

Monday, 23 February 2026

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

Kaupapataka

Addendum Agenda

Private Plan Change 8 (HBRC Earthworks Exemption)

(Second Addendum report)

**prepared in response to a direction in Minute 1) which had
been issued by the Chair**

Te Rā Hui:
Meeting date: **Monday, 23 February 2026**

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**

Te Āpiha Matua:
Responsible Officer: **Environmental Policy Manager - Anna Summerfield**

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 (Private Plan Changes).
 - Reviews of Resource Consents.
 - Applications to change or cancel Resource Consent Conditions.
 - Any hearing of an objection under s. 357C of the Resource Management Act.
 - Proposed Policy Statements and plans that have been notified (Council Initiated Plan Changes).

Quorum

- a) For Hearings other than Council Initiated and Private 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 Private Plan Change hearings a maximum of five members including the Chair (or Deputy Chair, in the Chair's absence) to meet for any one hearing.
- c) 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.
- d) For Hearings other than Council Initiated and Private Plan Change hearings the quorum shall be two members.
- e) For Council Initiated and Private 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.

Casting Vote

- a) In line with Council's Standing Orders (19.3) the Chair would have a casting vote at all hearings, in the event that the vote of the panel was tied.

Kaupapataka

Agenda

Ngā mema o te Komiti

Panel Members:

Hearing Panel Members:

Chair: George Lyons (Commissioner Chair - External appointee)

Councillors: Alwyn Corban (Deputy Chair), Hana Montaperto-Hendry and Heather Te Au-Skipworth

Apiha Matua

Officer Responsible:

Environmental Policy Manager – Anna Summerfield

Reporting Planner

Environmental Planner, Policy - Junior Tuakana

Te Rōpū Manapori me te

Kāwanatanga

Democracy

Governance Services

Christine Hilton (chrisah@hdc.govt.nz)

Te Rārangī Take

Order of Business

- 1.0** **Apologies & Leave of Absence – Ngā Whakapāhatanga me te Wehenga ā-Hui**
At the close of the agenda no requests for leave of absence had been received.
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2.0 **Second Addendum Agenda for Private Plan Change 8**

DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS ONE DOCUMENT

<u>Document 1</u>	The covering administrative report	Pg 5
	Addendum to the Section 42a report for PPC8 - HBRC Earthworks Exemption - Assessment of Options for Addressing Effects on Versatile Land	Pg 6
	Appendix A to the PPC8 Addendum to the S42s report - s32AA Evaluation Table	Pg 19
	Appendix B to PPC8 Addendum to s42a report - options for addressing effects on versatile land	Pg 23

The Application and Submissions can be viewed on the Council website.

Monday, 23 February 2026

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: **Second Addendum Agenda for Private Plan Change 8**

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

- 1.1 This is a covering report to enable an addendum agenda to be created and circulated for Proposed Hastings District Plan hearing 8 – HBRC Earthworks Exemption.
- 1.2 The report in this addendum agenda has been written in response to an instruction in Minute (1), which was issued by the Chair of the hearings panel on Monday, 13 April. This Minute directed that an addendum was to be circulated by Friday, 17 April 2026, to address matters outlined in Point 9 of that Minute.
- 1.3 This document is the second addendum to be circulated in connection with this hearing.

2.0 Recommendations - *Ngā Tūtohunga*

This covering report titled Second Addendum Agenda for Private Plan Change 8 and associated attachments, dated 23 February 2026, are to be put onto the Council website so this document can be viewed by the public and the parties to this hearing.

Attachments:

A	Addendum - Assessment of Options for Addressing Effects on Versatile Land	ENV-17-7-05-26-0003
B	Appendix A - s32AA Evaluation Table	ENV-17-7-05-26-0002
C	Appendix B - options for addressing effects on versatile land	ENV-17-7-05-26-0001

ADDENDUM TO SECTION 42A REPORT

SUBJECT: Private Plan Change 8: HBRC Earthworks Exemption (RMA20250089) –
Assessment of Options for Addressing Effects on Versatile Land

PREPARED BY: Craig Scott, Team Leader – Environmental Policy

REVIEWED BY: Anna Summerfield, Environmental Policy Manager

DATE: 17th April 2026

1. INTRODUCTION

1.1 Purpose of Addendum

1.1.1 This addendum has been prepared in response to Minute 1 of the Hearings Panel, dated 13 April 2026, which directed that that an addendum to the s 42A report be prepared which addresses the Panel’s concerns about whether Private Plan Change 8 (**PPC8**) appropriately avoids, remedies or mitigates effects on the environment, specifically in relation to versatile soils and LUC 1 and 2 in particular.

1.1.2 As outlined in the ‘Preliminary Query’ section below, officers consider PPC8 does have the potential to affect productive soils, as it removes the only current control (limitation on volume of earthworks) on flood works carried out by the Regional Council.

1.1.3 This report then outlines and evaluates three options for managing those effects associated with PPC8. It responds to matters raised through questions from the Hearing Panel and builds on the analysis contained in the primary s42A report.

1.1.4 The three options considered are:

- a) Accept PPC8 as proposed, relying on hazard management benefits and limited effects.
- b) Retain performance standards in the Plains Production Zone (e.g. keep the 100m³ limit).
- c) Impose new targeted carve out controls where:
 - The land is in the Plains Production Zone; and/or
 - More than 50m³ of earth per ha per annum is removed from a site.

1.1.5 It is noted that all options would enable activities to remain permitted, but Options B and C would limit the permitted activity and require restricted discretionary consent where standards were not met.

1.1.6 A Section 32AA assessment is required for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed. This addendum addresses the relevant matters, and these are then summarised in the table attached as **Appendix A**.

1.2 Preliminary Query – does PPC8 have the potential to affect productive land?

- 1.2.1 **Attached as Appendix B** to this evaluation is a memorandum prepared by Council's legal counsel which has been prepared to assist officers in addressing this matter. That memorandum is adopted as part of this report.
- 1.2.2 The memorandum considers whether effects on productive land are managed through the application of Rule EM10 and EM11, which limit the amount of earth able to be removed from a site in a year from the Rural and Plains Production Zones. It is noted that while there is an available interpretation that those rules apply, this is unclear and it is at least arguable that an activity that falls under the specific activity described in EM4 (to which the proposed exemption would apply under PPC8) does not also need to comply with rules EM10 or 11. As such, we have proceeded on the basis that effects on productive land are not managed by the application of EM10 or 11.
- 1.2.3 Because PPC8 would remove the requirement to comply with performance standards when work is carried out in reliance on EM4, there would be no volume control on the amount of earthworks able to be undertaken. As such, it is accepted that there is at least a theoretical potential for adverse effects on productive soils as a result of approving PPC8.

2.0 KEY RELEVANT STATUTORY DOCUMENTS

- 2.1 In considering options for addressing potential effects on LUC 1 and 2 soils, the following statutory documents are considered to be of key relevance:
- National Policy Statement on Highly Productive Land (**NPS-HPL**)
 - National Policy Statement on Infrastructure (**NPS-I**)
 - Hastings District Plan objectives and policies relevant to the Plains Production Zone and Natural Hazards.
- 2.2 **National Policy Statement on Highly Productive Land**
- 2.2.1 The objective of the National Policy Statement for Highly Productive Land (NPS-HPL) is as follows:
1. *Objective: Highly productive land is protected for use in land-based primary production, both now and for future generations.*
- 2.2.2 The NPS – HPL also provides the following relevant policy direction:
1. *Policy 1: Highly productive land is recognised as a resource with finite characteristics and long-term values for land-based primary production*
 2. *Policy 8: Highly productive land is protected from inappropriate use and development.*
- 2.2.3 The NPS-HPL recognises that highly productive land is a finite and strategic resource. Its protection is essential to New Zealand's food security, climate resilience, and economic wellbeing. As such, the policy framework seeks to avoid inappropriate subdivision, use, and development that would compromise the productive capacity of this land over time.

2.2.4 Policy 8 is expanded upon under Section 3.9 *Protecting highly productive land from inappropriate use and development*. This section states that use or development of highly productive land is inappropriate except under certain circumstances. Of particular relevance to this Plan change is the following in cl 3.9(2):

A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:

b) it addresses a high risk to public health and safety:

c) it is, or is for a purpose associated with, a matter of national importance under section 6¹ of the Act:

j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:

i) the development, operation, or decommissioning of specified infrastructure², including (but not limited to) its construction, maintenance, upgrade, expansion, replacement, or removal:

2.2.5 Subclause 3 requires that territorial authorities must ensure the following when the exemption under 2 applies:

- a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*
- b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.*

2.2.6 I consider that the exemptions b, c and j apply to works sought to be enabled under PPC8, because:

- The works intended to be covered by the proposed exemption relate to river control and drainage works which seek to avoid risks to public health and safety associated with flooding;
- The management of significant risks from natural hazards is a matter of national importance under s 6(h); and
- The works fall within the definition of 'specified infrastructure' (but noting the exemption would not explicitly retain control over whether there is a "functional or operational need for the works to be on highly productive land).

2.2.7 Given the application of at least 2 and possibly 3 exemptions that would mean the works were not inappropriate, I consider that there is a pathway through the NPS-HPL that provides for earthworks affecting highly productive land to undertake flood protection

¹ Section 6 (h) shall recognise and provide for the management of significant risks from natural hazards.

² Specified infrastructure means any of the following:

- (a) infrastructure that delivers a service operated by a lifeline utility;
- (b) infrastructure that is recognised as regionally or nationally significant in a National Policy Statement, New Zealand Coastal Policy Statement, regional policy statement or regional plan;
- (c) any public flood control, flood protection, or drainage works carried out:
 - (i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or
 - (ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908

works as requested through PPC8. The requirements to minimise the actual loss of productive land will be addressed as part of the options consideration below.

- 2.2.8 The NPS-HPL establishes a strong framework for protecting highly productive land while allowing for activities that are important for other reasons, such as managing natural hazard risk. Flood control and drainage works are also considered important to achieving the NPS-HPL's outcomes of long-term food production, rural economic stability, and resilience. For these reasons, and subject to the consideration below, it is considered that flood protection exemption proposed by HBRC is consistent overall with the NPS-HPL.

2.3 **National Policy Statement on Infrastructure**

- 2.3.1 The purpose of the National Policy Statement Infrastructure (NPS-I) is to provide national direction under the Resource Management Act 1991 (RMA) to guide the efficient development, management and upgrading of infrastructure across New Zealand.

- 2.3.2 To provide a clear link to flood protection, the following definition is included:

The definition of **additional infrastructure activity** means an activity that supports and is subsidiary to an infrastructure activity, including but not limited to:

- h. flood control and protection work carried out by, or on behalf of a local authority.

- 2.3.3 While all objectives and policies of the NPS-I are considered relevant, particular emphasis is placed on objectives (a), (b) and (g) and policies 1, 4, 7, 8 and 9, as they are especially relevant to PPC8.

2.3.4 Objective

- a. ensure the national, regional and local benefits of infrastructure are provided for;
- b. (b) enable infrastructure to support the social, economic and cultural wellbeing of people and communities and their health and safety;
- e. ensure infrastructure is delivered in a timely and efficient manner while managing adverse effects from or on infrastructure.

2.3.5 Policies

1. **Providing for the benefits of infrastructure:**

In particular (2) Decision-makers must recognise that the benefits of infrastructure include:

- (g) reducing the risks from, and improving resilience to, natural hazards and climate change;

And (3)(a) Decision-makers must recognise: (a) the significant risks to, and impacts on, public safety, the wellbeing of people and communities, and the environment that may occur when infrastructure services are compromised.

2: **Operational need or functional need of infrastructure to be in particular locations and environments**

In particular (2) Decision-makers must recognise that the operational need or functional need of infrastructure includes, but is not limited to, the need to:

- (f) manage risks from natural hazards.

4. **Enabling the efficient and timely operation and delivery of infrastructure activities**
 - (1) Decision-makers must: (a) enable the efficient and timely delivery of infrastructure activities;
 7. **Assessing and managing the effects of proposed infrastructure activities**
 - (1) When assessing and managing the effects of infrastructure activities, decision makers must: (e) ensure that the mitigation measures and consent conditions are proportionate to the scale of adverse effects generated by the activity.
 8. **Operation, maintenance and minor upgrade of existing infrastructure**
 - (1) Decision-makers must enable the efficient operation and maintenance and minor upgrade of existing infrastructure, provided that, where practicable, adverse effects are avoided, remedied or mitigated.
 9. **Managing the effects of new infrastructure and major upgrades**
 - (1) Decision-makers must enable new infrastructure or major upgrades of existing infrastructure activities in all environments.
 - (2) Where infrastructure activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy must be read alongside other relevant national direction, regional policy statements and regional and district plans.
 - (3) Where (2) does not apply, the adverse effects of new infrastructure and major upgrades must be, where practicable, avoided, remedied or mitigated.
- 2.3.6 The NPS-I recognises infrastructure as essential to the social, economic, and environmental wellbeing of communities, including infrastructure that manages risks from natural hazards. Flood protection works, such as stopbanks and river controls, are a key form of resilient infrastructure that supports the protection of people, property, and assets from flooding. Enabling the efficient and timely delivery of infrastructure activities is of importance to enable HBRC to deliver of flood protection as covered by policy 4.
- 2.3.7 Overall, the NPS-I provides strong policy support for flood protection works as necessary and beneficial infrastructure provided that the adverse effects of the delivery are appropriately managed. The panel have raised concerns as to whether the PPC8 can appropriately manage the effects on HPL land, which is relevant under policy 9(3), noting that the protection of highly productive land is not a matter of national importance for the purposes of policy 9(2). This will be addressed in the consideration of options below.
3. ***Hastings District Plan – Objectives and Policies of particular relevance***
 - 3.1. Part of the assessment of PPC8 is to consider whether the proposal gives effect to the provisions of the District Plan which are not amended by the plan change. This section sets out those objectives and policies which are considered relevant to the issue raised by the Panel.

OBJECTIVE RRSO1

To promote the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels.

POLICY RRSP1

Reflect the various characteristics and distribution of the rural resources to enable the sustainable management of these characteristics.

OBJECTIVE RRSO2

To enable the efficient and innovative use and development of rural resources while ensuring that adverse effects associated with activities are avoided, remedied or mitigated

OBJECTIVE PPO1

To ensure that the versatile land across the Plains Production Zone is not fragmented or compromised by building and development.

OBJECTIVE PPO2

To provide for flexibility in options for the use of versatile land.

OBJECTIVE NHO1

Minimisation of the effects of natural hazards on the community and the built environment.

OBJECTIVE NHO3

To seek greater integration and greater consistency in hazard management approaches across the region.

POLICY NHP9

When hazard mitigation techniques are undertaken that reduce the risks of natural hazards the provisions of the Hastings District Plan should reflect this.

POLICY NH10

In considering Plan Change Requests and applications for Resource Consent on sites that may be subject to natural hazards, consideration will be given to the provisions of the Hawke's Bay Civil Defence Emergency Management Group Plan to ensure a comprehensive assessment of the risks to individuals and the community occurs.

OBJECTIVE EMO1

To enable earthworks within the Hastings District while ensuring that the life-supporting capacity of soils and ecosystems are safeguarded and adverse effects on landscapes and human health and safety are avoided, remedied or mitigated.

POLICY EMP3

Protection of productive soils within the District from large-scale stripping, stockpiling, alteration and removal to ensure the land can still support a range of productive land uses.

POLICY EMP6

Relates to Objective EMO1

Allow for specific activities such as forestry to be exempt from the rules and standards for earthworks and mining, where large scale earthworks are known to be essential to the continued operation of the activity, and the effects on the environment are likely to be minor

3.2 **Summary**

3.3 The objectives and policies listed above reflect the Hastings District Plan's strong emphasis on protecting the Heretaunga Plains soil resource, which largely consists of LUC 1,2 and 3 soils. However the Plan also recognises the need to provide for flexibility for activities that provide regional and national benefits. The protection of people and property from natural hazards is recognised as a critical requirement through the District Plan. Consideration of the query from the Panel raises the issue of the balance to be struck between the potential for removal of our productive soil resource and protection of people and property through hazard management. The Objectives and Policies clearly envisage that adverse effects need to be mitigated as part of any removal of productive land, and an analysis of this is considered in the options below.

4. **Identification of Alternatives**

4.1 As discussed above, the memo attached from Council's legal Counsel Asher Davidson, identifies 3 options for addressing the effects of PPC 8 on versatile land. This is outlined in para 15 as follows

4.2 *PPC8 seeks to remove the volume limitation for earthworks needed for drainage or river control purposes carried out by HBRC and therefore (assuming EM11 does not apply) any ability for Council to control effects of such earthworks on productive land. Depending on the Panel's view about the materiality of such effects, options to address that will need to be considered. These may include:*

(a) Accepting the potential for effects on the basis they are limited, and are justified by competing policy concerns, specifically relating to the national importance of management of natural hazards. I understand this to be HBRC's position;

(b) Declining to approve the full exemption sought by HBRC such that, for instance, the volume limit for the PPZ continues to apply. For instance, the exemption might be worded (new words in bold underline):

*(e) Earthworks for river control and drainage purposes undertaken by or on behalf of a regional authority under rule EM4, except when located within any ONFL or SAL where the performance standards in 27.1.6 shall still apply, **or when located in the Plains Production Zone where performance standard 27.1.6A – Extent of Earthworks will still apply.***

(c) Limiting the exemption sought by HBRC in a more targeted way, for instance:

(e) Earthworks for river control and drainage purposes undertaken by or on behalf of a regional authority under rule EM4, except when located within any ONFL or SAL, **or where the activity involves removal of more than 50m³ of earth per hectare of site per annum from any site in the Plains Production Zone, where the performance standards in 27.1.6 shall still apply.**

- 4.3 Officers have considered the options identified by Ms Davidson and agree these are appropriate options for consideration.
- 4.4 The discussion below each option, including providing a cost-benefit assessment, and summarises whether it is the most appropriate way to achieve the objectives and policies of the Hastings District Plan (s 32 RMA), and whether the option would mean the District Plan was in accordance with the NPS-HPL and NPS-I (s 74 RMA).

5.0 **Option A: Accepting the potential for effects on the basis they are limited, and are justified by competing policy concerns, specifically relating to the national importance of management of natural hazards. I understand this to be HBRC's position;**

5.1 **Description**

5.1.1 This option involves accepting PPC8 and applying the proposed earthworks exemption as requested by Hawke's Bay Regional Council (HBRC), allowing HBRC to undertake river control and drainage activities without being subject to the specified performance standards under section 27.1 of the Operative Hastings District Plan.

5.2 **Assessment**

- 5.2.1 PPC8 seeks to exempt HBRC from the requirement to obtain resource consent where earthworks under Rule EM4 did not meet the specified performance standards. The exemption is specific to river and drainage controls (flood protection) undertaken by HBRC or their contractors. The exemption recognises the importance of flood protection with the aim of enabling HBRC to undertake this work.
- 5.2.2 Accepting the plan change as notified would provide greater certainty and consistency across the region aligning HDC's District Plan provisions with those of NCC.
- 5.2.3 No submitters raised concerns about the potential effects on Land Use Capability (LUC) Classes 1 and 2 soils or the Plains Production Zone.
- 5.2.4 In terms of the NPS-HPL, as noted above, I consider the works enabled would be "not inappropriate" under cl 3.9(b) and (c), and (j) subject to there being a 'functional or operational need' for the use to be on HPL .
- 5.2.5 In my opinion, the applicant has clearly demonstrated that the removal of the requirements to obtain a consent under EM4 of the District Plan will add to greater efficiencies by not needing to obtain multiple consents for separate flood protection works. While the District Plan will not directly control whether there is a functional or operational need for the works to be on HPL, it is likely that works will take place in or very close to the location of works within the river. For works within the river and berm, I

consider a functional need could be assumed, and for works close by (for instance borrow areas), these are likely to have an operational need. In any event, as noted, I consider the exemptions under cl 3.9(b) and (c) are satisfied regardless.

- 5.2.6 In addition to this, it is also considered that in practical terms, PPC8 will be 'self limiting' in its nature as any proposed earthworks must be limited to the activities permitted under EM4. As outlined by the applicant under Appendix C of the minute

The proposed exemption only relates to river control or drainage works undertaken by HBRC and not mining or quarrying activities generally. Therefore, any material extraction that is not related to river control and drainage works will not be exempt.

- 5.2.7 As stated, the extraction is limited in its nature and must be limited to the purposes of flood control. It is considered that this provides appropriate minimisation and mitigation to ensure that the earthworks and loss of HPL are not widespread. It is considered that the limited nature of the earthworks means that subclause 3(a) of section 3.9 of the HPL can be achieved.

a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and

- 5.2.8 A similar assessment generally applies to NPS-I. The NPS – I provides for flood control and protection work carried out by, or on behalf of a local authority, provided that, where practicable, adverse effects are avoided, remedied or mitigated. PPC8, at least theoretically, allows for adverse effects on productive soils, most likely through removal of productive soils for the purposes of flood protection works, with no ability to control those effects through the consenting process (or through limits imposed by performance standards).

- 5.2.9 The mitigation of adverse effects are considered through Policies 7, 8, and 9. While the HBRC response in appendix 3 is mainly considering the effects on landscape, it provides some context on the limitations of the works to be exempt through the plan change

1. The proposed exemption only relates to river control or drainage works undertaken by HBRC and not mining or quarrying activities generally. Therefore, any material extraction that is not related to river control and drainage works will not be exempt;

2. The material that is required for stopbank upgrades is typically river sands, silts and gravels. These materials, and the associated borrow areas, are typically found on the flat floodplain. As the surrounding area is flat, the borrow areas are typically not visible unless you are in their immediate vicinity as existing vegetation, stopbanks and development prevent views of the borrow areas; and

3. The extraction of material from borrow areas is a temporary activity. At the completion of material extraction, the topsoil is reinstated and grass is established over the borrow areas. The remaining shallow, and grassed, depression will integrate with the existing flat contour and typically grassed surrounding area.

- 5.2.10 The extraction of material is limited to that required to undertake flood protection works. While the applicant has not provided estimated figures as they would likely vary on a case by case basis, the scope is considered to be limited and only enables extraction for a specific purpose. It is considered that this sufficiently limits the scale of potential

effects such that they can be appropriately managed as envisaged by policies 7 – 9 of the NPS-I. It is acknowledged there is some risk of unmitigated effects, however the effects are considered to be sufficiently constrained that they are acceptable in the circumstances.

- 5.2.11 It would be beneficial if HBRC could provide more information to the panel on the location of borrow sites used in the past and their relative proximity to the work site including whether these sites were in the Rural Zone or PPZ. This would be useful to understand the potential scope and scale of potential effects on productive land.
- 5.2.12 In terms of the Hastings District Plan Objectives and Policies, the argument is generally the same so the assessment does not require repeating. While the provisions seek strongly to protect our versatile soil resource, there is policy direction to allow exemptions to allow for the protection against natural hazards. It is considered that while PPC8 does enable some loss of highly productive land as a result of this work, this loss will be minimal and justified, and would likely be approved through the Resource Consenting process in any case, meaning the cost of requiring a consenting process would not produce a material benefit.

6.0 **Option B: Do not apply exemption where works are within the PPZ and volume limit exceeded**

6.1 **Description**

- 6.1.1 This option would involve declining to approve the full exemption sought by HBRC with amendments as follows (or to similar effect):

(e) Earthworks for river control and drainage purposes undertaken by or on behalf of a regional authority under rule EM4, except when located within any ONFL or SAL where the performance standards in 27.1.6 shall still apply, **or when located in the Plains Production Zone where performance standard 27.1.6A – Extent of Earthworks will still apply.**

6.2 **Assessment**

- 6.2.1 This option effectively allows for river control and drainage works, but puts limitations on the volume of earth affected without the need for resource consent when the works are located within the PPZ (noting this is the location of the majority of the LUC 1 and 2 soils in the district and noting that the majority of river berm areas within the Heretaunga Plains Flood Protection Scheme also fall within this zone). It effectively would allow for earthworks of 100m³ per ha of site per annum, or the import or removal of 50m³ per hectare of site of material offsite (being 50% of the 100m³ being permitted within the zone – see standard 27.1.6A, Note 2). While variations of this option could be considered (for instance, only where the earth is LUC 1 or 2, as opposed to being zoned PPZ), it would mean that HBRC would need a consent for some flood protection projects, if they involved earthworks in the PPZ above this limit. It would be useful for HBRC's response to this addendum to estimate how many projects this is likely to affect.

- 6.2.2 In my view this would meet the requirements of the NPS-HPL, because it puts in place an opportunity for HDC to assess proposals potentially affecting HPL and therefore meeting cl 3.9(3) NPS-HPL.
- 6.2.3 It would also meet the requirements of the NPS-I, as a significant amount of works would still be entirely enabled, with only a limited restriction on works within the PPZ, to provide an opportunity to ensure effects were avoided, remedied or mitigated to the extent practicable, consistent with policies 8 and 9 of the NPS-I.
- 6.2.4 In section 32 terms, I consider this option to be relatively inefficient. This option would require the Council to assess every proposal involving earthworks of over 100m³ per ha of site (or 50m³ per ha export or import), when located in the PPZ. The greatest potential for effects is where versatile soils are being removed from a site, however this standard captures more than that, as it includes any earthworks exceeding the volume and the import of soil as well as export.
- 6.2.5 In my view, it is highly unlikely that an application for consent would not be able to justify the volume of earthworks proposed, including relocation of earth from a borrow site to a location away from highly productive land. As noted above, the NPS-HPL recognises that works affecting highly productive land for flood protection works are 'not inappropriate', provided that the area is minimised as much as practicable. It is considered highly unlikely that the person undertaking the works will use greater levels of material than is necessary. Should that be the case, the works would not properly fall within rule EM4 and the activity would potentially breach the provisions of the District Plan.
- 6.2.6 Therefore the question is, what would requiring resource consent for earthworks over a certain volume in the PPZ achieve? It is considered that the wording of the exemption and the existing rule EM4 ensure that the extraction of material must relate to flood protection works. It is considered unlikely that consent for such works could be declined, and the ability to impose conditions on the activity would not address the underlying concern as to the removal of productive soils. It is also considered this option is broader than necessary to address concerns relating specifically to removal of productive soils from site.
- 6.2.7 It is considered that while Option B provides an opportunity for consideration of effects on productive land in certain circumstances, the requirement for consent would add additional cost and delay to the implementation of flood protection works. Such costs are not considered to be warranted by the benefits of requiring consent, as a requirement for consent would be triggered more frequently than necessary, consent for such works is unlikely to be declined, and conditions that could be imposed are unlikely to be able to usefully address the effect (loss of productive land) of concern.

7.0 **Option C: Modified Performance Standards** - Do not apply exemption where activity involves removal offsite of more than 50m³ of earth per hectare of site per annum from a PPZ site.

7.1 **Description**

- 7.1.1 This option involves adopting the proposed earthworks exemption in principle, but with a more focused trigger for a consent to enable assessment of effects where productive

soils are proposed to be removed from a site. This is narrower than Option B because it does not capture the total volume of earthworks or the import of earth to a site. It is limited to export of earth from a site, with a volume of 50m³ per ha of site per annum suggested, being the export volume currently allowed as a permitted activity.

7.2 Assessment

- 7.2.1 In my view Option C would meet the requirements of the NPS-HPL, because it puts in place an opportunity for HDC to assess proposals potentially affecting HPL and therefore meeting cl 3.9(3) NPS-HPL.
- 7.2.2 It would also meet the requirements of the NPS-I, as a significant amount of works would still be entirely enabled (more so than Option B), with only a limited restriction on works within the PPZ, to provide an opportunity to ensure effects associated with removal of productive soils were avoided, remedied or mitigated to the extent practicable, consistent with policies 8 and 9 of the NPS-I.
- 7.2.3 In section 32 terms, I consider this option to be relatively efficient, if the Panel considers that effects on productive soils need to be controlled beyond the self-limiting nature of EM4 and HBRC's voluntary measures. This option would only require the Council to assess proposals involving export of more than 50m³ of material per ha of site per annum when located in the PPZ. It would be useful for HBRC to comment on how frequently it anticipates such a rule would be triggered.
- 7.2.4 It is acknowledged that the decline of consent is unlikely given the subject matter and, as for Option B, this calls into question whether the cost and delay of requiring consent would be warranted. As the requirement for consent would be triggered only where specific adverse effects (removal of productive soils in significant quantities) were anticipated, the Panel may consider that cost to be sufficiently small as to be outweighed by the benefit of allowing effects to be considered. Even if consent is unlikely to be declined, there may be conditions that are appropriate to impose, such as in relation to the stockpiling of topsoil, i.e. measures to safeguard the life-supporting capacity of stockpiled soils, methods to separate soil horizons during stripping, and timing of reinstatement works.
- 7.2.5 It is considered that this approach retains the improved structure and intent of PPC8 and significantly reduces the regulatory burden on HBRC (removing the requirement to obtain consent in cases where concerns about productive soils are not raised), while responding to the Committee's concerns regarding the protection of the soil resource. It allows site-specific risks and effects to be addressed more effectively through targeted assessment, without defaulting to unnecessary consenting requirements.
- 7.2.6 Whether the benefit of retaining the ability to assess the effects of removal of versatile soils from a site outweighs the cost of requiring HBRC to seek consent for such works is a matter for the Panel, having heard from HBRC as to how frequently the rule is likely to be triggered.
- 7.2.7 It is noted that the HBRC could usefully assist by providing examples of possible works where the requirement to obtain consent under this option would be triggered. It may also be that HBRC can identify an alternative trigger, whether by volume or some other measure, that it considers would more appropriately balance the interests between

enabling the required infrastructure while also providing for the mitigation of adverse effects on highly productive land.

8.0 Conclusion and Overall Recommendation

- 8.1 PPC8 is considered to achieve the requirements of the NPS-HPL, NPS-I and relevant objectives and policies of the District Plan. However, it is acknowledged that the exemption sought by PPC8, at least in theory, leaves the potential for there to be more than minor adverse effects on versatile land / highly productive land. The avoidance, remedying or mitigation of these would therefore be left up to voluntary measures to be adopted by HBRC, rather than ones within the control of the Council.
- 8.2 Option B would retain the ability for Council to assess effects associated with works affecting versatile land but would not provide an efficient or cost-effective means of delivering flood protection works. Option B is considered to be too broad and insufficiently targeted at proposals that have specific potential adverse effects on highly productive land.
- 8.3 Of the options considered for addressing such potential effects within the District Plan, Option C is considered to be the most targeted, and therefore the most appropriate in meeting the outcomes sought by the higher order documents and provisions. For the most part, it would allow flood control and drainage works to be carried out by HBRC as a permitted activity, and only in narrow circumstances would a consent be required, namely where more than 50m³ per ha of site, per annum was proposed to be removed from a PPZ site. Where export at this level was proposed, restricted discretionary consent would be required, and the Council could assess whether the effects were being appropriately minimised and managed, and conditions could be imposed (or consent declined if necessary, although this is accepted as being unlikely).
- 8.4 There are some cost and time implications of adopting Option C which need to be considered by the Panel. Officers consider HBRC could assist the Panel by providing examples of projects where this rule might be triggered, and how it might be applied in practice. This will assist the Panel in forming a final view as to whether the benefits of requiring a consent in these circumstances outweigh the costs, and whether Option C is effective and efficient in meeting relevant objectives of the Plan.
- 8.5 HBRC may also wish to identify additional options which seek to balance the enabling of infrastructure with the avoidance, remedying and mitigation of adverse effects of such works on productive land.
- 8.6 In conclusion, and subject to any additional information to be provided by HBRC, Option A remains the preferred option, however this is finely balanced, with Option C also considered to be an effective option with the ability to require avoidance, remedying or mitigation of adverse effects on highly productive land, as envisaged by the NPS-I, NPS-HPL and the District Plan. Information from HBRC will greatly assist in this regard.

Appendix A – Cost Benefit assessment

Option	Costs *	Benefits *	Effectiveness / Efficiency (with focus on objectives relating to versatile land and natural hazard risk)	Comment
Status quo (For comparative purposes with issues discussed in this addendum only. See full s 32 assessment as part of PPC8 material)	Environmental – Potential for delay in delivering flood works due to need to obtain resource consent, otherwise largely neutral. Economic – Cost of applying for resource consent.	Environmental – Provides opportunity to assess effects associated with earthworks regardless of zone where trigger met and conditions can be imposed to avoid, remedy or mitigate effects. Economic – None identified.	Effectiveness – This option is effective in addressing potential effects on versatile land but is overbroad as import and earthworks generally are also captured. While it is not ineffective at addressing natural hazard risk, the process adds cost and delay which are not considered to add value to the outcomes. Efficiency- This option is mainly inefficient in achieving the relevant objectives due to capturing applications that do not specifically raise concerns about effects on versatile land, and involve unnecessary regulatory cost and delay in delivering flood control works to address natural hazard risk.	As per the original s 32 evaluation, and the s 42A report, it is accepted that the Status Quo is not the most appropriate outcome.

<p>A – PPC8 Status Quo (no control on volume of earthworks in PPZ)</p>	<p>Environmental – Potential for adverse effects on highly productive land which are not avoided, remedied or mitigated.</p> <p>Economic – None identified</p>	<p>Environmental – Enables flood works which address natural hazard risk.</p> <p>Economic – Avoids regulatory costs of applying for consent.</p>	<p>Effectiveness – This option is effective in enabling flood works while minimising costs and delays.</p> <p>It is likely to be moderately effective in achieving outcomes seeking protection of versatile land as a result of the limited scope of EM4, but less so than Option C.</p> <p>Efficiency – This option is efficient in achieving the relevant objectives because it does so at minimal cost to HBRC and with no consenting requirement.</p>	<p>Option A was assessed in the s 32 evaluation and the original s 42A report as being the most appropriate outcome.</p> <p>It is still considered that Option A is the most appropriate outcome, but it is acknowledged there is a potential for effects on highly productive land to arise, however this is expected to be unlikely and/or very infrequent.</p>
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<p>B – Do not apply exemption to earthworks in PPZ</p>	<p>Environmental – Potential for delay in delivering flood works due to need to obtain resource consent, but more targeted than status quo. Otherwise largely neutral.</p> <p>Economic – Cost of applying for resource consent (but less frequently required than status quo).</p>	<p>Environmental – Provides opportunity to assess effects associated with earthworks within the PPZ and impose conditions to avoid, remedy or mitigate effects.</p> <p>Economic – None identified.</p>	<p>Effectiveness – This option is effective in addressing potential effects on versatile land but is overbroad as import and earthworks generally are also captured.</p> <p>It is more effective than the status quo in addressing natural hazard risk, as the occasions where consent is required are materially narrowed.</p> <p>Efficiency- This option is moderately inefficient in achieving the relevant objectives due to capturing applications that do not specifically raise concerns about effects on versatile land, and therefore involve unnecessary regulatory cost and delay.</p>	<p>Option B is not considered the most appropriate outcome because, while it would capture proposals with potential effects on highly productive land, it is overbroad and therefore loses much of the benefit of PPC8.</p>
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<p>C –Do not apply exemption where activity involves removal offsite of more than 50m3 per ha of site per annum of earth from a PPZ site.</p>	<p>Environmental – Potential for delay in delivering flood works due to need to obtain resource consent, but more targeted than status quo or Option B. Otherwise largely neutral.</p> <p>Economic – Cost of applying for resource consent (but less frequently required than status quo or Option B).</p>	<p>Environmental – Provides opportunity to assess effects associated with earthworks within the PPZ and impose conditions to avoid, remedy or mitigate effects.</p> <p>Economic – None identified.</p>	<p>Effectiveness – This option is effective in addressing potential effects on versatile land and is appropriately targeted at proposals where there is a real risk of adverse effects on highly productive land.</p> <p>It is more effective than the status quo and Option B in addressing natural hazard risk, as the occasions where consent is required are significantly narrowed.</p> <p>Efficiency- This option is efficient in achieving the relevant objectives because it does so at minimal cost to HBRC and with a highly targeted consenting requirement.</p>	<p>Option C is considered to be a close second to Option A as the most appropriate option. It identifies a narrow class of activities where there is potential for adverse effects on highly productive land and requires a consent in that case. All the benefits of PPC8 still apply, except in a very narrow situation where a consent requirement would be triggered.</p> <p>Option C is considered to meet the requirements of the NPS-HPL and NPS-I to a slightly greater extent than Option A, due to the retention of control over effects on highly productive land in some circumstances.</p>
<p>Recommended Option – Officers recommend Option A, however Option C is also a viable option which arguably meets the requirements of the NPS-HPL and NPS-I. It is recommended that HBRC provide information on when it considers the consent requirement in Option C might be triggered to assist the Panel to determine the most appropriate outcome.</p>				

* Note social and cultural effects are considered to be more or less the same across all options and are not separately addressed.



memo

TO: Anna Summerfield

DATE: 16 April 2026

SUBJECT: Private Plan Change 8 –Options for Addressing effects on Versatile Land

Introduction

1. Private Plan Change 8 (PPC8), sought by Hawke’s Bay Regional Council (HBRC) proposes to exempt activities otherwise authorised under Rule EM4 from needing to comply with performance standards. EM4 provides for the following as a Permitted activity:

The removal of river berm silt, gravel or other river control or drainage works carried out by a local or regional authority, exercising its powers, functions and duties under The Soil Conservation and Rivers Controls Act 1941, or The Land Drainage Act 1908 and ancillary activities involved with the relocation of the extracted material

2. The Hearings Panel appointed to hear PPC8 has raised concerns as to whether it provides appropriate protection for versatile land / highly productive land within the district. The Panel has questioned whether removal of the need to comply with performance standards means there is the potential for effects on highly productive land to occur without any oversight by the Council, and has directed officers to prepare an addendum to the s 42A report to address this issue.
3. The purpose of this memo is to assist officers in terms of the legal scope of that addendum report.

What is the impact on PPC8 on the ability to control effects on versatile land?

4. Currently, activities relying on EM4 need to comply with the performance standards or seek Restricted Discretionary consent (rule EM6). For the Plains Production Zone (PPZ), which contains most of the district’s LUC 1 and 2 soils, the relevant performance standard would be 27.1.6A which limits earthworks to 100m³ per hectare of site per annum (noting this is reduced by 50% for import or export from the site). PPC8 would remove the need to comply with that limit.
5. A key mechanism by which the Hastings District Plan manages effects on versatile soils is through rules EM10 and EM11, which limit the quantity of earth that can be removed offsite in a year. In particular, in the PPZ, removal of more than 25m³ of “topsoil, sand, gravel, metal or earth” per year, per site is a Discretionary activity under Rule EM11.
6. The question arising is, does EM11 apply to “river control or drainage works” carried out under EM4, or is EM4 a code in this regard?
7. There are two possible interpretations of the rule table in the Earthworks section:
 - (a) First, all applicable rules apply – that is, if an activity falls within more than one rule in the table, then both rules apply, and the most stringent activity status is applied. This would mean that if river control or drainage works were covered by EM4 but *also* involved removal of more than 25m³ of earth from the PPZ, both EM4 and EM11 would apply, and Discretionary consent would be required.

Under this interpretation, concerns about potential impacts on versatile soils would be largely addressed, because there would be the ability for Council to consider the effects associated with removal of such soils from the subject site. PPC8 would be unlikely to raise any new potential for material adverse effects because, while compliance with performance standards (for the PPZ, a 100m³ limit per hectare of site per year) would no longer be required, compliance with the 25m³ removal rule would still apply.

OR

- (b) Secondly, where an activity is ostensibly covered by more than one rule, the more specific rule applies. This would mean that an activity covered by the specific rule in EM4 would not also need to comply with the more general EM11.

Under this interpretation, effects on versatile land would be managed primarily through the volume limit of 100m³ per hectare per year under the performance standard. PPC8 would potentially raise more significant concerns about the potential for effects on versatile land as the volume limit would be removed, and the 25m³ removal limit would continue to be not applicable. There would therefore be no specific district plan control on removal of productive soils.

8. In my view, without setting out the detailed arguments for either interpretation, both are feasible, meaning at the very least there is potential for confusion in application of the rules going forward. In my view, it is outside the scope of PPC8 to clarify this by way of additional wording in the Plan, so it cannot properly be resolved in this forum.
9. As noted above, if EM11 applies, an application to remove more than 25m³ of earth from a Plains Production site would require Discretionary consent regardless of the exemption from the volume limits that currently apply to works carried out under EM4. However given there is an available interpretation that EM11 does not apply to such activities, meaning the PPC8 exemption would remove the only control on versatile land that currently applies, I have considered the implications of that for impacts on protection of versatile land.

Options for addressing effects on versatile land

10. PPC8 seeks to remove the volume limitation for earthworks needed for drainage or river control purposes carried out by HBRC and therefore (on the assumption that EM11 does not apply) any ability for Council to control effects of such earthworks on productive land. Depending on the Panel's view about the materiality of such effects, options to address that will need to be considered. These may include:
- (a) Accepting the potential for effects on the basis they are limited, and are justified by competing policy concerns, specifically relating to the national importance of management of natural hazards;
- (b) Declining to approve the full exemption sought by HBRC such that, for instance, the volume limit for the PPZ continues to apply. For instance, the exemption might be worded (new words in **bold underline**):
- (e) Earthworks for river control and drainage purposes undertaken by or on behalf of a regional authority under rule EM4, except when located within any ONFL or SAL where the performance standards in 27.1.6 shall still apply, **or when located in the Plains Production Zone where performance standard 27.1.6A – Extent of Earthworks will still apply.**
- (c) Limiting the exemption sought by HBRC in a more targeted way, for instance:
- (e) Earthworks for river control and drainage purposes undertaken by or on behalf of a regional authority under rule EM4, except when located within any ONFL or SAL, **or where the activity involves removal of more than 50m³ of earth per hectare per annum from any site in the Plains Production Zone,** where the performance standards in 27.1.6 shall still apply.

11. I note that Option C reflects the current performance standard for export of earth from a PPZ site, but excludes all other performance standards, unless the trigger is met.
12. Options B and C could further be limited by referring to LUC1 and/or 2 land only if that is the primary concern, although that introduces a new layer of complexity and an approach not currently reflected in the Plan. There are also potential variations such as applying only selected performance standards and/or matters of discretion, in order to appropriately target the carve-out to the effects intended to be addressed.
13. It would be important that any change not go beyond the scope of what was sought by PPC8 (and therefore the subject of consideration through submissions). This includes that any new provision should not be more restrictive than the current district plan requirements – for instance, I do not consider it would be appropriate to amend the Plan to state that EM11 applies to activities undertaken under EM4. I have considered whether the 25m3 could be used as a trigger by which the exemption did not apply, however because the provisions could not be more stringent than the status quo, this is not considered particularly helpful (i.e. it would simply mean the performance standards applied, which is not necessarily completely targeted at potential effects on highly productive land).
14. Having identified possible options for addressing the Panel’s concerns, these would then need to be assessed in terms of their costs and benefits and how they fit with relevant national planning direction. I understand this will form part of the officers’ s 42A addendum.

Asher Davidson