

# Whakatāne District Plan

## Plan Change 4: Building Platform Level

*SUMMARY OF SUBMISSIONS — SUMMARY OF DECISIONS  
REQUESTED, PREPARED UNDER CLAUSE 7 OF SCHEDULE 1 OF THE RMA*

## Contents

Table of content .....	2
Proposed Plan Change 4 – Building Platform level .....	3-4
Submitter 1: Reuben Cohen .....	5
Submitter 2: Fuel Companies (BP, Mobil, Z Energy) .....	5
Submitter 3: Bay of Plenty Regional Council .....	6-7
Submitter 4: Tim Fergusson .....	7-8
Submitter 5: Janda Consultants.....	8
Submitter 6: Bridget Robson .....	8
Original Submission 1: Reuben Cohen .....	9
Original Submission 2: Fuel Companies (BP, Mobil, Z Energy) .....	10-14
Original Submission 3: Bay of Plenty Regional Council .....	15-20
Original Submission 4: Tim Fergusson .....	21-23
Original Submission 5: Janda Consultants .....	24
Original Submissions 6: Bridget Robson .....	25

# Proposed Plan Change 4

## – Building Platform level

Proposed Plan Change 4 – Building Platform Level was publicly notified on 14 February 2025. The submission period closed on 13 March 2025.

During the formal submission period, 6 submissions were received.

Copies of submissions and the summary of submissions are now available for viewing on the Council website, at the libraries and service centres.

Further submissions on submissions are now being sought and close **5pm Wednesday, 11 June 2025**

### *Description and scope of Proposed Plan Change 4*

Proposed Plan Change 4 (PC4) seeks to update existing Whakatāne District Plan Rule NH-R33 which manages flood risk to buildings. The Council has identified that the rule is not functioning as well as it could be and the changes proposed by PC4 seek to address this.

The purpose of PC4 is to achieve the following:

- Change the wording of Rule NH-R33 to align with the key components of Section 4.3.5.2 of the NZS4404:2010 so its reference can be removed. This will enable the use of piled foundations to raise a building platform level above the modelled flood level plus freeboard;
- Introduce definitions to provide clarity to help interpret Rule NH-R33;
- Make it easier to allow minor additions to buildings which are below the modelled flood level plus freeboard;
- Make it easier to build rooms which are not a habitable room below the modelled flood level plus freeboard; and
- Provide certainty that alterations within the footprint of existing buildings will not be captured under Rule NH-R33.

PC4 also proposes a modelled flood level threshold of less than 300mm at any proposed new building site, a factor which Council currently has no control over. A modelled flood level of less than 300mm provides certainty that the activity will not be permitted if the flood risk to the safety of people is more than low.

### *Making further submissions on Proposed Plan Change 4*

Further submissions close **5pm Wednesday, 11 June 2025**

Clause 8 Schedule 1 RMA identifies who can make a further submission:

*“The following persons may make a further submission.....*

- a) any person representing a relevant aspect of the public interest; and*
- b) any person that has an interest in the proposed plan greater than the interest that the general public has; and*
- c) the local authority itself.”*

A further submission may only express support or opposition to a matter raised in an original submission. It must not raise new matters.

Further submissions must be in the correct format; forms can be found on the webpage or from Council service centres and libraries.

*Post to:* Policy Planner  
Whakatāne District Council  
Private Bag 1002  
Whakatāne 3158

*Deliver to:* Policy Planner  
Whakatāne District Council  
14 Commerce Street  
Whakatāne 3120

*Email:* DistrictPlanPolicy@whakatane.govt.nz    *Online:* whakatane.govt.nz /plan-change-4

Once the closing date for further submissions has passed, Whakatāne District Council will convene hearings to consider submissions and further submissions that have been lodged and recommend decisions on the matters raised. Anyone who has made a submission or further submission and who has indicated that they wish to be heard will have the right to attend the hearings and present their submission.

A copy of the further submission is also required to be sent to the original submitter not later than five working days after lodging the further submission with Whakatāne District Council (clause 8A, Schedule 1 of the RMA).

Addresses for service of further submissions:

Whakatāne District Council  
c/o Policy Planner  
14 Commerce Street  
Whakatāne 3120

*Email:* DistrictPlanPolicy@whakatane.govt.nz

Addresses for service of the submitters can be found in the Compilation of Submissions

## Submitter 1: Reuben Cohen

Subm. Point	Provision	Position	Summary	Decision requested
1.1	NH-R33.1	Support in part	Raised building platforms may cause floodwater displacement onto other sites. This unwanted effect may reduce the value of these properties.	Include mitigation so the displaced floodwater from buildings required to have raised building platforms does not affect the value of some properties. Lined ponding of the displaced flood water is a mitigating measure that could be used.

## Submitter 2: Fuel Companies (BP, Mobil, Z Energy)

Subm. Point	Provision	Position	Summary	Decision requested (submitter proposed text is <u>underlined</u> and deleted text is shown as <del>strikethrough</del> )
2.1	NH-R33.1, NH-R33.2	Support in part	Generally supportive but believe Rule NH-R33.1 should differentiate between habitable/sensitive buildings and those that are resilient to flooding such as service station forecourts, so they are not captured under the rule.	Add an exception to Rule NH-R33.2 for buildings that are not enclosed and do not contain a habitable room. Amend NH-R33.2 to: <i>NH-R33.2 Exemptions from Rule NH-R33.1 are: ...</i> <u>e) Any building that is not enclosed and does not contain a habitable room.</u>
2.2	NH-AC8	Support	Support for the proposed assessment criteria.	Retain as notified.

### Submitter 3: Bay of Plenty Regional Council

Subm. Point	Provision	Position	Summary	Decision requested (submitter proposed text is <u>underlined</u> and deleted text is shown as <del>strikethrough</del> )
3.1	Definition - Building platform level	Support	Support for the proposed definition which brings clarity.	Retain as notified.
3.2	Definition - 1% AEP design storm level	Support in part	Better alignment could be achieved with the Regional Policy Statement's policies and objectives by clarifying the climate change scenario utilised by the 1% AEP design storm level definition.	Amend the 1% AEP design storm level definition to specify the climate change scenario it utilises is RCP8.5 or the equivalent Shared Socioeconomic Pathway (or most recent national or regional guidance). Amend definition for 1% AEP design storm level to:  <i>...Note: <del>A range of</del> Climate change scenarios are <del>able to be used</del> based on RCP8.5 or the equivalent SSP (or most recent national or regional guidance).</i>
3.3	Definition - Freeboard	Support	Support for the proposed definition which brings clarity.	Retain as notified.
3.4	NH-R33, NH-R33.1, NH-R33 – figure 56, NH-R33.2	Support	Support for new proposed rule title, rule default status and assessment criteria references, rule amendments and definition references, new figure and rule exemptions.	Retain as notified.
3.5	NH-R33	Support in part	Support for the restricted discretionary status for NH-R33 non-compliance but wants PC4 to clearly state that this replaces the current discretionary status.	Amend NH-R33 to state the activity status where compliance is not achieved into current District Plan formatting. Amend District Plan for any consequential amendments.  Amend NH-R33 to state:  <i><b><u>"Activity status where compliance not achieved: RDIS see RDIS assessment criteria NH-AC8"</u></b></i>
3.6	NH-AC8	Support	Support for the proposed assessment criteria.	Retain as notified.

3.7	NH-AC8.1	Oppose	Reference to Appendix L of the Regional Policy Statement is unnecessary, as it's intended for large sites and not relevant to PC4's focus on individual site assessments.	Delete NH-AC8.1 and amend consequential numbering.
-----	----------	--------	---	--

#### Submitter 4: Tim Fergusson

Subm. Point	Provision	Position	Summary	Decision requested (submitter proposed text is <u>underlined</u> and deleted text is shown as <del>strikethrough</del> )										
4.1	NH-R33.1	Support in part	Provide additional wording to make Rule NH-R33.1 clearer.	Amend NH-R33.1 to include wording that specifies that there are additional requirements to be complied with.  Amend NH-R33.1 to:  ....all building platform levels must account for flooding to the 1% AEP design storm level and include freeboard which is no less than that listed in Table 1, <del>provided that</del> , <u>and comply with the following requirements:</u>										
4.2	NH-R33.3 – Table 1	Support in part	Support for the inclusion of a table for freeboard requirements and its alignment with NZS4404:2010; however, a level of freeboard should be added to the table for non-habitable residential buildings, like garages, to align with NZS4404:2010 and Rule NH-R33.2(b)(ii).	Make general heading amendments to NH-R33.3 – Table 1 and add specified level of freeboard for Non-habitable residential rooms, buildings and detached garages.  Amend NH-R33.1 Table 1 to: <table><tr><td colspan="2">NH-R33.3 – Table 1 Minimum Freeboard Height Requirements</td></tr><tr><td><u>Freeboard</u></td><td><u>Minimum height</u></td></tr><tr><td>Dwellings and accessory buildings for habitation</td><td>0.5m</td></tr><tr><td>Commercial and industrial buildings</td><td>0.3m</td></tr><tr><td><u>Non-habitable residential rooms, buildings and detached garages.</u></td><td><u>0.2m</u></td></tr></table>	NH-R33.3 – Table 1 Minimum Freeboard Height Requirements		<u>Freeboard</u>	<u>Minimum height</u>	Dwellings and accessory buildings for habitation	0.5m	Commercial and industrial buildings	0.3m	<u>Non-habitable residential rooms, buildings and detached garages.</u>	<u>0.2m</u>
NH-R33.3 – Table 1 Minimum Freeboard Height Requirements														
<u>Freeboard</u>	<u>Minimum height</u>													
Dwellings and accessory buildings for habitation	0.5m													
Commercial and industrial buildings	0.3m													
<u>Non-habitable residential rooms, buildings and detached garages.</u>	<u>0.2m</u>													

Subm. Point	Provision	Position	Summary	Decision requested (submitter proposed text is <u>underlined</u> and deleted text is shown as <del>striketrough</del> )
4.3	NH-AC8	Support in part	Flood risk assessments by qualified experts can be costly and aren't always necessary; their requirement should be determined case by case due to the limited availability of specialists. NH-AC8.1 outlines flood risk assessment requirements, but an activity status for not meeting these standards is missing and should be specified.	Delete NH-AC8.1 and retain NH-AC8.2.
4.4	NH-R33 – figure 56	Support in part	The diagram for foundation types is supported, with the addition of details on the 300mm distance between the 1% AEP flood level and ground level recommended for clarity.	Amend figure 56 to show the 300mm 1% AEP design storm level for a piled foundation.

#### Submitter 5: Janda Consultants

Subm. Point	Provision	Position	Summary	Decision requested
5.1	NH-R33	Support in part	The costs of building or renovating a home are already too high.	There should be no extra costs for the property owner if resource consent is required to build or extend a dwelling.

#### Submitter 6: Bridget Robson

Subm. Point	Provision	Position	Summary	Decision requested
6.1	NH-R33	Support	Overall support for PC4 and its intent.	Retain as notified.



## **Whakatane District Plan 2017**

### **This is a submission on the following change proposed:**

#### **Plan Change 4 Building Platform Level Managing Flood Risk.**

My name is Reuben Cohen. I am the owner Occupier of 9 Russell Street in Whakatane 3120

My phone is 027 354 5377 email is drmaincoh@xtra.co.nz

I have no commercial or business interest with the outcome of this Plan Change.

I might be directly affected by the outcome of this Plan Change.

I wish to be heard in support of my submission.

#### **The specific provisions of the proposal that my submission relates to are:**

Dwelling buildings can be placed on poles instead of on raised platforms.

#### **My submission is:**

I support the plan.

However, the plan could create problems for buildings which exist on platform surfaces by lowering their value as they will be seen as displacing flood water to run onto other sites.

The new plan change, seen in isolation, will not cause this.

The revision of the old plan could cause this perception. Buildings have been erected on platforms thereby obeying the existing building rules. The displacement of flood waters is an unwanted effect of this type of construction. Therefore the buildings on platform sites may be seen to be causing unwanted flood effects, which in turn can reduce their property value.

I see it as a two tier system that might work against certain homeowners. One set of buildings will function adequately in the mitigation of a proposed 1% flood event while the platform built ones could be causing additional flooding to other sites by virtue of the displacement of water they cause.

#### **I seek the following decision from the local authority:**

Please note; just as the existing plan was put in place without accounting for the flood water displacement, I would like to point out that the present plan could also bring an unwanted effect into play, that of displaced flooding affecting value of some property.

I would like to see the proposed plan extended to include some mitigation of the displaced flood water from the platform built dwelling buildings. This would ensure that house values would not be reduced by virtue of building to a District Plan.

Simple lined ponding of the displaced water could ensure it would evaporate without adding to the flood water because a large proportion of Whakatane Town has a very high Ground Water Level of 0.5 metres according to BRANZ.

I ask that this mitigation be included as part of the Plan Change or at least an undertaking by the Council to mitigate is resolved.

Thanking you,

Reuben Cohen (10<sup>th</sup> March 2025)

**SLR Consulting New Zealand**

Level 5, The Todd Building, 95 Customhouse Quay, Wellington, 6011, New Zealand



13 March 2025

SLR Ref No.: 810.031413.00001 S01 v1.0 Whakatane PC4 Submission Fuel Companies 20250313

Policy and Planning Coordinator  
Whakatāne District Council

Private Bag 1002  
Whakatāne 3158

By email: [DistrictPlanPolicy@whakatane.govt.nz](mailto:DistrictPlanPolicy@whakatane.govt.nz)

SLR Project No.: 810.031413.00001

**RE: Submission on Whakatane District Plan Change 4: Building Platform Level  
Pursuant to Clause 6 of the First Schedule of the  
Resource Management Act 1991**

---

**Submitter:**

bp Oil New Zealand Limited  
PO Box 99 873  
Auckland 1149

Mobil Oil New Zealand Limited  
PO Box 1709  
Auckland 1140

Z Energy Limited<sup>1</sup>  
PO Box 2091  
Wellington 6140

Hereafter referred to as the **Fuel Companies**

**Address for Service:**

SLR Consulting New Zealand  
PO Box 911310  
Victoria St West  
Auckland 1142

Attention: Georgia Alston

Phone: 027 381 8487

Email: [Georgia.alston@slrconsulting.com](mailto:Georgia.alston@slrconsulting.com) and [Miles.rowe@slrconsulting.com](mailto:Miles.rowe@slrconsulting.com)

---

<sup>1</sup> On behalf of the wider Z group, including the Z Energy and Caltex operations in New Zealand.

## Introduction

- 1 bp Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (*the **Fuel Companies***) receive, store and distribute refined petroleum products around New Zealand. In Whakatane District (*the **district***), the Fuel Companies' core business relates to retail fuel outlets including service stations and truck stops.
- 2 The existing retail fuel activities in Whakatane include the storage and use of hazardous substances (typically petrol, diesel, and LPG), the refuelling of vehicles, and other vehicle services (air pump, car wash, etc.), and retail activities. The Fuel Companies' sites operate in accordance with Emergency Management Plans detailing procedures in case of emergency, including spills of hazardous substances.
- 3 Whakatane District Council (*the **Council***) has now publicly notified proposed Plan Change 4: Building Platform Level (PC4) pursuant to Clause 5 of the First Schedule of the Resource Management Act 1991 (RMA).

### **The specific provisions of Plan Change 4 that the Fuel Companies' submission relates to are summarised as follows:**

- 4 The specific provisions submitted on, the rationale for the Fuel Companies' submission on each of these matters, and the relief sought is contained in the attached **Schedule A**. The Fuel Companies support alternative relief that achieves the same outcomes.
- 5 In addition to the specific outcomes and relief sought, the following general relief is sought:
  - a) To achieve the following:
    - i. The purpose and principles of the *Resource Management Act 1991* (**RMA**) and consistency with the relevant provisions in Sections 6 - 8 RMA.
    - ii. Give effect to the Bay of Plenty Regional Policy Statement.
    - iii. Avoid duplication within the Bay of Plenty Regional Plan or other legislation.
    - iv. Assist the Council to carry out its functions under Section 31 of the RMA.
    - v. Meet the requirements of the statutory tests in Section 32 of the RMA.
    - vi. Avoid, remedy or mitigate any relevant and identified environmental effects.
  - b) To make any alternative or consequential relief as required to give effect to this submission, including any consequential relief required in any other sections of the plan that are not specifically subject of this submission but where consequential changes are required to ensure a consistent approach is taken throughout the document.
  - c) To make any other relief required to give effect to the issues raised in this submission.
- 6 **The Fuel Companies wish to be heard in support of this submission.**
- 7 If others make similar submissions the Fuel Companies may be prepared to consider presenting a joint case with them at any hearing.
- 8 The Fuel Companies could not gain an advantage in trade competition through this submission.

- 9 The Fuel Companies are directly affected by an effect of the subject matter of that submission that:
- a) Adversely affects the environment; and
  - b) Does not relate to trade competition or the effects of trade competition.

Signed on behalf of Z Energy Limited, bp Oil New Zealand Limited and Mobil Oil New Zealand Limited

Regards,

**SLR Consulting New Zealand**



**Georgia Alston**  
Project Consultant – Planning  
[Georgia.alston@slrconsulting.com](mailto:Georgia.alston@slrconsulting.com)

Attachments    Schedule A

## Schedule A

**Table 1: Fuel Companies submission and relief to Proposed Plan Change 4**

Where changes are sought within the table, additions are in red underline, and deletions are in ~~red strikethrough~~.


Provision	Position	Reason	Relief Sought
<b>Part 2 – District Wide Matters</b>			
<b>Natural Hazards Chapter</b>			
NH-R33.1	Support in part	<p>The Fuel Companies support NH-R33.1 in principle but consider that the rule should differentiate habitable / sensitive buildings from those that are resilient to the effects of flooding. Further to this, the definition of 'building' in the District Plan and clause (a) of the rule refer to the 'floor' of the building. Given the broad definition of 'building' in the District Plan, the Fuel Companies seek clarity as to how the rule applies to buildings which do not have a 'floor' and /or are not enclosed with walls (e.g., a forecourt at a service station), noting that these types of buildings / structures are inherently resilient to the effects of flooding and any users / occupants are able to self-evacuate in a flood emergency. It is not clear that such buildings are 'accessory buildings' exempt by NH-R33.2.</p> <p>To address the concerns outlined above, the Fuel Companies request that an additional exception be added to NH-R33.2 for buildings that 'are not enclosed.' Amending clause NH-R33.2 in this way would ensure that the rule is applied appropriately without changing the definition of 'building' or 'accessory building'.</p>	Retain as notified, subject to the changes requested for NH-R33.2 being implemented.
NH-R33.2	Support in part	<p>The Fuel Companies generally support the exceptions listed under NH-R33.2, particularly the exception for accessory buildings (clause (a)) and alterations to existing buildings (clause (d)).</p> <p>However, in relation to the concerns outlined above in relation to NH-R33.1 the Fuel Companies consider that it would be appropriate to include 'a building that is not habitable and not enclosed'. This exclusion would ensure that buildings such as forecourt canopies at service</p>	<p>Retain NH-R33.2 with the following changes: NH-R33.2 Exemptions from Rule NH-R33.1 are;</p> <p>...</p> <p><u>e) Any building that is not enclosed and does not contain a habitable room.</u></p>

Provision	Position	Reason	Relief Sought
		stations which do not contain a 'floor' are not incidentally captured by Rule NH-R33.1. This change will provide for buildings that are resilient to the effects of flooding where a design flood level and freeboard is not necessary.	
NH-AC8	Support	The Fuel Companies support the Assessment Criteria for a Restricted Discretionary Activity, particularly clause 1.a)(v) that provides for resilience of the building structure and materials to flooding.	Retain as notified.

Steven Perdia  
Chief Executive  
Whakatāne District Council  
Private Bag 1002  
3158

## Bay of Plenty Regional Council submission to Proposed Plan Change 4 to the Whakatāne District Plan

For matters relating to this submission please contact Sharlene Pardy ([sharlene.pardy@boprc.govt.nz](mailto:sharlene.pardy@boprc.govt.nz)) and/or Deborah Ganley ([deborah.ganley@boprc.govt.nz](mailto:deborah.ganley@boprc.govt.nz)).



Adele Hadfield  
**Strategy and Planning Manager**

**Bay of Plenty Regional Council submission on Proposed Plan Change 4 (Building Platform level for Flood Risk Management and Mitigation) to the Whakatāne District Plan**

Plan change reference or subject	Position	Reason	Relief sought ( <u>underlined</u> )
Part 1 – Interpretation – Definition New Building platform level definition	Support	Bay of Plenty Regional Council (Regional Council) supports proposed definition for New Building Platform Level to clarify terminology and the part of the building referred to.	RETAIN proposed definition for Building Platform Level as notified.
Part 1 – Interpretation – Definition New 1% AEP design storm level definition	Support and Amend	<p>Regional Council supports proposed definition for 1% AEP design storm level to clarify terminology expressing the probability of a certain sized flood occurring in a single year.</p> <p>The Proposed Plan Change 4 (PPC 4) s32 report mentions that the definition enables flood estimation to take into account the most up to date national guidance without a need to change the District Plan. Regional Council supports clarifying the climate change scenarios to be used for the basis of the definition, while enabling future flexibility.</p> <p>Regional Council recognises the Ministry for the Environment’s ‘Preparing for future flooding: a guide for local government in New Zealand’, that sets out key principles for managing flood risk. The first is to take a precautionary approach for planning decisions where there is uncertainty in climate change effects. The precautionary approach to climate change for flood modelling is appropriate. In addition, The National Policy Statement on Urban Development (NPS-UD) seeks planning decisions:</p> <ul style="list-style-type: none"> <li>to contribute to well-functioning urban environments, which are resilient to the likely current and future effects of climate change</li> </ul>	<p>AMEND new definition ‘1% AEP design storm level’ to include reference to RCP8.5 or the equivalent SSP or most recent national or regional guidance:</p> <p><b>Definition - 1% AEP design storm level:</b></p> <p>Means the top water level of the modelled 1% annual exceedance probability (AEP) event, that has taken into account the effects of climate change over at least a 100-year timeframe. Note: Climate change scenarios are <u>based on RCP8.5 or the equivalent SSP (or most recent national or regional guidance)</u>.</p>



Plan change reference or subject	Position	Reason	Relief sought (underlined)
		<p>(Policy 1); and</p> <ul style="list-style-type: none"> <li>• affecting urban environments, have particular regard to the likely current and future effects of climate change (Policy 6).</li> </ul> <p>Regional Council aims to manage resources sustainably and integrate policies for key issues like resource management and natural hazards through the RPS. Regional Council considers that PPC4 could better align with the integrated resource management approach of the Bay of Plenty Regional Policy Statement (RPS) Objective 11. This involves working holistically across organisational, spatial, and administrative boundaries to adopt consistent standards in regional and district plans. The key policies promoted are:</p> <ul style="list-style-type: none"> <li>• Policy IR 2B, which recognises the need to provide for predicted effects of climate change;</li> <li>• Policy IR 3B, which seeks to adopt long term strategic approaches to environmental change; and</li> <li>• Policy IR 5B, which gives regard to cumulative effects and increased risk from natural hazards.</li> </ul> <p>PPC4 could better respond to significant natural hazard issue 2.11.1.2 and Objective 31 of the RPS, which support avoiding or mitigating natural hazards by managing risk for people's safety, property protection, and lifeline utilities, and the following policies:</p> <ul style="list-style-type: none"> <li>• Policy NH 1B, which promotes a risk management approach to identify the (risk) likelihood and consequence of (amount) damage;</li> <li>• Policy NH 2B, which classifies risk hazards as high (beyond</li> </ul>	

Plan change reference or subject	Position	Reason	Relief sought (underlined)
		<p>tolerance level), medium and low (generally acceptable);</p> <ul style="list-style-type: none"> <li>• Policy NH 3B, which seeks to identify natural hazard risk and outcomes on a scale of tolerance and risk reduction responses to achieve long term strategic outcomes. It is noted that risk reduction can span decades particularly when relying on land and building redevelopment to improve resilience;</li> <li>• Policy NH 4B, which manages natural hazard risk on land subject to urban development;</li> <li>• Policy NH 5B, which encourages the reduction of natural hazard risk in the coastal environment;</li> <li>• Policy NH 7A, which identifies areas susceptible to natural hazards; and</li> <li>• Policy NH 11B, which provides for climate change.</li> </ul> <p><b>Climate change scenarios</b>  PPC4 definition for 1% AEP design storm level does not clarify the “range of climate change scenarios” applicable. Regional Council uses Ministry for Environment guidance for coastal and climate change projections in flood modelling, specifically the Representative Concentration Pathway (RCP) 8.5 or Shared Socioeconomic Pathway (SSP) 5-8.5. This ensures consistent consideration of future climate change impacts across the region. For example, the RCP 8.5 scenario is used to model coastal hazards like storm surge inundation. This consistent approach is crucial as flood areas in the Bay of Plenty often have downstream coastal boundaries, where combined hazards must</p>	

Plan change reference or subject	Position	Reason	Relief sought (underlined)
		<p>be considered.</p> <p>Regional Council supports amending the definition 1% AEP design storm level to clarify the climate change scenarios to be used for the basis of the 1% AEP.</p>	
Part 1 – Interpretation – Definition New Freeboard definition	Support	Regional Council supports proposed definition for Freeboard to clarify terminology.	RETAIN proposed definition for Freeboard as notified.
Part 2 – District Wide Matters – Hazards and Risks – NH Natural Hazards - Amended NH-R33 Building Platforms	Support	<p>Regional Council supports proposed amendments to:</p> <ul style="list-style-type: none"> <li>• NH-R33 rule title;</li> <li>• NH-R33 rule default status and assessment criteria references;</li> <li>• NH-R33.1 rule amendments and to include definition references to 1% AEP design storm level and freeboard for building design;</li> <li>• NH-R33-figure 56 amendments for clarity; and</li> <li>• NH-R33.2 rule exemptions</li> </ul>	RETAIN proposed amendments to rule as notified.
	Support and Amend	Regional Council supports a ‘Restricted Discretionary’ activity status for non-compliance with the permitted activity standards of NH-R33 and any consequential changes. PPC4 does not clarify that the restricted discretionary activity status is replacing the existing discretionary status.	<p>AMEND NH-R33 to state:</p> <p><b>“Activity status where compliance not achieved: RDIS</b></p> <p><i>see RDIS assessment criteria NH-AC8”</i></p> <p>AMEND the Operative District Plan as per any resulting consequential amendments.</p>

Plan change reference or subject	Position	Reason	Relief sought (underlined)
Part 2 – District Wide Matters – Hazards and Risks – NH Natural Hazards - Amended NH-AC8 Building Platform Levels	Support	Regional Council supports proposed amendments to NH-AC8 restricted discretionary assessment criteria.	RETAIN restricted discretionary assessment criteria as notified.
	Delete and Amend	Regional Council does not consider it necessary to reference Appendix L of the RPS as the Whakatāne District Plan already defines a 'suitably qualified and experience practitioner'. Appendix L is used for risk assessments of sites of 5 hectares or more and is not aligned with the general intent of PPC4 for individual site risk assessments.	DELETE NH-AC8.1 and AMEND consequential numbering.

13 March 2025



Whakatane District Council  
Private Bag 1002  
**Whakatane 3158**

Dear Sir/Madam

**SUBMISSION ON PLAN CHANGE 4 TO THE OPERATIVE WHAKATANE DISTRICT PLAN**

The details of this submission to Plan Change 4 to the Whakatane District Plan (District Plan) are provided below.

<b>Submitter Details</b>	Tim Fergusson
<b>Address for service</b>	C/- Fergusson Planning Limited tim@fergussonplanning.co.nz
<b>Contact phone number</b>	021 748 525
<b>Contact Email</b>	tim@fergussonplanning.co.nz

This submission supports the overall intent of Plan Change 4 in improving the flood risk management framework, subject to a number of amendments intended to clarify the rule framework and improve the efficiency of resource consent processes.

The specific submission points on Plan Change 4 are set out in Attachment 1.

I wish to be heard in support of this submission.

Signature of submitter:

A handwritten signature in black ink, appearing to read 'Tim Fergusson', followed by a horizontal line.

Dated: 13 March 2025

## APPENDIX 1: TIM FERGUSSON SUBMISSION POINTS ON PLAN CHANGE 4

TABLE 1: PLAN CHANGE 4 SUBMISSION POINTS													
PROVISION	SUPPORT/OPPOSE	SUBMISSION REASONS	RELIEF SOUGHT										
Whole change	Support with amendments	<p>The overall intent of Plan Change 4 in clarifying the requirements of Rule NH-R33 and enabling some building work below the minimum building platform level as permitted activities is supported.</p> <p>Further changes are recommended to parts of Rule NH-R33 and the associated assessment criteria to assist the rule interpretation and improve the efficiency of resource consent processes, where required.</p>	<p>The specific amendments sought in respect of Rule NH-R33 and assessment criteria NH-AC8 are set out below.</p>										
Rule NH-R33.1	Support with amendment	<p>A minor clarification is sought to the wording of Rule NH-R33.1 to aid interpretation of the requirements of the rule.</p>	<p>Amend NH-R33.1 as follows:</p> <p><i>All building platform levels must account for flooding to the 1% AEP design storm level and include freeboard which is no less than that listed in Table 1, <u>and comply with the following requirements:</u></i></p>										
Rule NH-R33.3 - Table 1	Support with amendment	<p>The inclusion of a table setting out freeboard requirements for different building uses aligns with NZS4404-2010 and is supported. No freeboard is specified in Table 1 for non-habitable buildings accessory to a residential use, for example garages (attached or detached). NZS4404:2010 requires a minimum freeboard of 0.2m which should be included in the table.</p> <p>Clause (b)(ii) of Rule NH-R33.2 requires that non-habitable rooms attached to a dwelling (e.g. attached garage) be constructed with materials resident to periodic flooding for the building elements below the 1% AEP design storm level plus freeboard. Electrical fittings must also be above this level. Including the appropriate floor level requirement in Table 1 is therefore necessary.</p>	<p>Amend Table 1 to include an additional row as follows:</p> <table><tr><th colspan="2"><u>NH-R33.3 – Table 1 Minimum Freeboard Height Requirements</u></th></tr><tr><td><u>Freeboard</u></td><td><u>Minimum height</u></td></tr><tr><td><u>Dwellings and accessory buildings for habitation.</u></td><td><u>0.5m</u></td></tr><tr><td><u>Commercial and industrial buildings.</u></td><td><u>0.3m</u></td></tr><tr><td><u>Non-habitable residential rooms, buildings and detached garages.</u></td><td><u>0.2m</u></td></tr></table>	<u>NH-R33.3 – Table 1 Minimum Freeboard Height Requirements</u>		<u>Freeboard</u>	<u>Minimum height</u>	<u>Dwellings and accessory buildings for habitation.</u>	<u>0.5m</u>	<u>Commercial and industrial buildings.</u>	<u>0.3m</u>	<u>Non-habitable residential rooms, buildings and detached garages.</u>	<u>0.2m</u>
<u>NH-R33.3 – Table 1 Minimum Freeboard Height Requirements</u>													
<u>Freeboard</u>	<u>Minimum height</u>												
<u>Dwellings and accessory buildings for habitation.</u>	<u>0.5m</u>												
<u>Commercial and industrial buildings.</u>	<u>0.3m</u>												
<u>Non-habitable residential rooms, buildings and detached garages.</u>	<u>0.2m</u>												
Assessment Criteria NH-AC8 (1)	Support with amendment	<p>The requirement to provide a flood risk assessment by a suitably qualified and experienced person in support of any resource consent application will add considerable cost to the process of obtaining resource consent and may not be necessary in all situations.</p> <p>Appendix L of the RPS clarifies that a suitably qualified and experienced person “<i>should be someone who could ultimately</i></p>	<p>Amend the Assessment Criteria to remove the Standards and Terms and retain the matters of discretion set out in NH-AC8 (2).</p> <p><u>NH-AC8 Building platform levels that do not comply with Rule NH-R33:</u></p> <p><u>1. Standards and Terms</u></p> <p><u>a) A Flood Risk Assessment must be provided by a suitably qualified and experienced person as described in RPS Appendix L –</u></p>										

		<p><i>stand in the Environment Court and provide expert testimony, and whose experience and qualifications stand up to Court scrutiny."</i> The field of natural hazard assessment is a specialist discipline, particularly in the area of coastal inundation with a relatively small number of experts available to provide assessments. The need for an assessment should be determined on a case-by-case basis.</p> <p>The restricted discretionary criteria set out in Clause (2) of NH-AC8 include the matters required to be assessed in the Flood Risk Assessment.</p> <p>It is also noted that there is no activity status specified for resource consent applications which do not meet Standard (1) by providing a Flood Risk Assessment. If the Standards and Terms are retained, an activity status for non-compliance should be specified.</p>	<p><u><del>Methodology for Risk Assessment. The Flood Risk Assessment must demonstrate the extent to which the proposal mitigates flood risk after the development is completed, including:</del></u></p> <p><u><del>(i) other works to increase flood storage on the property;</del></u></p> <p><u><del>(ii) the effects of any decrease in flood storage on the property;</del></u></p> <p><u><del>(iii) the effects on the conveyance of water in overland flow paths and on other properties;</del></u></p> <p><u><del>(iv) provision for safe evacuation and refuge of occupants in a flood event;</del></u></p> <p><u><del>(v) resilience of the building structure and materials to flooding;</del></u></p> <p><u><del>(vi) protection of building systems and services from flooding.</del></u></p>
Figure 56	Support with amendment.	<p>The inclusion of a diagram illustrating the application of Rule NH-33 for different foundation types provides helpful guidance and is supported. The inclusion of further detail to illustrate the maximum 300mm distance between the 1% AEP flood level and ground level will assist in clarifying this component of the rule.</p>	<p>Amend Figure 56 to specify the maximum distance of 300mm required between the 1% AEP design storm level and ground level for a pile foundation design.</p>

**Respondent No:** 1**Login:** Anonymous**Email:** n/a**Responded At:** Feb 24, 2025 10:52:42 am**Last Seen:** Feb 24, 2025 10:52:42 am**IP Address:** n/a

Q1. <b>Name</b>	Jason Jackson
Q2. <b>Organisation</b>	JANDA CONSULTANTS LTD
Q3. <b>I could gain advantage in trade competition through this submission</b>	No
Q4. <b>I am directly affected by an effect of the subject matter of the submission that: a. adversely affects the environment; and b. does not relate to trade competition or the effects of trade competition</b>	No
Q5. <b>The specific provisions of the proposal that my submission relates to are:</b>	The increased costs of building
Q6. <b>My submission is:</b>	I don't mind if you make changes or not but; No extra costs for the owner of property wanting to build or extend a dwelling.
Q7. <b>I seek the following decision from the local authority:</b>	No extra costs for the owner of property wanting to build or extend a dwelling for resource consents if required. The costs of building or renovating a home are far too high already for the average person who is just getting into the housing market.
Q8. <b>Attach a supporting document</b>	not answered
Q9. <b>Presenting your submission</b>	I do not wish to speak to my submission
Q10. <b>Contact phone number</b>	not answered



**Respondent No:** 2**Login:** Anonymous**Email:** n/a**Responded At:** Mar 12, 2025 08:18:30 am**Last Seen:** Mar 12, 2025 08:18:30 am**IP Address:** n/a

Q1. <b>Name</b>	Bridget Robson
<hr/>	
Q2. <b>Organisation</b>	not answered
<hr/>	
Q3. <b>I could gain advantage in trade competition through this submission</b>	No
<hr/>	
Q4. <b>I am directly affected by an effect of the subject matter of the submission that: a. adversely affects the environment; and b. does not relate to trade competition or the effects of trade competition</b>	No
<hr/>	
Q5. <b>The specific provisions of the proposal that my submission relates to are:</b>	
	The entire proposal
<hr/>	
Q6. <b>My submission is:</b>	
	To support Proposed Plan Change 4, as a sound method of addressing the issues it highlights with the current plan. The reasons I support it are that it: 1. provides floor level rules that cover all building methods, including piled foundations. 2: simplifies the process to get consent for an addition. 3. provides a set flood level threshold.
<hr/>	
Q7. <b>I seek the following decision from the local authority:</b>	
	To accept Plan Change 4
<hr/>	
Q8. <b>Attach a supporting document</b>	not answered
<hr/>	
Q9. <b>Presenting your submission</b>	I do not wish to speak to my submission
<hr/>	
Q10. <b>Contact phone number</b>	not answered
<hr/>	

# Addresses for Service

Submitter Name	Email Address for Service	Postal Address for Service
Submitter 1: Reuben Cohen	drmaincoh@xtra.co.nz	9 Russel Street, Whakatāne, 3120
Submitter 2: Fuel Companies (BP, Mobil, Z Energy)	<u>Georgia.alston@slrconsulting.com</u> , Miles.rowe@slrconsulting.com	SLR Consulting New Zealand, PO Box 911310, Victoria St West, Auckland 1142
Submitter 3: Bay of Plenty Regional Council	<u>sharlene.pardy@boprc.govt.nz</u> , deborah.ganley@boprc.govt.nz	Bay of Plenty Regional Council, PO Box 364, Whakatāne 3158.
Submitter 4: Tim Fergusson	tim@fergussonplanning.co.nz	171 Commerce Street, Whakatāne 3120
Submitter 5: Janda Consultants	jandadraughting@gmail.com	19 Dawn Parade, RD 1, Whakatāne 3191
Submitter 6: Bridget Robson	bridget@eland.co.nz	21 Carling Road, Whakatāne 3120