



Proposed Horowhenua District Plan

Proposed Plan Variation 2

Hill Country Landscape Domain Boundary Review

Decision of Hearings Panel

Councillor Tony Rush (Chair)
Councillor Garry Good
Councillor Jo Mason
Commissioner Robert Nixon

Hearing Date 26 November 2014



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1. Introduction

- 1.1. We were appointed by the Horowhenua District Council to consider submissions on Proposed Plan Variation 2 to the Proposed Horowhenua District Plan.

Abbreviations

- 1.2. In preparing this decision we have used the following abbreviations:

"PPV2"	Proposed Plan Variation 2 to the Proposed Horowhenua District Plan.
"PDP"	Proposed Horowhenua District Plan.
"Officer's Report"	Section 42A report evaluating the submissions and further submissions, prepared by Ms Tiffany Williams, Strategic Planner at Horowhenua District Council.
"Act"	Resource Management Act (1991).

Appearances

- 1.3. The following submitter (supported by members of his family) attended the hearing:
Mr Kenneth Rowland.
- 1.4. In addition, an e-mail response to the Officer's Report was received from Gary and Emily Williams.
- 1.5. Ms Tiffany Williams, Strategic Planner, Horowhenua District Council.
Mr Boyden Evans, Landscape Architect of Boffa Miskell Limited, on behalf of the Horowhenua District Council.

Late Submission

- 1.6. There was a late submission received from Ian Peter Smith (Submitter Number 212) which raised matters relating to PPV 2. This submission was received two days after submissions closed on 15 September 2014.

Section 37A of the Act sets out the relevant considerations for accepting or rejecting late submissions. Mr Smith's submission opposed PPV 2 as it relates to his property, so the Hearings Panel was satisfied that he was directly affected, and that there was no other party that would be disadvantaged by grant of waiver. This submission was able to be incorporated into the list of submissions which were advertised for further submissions, and hence no delays occurred to the process. For these reasons, the Hearings Panel was satisfied that a waiver was appropriate, and resolved that Mr Smith's submission be accepted.

2. Proposed Plan Variation 2

2.1 Background

The background to PPV 2 was described in the section 42A report as follows:

"Plan Change 20, which involved the review of rural subdivision within the Horowhenua District, divided the District into 10 Landscape Domains. The Landscape Domains were identified in the 'Landscape Assessment of the Rural Environment of the Horowhenua District - October 2008'. Each Landscape Domain was defined based on landscape character, visual quality, and landscape sensitivity, except for the Hill Country Landscape Domain. The northern, eastern and southern boundaries of the Hill Country Landscape Domain are defined by the territorial authority boundary and the western boundary is defined by the 100m (above sea level) contour line. Plan Change 22 relating to Outstanding Natural Features and Landscapes also relied upon these boundaries.

As a result of the submissions and hearings processes for Plan Changes 20 and 22 it became apparent that in some instances the 100m contour line used to define the western boundary of the Hill Country Landscape Domain captures areas of relatively flat, productive land which is inconsistent with the defining characteristics of this Landscape Domain and as a consequence could unintentionally affect the future subdivision and/or development of this land.

The Hearing Panel for Plan Change 22, as part of their decision, noted that use of the 100m contour line to define the western boundary of the Hill Country Landscape Domain needed to be reviewed, and recommended that this review form part of the District Plan Review along with a suggestion that slope rather than elevation would provide a clearer definition for this boundary.

However, due to a long standing Environment Court appeal on Plan Change 20 the review of the western boundary of the Hill Country Landscape Domain was unable to be undertaken as part of the review of the District Plan. Following the resolution of this appeal the Landscape Domain boundary has been reviewed. This review concluded the location of the boundary could be re-positioned to better align Landscape Domain boundaries with the characteristics of the respective Landscape Domains. Therefore, this Proposed Plan Variation now seeks to revise the western boundary of the Hill Country Landscape Domain so that any land captured within this Landscape Domain is consistent with its defining characteristics".

3. Analysis of Submissions

3.1 Submitter: M. J. Page

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
201.00	M. J. Page	In-Part	The submitter seeks the proposed Hill Country Landscape Domain boundary be amended so that it clearly shows the extent of the Tararua Terraces Landscape Domain over their property as shown on the map provided with their submission.	That the proposed Hill Country Landscape Domain boundary is amended so that it is consistent with the Environment Court ruling/directive that was settled by the parties at the time of Plan Change 20.

Discussion & Evaluation

M.J. Page sought to amend Planning Map 39 in relation to his property which is legally described as Lot 4 DP 80215. Specifically he opposes the proposed change to the western boundary of the Hill Country Landscape Domain in relation to his property, requesting that the boundary be retained in its current location as shown in the map provided with his submission.

The current position of the western boundary of the Hill Country Landscape Domain in relation to Lot 4 DP 80215 was considered by Council Officers as the most appropriate position for the boundary in the appeal *Range View Ltd and M. J. Page v Horowhenua District Council* arising from Plan Change 20. The southern portion of Lot 4 DP 80215, which is the subject of M. J. Page's submission, is lower-lying than the northern portion of the property and as a result of the appeal it was considered that this portion of the property was more closely aligned with the characteristics of the Tararua Terrace Landscape Domain.

The Officer's Report explained that due to a historic anomaly with the Planning Maps, the most up-to-date map was not referenced when establishing the Hill Country Landscape Domain boundary in relation to this property as part of the preparation of PPV2. This results in the current position of the western boundary of the Hill Country Landscape Domain being retained in relation to Lot 4 DP 80215. The Hearings Panel accepted the officer's rationale, and resolved that the submission point of M. J. Page be accepted.

The consequent amendment to Planning Map 39 is shown in Appendix 1.

3.2 Submitter: Federated Farmers of New Zealand

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
202.01	Federated Farmers of New Zealand	Support	The submitter supports the amendments to the Hill Country Landscape Domain boundary in the Planning Maps. Ensuring that mapping of domains is accurate and up-to-date is vital for sensible application of regulation. A clear boundary also provides certainty and confidence when applying regulation to activities on the land.	No specific relief requested.
202.02	Federated Farmers of New Zealand	In-Part	The submitter appreciates the consultation process that has enabled members to engage effectively with the Council. The submitter seeks Council to address other submitters concerns regarding the boundary mapping on their properties.	That the Council consults closely with affected landowners when determining the final location of the Hill Country Landscape Domain boundary.

Discussion & Evaluation

Federated Farmers of New Zealand (202.01) support the proposed changes to Planning Maps 38 and 39 and the Hearings Panel resolved that the submission point be accepted.

Federated Farmers of New Zealand (202.02) expressed support of the Council's consultation process and sought that other submitters concerns be addressed. Given that the content of these submissions has to be assessed on their individual merits, the Hearings Panel could only resolve that the submission point be accepted in-part.

3.3 Submitter: Gray Harrison

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
203.01	Gray Harrison	In-Part	The submitter seeks that the proposed Hill Country Landscape Domain boundary in relation to their property (Lot 2 DP 462660) and their neighbour's property (Lot 3 DP 462660) be amended to one of the options they have shown on the maps they provided with their submission.	No specific relief requested. Inferred: That the Council amend the proposed Hill Country Landscape Domain boundary for Lots 2 & 3 DP 462660 to one of the options shown on the maps provided with their submission (the submitter's preferred option is shown by the blue line).
203.02	Gray Harrison	In-Part	The submitter supports the proposed change which will result in a small quantity of their low-lying land becoming part of the Manakau Downlands Landscape Domain which will allow the submitter to consider future subdivision. However, the submitter is not sure whether the area that is proposed to be within the Manakau Downlands Landscape Domain will meet the minimum 4ha lot size and if it does it is situated in a manner that access and farming aesthetics will be affected by the proposed boundary. The submitter believes that adoption of one of their proposed boundaries will not lead to the placement of dwellings on ridges or in unsightly locations due to the presence of power transmission towers that cross their land.	No specific relief requested. Inferred: That the Council amend the proposed Hill Country Landscape Domain boundary for the submitter's property to one of the options shown in the maps provided with their submission (the submitter's preferred option is shown by the blue line).

Discussion & Evaluation

Gray Harrison (203.01) sought that the proposed western boundary to the Hill Country Landscape Domain be amended in relation to his property which is legally described as Lot 2 DP 462660 and

Lot 3 DP 462660 in Corbetts Road, Manakau. His submission sets out two alternative options shown on the maps provided with the submission.

The submitter's first option ("green line") sought that the Manakau Downlands Landscape Domain be extended eastwards the top of a small ridge. His second and preferred ("blue line") alternative would take the boundary further east beyond the ridge and exclude it completely from the Hill Country Landscape Domain.

The basis of this submission is that if some of his land were incorporated within the Manakau Downlands Landscape Domain, it would provide an option for potential future subdivision, bearing in mind the need to meet the 4 ha minimum lot size required in that area. He also argues that if this submission was accepted, the presence of power transmission towers crossing his land would discourage residential dwellings from being established on ridges or in unsightly locations.

In terms of the Landscape Domain Boundaries, the Hearings Panel was informed that there would need to be a minimum of 4ha of land within the Manakau Downlands Landscape Domain in order to enable a subdivision (creating one additional lot) to be considered as a controlled activity (subject to all the other controlled activity conditions being met). We were also informed that in considering subdivision applications, in circumstances where a property 'straddled' two Landscape Domain boundaries, the more restrictive rules would apply, with a minimum area of 40 ha. It was clear that the location of the Landscape Domain boundary would affect the submitters land, as unless it were realigned, subdividing the submitter's property would require a non-complying activity application. This would not prevent subdivision, but a proposal would subject to a significantly stronger test under sections 104 and 104D of the Act.

We were reminded that the basis of the Landscape Domain boundary was to align it with the transition point between the gentler slopes to the west and the steeper terrain to the east. The evidence of Boyden Evans, Landscape Architect of Boffa Miskell Ltd, was that the land which the submitter sought to be excluded from the Hill Country Landscape Domain, was of a character and slope consistent with that Landscape Domain, and not the Manakau Downlands Landscape Domain. This applied to both of the submitter's suggested alternatives. The Council could appreciate the submitter's concerns, and accepted that in limited circumstances, where for example a very minor boundary change might be realigned to avoid an existing dwelling, an amendment might be appropriate. However it was concerned that to change the Landscape Domain boundary to facilitate potential subdivision options, in circumstances where the land concerned was characteristic of the Hill Country Landscape Domain, would undermine the integrity of both the boundary and the process undertaken as part of the preparation of PPV 2.

For these reasons, the Hearings Panel resolved that the two submission points be rejected.

3.4 Submitter: Joan and Brian Judd

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
204.01	Joan & Brian Judd	In-Part	The submitter opposes Proposed Plan Variation 2 as it relates specifically to their property. The proposed Hill Country boundary sits directly over their property including the rear of their existing dwelling. The submitter considers that the	That an accurate GIS map be provided in order to accurately identify where the Proposed Plan Variation 2 Hill Country boundary sits in relation to their property.

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
			proposed plan does not accurately identify (using accurate survey data and GIS mapping) exactly where the boundary sits in relation to their property. The submitter believes that the Council has provided insufficient and incomplete information to enable them to make a fully informed decision. Yet the decision by Council will impact on their ability to enjoy their property.	
204.02	Joan & Brian Judd	In-Part	The submitter opposes the Proposed Plan Variation as it will restrict their ability to develop their property in the future. If they wish to extend the footprint of their existing home or to relocate their home to a different site on their property then they may require resource consent. This is a breach of their property rights. Proposed Plan Variation 2 is also likely to affect the resale value of their property as it may restrict the ability of a new owner to develop the property. The submitter believes that Proposed Plan Variation 2 as it relates to their property is inaccurate and defeats the objective of the plan change which is to identify a consistent landscape for the hill country area.	Retain the existing Hill Country Landscape Domain boundary in relation to the submitter's property.
204.03	Joan & Brian Judd	Oppose	The submitter considers that insufficient consultation was undertaken in this Proposed Plan Variation process. Despite Council engaging with the submitter, the proposed Hill Country boundary still sits to the rear of their property and captures the landscaped area to the rear of the dwelling.	No specific relief requested. Inferred: Retain the existing Hill Country Landscape Domain boundary in relation to the submitter's property.

Discussion & Evaluation

Three submission points were received from Joan and Brian Judd. One submission point opposes the proposed changes to Planning Maps 38 and 39 in relation to Lot 2 DP 73918, being their property at 35 Emerald Hills Road. The second submission point seeks that the current boundary (i.e. pre-PPV2) be retained, as the proposed boundary would restrict the future development of Lot 2 DP 73918. Submission point 3 claims that Council's consultation process was inadequate.

The Officer's Report explained that the submitters provided comment back to the Council during the pre-notification consultation process, and informed the reporting planner that the proposed boundary was going to encroach on their existing dwelling. They requested the proposed boundary be amended (which it apparently was) to be slightly further away from the dwelling. However this amendment was considered inadequate.

Essentially the submission points focused on two matters, the first a substantive issue concerning the boundary itself, and the second relating to process issues. Considering the latter first, the submission points claimed that PPV2 did not accurately identify exactly where the boundary sits in relation to their property; that the Council provided insufficient and incomplete information to enable them to make a fully informed decision; and that the consultation undertaken as part of this PPV2 was insufficient.

The Officer's Report contended that the consultation process had been thorough, and had been commented on favourably by other submitters. The Hearings Panel noted that two of the submission points did not seek changes to the content of PPV2. While the Hearings Panel could understand a degree of frustration by these particular landowners, it felt that any resolution of the submissions needed to focus on the substantive issue of the boundary itself. It noted in this respect that the physical scale of the changes involved and the land area affected was very small, but accepted that given there was an existing dwelling on the site, it was appropriate to further amend the boundary to entirely exclude the dwelling and its immediate surrounds from the Hill Country Landscape Domain. It did not support a major change in the boundary further 'up slope' to the east, as this would undermine the basis of the Landscape Domain boundary. Importantly, this was not sought by the submitter either, as their submission point only sought reversion to the pre-PPV2 boundary.

The existing dwelling is not proposed to be within the Hill Country Landscape Domain and would not be subject to the more restrictive rules for this Landscape Domain. The reporting officer noted that the submitter could extend the dwelling into the Hill Country Landscape Domain, and provided the extension did not exceed 5m in height it would not require resource consent. Furthermore it was noted that the proposed boundary in relation to the dwelling was not much closer to the dwelling than the current (pre-PPV2) Hill Country Landscape Domain boundary. This meant that an extension already had the potential to trigger a non-compliance with the requirements of the Proposed District Plan even under the previous Hill Country Landscape Domain boundary. It was also noted that further subdivision potential was limited, although in terms of any earthworks associated with building extensions, the rules were reasonably liberal.

The reporting officer and Mr Evans both recommended that it would be appropriate to amend the boundary and move it slightly further up the hill slope in the vicinity of the dwelling and driveway, thus aligning it with the current (pre-PPV 2) Landscape Domain boundary.

With respect to the southern and eastern portions of the property, the Hearings Panel were of the opinion that the proposed Landscape Domain boundary was appropriate having regard to the physical characteristics of the land.

The Hearings Panel resolved that submission points 204.01 and 204.03 be rejected, and that submission point 204.02 be accepted in part.

The amendments to the planning maps are shown in Appendix 1, and provide that the portion of the proposed boundary adjacent the dwelling on Lot 2 DP 73918 be amended to align with the current boundary of the Hill Country Landscape Domain, with the land proposed to be removed

from this Landscape Domain remaining part of the Tararua Terraces Landscape Domain. The rest of the proposed western boundary in relation to Lot 2 DP 73918 is to remain as proposed through PPV2 at the time of public notification.

The amendments to Planning Maps 38 and 39 are shown in Appendix 1.

3.5 Submitter: Horowhenua District Council (Planning Team)

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
205.00	Horowhenua District Council (Planning Team)	In-Part	The submitter opposes the proposed Hill Country Landscape Domain boundary in relation to Lot 1 DP 75747 and subsequently Pt Lot 6 DP 13993 and Pt lot 1 DP 13837. Part of the land proposed to be within the Hill Country Landscape Domain is more closely aligned with the characteristics of the Manakau Downlands Landscape Domain. The submitter seeks to amend the proposed boundary so that the south-eastern corner of Lot 1 DP 75747 remains in the Hill Country Landscape Domain and the rest of the property is within the Manakau Downlands Landscape Domain. The proposed change will result in very minor changes to the Hill Country Landscape Domain boundary for two of the properties that adjoin this site (as shown on the map provided with the submission).	That the proposed Hill Country Landscape Domain is amended in accordance with the map provided with this submission and that the area that is proposed to be removed from this landscape domain becomes part of the Manakau Downlands Landscape Domain.

Discussion & Evaluation

The Horowhenua District Council, Planning Team (205.00), sought to amend the western boundary of the Hill Country Landscape Domain in relation to Lot 1 DP 75747 and subsequently Pt Lot 6 DP 13993 and Pt Lot 1 DP 13837 on Planning Map 39. The reason given was that the south-eastern corner of Lot 1 DP 75747 within the Hill Country Landscape Domain more accurately reflected the characteristics of the Manakau Downlands Landscape Domain, being less steep land at the base of the hills. This was described as requiring minor changes to the Hill Country Landscape Domain boundary for two of the properties that adjoin this site (as shown on the map provided with the submission). No further submissions were received with respect to this submission.

The Hearings Panel accepted that the land concerned was more consistent with the Manakau Downlands Landscape Domain. Accordingly it was resolved that that Planning Map 39 be amended with this portion of land be incorporated within the Manakau Downlands Landscape Domain. This submission point was accepted.

The amendments to the Planning Map 39 are contained in Appendix 1.

3.6 Submitter: Gary and Emily Williams Family Trust

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
206.00	Gary & Emily Williams Family Trust	In-Part	<p>The submitter opposes the change in the boundary of the Landscape Domain on their property. The submitter notes that for their property the boundary is proposed to be shifted down slope to flatter land and that the original boundary has better demarcation of hill country and flat land on their property. The proposed boundary now includes valley areas that are relatively flat and easily used.</p> <p>The submitter believes that the proposed boundary shift is unnecessary in their area and that the explanation of slope angle for defining the boundary does not relate to the drawn boundary from their knowledge of their property.</p>	Retain the existing Hill Country Landscape Domain boundary.

Discussion & Evaluation

Gary and Emily Williams (206.00) opposed the proposed changes to the western boundary of the Hill Country Landscape Domain in relation to their property which is legally described as Lot 2 DP 433505 (107 South Manakau Road). They consider that the original (pre-PPV2) boundary better defined the boundary between hill country and flat land on their property. The property was described as comprising a mix of land uses with much of the hill country having been retired and allowed to regenerate in native vegetation, or planted in exotic forestry.

The intention is that the western boundary of the Hill Country Landscape Domain follows the base of the hills where they begin to become larger or have steeper slopes. In this location the western boundary of the Landscape Domain is proposed to follow a lower alignment on Lot 2 DP 433505 to capture the entire body of the hills, rather than cutting across the lower portion of the hills as is currently the case. The Officer's Report noted that the amended Hill Country Landscape Domain boundary for this property has been extended beyond the existing boundary (which follows the 100m contour line). In their submission, the landowners maintained that the amended boundary did not accurately reflect the boundary of what would reasonably be considered as 'hill country'.

The Officer's Report conceded there was scope to amend the proposed boundary so that it more closely follows the alignment sought by the submitters. The Hearings Panel agreed that there was merit in realigning the Landscape Domain boundary to make it more consistent with the characteristics of the Hill Country Landscape Domain in this immediate area in terms of its slope and characteristics. It was resolved that this submission point be accepted in part.

The amendments to Planning Map 39 are shown in Appendix 1.

3.7 Submitter: Horowhenua Farmers Ratepayer Group

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
207.00	Horowhenua Farmers Ratepayer Group	Support	The submitter thanks the Council for proposing to alter Planning Maps 38 & 39 so that the western boundary of the Hill Country Landscape Domain now follows the base of the foothills and the Tararua Range where they begin to rise steeply instead of the 100m contour line. The submitter also notes that none of their members have directly expressed concerns to them but they may have submitted individually to raise any specific concerns they have.	No specific relief requested.

Discussion & Evaluation

Ann Thomas on behalf of the Horowhenua Farmers Ratepayers Group (207.00) supported the proposed changes to Planning Maps 38 and 39 on the basis that the boundary of the Hill Country Landscape Domain follows the base of the Tararua foothills and the threshold of steeper land, rather than the 100m contour line. The submitter notes that none of the Horowhenua Farmers Ratepayers Group members have expressed concerns to her, but they may choose to send their own submissions individually.

The Hearings Panel resolved that this submission in support of PPV2 be accepted.

3.8 Submitter: Stephen Poulton

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
208.00	Stephen Poulton	In-Part	The submitter opposes a specific part of the proposed plan within the boundary of Lot 2 DP 414087 for the following reasons; it dissects the dwelling and surrounding garden, a portion of captured boundary follows significantly modified landscape, and a portion of captured boundary does not include land consistent with the Hill Country Landscape Domain.	That the proposed Hill Country Landscape Domain boundary be amended in accordance with the map provided with this submission, so that the proposed boundary excludes the dwelling and garden.

Discussion & Evaluation

Stephen Poulton (208.00) opposed the proposed changes to Planning Maps 38 and 39 as it affected his property, as the proposed western boundary of the Hill Country Landscape Domain will dissect the dwelling and garden within his family's property which is legally described as Lot 2 DP 414087 at 135 Gladstone Road. The submitter seeks that the proposed boundary be amended to

follow an existing fence line (as shown on a map provided with his submission) so it excludes the dwelling and garden from the Hill Country Landscape Domain.

The south-eastern portion of Lot 2 DP 414087 contains land of a nature consistent with that expected within the Hill Country Landscape Domain. Within this particular property this Landscape Domain includes an existing dwelling and accessory buildings. The Officer’s Report observed that it was not unusual for dwellings to be located within the Hill Country Landscape Domain, even though it was intended to be one of the least modified Landscape Domains.

The Hearing Panel were informed that the existing dwelling and accessory buildings are situated on a spur; with the land immediately behind the dwelling being moderately steep and then becoming increasingly steeper further up the slope. Mr Evans was of the opinion that there was scope to exclude the dwelling at the end of the spur, and instead realign the proposed boundary further up the hill slope to coincide with the transition to a greater than 20 degree slope. While he was of the view that the proposed Hill Country Landscape Domain boundary should remain in its current position, removing the dwelling from the Hill Country Landscape Domain would constitute only a minor amendment, and would not compromise the integrity of the characteristics used to determine the Hill Country Landscape Domain boundary, being contour, slope and context.

The Officer’s Report added that there was scope to amend the proposed boundary so that only the steeper portions of the hills on Lot 2 DP 414087 are captured within the Hill Country Landscape Domain. This would enable existing dwelling and accessory building to be removed from this Landscape Domain and be included in the Levin-Koputaroa Landscape Domain instead.

The Hearings Panel resolved that this submission point be accepted in-part, with the amendments to Planning Maps 38 and 39 as shown in Appendix 1.

Submissions relating to Otarere Hill

The following three submissions (refer sections 3.9 – 3.11) all relate to properties owned by submitters on the flanks of Otarere Hill.

3.9 Submitter: Kenneth Rowland

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
209.00	Kenneth Rowland	Oppose	The submitter opposes the Proposed Plan Variation. The submitter seeks clarification as to why this Proposed Plan Variation is needed and how it will affect their hill country land including what restrictions it will place on their land. They indicate that they have not been advised of any conditions.	No specific relief requested. Inferred: Retain the existing Hill Country Landscape Domain boundary in relation to the Otarere - Pukeatua Hill (i.e. not included within the Hill Country Landscape Domain).

Discussion & Evaluation

Kenneth Rowland opposes the proposed changes to Planning Maps 38 and 39 concerning his property which straddles Otarere Hill. The western end of the property has an address of 563 State

Highway 1, Ohau. The submitter questioned why PPV2 was necessary and how it would affect his hill country land.

Mr Rowland appeared at the hearing accompanied by family members. He began by emphasising that the property had been in the family since at least 1912. The property has a very unusual configuration, being very narrow and comprising three completely distinct segments. It extends all the way from the frontage of State Highway 1, initially across level farmland, then across Otarere Hill parallel to the southern boundary of the quarry, before widening over largely flat farmland between Otarere Hill and Tararua foothills, a distance of nearly 4 km. It is understood that the rear (eastern) portion of the property is leased for cropping. Access to the eastern part of the property and other rural properties in the vicinity is obtained via Kuku East Road which extends from State Highway 1 into the area behind Otarere Hill.

Otarere Hill is the northernmost of four isolated hills or 'outliers' parallel to the Tararua Range proper, extending from the boundary with Kapiti Coast District to the south up to the Ohau River in the north. Otarere Hill is also the smallest and lowest of these groups of hills, and is somewhat unusual in terms of the Landscape Domains in that it was not originally included in the Hill Country Landscape Domain when the western boundary of the zone was delineated by the 100m contour under Plan Change 20. When the Hill Country Landscape Domain was defined by slope characteristics, it became included in the Landscape Domain through PPV2, albeit that its height is only 116m above sea level.

The submitter indicated that he did not want potential future options for the Otarere Hill portion of their property to be compromised by the provisions of the Hill Country Landscape Domain. In particular, he considered that part of the property had potential for quarrying, and part as a possible future dwelling site for family members. He considered that Otarere Hill was quite distinct from the Tararua Ranges, which the rules were seeking to protect.

The Officer's Report noted that the land on the northern side of Otarere Hill, is not proposed to be included in the Hill Country Landscape Domain, because a large portion of it had been significantly modified by quarrying activities. Quarrying activities had been taking place since the mid-1960s and accordingly the inclusion of this part of Otarere Hill within this Landscape Domain was considered inappropriate. An adjoining hill feature adjacent to the quarry (described as Pukeatua 2B) was described as being of lower elevation than the southern portion of Otarere Hill. For this reason, and because it might be needed for future quarry extensions, the report recommended that this portion of the hill also be excluded from the Hill Country Landscape Domain. Any further quarry extensions would likely require resource consent from the Horowhenua District Council, the Horizons Regional Council, or both.

It is useful at this point to clarify what the additional regulatory impacts are for landowners located within the Hill Country Landscape Domain, in contrast to land within the adjoining Kuku Landscape Domain. Without going into inordinate detail, these differences can be summarised as follows:

- Residential buildings are limited to a maximum height of 5m, in contrast to 10m if Otarere Hill were not part of the Hill Country Landscape Domain. To exceed a height of 5m would require consent as a *restricted discretionary activity*.
- Earthworks are restricted to cut or fill level of 3m, and up to 5m over a distance not exceeding 100 m in continuous horizontal length (aggregate extraction is not included, being subject to different rules). These provisions would not apply outside the Hill Country

Landscape Domain. Non-compliance with these provisions is a *restricted discretionary activity*.

- Utility buildings and structures are limited to a height of 8m. Outside the Hill Country Landscape Domain utility buildings up to 15m in height and masts and pylons up to 20m in height are permitted. Exceeding these height standards requires consent as a *restricted discretionary activity* (Obviously these restrictions will typically affect network utility providers rather than private landowners).
- Subdivision is a *fully discretionary activity* within the Hill Country Landscape Domain, and is restricted to a minimum lot size of 40 ha. A smaller allotment less than 40 ha would require a *non-complying activity* application.

With the exception of the subdivision rule, the additional restrictions on land use within the Hill Country Landscape Domain are not particularly onerous, and applications may well be processed on a non-notified basis. However there clearly is intended to be a more stringent level of control over development within this Landscape Domain.

The Hearings Panel decided it would be appropriate to consider the three submissions relating to Otarere Hill together. This includes the two other submissions, by David Honore (210), and Ian Smith (212) which are assessed in Sections 3.10 and 3.11 of this decision below. The reason for doing this was that in considering the submissions, the Panel considered that it needed to assess the submissions with respect to Otarere Hill as a whole.

The Hearings Panel considered that it was significant that Otarere Hill was not within the Hill Country Landscape Domain when the landscape domains were first promulgated as part of Plan Change 20, and as such did not go through the same "two-stage" process of public involvement in consultation leading up to the notification of PPV2. The Hearings Panel believe that Otarere Hill landowners would be less aware of the landscape issues than was the case elsewhere along the boundary of the Hill Country Landscape Domain.

While the Hearings Panel is supportive of the approach taken in PPV2 of delineating the boundary on the basis of slope rather than the 100m contour, it is apparent that very little of Otarere Hill would have been high enough to qualify under this previous regime. In comparative terms it is not such a prominent feature as some of the other outliers, and certainly not in contrast to the much higher and steeper terrain of the main Tararua Range.

It also considered that the integrity of Otarere Hill as a listed feature was significantly undermined by the exclusion of its relatively prominent northern face as a result of quarrying activity, which in future could result in even more of this northern face being modified by quarrying. The proposed boundary between the quarry and the Rowland's property would primarily take the form of a linear, and therefore very artificial, division. In the Hearing Panel's opinion, the quarrying activity has significantly compromised the landscape characteristics of Otarere Hill. The natural character of Otarere Hill is also significantly affected by the establishment of exotic plantation forestry.

The Hearings Panel was also of the view that the environmental outcome of likely development on Otarere Hill would not be significantly different from that which would occur if it was included in the Kuku Landscape Domain. Otarere Hill was also likely to be difficult to physically access for more intensive subdivision development.

While it is accepted that part of Otarere Hill ‘qualifies’ in terms of slope characteristics for inclusion in the Hill Country Landscape Domain, on balance, and having regard to the other factors described above, it was concluded that the exclusion of Otarere Hill would not compromise the overall integrity of the Hill Country Landscape Domain. While the topography of Otarere Hill was not typical of the Kuku Landscape Domain, there will always be some instances where isolated areas will not have a character consistent with the surrounding Landscape Domain as a whole.

For the above reasons, the Hearings Panel were of the opinion that Otarere Hill be excluded from the Hill Country Landscape Domain. Accordingly, it was resolved that the submission from Kenneth Rowland be accepted.

The amendments to the Planning Map 39 are set out in Appendix 1 (these also apply with respect to the Honore and Smith submissions below).

3.10 Submitter: David Honore

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
210.00	David Honore	Oppose	The submitter opposes the Proposed Plan Variation. The submitter seeks clarification as to why this Proposed Plan Variation is needed and whether it will interfere with the present use and any further use of their hill country land.	No specific relief requested. Inferred: Retain the existing Hill Country Landscape Domain boundary in relation to the submitter's property.

Discussion & Evaluation

David Honore (210.00) opposed the proposed changes to the western boundary of the Hill Country Landscape Domain as shown in Planning Maps 38 and 39 and seeks clarification as to why PPV2 is necessary and how it would affect the present and future use of his hill country land. Mr Honore’s property is primarily situated on the flatlands between State Highway 1 and Otarere Hill, but extends up onto the south-western corner of the hill to adjacent to the southern boundary of the Rowland’s property, considered in section 3.9 above.

Hearing Panel's conclusions with respect to Otarere Hill as a whole have equal application to this property and to this submission. These are explained in the discussion of the Rowland submission under section 3.9 above. For the same reasons, given its decision to exclude Otarere Hill from the Hill Country Landscape Domain, this submission point is accepted.

3.11 Submitter: Ian Smith

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
212.00	Ian Smith	Oppose	The submitter opposes the proposed variation to the Hill Country Landscape Domain boundary as it affects their ability to operate their property (Ohau 3, 10C) as a livestock farm by imposing additional restrictions to land use in	Retain the existing Hill Country Landscape Domain boundary.

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
			particular their ability to establish access tracks.	

Discussion & Evaluation

Ian Smith (212.00) is the third submitter whose property was associated with Otarere Hill. He opposed the proposed changes to the western boundary of the Hill Country Landscape Domain in relation to his property which is legally described as Ohau 3, 10C, at 265 Kuku East Road. The submitter considers that it would affect his ability to operate his livestock farm by imposing additional restrictions on land use, in particular his ability to establish access tracks to service his farm.

Part of the submitter's property is located on the south-eastern corner of Otarere Hill. Because its steep topography was consistent with the Hill Country Landscape Domain it was included in this Landscape Domain rather than the Kuku Landscape Domain. The Officer's Report observed that the submitter's property was only 24.4ha in area, and was not large enough for a second dwelling to be constructed on it as a permitted activity.

Issues associated with the inclusion of Otarere Hill within the Hill Country Landscape Domain were covered in detail under Section 3.9 (the Rowland submission) above. For the reasons outlined there, the Hearings Panel concluded that Otarere Hill should not be included within the Hill Country Landscape Domain. Accordingly, it resolved that this submission point be accepted.

3.12 Submitters: Christine and Bruce Mitchell

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
213.01	Christine & Bruce Mitchell	In-Part	The submitter supports the proposed changes to the western boundary of the Hill Country Landscape Domain as they pertain to their property at Potts Road, Ihakara. The revised boundary better aligns with the defining landscape characteristics. The existing Hill Country Landscape Domain boundary captures relatively flat, productive land. The existing boundary imposes restrictive requirements relating to subdivision and onerous controls relating to earthworks, new buildings and network utilities.	No specific relief requested. Inferred: Retain the proposed Hill Country Landscape Domain boundary in relation to the submitter's property.
213.02	Christine & Bruce Mitchell	In-Part	The submitter seeks the proposal to be amended so that the area of relatively flat productive farmland at the far end of Gladstone Road which is proposed to remain in the Hill Country Landscape Domain be	No specific relief requested. Inferred: Remove the area of relatively flat farmland at the far end of Gladstone Road from the Hill Country Landscape Domain.

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
			excluded from the Hill Country Landscape Domain as this land rises gently with no sudden change in slope.	
213.03	Christine & Bruce Mitchell	Support	The submitter thanks officers for the inclusive consultative process for this review. The submitter applauds the process of consulting directly with affected parties before public notification of the proposed changes.	No specific relief requested.

Discussion & Evaluation

Christine and Bruce Mitchell (213.01) supported the proposed changes to the western boundary of the Hill Country Landscape Domain in relation to their property in Potts Road, Ihakara. The Hearings Panel resolved that this submission point be accepted.

The submitters (213.02) also sought the proposed western boundary for the Hill Country Landscape Domain be amended so that the area of relatively flat productive farmland at the far end of Gladstone Road, be excluded from the Hill Country Landscape Domain. The Officer's Report noted that the submitters had not specifically identified the land concerned, but it was apparent that it was referring to the land owned by Daniel Kilsby-Halliday at the end of Gladstone Road and Poulton Drive. This matter is addressed under Section 4.11 of this decision, and in light of the Hearing Panel's decisions on submission points 211.01 and 211.02 in Section 3.13 below, it was resolved that this submission point be accepted in-part.

Christine and Bruce Mitchell (213.03) supported the consultation process for PPV2, and the Hearing Panel resolved that this submission point be accepted.

3.13 Submitter: Daniel Kilsby-Halliday

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
211.01	Daniel Kilsby-Halliday	In-Part	<p>The submitter supports the realignment of the Hill Country Landscape Domain boundary. Specifically the river terraces in the Ohau and Makahika river valleys being excluded from the Hill Country Landscape Domain.</p> <p>The submitter seeks that the proposed boundary be amended so that the terrace country further up the Makahika river could also be included in the boundary shift (refer to the maps provided with submission). This land does not fit with the definition of hill country and</p>	That the proposed Hill Country Landscape Domain boundary be amended in accordance with the maps provided with this submission; with the terrace country further up the Makahika river being removed from the Hill Country Landscape Domain.

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested
			it is not visible from any other point in the District.	
211.02	Daniel Kilsby-Halliday	In-Part	The submitter seeks the proposal be amended as the land from the water works up the river will fit better with the Tararua Terrace Landscape Domain rather than the Levin-Ohau Landscape Domain as this domain has been applied to the south.	That the proposal be amended so that the land from the water works up the river becomes part of the Tararua Terrace Landscape Domain.

Discussion & Evaluation

Daniel Kilsby-Halliday (211.01) supported the proposed changes to the western boundary of the Hill Country Landscape Domain, especially the proposal to exclude the Ohau and Makahika River valleys from the Hill Country Landscape Domain. However the submitter also seeks the proposed boundary of the Hill Country Landscape Domain be further amended to exclude the terrace country further up the Makahika River, as shown on the map provided with his submission.

The submitter has sought to have a large portion of the 10 separate Certificates of Title he owns removed from the Hill Country Landscape Domain, as well as a portion of two other properties that adjoin his properties to the north. All of these properties are located at the end of Gladstone Road and Poulton Drive, where the land is part of a 'basin' within the foothills of the Tararua Ranges. The Officers Report's described this area as a mix of wide, flat valleys and terraces surrounded by steeper hills primarily used for dry stock grazing with some regenerating indigenous vegetation and exotic forest.

The Officer's Report, prepared in consultation with Mr Evans, concluded that the removal of some relatively flat or low-lying river terraces within the submitter's property from the Hill Country Landscape Domain would be appropriate, and that this land be incorporated within the Tararua Terraces Landscape Domain. This area crosses parts of eight lots that are owned by the submitter, and indicates that not all of the land that the submitter sought to be included in the Tararua Terraces Landscape Domain. While the Officer's Report conceded that granting this relief would create a 'pocket' of another Landscape Domain within the Hill Country Landscape Domain, there were already several other 'pockets' where the proposed Hill Country Landscape Domain boundary has been amended. Given that the area could be readily delineated and was of a reasonable size, and was a better 'fit' within the Tararua Terraces Landscape Domain, the proposed amendment was appropriate.

As a note of caution, the Officer's Report noted that a greater level of subdivision could potentially occur than would be the case of the land remained within the Hill Country Landscape Domain. However, the submitter's property already consists of 10 separate Certificates of Titles with each title technically entitled to have at least one dwelling and a family flat built on it as of right under the current provisions of the PDP. Intensive rural development is not ideal in a remote rural corner of the District such as this, although there is already potential for a substantial level of development to occur on the properties owned by the submitter.

The Hearings Panel noted that although the area is remote, and should arguably continue to reflect the rural ambience associated with this remote character, the reality is that the landscape

character of at least part of the submitter's property is not consistent with that of the Hill Country Landscape Domain. The situation might be different if the area were completely isolated, but in effect it is an extension of the Ohau/ Makahika River Valley systems. Overall, the arguments were fairly finely balanced in this case. However for the reasons discussed above, the Hearings Panel concurred with the conclusions of the reporting officer and substantially those of the submitter, that part of the property be removed from the Hill Country Landscape Domain and incorporated into the Tararua Terraces Landscape Domain.

As noted previously, a small portion of land to the north of the submitter's properties, which is owned by Robin and Heather Gaskin (Lot 3 DP 6443) and the Crown (Pt Sec 9 Blk III Waiopahu SD), was identified by Mr Kilsby-Halliday as also being inconsistent with the Hill Country Landscape Domain. We did not hear from the submitter at the hearing, nor did we have submissions from the two other landowners concerned. The reporting officer also indicated that the restricted access to this area limited its future development potential. Although we are not precluded from granting the submission, it would be appropriate to have further evidence and an indication of the position of these parties before entertaining the removal of that land from the Hill Country Landscape Domain. Accordingly, the Hearings Panel was not prepared to change the status of this land with respect to its Landscape Domain. On the basis that most of the substantive relief sought by the submitter was accepted, the Hearings Panel resolved that submission point 211.02 be accepted in part.

Mr Kilsby-Halliday (211.02) also proposed that the land up river from the 'water works' be reallocated within the Tararua Terraces Landscape Domain instead of the Levin-Ohau Landscape Domain. The Officer's Report understood that the land the submitter was referring to is up river from the Levin Water Treatment Plant to the end of where the Levin-Ohau Landscape Domain is proposed to extend up the valley.

In the reporting officer's assessment, parts of this Valley could be argued to be consistent with either Landscape Domain. The officer noted that the presence of the rivers and streams within the Valley and the effect this has on the character of the Valley was consistent with the Levin-Ohau Landscape Domain; however the area also contained a combination of terraces and plateaus which are dissected by streams which is consistent with the character of the Tararua Terraces Landscape Domain. The reporting officer recommended that the flatter lower portion of the valley around the Levin Water Treatment Plant should remain within the Levin-Ohau Landscape Domain, while the upper portion of the valley which has a more broken landscape with larger terraces be incorporated instead within the Tararua Terraces Landscape Domain. The Hearings Panel agreed with this rationale, and having regard to the content of this submission point as a whole, resolved that it be accepted in-part.

The amendments to Planning Maps 38 and 39 are shown in Appendix 1.

4. Section 32AA Assessment

Section 32 AA(1) requires a further evaluation, *but “only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed”* and be undertaken in accordance with Sections 32(1) to (4). It also must be undertaken at a level of detail that corresponds to the scale and significance of the changes. Under subsection (d) this must *“be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section”*.

PPV2 does not involve any amendments to the objectives and policies of the PDP. As it is a variation to the PDP, it constitutes an “amending proposal” in terms of section 32(3).

As a section 32 assessment has already been undertaken for PPV2 as notified, this part of the decision must therefore focus on amendments that have been made to Variation 2 in order to address matters raised in submissions. None of the *“changes that have been made to... the proposal since the evaluation report for the proposal was completed”* involve additional regulation beyond that notified with PPV2.

In summary the changes made to PPV2 by this decision at most either retain, or reduce the extent of land, within the Hill Country Landscape Domain. As land within that Domain is subject to a greater degree of regulation (as described under section 3.9 above), this is of some significance to landowners with properties therein. To reiterate briefly, these additional restrictions include limiting the height of dwellings to 5m, greater limitations on cut and associated with earthworks, restrictions on the height of ancillary buildings and utility structures, and on subdivision (a fully discretionary activity) and for subdivision creating lots of less than 40 ha, a noncomplying activity.

The changes that have been made amount to refinements to the boundary of the Hill Country Landscape Domain with one notable exception. The Domain has been removed through these decisions as it affects three submitter’s properties on the flanks of Otare Hill, a feature which is to be removed entirely from the Hill Country Landscape Domain. Accordingly, these properties are no longer subject to the more restrictive rules summarised in the preceding paragraph.

In terms of the requirements under Sections 32 (1) – (4):

In terms of section 32(1), the scope of the amendments resulting from these decisions is confined to reducing the extent of land within the boundaries of the Hill Country “Landscape Domain” which has more stringent rules than the adjoining Landscape Domain. The scope of these changes to Planning Map 39 is such that subject to the amendments made, the proposal as originally evaluated remains the most appropriate way to achieve the purpose of the Act, and this decision does not require any change to the objectives and policies of the PDP. Subject to the amendments to the boundary of the Hill Country Landscape Domain the landscape provisions would remain the most efficient and effective means of achieving the objectives of the proposal (PPV2). The amendments made as a result of this decision would not require any changes to be made to the objectives and policies of the PDP (Section 32(3)).

In terms of section 32(2) amendments made to the proposal are not expected to have any significant effect on economic growth, but the minor refinements of the planning provisions outlined above would result in a modest reduction in administration and compliance costs for both affected landowners and the Council.

The Hill Country Landscape Domain imposes more stringent standards on land use activities and subdivision in order to achieve landscape protection in the prominent hill country terrain of the District. In terms of section 32(4) the amendments made to this decision will not impose greater restrictions on activities than is already the case under PPV2 as notified, and the refinements made will reduce the area of land that is subject to the more stringent rules framework.

5. Decision

For the foregoing reasons, the Hearings Panel resolved as follows:

- 1 That pursuant to clause 10 of Schedule 1 to the Resource Management Act 1991, that the Proposed Horowhenua District Plan be amended as set out in Appendix 1 to this decision.
2. That for the reasons set out in the above decision, that the submissions and further submissions be accepted, accepted in part, or rejected as listed in Appendix 2 to this decision.

Councillor Tony Rush (Chair)



Date: 26 May 2015

Councillor Garry Good



Date: 26 May 2015

Councillor Jo Mason



Date: 26 May 2015

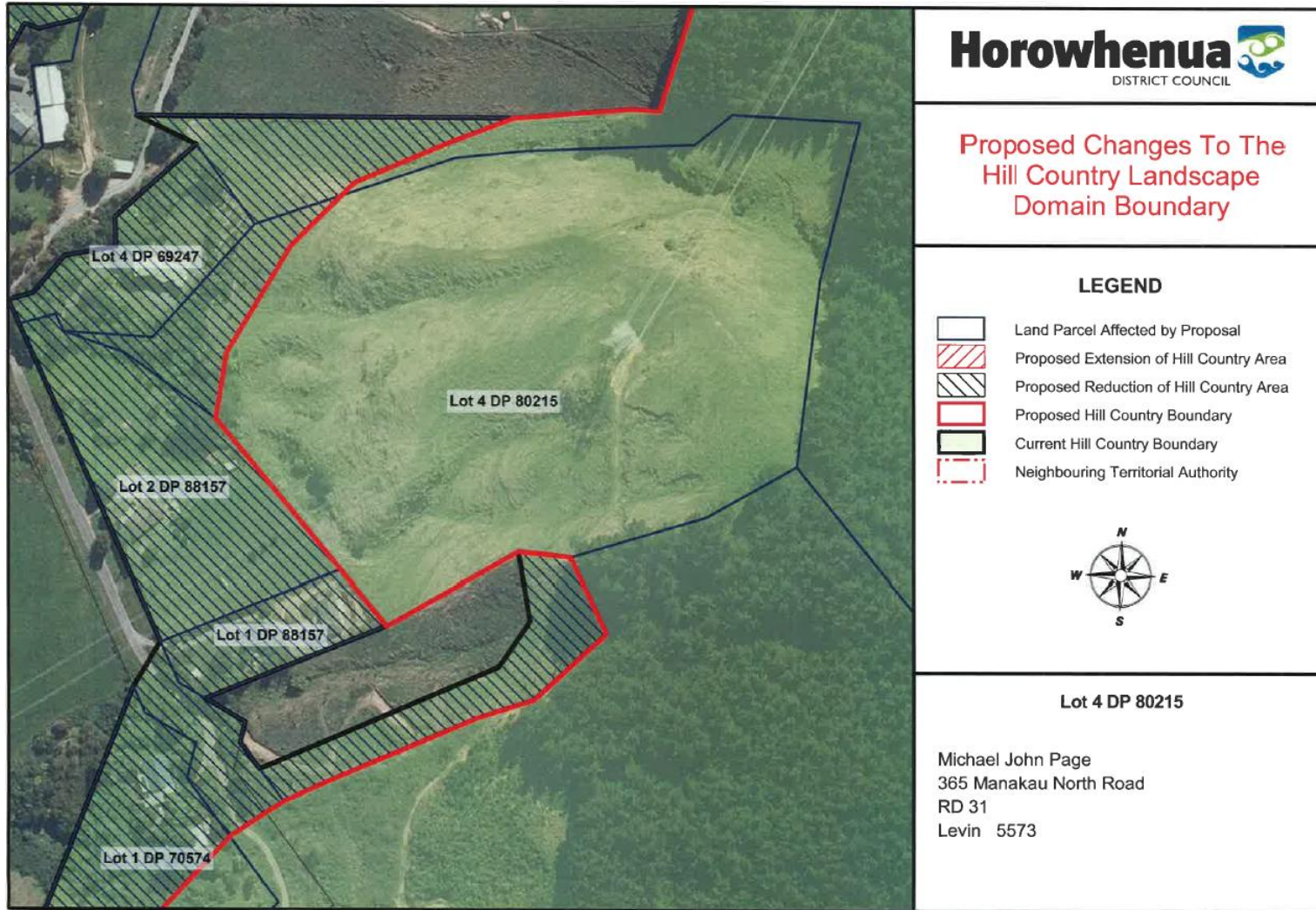
Commissioner Robert Nixon



Date: 20 May 2015

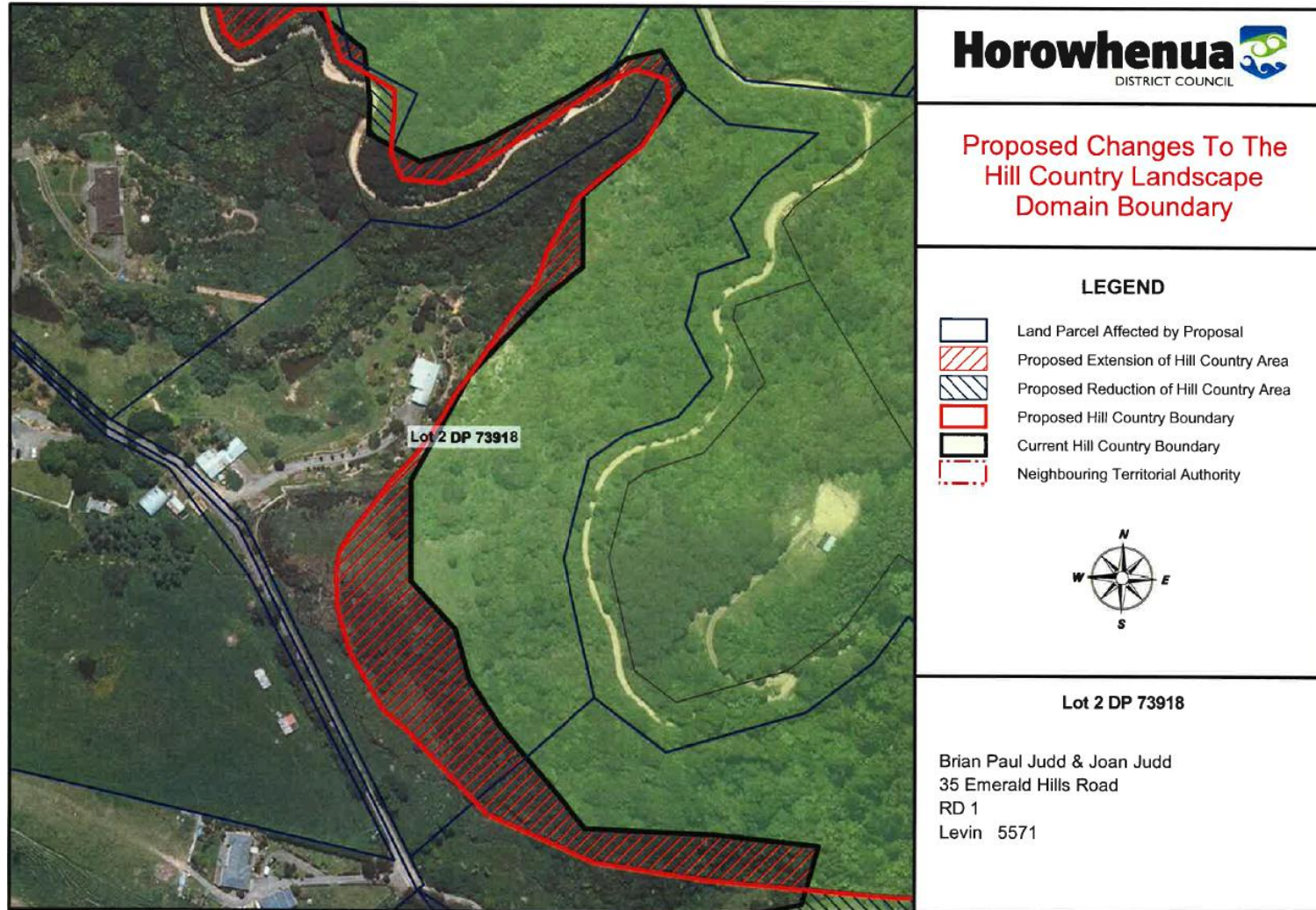
Appendix 1: Proposed Plan Variation 2 as amended by Hearings Panel's decisions

1. Amend Planning Map 39 to retain the existing Hill Country Landscape Domain boundary in relation to Lot 4 DP 80215



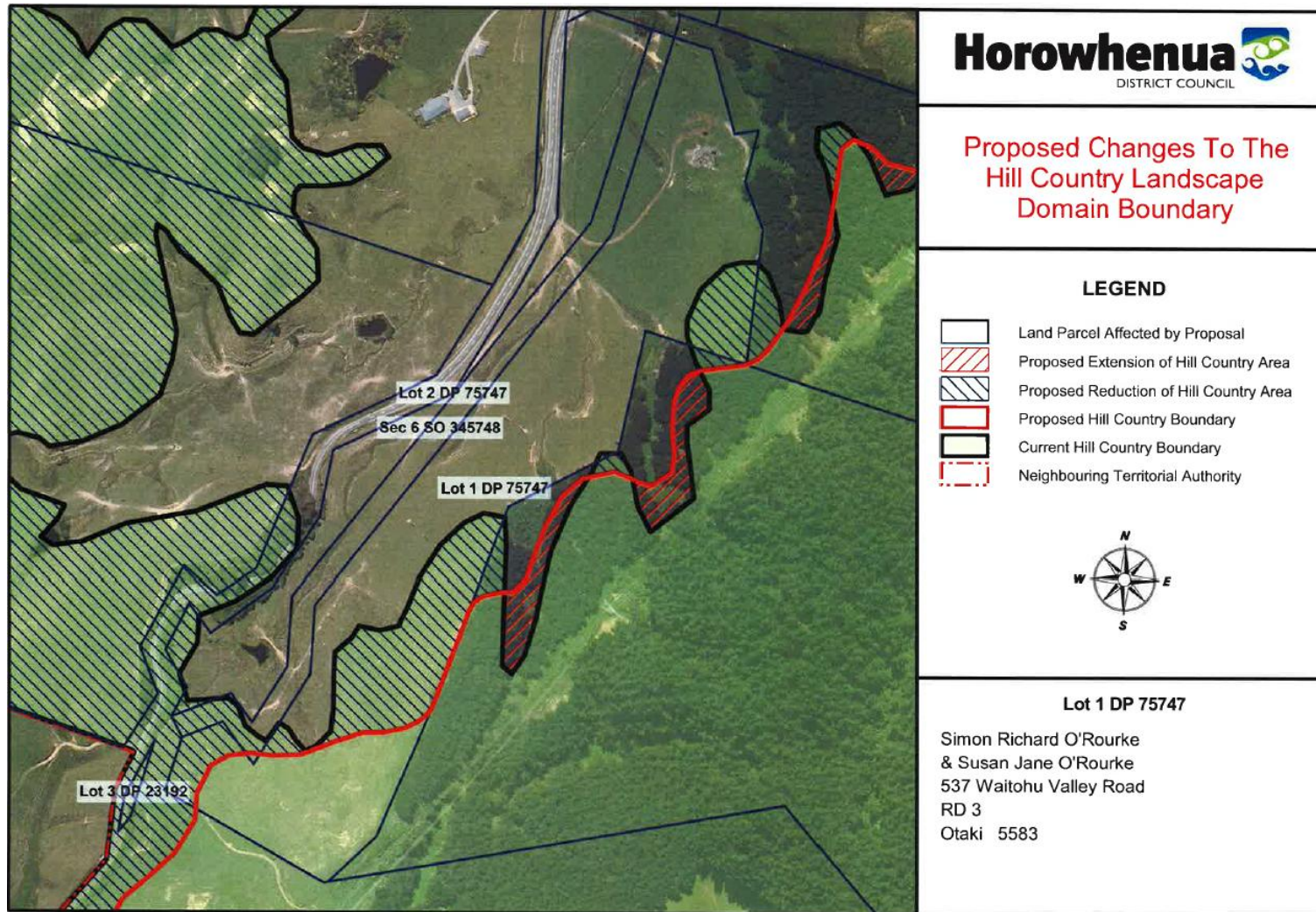
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2. Amend Planning Maps 38 and 39 in relation to Lot 2 DP 73918



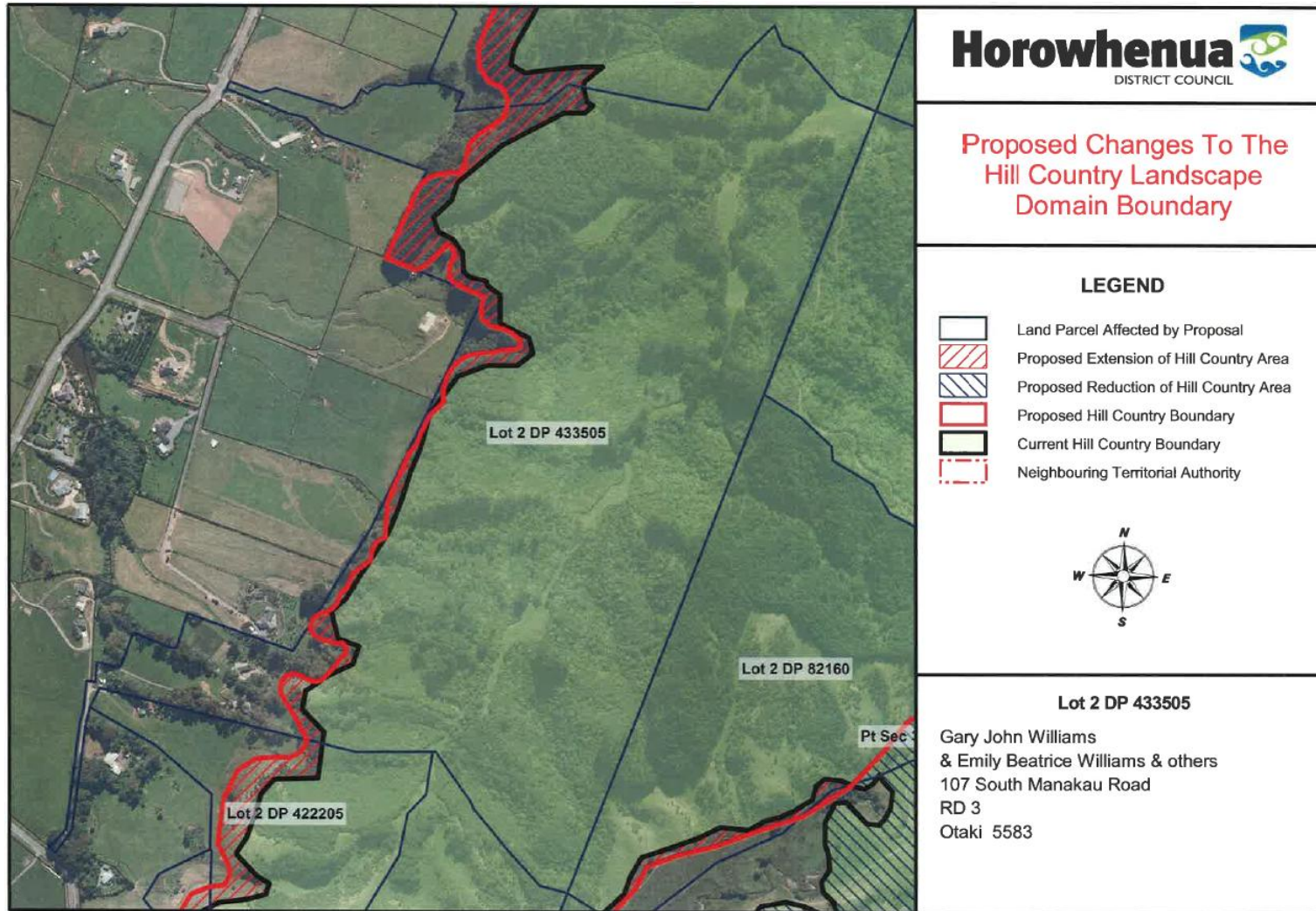
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3. Amend Planning Map 39 in relation to Lot 1 DP 75747 and subsequently Pt Lot 6 DP 13993 and Pt Lot 1 DP 13837



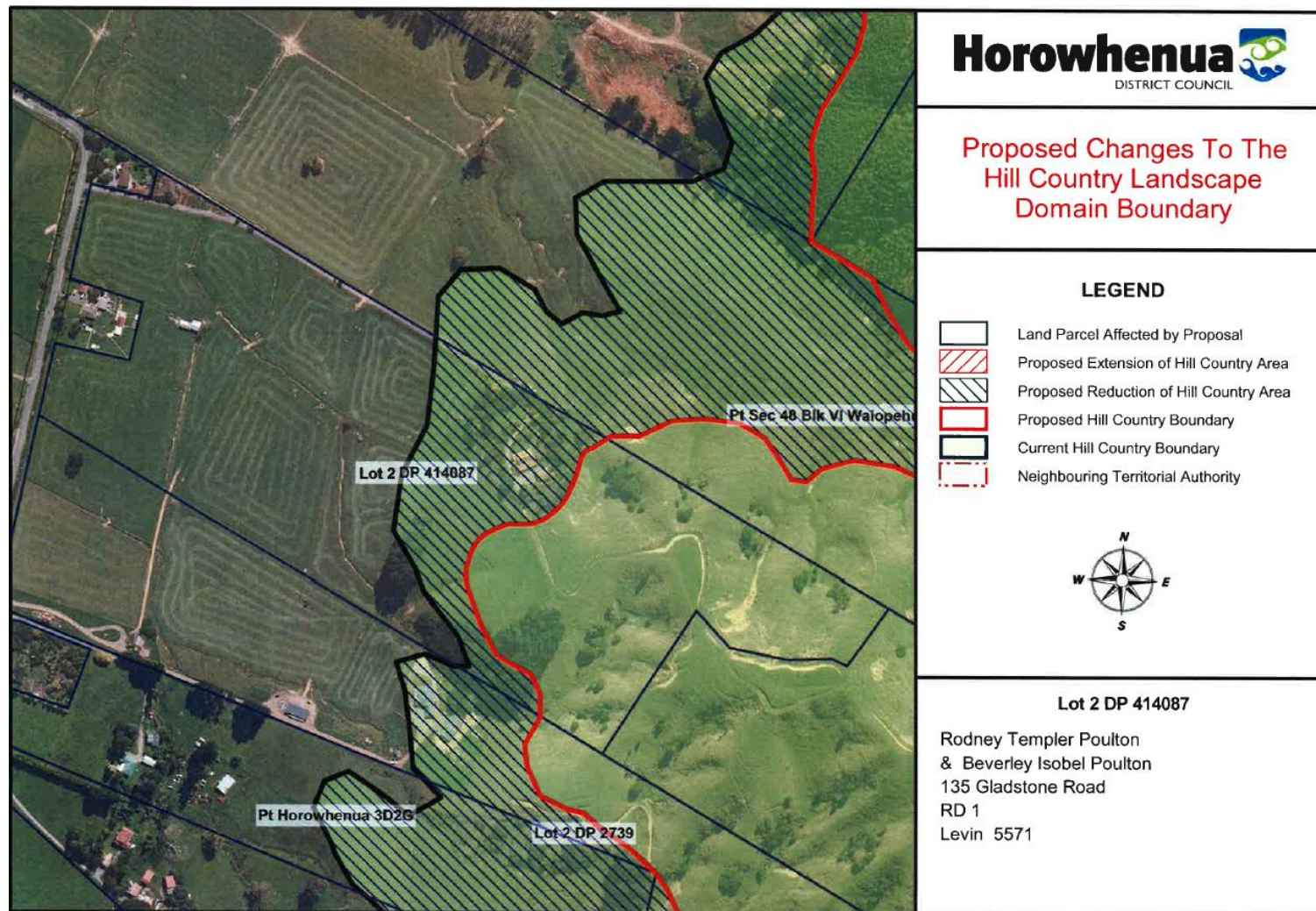
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4. Amend Planning Map 39 in relation to Lot 2 DP 433505



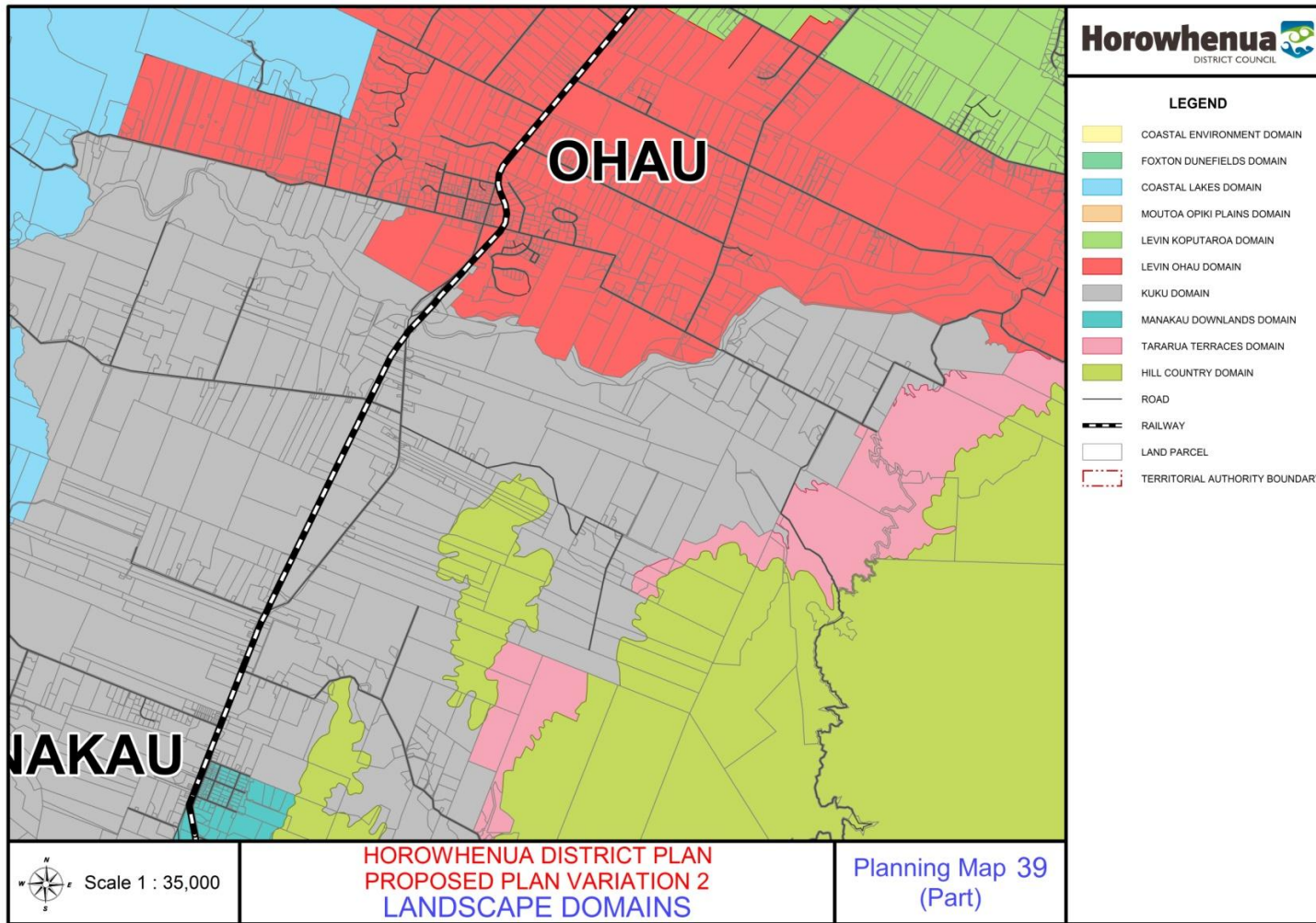
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5. Amend Planning Maps 38 and 39 in relation to Lot 2 DP 414087

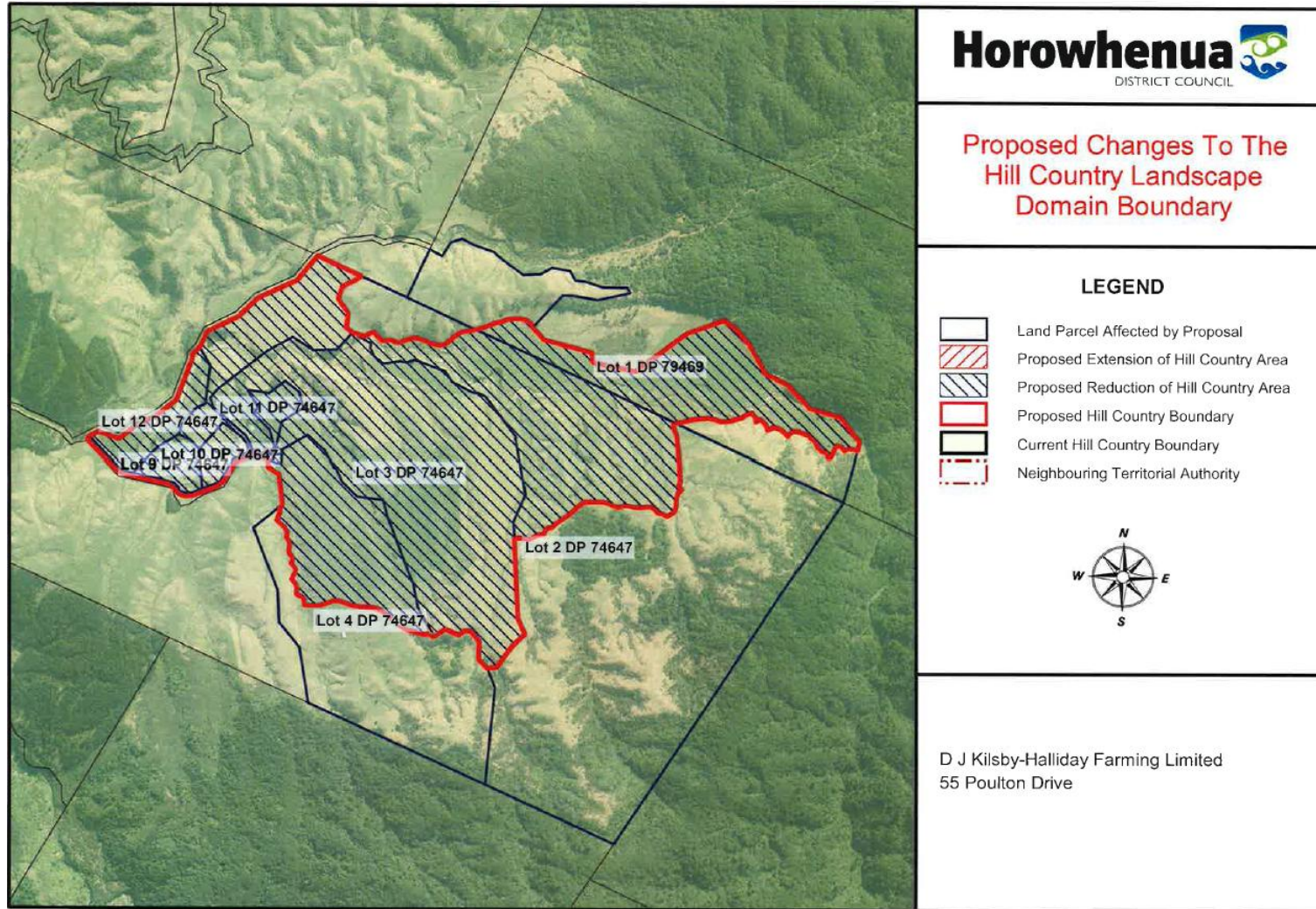


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6. Amend Planning Map 39 to exclude Otarere Hill from the Hill Country Landscape Domain and incorporate it into the Kuku Landscape Domain

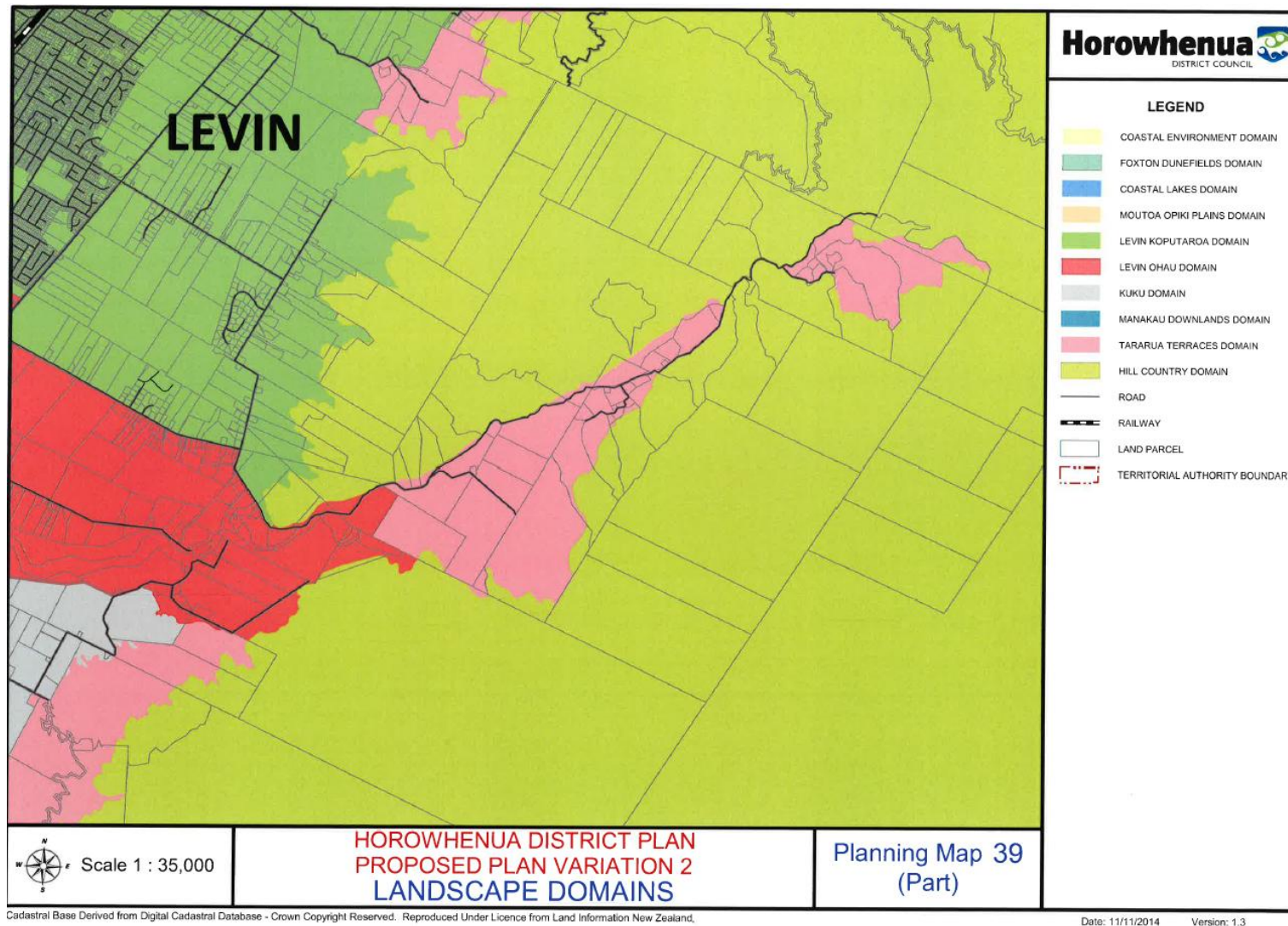


7. Amend Planning Maps 38 and 39 in relation to eight lots at the end of Gladstone Road

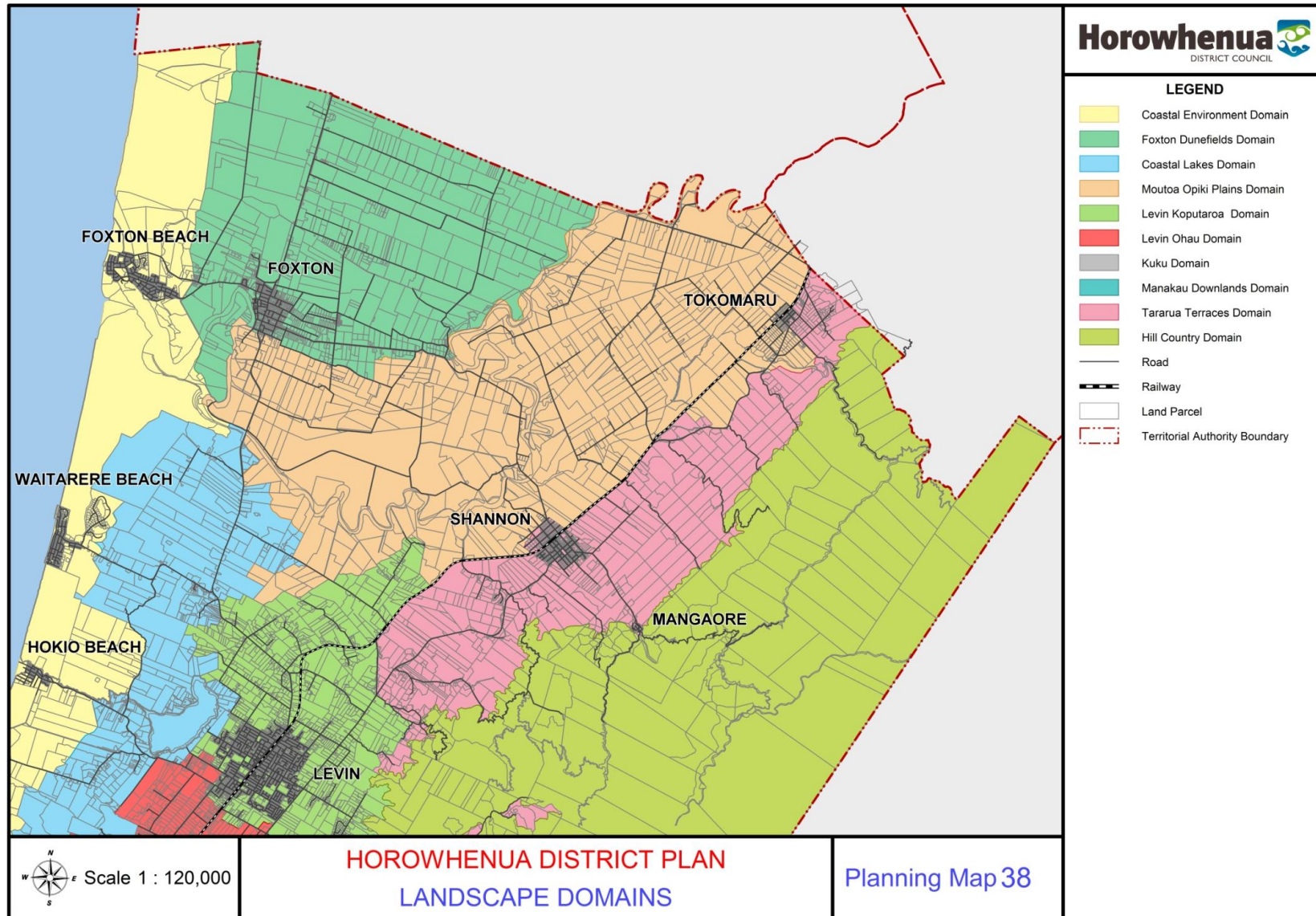


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8. Amend Planning Maps 38 and 39 so that the upper part of the Ohau - Makahika River Valley becomes part of the Tararua Terraces Landscape Domain



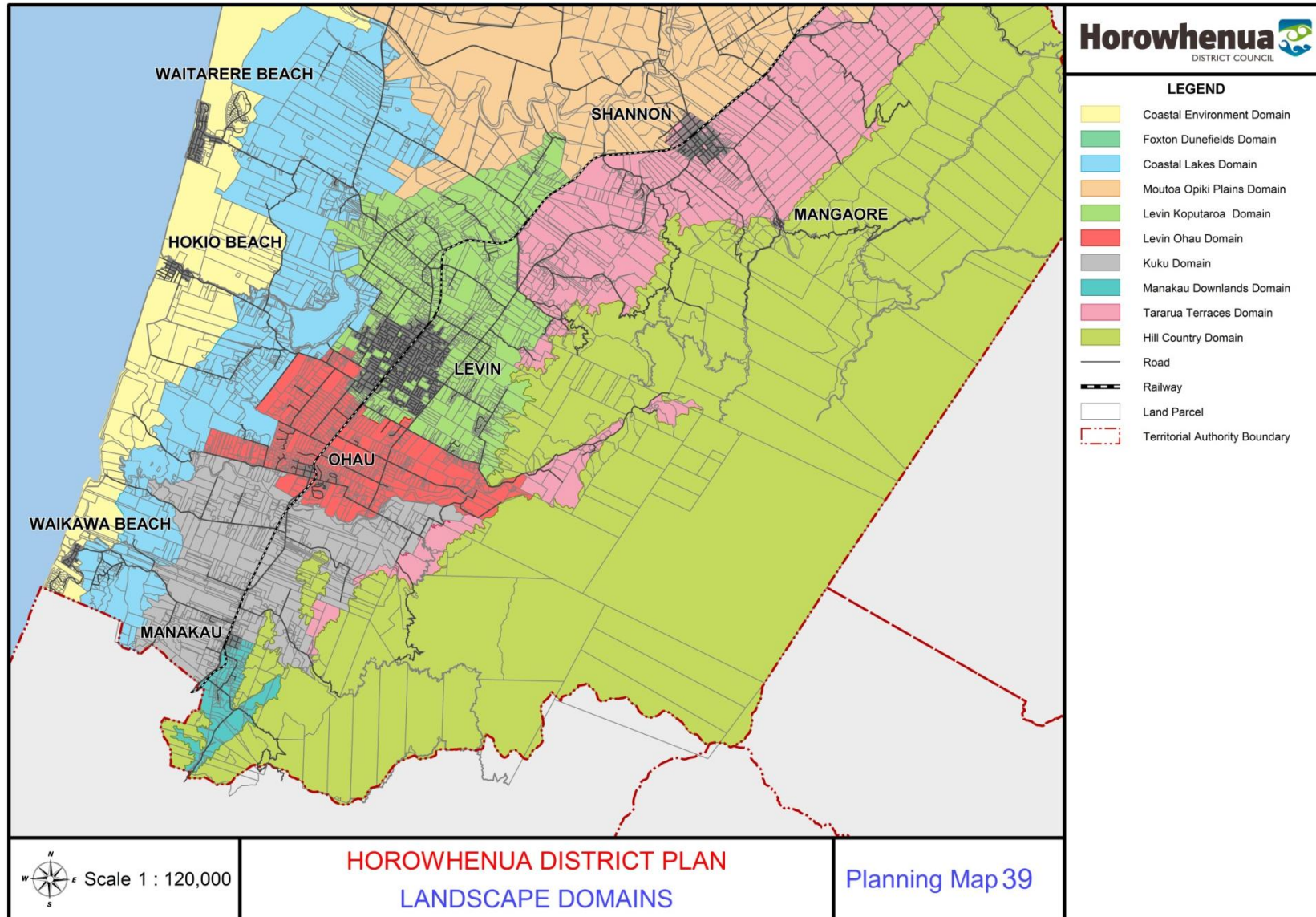
9. Planning Map 38 (including all relevant amendments)



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10. Planning Map 39 (including all relevant amendments)



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Appendix 2: Schedule Hearings Panel Decisions on Submission Points

Sub. No	Submitter Name	Officer's Recommendation
201.00	M. J. Page	Accept
202.01	Federated Farmers of New Zealand	Accept
202.02	Federated Farmers of New Zealand	Accept In-Part
203.01	Gray Harrison	Reject
203.02	Gray Harrison	Reject
204.01	Joan & Brian Judd	Reject
204.02	Joan & Brian Judd	Accept In-Part
204.03	Joan & Brian Judd	Reject
205.00	Horowhenua District Council (Planning Team)	Accept
206.00	Gary & Emily Williams Family Trust	Accept In-Part.
207.00	Horowhenua Farmers Ratepayers Group	Accept
208.00	Stephen Poulton	Accept In-Part
209.00	Kenneth Rowland	Accept
210.00	David Honore	Accept
211.01	Daniel Kilsby-Halliday	Accept In-Part
211.02	Daniel Kilsby-Halliday	Accept In-Part
212.00	Ian Smith	Accept
213.01	Christine & Bruce Mitchell	Accept
213.02	Christine & Bruce Mitchell	Accept In-Part
213.03	Christine & Bruce Mitchell	Accept