Decision Report
Plan Change 4 - Natural Hazards

Important Note

The Proposed District Plan May 2011 Annotated Version was the current version of the District Plan when Plan Changes 1-27 were notified in November 2011 and this version was therefore used as the base document for preparing the Plan Changes and the Section 32 and Planning Reports.

Since then the District Plan has been made operative (16 June 2012). The Operative District Plan 2012 is now the current version of the District Plan and therefore Plan Changes 1-27 are proposed to change this version only.

For the purpose of understanding how decisions on this Plan Change relate to the Section 32 and Planning Report and to both versions of the District Plan discussed above, this Decision Report is divided into three parts.

Part A contains the decisions made on the topics in the Planning Report and uses the Proposed District Plan May 2011 Annotated Version as the base document.

Part B shows how the full notified Plan Change and subsequent decisions on topics would change the Proposed District Plan May 2011 Annotated Version Base Document.

Part C shows how the full notified Plan Change and subsequent decisions on topics are proposed to change the Operative District Plan 2012.

Advice to Submitters:

Submitters will be familiar with the rule and map numbers from the Proposed District Plan May 2011 Annotated Version and so should refer to Parts A and B of this report to understand the decisions on their submission points.

However any submitter wishing to make an appeal will need to refer to the rule and map numbers of the Operative District Plan 2012 in Part C and reference these in their appeal.

Part A: Decisions on Topics in the Planning Report

Any changes to rules are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and any changes resulting from decisions on the topics in the Planning Reports in blue.

Topic 1: Definition of Reticulated Infrastructure

Decision
That the definition of Reticulated Infrastructure be amended to read as follows:

“Reticulated Infrastructure” means a communal or community inter-connected piped, collection, distribution, and treatment system for water supply, stormwater and wastewater systems, including any associated pumping station, treatment works and other ancillary equipment or facilities.
The following submissions are therefore:

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<tr>
<td>Submission</td>
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<td>FS75</td>
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**Reason for Decision**
The reference to "Reticulated Infrastructure" in the Natural Hazards Section is now supported by a definition under Section 3 "Definitions" in the Plan, and gives more clarity.

**Topic 2: New - 8.3.1(a) Permitted Activity**

**Decision**
That a new statement following 8.3 Activity Lists (heading) be included to read as follows:

The following rules apply to those activities which are located within Natural Hazard Features identified on the District Planning Maps.

That an amendment to Rule 8.3.1 as notified be amended as follows:

**8.3.1 Permitted Activities**

**(a)** Building/Structure with within an Approved Building Site

The following submissions are therefore:

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<td>48</td>
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<tr>
<td>FS79</td>
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<td>FS83</td>
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**Reason for Decision**
The proposed wording changes improves clarity in the Natural Hazard rules and makes clearer the intention to consider those activities located within the hazard features as identified on the District Planning Maps.

Submissions from Federated Farmers of New Zealand were rejected as the matters pertaining to the farm building and structures in the floodable areas were considered out of scope and may be considered as part of a future plan change.
The further submissions from Surveying Services Limited, Horticulture New Zealand and New Zealand Kiwifruit Growers Incorporated were not accepted as they supported the submission by Federated Farmers of New Zealand which was deemed to be out of scope.

The submission by Toi Te Ora Public Health requested that habitable buildings be a non-complying activity. This too is out of scope, however as advised, Council has introduced minimum floor level requirements into its assessment criteria.

**Topic 3: 8.3.2 Controlled Activities**

**Decision**

That Rule 8.3.2 as notified be amended as follows:

**8.3.2 Controlled Activities**

(a) Stability Areas – Minden Area C

(i) Subdivision where proposed Private ways and Building Sites are within the Minden Area C

(ii) Building/Structure when entirely within Minden Area C and not within an Approved Building Site

That an amendment to Rule 8.3.1 as notified be amended as follows:

**8.3.1 Permitted Activities**

(a) Building/Structure with within an Approved Building Site

(b) Building/Structure within the Minden Area C

The following submissions are therefore:

**Accepted**

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<tr>
<th>Submission</th>
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<tbody>
<tr>
<td>38</td>
<td>2</td>
<td>Western Bay of Plenty District Council</td>
</tr>
<tr>
<td>FS79</td>
<td>25</td>
<td>Surveying Services Limited</td>
</tr>
</tbody>
</table>

**Reason for Decision**

The changes as proposed through the Plan change are accepted and adopted. The changes enable activities within the Minden 'C' zone to occur without restriction on the basis that there is no identified risk associated with building in the Minden 'C' area.

**Topic 4: 8.3.4 Discretionary Activities**

**Decision**

That Rule 8.3.4 be retained as notified and that there be clarity on the definition of open coastline. The Committee was advised that there was no definition of “Open Coastline” in the District Plan nor the Regional Coastal Environment Plan.
The following submissions are therefore:

**Accepted**

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<th>Point Number</th>
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<tbody>
<tr>
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**Rejected**

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<tr>
<td>FS79</td>
<td>26</td>
<td>Surveying Services Limited</td>
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**Reason for Decision**

The Plan Change as proposed seeks to make the current Discretionary Activity provisions in the Plan clearer. In addition, the District Plan Maps and the Map Legend have been upgraded to now identify the Coastal Protection Area - 100m Open Coastline limitation.

The submission by the Waihi Beach Community Board was not accepted on the basis that rules for subdivision across the primary risk, secondary risk areas and the open coastline already exist in the Plan. It was considered that no additional changes were required other than the restructuring of the section as proposed by the broader Plan Change.

The further submission by Surveying Services Limited is deemed to be out of scope as it seeks a refocusing on the potential for building sites not subdivision as raised by the submitter.

**Topic 5: 8.3.5 Non-Complying Activities**

**Decision**

That Rule 8.3.5 be amended to read as follows:

8.3.5 Non-Complying Activities

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated where land is within the Primary Risk Area of the Coastal Protection Area, the following will be a Non-Complying Activity:

(a) Coastal Protection Area – Primary Risk

(i) Minor dwellings  
(ii) Additional Dwellings  
(iii) Education Facilities for no more than four persons  
(iv) Accommodation Facilities for no more than four persons

(b) Coastal Protection Area – Secondary Risk

(i) Subdivision (excluding minor boundary adjustments)

The following submission is therefore:

**Accepted**

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<td>27</td>
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<td>Waihi Beach Community Board</td>
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Reason for Decision
The word replacement corrects a grammatical error.

Topic 6: 8.5.1.2 Matters of Discretion - Restricted Discretionary Activities

Decision
That the following amendments to Rule 8.5.1.2 be made to read as follows:

8.5.1.2 Floodable Area

(a) The effect of the proposed building/structure on the capacity of ponding areas and overland flow paths
(b) The design of the Building/Structure
(c) The required appropriate minimum finished floor level of the proposed building/structure
(d) Verifiable new information which demonstrates that the subject site is not in fact under threat from flooding.

The following submissions are therefore:

Accepted in Part

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<tbody>
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<td>34</td>
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<td>Trustpower Limited</td>
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Reason for Decision
The more flexible term "appropriate" allows Council to consider and apply the correct minimum floor level factoring in the type of structure.

Topic 7: 8.5.2 Matters of Discretion - Discretionary / Non Complying Activities

Decision
That Rule 8.5.2 be amended to read as follows:

8.5.2 Discretionary/Non Complying Activities

The above matters 8.4.1 - 8.4.4 and the following shall be used as a guide for assessing discretionary and non-complying activities:

The following submission is therefore:

Accepted

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<th>Submission</th>
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</table>

Reason for Decision
Council supports this minor editorial change to rectify the omission and ensure that the criteria are not missed in the preparation or assessment of a resource consent application.
**Topic 8: District Planning Maps - 100 metre Open Coastline**

**Decision**
That the Coastal Protection Area - Open Coastline be identified on the District Planning Maps.

The following submissions are therefore:

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<td>Submission</td>
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**Reason for Decision**
It is recommended that the Plan Change as promoted be adopted. Council needs to ensure that the provisions relating to the Natural Hazard are clearly mapped in order to fully inform our customers. Accordingly, the Coastal Protection Area - 100m Open Coastline limitation shall be included within the District Plan Maps.

**Topic 9: Miscellaneous - Consistent Wording**

**Decision**
That all Flood Hazard/Floodable Areas be referred to as Flood Hazard in both Section 8 - Natural Hazards and the District Planning Maps.

The following submission is therefore:

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**Reason for Decision**
Council supports the need for consistent terminology throughout the Plan in order to avoid confusion when reviewing the provisions of the Plan.

**Topic 10: Miscellaneous - Various**

**Decision**
That the following submissions are:

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<td>Submission</td>
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<td>FS79</td>
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</table>
Rejected:

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</tr>
<tr>
<td>FS79</td>
<td>28</td>
<td>Surveying Services Limited</td>
</tr>
</tbody>
</table>

Reason for Decision
The proposed change to Rule 8.3 of the Plan is already supported (See Topic 4). Council acknowledge the points raised by the Bay of Plenty Regional Council and the Waihi Beach Community Board and advise that these are out of scope and the more comprehensive assessment having regard to the NZ Coastal Policy Statement (2010), the Regional Coastal Environment Plan and the Regional Policy Statement is another stream of work to be progressed in the next required review.

Topic 11: Out of Scope - Various

Decision
That the following submissions are:

Rejected:

<table>
<thead>
<tr>
<th>Submission</th>
<th>Point Number</th>
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<td>35</td>
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<td>45</td>
<td>8</td>
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</tr>
<tr>
<td>45</td>
<td>9</td>
<td>Federated Farmers of New Zealand</td>
</tr>
</tbody>
</table>

Reason for Decision
Council accepted staff advice that the matters as identified were outside of the scope offered by the Plan Change as notified and presented in the Section 32 report. The specific submission points relating to the rules are matters that may be the subject of a further plan change.

Part B: Changes to the Proposed District Plan May 2011 Annotated Version Base Document

Any changes to rules are shown as follows; existing District Plan text in black and changes (being the culmination of the notified Plan Change and subsequent decisions) are shown in red.

That the following amendments be made to Section 3 -Definitions to read as follows:

“Approved Building Site” means a site which has been approved in conjunction with a resource consent application under the RMA and has been approved in accordance with any natural hazard the stability requirements contained in Section 8 (Natural Hazards) and any specific technical report to the satisfaction of Council. And matters of control in Rule 16A.5.2 and matters of discretion contained in Rule 16A.6.3 (Lifestyle Section).

It does not include sites for which consent conditions require further investigation, sites not approved in the resource consent, and sites for which technical assessment have not been previously made.”
“Reticulated Infrastructure” means a communal or community inter-connected piped, collection, distribution, and treatment system for water supply, stormwater and wastewater systems, including any associated pumping station, treatment works and other ancillary equipment or facilities.”

That Section 8 and Section 16A are amended as shown on the pages to follow;

That any subsequent re-numbering or wording for the purposes of consistent and accurate referencing be made to the District Plan as appropriate.

That the Coastal Protection Area – Open Coastline be identified on the District Planning Maps.

That the Stability Area – Minden U be identified on Planning Maps.

That the District Planning Map Legend be amended for consistent wording.

8. Natural Hazards

8.3 Activity Lists

The following rules apply to those activities which are located within Natural Hazard Features identified on the District Planning Maps.

8.3.1 Permitted Activities

(a) Buildings/Structures within an Approved Building Site

(b) Buildings/Structures within Stability Area - Minden C

8.3.2 Controlled Activities

(a) Stability Areas – Minden

Subdivision where all of the proposed privateways and building sites are within Stability Area - Minden C

8.3.13 Restricted Discretionary Activities

(a) Coastal Protection Area – Secondary Risk

(i) Building/Structure not within an Approved Building Site

(b) Floodable Area

(i) Buildings/Structures not within an Approved Building Site

(ii) Earthworks over 5m³

(iii) Closed board fences, retaining walls, raised gardens, concrete and block walls

(c) Stability Areas – Minden (A, B1, B2 & U)

(i) Buildings/Structures not within an Approved Building Site

(ii) Subdivision, except if in accordance with 8.3.2 (a)

(iii) Filling/excavation/other development
(iv) Vegetation removal
(v) Disposal of stormwater and wastewater

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated, where land is within the areas specified in clauses (a), (b) and (c) hereunder, the activities listed shall be Restricted Discretionary:

(a) The Coastal Protection Area as defined on the Planning Maps

New buildings and external additions to buildings within the Secondary Risk Area of the Coastal Protection Area which requires a building consent under the Building Act 2004. The Secondary Risk Area is defined as that area shown on the District Planning Maps.

An application for resource consent under this rule shall be considered without the need to obtain the written approval of affected persons, without notification, and without the need to serve notice provided the activity meets all relevant performance standards.

(b) Floodable areas as identified on the Planning Maps

Buildings or external additions to buildings, the erection of any structures including closed board fences, retaining walls, raised gardens and concrete block walls, or earthworks over 5m³.

The Council will restrict the exercise of its discretion to the extent to which the activity affects the capacity and functioning of ponding areas and on overland flow paths.

(c) Minden Stability Areas

Building, subdivision or other development including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated (see Section 8.4.2).

An application for resource consent under (a), (b) and (c) above shall be considered without the need to obtain the written approval of affected persons, without notification, and without the need to serve notice provided the activity meets all relevant performance standards.

8.3.24 Discretionary Activities

(a) Coastal Protection Areas

(i) Building/Structure not within an Approved Building Site
(ii) Construction of new public roads
(iii) Reticulated Infrastructure
(iv) Coastal and river protection works including groynes and sea walls
(v) Subdivision within the Coastal Protection Area - Open Coastline
(vi) Building/Structures within the identified access yard
Stability Areas – Landslip and General

(i) Building/Structure not within an Approved Building Site
(ii) Subdivision
(iii) Construction of new roads
(iv) Reticulated Infrastructure

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated, where land is:

——— Within the Coastal Protection Area as defined on the Planning Maps, or
——— Within any land instability area identified on the Planning Maps, or
——— Adjoining the open coastline, zoned Rural and within 100m of MHWS.

The following shall be Discretionary Activities:

(a) New buildings and external additions to buildings (except as provided for in 8.3.1, or where new building or external addition is to be located on a platform which has been approved as the result of a subdivision consent that complies with Rule 12.4.1) which requires a building consent under the Building Act 2004.

(b) Subdivision except as specified in Rule 8.3.1(c), 8.3.3(b) and 8.3.4(b).

(c) Construction of new or currently unformed existing public roads.

(d) Reticulated community or communal sewerage and water supply systems, including associated pumping stations, treatment works, and other ancillary equipment or facilities.

(e) Coastal and river protection works including groynes, seawalls, and stopbanks except where The Regional Council consent is obtained. In this case they will be permitted.

8.3.35 Non-Complying Activities

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated where land is within the Primary Risk Area of the Coastal Protection Area, the following will be a Non-Complying Activity:

(a) Coastal Protection Area – Primary Risk

(i) Minor dwellings
(ii) Additional Dwellings
(iii) Education Facilities for no more than four persons
(iv) Accommodation Facilities for no more than four persons

(b) Coastal Protection Area – Secondary Risk

(i) Subdivision (excluding minor boundary adjustments)
For the purpose of this rule, minor boundary adjustments means an adjustment of boundary between two adjoining lots and which will not increase the risk or potential risk to existing buildings or future buildings from coastal erosion or inundation.

(a) More than one dwelling (including a minor dwelling), and accommodation and educational facilities as provided for in Rule 13.3.1.

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated where land is within the Secondary Risk Area of the Coastal Protection Area, the following will be a Non-Complying Activity.

(b) Subdivision within the Secondary Risk Area (excluding minor boundary adjustments).

8.3.4 Prohibited Activities

(a) Coastal Protection Areas

(α) (i) Fixed (i.e. non-portable) solid waste management facilities including sanitary landfills and the disposal of hazardous substances (public or private) in the Primary and Secondary Risk Areas.

(β) (ii) Subdivision (excluding minor boundary adjustments) within the Primary Risk Area of the Coastal Protection Area. (See Rule 8.3.3(b) 8.3.5(b) for definition of minor boundary adjustment).

8.4 Matters of Control

8.4.1 Controlled Activities - Subdivision and Buildings within Stability Area - Minden C

Council reserves control over the following matters

(a) Protecting each lot and surrounding lots from instability or erosion by:

(i) Managing earthworks within the site.
(ii) Controlling the location and formation of building sites, roads, accessways, tracks or privateways within the subdivision.
(iii) Controlling the location and type of wastewater and stormwater treatment and disposal systems.
(iv) Detailing requirements for the retention or planting of vegetation including species selection that will help stabilize any cut slope or fill batter.
Requiring the collecting and piping of stormwater, or its management by way of soakage or discharge to ground or to natural waterways, including the collection of roof water, as appropriate. The preference is for collection and discharge of stormwater to the base of gulleys at a rate that mimics natural catchment flow rates.

Avoiding erosion or natural hazards or mitigating these hazards when they cannot be avoided;

Building sites should be set back from existing waterbodies and ephemeral flowpaths to the extent that any risks to buildings from instability and flooding are avoided.

For subdivision and development in the Minden Stability Areas regard shall be had to the stability information requirements in Rule 8.6.

8.5 Matters of Discretion

8.5.1 Restricted Discretionary Activities

8.5.1.1 Coastal Protection Area

(a) Extent to which the building is relocatable, taking into account the design, location and access to remove the building
(b) Types of building materials used, avoidance of the use of concrete and block wall foundations, walls and flooring
(c) Building/structures should be located as far away from the hazard as possible
(d) Any new information or assessment undertaken by a suitably qualified person/s which confirms that the land is not in fact subject to the natural hazard concerned
(e) The potential environmental effects of or likely to result from the proposal

8.5.1.2 Floodable Area

(a) The effect of the proposed building/structure on the capacity of ponding areas and overland flow paths
(b) The design of the Building/Structure
(c) The appropriate minimum finished floor level of the proposed building/structure
(d) Verifiable new information which demonstrates that the subject site is not in fact under threat from flooding.

8.5.1.3 Stability Areas – Minden A, B1, B2 & U

Council shall have regard to the following matters in addition to 8.4.1:

(a) Subdivision shall be accompanied by a geotechnical report prepared by a suitably qualified person showing a building site capable of being approved and confirming as a minimum that:
(i) Earthworks required in forming each building site and access roads and/or private ways in the subdivision shall avoid or mitigate adverse effects on the stability of the land within the site and will have no adverse effects on the stability of adjacent land.

(ii) Each building site will be required to be set back an appropriate distance, as recommended by a geotechnical engineer, from any terraces or steep slopes to the extent that there are no adverse effects on the stability of the land or any adjacent land.

(iii) Stormwater and wastewater systems can be constructed and operated within each lot with no adverse effects on the stability of the adjacent land.

(iv) For subdivision and development in the Minden Stability Areas regard shall be had to information requirements in Rule 8.5.1

8.4.1 Restricted Discretionary and Discretionary Activity Criteria

Council will have particular regard to:

(a) The proposed avoidance, remedial, or mitigation measures relating to the identified hazard.

For 8.3.1(a) above these measures include:

(i) The provision of an access yard of at least 6.0m as shown on the Planning Maps (this is to enable the creation of alternative legal access should the seaward road be removed).

(ii) The extent to which the entire building is relocatable (design, location of building on site, practical access for relocation).

(iii) Prevent the use of concrete and block wall foundations, flooring and walls.

For 8.3.2(a) above these measures include:

(iv) New buildings or significant redevelopment of existing buildings should be situated as far back from the sea as is practicable to provide the greatest distance between the hazard and the building. In determining what is practicable the location of adjacent buildings will be taken into account, and

(v) Additions or alterations to any building should be landward of the existing building.

(vi) The extent to which the entire building is relocatable (design, location of building on site, practical access for relocation).
Prevent the use of concrete and block wall foundations, flooring and walls:

(b) The potential environmental effects of or likely to result from the proposal including those relating to any measures referred to in (a) above, and

c) The effect of proposed buildings or other works on the capacity of ponding areas and on floodwater flow paths, and

d) The extent to which the proposal addresses any identified natural hazard in a way that enables the existing natural character of the coastal environment and other natural features having recognised ecological, landscape or other significance to the District to be protected, and

e) Verifiable new information which demonstrates that any land within an area identified on the District Planning Maps as potentially subject to natural hazard is not in fact under threat from the hazard concerned.

8.5.2 Discretionary/Non Complying Activities

The matters 8.4.1 and 8.5.1 and the following shall be used as a guide for assessing discretionary activities and non-complying activities:

(a) Stability Areas

(i) The design, location and materials of the building/structure

(ii) The extent to which the proposal addresses any identified natural hazard.

(iii) Any verifiable information which confirms that the property is in fact not under any threat from the hazard.

(iv) For subdivision and development in the Minden Stability Areas regard shall be had to information requirements in Rule 8.6

(b) Coastal Protection Areas

(i) The design, location and materials of the Building/Structure.

(ii) Additions and alterations to existing buildings should be landward of the existing building.

(iii) New buildings or significant redevelopment of existing buildings should be situated as far back from the toe of the fore dunes as practicable.

(iv) The extent to which the proposal addresses any identified natural hazard.
(v) The impact that the proposal will have on the natural character of the coastal environment, recognizing the ecological values of the dune area, and dune restoration.

(vi) Any verifiable information which confirms that the property is in fact not under any threat from the hazard.

(vii) Scientific information from a suitably qualified coastal expert which demonstrates that the land within the Secondary Risk Area of the Coastal Protection Area is not under any actual or potential risk from coastal hazard. For the purpose of meeting this rule any assessment of coastal hazards shall include those standards outlined in the Bay of Plenty Regional Coastal Environment Plan.

(viii) The degree to which the ability of buildings or structures to be relocated is affected.

(ix) The degree to which the physical risk to buildings or structures from coastal erosion can be avoided and coastal inundation can be avoided or mitigated.

8.6 Information Requirements – Stability Areas; Minden A, B1, B2, C and U

8.4.2 Stability Requirements – The Minden Rural 3 Zone

The Minden Rural 3 Zone Lifestyle Zone is divided into five stability risk areas i.e. A, B1, B2, C and U Stability Areas (see Planning Maps). The following provisions set out a description of each stability area A, B1, B2, C and U (in italics) followed by the stability requirements applying to development in that area.

(a) Stability Area A

An area in which processes or factors have been identified which indicate that past or active erosion or mass movement is evident or is likely to occur and which presents or may present an identifiable hazard to structures within the delineated area.

Area A may be summarised as land subject to or likely to be subject to instability.

Building, subdivision or other development including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will not be permitted unless the following documentation is produced to the satisfaction of the Council:

Geomorphological and geological evidence and a "stability analysis" demonstrating that the proposed development area will not be subject to instability or be inundated by debris from upslope, and how the proposed development will ensure that any structure will not become damaged by land slippage arising on or off the site.
A **stability analysis** shall include:

(i) Topographical Survey (if not already available).

(ii) Definition of the nature and continuity of the strata over the whole area of land involved and to a depth below which slipping is most unlikely, by means of test pits and/or continuous recovery core drilling.

(iii) Definition of the density, effective stress shear strength parameters, residual shear strength parameters and the sensitivity of the soil in each stratum in which sliding is possible.

(iv) Definition of ground water levels and piezometric pressures in the strata during extreme infiltration conditions.

(v) Analysis of possible mechanisms of failure, relevant to the specific geomorphology of the site using effective stresses.

(vi) A professional opinion as to the stability of the ground.

Even with a thorough stability analysis, complete avoidance of all risk cannot be obtained and no guarantee of safety expected.

(b) **Stability Area B1**

_Area B1 is land where mass movement is evident or where the slope gradient is such that instability or erosion could occur, particularly if developed._

_Area B1 may be summarised as land potentially subject to instability._

Building, subdivision or other development including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will not be permitted unless the following documentation is produced to the satisfaction of the Council:

Geomorphological and geological evidence and a "**stability analysis**" as outlined in 8.4.2(a) 8.6 (a) demonstrating that the proposed development area will not be subject to instability or be inundated by debris from upslope, and how the proposed development will ensure that any structure will not become damaged by land slippage on or off the site.

Restrictions on and requirements for subdivision, building or other development are the same as for Area A but it shall be sufficient to demonstrate that the risks of instability and damage are at an acceptable level.
(c) Stability Area B2

Area B2 is land where the slope gradient is such that instability is not considered likely to occur, and no mass movement is evident, but is similar to land where instability and erosion has occurred elsewhere in the Western Bay of Plenty in similar materials due to cutting and/or filling and/or on site disposal of stormwater.

The risk of instability or erosion is greater in areas delineated B1 than B2.

Area B2 may be summarised as land potentially subject to instability but less so if there is no on-site disposal of sewage or stormwater concentration, no significant vegetation removal, no significant cutting or filling.

Buildings, subdivision or other development such as excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will be allowed to proceed only if supported by the following documentation to the satisfaction of the Council:

A "stability assessment" demonstrating that the proposed development will not result in the risks of instability or damage being at an unacceptable level.

A stability assessment shall include:

(i) Topographical Survey (if not already available).

(ii) Definition of the nature and continuity of the strata over the whole area of land involved and to a depth below which slipping is most unlikely, by means of test pits and/or drilling, and/or auguring.

(iii) Assessment of the density, relative strength and the sensitivity of the soil in each stratum in which sliding is possible.

(iv) Assessment of ground water levels and piezometric pressures in the strata during extreme infiltration conditions.

(v) A professional opinion as to the stability and instability of the ground.

A stability assessment is likely to be sufficient where there will be no significant interference with existing vegetation, no cutting or filling in excess of 0.5m in depth and no in ground disposal of stormwater runoff.

(d) Stability Area C

Area C is land not considered to be at risk from instability and a stability analysis or stability assessment investigations would not generally be required.
Council reserves control however over a number of matters relating to subdivision and development to ensure the protection of each lot and surrounding lots from any potential instability or erosion.

(e) **Stability Area U**

*Area U is land that has not undergone geotechnical analysis and therefore the risk of instability is uncertain.*

Because of this unknown risk, all subdivision and development occurring within Area U requires Restricted Discretionary resource consent and applications must be accompanied by a specific stability analysis to determine the level of risk and appropriate mitigation measures.

8.4.3 **Activity Performance Standards—Non-Complying Activity Criteria**

Council will have particular regard to:

(a) Scientific information from a suitably qualified coastal expert which demonstrates that the land within the Secondary Risk Area of the Coastal Protection Area is not under any actual or potential risk from coastal hazard. For the purpose of meeting this rule any assessment of coastal hazards shall include those standards outlined in the Bay of Plenty Regional Coastal Environment Plan.

(b) The degree to which the ability of buildings or structures to be relocated is affected.

(c) The degree to which the physical risk to buildings or structures from coastal erosion can be avoided and coastal inundation can be avoided or mitigated.

8.7 **Other Methods**

8.7.1 **Building Act 2004**

Where as a result of stability investigations the land in question is found to be subject to or likely to be subject to slippage, but the building work itself will not accelerate or worsen the situation or affect other land, then Council may grant a building consent subject to the title being notated that the land is subject to or is likely to be subject to slippage pursuant to Section 72 of the Building Act 2004.

This will be used to exercise control over buildings within identified hazard prone areas. Such controls may include restrictions relating to building design and damage liability. Information on known site specific potential natural hazards will be recorded on Council’s Geographic Information System and provided with all Project and Land Information Memoranda.

8.7.2 **Coastal Protection Works**

The construction, repair and maintenance of coastal protection structures such as sea walls and the implementation of “dune care” programmes will be achieved pursuant to Council’s powers under other legislation including the Reserves Act 1977 and the Local Government Act 1974.
Resource consents from The Regional Council are required for any coastal protection works within the coastal marine area (i.e. below MHWS).

8.7.3 Earthworks and Vegetation Removal

Consents to these activities are likely to be also required from The Regional Council.

8.7.4 Civil Defence

Civil Defence plays an important education role. This, along with the Emergency Management Plans is aimed at mitigating potential hazards as well as preparedness for emergencies.

Section 16A - Lifestyle Zone

16A.3 Activity Lists

16A.3.1 Permitted Activities

(a) Farming;
(b) Conservation forestry;
(c) One dwelling per lot, except for in 16A.3.2(c);
(d) Buildings (except dwellings) accessory to the foregoing under 200m²;
(e) Accommodation or Education facilities for a combined maximum of four persons (excluding staff);
(f) Home Enterprises;
(g) Stalls;
(h) Works and network utilities as provided for in Section 10;
(i) Activities on reserves as provided for in the Reserves Act 1977;
(j) Mineral prospecting;
(k) Existing urupa;
(l) Earthworks ancillary to Permitted Activities.

(m) New buildings and external additions to buildings in the Minden Lifestyle Structure Plan area within an Approved Building Site.

16A.3.2 Controlled Activities

(a) Works and network utilities as provided for in Section 10;
(b) One minor dwelling in addition to 16A.3.1(c) subject to performance standard 16A.4.1(f);
(c) Dwellings on titles where a minor dwelling exists which was constructed after 9 February 2009;

(d) More than one dwelling per lot in the Katikati and Te Puke Lifestyle Zones subject to performance standards 16A.4.1(g) with (per dwelling) a minimum net land area of 3000m² and minimum average net land area of 5000m².

(e) Subdivision within the Minden Lifestyle Structure Plan area where all of the proposed privateways and building sites are within Stability Area – Minden C as provided for by 8.3.2 (a).

In addition to the relevant requirements of Section 8 (Natural Hazards), subdivision provided for under this rule shall also be subject to the activity performance standards in 16A.4.2 and the matters of control in 16A.5.2.

subject to the performance standards in 16A.4.2 where the site is made up of land zoned stability area A, B or C and where:

- 80% or more of the land to be subdivided is within Stability Area C.

16A.3.3 Restricted Discretionary Activities

(a) Any Permitted or Controlled Activity that fails to comply with the activity performance standards listed in Rule 16A.4.

(b) Subdivision within the Minden Lifestyle Structure Plan Area (Stability Areas A, B1, B2 and U) as provided for by 8.3.3 (c)(ii).

In addition to the relevant requirements of Section 8 (Natural Hazards), subdivision provided for under this rule shall also be subject to the activity performance standards in 16A.4.2 and the matters of control in 16A.5.2.

(b) New buildings and external additions to buildings in the Minden Lifestyle Structure Plan area not within an Approved Building Site, subject to the requirements in 16A.6.3.

(c) Subdivision within the Minden Lifestyle Structure Plan area not provided for in 16A.3.2(e) above, subject to the requirements in 16A.6.3.

(d) Subdivision within the Minden Lifestyle Structure Plan area on land that is not within a Stability Area, subject to the requirements in 16A.6.3.

16A.5 Matters of Control

16A.5.2 Controlled Activities - Subdivision within the Minden Lifestyle Structure Plan Area as Provided for in Rule 16A.3.2 (e).

Council reserves control over the following matters for the Minden Lifestyle Structure Plan area, and may impose any necessary conditions on subdivision:
(a) Protecting each lot and surrounding lots from instability or erosion by:

(i) Managing earthworks within the site.

(ii) Controlling the location and formation of building sites, roads, accessways, tracks or privateways within the subdivision.

(iii) Controlling the location and type of wastewater and stormwater treatment and disposal systems.

(iv) Detailing requirements for the retention or planting of vegetation including species selection that will help stabilize any cut slope or fill batter.

(v) Requiring the collecting and piping of stormwater, or its management by way of soakage or discharge to ground or to natural waterways, including the collection of roof water, as appropriate. The preference is for collection and discharge of stormwater to the base of gulleys at a rate that mimics natural catchment flow rates.

(vi) Requiring easements for stormwater infrastructure, as appropriate.

(vii) Avoiding erosion or natural hazards or mitigating these hazards when they cannot be avoided;

(b) Protecting and enhancing scheduled significant ecological features, other prominent areas of indigenous vegetation which contribute to the zones wider amenity, existing waterways, providing ecological linkages and improving landscape by requiring planting along riparian corridors, on steep erosion prone land, the retirement of some land from grazing activity and the avoidance of discharge to such areas.

(c) Providing connectivity throughout the structure plan area including requiring the provision of Greenlanes shown on the structure plan.

(d) Ensuring that building sites and associated earthworks blend in with existing contours, preserve strands of native bush, and do not compromise significant topographical features. Pump houses, fences and masts may be located outside of the building site.

(e) Building sites should be set back from existing waterbodies and ephemeral flowpaths to the extent that any risks to buildings from instability and flooding are avoided and there are no adverse effects on ecological features.

(f) Compliance with activity performance standards 16A.4.2.
16A.6 Matters of Discretion

16A.6.3 Restricted Discretionary Activities - Subdivision within the Minden Lifestyle Structure Plan Area as provided for in Rules 16A.3.3 (c) and (d).

Council shall have regard to the following matters in addition to 16A.5.2:

(a) Subdivision shall be accompanied by a geotechnical report prepared by a suitably qualified person showing a building site capable of being approved and confirming as a minimum that:

(i) Earthworks required in forming each building site and access roads and/or privateways in the subdivision shall avoid or mitigate adverse effects on the stability of the land within the site and will have no adverse effects on the stability of adjacent land.

(ii) Each building site will be required to be set back an appropriate distance, as recommended by a geotechnical engineer, from any terraces or steep slopes to the extent that there are no adverse effects on the stability of the land or any adjacent land.

(iii) Stormwater and wastewater systems can be constructed and operated within each lot with no adverse effects on the stability of the adjacent land.
### Significant features
- Airport approach surface
- Designation
- Formed Roads
- Limited access
- Stop bank
- Esplanade strip
- Proposed esplanade strip / reserve
- Kaimai - Mamaku Forest Park boundary
- Reserve
- Reserve, Department of Conservation
- View shaft
- Ecological area
- Landscape feature - 40m and 50m
- Landscape feature
- Heritage area
- Built heritage
- Cultural heritage
- Notable Trees
- Structure plan boundary
- Greenlane
- Road
- Stormwater
- Wastewater
- Water supply
- Walk/cycleway
- Reserve area
- Stormwater pond
- Overland flowpaths & ecological features

### Zones
- All Terrain Park (ATP)
- Commercial
- Commercial Transition
- Horticultural Post Harvest
- Industrial
- Residential
- Medium Density Residential
- Rural Residential
- Rural
- Lifestyle
- Future Urban

### Land hazards
- Coastal protection - Primary Risk
- Coastal protection - Secondary Risk
- Coastal Protection - Open Coastline
- Coastal Protection - Access Yard
- Flood hazard
- Stability Area - Minden A
- Stability Area - Minden B1
- Stability Area - Minden B2
- Stability Area - Minden C
- Stability Area - Minden U
- Stability Area - General
- Stability Area - Landslip

### Zone overlays
- Identified Area (1)
- Firing Range Exclusion Zone
- TNL 100m Building Line Setback

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Bay of Plenty Regional Council should be consulted before undertaking any activity in the vicinity of Mean High Water Springs to establish the actual line of Mean High Water Springs.

Formed roads are indicated as white shading on the road land parcels. Unformed roads have the underlying zone indicated.

(1) The identified areas include: the community service area at Rangiuru, the central hub site within the All Terrain Park and buffer zones in Stage 2 Omokoroa and Binnie Road.
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TNL by way of a RMA process.
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TNL by way of a RMA process.
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TNL by way of a RMA process.

S3

Minden Road
Corbett Drive
Dawn View Place
Maruia Place
Ainsworth Road
Perkins Drive

D180
D181
D203

Minden_1B
Minden_1A
Minden_2

Scale 1:5000 (A4)

Revision Date: 1 December 2011
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TNL by way of a RMA process

Oliver Road shall not be connected to Minden Road

See Rule 16A.4.2 (d) (v)
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TNL by way of a RMA process.

Sh 2 (1207-tdc)

Oliver Road

Clarke Road

Te Mete Road

D180

D203

D207

Minden_2

Scale 1:5000 (A4)

Revision Date: 1 December 2011
Part C: Changes to the Operative District Plan 2012

Any changes to rules are shown as follows; existing District Plan text in black and changes (being the culmination of the notified Plan Change and subsequent decisions) are shown in red.

That the following amendments be made to Section 3 - Definitions to read as follows:

“Approved Building Site” means a site which has been approved in conjunction with a resource consent application under the RMA and has been approved in accordance with any natural hazard the stability requirements contained in Section 8 (Natural Hazards) and any specific technical report to the satisfaction of Council. And matters of control in Rule 16A.5.2 and matters of discretion contained in Rule 16A.6.3 (Lifestyle Section).

It does not include sites for which consent conditions require further investigation, sites not approved in the resource consent, and sites for which technical assessment have not been previously made.”

“Reticulated Infrastructure” means a communal or community inter-connected piped, collection, distribution, and treatment system for water supply, stormwater and wastewater systems, including any associated pumping station, treatment works and other ancillary equipment or facilities.”

That Section 8 (Natural Hazards) and Section 17 (Lifestyle) are amended as shown on the pages to follow;

That any subsequent re-numbering or wording for the purposes of consistent and accurate referencing be made to the District Plan as appropriate.

That the Coastal Protection Area - Open Coastline be identified on the District Planning Maps as follows.

That the Stability Area - Minden U be identified on Planning Maps as follows.

That the District Planning Map Legend be amended for consistent wording as follows.
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8. Natural Hazards

Explanatory Statement

While acknowledging the Council's statutory responsibilities, this section recognises the constraints imposed by the nature of some potential hazards affecting the Western Bay of Plenty District as well as the limitations of the level of existing information.

Areas considered most at risk from coastal erosion and inundation are those already developed for urban purposes and which adjoin the open coastline (e.g. Waihi Beach - Bowentown, Pukehina). The stretches of coastline concerned have been the subject of a detailed study commissioned by Council. The study findings are reflected in that land identified on the District Planning Maps as being within the ‘Coastal Protection Area’.

The Coastal Protection Area has been divided into two parts, the Primary Risk Area and the Secondary Risk Area. The Primary Risk Area includes all private properties within the Coastal Protection Area that are considered to be subject to an immediate threat from coastal hazards. The Secondary Risk Area includes all land in the remainder of the Coastal Protection Area. All private property within the Secondary Risk Area is likely to be affected by coastal hazards at some future time but within the next 100 years.

The main area of known land instability is in the Minden where there exists land with the potential to slip when saturated. These and other potentially unstable areas have been identified on the District Planning Maps.

Heavy rain is a common feature of the Bay of Plenty Region and this may increase with global climate change. Low-lying areas, especially those in proximity to watercourses are at risk from inundation, scour and sedimentation. Within established urban areas land known to be susceptible to flooding exists in parts of Waihi Beach, Katikati, Te Puke and Pukehina. Again, such land has been identified on the Planning Maps.

Land identified on the Planning Maps as being at risk from the foregoing hazards is subject to various controls on development either through District Plan rules or other methods outside the District Plan. In many cases because of the quality of existing information such identification is very ‘broad brush’ and where more detailed study of specific areas eliminates land from the identified potential hazard then otherwise complying development will be able to proceed through the resource or building consent processes without additional restriction (e.g. consent or Section 74 Building Act 2004 notices). Nevertheless there are some areas where Council has good information on the level of hazard risk and in these areas it is considered appropriate to control the intensification of development.
The Western Bay of Plenty adjoins the Taupo Volcanic Zone and is therefore considered to be subject to a high risk from earthquakes as well as at risk from volcanic eruptions originating from outside the District. Notwithstanding the limitations of addressing these potential natural hazards through the District Plan, much is achievable in terms of public education and preparedness through other methods such as emergency management plans.

8.1 Significant Issues

1. The Western Bay of Plenty District is subject to a range of actual or potential natural hazards which will or may adversely affect human life, property or other aspects of the environment. The principal hazards affecting the District are coastal erosion and inundation, tsunami, land instability, flooding, earthquake, and volcanic eruption.

2. Areas actually or potentially under threat from such natural hazards as coastal erosion and land instability can be identified in advance. Specific areas more at risk than others from some hazards such as earthquakes and volcanic eruptions are more difficult to identify in advance and the potential effects of the hazards themselves so widespread and devastating that avoidance or control through the District Plan is not realistically possible.

3. Some areas now known to be at risk from actual or potential hazards have already been developed for urban purposes.

4. Some natural hazard avoidance, remedial, or mitigation measures have the potential to adversely impact on natural character and on significant ecological values existing within the coastal and other environments.

8.2 Objectives and Policies

8.2.1 Objectives

1. Minimisation of the threat of natural hazards to human life and the natural and physical environment.

2. Protection of the existing natural character of the coastal environment and other natural features having recognised ecological, landscape or other significance to the District.
8.2.2 Policies

1. Adopt the best practicable options (including the ‘do nothing’ option) in the management of areas actually or potentially at risk from natural hazards and where possible adopt avoidance rather than mitigation or remedial measures.

2. Control or prevent the establishment of activities which have the potential to increase the extent to which natural hazards have or may have an adverse effect on human life or the natural or built environment.

3. Enable the development or redevelopment of land already subdivided or otherwise developed for urban purposes in areas now known to be at risk from natural hazards only where any likely adverse effects can be avoided or appropriately mitigated.

4. Ensure that new subdivision, land use activities or other development is located and designed so as to avoid the need for further hazard protection works.

5. Ensure that where hazard protection works are necessary their form, location and design are such as to avoid or mitigate potential adverse environmental effects.

6. Enable natural ecosystems in currently undeveloped areas to migrate inland as a result of dynamic coastal processes (including sea level rise as predicted by recognised national or international agencies).

7. Encourage the conservation and enhancement of natural features such as sand dunes and wetlands which have the capacity to protect existing developed land.

8. Prevent the use of concrete and block work foundations, floors and walls in the Primary Risk Area.

8.3 Activity Lists

The following rules apply to those activities which are located within Natural Hazard Features identified on the District Planning Maps.

8.3.1 Permitted Activities

(a) Buildings/Structures within an Approved Building Site

(b) Buildings/Structures within Stability Area - Minden C
8.3.2 Controlled Activities

(a) Stability Areas - Minden

Subdivision where all of the proposed private ways and building sites are within Stability Area - Minden C

8.3.3 Restricted Discretionary Activities

8.3.1

(a) Coastal Protection Area – Secondary Risk

(i) Buildings/Structures not within an Approved Building Site

(b) Floodable Areas

(i) Buildings/Structures not within an Approved Building Site
(ii) Earthworks over 5m³
(iii) Closed board fences, retaining walls, raised gardens, concrete and block walls

(c) Stability Areas – Minden (A, B1, B2 & U)

(i) Buildings/Structures not within an Approved Building Site
(ii) Subdivision, except if in accordance with 8.3.2 (a).
(iii) Filling, excavation and other development
(iv) Vegetation removal
(v) Disposal of stormwater and wastewater

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated, where land is within the areas specified in clauses (a), (b) and (c) following, the activities listed shall be Restricted Discretionary:

(a) The Coastal Protection Area as defined on the Planning Maps

New buildings and external additions to buildings within the Secondary Risk Area of the Coastal Protection Area which requires a building consent under the Building Act 2004. The Secondary Risk Area is defined as that area shown on the District Planning Maps.
An application for resource consent under this rule shall be considered without the need to obtain the written approval of affected persons, without notification, and without the need to serve notice provided the activity meets all relevant performance standards.

(b) **Floodable areas as identified on the Planning Maps**

Buildings or external additions to buildings, the erection of any structures including closed board fences, retaining walls, raised gardens and concrete block walls, or earthworks over 5m³.

The Council will restrict the exercise of its discretion to the extent to which the activity affects the capacity and functioning of ponding areas and on overland flow paths.

(c) **Minden-Stability Areas**

Building, subdivision or other development including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated (see Section 8.4.2).

Except that:

Subdivision is provided for as a Controlled Activity in accordance with Rule 17.3.2 (e).

Buildings and external additions to buildings are provided for as Permitted Activities within an Approved Building Site in accordance with Rule 17.3.1 (m).

An application for resource consent under (a), (b) and (c) above shall be considered without the need to obtain the written approval of affected persons, without notification, and without the need to serve notice provided the activity meets all relevant performance standards.

### 8.3.4 Discretionary Activities

#### 8.3.2

(a) Coastal Protection Areas

(i) **Buildings/Structures not within an Approved Building Site**

(ii) **Construction of new public roads**

(iii) **Reticulated Infrastructure**

(iv) **Coastal and river protection works including groynes and sea walls**

(v) **Subdivision within the Coastal Protection Area - Open Coastline**
(vi) Buildings/Structures within the identified access yard

(b) Stability Areas – Landslip and General

(i) Buildings/Structures not within an Approved Building Site
(ii) Subdivision
(iii) Construction of new roads
(iv) Reticulated Infrastructure

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated, where land is:

• Within the Primary Risk Area of the Coastal Protection Area as defined on the Planning Maps; or
• Within any land instability area identified on the Planning Maps; or
• Adjoining the open coastline, zoned Rural and within 100m of MHWS.

The following shall be Discretionary Activities:

(a) New buildings and external additions to buildings (except as provided for in 8.3.1, or where new building or external addition is to be located on a platform which has been approved as the result of a subdivision consent that complies with Rule 12.4.1) which requires a building consent under the Building Act 2004.

(b) Subdivision except as specified in Rule 8.3.1(c), 8.3.3(b) and 8.3.4(b).

(c) Construction of new or currently unformed existing public roads.

(d) Reticulated community or communal sewerage and water supply systems, including associated pumping stations, treatment works, and other ancillary equipment or facilities.

(e) Coastal and river protection works including groynes, seawalls, and stopbanks except where the Regional Council consent is obtained. In this case they will be permitted.

8.3.5 Non-Complying Activities

8.3.3

Notwithstanding anything to the contrary in the provisions of the zone in which it is situated where land is within the Primary Risk Area of the Coastal Protection Area, the following will be a Non-Complying Activity:

(a) Coastal Protection Area – Primary Risk

(i) Minor dwellings
(ii) Additional dwellings
(iii) Education Facilities for no more than four persons
(iv) Accommodation Facilities for no more than four persons

(b) Coastal Protection Area – Secondary Risk

Explanatory Note:
For the purpose of this rule, minor boundary adjustments means an adjustment of boundary between two adjoining lots and which will not increase the risk or potential risk to existing buildings or future buildings from coastal erosion or inundation.

(a) More than one dwelling (including a minor dwelling), and accommodation and educational facilities as provided for in Rule 13.3.1.

Netwithstanding anything to the contrary in the provisions of the zone in which it is situated where land is within the Secondary Risk Area of the Coastal Protection Area, the following will be a Non-Complying Activity.

(b) Subdivision within the Secondary Risk Area (excluding minor boundary adjustments).

8.3.6 Prohibited Activities
8.3.4 Coastal Protection Areas

(a) (i) Fixed (i.e. non-portable) solid waste management facilities including sanitary landfills and the disposal of hazardous substances (public or private) in the Primary and Secondary Risk Areas.

(b) (ii) Subdivision (excluding minor boundary adjustments) within the Primary Risk Area of the Coastal Protection Area. See Rule 8.3.3(b) 8.3.5 (b) for definition of minor boundary adjustment.

8.4 Matters of Control
8.4.1 Controlled Activities - Subdivision and Buildings within Stability Area - Minden C

Council reserves control over the following matters
(a) Protecting each lot and surrounding lots from instability or erosion by:

(i) Managing earthworks within the site.
(ii) Controlling the location and formation of building sites, roads, accessways, tracks or privateways within the subdivision.
(iii) Controlling the location and type of wastewater and stormwater treatment and disposal systems.
(iv) Detailing requirements for the retention or planting of vegetation including species selection that will help stabilize any cut slope or fill batter.
(v) Requiring the collecting and piping of stormwater, or its management by way of soakage or discharge to ground or to natural waterways, including the collection of roof water, as appropriate. The preference is for collection and discharge of stormwater to the base of gulleys at a rate that mimics natural catchment flow rates.
(vii) Avoiding erosion or natural hazards or mitigating these hazards when they cannot be avoided;

(b) Building sites should be set back from existing waterbodies and ephemeral flowpaths to the extent that any risks to buildings from instability and flooding are avoided.

(c) For subdivision and development in the Minden Stability Areas regard shall be had to the stability information requirements in Rule 8.6.

8.5 8.4 Matters of Discretion

8.5.1 Restricted Discretionary Activities

8.5.1.1 Coastal Protection Areas

(a) Extent to which the building is relocatable, taking into account the design, location and access to remove the building
(b) Types of building materials used, avoidance of the use of concrete and block wall foundations, walls and flooring
(c) Buildings/structures should be located as far away from the hazard as possible
(d) Any new information or assessment undertaken by a suitably qualified person/s which confirms that the land is not in fact subject to the natural hazard concerned.
(e) The potential environmental effects of or likely to result from the proposal.
8.5.1.2 **Floodable Areas**

(a) The effect of the proposed buildings/structures on the capacity of ponding areas and overland flow paths

(b) The design of the building/structure

(c) The appropriate minimum finished floor level of the proposed building/structure

(d) Verifiable new information which demonstrates that the subject site is not in fact under threat from flooding.

8.5.1.3 **Stability Areas - Minden A, B1, B2 & U**

Council shall have regard to the following matters in addition to 8.4.1:

(a) Subdivision shall be accompanied by a geotechnical report prepared by a suitably qualified person showing a building site capable of being approved and confirming as a minimum that:

(i) Earthworks required in forming each building site and access roads and/or private ways in the subdivision shall avoid or mitigate adverse effects on the stability of the land within the site and will have no adverse effects on the stability of adjacent land.

(ii) Each building site will be required to be set back an appropriate distance, as recommended by a geotechnical engineer, from any terraces or steep slopes to the extent that there are no adverse effects on the stability of the land or any adjacent land.

(iii) Stormwater and wastewater systems can be constructed and operated within each lot with no adverse effects on the stability of the adjacent land.

(iv) For subdivision and development in the Minden Stability Areas regard shall be had to information requirements in Rule 8.6

8.4.1 **Restricted Discretionary and Discretionary Activity Criteria**

Council will have particular regard to:

(a) The proposed avoidance, remedial, or mitigation measures relating to the identified hazard.

For 8.3.1(a) these measures include:
(i) The provision of an access yard of at least 6.0m as shown on the Planning Maps (this is to enable the creation of alternative legal access should the seaward road be removed);

(ii) The extent to which the entire building is relocatable (design, location of building on site, practical access for relocation);

(iii) Prevent the use of concrete and block wall foundations, flooring and walls.

For 8.3.2(a) these measures include:

(iv) New buildings or significant redevelopment of existing buildings should be situated as far back from the sea as is practicable to provide the greatest distance between the hazard and the building. In determining what is practicable the location of adjacent buildings will be taken into account; and

(v) Additions or alterations to any building should be landward of the existing building.

(vi) The extent to which the entire building is relocatable (design, location of building on site, practical access for relocation);

(vii) Prevent the use of concrete and block wall foundations, flooring and walls.

And

(b) The potential environmental effects of or likely to result from the proposal including those relating to any measures referred to in (a) above.

(c) The effect of proposed buildings or other works on the capacity of ponding areas and on floodwater flow paths.

(d) The extent to which the proposal addresses any identified natural hazard in a way that enables the existing natural character of the coastal environment and other natural features having recognised ecological, landscape or other significance to the District to be protected.

(e) Verifiable new information which demonstrates that any land within an area identified on the District Planning Maps as potentially subject to natural hazard is not in fact under threat from the hazard concerned.
8.5.2 Discretionary/ Non Complying Activities

The matters in 8.4.1 and 8.5.1 and the following matters shall be used as a guide for assessing Discretionary Activities and Non-Complying Activities:

(a) Stability Areas

(i) The design, location and materials of the Building/structure.

(ii) The extent to which the proposal addresses any identified natural hazard.

(iii) Any verifiable information which confirms that the property is in fact not under any threat from the hazard.

(iv) For subdivision and development in the Minden Stability Areas regard shall be had to information requirements in Rule 8.6.

(b) Coastal Protection Areas

(i) The design, location and materials of the Building/Structure.

(ii) Additions and alterations to existing buildings should be landward of the existing building.

(iii) New buildings or significant redevelopment of existing buildings should be situated as far back from the toe of the fore dunes as practicable.

(iv) The extent to which the proposal addresses any identified natural hazard.

(v) The impact that the proposal will have on the natural character of the coastal environment, recognizing the ecological values of the dune area, and dune restoration.

(vi) Any verifiable information which confirms that the property is in fact not under any threat from the hazard.
(vii) Scientific information from a suitably qualified coastal expert which demonstrates that the land within the Secondary Risk Area of the Coastal Protection Area is not under any actual or potential risk from coastal hazard. For the purpose of meeting this rule any assessment of coastal hazards shall include those standards outlined in the Bay of Plenty Regional Coastal Environment Plan.

(viii) The degree to which the ability of buildings or structures to be relocated is affected.

(ix) The degree to which the physical risk to buildings or structures from coastal erosion can be avoided and coastal inundation can be avoided or mitigated.

### 8.6 8.4.2 Stability Requirements - The Minden Lifestyle Structure Plan Area

The Minden Lifestyle Structure Plan area is divided into four stability risk areas i.e. A, B1, B2, C and U Stability Areas (see Planning Maps). The following provisions set out a description of each stability area followed by the stability requirements applying to development in that area.

#### (a) Stability Area A

**Description**

‘An area in which processes or factors have been identified which indicate that past or active erosion or mass movement is evident or is likely to occur and which presents or may present an identifiable hazard to structures within the delineated area’.

Area A may be summarised as land subject to or likely to be subject to instability.

**Stability Assessment**

Building, subdivision or other development including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will not be permitted unless the following documentation is produced to the satisfaction of the Council.

Geomorphological and geological evidence and a ‘stability analysis’ demonstrating that the proposed development area will not be subject to instability or be inundated by debris from upslope, and how the proposed development will ensure that any structure will not become damaged by land slippage arising on or off the site.
A **stability analysis** shall include:

(i) Topographical Survey (if not already available);

(ii) Definition of the nature and continuity of the strata over the whole area of land involved and to a depth below which slipping is most unlikely, by means of test pits and/or continuous recovery core drilling;

(iii) Definition of the density, effective stress shear strength parameters, residual shear strength parameters and the sensitivity of the soil in each stratum in which sliding is possible;

(iv) Definition of ground water levels and piezometric pressures in the strata during extreme infiltration conditions;

(v) Analysis of possible mechanisms of failure, relevant to the specific geomorphology of the site using effective stresses;

(vi) A professional opinion as to the stability of the ground.

Even with a thorough stability analysis, complete avoidance of all risk cannot be obtained and no guarantee of safety expected.

**(b) Stability Area B1**

**Description**

‘Area B1 is land where mass movement is evident or where the slope gradient is such that instability or erosion could occur, particularly if developed’.

Area B1 may be summarised as land potentially subject to instability.

**Stability Assessment**

*Building*, subdivision or other *development* including excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will not be permitted unless the following documentation is produced to the satisfaction of the *Council*.
Geomorphological and geological evidence and a ‘stability analysis’ as outlined in 8.4.2(a) demonstrating that the proposed development area will not be subject to instability or be inundated by debris from upslope, and how the proposed development will ensure that any structure will not become damaged by land slippage on or off the site.

Restrictions on and requirements for subdivision, building or other development are the same as for Area A but it shall be sufficient to demonstrate that the risks of instability and damage are at an acceptable level.

(c) Stability Area B2

Description
‘Area B2 is land where the slope gradient is such that instability is not considered likely to occur, and no mass movement is evident, but is similar to land where instability and erosion has occurred elsewhere in the Western Bay of Plenty in similar materials due to cutting and/or filling and/or on site disposal of stormwater’.

The risk of instability or erosion is greater in areas delineated B1 than B2.

Area B2 may be summarised as land potentially subject to instability but less so if there is no onsite disposal of sewage or stormwater concentration, no significant vegetation removal, no significant cutting or filling.

Stability Assessment
Buildings, subdivision or other development such as excavation, filling, removal of vegetation (excluding noxious plants), disposal of stormwater or domestic wastewater into or over the area delineated will be allowed to proceed only if supported by the following documentation to the satisfaction of the Council.

A ‘stability assessment’ demonstrating that the proposed development will not result in the risks of instability or damage being at an unacceptable level.

A stability assessment shall include:

(i) Topographical Survey (if not already available);

(ii) Definition of the nature and continuity of the strata over the whole area of land involved and to a depth below which slipping is most unlikely, by means of test pits and/or drilling, and/or auguring;
Assessment of the density, relative strength and the sensitivity of the soil in each stratum in which sliding is possible;

Assessment of ground water levels and piezometric pressures in the strata during extreme infiltration conditions;

A professional opinion as to the stability and instability of the ground.

A stability assessment is likely to be sufficient where there will be no significant interference with existing vegetation, no cutting or filling in excess of 0.5m in depth and no in ground disposal of stormwater runoff.

(d) Stability Area C

Description
‘Area C is land not considered to be at risk from instability. A stability analysis or stability assessment investigations would not generally be required’.

Council reserves control however over a number of matters relating to subdivision and development to ensure the protection of each lot and surrounding lots from any potential instability or erosion.

(e) Stability Area U

‘Area U is land that has not undergone geotechnical analysis and therefore the risk of instability is uncertain’.

Because of this unknown risk, all subdivision and development occurring within Area U requires Restricted Discretionary resource consent and applications must be accompanied by a specific stability analysis to determine the level of risk and appropriate mitigation measures.

8.4.3 Activity Performance Standards – Non-Complying Activity Criteria

Council will have particular regard to:

(a) Scientific information from a suitably qualified coastal expert which demonstrates that the land within the Secondary Risk Area of the Coastal Protection Area is not under any actual or potential risk from coastal hazards. For the purpose of meeting this rule any assessment of coastal hazards shall include those standards outlined in the Bay of Plenty Regional Coastal Environment Plan.
(b) The degree to which the ability of buildings or structures to be relocated is affected.

(c) The degree to which the physical risk to buildings or structures from coastal erosion can be avoided and coastal inundation can be avoided or mitigated.

8.7 8.6 Other Methods

8.7.1 Building Act 2004

Where as a result of stability investigations the land in question is found to be subject to or likely to be subject to slippage, but the building work itself will not accelerate or worsen the situation or affect other land, then Council may grant a building consent subject to the title being notated that the land is subject to or is likely to be subject to slippage pursuant to Section 72 of the Building Act 2004.

This will be used to exercise control over buildings within identified hazard prone areas. Such controls may include restrictions relating to building design and damage liability. Information on known site specific potential natural hazards will be recorded on Council's Geographic Information System and provided with all Project and Land Information Memoranda.

8.7.2 Coastal Protection Works

The construction, repair and maintenance of coastal protection structures such as sea walls and the implementation of ‘dune care’ programmes will be achieved pursuant to Council’s powers under other legislation including the Reserves Act 1977 and the Local Government Act 1974.

Resource consents from the Regional Council are required for any coastal protection works within the coastal marine area (i.e. below MHWS).

8.7.3 Earthworks and Vegetation Removal

Consents to these activities are likely to be also required from the Regional Council.

8.7.4 Civil Defence

Civil Defence plays an important education role. This, along with the emergency management plans is aimed at mitigating potential hazards as well as preparedness for emergencies.
17.3 Activity Lists

17.3.1 Permitted Activities

(a) Farming.

(b) Conservation forestry.

(c) One dwelling per lot, except for in 17.3.2(c);

(d) Buildings (except dwellings) accessory to the foregoing under 200m².

(e) Accommodation or education facilities for a combined maximum of four persons (excluding staff).

(f) Home enterprises.

(g) Stalls.

(h) Works and network utilities as provided for in Section 10.

(i) Activities on reserves as provided for in the Reserves Act 1977.

(j) Minerals prospecting.

(k) Existing urupa.

(l) Earthworks ancillary to Permitted Activities.

(m) New buildings and external additions to buildings in the Minden Lifestyle Structure Plan area within an Approved Building Site.

17.3.2 Controlled Activities

(a) Works and network utilities as provided for in Section 10.

(b) One minor dwelling in addition to 17.3.1(c) subject to performance standard 17.4.1(f).

(c) Dwellings on titles where a minor dwelling exists which was constructed after 9 February 2009.

(d) More than one dwelling per lot in the Katikati Lifestyle Zone subject to performance standards 17.4.1(g) with (per dwelling) a minimum net land area of 3000m² and minimum average net land area of 5000m².
(e) Subdivision within the Minden Lifestyle Structure Plan area where all of the proposed privateways and building sites are within Stability Area - Minden C as provided for by 8.3.2 (a).

In addition to the relevant requirements of Section 8 (Natural Hazards), subdivision provided for under this rule shall also be subject to the activity performance standards in 17.4.2 and the matters of control in 17.5.2.

subject to the performance standards in 17.4.2 where the site is made up of land zoned stability area A, B or C and where:

- 80% or more of the land to be subdivided is within Stability Area C.

(f) Subdivision within Stage 1 of the Te Puke Lifestyle Zone at such time as the requirements of 17.4.2 (g) are satisfied.

### 17.3.3 Restricted Discretionary Activities

(a) Any Permitted or Controlled Activity that fails to comply with the activity performance standards listed in Rule 17.4.

(b) Subdivision within the Minden Lifestyle Structure Plan area (Stability Areas A, B1, B2 and U) as provided for by 8.3.3 (c) (ii).

In addition to the relevant requirements of Section 8 (Natural Hazards), subdivision provided for under this rule shall also be subject to the activity performance standards in 17.4.2 and the matters of control in 17.5.2.

(c) New buildings and external additions to buildings in the Minden Lifestyle Structure Plan area not within an Approved Building Site, subject to the requirements in 17.6.3.

(d) Subdivision within the Minden Lifestyle Structure Plan area not provided for in 17.3.2(e) above, subject to the requirements in 17.6.3.

(e) Subdivision within the Minden Lifestyle Structure Plan area on land that is not within a Stability Area, subject to the requirements in 17.6.3.
17.4 Activity Performance Standards

17.4.2 Subdivision Activity Performance Standards

(c) On-site Protection Lots

(i) Application

Additional lots may be created in exchange for the protection of a ‘feature of value to the community’ as defined in Rule 18.4.2 (h) (i) on the following basis.

1. The feature being protected must be within the land being subdivided.

2. The feature being protected shall meet the qualifying standards in Rules 18.4.2 (h) (iii) to (viii).

3. Additional lots can be transferred within the Lifestyle Zone.

4. Where the land being subdivided also contains a greenlane as identified on the Minden Lifestyle Structure Plan, then the creation of additional lots under this rule shall not occur before the creation of new lots under Rule 17.4.2 (e).

5. Subdivision under this rule shall also be subject to Rules 8.4.1, 8.5.1.3, 17.4.2(a), 17.4.2(d) and 17.5.2 and 17.6.3.

17.5 Matters of Control

17.5.2 Controlled Activities - Subdivision within the Minden Lifestyle Structure Plan Area where all of the Proposed Privateways and Building Sites are within Stability Area - Minden C as Provided for in Rule 17.3.2 (e).

Council reserves control over the following matters for the Minden Lifestyle Structure Plan area, and may impose any necessary conditions on subdivision:

(a) Protecting each lot and surrounding lots from instability or erosion by:

(i) Managing earthworks within the site;
(ii) Controlling the location and formation of building sites, roads, accessways, tracks or privateways within the subdivision;

(iii) Controlling the location and type of wastewater and stormwater treatment and disposal systems;

(iv) Detailing requirements for the retention or planting of vegetation including species selection that will help stabilize any cut slope or fill batter;

(v) Requiring the collecting and piping of stormwater, or its management by way of soakage or discharge to ground or to natural waterways, including the collection of roof water, as appropriate. The preference is for collection and discharge of stormwater to the base of gulleys at a rate that mimics natural catchment flow rates;

(vi) Requiring easements for stormwater infrastructure, as appropriate;

(vii) Avoiding erosion or natural hazards or mitigating these hazards when they cannot be avoided.

(a) Protecting and enhancing scheduled Significant Ecological Features, other prominent areas of indigenous vegetation which contribute to the Zone’s wider amenity, existing waterways, providing ecological linkages and improving landscape by requiring planting along riparian corridors, on steep erosion prone land, the retirement of some land from grazing activity and the avoidance of discharge to such areas.

(b) Providing connectivity throughout the Structure Plan area including requiring the provision of greenlanes shown on the Structure Plan.

(c) Ensuring that building sites and associated earthworks blend in with existing contours, preserve strands of native bush, and do not compromise significant topographical features. Pump houses, fences and masts may be located outside of the building site.

(d) Building sites should be set back from existing waterbodies and ephemeral flowpaths to the extent that any risks to buildings from instability and flooding are avoided and there are no adverse effects on ecological features.

(e) Compliance with activity performance standards 17.4.2.
17.6 Matters of Discretion

17.6.3 Restricted Discretionary Activities – Subdivision and Development within the Minden Lifestyle Structure Plan Area as provided for in Rules 17.3.3(b), (c) and (d).

Council shall have regard to the following matters in addition to 17.5.2:

(a) Subdivision shall be accompanied by a geotechnical report prepared by a suitably qualified person showing a building site capable of being approved and confirming as a minimum that:

(i) Earthworks required in forming each building site and access roads and/or privateways in the subdivision shall avoid or mitigate adverse effects on the stability of the land within the site and will have no adverse effects on the stability of adjacent land;

(ii) Each building site will be required to be set back an appropriate distance, as recommended by a geotechnical engineer, from any terraces or steep slopes to the extent that there are no adverse effects on the stability of the land or any adjacent land;

(iii) Stormwater and wastewater systems can be constructed and operated within each lot with no adverse effects on the stability of the adjacent land.
Bay of Plenty Regional Council should be consulted before undertaking any activity in the vicinity of Mean High Water Springs to establish the actual line of Mean High Water Springs. Formed roads are indicated as white shading on the road land parcels. Unformed roads have the underlying zone indicated.

(1) Compliance with NZECP 34:2001 is required in this area for buildings/structures and earthworks.

(2) The identified areas include; the community service area at Rangiuru, the central hub site within the All Terrain Park and buffer zones in Stage 2 Omokoroa and Binnie Road.
Aspects of the District Plan that relate specifically to Matakania Island remain subject to Appeal. Refer to the front of the District Plan Maps for further details.
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See also Appendix 7.
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TNL by way of a RMA process.
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Oliver Road shall not be connected to Minden Road. See Rule 17.4.2 (d) (v).
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TNL by way of a RMA process.
Indicative proposed road. Final alignment to be determined in conjunction with the final design of TRL by way of a RMA process.