

**BEFORE THE HOROWHENUA DISTRICT COUNCIL**

<b>Under</b>	The Resource Management Act 1991; and
<b>In the matter of</b>	Proposed Plan Change 22 (Outstanding Natural Features and Landscapes) to the Horowhenua District Plan; and
<b>In the matter of</b>	The submission by Horowhenua District Council (David McCorkindale)

---

**STATEMENT OF EVIDENCE BY DAVID McCORKINDALE FOR THE  
HOROWHENUA DISTRICT COUNCIL (PLANNING DEPARTMENT)**

---

Dated: 31 October 2011

---

## **Introduction**

---

1. My name is David Bruce McCorkindale. I hold the position of Project Manager (District Plan Review) with the Horowhenua District Council. I have the tertiary qualification of Bachelor of Resource and Environmental Planning (honours) from Massey University, Palmerston North. I have 11 years planning experience, of which eight years have been with the Horowhenua District Council and three years with local authorities in the United Kingdom.
2. I have read the memorandum from the Commissioners dated 29 September 2011 that was circulated to all submitters. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2011. I agree to comply with this Code of Conduct.
3. I have overseen the Horowhenua District Council Planning Department's formal response to Proposed Plan Change 22 (Outstanding Natural Feature and Landscapes) contained in submission 22/076 and further submission 22/509.
4. While this is my own expert planning evidence, I do refer, in parts to the collective view the Horowhenua District Council Planning Department has on this Plan Change and the recommendations set out in the Officer's section 42A report. The evidence provided in this statement is within my area of expertise.

---

## **Structure of Evidence**

---

5. The evidence provided is based on the submission points made in submission 22/076. Rather than address all submission points the evidence focuses on those submission points that I would like the Commissioners to contemplate further before accepting the recommendation of the Reporting Officer's Section 42A report.

---

## **Summary of Issues**

---

6. Whilst the Officer's Section 42A report has provided a recommendation on all submission points made on behalf of the Horowhenua District Council Planning Department it is difficult in places to see how the report has specifically considered or addressed these submission points.
7. In most cases this statement of evidence seeks clarification to ensure that the plan change brings an appropriate level of certainty to the Plan particularly on matters of procedure and interpretation.

8. I outline the relevant submission points below that I address in this statement of evidence.

---

### **HDC (Planning Department) Submission Points on PC 22**

---

9. 22/076B Decision Sought: That the definition of earthworks together with the level of earthworks that can be undertaken as a permitted activity be amended.
10. 22/076F Decision Sought: The definition of primary production building is amended.
11. 22/076G Decision Sought: To avoid confusion it is recommended that there is consistency between the areas in Plan Change 20 and 22 and that the Maps in Plan Change 22 are amended to reflect any associated changes following the decision on Plan Change 20.
12. 22/076I Decision Sought: That the legend on proposed Planning Maps 32 and 33 be amended so that it is clear that the margin applies to both Rivers and Streams. That the margin to apply to identified rivers and streams be amended from 50 metres from the centreline to 20 metres from the bed of the identified river or stream.
13. 22/076M Decision Sought: That the Plan Change make it clear that the proposed rules relating to Outstanding Natural Features, Outstanding Natural Landscapes and High Amenity Landscapes do not apply to land that is not zoned Rural.
14. 22/076N Decision Sought: That the Plan Change makes it clear that the proposed rules relating to Outstanding Natural Features, Outstanding Natural Landscapes and High Amenity Landscapes do not apply to existing legal roads.
15. 22/076O Decision Sought: That a note to Plan Users, be added to make it clear that where two overlays overlap, the most onerous provisions of the overlapping overlay shall apply.

---

### **Officer's Section 42A Report**

---

16. In relation to submission points 22/076B and 22/076N I raise two matters relating to earthworks. Through the submission point 22/076B I sought that the definition of earthworks be amended to exclude a range of types of earthworks. I understand the position taken by the reporting officer but the recommended outcome in relation to earthworks in this plan change does raise two concerns.
17. The proposed permitted activity rule 19.2.28 introduces the term 'building platform' to the Plan, whilst I understand and support the intention of its introduction I am

concerned that the absence of a definition could lead to this rule being abused. I would recommend that consideration to be given providing a greater level of certainty around the extent of a 'building platform'. A concern would be where landowners sought to justify earthworks for "future" building platforms or for building platforms much larger than the footprint of the building to be constructed.

18. The second point of concern also relates to submission point 22/076N which sought clarification over how the rules would apply to existing legal roads. Submission point 22/076B had sought to exempt earthworks within road reserve. It would seem that while this submission point has been accepted in part in the officer's report, the situation of earthworks associated with roads in the Outstanding Natural Features and Landscapes or Landscape Domains with High Amenity would continue to require resource consent. I am of the opinion that given that very few of the roads within the district are currently designated there should be some exemption provided for earthworks in relation to existing roads in these areas, especially where the extent of the earthworks is within the existing road reserve.
19. The definition of 'site' as it is defined in the District Plan would be particularly problematic to apply to roads given that vested roads do not have a certificate of title and it is not clear where a road starts and stops given that it could be argued to be part of a wider network. It would be therefore difficult to determine which threshold based on the size of the 'site' should be applied if earthworks were being undertaken within a Landscape Domain with High Landscape Amenity. It would seem that earthworks associated with a road could trigger the requirement for resource consent where the earthworks exceeded 1 metre cut or fill in an ONFL.
20. The impact of earthworks associated with roading and a vested road in my opinion warrants a different level of consideration to the other forms of earthworks that the Plan Change clearly contemplates (being those that may potentially have adverse effects on landscape values). By limiting the exemption to areas of vested road it would provide a level of certainty over where these earthworks could occur. The actual activity of earthworks associated with any new roads not already vested with Council would still be able to be considered through the subdivision consent process (being the time that the new road is 'created' in the legal sense).
21. In relation to submission point 22/076F I seek that the original amendment sought should be accepted in full. The proposed changes to the definition of Primary Production Building sought to specifically capture those buildings that were solely to support primary production activities. The proposed changes would reduce confusion over whether farm worker accommodation would be considered as a Primary Production Building. The proposed amendment also sought to address the arguments

that could be made where a building is not currently “used” for domestic or residential activities, which will often be the case when the building consent is lodged and Council is first made aware of the proposed building.

22. In relation to submission point 22/076G I support the recommendation of the reporting planner, I would however like to draw to the attention of the Commissioners that the landscape domain areas identified in the decision on Plan Change 20 were the subject of an appeal lodged with the Environment Court. This appeal was resolved by the Council and appellant and the settlement reached and signed off by the Court included amending Planning Map 39 to show the area identified as Tararua Terraces Landscape Domain to the north of North Manakau Road (shown on Planning Map 39 in Appendix H of the Officer’s Section 42A Report).
23. Whilst my original submission referred to consistency between Plan Change 22 and the decision on Plan Change 20 (which at that point in time was imminent), I seek to provide clarification that my submission intended that there should be consistency with not only the decision on Plan Change 20 but also any further changes to the decision that may have resulted from appeals lodged with the Environment Court on Plan Change 20. This is particularly important given the recommended change by the Reporting Officer of moving from High Amenity Landscapes to the Landscape Domains of High Amenity based on the assessment undertaken for Plan Change 20.
24. It is also appropriate to identify to the Commissioners that as a result of resolved appeals to Plan Change 20 there are amendments to the provisions and rules relating to the Rural Zone that although not specific to this Plan Change do feature in Chapter 19 of the Plan and have not been included in the version of Chapter 19 that was attached to the Officer’s report as Appendix H.
25. In relation to submission point 22/076I I seek that the Plan Change clarify the extent of the margin that would apply to the rivers and streams that are identified in this Plan Change (noting that the recommendation in the Officer’s report now only includes the Hokio Stream and the Waiwiri Stream). The report prepared by Boffa Miskell (Appendix D) states that the ONFL area extends 20m from each bank of the stream. The scale of Planning Maps makes it difficult to see the extent of the margin on the maps. With no clear guidance on this included in the Plan Change itself it would be easy for landowners adjacent to one of the identified streams to not be aware that land 20 metres from the bank of the stream would be in fact subject to the Rural rules relating to Outstanding Natural Features and Landscapes. I would suggest that the map legend be amended to refer to the 20 metre margin from each bank as identified in the Boffa Miskell report.

26. In relation to submission point 22/076M I note that whilst this has been recommended to be accepted in part there are still situations (albeit now much more limited) where land which is not zoned Rural may be subject to the rules relating to Outstanding Natural Features and Landscapes. Due to the recommended changes there is likely to only be one area where this may occur. The Hokio Stream is part of an ONFL and runs very close to the Residential zoned properties of the Hokio settlement. If a 20 metre margin is to be applied to the Hokio Stream from the bank of the stream it will encompass properties on the southern side of the Hokio Stream that are zoned Residential. The rules in Chapter 22 of the Plan relating to network utilities could for instance require resource consent for a street light exceeding 3 metres in height.
27. With the plan change only making changes to the rules in the Rural zone and not in any other zone, it would seem that the Plan Change does not intend to impose added restrictions beyond what those of the current plan in areas outside the rural zone. Amendments to the Rules 22.1.7 and 22.1.10 could be made to refer to the Rural zone, which would avoid the situation outlined above.
28. In relation to submission 22/076O I do note that the use of overlays within the Plan is likely to cause some confusion while Plan users come to terms with the three layers applying to Rural zoned land. I am of the opinion that there is the opportunity through this process to help minimise any confusion by adding a note to Plan Users.

---

### **Requested Amendments**

---

29. Submission Point 22/076B

That greater certainty be provided for the term 'building platform' through either a new definition to the Plan or further explanation or definition within proposed Rule 19.2.28

30. Submission Points 22/076B and 22/076N

That Rule 19.2.28 be amended to make earthworks within existing vested roads in ONFLs, the Coastal Environment, Coastal Lakes, Manakau Downlands, Hill Country, and Foxton Dunefields Landscape Domains a permitted activity.

31. Submission Point 22/076G

That Plan Change 22 is consistent with the decision on Plan Change 20 including any settlements resulting from resolved appeals, especially in relation to the identification of the landscape domain boundaries.

32. Submission Point 22/076F

That the definition of primary production building be amended to read:

“Primary Production Building means any building used solely to support primary production activities. This shall include buildings used for management and storage and management of stock and farm machinery but shall exclude buildings intended to be used in total or part for domestic or residential activities.”

33. Submission Point 22/076I

That the map legend of Maps 32 and 33 be amended to refer to a 20 metre margin from each bank for the ONFLs which contain a stream.

34. Submission Point 22/076M

That amendments are made to the Rules 22.1.7 and 22.1.10 (and any other consequential amendments) so that the Rural zone is referred to within the rules relating to ONFLs.

Rule 22.1.7

“3 metres in an Outstanding Natural Landscape and Feature in the Rural Zone.”

Rule 22.1.10

“No masts, pylons, towers, aerials, or other structures associated with network utilities with a height of more than 3 metres shall be located on rural zoned land shown or specified as an Outstanding Natural Landscape or Feature ...”

35. Submission Point 22/076O

That a Note to Plan Users be added to the Rural Zone chapter to assist and guide users through the application of the Landscape Domain and Outstanding Natural Features and Landscapes overlays.

Signed



David McCorkindale  
Project Manager (District Plan Review)  
HOROWHENUA DISTRICT COUNCIL

Dated: 31 October 2011

