

Wednesday, 5 June 2024

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council**  
**Hearings Committee Meeting**

*Kaupapataka*  
**Agenda**

**Plan Change 6 - Category 3 Landowner Subdivision Provisions**

*Te Rā Hui:*  
Meeting date: **Wednesday, 5 June 2024**

*Te Wā:*  
Time: **9.30am**

*Te Wāhi:*  
Venue: **Council Chamber  
Ground Floor  
Civic Administration Building  
Lyndon Road East  
Hastings**

*Te Hoapā:*  
Contact: **Democracy and Governance Services  
P: 06 871 5000 | E: [democracy@hdc.govt.nz](mailto:democracy@hdc.govt.nz)**

*Te Āpiha Matua:*  
Responsible  
Officer: **Group Manager: Planning & Regulatory Services - John  
O'Shaughnessy**

## Hearings Committee – Terms of Reference

### Fields of Activity

The Hearings Committee is established to assist the Council by hearing and determining matters where a formal hearing is required in respect of a planning or regulatory function of the Council, including under the provisions of the:

- Resource Management Act 1991
- Building Act 2004
- Health Act 1956
- Dog Control Act 1996
- Litter Act 1979
- Hastings District Council Bylaws
- Local Government Act 1974
- Local Government Act 2002; and
- Hastings District Council Class 4 Gambling Venue Policy.

### Membership - Up to 10 Hearings Commissioners (comprising up to 7 elected members of Council and at least 3 external appointed Independent Hearings Commissioners)

- Chair appointed by Council from the membership including external appointed members.
- Deputy Chair appointed by the Council from the membership including external appointed members.
- Under s. 39B of the Resource Management Act, the Chair must be accredited, and unless there are exceptional circumstances, appointees on hearings panels must have accreditation to make decisions on;
  - Applications for Resource Consents.
  - Notice of Requirements given under s. 168 or 189 of the Resource Management Act.
  - Requests under clause 21(1) of Schedule 1 of the Resource Management Act for a change to be made to a Plan.
  - Reviews of Resource Consents.
  - Applications to change or cancel Resource Consent Conditions.
  - Proposed Policy Statements and plans that have been notified.
  - Any hearing of an objection under s. 357C of the Resource Management Act.

### Quorum

- a) For Hearings other than Council Initiated Plan Change hearings, a maximum of three members including the Chair (or Deputy Chair, in the Chair's absence) to meet for any one hearing.
- b) For Council Initiated Plan Change hearings, all members may attend and take part in the decision-making process unless the Chair exercises the power of delegation to assign any function, power or duty of the Hearings Panel to any one or more Commissioners.
- c) That on a one-off basis, for the Council Initiated Plan Change 6 hearing - Category 3 Landowner Lifestyle Subdivision Provisions, being addressed under the Severe Weather Emergency Recovery (Resource Management – Streamlined Planning Process) Order 2023, the following provisions shall apply:
  - a. The panel composition shall comprise two Independent Commissioners to consider submissions and provide the required summary reports to the Minister for the Environment.
  - b. The two Independent Commissioners on the Hearing Panel shall be the current Chair of the Council's Hearings Committee, Mr George Lyons, acting as the Chair for this hearing and Mr Kitt Littlejohn.

- c. The quorum for this Hearing Panel shall be two members.
- d) For Hearings other than Council Initiated Plan Change hearings the quorum shall be two members.
- e) For Council Initiated Plan Change Hearings, the quorum shall be three members.
- f) Members to sit on any hearing other than a Council Initiated Plan Change Hearing shall be selected by agreement between the Chair (or Deputy Chair, in the Chair's absence) and the Group Manager: Planning and Regulatory Services.
- g) For the purpose of hearing any objection in respect of the matters detailed under the Dog Control Act 1996 the Hearings Committee will consist of any three members selected by the Chair.

## *Kaupapataka*

# Agenda

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*Ngā mema o te Komiti*

Committee Members:

**Hearing Panel Members:**

Chair: George Lyons (Commissioner Chair - External appointee)

Kitt Littlejohn (External appointee)

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*Apiha Matua*

Officer Responsible:

Group Manager: Planning and Regulatory Services - John

O'Shaughnessy

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Reporting Planner

Environmental Policy Manager – (Rowan Wallis)

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*Te Rōpū Manapori me te  
Kāwanatanga*

Democracy

Governance Services

Christine Hilton (Ext 5633)

*Te Rārangi Take*  
**Order of Business**

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**1.0** *Apologies & Leave of Absence – Ngā Whakapāhatanga me te Wehenga ā-Hui*

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**Plan Change 6 - Category 3 Landowner Subdivision Provisions**

**2.0** **DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS TWO SEPARATE DOCUMENTS**

**Document 1**      The covering administrative report      **Pg 1**

**Attachment 1**      s42A Report - Plan Change 6 Final      **Pg 3**

The Agenda documents and Submissions can be viewed on the Council website.

Wednesday, 5 June 2024

Item 2

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*

**Hastings District Council: Hearings Committee Meeting**

*Te Rārangi Take*

# Report to Hearings Committee

**Nā:**  
**From:** **Christine Hilton, Democracy and Governance Advisor**

**Te Take:**  
**Subject:** **Plan Change 6 - Category 3 Landowner Subdivision Provisions**

## **1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga***

- 1.1 This is a covering report relating to the Proposed Hastings District Plan hearing – Plan Change 6 – Category 3 Landowner Subdivision Provisions.
- 1.2 The agenda documents and submissions can be viewed on the Council’s website.
- 1.3 The recommendations are included in the relevant sections of the agenda documents and are not summarised in this covering report.

## **2.0 Recommendations - *Ngā Tūtohunga***

That the covering report titled Plan Change 6 - Category 3 Landowner Subdivision Provisions, the hearings report and associated attachments, dated 5 June 2024, be received.

### **Attachments:**

<a href="#">1</a>	s42A Report - Plan Change 6 Final	ENV-17-5-24-50	
<a href="#">2</a>	Tracked Changes for Hearing Final	ENV-17-5-24-42	Document 2
<a href="#">3</a>	Map of Eskdale Category 3 Land	ENV-17-5-24-44	Document 2
<a href="#">4</a>	Map of Tangoio Category 3 Land	ENV-17-5-24-45	Document 2
<a href="#">5</a>	Map of Pakowhai Category 3 Land	ENV-17-5-24-46	Document 2
<a href="#">6</a>	Map of Rissington Category 3 Land	ENV-17-5-24-47	Document 2
<a href="#">7</a>	Map of Aropoanui Category 3 Land	ENV-17-5-24-48	Document 2
<a href="#">8</a>	Map of Dartmoor Category 3 Land	ENV-17-5-24-49	Document 2
<a href="#">9</a>	Section 32AA Report - PC6	ENV-17-5-24-43	Document 2

**Submissions 1-27 listed below are on the Council website rather than being included in this document (so no attachment number is shown)**

Submission 1, Daniel Pepper	ENV-17-5-24-8
Submission 2, Katherine Basher	ENV-17-5-24-9
Submission 3, Bex Smiley	ENV-17-5-24-10
Submission 4, Rachelle Basher	ENV-17-5-24-11
Submission 5, Andrew O'Connor	ENV-17-5-24-12
Submission 6, Malcolm Redmond	ENV-17-5-24-13
Submission 7, Andrew Torrens	ENV-17-5-24-14
Submission 8, Jill Hankin	ENV-17-5-24-15
Submission 9, Brian Hankin	ENV-17-5-24-16
Submission 10, Jaclyn Hankin	ENV-17-5-24-17
Submission 11, Hongwei Zhang	ENV-17-5-24-18
Submission 12, Troy & Tracy Duncan	ENV-17-5-24-19
Submission 13, HDC Policy Team	ENV-17-5-24-20
Submission 14, Melissa Burne	ENV-17-5-24-21
Submission 15, Ian Cadwallader	ENV-17-5-24-22
Submission 16, HB Regional Council	ENV-17-5-24-23
Submission 17, Napier City Council	ENV-17-5-24-24
Submission 18, Andrew Taylor	ENV-17-5-24-25
Submission 19, Williams Family Trust	ENV-17-5-24-26
Submission 20, Sue Averill	ENV-17-5-24-27
Submission 21, Angela McFlynn	ENV-17-5-24-28
Submission 22, Bernadette Hamlin	ENV-17-5-24-29
Submission 23, Gillian Wilson	ENV-17-5-24-30
Submission 24, Proarch Consultants on Behalf of A & J Maurenbrecher	ENV-17-5-24-31
Submission 25, Te Kuini	ENV-17-5-24-32
Submission 26, Adrian Namana	ENV-17-5-24-33
Submission 27, Clare O'Connor-Bryant	ENV-17-5-24-36

*Section 42A Report for Plan Change 6: Category 3 Landowner Subdivision Provisions*

## **Plan Change 6: Category 3 Landowner Subdivision Provisions**

### **Section 42A Report**

#### **Contents**

1. Introduction
  - 1.1. Purpose of the report
  - 1.2. Statement of experience
  - 1.3. Preparation of the report
  - 1.4. Code of conduct
  - 1.5. Conflict of interest
  - 1.6. Scope of Report and Hearing
2. Overview of Plan Change 6 as notified
3. Statutory Considerations
4. Submissions
  - 4.1. Original Submissions
  - 4.2. Structure of Submissions Analysis



Section 42A Report for Plan Change 6: Category 3 Landowner Subdivision Provisions

## 1 INTRODUCTION

### 1.1 Purpose of the report

- 1.1.1 This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA).
- 1.1.2 It considers and assesses the submissions that have been received in relation to proposed Plan Change 6 (PC6) to the Partially Operative Hastings District Plan 2020, against the relevant provisions of the RMA. It concludes by recommending whether each submission should be accepted, accepted in part, or rejected. Where submissions are recommended to be accepted or accepted in part, the report also recommends the amendments to be made to the Operative District Plan provisions.
- 1.1.3 The report should be read alongside the tracked changes version of the Sections of the Operative Plan which shows the recommended amendments resulting from the assessment of submissions in **Attachment 2**. It should also be read with the Section 32 Report supporting PC6 which contains useful background information and the rationale for the notified provisions.

### 1.2 Statement of Experience

- 1.2.1 The Section 42A Report has been prepared by Rowan Wallis who is the Environmental Planning – Policy Manager at Hastings District Council. Rowan has over 40 years' experience in planning and resource management within New Zealand and has worked both in the private and public sectors. Rowan holds a Bachelor of Arts (Geography major) and a Bachelor of Regional Planning from Massey University.

#### Role in Plan Change 6:

Rowan has been responsible for the engagement and consultation undertaken, the summary, analyses and consideration of submissions.

### 1.3 Code of conduct

- 1.3.1 The reporting officer confirms that he has read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and has complied with it when preparing this report. The evidence stated in the analysis of the submissions is within the areas of expertise of the reporting officer, other than when it is expressly stated that reliance is on the advice of another person.
- 1.3.2 The data, information, facts and assumptions that have been considered in forming the writers' opinions are set out within the submissions analysis. Where opinions have been given, the reasons for those opinions are stated. The writers of this report have not omitted to consider material facts known that might alter or detract from the opinions expressed.
- 1.3.3 The reporting officer has been authorised to give this evidence on the Council's behalf in relation to PC6.

### 1.4 Conflict of Interest

- 1.4.1 It is confirmed that the officer who prepared this report has no real or perceived conflicts of interest.

### 1.5 Preparation of the Report

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- 1.5.1 In preparing this report the role of the reporting officer has been to review, provide analysis of, and make recommendations on the submissions received in relation to the contents of PC6.
- 1.5.2 Where changes or amendments to the District Plan are recommended, these have been assessed in accordance with section 32AA of the RMA and an evaluation provided within the specific issue or topic report, at a level of detail corresponding to the scale and significance of the recommended change.
- 1.6 **Scope of report and hearing**
- 1.6.1 The hearing addresses the following parts of the operative plan:
- Section 30.1 Subdivision and Land Development
  - Section 33.1 Definitions
- 1.6.2 PC6 creates new subdivision provisions that apply to the Rural Zone and the Rural Residential Zone.
- 1.6.3 The new subdivision provisions apply to the Category 3 properties in Aropoanui, Tangoio, Eskdale, Whirinaki, Dartmoor Road, Puketapu and Rissington. Maps of the Category 3 identified properties are attached in **Attachments 3-8**.

## 2 OVERVIEW OF PC6 AS NOTIFIED

- 2.1 PC6 is a direct response to assist property owners displaced by the flooding from Cyclone Gabrielle to find permanent housing. It is a bespoke plan change which directly assists those Category 3 landowners who have a signed voluntary buy-out agreement to find a replacement site within their community of interest.
- 2.2 In the months following Cyclone Gabrielle, affected property owners identified that there were not a lot of housing options that would allow them to remain in the community from which they had been displaced. Many of these property owners had small rural blocks or lifestyle units which they wished to replicate while remaining in the community. Council investigated how it might assist in meeting these aims and ensuring that they had a safe living environment to which to relocate. Creating an easier pathway through the subdivision lifestyle process was identified as the best method of assisting.
- 2.3 There are a number of reasons why PC6 is limited to those who have reached an agreement under the Category 3 buy out process. The first is that the plan change is being progressed under the Severe Weather Emergency Legislation (Resource Management Streamlined Planning Process) Order 2023, which is strictly confined in scope (as discussed below). The second reason is a desire to avoid undermining the general approach taken within the Hastings District Plan which is to limit lifestyle subdivision in Rural areas, in order to meet higher order District, Regional and National planning objectives. In order to appropriately limit the lifestyle subdivision opportunity, a number of criteria have been applied to PC6. These include;
- There must be an unconditional buy out policy agreement for a property purchase or relocation offer which includes the permanent removal of the ability to use category 3 land for residential purposes. This is necessary to ensure the Plan Change is within the scope of the SPP Order and ensures there is no net increase in residential uses in the

Section 42A Report for Plan Change 6: Category 3 Landowner Subdivision Provisions

- Rural area (because only where residential rights have been relinquished can they be reestablished elsewhere);
- A statement by the category 3 landowner must be provided which confirms that the new lot is intended for use by the landowner for permanent housing. This is necessary to meet the requirement of the SPP Order that the plan change be directed at providing permanent housing for people displaced by a severe weather event, rather than a wider pool of potential residents.
- 2.4 PC6 will ease the pathway through the subdivision process for creating a lifestyle site by removing the need to comply with the minimum site size standards for Lifestyle Sites in Table 30.1.6B of the District Plan. These requirements include a minimum 20 ha balance being required on a Rural zoned site and a minimum and maximum site size for the new lot. In addition there is a limitation that a lifestyle site may only be created once every three years. These rules need not be adhered to for category 3 landowners applying under the new rules proposed by PC6.
- 2.8 The overall purpose and objectives of PC6 are:
- To provide a pathway for Category 3 landowners who have signed a voluntary buy out agreement to relocate to a new site within their community
  - To enable displaced landowners to move back into permanent housing as quickly as possible.
- 2.9 The provisions introduced through PC 6 only apply to the Rural and Rural Residential zones within the district and not to land in the Plains Production zone. The District Plan actively discourages lifestyle subdivision in the Plains Production zone with the only provision for such subdivision being where non – complying sized lots are to be amalgamated with an adjoining site and no additional sites will be created. The Plains Production zone comprises almost entirely of Class 1-3 soils and therefore is classified as highly productive land and must be managed in accordance with the National Policy Statement for Highly Productive Land (NPS-HPL). Clause 3.8 of the NPS-HPL states that territorial authorities must avoid the subdivision of highly productive land except in very limited circumstances, which are highly unlikely to apply to lifestyle subdivision. Clause 3.8(4) requires territorial authorities to include objectives, policies and rules in their district plans which give effect to the requirements of cl 3.8. A new rule to allow for controlled activity lifestyle subdivision on highly productive land would be contrary to that national direction.
- Clause 3.8
- 2.10 PC6 as notified proposes amendments to the subdivision section (30.1) of the district plan that:
- Inserts a new objective and accompanying policies that enable the creation of lifestyle sites within the Rural or Rural Lifestyle Zones for a permanent housing outcome where Category 3 landowners have surrendered the ability to reside on their property.
  - Provides a rule framework that is enabling of the creation of sites that may not otherwise be enabled under the rule framework to allow displaced landowners to remain within their community of interest.

Section 42A Report for Plan Change 6: Category 3 Landowner Subdivision Provisions

- Introduce performance standards to ensure that the provisions only apply to the Category 3 landowners who have been through the buy out process and that the sites are within their community of interest.

### 3. STATUTORY CONSIDERATIONS

3.1 In assessing the submissions on PC6, this report has been prepared in accordance with the RMA which requires consideration to be given to a number of matters. There are also additional matters that are required to be considered under the SPP Order. The These relevant matters include:

- Part 2, Purpose and Principles;
- Section 31, The functions of Territorial Authorities under the Act
- Section 32 (as modified by the SPP Order), Consideration of alternatives, benefits and costs;
- Section 74, Matters to be considered by territorial authorities
- Section 75, Contents of District Plans

3.2 As set out in the original section 32 evaluation report for PC6, there are higher order planning documents that provide direction and guidance on the content of the Plan Change, principally the National Policy Statement on Highly Productive Land (NPS-HPL) and the Hawkes Bay Regional Policy Statement (RPS).

3.3. An evaluation report (under section 32AA of the Act) has been prepared to assess the appropriateness of the recommended changes arising from the revised approach to PC6 outlined above including any consequential changes required to implement this approach to the provisions of the Hastings District Plan. This report is included in **Attachment 9**.

#### **National Policy Statement – Highly Productive Land 2022**

3.3 The NPS-HPL came into force in October 2022. The NPS-HPL is closely related to the NPS-UD which encourages intensification within existing urban boundaries. The NPS-HPL provides national direction on how land identified as highly productive should be managed and protected. This has direct relevance for a number of the property owners displaced by the floods, particularly the Pakowhai and Dartmoor / Puketapu Category 3 landowners as a large proportion of the land within their community of interest is classified as highly productive land and zoned Plains Production. As discussed above, one of the policies in the NPS-HPL is to avoid subdivision of highly productive land except in very limited circumstances and in the context of PC 6 it is unlikely that any of those circumstances would be met.

#### **Regional Policy Statement**

3.4 The RPS includes objectives and policies which territorial authorities are required to consider and give effect to during preparation of any plan change for development of land within the Region. PC6 responds to the outcome of a natural hazard issue and the RPS recognises the susceptibility of the region to flooding and other natural hazards and the potential for these to adversely impact on people's safety, property, and economic livelihood. The RPS identifies that natural hazards are a regionally significant issue that must be recognised in the consideration of the sustainable development of resources.

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PC6 is providing for the sustainable development of resources by providing an avenue for landowners on Category 3 affected land who are agreeing to relinquish a residential right on land affected by natural hazards to have greater certainty that they can move to a lifestyle site free from the flood hazard. This gives effect to the Regional Policy Statement.

**4. SUBMISSIONS**

**4.1 Original Submissions**

- 4.1.1 PC6 was promulgated under the Severe Weather Emergency Recovery (Resource Management – Streamlined Planning Process) Order 2023 (**SPP Order**). This means that it does not follow the normal plan change process set out under the first schedule of the Resource Management Act. In terms of the submission process the SPP Order does not provide an opportunity for further submissions on the original submissions received.
- 4.1.2 PC6 was notified on 24 February 2024 and submissions closed on 22 March 2024. A total of 27 submissions were received for PC6.
- 4.1.3 Of these submissions there were two submitters who did not fully complete their submission form. Submission 11, (Hongwei Zhang), was an online submission but the submitter did not fully complete the form. Contact was made but no addition to the submission was made. The other incomplete submission 26 (Adrian Namana), was a paper submission and contact was again made, but no additional information was forthcoming.
- 4.1.4 A list of all submitters on PC6 can be found on the Council website.

**4.2 Structure of the Submissions Analysis**

- 4.2.1 Due to the nature of the issues raised in submissions, this Section 42A report has been broken down into topics rather than addressing by means of submitters.
- 4.2.2 The topics included in this report are as follows:
  - Issue 1- Plan Change in its entirety (Support or Opposition)
  - Issue 2- Scope of Plan Change
  - Issue 3- Objectives and Policies
  - Issue 4- Performance standards
  - Issue 5- Assessment criteria
  - Issue 6 – Definitions – the community of interest radius

Section 42A Report for Plan Change 6: Category 3 Landowner Subdivision Provisions

## ISSUE 1: PLAN CHANGE IN ITS ENTIRETY (GENERAL OPPOSITION AND GENERAL CONCERNS)

### 1. SUBMISSION POINTS

Sub Point	Submitter / Further Submitter	Provision / Section of the Hastings District Plan	Position	Summary of Decision Requested	Recommendation
001.1	Daniel Pepper	All	Support with specific amendments	Supports the proposed provisions with the exception of one of the performance standards	Accept in part - See outcome from Issue ??
003.1	Bex Smiley	All	Support	Support the plan change and seek that Council approve it	Accept
005.1	Andrew O'Connor	All	Support with specific amendments	Supports the proposed provisions and seeks that they be applied to Category2P	Accept in part- See outcome from Issue ??
006.1	Malcolm Redmond	All	Support with specific amendments	Supports the plan but want to be able to subdivide 1.5 ha	Accept in part
007.1	Andrew Torrens	All	Support with specific amendments	Supports the Plan Change with the exception of the range of community of interest	Accept in part -See outcome from Issue ??
008.1	Jill Hankin	All	Support with specific amendments	Supports the Plan Change with the exception of the range of community of interest	Accept in part -See outcome from Issue ??
009.1	Brian Hankin	All	Support with specific amendments	Supports the Plan Change with the exception of the range of community of interest	Accept in part- See outcome from Issue ??
010.1	Jaclyn Hankin	All	Support with specific amendments	Supports the Plan Change with the exception of the range of community of interest	Accept in part -See outcome from Issue ??
014.1	Melissa Burn	All	Not stated	Do not rush through a plan change at this stage as further consultation with the community is required	Reject
015.1	Ian Cadwallader	All	Oppose	Most suitable land for Dartmoor Valley is on northern side and is zoned Plains	Reject
016.1	Hawke's Bay Regional Council	All	Support with specific amendments	Retain the general intent and purpose of PC6. Make adjustments to performance standards	Accept in part -See outcome from Issue ??
017.1	Napier City Council	All	Support with specific amendments	Supports the provisions with the addition of changes to the definition of community of interest.	Accept in part -See outcome from Issue ??
019.1	Williams Family Trust	All	Support with specific amendments	Generally supportive of the plan change with changes to performance standards and assessment criteria.	Accept in part -See outcome from Issues ??
023.1	Gillian Wilson	All	Support	Support in full	Accept
024.1	A& J Maurenbrecher	All	Oppose	Withdraw or decline unless amendments sought are made	Reject
025.1	Te Kuini	All	Oppose	Oppose the subdividing of land to help with the housing crisis – How will this help the people of Kahungunu?	Reject













































