

AUCKLAND UNITARY PLAN  
INDEPENDENT HEARINGS PANEL

*Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau*

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**Report to Auckland Council  
Hearing topics  
022 Natural hazards and flooding  
and 026 General - others**

**July 2016**

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# Report to Auckland Council Hearing topics 022 and 026 Natural Hazards and flooding and General other

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# 1. Hearing topic overview

## 1.1. Topic description

Topics 022 and 026 address the district plan provisions of the proposed Auckland Unitary Plan relating to:

<b>Topic</b>	<b>Proposed Auckland Unitary Plan reference</b>	<b>Independent Hearings Panel reference</b>
022 Natural hazards and flooding	C.5.12 Natural Hazards	E36 Natural hazards and flooding
	C.5.13 Flooding	
	H.4.11 Natural Hazards	
	H.4.12 Flooding	
	Coastal inundation maps on the GIS viewer	Coastal inundation control on the planning maps in the GIS viewer
004 Chapter G	G.2.725 Information requirements for resource consent applications for natural hazards	E36 Natural hazards and flooding
026 General	Non statutory information on the GIS viewer	Removed – recommended to be displayed in maps on main Council GIS viewer
	C7.9 Financial contributions	I1 Financial contributions

Under the Local Government (Auckland Transitional Provisions) Act 2010, section 144 (8) (c) requires the Panel to set out:

the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—

- (i) the provisions of the proposed plan to which they relate; or
- (ii) the matters to which they relate.

This report covers all of the submissions in the Submission Points Pathways report (SPP) for these topics. The Panel has grouped all of the submissions in terms of (c) (i) and (ii) and,

while individual submissions and points may not be expressly referred to, all points have nevertheless been taken into account when making the Panel's recommendations.

## 1.2. Summary of the Panel's recommended changes to the proposed Auckland Unitary Plan

Topic 022 – Natural Hazards and flooding was merged with Topic 026 – General other – non-statutory information in the GIS viewer because a principal issue in the latter topic was how to deal with non-regulatory maps that affect the application of the natural hazard rules.

The Panel recommends deleting all but one of the 'Non Statutory Information' layers from the planning maps for the Unitary Plan provisions because it is inappropriate to use a mapping technique to define the spatial extent of a rule where that mapping is not open to submission and change in the same way as the rule. The one exception is the indicative coastal boundary as this assists in showing the indicative boundary between the district of Auckland and the coastal marine area in the Auckland region.

The Panel recommends the relocation of the Macroinvertebrate Community Index layer from the non-statutory information layer to a statutory 'Controls' layer and the deletion of the 2m sea level rise information, but the retention of the 1m sea level rise information in the Coastal Inundation Control layer.

The Panel recommends amendments to the Unitary Plan provisions dealing with natural hazards and flooding to better address the likely risks faced by people and communities in ways that protect them and their health and safety and also protect natural and physical resources while enabling activities and development where those risks can be appropriately avoided, remedied or mitigated.

The Panel recommends the retention of information relating to financial contributions, as it relates to some of the precincts. It recommends that this information be located closer to the Precinct provisions to assist users of the Plan.

## 1.3. Overview

### *Definitions*

Natural hazard is defined in the Resource Management Act 1991 to mean:

any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment

In the Unitary Plan the nature of likely occurrences is focussed on coastal erosion, coastal storm inundation, flooding, land instability and wildfires. The proposed Unitary Plan provisions reflect that focus.

It is relevant to note, in the context of this discussion and the potential overlap of control between the Resource Management Act 1991 and the Building Act 2004 that the latter Act defines natural hazard in section 71(3) for the purposes of sections 71-74 of that Act as any of:

- (a) erosion (including coastal erosion, bank erosion, and sheet erosion):

- (b) falling debris (including soil, rock, snow, and ice):
- (c) subsidence:
- (d) inundation (including flooding, overland flow, storm surge, tidal effects, and ponding):
- (e) slippage.

In the Unitary Plan as notified, natural hazards and flooding were addressed separately. While flooding may be the most widespread type of natural hazard and can be treated separately, a better approach to integrated management of the effects of subdivision, use and development of land is to deal with all natural hazards together. The Council and submitters proposed that the sections be merged and the Panel agrees and recommends that these sections should be merged into a section called “Natural hazards and flooding”.

#### *Related topics*

As an Auckland-wide topic, natural hazards and flooding is related to a number of other topics including:

- i. RPS General – PAUP Chapter B – Regional Policy Statement
- ii. RPS Topic 011 Rural (section B8.3 - Rural Subdivision);
- iii. RPS Topic 012 Significant Infrastructure, Energy and Transport (section B3.2 – Significant Infrastructure and Energy);
- iv. RPS topics 013 Urban growth (sections B2.1 - Providing for growth in a quality compact urban form and B2.3 - Development capacity and supply of land for urban development);
- v. RPS Topic 011 Rural (section B8.3 - Rural Subdivision);
- vi. RPS Topic 012 Significant Infrastructure, Energy and Transport (section B3.2 – Significant Infrastructure and Energy); and
- vii. Regional and District Rules – PAUP Chapter G - General Provisions

In particular, urban growth, subdivision and infrastructure were important subjects considered together with this topic.

#### *Hearing process*

The hearing process for this topic was split into two stages. After the first hearings of Topic 026 on 5 March 2015 and of Topic 022 on 7 – 9 March 2015, the Panel suggested that there could be merit in conducting further mediation of the issues and, if necessary, a further hearing session could be held. Submitters (including the Council) supported that approach.

Preparation for mediation included the Panel issuing interim guidance on 5 May 2015. Then the submitters other than the Council circulated revised provisions, followed by the Council circulating its revised provisions. Mediation occurred on 29 and 30 June 2015. A further hearing session then occurred on 5 August 2015.

#### *Panel's recommendations*

Resulting from that process for hearing submissions and mediating issues, the Panel's recommendations, in summary, are:

- i. Merge the sections on natural hazards and flooding.
- ii. Adopt an approach which prefers efficiency over precision, given the limited data and mapping information available.
- iii. Identify appropriate permitted standards to reduce the extent to which discretionary assessment of activities is required.
- iv. Use the 1 per cent annual exceedance probability flood event when assessing greenfield subdivision or development.
- v. Use the 2 per cent annual exceedance probability flood event when assessing brownfield re-development or new development in existing urban areas.
- vi. Delete the flood sensitive and flood prone layers and the controls relating to them.
- vii. Limit development in areas subject to the 1 per cent annual exceedance probability for coastal storm inundation and allowing for a 1m rise in sea level.
- viii. Do not include controls relating to a 2m rise in sea level as this is beyond the planning timeframe for the Unitary Plan.
- ix. Include schools and churches as less vulnerable activities.
- x. Include a policy for wildfire hazards in relation to subdivision and vegetation management.
- xi. Delete the non-statutory information layers on the planning maps, except for street or road addresses and the indicative coastline layer.
- xii. Relocate the Macroinvertebrate Community Index layer to be a statutory layer with improved information in the planning maps.
- xiii. Retain information relating to financial contributions as it relates to some precincts.

#### **1.4. Scope**

The Panel considers that the recommendations in 1.2 above and the changes made to the provisions relating to this topic (see 1.1 above) are within scope of submissions.

For an explanation of the Panel's approach to scope see the Panel's Report to Auckland Council – Overview of recommendations July 2016.

#### **1.5. Documents relied on**

Documents relied on by the Panel in making its recommendations are listed below in Section 15 Reference documents.

## 2. Structure and background

### 2.1. Statement of issue

Clarify the approach and scope of the natural hazards and flooding section of the Unitary Plan.

### 2.2. Panel recommendation and reasons

The Panel recommends that an integrated approach to all natural hazards be adopted and that the policy approach to risk management be made clear.

The natural hazards objectives and policies in C5.12 and the flooding objectives and policies in C5.13 along with the natural hazards rules in H4.11 and the flooding rules in H4.12 are recommended to be merged into one chapter called “Natural Hazards and flooding”.

These are district plan rules relating to land use which may be subject to natural hazards. This includes activities which affect overland flow paths or are otherwise in floodplains. Such activities are separate and distinct from the diversion of water which is addressed in Topic 049.

The Panel recommends that the background statement be amended and re-written in a number of respects.

- i. References to all hazards likely to occur in the Auckland region should be included i.e. flooding, coastal storm inundation, coastal and freshwater erosion, land instability, and meteorological hazards (high winds, cyclones, tornadoes, drought), as well as those that occur rarely including volcanic activity, tsunami and earthquake.
- ii. The word “regional” should be deleted to confirm that natural hazards and flooding objectives, policies and rules are all district level provisions.
- iii. Reference to more restrictive rules being applied to land that may be affected by multiple hazards should be deleted.
- iv. References to more information becoming available and being included in the Unitary Plan and Council’s databases as this comes to hand should be deleted, as well as references to the Building Act 2004 controlling structures and earthquake risks.
- v. A new sentence should be added regarding the risk of liquefaction in the Auckland region and how this is to be addressed as sought by the Waikato Regional Council, Tonkin & Taylor and the Auckland Regional Public Health Service.
- vi. A new sentence should be added regarding high storm tides and waves and resulting coastal flooding and erosion potential in the Auckland region as sought by the Royal and Forest and Bird Protection Society of NZ Inc from topic 007.
- vii. Reference to climate change and its potential impacts should be added.
- viii. The wording regarding “risk management approach” as sought by Tonkin & Taylor should be preferred to the Council’s “adaptive management approach”.
- ix. The words “risk reduction (including avoidance where appropriate)” should be added as sought by Tonkin & Taylor.

## 3. Approach to risk

### 3.1. Statement of issue

The approach to the risks of natural hazards in the Unitary Plan should be consistent both within the natural hazard provisions and with regard to other Unitary Plan objectives and policies.

### 3.2. Panel recommendation and reasons

Much of the debate around how to deal with natural hazards involves the issue of risk. In broad terms, risk can be defined in many ways: as the chance of loss caused by an event in terms of the severity of the loss, or as the probable frequency and probable magnitude of a future loss. In a resource management context dealing with natural hazards, this could be described as the combination of the probability of a hazard resulting in an adverse event and the likely severity of that event. The Resource Management Act 1991 in section 3 defines “effect” (as in “effect on the environment”) in ways that clearly relate to risk assessment:

- i. any potential effect of high probability; and
- ii. any potential effect of low probability which has a high potential impact.

It is appropriate to note here that the Environment Court has on numerous occasions remarked that the Resource Management Act 1991 is not a “no risk” statute, and that many activities, in many circumstances, involve some kind of risk. The important requirement of the Act, as for other types of effect, is that the assessment and consideration of the risk is done in explicit terms with appropriate regard for the effects of the activity on the environment.

In the proposed Unitary Plan as notified, the only definition related to risk was that for “Natural hazard risk”, meaning “A measure of the consequences and likelihood of a natural hazard event.” That is a definition which does not define anything and the Panel recommends that it be deleted.

Quantification of risk is often done by treating its components (occurrence of an event, exposure to that occurrence and the severity of the effects) as probabilities which are then combined. This can mean that comparison of different risks is very sensitive to the assessment of the probabilities. It appeared that many of the policy differences arising in relation to this issue stemmed from different assessments of the probabilities.

The Council’s presentation addressed the risk issues in relation to natural hazards as being the difference between not increasing the risk and reducing the risk. The Panel considers that there are difficulties in adopting a single overall approach given the complex and dynamic nature of both the existing environment in Auckland and the range of risks from natural hazards that Auckland faces. In its interim guidance the Panel sought to differentiate between existing developed areas and new or greenfield areas. The Panel’s initial approach was that risk should not be increased in developed areas with existing activities and should be avoided in greenfield areas for proposed development. The Panel also considered that the merged provisions should acknowledge the functional needs of particular activities to be located in areas which are subject to natural hazards such as on the coast.

The responses of submitters showed that this approach did not adequately deal with the issue of exposure in developed areas. In particular, the Council said that redeveloping or intensifying development in an existing area where some risk is posed by natural hazards

would increase that risk because more people would be exposed to it. Thus while the Council accepted that new development can be designed and located so that risks are not increased or alternatively that consent may be refused, it maintained that this was difficult to achieve at the scale of individual sites and could only really be planned for at larger scales. By way of example, the Council acknowledged that the redevelopment of a site subject to flooding could raise the floor levels and bridge the flood area, but that the additional people accommodated by the larger building would still face the flood risk and so the level of risk would be increased.

While that may be true if all other things are treated as equal, it does not take into account the scope for addressing the nature of the risk itself in a redevelopment situation by the design of the redevelopment or by additional works to reduce the source of the risk or to mitigate its effects. The Panel acknowledges the approach to the Council's calculation but disagrees with the assumption that the level of exposure remains constant. If the degree to which the flooding on the site poses a risk to the residents is addressed by the design of the building or by drainage works, then exposure of people to the risk can be reduced and thus the level of risk may remain the same or may be reduced.

It appeared in light of answers to questions from the Panel that witnesses for the Council regarded the nature of flood risk to existing developed areas in relatively constant terms – that is, if a site floods, then there is a flood risk. The Panel considers that the actual situation is more complex and involves assessments of how deep the flooding is and for how long the site is flooded. If an area is alongside a river which is known to cause flooding of more than 30cm for extended periods, that is a different type of risk to surface stormwater flooding of less than 30cm which drains within a few hours. A key difference in terms of land use planning for additional development in existing urban areas would be whether the flooding would cause people to have to leave their homes for their safety, or whether they could safely remain in their homes until the flooding recedes. Risks to pedestrians or motorists arising from venturing out into storms do not, in the Panel's view, provide the most appropriate basis for land use planning.

On the evidence before it, the Panel is not satisfied that there are extensive areas of urban Auckland which face flooding risks that might lead to the evacuation of homes: from the evidence and the experience of Panel members, the likely risk faced by people and communities in Auckland is of surface flooding that can cause damage in low-lying or poorly drained areas. The Panel accepts that there are exceptions to this, but for the purposes of Auckland-wide rules, the Panel recommends that the rules address the effects of surface flooding and, in particular, the use and development of land in ways that may have adverse effects on overland flow paths.

A significant consequence of this approach is the rezoning of many residential properties. In the Unitary Plan as notified, many sites and small areas were zoned as Single House within larger areas that were zoned Mixed Housing Suburban, Mixed Housing Urban or Terrace House and Apartment Buildings. The reason for this was revealed when the Flood Hazards layer in the Non Statutory Information of the GIS viewer was turned on: the zoning followed the identified Flood Plain, Flood Prone Area or Flood Sensitive Area. This "down zoning" affects a large number of sites to the cost of the property owners and as a detriment to the objective of a quality compact urban form.

The Panel does not mean to imply that growth options should trump the risks from natural hazards. The Panel accepts that people should not be exposed to flood risks simply to gain capacity, but equally they should not be denied reasonable opportunities to develop their

land where they can do so in a way that addresses the risks to occupants and does not exacerbate flooding on other properties.

For those reasons the Panel recommends that the objectives and policies in the Unitary Plan relating to natural hazards and flooding should be more flexible in managing risks.

The Panel was also not convinced about the degree of restriction on use and development in existing built up areas under the natural hazard and flooding provisions. The Panel recommends that more consideration be given to enabling site-specific design-led solutions using controlled or restricted discretionary activity status, with appropriately limited matters of control or discretion, and clear and succinct assessment criteria that assist with giving effect to the objectives and policies for natural hazards and flooding.

For that reason the Panel has amended the activity status of a number of activities generally as set out by the planners' group for a number of submitters – refer to the evidence of Kay Panther Knight and others.

## **4. Flood design level**

### **4.1. Statement of issue**

What should the standard flood event be for the purpose of designing and assessing activities and development in areas which are subject to flooding?

### **4.2. Panel recommendation and reasons**

The Unitary Plan as notified used a flood design level based on the 1 per cent annual exceedance probability (AEP) rainfall event. This was then used in policies and rules which required the floor levels of buildings to be above that level.

Under the Building Act 2004, building work must meet the standards of the Building Code, which requires, among other things, that surface water resulting from an event having a 2 per cent probability of occurring annually shall not enter buildings (see clause E1 – Surface water in the Building Code). As well, section 18 of that Act provides that a person who carries out building work is not required to achieve performance criteria that are additional to or more restrictive than the performance criteria prescribed in the Building Code.

This difference between the flood event levels raises both a jurisdictional issue and a question as to which level is the most appropriate to use. For the reasons set out in section 5.3 of the Overview report on Managing external effects, the Panel is not satisfied that it is appropriate to include rules in the Unitary Plan which control the way in which building work is undertaken on existing sites except where the Unitary Plan provisions regulate buildings for the purpose of the protection of other property (as defined in section 7 of the Building Act 2004) from the effects of surface water, given the provisions in section 18 Building Act 2004 and sections 68(2A) and 76(2A) of the Resource Management Act 1991.

The Panel accepts that there is jurisdiction to include rules in the Plan to control the development of areas of land (rather than existing sites) through the processes of subdivision and structure planning and for that reason recommends that the appropriate flood design level in those circumstances should be based on the 1 per cent annual exceedance probability event. Similarly, the Panel accepts that the appropriate level for

coastal storm inundation should be based on the 1 per cent annual exceedance probability event.

In situations other than that, including buildings on existing sites, the Panel considers that the most appropriate approach is to use levels based on the 2 per cent annual exceedance probability event, consistent with the requirements of the Building Code.

## **5. Flood prone and flood sensitive layers**

### **5.1. Statement of issue**

Should the Unitary Plan include mapping layers and associated text provisions for flood prone and flood sensitive areas?

### **5.2. Panel recommendation and reasons**

Maps that have regulatory effect should be sufficiently accurate for their purpose and should not place a burden on landowners and applicants to disprove that the map is correct.

The mapping of urban areas subject to flooding was acknowledged by the Council to be problematic.

The Council withdrew the flood sensitive layer and associated objectives, policies and rules during the hearing. The Panel supports this and recommends that these provisions be deleted.

The Panel is not convinced of the necessity for the text provisions and maps for a flood prone layer and recommends that they be deleted for the following reasons:

- i. The assumption of areas having 100 per cent of drainage capacity (whether by pipes, overland flow or infiltration) blocked is unreasonable and therefore inappropriate;
- ii. The areal extent of control relating to flood prone areas goes well beyond the flood plain mapping;
- iii. The need for control to protect against flood hazards takes insufficient account of site-specific design solutions or of the other relevant resource management objectives under the Plan, including enabling quality compact urban growth;
- iv. The burden of this control is not adequately relieved (given the nature of the risk) by the possible opportunity of Council or expert assessment.

The Panel considers it would be desirable for the Council to review its approach to mapping flood hazards but any changes will require separate plan processes.

## **6. Rapid flood hazard assessment**

### **6.1. Statement of issue**

Should the Unitary Plan include reference to the rapid flood hazard assessment method?

## **6.2. Panel recommendation and reasons**

The Unitary Plan as notified did not specify particular methods for assessing flood hazards. The utility or accuracy of any method of assessment may be addressed through an application for resource consent or in structure planning.

The use of the Rapid Flood Hazard Assessment by the Council in preparing its flood hazard maps has acknowledged limitations. The Panel is aware that any particular assessment of any particular site may be addressed through the consent process. However, an important public benefit of the Council undertaking robust technical mapping is to avoid imposing unnecessary burdens on landowners and applicants and ensuring that resources that deserve protection are not overlooked.

The Panel accordingly recommends that this all references to the method be deleted.

## **7. Coastal inundation and sea level rise**

### **7.1. Statement of issue**

What degree of risk relating to coastal inundation and sea level rise should the Unitary Plan address?

### **7.2. Panel recommendation and reasons**

The Panel recommends that the Plan provisions should deal with coastal inundation and associated sea level rise on the basis of a projected 1 metre sea level rise within 100 years (i.e. to 2115). This is consistent with Policy 25 of the New Zealand Coastal Policy Statement.

The Panel recommends that the Unitary Plan provisions should deal with the 1 per cent annual exceedance probability (AEP) coastal storm tide event plus the 1m projected sea level rise. The Panel accepts that this issue is not affected by the issues relating to the Building Act 2004 and the Building Code referred to above and discussed in section 5.3 of the Overview because the scope of the building regime does not extend to managing land use in terms of the anticipated effects of climate change.

The Panel does not recommend including maps showing a 2m sea level rise or as any basis for rules in the Unitary Plan. That potential rise in sea level is presently considered unlikely to occur within 100 years and is therefore beyond the planning horizon identified in the New Zealand Coastal Policy Statement.

Maps showing a 2m sea level rise could be located outside of the planning maps shown in the Council's GIS Viewer for the Unitary Plan (i.e. in the Council's general GIS Viewer).

## **8. Vulnerable activities**

### **8.1. Statement of issue**

How should less or more vulnerable activities be identified? Are schools and churches more vulnerable?

## **8.2. Panel recommendation and reasons**

The Panel considers that “less” and “more” vulnerable activities should be differentiated according to the nature of the risk (including the degree of exposure) rather than simply based on the nature of the activity.

More vulnerable activities are essentially residential, including healthcare or other activities, where people may sleep on the site. This is because the degree of risk may depend on how quickly people can respond to that risk. Where people are asleep, then the reaction time is likely to be longer and accordingly the level of risk is increased.

Less vulnerable are working environments generally occupied during the day while people are awake. In these situations the reaction time in response to a risk event should be faster.

The Panel considers that churches and schools should be less vulnerable activities for the purposes of these provisions. This is because these activities normally do not involve residential accommodation and so occupants are unlikely to sleep there. In this context, there is no real difference between these activities and any office or employment activity.

Where a school has a boarding establishment, that activity should be assessed as residential and therefore more vulnerable.

## **9. Bushfire**

### **9.1. Statement of issue**

Does bushfire present a substantial risk to resources in the Auckland region that should be addressed as a natural hazard in this section?

Is it appropriate to include objectives and policies where there are no methods and where the risk is low?

### **9.2. Panel recommendation and reasons**

The Panel was not convinced at the first hearing of the need for provisions regarding bushfire, as there was initially no evidence of bushfire being a significant risk in the Auckland region and there was no robust evidence of support for such provisions.

At the resumed hearing, the Council called evidence from its rural fire officers who showed that the risks from wildfires, while perhaps not as significant as in other parts of New Zealand, were present and should be addressed in the Unitary Plan. The Panel accepts this evidence.

While this section contains no rules for activities relating to the hazard of wildfire, it does contain a policy that this hazard be taken into account in relation to subdivision and vegetation management. This is supported by similar policies in the subdivision and vegetation management sections of the Plan.

The Panel recommends that the term “wildfire” be used rather than “bushfire”, as this is the term used by the rural fire service.

## 10. Soil stability

### 10.1. Statement of issue

How should historic land instability which has been addressed be treated in the Unitary Plan?

### 10.2. Panel recommendation and reasons

The Panel found the evidence of Mr Hillier from Tonkin & Taylor to be persuasive. For the reasons he gives, the Panel considers that liquefaction is a relevant consideration at the stage of subdivision or structure planning, and may be assessed having regard to the references to subsidence, slippage and erosion in section 106 of the Resource Management Act 1991.

The notified provisions made it a restricted discretionary activity to build a house in an area of instability. This provision would apply even if the site has been extensively investigated and engineered at the land-use and subdivision consent stage.

The recommended provisions include a permitted activity standard which would enable a person to rely on prior geotechnical investigations, or consents which addressed geotechnical matters.

## 11. Control of subdivision in relation to natural hazards

### 11.1. Statement of issue

Should the natural hazard and flooding provisions address subdivision?

### 11.2. Panel recommendation and reasons

The Panel expressed concern during the hearing sessions about the inconsistent reference to natural hazards (including all types listed in section 106 of the Resource Management Act 1991) in the subdivision provisions and the apparent lack of regulatory control on subdivisions for that purpose. Controls on subdivision are a direct way in which to avoid new risks in areas of proposed development.

It is important to keep in mind that the Resource Management Act 1991 specifically provides for subdivision consent to be refused in respect of land that is subject to certain kinds of natural hazard:

#### **106 Consent authority may refuse subdivision consent in certain circumstances**

- (1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—
  - (a) the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or
  - (b) any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land, or structure by erosion, falling debris, subsidence, slippage, or inundation from any source; or
  - (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

(2) Conditions under subsection (1) must be—

- (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and
- (b) of a type that could be imposed under section 108.

The Panel was concerned to learn that the proposed Unitary Plan provisions for flooding as notified did not specifically address this provision or include objectives or policies that would guide the exercise of this statutory discretion. The flooding provisions did not refer to subdivision and the subdivision provisions had very limited reference to natural hazards.

The Panel considers that this statutory provision is an important method for addressing the effects of natural hazards by enabling the Council to control both urbanisation and intensification. While subdivision is site specific, if regard is had to appropriate objectives and policies and the potential cumulative effects of subdivision in areas that are subject to natural hazards, then methods to avoid, remedy or mitigate the causes or effects of natural hazards can be implemented on an area-wide basis.

The recommended Unitary Plan provisions for natural hazards and flooding specifically refer to subdivision as well as to the use and development of land. Amendments have also been made to the subdivision provisions to ensure that natural hazards are specifically considered in relation to both urban and rural subdivision. The Panel expects that the Council will observe these as part of its control of subdivision.

## 12. Non-statutory information

### 12.1. Statement of issue

Should non-statutory information be included in the planning maps?

### 12.2. Panel recommendation and reasons

The Panel expressed concern during the hearing sessions about the inclusion of, and references to, maps that were described as ‘non-statutory’. Some of this information is statutory in its nature, but not specifically under the Resource Management Act 1991. In this context, ‘non-statutory’ really means that the maps are not planning maps forming part of the rules and methods for the parts of the Unitary Plan: the regional policy statement, the regional plan including the regional coastal plan, and the district plan.

In the Unitary Plan as notified, the GIS Viewer included layers for:

- i. Address;
- ii. Indicative coastline;
- iii. Macro-invertebrate community index;
- iv. Soil types;
- v. Flood hazards (flood sensitive area (1 per cent annual exceedance probability); flood prone area (1per cent annual exceedance probability) and flood plain (1 per cent annual exceedance probability));
- vi. Auckland Council Boards;
- vii. Maori land;

- viii. Treaty settlement alert layer (areas of interest; Treaty settlements; cultural redress; and coastal statutory acknowledgement area); and
- ix. Hauraki Gulf Marine Park.

In general, the Panel recommends only including maps in the planning maps that serve a resource management purpose within the structure of the Unitary Plan. The Panel considers that other information should be located in ways that avoid any confusion as to whether the information is part of the Unitary Plan. This is important to avoid giving a false impression to users of the Plan (including the Council's planning staff) about whether these maps have any regulatory effect. This problem can be exacerbated where the maps themselves are not regarded as being sufficiently accurate to enable a clear determination of whether a particular site or part of a site is affected by any rules that might relate to the content of the maps. This issue was identified particularly in relation to the flood hazard maps. The Council acknowledged this issue during the hearing session.

Ultimately, the test for inclusion or exclusion is whether any change to the map or the information in the map must be done by the method set out in Schedule 1 to the Resource Management Act 1991: if so, it should be in the planning maps; if not, it should be excluded from them.

Excluding the maps should not mean that the information is not accessible: the Council has an extensive GIS Viewer containing many layers of information which is as readily accessible as the planning maps. Locating the 'non-statutory' information on this general GIS Viewer means that the contents of the Unitary Plan are clearly differentiated.

On that basis the Panel recommends that the following non-statutory layers be moved out of the Unitary Plan planning maps:

- i. Soil types;
- ii. Flood hazards;
- iii. Auckland Council Boards;
- iv. Maori land;
- v. Treaty settlement alert layer (areas of interest; Treaty settlements; cultural redress; and coastal statutory acknowledgement area); and
- vi. Hauraki Gulf Marine Park.

The Panel recommends relocating the Macroinvertebrate Community Index layer to a Control layer in the planning maps. The Panel also agrees with Dr Martin Neale that the information in the layer should be made more useable by being separated into its component elements: urban, rural, exotic and native. The Panel recommends that this layer also be linked to the property summary, so that the type of control is clearly identified for a user.

The layers for street or road address and the indicative coastline should remain. The address layer assists in searching the maps and identifying particular sites. The indicative coastline assists in identifying the boundary of the coastal marine area and therefore the inner boundary of the area of the region to which the regional coastal plan applies. The use of the word 'indicative' reflects the fact that the line of mean high water springs is a movable boundary and may change through natural processes.

## 13. Financial contributions

### 13.1. Statement of issue

Should financial contributions provisions remain in the Plan?

### 13.2. Panel recommendation and reasons

Financial contributions are a type of condition that may be imposed on a resource consent pursuant to sections 108(1)(a) and 108(10) of the Resource Management Act 1991. The extent to which such conditions are imposed has been reduced since provision was made for the imposition of development contributions (now authorised under section 105 and Part 8, Sub-part 5 of the Local Government Act 2002). The extent to which a local authority uses either financial contributions or development contributions is a matter of funding policy to be determined by that local authority under the Local Government Act 2002.

In the proposed Unitary Plan, there is no general use of financial contributions in the overlays, zones or Auckland-wide provisions. However, there are references to financial contributions in some precincts. The Panel acknowledges these and considers that the provisions relating to the background for financial contributions should remain. To assist in locating them, these have been relocated to section I1 at the beginning of the precinct provisions.

## 14. Consequential changes

### 14.1. Changes to other parts of the plan

As a result of the Panel's recommendations on this topic, there are consequential changes to other parts of the Plan as listed below.

- i. The general rezoning of the Residential - Single House Zone sites identified by Council as affected by flooding to another zone in recognition that flooding can be managed.
- ii. Additions to objectives and policies regarding wildfire in the subdivision and vegetation management sections.
- iii. Additions to the provisions for subdivision to enable proper consideration of natural hazards.

### 14.2. Changes to provisions in this topic

There are no changes to provisions in this topic as a result of the Panel's recommendations on other hearing topics.

## 15. Reference documents

The documents listed below, as well as the submissions and evidence presented to the Panel on this topic, have been relied upon by the Panel in making its recommendations.

The documents can be located on the aupihp website ([www.aupihp.govt.nz](http://www.aupihp.govt.nz)) on the hearings page under the relevant hearing topic number and name.

You can use the links provided below to locate the documents, or you can go to the website and search for the document by name or date loaded.

(The date in brackets after the document link refers to the date the document was loaded onto the aupihp website. Note this may not be the same as the date of the document referred to in the report.)

## **15.1. General topic documents**

### **Panel documents**

[022-Submission Point Pathway Report](#) - 13 August 2015

[026- Submission Points Pathway Report](#) - 19 February 2015

[022-Parties and Issues Report](#) - 3 July 2015

[026-Parties and Issues Report](#)-26 February 2015

### **Mediation statements**

[022-Mediation Joint Statement - Session 1](#) (18 February 2015)

[022-Mediation Joint Statement - Session 2](#) (19 February 2015)

[022-Mediation Joint Statement - Session 3](#) (23 February 2015)

[022-Mediation Joint Statement - Session 4](#) (24 February 2015)

[022-Mediation Joint Statement - Session 5](#) (25 February 2015)

[026-Matters Discussed at Mediation between Auckland Council and Individual Submitters on 23.02.2015](#)

[022 - Mediation Joint Statement - Reconvened mediation - 29 and 30 June 2015](#) (3 July 2015)

### **Expert Conference statements**

[022 -Expert conference report – 6 July 2015](#) (27 July 2015)

### **Auckland Council closing statement**

[022 - Reconvened Hrg - CLOSING STATEMENT](#) (24 August 2015)

[022 - Hrg - Closing Statement - Flooding - the Parts of Topic 026 General relating to the Council's Non-statutory Flood Hazard Layers](#) (21 April 2015)

[026 Hrg - Auckland Council - Post hearing reply submissions](#) (13 March 2015)

### **Panel Interim Guidance**

[022 Natural Hazards and Flooding - Updated 10 June 2015 \(PDF 276KB\)](#) (6 May 2015)

[022, 50, 59-63, 64 and 77 - Panel direction on the Resource Management Act 1991 and the Building Act 2004 in the PAUP](#) (8 October 2015)

## 15.2. Specific evidence

### **Auckland Council**

[026 Hrg - Auckland Council \(Martin Neale\) Non-statutory GIS layers - REBUTTAL](#) (26 February 2015)

[022 - Reconvened Hrg - Auckland Council - \(Bryan Cartelle and Thomas Harre\) - Bush Fires](#) (17 July 2015)

### **Kay Panther Knight evidence**

[022 - Hrg - \(Kay Panther Knight\) - Planning](#) (24 March 2015)

[022 - Hrg - \(Kay Panther Knight\) - Planning – Attachment B - REVISED](#) (26 March 2015)

### **Tonkin and Taylor Limited**

[022 - Reconvened Hrg - \(Robert Hillier\) - Geotechnical Engineering](#) (17 July 2015)