Plan Area (Appendix 8); and</p> <p>(h) Gross floor area of each individual premise does not exceed 100m².</p>

10.6 Section 32AA evaluation

161. The recommended amendments to delete reference to one plan reduce duplication and therefore provide certainty. Therefore, a s32AA evaluation is not required.

²⁴ Hearing 5 recommendation to delete 'community activity' and rely on the national planning standards definition of 'community facility'.

²⁵ Consequential amendment to applying the national planning standards definition of commercial activity as per Hearing 5.

162. The recommended amendments to include reference to ‘an approved subdivision consent’ as a permitted activity condition is the more appropriate method for achieving Objective 9.3.1 while enabling some flexibility to respond to approved subdivisions. The amended rule is an effective and efficient way to address inconsistency between future development and previously-approved subdivision consents, because it does not require a discretionary consent where structure plan-type issues have already been considered. The risk of not acting is that every development that is in accordance with an approved subdivision, but not the Rangitahi Structure Plan, would trigger consent as a discretionary activity.

11. Rule 28.1.3 Restricted Discretionary Activities

11.1 Introduction

163. Rule 28.1.3 identifies restricted discretionary land use activities in the Rangitahi Peninsula Zone.

11.2 Submissions

164. Two submission points were received on the topic of restricted discretionary activities, and two further submissions.
165. These submissions were made:

Submission point	Submitter	Decision requested
781.20	Ministry of Education	Add a new rule for education facilities to Rule 28.1.3 Specific Activities - Restricted Discretionary Activities as follows: <u>Activity RD4 Education Facilities</u> <u>Council's discretion shall be restricted to the following matters: (a) The extent to which the location, bulk, scale and built form of building(s) impacts on natural, ecological, landscape and/or historic heritage values. (b) The extent to which the activity may adversely impact on the transport network. (c) Ability to soften the visual impact of buildings from adjoining residential properties. (d) The extent to which the activity may adversely impact on the streetscape. (e) The extent to which the activity may adversely impact on the noise environment.</u>
<i>FS1208.11</i>	<i>Rangitahi Limited</i>	<i>Supports</i>
<i>FS1387.1222</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Opposes</i>
343.25	Rangitahi Limited	Amend Rule 28.1.3 RDI Restricted Discretionary Activities for clarity so that (b) is a subset of (a). AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.

11.3 Analysis

166. **Ministry of Education [781.20]** seeks amendment of Rule 28.1.3 to include education facilities as a restricted discretionary activity because it opposes the non-complying activity status for schools. The submitter considers that the majority of education facilities (including, community education, early childhood education, tertiary education institutions, work skills training centres, outdoor education centres, and sports training establishments) are located within residential areas like Rangitahi Peninsula and are considered essential social infrastructure required to support residential areas. The submission is supported by *Rangitahi Limited [FS1208.11]* because it allows for assessment to ensure that activities are consistent with the role, function and character of the Rangitahi Peninsula Zone, and that their effects are appropriately managed.
167. The term 'education facility' is defined in Chapter 13 of the PWDP. Hearing 5 dealt with definitions, including 'education facility', recommending that it be amended to 'educational facility' to be consistent with the National Planning Standards.
- Means land or buildings used for teaching or training by childcare services, schools, and tertiary education services, including any ancillary activities.*
168. On this basis, I refer to educational facilities in response to this submission.
169. Educational facilities in the Rangitahi Peninsula Zone as notified would be a non-complying activity under Rule 28.1.5 NCI because they are not listed as Prohibited, Permitted, Restricted Discretionary or Discretionary.
170. The Rangitahi Structure Plan in Appendix 8 does not identify provision for educational facilities - only residential, mixed use, commercial and tourism. Childcare facilities are identified as controlled activity under Rule 28.1.2 CI. Therefore, in my opinion the educational facilities (other than childcare facilities) are not anticipated by the PWDP in the Rangitahi Peninsula Zone.
171. I agree with the submitter that educational facilities are an essential social infrastructure required to support residential areas. However, I do not consider the Rangitahi Peninsula to be an appropriate location for educational facilities generally, because they may support a wider catchment that will result in additional traffic effects to the area which only has access via Opoturu Road. I accept that child care facilities make sense, as they serve the local community and are unlikely to attract people from elsewhere to the area.
172. Educational facilities are identified as a non-complying activity because they are not specifically identified in any other activity category. I understand this to be because such activities were never anticipated by the structure plan. I note that the relief sought is supported by Rangitahi Ltd, but the Ministry of Education has not provided any further justification to support why educational facilities would be appropriately identified as a restricted discretionary activity. For example, would the community support a primary school? Furthermore, the Ministry of Education would generally designate land for the purposes of schools, therefore the activity status would be irrelevant. I acknowledge that there may be other educational institutions that would still be subject to the non-complying rule, but there are no other submissions from other providers of educational services. I do not consider it appropriate to identify education facilities as a restricted discretionary activity.

173. **Rangitahi Ltd [343.25]** seeks amendments to Rule 28.1.3 RDI to provide greater clarity because the format of the rule does not make sense. The submitter indicates that clause (b) should read as a subset of clause (a).
174. I agree with the submitter that the format of the rule is incorrect, as illustrated by (a)(i), which addresses community activities, therefore Rangitahi commercial activity should be (a)(ii) rather than (b).

11.4 Recommendations

175. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Ministry of Education [781.20] and Rangitahi Ltd [FS/208.11]: to the extent that Rule 28.1.3 is not amended to identify educational facilities.
- (b) **Accept** Rangitahi Ltd [343.25]: amend Rule 28.1.1 to identify (b) as (a)(ii).

11.5 Recommended amendments

176. The following amendments are recommended to replace 'community activity' with 'community facility' in Rule 28.1.3:

RDI	<p>(c) Any activity that does not comply with a condition for Rule 28.1.1(P5) or Rule 28.1.1(P6) is a restricted discretionary activity provided that:</p> <p>(iii) For a community activity facility²⁶, the total gross floor area within the Rangitahi Peninsula Structure Plan Area does not exceed 300m² within the whole of the Structure Plan Area.</p> <p>(b)-(ii) For Rangitahi commercial activity:</p> <p>(+)A. The total gross floor area does not exceed 600m² within any of the seven neighbourhoods shown on the Rangitahi Peninsula Structure Plan (Appendix 8), or</p> <p>(+)B. The total gross floor area does not exceed 1000m² within the whole of the Structure Plan Area.²⁷</p>	<p>(c) Council's discretion is restricted to the following matters:</p> <p>(ix) Effects on the role, function, and vitality, of the Raglan town centre;</p> <p>(x) Traffic impacts on the safety and efficiency of the road network;</p> <p>(xi) Consistency with the Rangitahi Peninsula Structure Plan (Appendix 8);</p> <p>(xii) Character and amenity of development within the Rangitahi Peninsula Structure Plan (Appendix 8).</p>
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11.6 Section 32AA evaluation

177. The recommended amendments address formatting errors and make the rule more certain. Therefore, a s32AA evaluation is not required.

²⁶ Hearing 5 recommendation to delete 'commercial activity' and rely on the national planning standards definition of 'community facility'.

²⁷ Rangitahi Ltd [343.25]

12 Rule 28.2.1.2 Noise

12.1 Introduction

178. Rule 28.2.1.2 identifies the general noise standards for permitted activities, and where these are not complied with, noise is a discretionary activity.

12.2 Submissions

179. Two submission points were received on the topic of noise, one seeking it be retained and one seeking it be amended. There was one further submission.

180. These submissions were made:

Submission point	Submitter	Decision requested
923.169	Waikato District Health Board	Amend Rule 28.2.1.2 P2 and D1 Noise - General, as follows: <u>P2 Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed: (a) Noise measured the following limits at any point within any other site in the Rangitahi Peninsula Zone must not exceed: (i) 50 dB LAeq(15min) dB (LAeq), 7am to 7pm, every day; and (ii) 45 dB LAeq(15min) dB (LAeq), 7pm to 10pm, every day; and (iii) 40 dB LAeq(15min) dB (LAeq) and 65 dB (Amax), 10pm to 7am the following day; (iv) 65 dB LAFmax, 10pm to 7am the following day; (b) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 "Acoustics Measurement of Environmental Sound." (c) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 "Acoustic Environmental noise." D1 (a) Sound that is outside the scope of NZS 6802:2008 or a permitted activity standard; and (b) Sound Noise generated by any activity that does not comply with Rule 28.2.1.2 P1 or and P2.</u>
378.77	Fire and Emergency New Zealand	Retain Rule 28.2.1.2 Noise General.
FS1035.184	Pareoranga Te Kata	Supports

12.3 Analysis

181. **Waikato District Health Board [923.169]** seeks amendment to P2 to clarify that all noise must be measured in accordance with NZS 6801:2008, to address inconsistent terminology with the standard, and identify sound sources outside the scope of the standard as a discretionary activity.

182. I note that the Waikato DHB submission is similar to other submission points on general noise standards in other zones, i.e. Chapter 16 Residential. The submission seeks clarification and updating of reference changes, which are supported, as they do not change the intent of the rule.

183. **Fire and Emergency New Zealand [378.77]** supports Rule 28.2.1.2 PI and seeks retention, because it permits noise generated by emergency sirens, providing for operational requirements and the ongoing health and safety of people and communities.

12.4 Recommendations

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

- (a) **Accept in part** Fire and Emergency New Zealand [378.77] and Pareoranga Te Kata [FS1035.184]: to the extent that Rule 28.2.1.2 be retained with amendments under other submissions.
- (b) **Accept** Waikato District Health Board [923.169]: amend Rule 28.2.1.2 to address inconsistencies with NZS 6801:2008.

12.5 Recommended amendments

185. The following amendments to Rule 28.2.1.1 are recommended:

P2	<p>(a) Noise measured within any other site must not exceed:²⁸</p> <ul style="list-style-type: none"> (i) 50dB <u>L_{Aeq} (15min)</u> (L_{Aeq}), 7am to 7pm, every day, and (ii) 45dB <u>L_{Aeq} (15min)</u> (L_{Aeq}), 7pm to 10pm, every day, and (iii) 40dB <u>L_{Aeq} (15min)</u> (L_{Aeq}), <u>10pm to 7am the following day</u>, and (iv) 65dB (L_{AFmax}), 10pm to 7am the following day. <p>(b) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 "Acoustics - Measurement of Environmental Sound.</p> <p>(c) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 "Acoustic- Environmental noise".</p>
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12.6 Section 32AA evaluation

186. The recommended amendments address consistency with the New Zealand Standard for noise measurement as well as consistency within the PWDP. Therefore, a s32AA evaluation is not required.

13. Rule 28.2.4.3 Earthworks

13.1 Introduction

187. Rule 28.2.4 of the PWDP contains the rules relating to earthworks.

13.2 Submissions

188. One submission point was received in relation to earthworks in Significant Natural Areas within the Rangitahi Peninsula Zone. This submission seeks amendments to the notified rule.

189. The following submission was made:

Submission point	Submitter	Decision requested

²⁸ Waikato District Health Board [923.169]

343.27	Rangitahi Limited	Amend Rule 28.2.4.3 Earthworks - Significant Natural Areas, to make provision for earthworks associated with construction of roads that are in general accordance with the Rangitahi Structure Plan. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
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13.3 Analysis

190. **Rangitahi Ltd [343.27]** seeks amendment to Rule 28.2.4.3 to recognise that the structure plan identifies roads that cross the SNA.
191. As notified, Rule 28.2.4.3 identifies earthworks in the SNA that are not a permitted or restricted discretionary activity as a discretionary activity D1. Only earthworks that are not associated with the maintenance of existing tracks, fences or drains are a permitted activity, and restricted discretionary activities only relate to the conditions associated with those permitted activities. Therefore, the construction of roads in an SNA is a discretionary activity even though it is in accordance with the approved structure plan.
192. The s42A report for Hearing 21A recommends deletion of Rule 28.2.4.3 and identification of earthworks in a SNA as a permitted activity for maintenance of tracks, fences or drains. Earthworks for other purposes are then identified as a restricted discretionary activity.²⁹
193. I acknowledge that there is a requirement for construction of roads throughout the Rangitahi Peninsula, and that these are identified in the structure plan to cross SNAs. It is appropriate for the PWDP to have a consistent approach to the management of earthworks in these areas. The rule framework indicates that the PWDP expects earthworks in SNAs to be avoided or minimised. I appreciate that this is not necessarily achievable in the Rangitahi Peninsula and the recommendations in Hearing 21A will address the concerns raised by the submitter by identifying earthworks as a restricted discretionary consent rather than a discretionary activity.

13.4 Recommendations

194. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept in part** Rangitahi Ltd [343.27]: to the extent that recommended amendments in Hearing 21A make earthworks in a SNA a restricted discretionary activity.

13.5 Recommended amendments

195. No amendments are recommended, but to assist the Hearings Panel I repeat the recommended amendment from Hearing 21A, although I realise this may evolve through the hearing for SNAs:

<u>RD2</u>	<p><u>Earthworks in a Significant Natural Area for purposes other than the maintenance of existing tracks, fences or drains</u></p> <p><u>Council's discretion is restricted to the following matters:</u></p> <p>(i) <u>The effects on the Significant Natural Area</u></p>
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²⁹ Hearing 21A s42A report, section 20.

	<p>(ii) <u>Land instability, erosion and sedimentation.</u></p> <p>(iii) <u>The functional and operational need for the earthworks</u></p> <p>(iv) <u>Volume, extent and depth of earthworks</u></p>
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14. Rule 28.2.6 Signs

14.1 Introduction

196. Rule 28.2.6 of the PWDP manages signs in the Rangitahi Peninsula Zone.

14.2 Submissions

197. Two submission points were received on the topic of signs seeking amendments.

198. These submissions were made:

Submission point	Submitter	Decision requested
602.57	Greig Metcalfe	<p>Amend Rule 28.2.6.1 P2 (a) Signs - General as follows:</p> <p>(a) Any real estate 'for sale' sign relating to the site on which it is located must comply with all of the following conditions:</p> <p>(i) <u>There is no more than 1 sign per agency measuring 600mm x 900mm per road frontage of the site to which the sign relates;</u></p> <p>(ii) <u>There is no more than 1 sign measuring 1800mm x 1200mm per site to which the sign relates;</u></p> <p>(iii) <u>There is no more than 1 real estate header sign measuring 1800mm x 1200mm on one other site;</u></p> <p>(ii)-(iv) <u>The sign is not illuminated;</u></p> <p>(iii) <u>(v) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials;</u></p> <p>(iv)-(vi) <u>The sign does not project into or over road reserve.</u></p> <p><u>(vii) Any real estate sign shall be removed from display within 60 days of sale/lease or upon settlement, whichever is the earliest.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
343.28	Rangitahi Limited	<p>Delete Rule 28.2.6.3 Heritage items and Maori Sites of Significance.</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.</p>

14.3 Analysis

199. **Greig Metcalfe [602.57]** seeks amendment of Rule 28.2.6.1 P2 condition (a) because it is too restrictive for real estate signs and corner sites should be able to have additional sign opportunities without adversely affecting residential character and amenity. The submitter also considers that allowance should be made for feature signs and header signs on another sign to direct purchasers to the site.
200. The submitter's submission point is similar to other submission points of the submitter relating to real estate signs in other zones, i.e. the Residential Zone. Although the relief sought varies, the reasons are the same. In relation to Hearing 10 Residential Zone, the submission point was rejected because the Council has made a deliberate decision to enable signs for real estate purposes without restrictions. I note that conditions for permitted activities under Rule 28.2.6.1 P2 in the Rangitahi Peninsula Zone are actually more permissive than the rules for real estate signs in other zones (e.g. Residential). Within the Rangitahi Peninsula Zone up to 3 signs per site are allowed compared with one elsewhere. I support the Council's approach to signage and do not consider it necessary to introduce detailed standards as proposed by the submitter.
201. **Rangitahi Ltd [343.28]** seeks the deletion of Rule 28.2.6.3 Signs - Heritage Items and Maaori Sites of Significance because there are no heritage items or Maaori Sites of Significance within the Rangitahi Structure Plan area identified on Maps 23 (Raglan) and 23.3 (Raglan West) of the PWDP.
202. I acknowledge that the PWDP does not currently identify any heritage items or Maaori Sites of Significance at Rangitahi Peninsula. Furthermore, the Rangitahi Structure Plan specifically addresses archaeological sites, requiring that all archaeological sites be registered as covenants on titles.
203. The Operative Plan does not contain any specific rules for signs relating to heritage items or Maaori Sites of Significance in the Rangitahi Peninsula Zone. Rule 28.2.6.3 also differs in the way signs are dealt with in other zones. For example, in the Residential Zone there is no specific rule for heritage or Maaori Sites of Significance, instead signs have to meet the conditions for permitted activities under Rule 16.2.7.1 P2 or become a restricted discretionary activity. As a permitted activity in the Residential Zone, signs are limited in size and cannot be attached to a scheduled heritage item or Maaori Site of Significance. As a restricted discretionary activity, discretion is restricted to matters including (vii) effects on the heritage values of any heritage item and (viii) the effects on cultural values of any Maaori Site of Significance. Therefore, the Rangitahi Peninsula Zone does not apply the standard format for rules relating to signs.
204. I note that in Hearing 20 it was recommended to delete Rule 28.2.4.2 Earthworks in Rangitahi Peninsula because there are no scheduled Maaori Sites of Significance. I therefore consider it appropriate to delete Rule 28.2.6.3 for the same reasons. Furthermore, although the title of the rule refers to heritage items, the rule itself only manages Maaori Sites of Significance.
205. The Rangitahi Peninsula general signs rule differs slightly to the same rule in the Residential and Village Zones. Table 2 below compares the notified rules. They are almost identical, apart from conditions relating to roads, notable trees, heritage items and Maaori Sites of Significance. These differences can be attributed to the fact that there are no scheduled sites or notable trees currently at Rangitahi Peninsula. I also note that in Hearing 10 it is recommended to

delete the condition relating to roads. I therefore consider the general signs rule at Rangatahi Peninsula to be consistent.

Table 3 Comparison of general signs rules of Rangitahi Peninsula and Residential zones

Rangitahi Peninsula Zone – Rule 28.2.6.1 Signs – General	Residential Zone – Rule 16.2.7.1 Signs - general
<p>(a) A sign visible from a public place must comply with all of the following conditions:</p> <ul style="list-style-type: none"> (i) It is the only sign on the site; (ii) It is wholly contained on the site; (iii) It does not exceed 0.25m²; (iv) The sign height does not exceed 2m; (v) It is not illuminated; (vi) It does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (vii) It relates to: <ul style="list-style-type: none"> A. Goods or services available on the site; or B. It is a property name sign; or C. It is a public information sign erected by a public authority; or D. It is a temporary sign on display for no more than 3 months. 	<p>(a) A sign must comply with all of the following conditions:</p> <ul style="list-style-type: none"> (i) It is the only sign on the site; (ii) The sign is wholly contained within the site; (iv) The sign does not exceed 0.25m²; (v) The sign height does not exceed 2m; (vi) The sign is not illuminated; (vii) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (viii) The sign is set back at least 50m from the designated boundary of a state highway and the Waikato Expressway; (ix) The sign does not project over road reserve; (ix) The sign is not attached to a tree identified in Schedule 30.2 Notable Trees, except for the purpose of identification and interpretation; (x) The sign is not attached to a heritage item listed in Schedule 30.1 (Heritage Items), except for the purpose of identification and interpretation; (xi) The sign is not attached to a Maaori Site of Significance listed in Schedule 30.3 (Maaori Sites of Significance), except for the purpose of identification and interpretation; (xii) The sign relates to: <ul style="list-style-type: none"> A. goods or services available on the site; or B. a property name sign.

14.4 Recommendations

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

- (a) **Accept** Rangitahi Ltd [343.28]: delete rule 28.2.6.3.
- (b) **Reject** Greig Metcalfe [602.57].

14.5 Recommended amendments

207. The following amendments are recommended:

~~28.2.6.3 Signs – Heritage items and Maaori Sites of Significance~~

PI	(a) A sign for the purpose of identification and interpretation attached to: (i) A Maaori Site of Significance listed in Schedule 30.3 (Maaori Site of Significance).
RDI	(a) Any sign that does not comply with Rule 28.2.6.3 PI. (b) Council's discretion is restricted to the following matters: (i) Effects on cultural values of any Maaori Site of Significance.

14.6 Section 32AA evaluation

208. The recommended amendment to delete Rule 28.2.6.3 is efficient and effective because there are no scheduled sites in the Rangitahi Peninsula Zone, therefore the rule has no application. There are no costs or benefits, and no risk of acting.

15. Rule 28.2.8 Significant Natural Areas

15.1 Introduction

209. Rule 28.2.8 identifies permitted activities for indigenous vegetation clearance in SNAs, and where an activity does not comply with the permitted rules it becomes a discretionary activity.

15.2 Submissions

210. Two submission points were received on the topic of significant natural areas.
211. The following submissions were made:

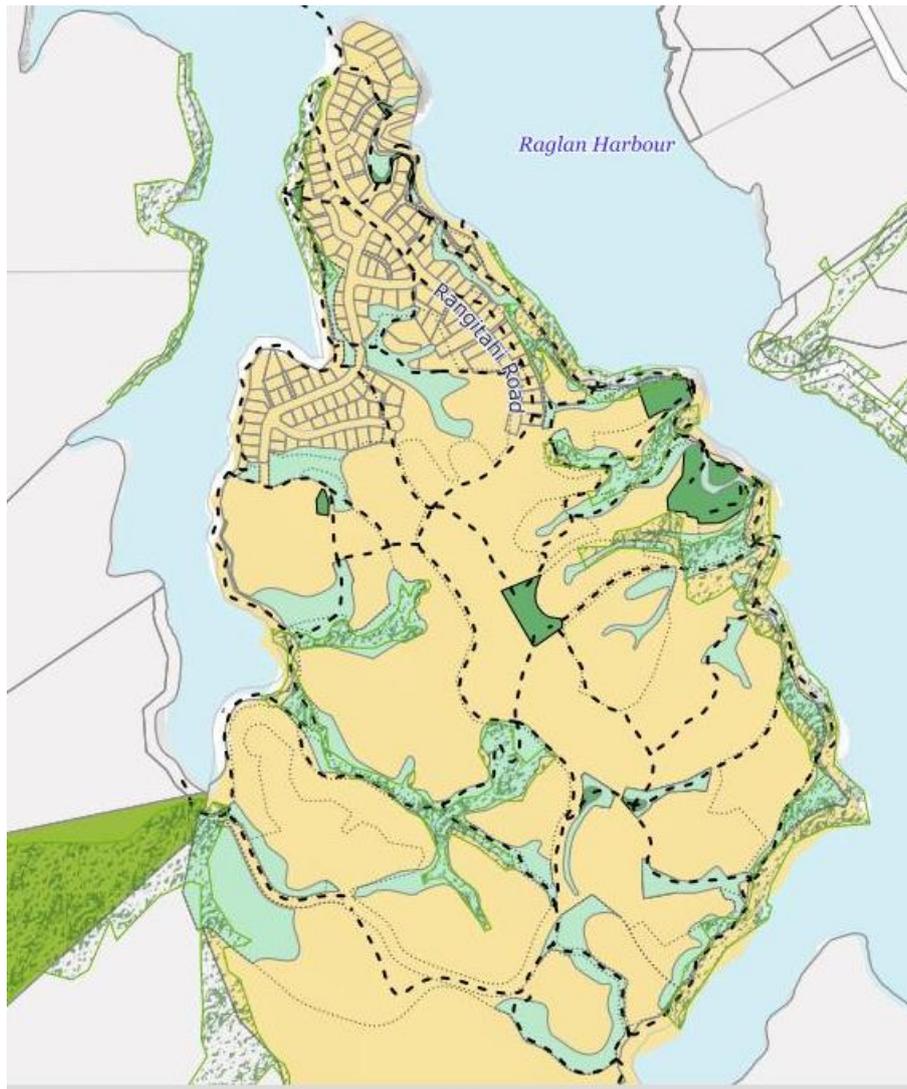
Submission point	Submitter	Decision requested
343.23	Rangitahi Limited	Amend Rule 28.2.8 PI Indigenous Vegetation Clearance Inside a Significant Natural Area, to make provision for indigenous vegetation clearance associated with construction of roads that are in general accordance with the Rangitahi Structure Plan. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.29	Rangitahi Limited	Delete references to Schedule 30.5 (Urban Allotment Significant Natural Areas, Maori Freehold Land or Maori Customary Land) from Rule 28.2.8 - Indigenous Vegetation Clearance Inside a Significant Natural Area. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.

15.3 Analysis

212. **Rangitahi Ltd [343.23]** seeks to amend Rule 28.2.8 PI to make provision for indigenous vegetation clearance associated with road construction that is in general accordance with the structure plan.
213. The submitter raised similar concerns with the earthworks rule discussed above. For the same reasons I do not support the relief sought to make road construction in SNAs a permitted activity. As a permitted activity there is no ability to impose conditions to mitigate any loss of indigenous vegetation. Furthermore, Rangitahi Peninsula is within the coastal environment and is therefore subject to the NZCPS requirement to avoid significant effects on indigenous vegetation.
214. I note that in Hearing 21A a separate rule for indigenous vegetation clearance within the coastal environment is recommended be included in the PWDP as a discretionary activity.³⁰ A number of other amendments are recommended to Rule 28.2.8 in Hearing 21A, but the submission point from Rangitahi Ltd was not included in that hearing and therefore was not considered. I therefore do not consider it appropriate to amend the permitted activity.
215. While I appreciate that there may be some conflicts between the mapped SNAs and the location of some roads and lots on the structure plan maps, as discussed previously in relation to Policy 9.3.3.7 the area is located within the coastal environment and is therefore subject to Policy 11 of the NZCPS. Therefore I do not support the relief sought to enable indigenous vegetation clearance as a permitted activity.
216. I rely on the findings of the s42A report on SNAs in the coastal environment and consider it appropriate for indigenous vegetation clearance to be identified as a discretionary activity. I previously discussed amendments to Policy 9.3.3.7 that would support granting resource consent for indigenous vegetation clearance associated with road construction.
217. **Rangitahi Ltd [343.29]** seeks to delete references to Schedule 30.5 Urban Allotment Significant Natural Areas from Rule 28.2.8, because no sites are scheduled within the Rangitahi Peninsula.
218. Schedule 30.5 identifies sites within the urban area where there are groups of trees that are scheduled. The schedule responds to s76(4A) of the RMA that does not allow for the protection of trees in urban allotments unless specifically scheduled. There are SNAs identified throughout the Rangitahi Peninsula. However, there are currently no Urban Allotments listed in Schedule 30.5 that are within the Peninsula. I expect this is because the site is transitioning into an urban environment and is currently undergoing subdivision.
219. Plan 1 Structure Plan Area identifies Landscape Restoration Policy Areas, which generally align with the SNA mapped in the PWDP. However, Plan 3 Indicative Open Space does not necessarily match with the SNA. It is anticipated that at the time of subdivision the SNA will be accurately identified and located within the open space network to ensure protection. Providing this occurs, then there would be no indigenous vegetation within new urban sites. Therefore, I agree with the submitter that Schedule 30.5 is not relevant and should be deleted from Rule 28.2.8.

³⁰ Hearing 21A s42A report, section 21.

Figure 2 PWDP - SNAs and Indicative Open Space



220. I note that the submitter has not sought the deletion of SNAs from the Rangitahi Peninsula. However, through discussions with Mr Inger I am aware that there are conflicts between the mapped SNAs and the alignment of roads and lots in the structure plan. For example, the northernmost SNA overlaps existing vested road in Precinct A and overlaps areas of residential lots which have been earthworked (there is no vegetation). Future development would not be affected by rules restricting the removal of indigenous vegetation where no vegetation exists.
221. Hearing 21A does not recommend the removal of mapped SNAs at Rangitahi Peninsula, nor are they included in the ground truthing assessment by WSP.³¹ However, there may be scope within the submissions to Hearing 21A to amend the SNA maps at Rangitahi Peninsula where they are not accurately mapped. I do not have sufficient information at this stage to determine whether this is necessary and the submitter may wish to respond to this issue in evidence.

³¹ Hearing 21A Appendix 3 SNA Assessment.

15.4 Recommendations

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

- (a) **Accept** Rangitahi Ltd [343.29]: amend Rule 28.2.8 P1 to delete reference to Schedule 30.5.
- (b) **Reject** Rangitahi Ltd [343.23].

15.5 Recommended amendments

223. The following amendments are recommended to Rule 28.2.8 Indigenous vegetation clearance inside a Significant Natural Area to remove reference to Schedule 30.5 (Urban Allotment Significant Natural Areas) further amendments illustrated are those recommended by Hearing 21A:

P1	(a) Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) ³² for the following purposes: <ul style="list-style-type: none"> (i) Removing vegetation that endangers human life or existing buildings or structures; or (ii) Conservation fencing to exclude stock or pests; or (iii) Maintaining existing farm drains; or (iv) Maintaining existing tracks and fences; or (v) Gathering plants in accordance with Maori customs and values; or
P2	Removing of up to 5m³ of manuka and/or kanuka outside of the Coastal Environment per single consecutive 12 month period per property for domestic firewood purposes and arts or crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant
P3	(a) Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area outside the coastal environment identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must comply with all of the following conditions: <ul style="list-style-type: none"> (i) There is no alternative development area on the site outside the Significant Natural Area; and (ii) The total indigenous vegetation clearance does not exceed 250m². (iii) The vegetation clearance is at least 10m from a natural waterbody.
P4	(a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) where: <ul style="list-style-type: none"> (i) There is no alternative development area on the site outside the Significant Natural Area; (ii) The following total areas are not exceeded: <ul style="list-style-type: none"> A. 1500m² for a Marae complex, including areas associated with access parking and manoeuvring; and B. 500m² per dwelling, including areas associated with access parking and manoeuvring; and C. 500m² for a papakainga building including areas associated with access parking and manoeuvring.
P5	(a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) for the following purposes: <ul style="list-style-type: none"> (i) Removing vegetation that endangers human life or existing buildings or structures; or

³² Rangitahi Ltd [343.29]

	(ii) Conservation fencing to exclude stock or pests; or (iii) Maintaining existing farm drains; or (iv) Maintaining existing tracks and fences; or (v) Gathering plants in accordance with Maaori customs and values.
P6	3. Removing of up to 5m³ of manuka and/or kanuka outside of the Coastal Environment per consecutive 12 month period per property for domestic firewood purposes and arts or crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant
P7	The trimming or pruning of indigenous vegetation in a Significant Natural Area which will not directly result in the death, destruction, or irreparable damage of the vegetation
P8	Vegetation clearance of non-indigenous species in a Significant Natural Area
P9	Vegetation clearance outside a Significant Natural Area
D1	Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with Rule 21.2.8 P1, P2, P3, P4, P5 and P6.
D2	Indigenous vegetation clearance in a Significant Natural Area other than for the purposes listed in P1-P4.
D3	Indigenous vegetation clearance within a Significant Natural Area within the coastal environment

15.6 Section 32AA evaluation

224. The recommended amendment to delete reference to urban allotment SNAs is efficient and effective because there are no scheduled urban allotment Significant Natural Areas in the Rangitahi Peninsula Zone, therefore the rule has no application. There are no costs or benefits, and no risk of acting.

16. Rule 28.3 Land use - Building

16.1 Introduction

225. Rule 28.3 sets out the rules for buildings in the Rangitahi Peninsula Zone.

16.2 Submissions

226. Three submission points were received on the topic of buildings, seeking the following amendments:

- a. Exclude lots which are likely to include multi-unit developments
- b. Make it clear that gross floor area standards apply to individual buildings rather than all accessory buildings
- c. Add a rule for impervious surface.

227. These submissions were made:

Submission point	Submitter	Decision requested
343.14	Rangitahi Limited	Amend Rule 28.3.1 Dwellings, to exclude lots in the locations shown on Development Outcomes

		Plan 5 in Appendix 8, which are likely to include multi-unit developments (Rangitahi Integrated Developments). AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
697.425	Waikato District Council	Add a new rule after Rule 28.3.5 Land Use - Building as follows: <u>Rule 28.3.5A Impervious surfaces PI</u> <u>The impervious surface of a site must not exceed 70%.</u> <u>RDI (a) Impervious surfaces that does not comply with Rule 28.3.5A PI</u> <u>(b) Council's discretion is restricted to the following matters:</u> <u>(i) Site design, layout and amenity;</u> <u>(ii) The risk of flooding, nuisance or damage to the site or other buildings and sites.</u>
343.15	Rangitahi Limited	Amend Rule 28.3.6 PI (b) Accessory Buildings, to make it clear that the gross floor area standards apply to individual buildings on a site rather than the total floor area of all accessory buildings. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
378.79	Fire and Emergency New Zealand	Retain Rule 28.3.9.3 Building setback - Waterbodies.
<i>FS1035.186</i>	<i>Pareoranga Te Kata</i>	<i>Supports</i>

16.3 Analysis

228. **Rangitahi Ltd [343.14]** seeks to amend Rule 28.3.1 because Plan 5 - Development Outcomes in Appendix 8 identifies comprehensive residential development sites that are intended to provide for integrated developments. The Rangitahi Peninsula Zone provides for comprehensive residential development or multi-unit developments within identified areas. Comprehensive Residential Developments are a restricted discretionary activity under Rule 28.1.3. Therefore, I agree with the submitter that these lots should be excluded from the permitted activity rule for dwellings.
229. **Rangitahi Ltd [343.15]** seeks to amend Rule 28.3.6(b) Accessory buildings to provide greater clarity that the gross floor area for development outside of Development Precincts applies to a building rather than total floor area. I note that this rule is the same as the operative rule. I can see no evidence to indicate that the drafting of the rule is an error. As a permitted activity, the rule limits the total gross floor area of all accessory buildings on a site outside the Development Precincts to 250m² on a site less than 2ha, and 400m² on a site 2ha or greater.
230. I consider the rule to appropriately limit the gross floor area *on a site* rather than individual buildings. This is particularly important when considering developments outside Development

Precincts, which are located within the rural balance lot as identified on Plan 2 – Indicative Land-use Plan in Appendix 8.

231. I acknowledge that Operative Plan Rule 21C.18 Non-residential buildings applies the GFA to a building. However, the operative rule also relies on an approved comprehensive development plan which is no longer applies.
232. The relief sought by the submitter would remove any limits on the number of accessory buildings allowable as a permitted activity, with each building able to be 250m² or 400m², depending on the area of the site. The only rule limiting the number or floor area of buildings would be the building coverage rule, which would result in significant coverage in this area. I note that building coverage in the Rural Zone is limited to 2% of the site area or 500m² as a permitted activity, otherwise it is a discretionary activity (Rule 22.3.6). Whereas in the Rangitahi Peninsula Zone, building coverage is limited to 40% of the site as a permitted activity (Rule 28.3.5). I therefore support retention of Rule 28.3.6 as notified.
233. **Waikato District Council [697.425]** seeks to remove the impervious surfaces rule from Chapter 14 and include it in the Rangitahi Peninsula Zone as Rule 28.3.5A to make it easier to find. This submission was also addressed in Hearing 22 Infrastructure and has been consistently applied throughout the PWDP. I support the relief sought, as it does not introduce a new rule but relocates it to provide greater clarity.
234. **Fire and Emergency New Zealand [378.79]** seeks retention of Rule 28.3.9.3 because the standard for building setbacks will safeguard the wellbeing of communities in accordance with the purpose of the Act and the purpose of FENZ in the effective protection of lives, property and the surrounding environment. I support retention of this rule.

16.4 Recommendations

235. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Fire and Emergency New Zealand [378.79] and Pareoranga Te Kata [FS1035.186]: retain Rule 28.3.9.3.
 - (b) **Accept** Rangitahi Ltd [343.14]: amend Rule 28.3.1.
 - (c) **Accept** Waikato District Council [697.425]: to include impervious area rule from Chapter 14.
 - (d) **Reject** Rangitahi Ltd [343.15].

16.5 Recommended amendments

236. The following amendments are recommended to Rule 28.3.1:

28.3.1 – Dwellings

PI	One dwelling within a lot, <u>excluding Comprehensive Residential Development lots identified on Plan 5 – Development Outcomes in Appendix 8.</u> ³³
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237. The following amendments are recommended to add a new Rule 28.3.5A:

28.3.5A Impervious surfaces³⁴

³³ Rangitahi Ltd [343.14]

³⁴ Waikato District Council [697.425]

<u>PI</u>	<u>The impervious surface of a site must not exceed 70%.</u>
<u>RDI</u>	<u>(a) Impervious surfaces that do not comply with Rule 28.3.5A PI</u> <u>(b) Council's discretion is restricted to the following matters:</u> (i) <u>Site design, layout and amenity;</u> (ii) <u>The risk of flooding, nuisance or damage to the site or other buildings and sites.</u>

16.6 Section 32AA evaluation

238. The recommended amendments provide greater clarification and certainty to assist implementation of the rules. Multiple units associated with a Comprehensive Residential Development are a restricted discretionary activity, therefore the amendment clarifies that the permitted activity for dwellings does not apply. The rule for impervious surfaces already exists in Chapter 14 of the notified PWDP and is simply relocated. Therefore, a s32AA evaluation is not required.

17. Subdivision

17.1 Introduction

239. Subdivision rules are located in Section 28.4.

17.2 Submissions

240. Eight submission points were received on the topic of subdivision:

- a. Two submission points seek deletion of variance standards for general subdivision and boundary adjustments rules
- b. Four submission points seek amendment to title boundaries rules
- c. One submission point seeks inclusion of cross reference to Chapter 14 Infrastructure and energy, and Chapter 15 Natural hazards and climate change
- d. One submission point seeks to amend the general subdivision rule to require connection to water supply for firefighting purposes.

241. These submissions were made:

Submission point	Submitter	Decision requested
343.16	Rangitahi Limited	Delete the variance standards in Rule 28.4.1 RDI (a)(ii) Subdivision - General. AND Retain the matters of discretion in Rule 28.4.1 RDI (b) Subdivision - General. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.17	Rangitahi Limited	Delete the variance standards in Rule 28.4.2 CI (a)(ii) Subdivision – Boundary adjustments. AND Add a matter of control to Rule 28.4.2 CI(c) Boundary adjustments, for the extent to which the subdivision is consistent with

		the Rangitahi Structure Plan in Rule 28.4.2 Subdivision – Boundary adjustments. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.18	Rangitahi Limited	Delete Rule 28.4.4 Title Boundaries – Contaminated Land. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
343.19	Rangitahi Limited	Delete Rule 28.4.5 (a)(ii) Title Boundaries – Significant Natural Areas and Maaori Sites of Significance. AND Delete Rule 28.4.5 (b)(ii) Title Boundaries – Significant Natural Areas and Maaori Sites of Significance. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.
378.80	Fire and Emergency New Zealand	Amend Rule 28.4.1 Subdivision - General, as follows:(a) <i>Subdivision must comply with the following conditions:...</i> <input checked="" type="checkbox"/> <u>Proposed lots must be able to connect to public-reticulated water supply;</u> (b) <i>Council's discretion shall be restricted to the following matters:...</i> <input checked="" type="checkbox"/> <u>Provision of infrastructure, including water supply for firefighting purposes.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FS1035.187</i>	<i>Pareoranga Te Kata</i>	<i>Supports</i>
697.423	Waikato District Council	Amend Rule 28(4) as follows: <i>The rules that apply to subdivision in the Rangitahi Peninsula Zone are contained in Rule 28.4 and the relevant rules in 14 <u>Infrastructure and Energy; and 15 Natural Hazards and Climate Change (Placeholder).</u></i>
559.266	Heritage New Zealand	Retain Rule 28.4.5 RDI Title boundaries – Significant Natural Areas, Maaori sites of Significance, except for the amendments sought below. AND Amend Rule 28.4.5 RDI Title boundaries - Significant Natural Areas, Maaori sites of Significance to be consistent with other zone chapters, including sites and areas not being divided by a proposed lot boundary line. AND Amend Rule 28.4.5 RDI Title boundaries - Significant Natural Areas, Maaori sites of Significance to be consistent with the equivalent rules in other zone chapters.
559.271	Heritage New Zealand	Retain Rule 28.4.5 NCI Title boundaries – Significant Natural Areas, Maaori sites and Maaori areas of Significance, except for the amendment sought below. AND Amend Rule 28.4.5 NCI Title boundaries - Significant Natural Areas, Maaori sites and Maaori areas of Significance to be consistent with the equivalent rules in other zone chapters, including the provision of heritage items.

17.3 Analysis

242. **Rangitahi Ltd [343.16 and 17]** seeks to amend Rules 28.4.1 and 28.4.2 to delete clauses that identify variances for restricted discretionary subdivision and controlled boundary adjustments, but to retain the matters of discretion and control.
243. Inclusion of the variances establishes conditions to be complied with as a restricted discretionary activity, otherwise the activity becomes a discretionary activity. The variances identified provide some flexibility or guidance to determine to what extent subdivision is required to be in accordance with the Rangitahi Structure Plan in Appendix 8.
244. Under the Operative Plan, subdivision was a controlled activity (Rule 21C.20.1) where a Comprehensive Development Plan had been approved. The variances included in the PWDP reflect the variances that were identified for Comprehensive Development Plans as a controlled activity. With this process no longer required, the PWDP requires subdivision as a restricted discretionary activity.
245. I have discussed the variances with the submitter, and understand that there is a significant amount of work required to determine whether a proposal meets these variances, with potentially little benefit. As a controlled activity, these variances may have made sense because a controlled activity cannot be declined. However, as a restricted discretionary activity, these matters can be assessed as part of the proposal and appropriate conditions imposed or the proposal can be declined. I accept that, given the general level of detail available in the approved structure plan, it is very difficult to determine whether a proposal meets the variances or not.
246. I support the removal of the variances as conditions of a restricted discretionary activity for subdivision, and consider these are appropriately considered as matters of discretion to guide decision-making. However, Rule 28.4.2 for boundary adjustments remains a controlled activity, therefore cannot be declined, and I do not support removing variances for this activity.
247. **Fire and Emergency New Zealand [378.80]** seek to amend the general subdivision conditions and matters of discretion to ensure that proposed lots are able to connect to reticulated water supply. This submission is consistent with similar submissions from the submitter on other zones, and is supported because it is important that water supply for firefighting purposes is provided for at the time of subdivision.
248. Four submission points address title boundaries -two on Rule 28.4.4 (contaminated land) and two on Rule 28.4.5 (significant natural areas and Maaori Sites of Significance). **Rangitahi Ltd [343.18 and 19]** seek to delete both rules, and **Heritage NZ [559.266 and 271]** seek retention and amendment of Rule 28.4.5, to provide consistency with the rules for other zones.
249. The rules require that subdivision as a restricted discretionary does not divide areas of contaminated land, Significant Natural Areas, or Maaori Sites of Significance. Rangitahi Ltd consider that the rules do not apply to the Rangitahi Structure Plan area because there are no such areas or sites. The issue raised is similar to the concerns raised by Rangitahi Ltd in relation to both earthworks and signs in terms of Maaori Sites of Significance. I accept that there are no scheduled Maaori Sites of Significance at Rangitahi, therefore it is appropriate to delete this rule. However, there are a number of SNAs identified, therefore I support the retention of this part of the rule. I also do not support the deletion of subdivision rules relating to contaminated land to maintain consistency with the PWDP.
250. Heritage NZ considers that the rules as notified are not consistent with other zones. For example, in the Residential Zone the rules require that contaminated land, SNA and Maaori

Sites of Significance are contained fully within a proposed lot. In my opinion, the intention of the rules at Rangitahi are consistent with other zones, even though the wording differs.

251. As previously indicated, I rely on the findings of Hearing 21A in terms of the avoidance of adverse effects in SNAs. From discussions with Rangitahi Ltd I understand that the submitter has concerns regarding the linear nature of SNAs, and the likely outcome that every subdivision would become a non-complying activity. Taking into account the direction in Hearing 21A, a more appropriate activity status is discretionary rather than non-complying where a subdivision proposal divides a SNA. However, I continue to support the retention of the restricted discretionary activity requiring that SNAs be retained in single ownership for consistency with the PWDP.
252. I consider that a consequential change to Rule 28.4.1 General subdivision is necessary as a result of supporting the deletion of Maaori Sites of Significance from Rule 28.4.5. I support the inclusion of effects on archaeological and cultural values as a matter of discretion for general subdivision in Rule 28.4.1 to ensure that archaeological sites are appropriately considered.
253. **Waikato District Council [697.423]** seeks to include a cross reference to Chapters 14 and 15 to clarify that these district-wide rules also apply. I agree that the cross references will assist the plan reader and support the amendment proposed.

17.4 Recommendations

254. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Waikato District Council [697.423]: amend Chapter 28 to cross reference to Chapters 14 and 15 for subdivision.
 - (b) **Accept** Fire and Emergency New Zealand [378.80]: amend Rule 28.4.1 to include requirement for water supply.
 - (c) **Accept** Rangitahi Ltd [343.16] and reject Rangitahi Ltd [343.17]: amend Rules 28.4.1 RDI to remove variances and retain Rule 28.4.2 as notified.
 - (d) **Accept in part** Rangitahi Ltd [343.19] and Heritage NZ [559.271] and **reject** Heritage NZ [559.266]: to the extent that Rule 28.4.5 is retained but amended to delete reference to Maaori Sites of Significance and the activity status is amended to be a discretionary activity.

17.5 Recommended amendments

255. The following amendments are recommended:

Chapter 28: Rangitahi Peninsula Zone

- (1) The rules that apply to activities in the Rangitahi Peninsula zone are contained in Rule 28.1 Land Use – Activities, Rule 28.2 Land Use – Effects and Rule 28.3 Land Use – Building.
- (2) The activity status tables and standards in the following chapters also apply to activities in the Rangitahi Peninsula zone:

<u>14</u>	Infrastructure and Energy;
<u>15</u>	<u>Natural Hazards</u> (Placeholder).
- (3) The following symbols are used in the tables:

(a) PR	Prohibited activity
(b) P	Permitted activity
(c) C	Controlled activity
(d) RD	Restricted discretionary activity
(e) D	Discretionary activity

(f) NC Non-complying activity

- (4) The rules providing for subdivision in the Rangitahi Peninsula Zone are contained in Rule 28.4 and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change.³⁵

256. The following amendments to Rule 28.4.1 are recommended:

RDI	<p>(a) Subdivision must comply with the following conditions:</p> <p>(i) Subdivision must be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8), including the density ranges specified therein for each neighbourhood in the Neighbourhood Outcome Plans; and</p> <p>(ii) Compliance with the following variances will be determined to be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) (the base figures and locations are as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Peninsula Structure Plan):</p> <p>(vi) Development Precinct areas (hectares) – variance up to and including 10%;</p> <p>(vii) Development Precinct boundaries – variance up to and including 100m;</p> <p>(viii) Development Precinct densities – variance up to and including 10% from the upper and lower end of the range specified;</p> <p>(ix) Collector Road locations – variance up to and including 50m movement outside of the road reserve;</p> <p>(x) Secondary access location – any variance and up to and including 30% variance in length; and³⁶</p> <p>(iii) Environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8) (including, but not limited to, restoration planting shown on the Indicative Open Space Framework Plan and provision of walkways and cycle ways shown on the Indicative Movement Network Plan) have been implemented to the extent required;</p> <p>(iv) The primary access to the Rangitahi Peninsula Structure Plan Area by way of an upgraded Oporuru Road (inclusive of the Oporuru Road/Wainui Road intersection and the bridge/causeway at each end) has been formed; and</p> <p>(v) There must be secondary legal access for all road users when the Oporuru Road connection is not available for any reason. <u>A metalled access route protected by easement is sufficient for this purpose.</u>³⁷</p> <p>(vi) Council shall consider Tainui Hapuu as an affected party and require that its written approval be obtained or that notice be served on a limited notified basis.</p> <p><u>(vii) Proposed lots must be able to connect to public-reticulated water supply.</u>³⁸</p> <p>(b) Council’s discretion is restricted to the following matters:</p> <p>(i) Extent to which subdivision is consistent with the Rangitahi Peninsula Structure Plan (Appendix 8) <u>being within the following variances from the base figures and locations as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Structure Plan):</u></p> <p><u>A. Development Precinct areas (hectares) - variance up to and including 10%;</u></p> <p><u>B. Development Precinct boundaries - variance up to and including 100m;</u></p> <p><u>C. Development Precinct densities - variance up to and including 10% from the upper and lower end of the range specified;</u></p> <p><u>D. Primary route locations - variance up to and including 50m movement outside of the road reserve;</u></p>
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³⁵ Waikato District Council [697.423]

³⁶ Rangitahi Ltd [343.16]

³⁷ Consequential amendment to Rangitahi Ltd [343.21]

³⁸ FENZ [378.80]

	<p><u>E. Secondary route location - any variance and up to and including 30% variance in length;</u></p> <ul style="list-style-type: none"> (ii) Extent of variation in allotment sizes from provisions of the Rangitahi Peninsula Structure Plan (Appendix 8); (iii) Matters referred to in Chapter 14 Infrastructure and Energy; (iv) Amenity and streetscape; (v) Vehicle and pedestrian networks; (vi) Implementation of environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8). (vii) <u>Provision of infrastructure, including water supply for firefighting purposes.</u>³⁹ (viii) <u>Effects on archaeological sites and cultural values.</u>⁴⁰
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257. The following amendments to Rule 28.4.2 are recommended:

CI	<p>(a) Proposed lots must comply with the following conditions:</p> <ul style="list-style-type: none"> (a) Subdivision must be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8), including the density ranges specified therein for each neighbourhood in the Neighbourhood Outcomes Plans; and (ii) Compliance with the following variances will be determined to be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) (the base figures and locations are as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Peninsula Structure Plan):⁴¹ <ul style="list-style-type: none"> (i) Development Precinct areas (hectares) — variance up to and including 10%; (ii) Development Precinct boundaries — variance up to and including 100m; (iii) Development Precinct densities — variance up to and including 10% from the upper and lower end of the range specified; (iv) Collector Road locations — variance up to and including 50m movement outside of the road reserve; (v) Secondary access location — any variance and up to and including 30% variance in length; and (i) Environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8) (including, but not limited to, restoration planting shown on the Indicative Open Space Framework Plan and provision of walkways and cycle ways shown on the Indicative Movement Network Plan) have been implemented to the extent required; or (ii) The requisite environmental improvements are proposed to be implemented as a condition of subdivision consent to be completed or bonded prior to the issue of a section 224(c) certificate for the subdivision; and (iii) The primary access to the Rangitahi Peninsula Structure Plan Area by way of an upgraded Oporuru Road (inclusive of the Oporuru Road/Wainui Road intersection and the bridge/causeway at each end) has been formed; and (iv) Provision is made for a secondary legal access for all road users when the Oporuru Road connection is not available for any reason. A metalled access route protected by easement is sufficient for this purpose. <p>(b) Proposed lots must not generate any additional building infringements to those which legally existed prior to the boundary relocation.</p> <p>(c) Control is reserved over:</p> <ul style="list-style-type: none"> (i) Purpose of the boundary adjustment; (ii) Effects on existing buildings.
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³⁹ FENZ [378.80]

⁴⁰ Consequential change to Rangitahi Ltd [343.19]

⁴¹ Rangitahi Ltd [343.16]

	<p>(iii) <u>Extent to which subdivision is consistent with the Rangitahi Peninsula Structure Plan (Appendix 8) (allowing for the following variances from the base figures and locations as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Structure Plan);</u></p> <p><u>A. Development Precinct areas (hectares) - variance up to and including 10%;</u></p> <p><u>B. Development Precinct boundaries - variance up to and including 100m;</u></p> <p><u>C. Development Precinct densities - variance up to and including 10% from the upper and lower end of the range specified;</u></p> <p><u>D. Primary route locations - variance up to and including 50m movement outside of the road reserve;</u></p> <p><u>E. Secondary route location - any variance and up to and including 30% variance in length.</u></p>
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258. The following amendments to Rule 28.4.5 are recommended:

28.4.5 Subdivision - Title boundaries – Significant Natural Areas and Maaori Sites of Significance⁴²

RDI	<p>(a) The boundaries of every proposed lot must not divide any of the following:</p> <p>(i) Significant Natural Area;</p> <p>(ii) A Maaori Site of Significance as listed in Schedule 30.3.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on Significant Natural Areas;</p> <p>(ii) Effects on Maaori Sites of Significance.</p>
<u>NCID1</u> ⁴³	Subdivision that does not comply with Rule 28.4.5 RDI.

17.6 Section 32AA evaluation

259. The recommended changes to Rule 28.4.1 and 28.4.2 delete variances as a condition of the restricted discretionary activity for subdivision and instead identifies these as matters of discretion to be assessed as part of a subdivision consent. As matters of discretion the inclusion of variances guide decisionmaking to determine the extent to which subdivision is consistent with the Rangitahi Structure Plan. This approach is considered more effective and efficient than identifying the variances as conditions to determine whether an activity is a restricted discretionary activity. Matters of discretion are a more appropriate method for achieving Policy 9.3.1.1 requiring development to be consistent with the Rangitahi Structure Plan and enabling some flexibility to respond to natural characteristics.
260. The recommended changes to Rule 28.4.1 to require public water supply for subdivision are considered the more appropriate method to achieve Policy 4.7.5 Servicing requirements for urban subdivision, and to ensure consistency with other parts of the PWDP. Water supply for firefighting is important to ensure that the health, safety and wellbeing of the community is provided for in accordance with section 5 of the Act.
261. The recommended changes to Rule 28.4.5 delete reference to Maaori Sites of Significance because there are none scheduled at Rangitahi. Recognising that the structure plan identified that archaeological sites would be covenanted, the inclusion of a matter of discretion for general subdivision is considered a more appropriate method for achieving Policies 9.3.4.1 and 9.3.4.2 to recognise and protect cultural and historic heritage.

⁴² Rangitahi Ltd [343.19]

⁴³ Rangitahi Ltd [343.19]

262. The recommended changes to Rule 28.1.1 delete variances as a condition of the restricted discretionary activity for subdivision, and instead identify these as matters of discretion to be assessed as part of a subdivision consent. As matters of discretion, the inclusion of variances guide decision. Matters of discretion are a more appropriate method for achieving Policy 9.3.1.1, requiring development to be consistent with the Rangitahi Structure Plan and enabling some flexibility to respond to natural characteristics.
263. The recommended change to Rule 28.4.5 amends the activity status of subdivision that divides SNAs from non-complying to discretionary to reflect their linear nature and the development pattern identified in the approved structure plan. A discretionary activity status provides adequate opportunity for assessment of actual and potential effects on the values of the Significant Natural Area to enable significant adverse effects to be avoided and other adverse effects to be avoided, remedied or mitigated. Accordingly the rule gives effect to Policy 11(b) of the NZCPS policy for indigenous vegetation.

18. Miscellaneous

264. In my review of the Rangitahi Peninsula provisions in response to submissions, including discussions with Mr Inger, I have identified several amendments to the rules that would improve consistency and certainty. Although not specifically requested through submissions they could be considered consequential amendments to address matters in the submission of Rangitahi Limited.
265. The key changes recommended are to Rule 28.1.4 Specific Activities – Discretionary Activities. I have several concerns with this as discussed below.
266. Firstly, D1 identifies that any activity that does not comply with one or more conditions for a permitted or controlled activity is a discretionary activity unless a lesser activity status under the Land Use – Effects Rule 28.2 or Land Use – Building Rules 28.3 has been identified. I consider it appropriate for those activities that have specified conditions to trigger a higher activity status. It does not make sense that if rules in 28.2 or 28.3 identify a lesser activity status that this should apply to the activity overall. I expect the activity itself to drive the activity status. I recommend that this reference be deleted.
267. Secondly, where the conditions for Childcare facilities as a controlled activity are not complied with the activity becomes a discretionary activity. This is currently included in both D1 and D2. I recommend that it be removed from D1 and the standalone rule of D2 continue to apply. This is clearer in my opinion.
268. Thirdly, D1 includes a reference to P6 commercial activities that do not meet one or more of the permitted conditions. However, where the permitted conditions are not complied with it the notified plan identifies commercial activities as a restricted discretionary activity. Where the conditions for a restricted discretionary activity are not complied with then the activity becomes a non-complying activity under Rule 28.1.5 because it is not identified elsewhere. I consider this to be appropriate because both the permitted and restricted discretionary activities are very specific about the amount of development that is provided for. Therefore reference to P6 under D1 should be deleted.

18.2 Recommended amendments

269. The following amendments are recommended to Rule 28.1.4:

D1	Any activity that does not comply with one or more conditions for a permitted activity Rule 28.1.1 P1-P4, or P6, or a controlled activity Rule 28.1.2 (a) unless a lesser activity status under the Land Use Effects Rule 28.2 or Land Use Building Rules 28.3 has been identified. ⁴⁴
D2	Child care facilities outside of potential mixed use, potential commercial or potential tourism locations shown in Plan 5 of the Rangitahi Peninsula Structure Plan (Appendix 8).
D3	Any activity that does not comply with Rule 28.1.3 RD2.

19. Conclusion

270. Overall, some minor changes have been recommended in response to submissions to reflect consistency with the operative provisions, and to provide greater certainty or flexibility, while recognising that subdivision and development are required to be in accordance with the Rangitahi Structure Plan.
271. There are no major changes recommended.
272. I consider that the submissions on this chapter should be accepted, accepted in part or rejected as set out in **Appendix I**, for the reasons set out above.
273. **Appendices 2A, 2B and 2C** contain recommended amendments to plan chapters 9, 13 and 28.
274. **Appendix 3** illustrates the cascade of plan provisions (as amended) that flow through from the objectives to policies and to rules.

⁴⁴ Consequential changes to improve the certainty and consistency of the provisions in accordance with the submission of Rangitahi Ltd.