

BEFORE THE HEARINGS COMMITTEE AT HOROWHENUA DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of change 22 to the Operative Horowhenua District Plan pursuant to the 1st Schedule

BETWEEN **M. J. PAGE & REPRESENTING RANGEVIEW LIMITED**

Submitters

AND **HOROWHENUA DISTRICT COUNCIL**

Local Authority

STATEMENT OF MICHAEL JOHN PAGE

**STATEMENT OF MICHAEL JOHN PAGE, AND REPRESENTING RANGEVIEW
LIMITED**

I seek the following to be considered.

- 1 A number of matters in the attached **Environment Court Consent Order dated 23/12/2010** have not been fully considered in Plan Change 22 or incorporated in Plan Change 22 or incorporated into the supporting sections of the District Plan. Could you please amend and incorporate accordingly.
- 2 **Planning Map 33**. Tararua Ranges Outstanding Natural Feature (ONFL) does not correctly indicate the native bush – plantation boundary. Could you please amend as indicated on the attached map.
- 3 Permitted Activities Earthworks – Hill Country Domain. Within any 12 month period for a site larger than 20ha a land use consent (earthworks) is not required unless all restrictions are exceeded:

i.e. 2.5m vertically and
100m continuous length and
500m³ in volume.
- 4 Therefore within the 228ha farm forest title, if I do not exceed 2.5m of cut I can undertake any length of tracking, and quantity of earthworks within any 12 month period. I have discussed this interpretation with my Barrister, and a senior resource consent planner.
- 5 If this interpretation is incorrect could you please inform me in writing.

M.J. PAGE

November 2011

Attached

- **Environment Court Order dated 23/12/2010**
- **Map showing corrections to Map 33.**

IN THE MATTER of the Resource Management Act 1991
AND

IN THE MATTER of an appeal under clause 14 of the First
Schedule to the Act

BETWEEN RANGE VIEW LIMITED and
M J PAGE
(ENV-2010-WLG-000029)
Appellant

AND HOROWHENUA DISTRICT
COUNCIL
Respondent

BEFORE THE ENVIRONMENT COURT
Environment Judge B P Dwyer sitting alone pursuant to section 279 of the Act.
IN CHAMBERS

CONSENT ORDER

Introduction

[1] The Court has read and considered the appeal, the respondent's reply and the parties' memorandum received 10 December 2010.

[2] Transpower New Zealand Limited gave notice of an intention to become a party to the appeal under s274, and has signed the memorandum setting out the relief sought.

[3] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits

pursuant to section 297. The Court understands for present purposes that:

(a) All parties to the proceedings have executed the memorandum requesting this order;



- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

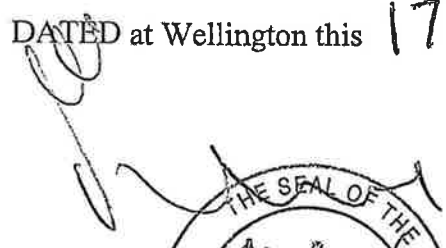
Order

[4] The Court orders, by consent, that the appeal be allowed to the extent that the Horowhenua District Council be directed to amend the Proposed District Plan Change 20 to the Horowhenua District Plan as set out in the Annexure to this order.

[5] The appeal is otherwise dismissed.

[6] There is no order as to costs.

DATED at Wellington this 17th day of December 2010



B P Dwyer
Environment Judge



ANNEXURE

The agreed changes to the Proposed District Plan Change 20 to the Horowhenua District Plan are as follows (deletions in ~~strikethrough~~, additions in underline):

1. Planning Map 39 to be amended so as to give effect to the change in classification of areas of the Appellants' land from Hill Country Domain to Tararua Terraces Domain, as shown on the **attached** plans.
2. Amend section 24A.1.4.5 – Tararua Terraces, as follows:

"24A.1.4.5 Tararua Terraces

(a)

...

- (g) In considering lots in the Tararua Terraces (HV soil) that can not accommodate the necessary shape factor of a 100 metre diameter circle and/or 100 metre road frontage, consideration will be given to whether the shape factor of the lots maintain the open productive landscape and potential for primary production activities.

..."

3. Amend Appendix 1 – Rural Environment Landscape Assessment, to Section 2 as follows:

"Appendix 1: Rural Environment Landscape Assessment

...

5. Tararua Terraces

LANDSCAPE CHARACTER

This domain ~~extends from the north-eastern boundary of the District and acts as a transition zone between the northern plains and the Hill Country to the north of the District and a much smaller area of enclosed and elevated terrace plateaux of Manakau north valley.~~

Landform

Generally, this area is a combination of elevated plateaux dissected by gullies, some areas of steep erosion-prone faces to the east and flatter or gently sloping/undulating land towards the west.

Within this domain are some discrete areas sheltered from the prevailing winds by individual ridges that extend ~~further to the east~~ out beyond the general line of the foothills. These areas present a slightly different character because the climatic factors tend to be humid frost-free air, and significant cloud cover.

Landcover

The mainly pastoral nature of this area also contains a number of significant natural habitats, including remnant areas of indigenous vegetation of both forest and wetland types.

Vegetation in the sheltered 'alcove'-type areas also includes nikau palms and other vigorous species suited to the gentler environment. Volcanic soils found ~~within the area~~ also contribute to growth rates and vegetation types.

Landuse

Low intensity pastoral farming is the dominant land use in this area. The presence of horticulture reflects the high class soils that extend in some areas to



the ~~100m contour~~ base of the foothills. Associated dwellings and buildings reflect this dominant usage, however there are some smaller parcels that are either rural-residential or niche primary production activities.

...

OPPORTUNITIES & CONSTRAINTS

Close to the Shannon and Tokomaru townships, this domain's location presents some opportunities for development in response to this connectivity. The presence of high class soils places constraints on both the type and location of development.

Land instability on the terraces also presents constraints, and the high visibility of these areas could pose problems with adverse visual effects should building sites be located on the elevated sites.

The variation of the domain's topography, particularly to the west, does provide opportunities for sites that do not have the same constraints as those discussed above – however where these areas also contain high natural values (such as remnant areas of vegetation or wetland) or have potential for ecological enhancement, development should respond to this.

The enclosed and relatively screened areas behind the extending ridges provide opportunities for development that can be undertaken without being as visually obtrusive as the same level of development in more prominent parts of this domain.

....

10.Hill Country

...

Landform

The domain contains all land generally above the 100m contour line where the gradient of the hills typically becomes noticeably steeper and includes the taller of the foothills as well as the highest peaks of the Tararua mountain range at some 1570 metres above sea level (msl).

..."

4. **Insert** an additional Note to Plan Users under 19.4.2.A – Controlled Matters, as follows:

"Note to Plan Users in Interpreting Subdivision Rules

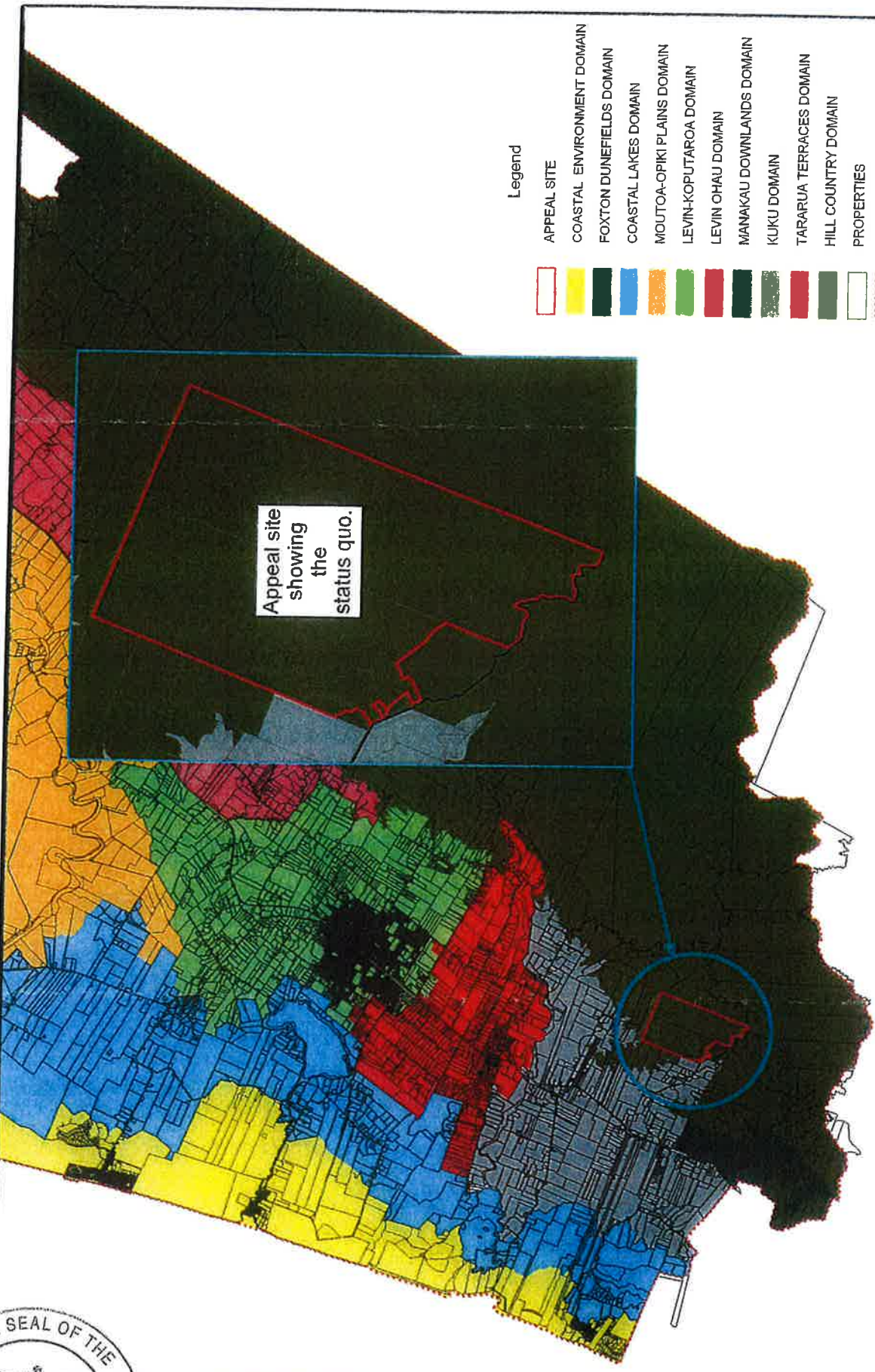
The more restrictive activity status will also be applied in the situation where a ~~property to be subdivided~~ title to be created is located within two or more landscape



domains and would be subject to a different activity status for each domain.

i.e. The assessment of any property or new title that falls solely within a single landscape domain would be against the objectives, policies and rules of that domain. However, the assessment of any new title that falls within two or more landscape domains would be against the most restrictive provisions of the applicable landscape domains.





Appeal site showing the status quo.

- Legend
- APPEAL SITE
 - COASTAL ENVIRONMENT DOMAIN
 - FOXTON DUNEFIELDS DOMAIN
 - COASTAL LAKES DOMAIN
 - MOUTOA-OPIKI PLAINS DOMAIN
 - LEVIN-KOPIUTAROA DOMAIN
 - LEVIN OHAU DOMAIN
 - MANAKAU DOWNLANDS DOMAIN
 - KUKU DOMAIN
 - TARARUA TERRACES DOMAIN
 - HILL COUNTRY DOMAIN
 - PROPERTIES
 - DISTRICT BOUNDARY
 - ROADS



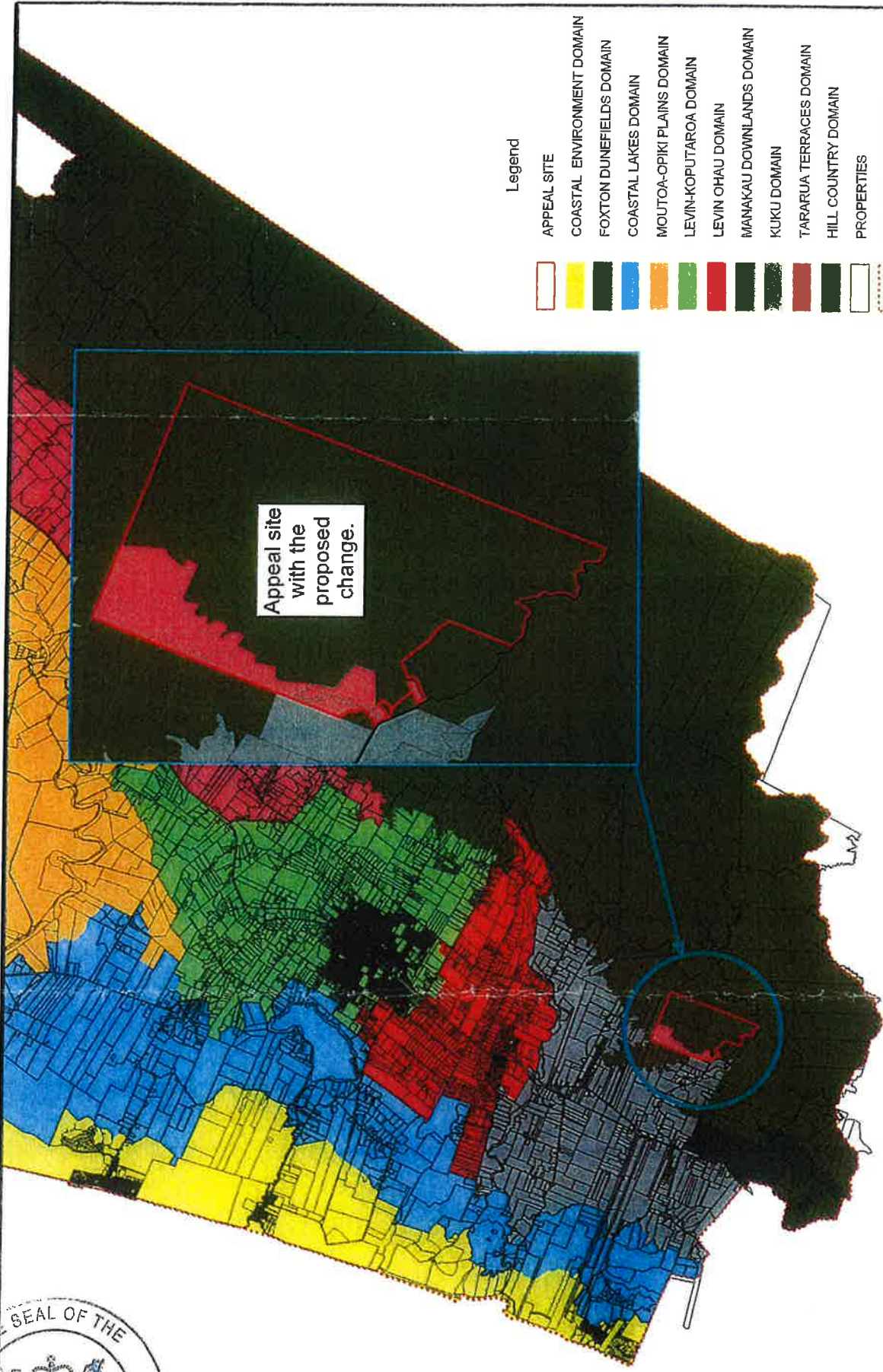
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DISTRICT PLAN

LANDSCAPE DOMAINS

PLANNING MAP 39

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PLANNING MAP 39

LANDSCAPE DOMAINS

DISTRICT PLAN

scale 1:120000
ORIGINAL SHEET SIZE - A3



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BEFORE THE ENVIRONMENT COURT

IN THE MATTER

of an appeal under clause 14(1) of the First Schedule of
the Resource Management Act 1991

BETWEEN

RANGE VIEW LIMITED & M J PAGE

ENV-2010-WLG-000029

Appellant

AND

HOROWHENUA DISTRICT COUNCIL

Respondent

MEMORANDUM OF PARTIES IN SUPPORT OF CONSENT ORDER

**BROOKFIELDS
LAWYERS**

A F D Cameron
Telephone No. 04 499 9824
Fax No. 04 499 9822
P O Box 25-306
Panama Street
WELLINGTON

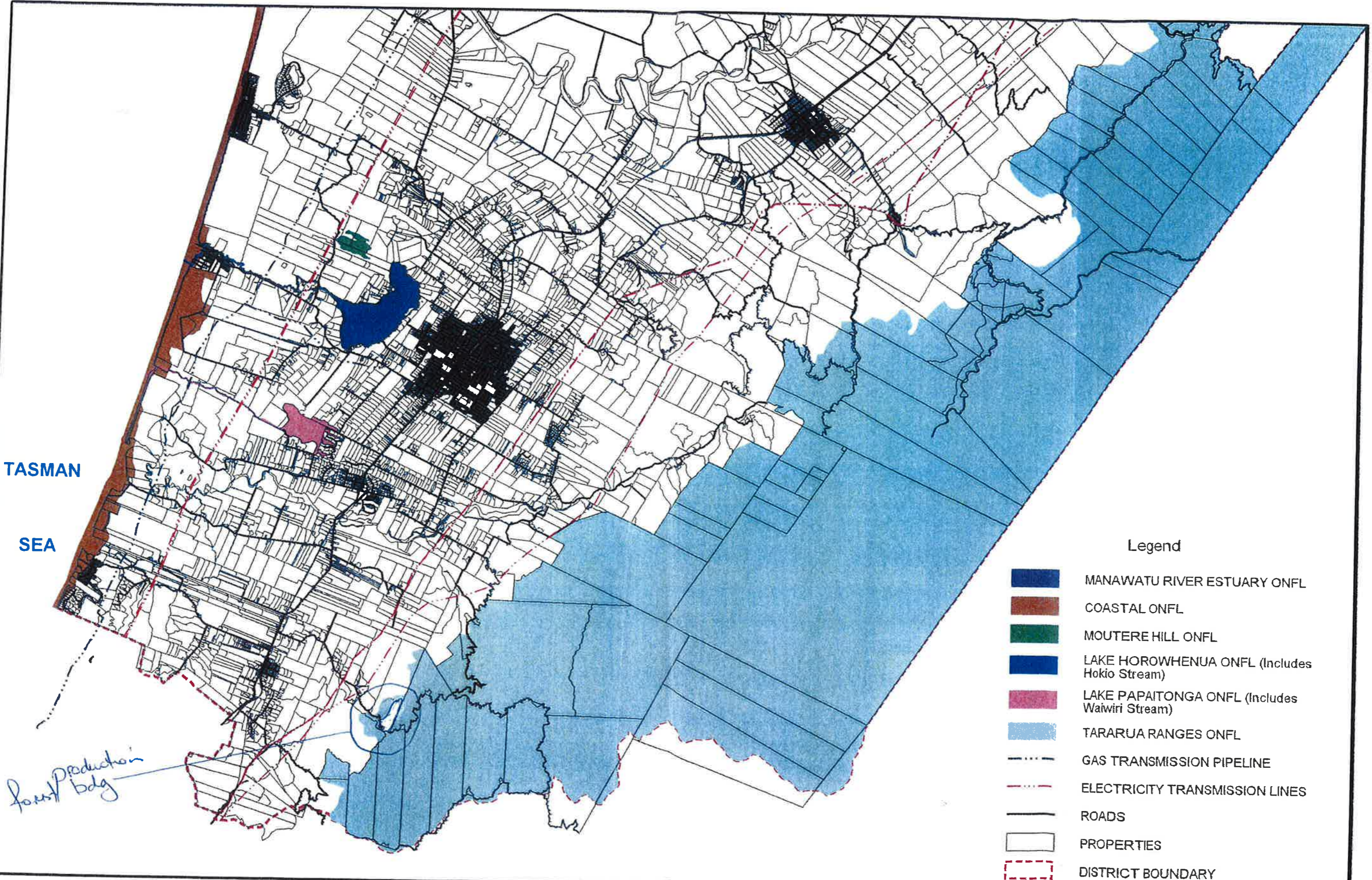
MAY IT PLEASE THE COURT

1. This appeal relates to the decisions of the Horowhenua District Council ("the Council") in respect of the Appellants' submission to Proposed District Plan Change 20 to the Horowhenua District Plan ("PC20").
2. PC20 identifies 10 landscape domains that exhibit individual qualities and landscape character. Given the character and qualities in each land domain, they are considered to have different capacity and ability to manage the effects of subdivision, use and development, and standards are applied to those areas on that basis.
3. The Appellants own land on North Manakau Road, that is held in 4 titles and is legally described as follows (collectively described as "the Site"):
 - Lot 3 Deposited Plan 80215;
 - Lot 1 Deposited Plan 82734;
 - Lot 4 Deposited Plan 80215;
 - Lot 2 Deposited Plan 80215;
 - Pt Sec 59 Blk IX Waiopehu Survey District (SO 12834);
 - Sec 58 Blk IX Waiopehu Survey District (SO 12834).
4. The Site is identified in PC20 as part of the Hill Country Domain, because it was considered to generally show the landscape characteristics of that Domain – being elevated, steep, and highly visible.
5. The Appellants state in their Notice of Appeal:

"In terms of the impact on the Appellants' land holdings it is inappropriate to show the Hill Country Domain over this rural land. The Appellant suggested that given the character and separation of the Manakau North Road Catchment, a specific Rural Domain be created. However, it may be more appropriate to identify the Appellants' land within the "Taranua Terraces Domain" (non-versatile soils), being of a similar amenity, with perhaps provision for the extension of the "Kuku Domain".
6. In response to this appeal, the Council has undertaken a "fine grain" analysis of the Site and has determined that some 55 hectares of the Site do not share the characteristics of the Hill Country Domain, and do not, therefore, fit comfortably within that Domain.

7. The Council has therefore considered into which domain this area of land comfortably fits, and has concluded, on the basis of its overall characteristics, that this is the Tararua Terraces Domain.
8. The Council therefore accepts that it is appropriate to amend planning map 39 of PC20, which identifies the domains, so as to classify the some 55 hectares of the Site as Tararua Terraces Domain rather than Hill Country Domain. It is noted that map 39 (copy **attached**) is at a small scale, and therefore, to provide certainty, the draft consent order filed herein, attaches an aerial photograph of the Site that shows the land to be reclassified as Tararua Terraces Domain. Some minor amendments to the text of PC20 have also been agreed, as set out in the draft consent order.
9. The Appellants lodged a submission on PC20, and also plan changes 21 – "Greenbelt Residential and Urban Growth, and 22 – Outstanding Natural Features and Landscape, in relation to landscape considerations, and the close and associated relationship of the plans to landscape matters.
10. To enable the parties to resolve the subject appeal, **Plan Change 22** matters also had to be discussed. The Council has agreed to request, through its submission on Plan Change 22, that the Outstanding Natural Landscape boundaries, including those applicable to the Appellants' properties, be amended, to that of the native bush boundaries as identified in the Land Cover Database. The Council's submission to Plan Change 22 also seeks that its maps, which define the Hill Country High Amenity Landscape boundary, be amended to reflect any associated changes, such as to the Hill Country landscape domain boundary, made in relation to PC20. This will ensure that the maps of the two plan changes are consistent where necessary.
11. The Appellants understand that Plan Change 22 is yet to proceed to a Council hearing and that whilst Council officers have sought the above decisions by way of submission, Council officers are **not in a position to predetermine or guarantee** the outcome of the hearing or any subsequent appeal process.
12. In these circumstances the parties respectfully seek that the Court:
 - (a) make orders in the terms of the draft consent order filed herein; and
 - (b) make no order as to costs.





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DISTRICT PLAN

**OUTSTANDING NATURAL FEATURES &
LANDSCAPES, ELECTRICITY TRANSMISSION LINES
& GAS TRANSMISSION PIPELINES**

PLANNING MAP 33

