



BRIEFING

Waikato District Council Intensification Planning Instrument: Final referred recommendation

Date:	28 May 2026	Priority:	Routine
Security classification:	IN-CONFIDENCE	Tracking number:	26-BRF-00899

	Action sought	Response by
Hon Chris BISHOP Minister Responsible for RMA Reform	Please record your decisions on the recommendations. Please review and sign the letter in Appendix 3.	11 June 2026

Action for Minister's Office staff
Return the signed briefing to the Ministry for the Environment (S 9(2)(a) and S 9(2)(a)). Send signed response letter (Appendix 3) to Waikato District Council.

Appendices and attachments
Appendix 1: Detailed analysis and recommendations for decision on Matter B under clause 105 of Schedule 1 of the Resource Management Act 1991
Appendix 2: Waikato District Council's referral letters to the Minister on rejected Independent Hearing Panel recommendations (Oct 2024, Nov 2025)
Appendix 3: Draft letter to Aksel Bech, Mayor of Waikato, on your decision on Matter B
Appendix 4: Further information provided by Waikato District Council
Appendix 5: Site map for Matter B
Appendix 6: Consent order and consent memorandum
Appendix 7: Excerpts from the Independent Hearings Panel's Recommendations Report on Variation 3
Appendix 8: Excerpt from site appeal
Appendix 9: Excerpts from section 32 evaluation reports
Appendix 10: Excerpts from section 42A reports
Appendix 11: Excerpts from submissions, further submissions and hearings evidence.

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Jessica Ranger	General Manager	S 9(2)(a)	
Sarah McCarthy	Manager	S 9(2)(a)	✓
Rachael Law	Author		

The following departments/agencies have been consulted
N/A.

Minister's office to complete:

- | | | |
|--|---|------------------------------------|
| ☐ Noted | ☐ Approved | ☐ Declined |
| ☐ Overtaken by Events | ☐ Needs change | ☐ Seen |
| | ☐ See Minister's Notes | ☐ Withdrawn |

Minister's Comments

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Purpose

1. This briefing seeks your decision on the final referred recommendation (referred to as Matter B) for Waikato District Council's (the Council's) intensification planning instrument (IPI): Variation 3 Enabling Housing Supply to its Proposed District Plan (PDP).

Key points

2. On 31 October 2024, the Council referred two rejected Independent Hearings Panel (IHP) recommendations to you (letter in Appendix 2): the rezoning of 46 Jackson Street, Ngāruawāhia (Matter A); and in relation to 5837 Great South Road, Ngāruawāhia (Matter B).
3. You accepted the IHP's recommendation on Matter A on 14 April 2025 [BRF-5555 refers]. You did not make a decision on Matter B, due to an ongoing related Environment Court appeal, reserving your ability to make a decision at an appropriate time [BRF-5555 refers].
4. Matter B relates to part of the property at 5837 Great South Road, Ngāruawāhia (figure 1 shows aerial view of site).¹ The site is currently partly zoned General Residential Zone, and partly Medium Density Residential 2.
5. The portion of the site that Matter B relates to is the area zoned General Residential Zone and is subject to a Site and Area of Significance to Māori overlay, the overlay covers approximately 1.58 hectares (60.8% of the site) figure 2 below illustrates this. The site contains seven borrow pits² and associated features linked to Pukeiāhua Pā. North of the site is the Waikato River, immediately east and west of the site are developed residential sites zoned Medium Density Residential 2. The landowner is Perjuli Developments Ltd.

¹ The Legal description of 5837 Great South Road is Lot 100 Deposited Plan 580139. The site's address changed from 5851 to 5837 Great South Road since the PDP process commenced due to a subdivision. Where we have directly quoted references to 5851 Great South Road, it can be assumed these refer to 5837 Great South Road.

² The borrow pits are an archaeological and cultural landscape created by the utilisation of the soils deposited by the Waikato River.



Figure 1 The site at 5837 Great South Road.



Figure 2 Existing zoning and overlays at 5837 Great South Road in Waikato District Plan.

6. The referred recommendation on Matter B has three component parts:
 - a. B1: rezoning the specified area of the site from General Residential Zone (GRZ) to Medium Density Residential Zone 2 (MRZ2);

- b. B2: incorporating rule MRZ2-S1A, which restricts development within the Site and Area of Significance to Māori (SASM) by permitting only one residential unit per site within the SASM extent without resource consent; and
 - c. B3: the application and extent of a qualifying matter relating to a SASM identified on the site.
- 7. On 5 November 2025, the Environment Court issued an order, by consent of the parties, resolving the appeal relating to the site which confirmed the extent of a SASM, reducing the extent of the SASM by 21.5%, to cover a total of 47.7% of the site (further details in Appendix 6). Following the resolution of the appeal the Council wrote to you on 11 November 2025 seeking your decision on Matter B, and again on 24 March 2026 with an alternative recommendation for your consideration (Appendix 2).
- 8. The Council seeks a decision on Matter B, referred to you under clause 101(2) of Schedule 1 to the Resource Management Act 1991 (RMA). Under clause 105 of Schedule 1, you must accept or reject the referred IHP recommendation. If you reject it, you must then accept or reject the Council's alternative recommendation.
- 9. There is no material difference between the IHP's and Council's recommendations for B1 and B2 which would be to rezone the site to MRZ2 and incorporate rule MRZ2-S1A restricting development within the SASM. Accepting the IHP's recommendations for B1 and B2, or rejecting them and accept the Council's alternatives, would have the same outcome.
- 10. For B3, both the Council and IHP recommend the application of the SASM as a qualifying matter, the key difference in their recommendations is the spatial extent. The Council's recommendation aligns with the spatial extent in the Environment Court order, which was agreed to by the Council, mana whenua, the landowner and all other parties to the proceeding. The Council's recommended SASM extent was informed by archaeological evidence and reduces the mapped SASM area by approximately 21.5% through applying a 5 metre buffer from the edge of the identified borrow pits, rather than a 50 metre radius from the centre of each borrow pit, while continuing to protect the identified cultural values associated with the site.
- 11. We recommend you:
 - a. accept the IHP's recommendation relating to B1 (rezoning the specified part of the site to MRZ2);
 - b. accept the IHP's recommendation relating to B2 (the rule MRZ2-S1A restricting development by permitting only one residential unit per site within the SASM extent without resource consent); and
 - c. reject the IHP's recommendation relating to B3 (the SASM extent) and accept the Council's alternative recommendation to align the SASM extent with the Environment Court order.
- 12. Officials consider that these decisions would ensure cultural values are protected while enabling development capacity.

13. If you agree, we recommend you send the letter in Appendix 3 to Aksel Bech, Mayor of Waikato, advising the Council of your decision on Matter B.

Recommended action

The Ministry for the Environment recommends that you:

Noted

1. **Note** this briefing covers your final decisions on Waikato District Council's referred recommendation for its Intensification Planning Instrument (Variation 3), relating to Matter B. You have already made decisions on Matter A [BRF-5555 refers].

2. **Agree to:**

Matter B1

- a. accept the Independent Hearings Panel's recommendation to rezone 5837 Great South Road from General Residential Zone to Medium Density Residential Zone 2; and

Agree / Disagree

Matter B2

- b. accept the Independent Hearings Panel's recommendation to incorporate rule MRZ2-S1A; and

Agree / Disagree

Matter B3

- c. reject the Independent Hearings Panel's recommendation relating to the spatial extent of the Site and Area of Significance to Māori qualifying matter; and
- d. accept Waikato District Council's alternative recommendation relating to the spatial extent of the Site and Area of Significance to Māori qualifying matter;

Agree / Disagree

Agree / Disagree

3. **Agree to:**

- a. The following reasons for your decisions

Matters B1 and B2

- i. *the Council's alternative recommendation for rezoning the site to MRZ2 and incorporating rule MRZ2-S1A is now the same as the Independent Hearings Panel's recommendation; and*
- ii. *the Independent Hearings Panel's recommendation complies with the*

Agree / Disagree

requirements of the Resource Management Act 1991 to implement the medium density residential standards, subject to a justified qualifying matter, and gives effect to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020 by enabling greater development capacity for the site subject to an appropriate qualifying matter

Matter B3

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| <ul style="list-style-type: none"> iii. <i>it complies with requirements under the Resource Management Act 1991 to implement the medium density residential standards, subject only to a justified qualifying matter; and</i> iv. <i>it appropriately applies a Site and Area of Significance to Māori qualifying matter to the spatial extent confirmed by the Environment Court, balancing protection of cultural values identified on the site with enabling development capacity; and</i> v. <i>it is consistent with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020, particularly by providing greater development capacity for the site.</i> | <p><i>Agree / Disagree</i></p> |
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| <p>4. Sign the letter to the Mayor of Waikato District Council, Aksel Bech, included in Appendix 3 notifying Waikato District Council of your decision and the reasons for your decisions on Matter B</p> | <p><i>Agree / Disagree</i></p> |
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| <p>5. Note officials will provide additional material relevant to your decision (such as submissions and hearings evidence) on request</p> | <p><i>Noted</i></p> |
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| <p>6. Agree this briefing and appendices will be released proactively on the Ministry for the Environment's website within the next eight weeks</p> | <p><i>Agree / Disagree</i></p> |
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If you would like to make different decisions from those recommended by officials, or would like to discuss the recommendations:

Agree / Disagree

7. **Meet** with officials for further discussion.

Sarah McCarthy
Manager, Urban Policy
Environmental Management and Adaptation,
Ministry for the Environment

Hon Chris BISHOP
Minister Responsible for RMA Reform

28 / 05 / 2026

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Background

1. Under the Waikato District Plan - Operative in Part, the Matter B site at 5387 Great South Road is partly zoned General Residential (GRZ) and Medium Density Residential 2 (MRZ2). The portion of the site zoned GRZ is subject to a Site and Area of Significance to Māori (SASM) overlay.
2. The site contains seven borrow pits³ and associated features linked to Pukeiāhua Pā. North of the site is the Waikato River, immediately east and west of the site are developed residential sites zoned MRZ2. The landowner is Perjuli Developments Ltd.

The Proposed District Plan review and Intensification Planning Instrument

3. In July 2018, the Council notified a Proposed District Plan (PDP) as it was progressing a full District Plan review. The PDP proposed to rezone the site at 5837 Great South Road, Ngāruawāhia from New Residential to Residential. The decisions version of the PDP renamed the 'Residential Zone' to the 'General Residential Zone' to accord with the National Planning Standards, which came into effect in 2019. The notified PDP did not include a proposed Site and Area of Significance to Māori (SASM) on the site. A submission by Ngāti Tamainupō requested the PDP schedule the site as a SASM to recognise the cultural value of seven borrow pits and associated features linked to Pukeiāhua Pā at the site.
4. Since notification of the PDP, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 came into effect. This Act required specified territorial authorities⁴ to notify an Intensification Planning Instrument (IPI) to incorporate the medium density residential standards (MDRS) into their plans and give effect to the implementation of the intensification requirements in the National Policy Statement on Urban Development 2020 (NPS-UD).
5. The Council had held hearings but had not yet made decisions on the PDP when the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 came into effect in December 2021. In January 2022, the Council notified decisions on the PDP, which included the SASM over part of the site and zoned the site General Residential Zone. On 19 September 2022, the Council notified its IPI - Variation 3, to implement the MDRS and intensification requirements.
6. Councils were required to have completed their IPIs by 20 August 2023, unless they had an extension granted. In your capacity as the Minister for RMA Reform, you

³ The borrow pits are an archaeological and cultural landscape created by the utilisation of the soils deposited by the Waikato River.

⁴ Specified territorial authorities means any of the following:

- a. every tier 1 territorial authority (Auckland Council, Christchurch City Council, Hamilton City Council, Hutt City Council, Kāpiti Coast District Council, Porirua City Council, Selwyn District Council, Tauranga City Council, Upper Hutt City Council, Waikato District Council, Waimakariri District Council, Waipā District Council, Wellington City Council, Western Bay of Plenty District Council).
- b. a tier 2 or 3 territorial authority that is required by regulations to prepare and notify an intensification plan change (currently Rotorua Lakes Council).

granted the extension for Variation 3 by 7 months until 22 October 2024 [BRF-4742 refers].⁵

7. The Council made its decisions on the IHP's recommendations on 16 October 2024 and publicly notified its decisions on 22 October 2024, thereby complying with its amended timeframe.

There were concurrent PDP appeals that were relevant to Matter B's IPI provisions

8. In relation to the site at 5837 Great South Road, Ngāruawāhia, Blue Wallace Surveyors Ltd lodged an appeal on the decisions on the PDP on 1 March 2022 (ENV-2022-000045). The appeal related to identifying the SASM on the site and the associated PDP provisions, seeking removal or deferral of the SASM until supporting evidence was provided.
9. The Council referred Matters A and B to you on 31 October 2024 after rejecting the IHP recommendations. At that time, PDP appeals for 46 Jackson Street, Ngāruawahia (related to Matter A) and 5837 Great South Road, Ngāruawahia (related to Matter B) were underway. The Council requested you defer decisions for both Matters A and B until both appeals on the sites were resolved. The appeal for Matter A was resolved by consent order on 2 December 2024, and you decided on Matter A on 14 April 2025. At that time, you did not make a decision on Matter B as the related appeal was still ongoing [BRF-5555 refers].
10. The Environment Court has since resolved the appeal relating to the site at 5837 Great South Road, Ngāruawāhia by consent order on 5 November 2025 (Appendix 6). Following resolution of the appeal, the Council has provided an alternative recommendation for your decision on Matter B (Appendix 2). Your decision on Matter B is the final decision point required for the Council to complete its IPI. Table 1 below sets out the recommendation made by the IHP and Council in relation to the site.
11. There are three component parts to the referred recommendation for Matter B at 5837 Great South Road, Ngāruawāhia:
 - a. B1: rezoning the specified area of the site from General Residential Zone (GRZ) to Medium Density Residential Zone 2 (MRZ2);
 - b. B2: incorporating a rule MRZ2-S1A⁶ restricting development within a Site and Area of Significance to Māori (SASM) by permitting only one residential unit per site within the SASM extent without resource consent; and

⁵ New Zealand Gazette Notice Number 2024-sl3727.

⁶ **MRZ-S1A – Residential unit within the QM for ~~5851~~ 5837 Great South Road**

Activity status is permitted where up to one residential unit per site.

Activity Status where compliance not achieved: Restricted Discretionary Activity.

Council's discretion is restricted to the following matters:

- a) Intensity of the development; and
- b) Design, scale and layout of buildings and outdoor living spaces in relation to the planned urban character of the zone;
- c) The relationship of the development with adjoining streets or public open spaces, including the provision of landscaping; and

- c. B3: the application and extent of a qualifying matter relating to a SASM identified on the site.

Table 1: Summary of IHP and Council recommendations for 5837 Great South Road, Ngāruawāhia.

IHP's recommendation 22 March 2024	Council's 16 October 2024 decision and procedural request 31 October 2024	Council's alternative recommendation 24 March 2026	Comment
Matter B1: Rezoning site from General Residential Zone to Medium Density Residential Zone 2	Reject and requested that you defer your decision on the rejected recommendations until the resolution of the relevant PDP appeal	Accept the IHP recommendation	The Council's October 2024 decision to rejected these recommendations was to preserve appeal rights during the ongoing Environment Court proceedings, and considers that it cannot now accept them.
Matter B2: Introduction of the rule MRZ2-S1A restricting development by permitting only one residential unit per site within the Site and Area of Significance to Māori (SASM) without resource consent	Reject and requested that you defer your decision on the rejected recommendations until the resolution of the relevant PDP appeal	Accept the IHP recommendation	The Council now seeks the same rezoning and rule outcomes originally recommended by the IHP.
Matter B3: The application of a qualifying matter to the area of the property subject to the Site and Area of Significance to Māori	Reject and requested that you defer your decision on the rejected recommendations until the resolution of the relevant PDP appeal	Reject the IHP recommendation and align with the Environment Court consent order to reduce the spatial extent of the SASM by 21.5%.	The Council requests you decide to apply the SASM as a qualifying matter with the spatial extent agreed in the Environment Court order.

-
- d) Privacy and overlooking within the development and on adjoining sites, including the orientation of habitable rooms and outdoor living spaces; and
- e) Provision of 3-waters infrastructure to individual units; and
- f) The provision of adequate waste and recycling bin storage including the management of amenity effects of these on streets or public open spaces; and
- g) Where on-site car parking is provided, the design and location of car parking (including garaging) as viewed from streets or public open spaces.
- h) Within QM 5851 5837 Great South Road effects on the values associated with the Site or Area of Significance to Māori.

Intensification planning instruments and your Ministerial statutory function

12. Waikato District Council was required by the RMA to prepare an IPI using the Intensification Streamlined Planning Process to give effect to intensification requirements in the NPS-UD and to implement the MDRS. An IHP heard submissions and made recommendations on the IPI. In the instance of any recommendations rejected by the Council, the Council must refer the rejected recommendation (and reasons) to the Minister for the Environment, and may provide alternative recommendation to the Minister (or a relevant Minister with appropriate delegations or transfer of powers under section 7 of the Constitution Act 1986, which in this case is you).
13. Clause 105(2) of Schedule 1 to the Resource Management Act 1991 (RMA) sets out what you may take into account and may have regard to:
 - a. considerations the IHP could have taken into account (including submissions and evidence); new evidence cannot be commissioned to support your decisions
 - b. the Council's compliance with procedural requirements
 - c. whether the Council had regard to any statement of expectations (if issued).
14. You must accept or reject each referred IHP recommendation. If you reject an IHP recommendation, you must then accept or reject the Council's alternative recommendation. You may only alter a recommendation in a way that has a minor effect or to correct a minor error (clauses 105(4) and 105(5)).

Analysis and advice – Matter B

15. Matter B comprises of three component parts – for the site at 5837 Great South Road, Ngāruawāhia:
 - a. B1: rezoning the specified area of the site from GRZ to MRZ2;
 - b. B2: incorporating a rule MRZ2-S1A restricting development by permitting only one residential unit per site within the SASM extent without resource consent; and
 - c. B3: the application and extent of a qualifying matter relating to a SASM identified on the site.
16. Officials have been working Council officers to clarify the scope of their recommendation and the decision you need to make (Appendix 4). Following the resolution of the Environment Court appeal, the Council's updated alternative recommendation on matters B1 and B2 now align with the IHP recommendation on rezoning and rule MRZ2-S1A (see Table 1).
17. On this basis, officials consider the clearest procedural approach is for you to accept the IHP recommendation on these aspects, as there is no material difference or disagreement between the Council's and the IHP's recommendation on B1 and B2.

These recommendations appropriately give effect to the requirements of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the NPS-UD by enabling development capacity subject to an appropriate qualifying matter. Officials therefore recommend that you accept the IHP's recommendation in relation to the rezoning of the site to MRZ2 and incorporating the rule MRZ2-S1A (B1 and B2).

18. S 9(2)(h) [REDACTED]
19. Officials recommend you accept the Council's updated alternative recommendation for matter B3 because the Council's updated alternative recommendation does not materially alter the overall planning outcome sought through the IHP process, but instead refines the spatial extent of the SASM qualifying matter following resolution of the appeal.

Determining the SASM extent (Matter B3)

20. The only substantive difference in the Council's updated referral is the Council's alternative mapping (Appendix 5) of the spatial extent of the SASM, which aligns with the Environment Court consent order (Appendix 6), representing a reduction in SASM area of about a 21.5% from that considered by the IHP.
21. **Option 1 – Accept the IHP recommendation:** The SASM extent would remain as considered by the IHP, at approximately 1.58 hectares (as shown by orange dotted line in Appendix 5).
22. **Option 2 – Reject the IHP recommendation and accept the Council's alternative:** The SASM extent would be consistent with the Environment Court's decision, reducing the mapped SASM area by approximately 21.5% to 1.24ha (total of 47.7% of the site) (as shown by solid green line in Appendix 5), continuing to protect the identified borrow pits and associated cultural values, while enabling additional development capacity outside of the revised SASM extent.
23. Officials recommend Option 2 (reject the IHP's recommendation, and accept the Council's alternative recommendation) because it:
- a. is informed by archaeological evidence and advice from archaeologists regarding the appropriate extent of the borrow pits,

- b. is supported by mana whenua parties including Ngāti Tamainupō and Tūrangawaewae, as well as the Council, the landowner and other parties⁷, and
- c. reflects the outcome reached through Court assisted mediation and subsequent agreement between the parties, which was confirmed by the Environment Court consent order (Appendix 6).

24. You must provide the Council with reasons for your decision. Suggested reasons are:

Matters B1 and B2

- a. *the Council's alternative recommendation for rezoning the site to MRZ2 and incorporating rule MRZ2-S1A is now the same as the Independent Hearings Panel's recommendation; and*
- b. *the Independent Hearings Panel's recommendation complies with the requirements of the Resource Management Act 1991 to implement the medium density residential standards, subject to a justified qualifying matter, and gives effect to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020 by enabling greater development capacity for the site subject to an appropriate qualifying matter*

Matter B3

- c. *it complies with requirements under the Resource Management Act 1991 to implement the medium density residential standards, subject only to a justified qualifying matter; and*
- d. *it appropriately applies a Site and Area of Significance to Māori qualifying matter to the spatial extent confirmed by the Environment Court, balancing protection of cultural values identified on the site with enabling development capacity; and*
- e. *it is consistent with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020, particularly by providing greater development capacity for the site.*

⁷ Blue Wallace Surveyors Ltd lodged an appeal on behalf of the landowner. Waikato District Council were the respondents. The following parties joined the proceedings under section 274 of the RMA:

- Ngāa Uri o Tamainupoo Ki Whaaingaroa Trust (Ngāti Tamainupō)
- Te Whakakitenga o Waikato
- Tūrangawaewae Trust Board (as mana whenua with cultural interests in the borrow pits and associated landscape)
- Heritage New Zealand Pouhere Taonga (in relation to archaeological and heritage values of the site)
- Pukekohe Vegetable Growers Association (as part of the Federated Farmers appeal regarding earthworks)
- Perjuli Developments Ltd (the landowner).

Procedural matters

25. The Council met the procedural requirements of the Intensification Streamlined Planning Process. The Council was not required to have regard to a 'statement of expectations' because no statement was issued.
26. If you agree to officials' recommendations, these will be sent to the Council in your response letter (Appendix 3) for the Council to publish.
27. The Council will incorporate your accepted recommendation into its District Plan and publicly notify those changes, including your reasons for your decision. When this is carried out, the provisions become operative (clause 106 of Schedule 1 of the RMA).

Te Tiriti analysis

28. Matter B involves a SASM qualifying matter which is relevant to section 6(e)⁸ under the RMA. However, officials do not consider this briefing raises any separate Te Tiriti issues beyond the planning and cultural matters already addressed through the PDP and Environment Court process. We note that the recommended approach (accept the Council's alternative recommendation for B3) reflects an outcome which is consistent with an outcome agreed through the Environment Court process with mana whenua participation.

S 9(2)(h)

29. S 9(2)(h) [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
30. S 9(2)(h) [redacted]

Next steps

31. If you agree to the recommendations in this briefing, please review and send Aksel Bech, the Mayor of Waikato, the letter in Appendix 3 to notify the Council of your decision for Matter B.

⁸ Section 6(e) of the RMA: *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

(a)...

(e) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

32. If you would like to make a different decision to those recommended in this briefing, officials suggest a meeting for discussion.

Appendices

Appendix 1: Detailed analysis and recommendations for decision on Matter B under clause 105 of Schedule 1 of the Resource Management Act 1991

Appendix 2: Waikato District Council's referral letters to the Minister on rejected Independent Hearing Panel recommendations (Oct 2024, Nov 2025)

Appendix 3: Draft letter to Aksel Bech, Mayor of Waikato, on your decision on Matter B

Appendix 4: Further information provided by Waikato District Council

Appendix 5: Site map for Matter B

Appendix 6: Consent order and consent memorandum

Appendix 7: Excerpts from the Independent Hearings Panel's Recommendations Report on Variation 3

Appendix 8: Excerpt from site appeal

Appendix 9: Excerpts from section 32 evaluation reports

Appendix 10: Excerpts from section 42A reports

Appendix 11: Excerpts from submissions, further submissions and hearings evidence.

Appendix 1: Detailed analysis and recommendations for decision on Matter B under clause 105 of Schedule 1 of the Resource Management Act 1991

Appendix 1: Detailed analysis and recommendations for decision on Matter B under clause 105 of Schedule 1 of the Resource Management Act 1991

Context

1. Matter B relates to part of the property at 5837 Great South Road, Ngāruawāhia that is subject to the Site and Area of Significance to Māori (SASM) qualifying matter (the 'site'). The site covers seven borrow pits and associated features linked to Pukeiāhua Pā and when introduced covered approximately 1.58 hectares (Appendix 5). The landowner is Perjuli Developments Ltd.
2. Prior to the Proposed District Plan (PDP) and Variation 3, the site was zoned New Residential and did not include a SASM overlay in the district plan.

Background on Proposed District Plan

3. Upon notification on 18 July 2018, the PDP proposed to rezone the site from New Residential to Residential. The decisions version of the PDP renamed the 'Residential Zone' to the 'General Residential Zone' to accord with the National Planning Standards, which came into effect in 2019.
4. The notified PDP did not include a proposed SASM on the site. A submission by Ngāti Tamainupō requested the PDP schedule the site as a Māori Site of Significance (later referred to as the SASM in Variation 3) to recognise the cultural value of seven borrow pits at the site.
5. The decisions version of the PDP zoned the site General Residential with a SASM covering 60.8% of the site. The SASM overlay introduced additional consenting controls on the affected portion of the site, including restricting earthworks and subdivision within the mapped SASM area.

PDP submissions

6. The Ngāti Tamainupō submission on the PDP sought protection of significant borrow pits at the site.¹ Ms Kimai Huirama, on behalf of Ngāti Tamainupō (mana whenua), noted the high cultural value of the borrow pits on the site and noted its historical importance in relation to Pukeiāhua Pā and as an example of traditional Māori agricultural practices.²

PDP section 42A Hearing Report, and evidence presented in hearings

7. A specialist engaged by the Council, Dr Kahotea, concluded that issues raised by Ngāti Tamainupō were best addressed by the Council undertaking a review of the state of the remaining Waikato Horticultural Complex borrow pits with tangata

¹ Ngāti Tamainupō submission #962, page 2.

² [Decisions on the Independent Hearings Panel. Decision Report 7: Māori Sites and Areas of Significance. 17 January 2022, para 3.7.](#)

whenua, to develop a strategic or management plan with preservation and conservation objectives.³

8. The Council officer recommended the borrow pits be added to the planning map and Schedule 30.3 as a Māori Site of Significance, and the supporting further submissions be accepted.⁴ The section 42A report concluded:⁵
 - a. The borrow pits are the last pieces of evidence of the cultural landscape of Māori horticultural gardens associated with that Pukeiāhua Pā site.
 - b. The preservation of these pits is sensitive to the history of Ngāti Tamainupō, Pukeiāhua Pā, the name and history of Ngāruawāhia (*wahia nga rua* – open up the foodpits) that connects to the Hakarimata Range and the meeting of the two rivers at the point.
 - c. The further submission by Ngā Uri o Tamainupō ki Whaingaroa Trust [FS1111.2] be accepted in support of [962.1], and that the further submission Heritage New Zealand Pouhere Taonga [FS1323.151] supporting mana whenua [962.1] be accepted, which all supported the submission made by Ngāti Tamainupō i.e., to protect the significant borrow pits at 5851 Great South Road.
9. Blue Wallace Surveyors Ltd considered it inappropriate to pre-determine a level of cultural significance for a site until a collaborative and robust archaeological and cultural evaluation has been undertaken based on all relevant considerations.⁶

PDP IHP decision

10. The PDP Independent Hearings Panel (IHP) noted it received extensive evidence and submissions detailing the background to issues concerning this land, including Plan Change 17,⁷ a resource consent for earthworks, the Heritage NZ authority,⁸ and subsequent challenge by Ngāti Tamainupō, and the more recent occupation of the land by Ngāti Tamainupō.⁹
11. On the evidence presented, the PDP IHP was satisfied as to the cultural and historical importance of the remaining seven borrow pits at the site and included them as a Māori Site of Significance in Schedule 30.3 and on the planning maps.¹⁰

³ [Section 42A Report – Hearing 20: Māori Sites of Significance and Māori Areas of Significance, 29 June 2020, para 92.](#)

⁴ [ibid, para 93.](#)

⁵ [ibid, paras 94-96.](#)

⁶ [Hearing 20 – Māori Sites of Significance & Māori Areas of Significance: Evidence Circulation. Blue Wallace Surveyors, 15 July 2020.](#)

⁷ In 2017, Plan Change 17 rezoned the site from Rural to New Residential.

⁸ Perjuli had applied to Heritage New Zealand Pouhere Taonga for an archaeological authority in respect of S14/110 (charcoal remnants) and S14/373 (borrow pits/wider horticultural landscape). Source: [Decisions on a review under section 128\(1\)\(c\) of the Resource Management Act of the conditions of consent of LUC0350/20 which authorises the use of the site at 5851 Great South Road, Ngāruawāhia for bulk earthworks in the new residential zone, 23 February 2021, para 12.](#)

⁹ [Decisions on the Independent Hearings Panel. Decision Report 7: Māori Sites and Areas of Significance. 17 January 2022, paras 7.8.](#)

¹⁰ [ibid, paras 7.9.](#)

PDP appeals and resolution

12. Blue Wallace Surveyors Ltd lodged an appeal on behalf of the landowner regarding the inclusion and spatial extent of the SASM overlay and associated provisions.
13. There was some ambiguity around whether Blue Wallace Surveyors Ltd had scope to appeal matters relevant to the site at 5837 Great South Road. Ultimately, an Environment Court decision found that Blue Wallace Surveyors Ltd's further submission on the PDP provided the necessary scope for its appeal to include relief relevant to the site at 5837 Great South Road under section 85 of the RMA.¹¹
14. Waikato District Council were the respondents. The following parties joined the proceedings under section 274 of the RMA:
 - a. Ngaa Uri o Tamainupoo Ki Whaaingarua Trust (Ngāti Tamainupō)
 - b. Te Whakakitenga o Waikato
 - c. Tuurangawaewae Trust Board (as mana whenua with cultural interests in the borrow pits and associated landscape)
 - d. Heritage New Zealand Pouhere Taonga (in relation to archaeological and heritage values of the site)
 - e. Pukekohe Vegetable Growers Association (as part of the Federated Farmers appeal regarding earthworks)
 - f. Perjuli Developments Ltd (as the landowner/developer).
15. The parties attended Court-assisted mediation on 26 February 2024 and 17 December 2024 and engaged in post-mediation discussions. This appeal was resolved through a consent memorandum signed on 2 October 2025 and an Environment Court consent order issued on 5 November 2025. The consent order confirmed a reduced SASM overlay by 21.5% on the site to approximately 1.24 hectares (which would cover 47.7% of the site), applying a 5 metre buffer from the surveyed edge of the borrow pits, rather than the earlier methodology applying a buffer of a 50 metre radius from the centre of each borrow pit.¹²
16. The Court noted that the amended boundary would enable the balance of the land (approximately 1.36 hectares) to be developed and was supported by archaeological input. The Court also recorded the wider settlement context in which the landowner Perjuli Developments Ltd intended to sell the property to the Bridge Housing Trust, with a concept plan agreed in principle with iwi parties that included medium density housing on land outside the SASM and the SASM area intended to be protected and maintained by mana whenua.¹³

¹¹ [*Blue Wallace Surveyors Limited and \(ENV-2022-AKL-045\) Perjuli Developments Limited \(ENV-2022-AKL-053\) vs Waikato District Council \[2022\] NZEnvC 186, page 10.*](#)

¹² Environment Court Decision [2025] NZEnvC 357 at [13] and [15], and Joint Consent Memorandum in Support of Draft Orders at para 46.

¹³ Environment Court Decision [2025] NZEnvC 357 at [13]-[19], and Joint Consent Memorandum in Support of Draft Orders at paras 45, 48-49.

Background on Variation 3

Notified Intensification Planning Instrument Provisions

17. For 5837 Great South Road, Ngāruawāhia, Variation 3 as notified on 19 September 2022 proposed to:
- retain the General Residential Zone
 - include an urban fringe qualifying matter where the Medium Density Residential Standards (MDRS) would not apply. However, this was subsequently removed¹⁴
 - include a SASM qualifying matter as a matter of national importance that decision makers are required to recognise and provide for under section 6 of the RMA.¹⁵
18. The SASM sites were identified through a cultural assessment undertaken by the specialist engaged by the Council, Dr Kahotea.¹⁶ The section 32 report noted the horticultural soils, borrow pits and associated pā are of scale that makes them an outstanding and significant cultural and archaeological landscape in Aotearoa/New Zealand. Shaped by Māori use of the Waikato River and linked to the Puke-i-aahua Paa, they represent the most extensive complexes of Māori gardens identified in the country.¹⁷
19. A range of objectives that were introduced through the PDP process provided a policy framework for identification of this qualifying matter.¹⁸ The effect of the qualifying matter meant that earthworks require a resource consent as a restricted discretionary activity (SASM-R4), and subdivision is a restricted discretionary activity where the site is located within one proposed allotment (SASM-R5).¹⁹ The Council considered that while the existing rules in the SASM chapter of the PDP will limit earthworks and subdivision within the SASM, only two sites within the district are impacted by this qualifying matter, therefore the impact on development in the district is very limited.²⁰
20. The section 32 report recognised the economic costs of the proposal, but stated development on an identified SASM has the potential to adversely affect the historic and cultural values of the site, and therefore, the SASM rules are appropriate in the context of section 6(e) of the RMA.²¹

¹⁴ [Variation 3 to the Proposed Waikato District Plan: Enabling Housing Supply: Decisions on Independent Hearing Panel Recommendations \(22 October 2024\), Attachment E - Accept Reject Specific Amendment Recommendations \(22 October 2024\), Finding 1](#)

¹⁵ [Section 32 Report – Volume 2. Qualifying Matters. Prepared for Variation 3 to the Proposed District Plan, September 2022, section 5.1, page 29.](#)

¹⁶ [ibid, section 5.4, page 32.](#)

¹⁷ [ibid, section 5.1, page 29.](#)

¹⁸ [ibid, section 5.1, page 30.](#)

¹⁹ [ibid, section 5.2, page 30.](#)

²⁰ [ibid, section 5.6, page 32.](#)

²¹ [ibid, section 5.7, page 32.](#)

Key submissions on Variation 3

21. Blue Wallace Surveyors Ltd made a submission on Variation 3 on behalf of Perjuli Developments Ltd²², seeking:²³
- a. to have medium density residential development enabled at the site
 - b. the PDP Planning Maps be amended to rezone the property to a medium density residential zone
 - c. consequential amendments to relevant objectives and policies to recognise the land between the Ngāruawāhia Township and the commercial and industrial areas north of Hamilton City represent a suitable location to enable the MDRS.
22. Blue Wallace Surveyors Ltd noted that the land to the south of Ngāruawāhia should be rezoned to enable medium density development given the high employment and commercial use base for existing and future residents.²⁴ The submission highlighted the site is located 1.1km from the MRZ2 area in Ngāruawāhia, and accessibility to the Town Centre Zone, regular bus services to Hamilton City, and industrial and commercial areas in northern Hamilton (Te Rapa) approximately 8km away.²⁵
23. The submission noted the new residential growth area to the south of the Ngāruawāhia township has been provided with new key infrastructure (three waters and network utility operators), provided mainly through the comprehensive River Terraces development. In the submitter's view, provision of this infrastructure provides Council and the local community with confidence that enabling higher density at the site is pragmatic.²⁶

Hearings process – section 42A Hearing Report and evidence presented in hearings

24. Evidence presented by the Council's Planning and Policy Manager, Mr James Ebenhoh, noted for the majority of qualifying matters, Variation 3 carries forward the standards developed through the PDP process, including the SASM.²⁷

Variation 3 section 42A report

25. In the section 42A report, the Council officer noted an Environment Court decision (ENV-2021-AKL-000025) concluded that the area is of cultural significance.²⁸ In the Council officer's opinion, an additional qualifying matter under s771(a) is justified for this site because it is culturally significant and would limit the number of residential units from that which could be achieved through the General Residential Zone.²⁹

²² [Submission #103 Variation 3 – Enabling Housing Supply: Submission of Perjuli Developments Limited, 28 October 2022.](#)

²³ [ibid, pages 4-5.](#)

²⁴ [ibid, page 4.](#)

²⁵ [ibid, page 4.](#)

²⁶ [ibid, page 4.](#)

²⁷ [Statement of evidence of James Dylan Ebenhoh for Waikato District Council for opening strategic hearing, 20 December 2022, para 81.](#)

²⁸ [Section 42A Report – Report on submissions and further submissions – Variation 3 to the Proposed Waikato District Plan, Enabling Housing Supply. 15 June 2023, para 165.](#)

²⁹ [ibid, para 166.](#)

26. The Council officer noted the determination of whether the SASM applies to the site will be made by the Environment Court.³⁰

Legal submissions

27. The Council's legal submissions noted the:

- a. IHP does not have scope to determine whether the SASM at the site should be deleted
- b. IHP is limited to considering whether the *rules* that make development in the vicinity of a SASM less enabling are appropriately justified under sections 77J
- c. decision regarding whether the SASM is appropriate sits with the Environment Court.³¹

28. The Council's legal submissions noted the protection of the site via the SASM qualifying matter was introduced as a consequence of the removal of the urban fringe qualifying matter, to ensure sufficient protection was provided in relation to the SASM.³² The Council's legal submissions highlighted how the Council's rebuttal evidence noted the SASM applied at 5851 Great South Road did not reduce modelled dwelling capacity as the site does not contain planned infrastructure provision within the long-term.³³ Therefore, the site also does not contain dwelling capacity in the absence of the qualifying matter.³⁴

Reasons for the Independent Hearings Panel's recommendation

Zoning

29. The IHP did not provide a recommendation with specific reference to the zoning of 5851/5837 Great South Road. As with Matter A, the Council confirmed in its response letter to officials (Appendix 4), as a result of the removal of the urban fringe qualifying matter, the IHP intended for the site to be rezoned to MRZ2 and not GRZ.

Rule MRZ2-S1A

30. The IHP did not provide a further detail on the introduction of rule MRZ2-S1A, but included the rule as an appendix to its report. In the Council's response letter (Appendix 4), it noted the IHP intended that rule MRZ-S1A only applies to the part of the site where the SASM applies.

SASM qualifying matter

³⁰ [Section 42A Report – Report on submissions and further submissions – Variation 3 to the Proposed Waikato District Plan, Enabling Housing Supply, 15 June 2023, para 166.](#)

³¹ [Opening Legal Submissions of Counsel for Waikato District Council for the Joint Opening Hearing, 10 February 2023, paras 8.27-8.28 and page 16 of Appendix 1.](#)

³² [Legal Submissions on behalf of Waikato District Council for Substantive Hearing, 21 July 2023, para 87\(g\).](#)

³³ [ibid, para 181.](#)

³⁴ [Statement of Rebuttal Evidence of Susan Michelle Fairgray for Waikato District Council \(Urban Economics\), 19 July 2023, para 33.](#)

31. The IHP noted the section 42A report³⁵ stated how the PDP contains all district-wide provisions which relate to matters in section 6 of the RMA, but the PDP contains only the spatial extent of the mapped overlays, including the SASM.³⁶ Therefore, the variation does not modify the spatial extent of the SASM as it is with the Environment Court to decide, but the IPI includes the associated rules and underlying zoning relating to the SASM QM.³⁷
32. For qualifying matters that the IHP did not explicitly address in its report (which included the SASM qualifying matter relating to Matter B), the IHP confirmed that it accepted the Council's evidence and submissions on the necessity for and appropriateness of these qualifying matters as set out in the Council's section 32 report, section 42A report, relevant expert evidence and legal submissions.³⁸ The IHP therefore inherently accepted these qualifying matters, including the SASM as it relates to Matter B, as in its view, had been thoroughly tested through the PDP Schedule 1 process.³⁹

Reasons for the Council's alternative recommendation

33. The Council sought on 31 October 2024 that you defer making a decision on the zoning of the site and application of the qualifying matter until the appeal had been determined by the Environment Court, to preserve the appellant's appeal rights in accordance with clause 36(2) of Schedule 12 of the RMA (Appendix 2).
34. As with Matter A, the Council's 31 October 2024 request to defer your decision did not constitute a lawful alternative recommendation rather it was essentially a procedural request.
35. Following resolution of the appeal, the Council wrote to you on 24 March 2026 with an alternative recommendation (Appendix 2) that:
- a. B1: accepts the recommendation of the IHP to rezone 5837 Great South Road from General Residential Zone to Medium Density Residential Zone 2;
 - b. B2: accepts the recommendation of the IHP to incorporate rule MRZ2-S1A which restricts development within the SASM by permitting only one residential unit per site within the SASM extent without resource consent, and
 - c. B3: applies a SASM qualifying matter over the site in accordance with the amended spatial extent confirmed through the Environment Court consent order dated 5 November 2025.
36. Officials sought clarification from Council officers regarding the scope of this alternative recommendation (Appendix 4).

³⁵ [Section 42A Report – Report on submissions and further submissions – Variation 3 to the Proposed Waikato District Plan, Enabling Housing Supply](#), 15 June 2023, section 4.4 [para 345].

³⁶ [Recommendations of the Independent Hearing Panel, 22 March 2024, para 267.](#)

³⁷ Statement of evidence of James Dylan Ebenhoh for Waikato District Council for opening strategic hearing, 20 December 2022, para 81., and [Recommendations of the Independent Hearing Panel, 22 March 2024, para 282.](#)

³⁸ [Recommendations of the Independent Hearing Panel, 22 March 2024, paras 284-285.](#)

³⁹ [ibid, para 285.](#)

37. While the Council's updated alternative recommendation now aligns substantively with the IHP's recommendation relating to the rezoning of the site to MDRZ2 and application of rule MRZ2-S1A, those recommendations remain formally referred to you under clause 101(2) of Schedule 1 to the RMA. Officials therefore consider the clearest procedural approach is for you to accept the IHP's recommendations on those matters. The only substantive difference between the IHP's recommendation and the Council's updated alternative recommendation relates to the spatial extent of the SASM overlay on the site as a result of the now resolved PDP appeal.
38. The amended SASM extent was agreed through Court-assisted mediation and subsequent negotiations between the Council, the landowner, mana whenua parties and other parties to the appeal⁴⁰, and was confirmed by the Environment Court consent order dated 5 November 2025 (Appendix 6).
39. The amended extent also reflects the recognised archaeological and heritage values⁴¹ associated with the borrow pits and nearby Pukeiāhua Pā, including archaeological values recognised through the Heritage New Zealand Pouhere Taonga Act 2014 framework. The amended extent more accurately depicts the spatial extent of the SASM as informed with input from mana whenua parties and advice from archaeologists Dr Warren Gumbley and Dr Matthew Campbell.⁴²
40. The Environment Court consent order and the consent memorandum record that the parties considered multiple reasonably practicable options regarding both the SASM provisions and the spatial extent of the SASM overlay before reaching agreement on the amended extent.⁴³
41. The Court noted that:
- a. the parties had assessed costs and benefits
 - b. the agreed amendments represented a nuanced and balanced approach
 - c. the agreed amendments were the most appropriate way to achieve the purpose of the RMA, give effect to the Waikato Regional Policy Statement and achieve the purpose of the objectives of the District Plan, and
 - d. the relevant requirements of the Act were broadly met.⁴⁴
42. The Environment Court process confirmed the retention of the SASM overlay on the site while refining its spatial extent by applying a 5 metre buffer from the edge

⁴⁰ Appellants: Blue Wallace Surveyors Limited, Federated Farmers of New Zealand Incorporated, Respondent: Waikato District Council. Section 274 parties: Te Whakakitenga o Waikato, Pukekohe Vegetable Growers Association, Perjuli Developments Limited, Ngāa Uri o Tamainupoo Ki Whāingaroa Trust, Heritage New Zealand Pouhere Taonga, Tūrangawaewae Trust Board.

⁴¹ Section 6(e) of the RMA has historic heritage as a matter of national importance. Historic heritage is defined in the RMA as including sites of significance to Māori.

⁴² Environment Court Decision [2025] NZEnvC 357 at [50] and [51], and Joint Consent Memorandum in Support of Draft Orders at paras 57-58.

⁴³ Environment Court Decision [2025] NZEnvC 357 at [51], and Joint Consent Memorandum in Support of Draft Orders at paras 76 and pages 34-39.

⁴⁴ Environment Court Decision [2025] NZEnvC 357 at [51], and Joint Consent Memorandum in Support of Draft Orders at paras 74 and 76.

of the surveyed borrow pits, rather than the earlier methodology based on a 50 metre radius from the centre of each borrow pit.⁴⁵

43. The amended extent reduces the mapped SASM area by approximately 21.5% while continuing to protect the identified cultural and archaeological values associated with the borrow pits and nearby Pukeiāhua Pā.⁴⁶
44. The Court also noted that the amended boundary would enable the balance of the site outside the SASM to be developed for medium density housing, while the SASM area would be protected and maintained through arrangements agreed in principle between the landowner, Bridge Housing Trust and mana whenua parties.⁴⁷
45. Officials consider the Council's alternative recommendation reflects the final settled position reached through the Environment Court process and appropriately reflects the outcome confirmed through the consent order.

⁴⁵ Environment Court Decision [2025] NZEnvC 357 at [13] and [15], and Joint Consent Memorandum in Support of Draft Orders at para 46.

⁴⁶ Environment Court Decision [2025] NZEnvC 357 at [15].

⁴⁷ Environment Court Decision [2025] NZEnvC 357 at [14(c)] and [16], and Joint Consent Memorandum in Support of Draft Orders at para 45 and Appendix A (page 26 of Consent Memo).

Appendix 2: Waikato District Council's referral letters to the Minister on rejected Independent Hearing Panel recommendations (Oct 2024, Nov 2025)

31 October 2024

Hon Chris Bishop
Minister for Housing and RMA Reform
Private Bag 18 888
Parliament Buildings
Wellington 6160

Email: C.Bishop@ministers.govt.nz

Dear Minister,

Proposed Waikato District Plan – Decisions on Variation 3: Enabling Housing Supply

On 16 October 2024 Waikato District Council ('Council') made its decisions on the IHP recommendations for Variation 3, being Council's Intensification Planning Instrument. The decisions were publicly notified on 22 October 2024 and the accepted provisions have been made operative on 30 October 2024.

The Council accepted the recommendations from the IHP except for two matters. The two rejected recommendations are being referred to you in accordance with clause 101(2) of Schedule 1 to the Resource Management Act 1991 ('Act'). They relate to two discrete sites that are subject to outstanding appeals. Both sites are in Ngaaruawaahia, being 46 Jackson Street and 5837 Great South Road.

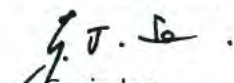
The reasons for rejecting each recommendation and the alternative recommendation for each are attached to this letter.

In each case the Council is requesting that you defer making a decision until the outstanding appeals are resolved to preserve the appellants' appeal rights under clause 36(2) of Schedule 12 of the Act.

To assist your consideration of the request to defer, I provide a progress report on each appeal. Council is continuing settlement discussions with the appellants. With respect to 46 Jackson Street agreement has now been reached in principle and the Council is in the process of drafting consent documents. Once the order is issued you will be able to accept the IHP recommendation to upzone the property to Medium Density Residential Zone 2. The appeal relating to 5837 Great South Road is set down for a second Court-assisted mediation on 17 December 2024.

We will keep you informed of developments. If you require any further information, please let me know.

Yours sincerely


Gavin Ion
Chief Executive

Zoning of 46 Jackson Street

For the decision on the zoning of 46 Jackson Street to be referred to the Minister

IHP Provision / Recommendation rejected by Waikato District Council	Description of recommendation	Reason why the Council does not support the recommendation	Alternative recommendation	Why is the alternative recommendation preferred
Planning Maps - zoning of 46 Jackson Street, Ngaaruawaahia to Medium residential zone 2 (MRZ2)	There is no specific recommendation associated with this site. The IHP did not include Planning Maps with their recommendations. The recommendation is a consequence of the finding that the urban fringe is not a qualifying matter and as a consequence the MRZ2 applies .	There is a live appeal on this site (ENV-2022-AKL00030). A link to the appeal is provided here . The appellant is Mr. Simon Upton. The appellant wrote to the Court on 22 August 2024 to amend the appeal. The appeal now only applies to 46 Jackson Street (owned by a neighbour to Mr Upton). The appeal seeks that 46 Jackson Street to be rezoned from General residential zone to General rural zone. In the alternate, the appeal now seeks for the land to be rezoned to Large lot residential or some other lower density residential zone. It also seeks a further alternative for the rules to be amended to provide for	Council seeks that the Minister defers making a decision on the zoning of 46 Jackson Street until the appeal lodged by Mr. Simon Upton has been determined by the Environment Court.	Deferring a decision until the appeal has been determined by the Environment Court is considered necessary to preserve Mr Upton's appeal rights. If the Minister was to accept the rezoning to MRZ2, the zoning would become operative upon notification of the Minister's decision under clause 105(7) of Schedule 1 to the RMA. Once the zoning is operative, the Court has no jurisdiction to amend the zoning. If the decision is deferred and the Environment Court determines the General residential zone is the most appropriate zoning for 46

		an appropriate transition from rural to residential zone. For the reasons explained in the final column, Council does not support the recommendation at this stage to rezone 46 Jackson Street to MRZ as it wishes to preserve Mr Upton's rights under the appeal.		Jackson Road, the Minister can then accept the IHP's recommendation and upzone the property to MRZ2.
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Zoning and QM 5837 Great South Road

For the decision on 5837 Great South Road including zoning and the QM – Rule MRZ2-S1A and the note to be added to MRZ2-S1

IHP Provision / Recommendation rejected by Waikato District Council	Description of recommendation	Reason why the Council does not support the recommendation	Alternative recommendation	Why is the alternative recommendation preferred
Planning Maps - zoning of 5837 Great South Road and QM Rule MRZ2-S1A Residential unit within the QM for 5837 Great South Road	Apply a QM to the SASM at 5837 Great South Road and rezone the land subject to the SASM from GRZ to MRZ2.	There is a live appeal on this site (ENV-2022-000045). The appellant is Blue Wallace Surveyors. The appeal relates to the identification of a Maaori Site of Significance on the property and the associated objectives, policies and rules in the Sites and Areas of Significance to Maaori Chapter of the Proposed District Plan. For the reasons explained in the final column, Council does not support the recommendation at this stage to rezone the property to MRZ2 with a QM rule as it wishes to preserve the appellant's appeal rights.	Council seeks that the Minister defers making a decision on the zoning and the application of a QM to the site until the appeal lodged by Blue Wallace Surveyors has been determined by the Environment Court.	Deferring a decision until the appeal has been determined by the Environment Court is considered necessary to preserve Blue Wallace Surveyors' appeal rights. If the Minister was to accept the rezoning to MRZ2 and the site-specific QM, the provisions would become operative upon notification of the Minister's decision under clause 105(7) of Schedule 1 to the RMA. Once the zoning is operative, the Court has no jurisdiction to amend the zoning or the associated QM. If the decision is deferred and the Environment Court determines that

				the SASM does not meet the test under s6 of the RMA, then the Minister can accept the IHP's recommendation to rezone the property to MRZ2 but there will be no justification for a QM. Conversely, if the Environment Court determines the SASM is appropriate, the Minister can accept the rezoning with the QM.
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11 November 2025

Hon Chris Bishop
Minister for Housing and RMA Reform
Private Bag 18 888
Parliament Buildings
Wellington 6160

Email: C.Bishop@minister.govt.nz

Cc: **S 9(2)(a)**

Dear Minister

Waikato District Plan- Operative in Part – Decisions on Variation 3: Enabling Housing Supply

As you are aware, Waikato District Council ("Council") has now incorporated the Medium Density Residential Standards ("MDRS") into the Waikato District Plan – Operative in Part ("WDP-OiP") through decisions made on Variation 3 to the then Proposed Waikato District Plan ("PDP"). However, the Council's decisions on Variation 3 did not apply the MDRS to two properties as both were subject to appeals on the PDP.

The Independent Hearing Commissioners' recommendations on Variation 3 relating to the two properties were referred to the Minister's office on 31 October 2024, with a request to defer making a determination pending resolution of the appeals relating to those properties. These matters are referred to as Matter A and Matter B.

However, Matter B relating to the property at 5837 Great South Road ("the Property") remained outstanding. The appeal subject to this Property concerned the scheduling of a site and area of significance to Maaori ("SASM") on the Property. The area of the Property within the SASM overlay is zoned General residential and the Independent Hearing Panel on Variation 3 recommended the SASM overlay be upzoned to Medium density residential zone 2 ("MDRZ2") with a Qualifying matter. The SASM overlay has remained General residential zone ("GRZ") while the appeal remained outstanding. A copy of the current zoning for the Property and SASM overlay is attached as Appendix A.

The outstanding appeal on the Property was settled by way of a Consent Memorandum signed by the parties on 2 October 2025. The Environment Court issued a Consent Order resolving the appeal on 5 November 2025. A copy of the Consent Memorandum and the Consent Order is attached as Appendix B and C respectively for the Minister's reference.

The Consent Memorandum provides an explanation of the agreement reached between the parties. In summary, it was agreed to reduce the spatial extent of the SASM overlay over the Property whilst protecting the borrow pits. The new SASM area is identified on the map attached as Appendix A to the Consent Order. The reduced extent of the SASM overlay was supported by mana whenua and technical advice from archaeologists.

The agreement is considered to be appropriate and gives effect to the higher order planning documents and legislation. It was also supported by a section 32AA evaluation which was submitted to the Court.

Accordingly, Council now requests that the Minister makes decisions on the Independent Hearing Commissioners recommendations to:

- (a) Rezone all remaining GRZ areas within the Property to MRZ2. This includes the area within the new reduced SASM overlay and the small area that was within the decision version SASM overlay but now sits outside the overlay. Attached as Appendix D is a map identifying the area to be zoned MRZ2; and
- (b) Apply a site-specific Qualifying Matter to the area within the reduced SASM overlay. The qualifying matter allows only one residential unit as a permitted activity. More than one residential unit is a restricted discretionary activity. Attached as Appendix E is a copy of Rule MRZ2-S1A to give effect to the Qualifying Matter.

If you require any further information, please let me know.

Your sincerely



Craig Hobbs
Chief Executive
Waikato District Council



Legend

Property Boundary

Rail

Sites and areas of significance to Maaori

Zone Operative

MRZ2 - Medium density residential zone 2

Road

Zone PartOp

GRUZ - General rural zone

GRZ - General residential zone

GIZ - General industrial zone

Road

Pages 9-52 are withheld under s9(2)(h) of the Official Information Act 1982

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2025] NZEnvC 357

IN THE MATTER OF appeals under clause 14 of the First
Schedule to the Resource Management
Act 1991

BETWEEN BLUE WALLACE SURVEYORS
LIMITED

(ENV-2022-AKL-000045)

FEDERATED FARMERS OF NEW
ZEALAND INCORPORATED

(ENV-2022-AKL-000051)

Appellants

AND WAIKATO DISTRICT COUNCIL

Respondent

AND PERJULI DEVELOPMENTS
LIMITED

TE WHAKAKITENGA O
WAIKATO

NGAA URI O TAMAINUPOO KI
WHAAINGAROA TRUST

HERITAGE NEW ZEALAND
POUHERE TAONGA

TUURANGAWAEWAE TRUST
BOARD

PUKEKOHE VEGETABLE
GROWERS ASSOCIATION

Section 274 Parties

Blue Wallace Surveyors Limited & ors v Waikato District Council – Appeals against the
proposed Waikato District Plan – Topic 6.1: Sites and areas of significance to Māori



Court: Environment Judge S M Tepania, sitting alone under s 279 of the Act
 Last case event: 2 October 2025
 Date of Order: 5 November 2025
 Date of Issue: 5 November 2025

CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to amendment of the planning maps in the Waikato District Plan (Operative in Part) (**DP-OP**) to reduce the extent of the Site of Significance to Maaori (**SASM**) overlay over the property at 5837 (formerly 5851) Great South Road, Ngaaruawaahia in accordance with **Appendix A** to this Order;
- (2) Rules SASM-R1 and SASM-R4 in the SASM chapter of the DP-OP be amended in accordance with **Appendix B** to this Order;
- (3) Blue Wallace Surveyors Limited's appeal is otherwise dismissed; and
- (4) Federated Farmers of New Zealand Incorporated's appeal with respect to 'Topic 6.1: Sites and Areas of Significance to Maaori' is otherwise dismissed.

B: Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns appeals by Blue Wallace Surveyors Limited (**Blue Wallace**) and Federated Farmers of New Zealand Incorporated (**FFNZ**) against part

of the decisions by Waikato District Council on the proposed Waikato District Plan (**PDP**). The PDP became operative on 30 October 2024 (**DP-OP**).

Background

[2] During the hearings on the PDP, the Independent Hearing Panel (**IHP**) made the decision to amend the notified PDP to adopt the National Planning Standards (**NPS**) which came into force after notification of the PDP. The decisions version of the provisions are referred to in this Order.

The appeals

[3] Blue Wallace is a Hamilton-based firm of surveyors, engineers and planners. They have a particular interest in resource management planning and land development throughout the district.

[4] Blue Wallace's appeal sought to remove the scheduling of a site and area of significance to Maaori (**SASM**) from a residential zoned property at 5837 (formerly 5851) Great South Road, Ngaaruawaahia (**Property**). The notified version of the PDP did not include a SASM over the Property. The SASM was applied in the decisions version in response to a submission. The Property is owned by Perjuli Developments Limited (**Perjuli**).

[5] FFNZ is a primary sector organisation that represents the needs and interests of New Zealand farmers involved in a range of rural businesses.

[6] This Order resolves Blue Wallace's appeal in its entirety and appeal points 10 and 12 of FFNZ's notice of appeal which sought amendments to rules SASM-R1 and SASM-R4. This aspect of relief was assigned to 'Topic 6.1: Sites and areas of significance to Maaori and Maaori cultural values – Sites and areas of significance to Maaori' (**Topic 6.1**).

[7] FFNZ withdrew three appeal points relating to SD-O2, MV-R1 and SASM-R3(1) (appeal points 3, 9 and 11 respectively) post-mediation. Appeal points 3 and 9 of FFNZ's notice of appeal were assigned to 'Topic 6.2: Sites and areas of significance to Maaori and Maaori cultural values – Maaori values'. FFNZ's appeal point 11 was

assigned to Topic 6.1. The Court confirmed the withdrawal of the three appeal points on 24 June 2024.

[8] The following persons gave notice of an intention to join this part of Blue Wallace’s appeal pursuant to s 274 of the Act:

- (a) Perjuli;
- (b) Te Whakakitenga o Waikato;
- (c) Ngaa Uri o Tamainupoo Ki Whaaingaroa Trust (**Tamainupoo**);
- (d) Heritage New Zealand Pouhere Taonga (**Heritage NZ**); and
- (e) Tuurangawaewae Trust Board (**Tuurangawaewae**).

[9] The following persons gave notice of an intention to join this part of FFNZ’s appeal pursuant to s 274 of the Act:

- (a) Te Whakakitenga o Waikato;
- (b) Pukekohe Vegetable Growers Association (**PVGA**); and
- (c) Heritage NZ.

Variation 3 to the PDP

[10] Variation 3 to the PDP was notified in 2022, after the filing of the appeals. This was the Council’s intensification streamlined planning process under the housing supply intensification legislation. The Council issued its decisions on Variation 3 on 16 October 2024. The portion of the Property outside the SASM overlay was upzoned from General residential zone (**GRZ**) to Medium density residential zone 2 (**MDRZ2**).

[11] The Variation 3 panel’s recommendation to upzone the land with the SASM overlay to MDRZ2, subject to a qualifying matter restricting density to one dwelling per site, was referred to the Minister for RMA Reform with a request that the zoning

of the land remain GRZ until such time as Blue Wallace's zoning appeal is resolved. This was accepted by the Minister on 17 April 2025.

Agreement reached

[12] The parties attended Court-assisted mediation on 26 February 2024 and 17 December 2024 and engaged in post-mediation discussions.

[13] Schedule 3 of the DP-OP protects the borrow pits located on the Property by way of a SASM overlay identified on the planning maps. The parties have agreed to amend the spatial extent of the SASM over the Property by amending the eastern boundary of the SASM to have a minimum buffer of 5 metres from the edge of each borrow pit.

[14] Perjuli has agreed to sell the Property to the Bridge Housing Trust (**BHT**) if an agreement can be reached with mana whenua on the potential development of the Property and resource consent is secured. BHT has consulted with the iwi parties to the Blue Wallace appeal over an appropriate development for the Property. A concept plan was agreed in principle between the BHT, Tamainupoo and Tuurangawaewae that includes the following:

- (a) the eastern boundary of the SASM be amended to have a minimum buffer of 5 metres from the edge of any borrow pit (as surveyed by Perjuli and BHT's archaeologist, Dr Warren Gumbley). This results in the existing north-eastern boundary of the SASM (identified by the purple line in **Appendix A**) being amended to the red line as shown in **Appendix A**;
- (b) a development area outside of the SASM of approximately 1.36 hectares be utilised for medium density housing; and
- (c) the balance area (SASM) of approximately 1.24 hectares is gifted to mana whenua, to be protected and maintained. In relation to the practical protection and maintenance of the balance area, that will be determined by mana whenua at a later date.

[15] The change in the spatial extent of the SASM overlay on the Property from approximately 1.58 hectares in the decisions version to an area of approximately 1.24 hectares represents a reduction of approximately 21.5%. This is due to the use of an alternative methodology of applying a minimum 5-metre buffer from the edge of the borrow pits to delineate the north-eastern boundary of the SASM, compared to the original methodology of mapping the area within 50 metres of the centre of each of the borrow pits.

[16] The amended extent of the SASM is shown in **Appendix A** to this Order. The amended SASM boundary will enable the balance of the land to be developed.

[17] The agreed amended SASM boundary was supported by a letter from Dr Gumbley dated 5 June 2025. Dr Gumbley's opinion was that the revised SASM boundary "will satisfactorily preserve the borrow pits" and that he supported "rezoning the land situated between" the revised boundary and its current position.

[18] The Council engaged an independent archaeologist, Dr Mathew Campbell from CFG Heritage Limited, to advise if he could support the proposed amended SASM boundary from an archaeology perspective. Dr Campbell was not involved in this matter during the PDP hearing process. Dr Campbell attended the Property on 4 June 2025 and provided a report on 21 July 2025. He concluded that the proposed change to the spatial extent of the SASM "provides appropriate protection for the site and should be protected". Whilst outside the scope of Blue Wallace's appeal, Dr Campbell also made recommendations for the remediation of some of the site, the preparation of a management plan and a full archaeological assessment of effects for any future development proposals for the Property.

[19] The revised SASM extent includes a triangular area of approximately 130m² that was outside of the 50-metre radius originally applied to the borrow pits in the decisions version of the planning maps. While extending the SASM overlay may be considered technically outside of the scope of the appeal, the parties advised that the small area adjacent to Great South Road represents the previous methodology and would be an anomaly if retained on the revised mapping as being outside the SASM.

[20] The affected parties are also parties to the appeal and agree that the SASM should contain the area closest to Pukeiaahua Paa. The boundaries of the decisions version (red polygons) and the amended version of the SASM (green) are shown in the map below:



[21] As a result of this agreement, Blue Wallace does not seek any changes to the provisions in the SASM chapter.

[22] To resolve FFNZ's appeal points, the parties have agreed to amend earthworks rule SASM-R1 to include the maintenance and repair of fences as a permitted activity, and also amend earthworks rule SASM-R4 for clarity to exclude the activities listed in SASM-R1.

[23] The amended rules are set out in **Appendix B** to this Order.

Planning assessment

[24] The Council considers that as the proposed amendments to the earthworks rules in SASM-R1 and SASM-R4 are minor in nature, none of the higher order planning instruments directly engage with the subject matter of those changes. Therefore, the planning assessment is limited to the amended spatial extent of the SASM on the Property.

[25] The parties have agreed that the revised SASM overlay on the Property meets the relevant statutory requirements under the Act as set out below.

Resource Management Act 1991

[26] Section 74(1) of the RMA requires that the Council must prepare a district plan in accordance with Part 2 of the RMA, which also sets out matters that the Council must have particular regard to when exercising its functions and powers.

[27] The parties consider that the amended SASM overlay more accurately defines the spatial extent of the SASM on the Property with input from mana whenua and two archaeologists. They consider that the proposal gives greater recognition to Maaori culture and values as required in Part 2 through the following sections:

- (a) s 6(e) – the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance. The level of cultural significance of the Property is high as the borrow pits on the site are deemed to be of high cultural value to Tamainupoo. The Environment Court in an earlier decision concerning the Property accepted Tamainupoo's evidence of the Property being culturally significant in terms of s 6 of the RMA and

recognised that Tamainupoo (along with Ngaati Mahuta and Tuurangawaewae) can point to a relationship based on one of the matters named in s 6. On this basis, and supported by the parties' recent agreement and the archaeological assessments of Dr Campbell and Dr Gumbley, the parties consider that the amendment to the SASM overlay on the Property provides a more accurate representation of the spatial extent;

- (b) s 6(g) – the protection of protected customary rights is a matter of national importance;
- (c) s 7(a) – kaitiakitanga is a matter to have particular regard to; and
- (d) s 8 – requires the principles of the Treaty of Waitangi are taken into account.

[28] The protection of historic heritage is also a s 6(e) matter of national importance. Historic heritage is defined in the RMA as including sites of significance to Maaori, including waahi tapu.

Heritage New Zealand Pouhere Taonga Act 2014

[29] When exercising its functions and powers under the RMA, the Council must have regard to any relevant entry on the New Zealand Heritage List/Raarangi Koorero required by the Heritage New Zealand Pouhere Taonga Act 2014.

[30] It is noted that the nearby Pukeiaahua Paa, which is approximately 200 metres west of the Property, is included in this list. The Property is considered to have once been encompassed within the Paa. The parties consider that the amended SASM better reflects the interconnectedness of the NZAA recorded sites at the Property and the Paa.

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

[31] The purpose of the Waikato-Tainui Claims (Waikato River) Settlement Act 2010 (**Settlement Act**), as set out in s 4, is to protect the health and mauri of the river and recognise the significance of the river to Waikato-Tainui.

[32] In 2010 a Joint Management Agreement (**JMA**), prepared under the Settlement Act, was signed with Waikato-Tainui. It sets out how the Council and Waikato-Tainui will work together to restore and protect the health and wellbeing of the Waikato River.

[33] The parties advise that the proposed amendment to the spatial extent of the SASM overlay on the Property represents the agreement reached by the parties including mana whenua and Waikato-Tainui, to determine the most appropriate way to use land in support of the health and mauri of the Waikato River. The amendment to the overlay restricts development within the SASM.

[34] The Settlement Act is also unique to the Waikato River and its catchment because it incorporates Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy for the Waikato River) (**Te Ture Whaimana**) into the Waikato Regional Policy Statement 2016 (**WRPS**) and reflects a required comprehensive ‘whole of river’ approach by all territorial authorities. Te Ture Whaimana is the primary direction-setting document for the Waikato River and activities within its catchment. For convenience, and to avoid repetition, the assessment against Te Ture Whaimana is discussed below under the WRPS.

Waikato Regional Policy Statement

[35] Under s 75(3)(c) of the RMA, a district plan must give effect to any regional policy statement. Accordingly, the parties advise that the following objectives and policies of the WRPS are relevant when considering the agreement reached.

Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy for the Waikato River)

[36] Part 1 of the WRPS addresses Te Ture Whaimana and recognises the need for restoration and protection of the relationships of Waikato-Tainui with the Waikato River including their economic, social, cultural, and spiritual relationships. Te Ture Whaimana is deemed in its entirety to be part of the WRPS. If there is any inconsistency, Te Ture Whaimana prevails over that part of the WRPS.

[37] In particular, objective 1.9.5.2 for the Waikato River, includes the restoration and protection of the relationships of Waikato-Tainui with the Waikato River,

including their economic, social, cultural, and spiritual relationships, and the integrated, holistic and co-ordinated approach to management of the natural, physical, cultural, and historic resources.

[38] Of particular importance are the strategies for the Waikato River which include the recognition and protection of waahi tapu and sites of significance to Waikato-Tainui and other river iwi (where they do decide) to promote their cultural, spiritual and historic relationship with the Waikato River, or are of significance to the Waikato regional community.

[39] In relation to SASMs, TETW-P1 provides for the restoration and protection of the health and wellbeing of the Waikato River including by:

- (a) protecting waahi tapu, sites and areas of significance to Maaori;
- (b) recognising and providing for application of maatauranga Maaori; and
- (c) managing the effects of subdivision, use and development including those associated with:
 - (i) building in river setbacks;
 - (ii) intensive farming;
 - (iii) earthworks and land disturbance; and
 - (iv) subdivision.

[40] The parties consider that the proposed amendments to the spatial extent of the SASM overlay is the most appropriate way to give effect to Te Ture Whaimana and TETW-P1, as it restricts development within the SASM.

[41] Part 2 of the WRPS includes objectives for significant resource management issues for the region that are significant to tangata whenua. In particular, SMR-I6 and IM-O4 addresses the restoration and protection of the health and wellbeing of the Waikato River catchment.

[42] SRMR-I5 specifically acknowledges that the relationship of tangata whenua with the environment is being damaged through activities which degrade the mauri of the environment; loss of access to, and use and enjoyment of, resources and places; loss or diminishment of the ability of tangata whenua to be involved in or influence decisions; and loss of ability of tangata whenua to exercise and provide for kaitiakitanga.

[43] The parties consider that the amendments to the spatial extent of the SASM overlay on the Property will result in a site that better represents the area containing culturally significant features. The revised map is considered by the parties to be the most appropriate way to give effect to the following WRPS objectives and policies:

- (a) IM-O1 seeks to ensure that natural and physical resources are managed in a way that recognises the relationships between environmental, social, economic and cultural wellbeing.
- (b) IM-O3 stipulates that decision making is aligned across legislation, adopts a precautionary approach, is based on best available information, including maatauranga Maaori, and includes working with tangata whenua.
- (c) IM-O7 identifies that the relationship of tangata whenua with the environment shall be recognised and provided for.
- (d) IM-P3 outlines that tangata whenua are to be provided appropriate opportunities to express, maintain and enhance the relationship with their rohe through resource management and other local authority processes.
- (e) IM-P5 stipulates that areas of amenity values, including areas of cultural significance, are to be identified, and those values are maintained and enhanced.
- (f) HCV-O1 seeks that sites, areas or places of cultural heritage are protected, maintained or enhanced in order to retain the identity and integrity of the regions and country's history and culture.

- (g) HCV-P1 relates to managing historic and cultural heritage, and specifically addresses collaborative, consistent and integrated management or protection of heritage resources across the region.

[44] The agreement to amend the boundary of the SASM, taking into account consultation with mana whenua and the technical advice of archaeological experts (Dr Gumbley and Dr Campbell), is considered by the parties to be appropriate and gives effect to the higher order planning documents and legislation.

Section 32AA assessment

[45] Section 32AA of the RMA requires a further evaluation report to be prepared when any changes are proposed since an original report was completed under s 32 of the RMA. The Council's planner has prepared a comprehensive stand-alone s 32AA evaluation for the agreed amendments.

[46] In summary, the s 32AA assessment concludes that:

- (a) The proposed amendments are the most appropriate way to achieve the purpose of the RMA because:
 - (i) the proposed amendments promote sustainable management of natural and physical resources in accordance with s 5(1) of the RMA by providing clarity around permitted minor earthworks;
 - (ii) the proposed amendments enable people and communities to provide for their economic well-being through productive use of the land in accordance with s 5(2) of the RMA;
 - (iii) the proposed amendments recognise and provide for the relationship of Maaori to the SASM in accordance with section 6 of the RMA, in particular, protecting the SASM from inappropriate subdivision, use and development; and
 - (iv) in accordance with s 7 of the RMA the proposed amendments provide for kaitiakitanga and maintenance and enhancement of amenity values through providing the opportunity for mana

whenua to access and enhance the SASM while enabling development outside of the SASM and reasonable use (the carrying out of permitted activities) of the land within the SASM by landowners.

- (b) The proposed amendments are considered the most appropriate way to achieve the purpose of the proposal and the RMA because:
 - (i) of the three options that the parties considered regarding the SASM rules, the proposed amendments are considered to be the most effective and efficient option as it protects the cultural values of the site while recognising existing structures and enabling their continued use;
 - (ii) the proposed amendments provide clarity for plan users as to the application of earthworks rules and is anticipated to have a high net benefit in comparison to the other options; and
 - (iii) of the five options that the parties considered regarding the spatial extent of the SASM over the Property, the proposed amendments are considered to be the most effective and efficient option as it continues to protect the cultural values of the site while enabling comprehensive residential development of the balance of the Property.

Consideration

[47] The Court has now read and considered the consent memorandum of the parties dated 2 October 2025 which proposes to resolve the appeals in respect of Topic 6.1.

[48] The making of this Order resolves Blue Wallace's appeal in its entirety and resolves the parts of FFNZ's appeal assigned to Topic 6.1.

[49] The parties have agreed that there is no issue as to costs.

[50] The Court is making this Order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this Order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[51] The Court is satisfied that the agreement reached is one that represents the various interests of the parties. It is clear the parties have considered other reasonably practicable options and assessed costs and benefits. The Court concludes that the parties have taken a nuanced and balanced approach, and the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, the Court considers the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Orders

[52] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (a) the appeal is allowed subject to amendment of the planning maps in the Waikato District Plan (Operative in Part) (DP-OP) to reduce the extent of the Site of Significance to Maaori (SASM) overlay over the property at 5837 (formerly 5851) Great South Road, Ngaaruawaahia in accordance with **Appendix A** to this Order;
- (b) Rules SASM-R1 and SASM-R4 in the SASM chapter of the DP-OP be amended in accordance with **Appendix B** to this Order;
- (c) Blue Wallace Surveyors Limited's appeal is otherwise dismissed; and

- (d) Federated Farmers of New Zealand Incorporated's appeal with respect to 'Topic 6.1: Sites and Areas of Significance to Maaori' is otherwise dismissed.

[53] Under s 285 of the Act, there is no order as to costs.



S M Tepania

Environment Judge | Kaiwhakawā i te Kōti Taiao



Appendix A – Amended Spatial Extent of SASM



Appendix B – Amendments to SASM provisions

Part 2: District-wide matters / Historical and cultural values / SASM – Sites and areas of significance to Maaori

Rules

Land use - effects

SASM-R1	Minor earthworks	
All zones	(1) Activity status: PER Where: (a) Disturbance of land within a SASM – Site and area of significance to Maaori as identified in SCHED3 – Sites and areas of significance to Maaori for the purposes of: (i) Gardening; (ii) <u>Maintaining or repairing fences, including</u> installation of fence posts; (iii) Repair or maintenance of existing underground farm infrastructure; and (iv) Interments in a burial ground, cemetery or urupaa.	(2) Activity status where compliance not achieved: n/a
SASM-R4	Earthworks	
All zones	(1) Activity status: RDIS Where: (a) <u>With the exception of activities listed in SASM-R1, E</u>earthworks within a SASM – Site and area of significance to Maaori as identified in SCHED3 – Sites and areas of significance to Maaori. Council's discretion is restricted to the following matters: (b) Effects on heritage and cultural values	(2) Activity status where compliance not achieved: n/a



Legend

Property Boundary

Rail

Sites and areas of significance to Maaori (Current)

Sites and areas of significance to Maaori (Proposed)

Zone Operative

MRZ2 - Medium density residential zone 2

Road

Zone PartOp

Road

GRUZ - General rural zone

GRZ - General residential zone

GIZ - General industrial zone

Appendix E:

MRZ2-SIA	Residential unit within the QM for 5837 Great South Road
(1) Activity status: PER Where: (a) Up to one residential unit per site.	(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Intensity of the development; and (b) Design, scale and layout of buildings and outdoor living spaces in relation to the planned urban character of the zone; (c) The relationship of the development with adjoining streets or public open spaces, including the provision of landscaping; and (d) Privacy and overlooking within the development and on adjoining sites, including the orientation of habitable rooms and outdoor living spaces; and (e) Provision of 3-waters infrastructure to individual units; and (f) The provision of adequate waste and recycling bin storage including the management of amenity effects of these on streets or public open spaces; and (g) Where on-site car parking is provided, the design and location of car parking (including garaging) as viewed from streets or public open spaces. (h) Within QM 5837 Great South Road effects on the values associated with the Site or Area of Significance to Maaori.

24 March 2026

Hon Chris Bishop
Minister for Housing and RMA Reform
Private Bag 18 888
Parliament Buildings
Wellington 6160

Email: C.Bishop@ministers.govt.nz;

Cc: **S 9(2)(a)**

Dear Minister

Waikato District Plan- Operative in Part – Decisions on Variation 3: Enabling Housing Supply

Further to our letter dated 11 November 2025 and following communication with officials at the Ministry for the Environment, it became apparent that a further Council resolution was required to present you with an appropriate recommendation to allow for a final decision to be made on Variation 3 to the Waikato District Plan – Operative in Part (Variation 3) as it relates to 5837 Great South Road, Ngaaruawaahia (the Property, also referred to as Matter B in previous correspondence).

As you are aware, the original recommendation of the Independent Hearing Panel was to rezone the Property to MRZ2. That recommendation was rejected by Council and was referred to you on 31 October 2024 with an alternative resolution to defer making a determination pending resolution of a related appeal.

The outstanding appeal relates to the Site and Area of Significance to Māori (SASM) overlay which was applied to the Property. This appeal was settled by consent with the Environment Court issuing Consent Orders on 5 November 2025.

As explained in the previous correspondence and the attached Consent Memorandum, the agreement between the parties resulted in a reduction of the spatial extent of the SASM overlay over the Property whilst still protecting the borrow pits. The reduced extent of the SASM overlay was supported by mana whenua and technical advice from archaeologists.

On 23 March 2026, the Waikato District Council resolved to make further alternative recommendations to assist you in making a determination regarding Matter B. Accordingly, Council now requests that you make a decision on the previous Independent Hearing (IHP) Commissioners' recommendations to:

- (a) accepts the recommendation of the IHP to rezone 5837 Great South Road, Ngaaruawaahia from General Residential zone to Medium Density Residential zone 2; and
- (b) applies a site-specific qualifying matter to 5837 Great South Road, Ngaaruawaahia being a Site or Area of Significance to Māori overlay in accordance with the Map at attachment 1; and

- (c) accepts the variation of the Waikato District Plan Operative in Part to reflect Rule MRZ2-S1A as set out in attachment 2.

If you require any further information, please let me know.

Your sincerely



Craig Hobbs
Chief Executive
Waikato District Council



Legend

Property Boundary

Rail

Sites and areas of significance to Maaori (Current)

Sites and areas of significance to Maaori (Proposed)

Zone Operative

MRZ2 - Medium density residential zone 2

Road

Zone PartOp

Road

GRUZ - General rural zone

GRZ - General residential zone

GIZ - General industrial zone

Appendix E:

MRZ2-SIA	Residential unit within the QM for 5837 Great South Road
(1) Activity status: PER Where: (a) Up to one residential unit per site.	(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Intensity of the development; and (b) Design, scale and layout of buildings and outdoor living spaces in relation to the planned urban character of the zone; (c) The relationship of the development with adjoining streets or public open spaces, including the provision of landscaping; and (d) Privacy and overlooking within the development and on adjoining sites, including the orientation of habitable rooms and outdoor living spaces; and (e) Provision of 3-waters infrastructure to individual units; and (f) The provision of adequate waste and recycling bin storage including the management of amenity effects of these on streets or public open spaces; and (g) Where on-site car parking is provided, the design and location of car parking (including garaging) as viewed from streets or public open spaces. (h) Within QM 5837 Great South Road effects on the values associated with the Site or Area of Significance to Maaori.

Appendix 3: Draft letter to Aksel Bech, Mayor of Waikato, on your decision on Matter B

Hon Chris Bishop

Attorney General
Minister of Housing
Minister for Infrastructure
Minister Responsible for RMA Reform
Minister of Transport
Associate Minister of Finance



Aksel Bech
Mayor of Waikato
Waikato District Council
Email: aksel.bech@waidc.govt.nz

cc Craig Hobbs
Chief Executive
Email: craig.hobbs@waidc.govt.nz

Dear Aksel

On 31 October 2024, I received a letter from former Chief Executive, Gavin Ion, referring two rejected Independent Hearings Panel recommendations and the Council's alternative recommendations to me in relation to Waikato District Council's (the Council's) intensification planning instrument (IPI), Variation 3 Enabling Housing Supply to its Proposed District Plan (PDP).

I made a decision on Matter A (rezoning of 46 Jackson Street, Ngāruawāhia) in April 2025, and deferred making a decision on Matter B relating to the site at 5837 Great South Road, Ngāruawāhia, until the resolution of an Environment Court appeal on the site. The Environment Court appeal on Matter B has now been resolved.

The referred recommendation for Matter B relates to 5837 Great South Road, Ngāruawāhia, with three component parts:

- Matter B, Part 1: rezoning a specified area of the property from General Residential Zone to Medium Density Residential Zone 2
- Matter B, Part 2: incorporate rule MRZ2-S1A to the area subject to a SASM qualifying matter which restricts development within the Site and Area of Significance to Māori (SASM) by permitting only one residential unit per site within the SASM extent without resource consent
- Matter B, Part 3: the application of a qualifying matter to the area of the property that is subject to the SASM.

I note officials at the Ministry for the Environment sought clarification from Council officers on the decision sought on 1 December 2025 and on 1 May 2026 regarding a clarified alternative recommendation following the resolution of the appeal. Requesting this information was necessary to inform my decision. I thank Council staff for their assistance in providing this information.

I have made the following decisions on Matter B:

- Matter B, Part 1: accepted the Independent Hearing Panel's recommendation to rezone the specified area of the site from General Residential Zone to Medium Density Residential Zone 2

- Matter B, Part 2: accepted the Independent Hearing Panel's recommendation to incorporate rule MRZ2-S1A to the area subject to the SASM
- Matter B, Part 3: rejected the Independent Hearing Panel's recommendation relating to the spatial extent of the SASM overlay and accepted the Council's alternative recommendation relating to the SASM extent.

My decision for Matter B has been made in accordance with Schedule 1, clause 105 of the Resource Management Act 1991. The reasons for my decision are:

Matters B Parts 1 and 2

- a. the Council's alternative recommendation for rezoning the site to MRZ2 and incorporating rule MRZ2-S1A is now the same as the Independent Hearings Panel's recommendation; and
- b. the Independent Hearings Panel's recommendation complies with the requirements of the Resource Management Act 1991 to implement the medium density residential standards, subject to a justified qualifying matter, and gives effect to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020 by enabling greater development capacity for the site subject to an appropriate qualifying matter

Matter B Part 3

- c. it complies with requirements under the Resource Management Act 1991 to implement the medium density residential standards, subject only to a justified qualifying matter; and
- d. it appropriately applies a Site and Area of Significance to Māori qualifying matter to the spatial extent confirmed by the Environment Court, balancing protection of cultural values identified on the site with enabling development capacity; and
- e. it is consistent with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020, particularly by providing greater development capacity for the site.

I want to thank the Independent Hearings Panel and Council staff for the work undertaken to progress the Intensification Streamlined Planning Process.

Ministry for the Environment officials will also contact Council staff to inform them of my decision.

Yours sincerely

Hon Chris Bishop
Minister Responsible for RMA Reform

Appendix 4: Further information provided by Waikato District Council

S9(2)(h)

S9(2)(h)

From: Jamahl Khan S 9(2)(a)
Sent: 11 December 2025 10:25
To: Rachael Law S 9(2)(a)
Cc: Stephanie Gard'ner S 9(2)(a)
Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop

MFE CYBER SECURITY WARNING

This email originated from outside our organisation. Please take extra care when clicking on any links or opening any attachments.

Kia ora Rachael,

Sorry I missed your call yesterday, I will try to touch base with you today regarding the resolution. S9(2)(h)

Attached is the presentation of the agreed reduction in SASM extent to the subcommittee on 8 July 2025, and the terms of reference that sets out the delegated authority.

Looking forward to talking soon.

Ngaa mihi,

Jamahl Khan

Kaiwhakamahere Kaupapa Here, Rautaki & Whakatupu

Policy Planner, Strategy & Growth

Waikato District Council

Nama waea: 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Rachael Law S 9(2)(a)
Sent: Monday, December 1, 2025 9:22 AM
To: Jamahl Khan S 9(2)(a)
Cc: Stephanie Gard'ner S 9(2)(a)
Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop

Kia ora Jamahl,

Hope you're well. I'm getting in touch about Matter B (5837 Great South Road) and the recent Environment Court Consent Order. Thanks for your letter to the Minister on 11 November, really helpful to have the background and the details set out.

Just keen to make sure we're all on the same page about which recommendations, from council's perspective, are before the Minister for decision:

1. IHP recommendation - from your October 2024 letter
2. Council alternative recommendation - from your October 2024 letter - which sought to defer Minister's decision until Environment Court decision available
3. Points (a) and (b) - from your November 2025 letter - your letter frames these as the IHP recommendations, but the wording differs from the original IHP recommendations. Perhaps (a) and (b) are intended as another council alternative recommendation? *(noting that the Court Order decision includes a 21.5% decrease in SASM size that makes this decision different from that of the IHP recommendation).*

We'd be grateful if you could confirm council's position on the above.

If 3) is intended to be a council alternative recommendation, could you please point me to the meeting minutes or confirm if this was covered under delegated authority from a previous Council meeting? I've had a look to see where the Council decision to refer this recommendation to the Minister came from, but couldn't find the resolution.

If you could send a quick reply on these points, that would be great. Let us know if you need anything else from our end.

Thanks again for your help.

Ngā mihi,

Rachael Law (she/her)

Senior Advisor - Policy | Kaitohutohu Matua – Kaupapahere

Urban Policy | Kaupapahere Tāone

Urban and Infrastructure | Kaupapa Here Tāone me te Tūāhanga

From: Jamahl Khan **S 9(2)(a)**

Sent: 06 November 2025 09:11

To: Rachael Law **S 9(2)(a)**

Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop

MFE CYBER SECURITY WARNING

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Moorena Rachael,

We have just received the consent order from the court and are finalizing the letter for the minister.

Ngāa mihi,

Jamahl Khan

Kaiwhakamahere Kaupapa Here, Rautaki & Whakatupu

Policy Planner, Strategy & Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Rachael Law S 9(2)(a)
Sent: Wednesday, November 5, 2025 3:54 PM
To: Jamahl Khan S 9(2)(a)
Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop

Hi Jamahl,

Happy Wednesday, hope you are having a good week.

How are things going on the consent order?

Ngā mihi,

Rachael Law (she/her)

Senior Advisor - Policy | Kaitohutohu Matua – Kaupapahere
Urban Policy | Kaupapahere Tāone
Urban and Infrastructure | Kaupapa Here Tāone me te Tūāhanga

From: Jamahl Khan S 9(2)(a)
Sent: Wednesday, October 15, 2025 15:46
To: Rachael Law S 9(2)(a)
Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop

MFE CYBER SECURITY WARNING

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Kia ora Rachael,

Thank you for checking in with me today.

I can confirm that all parties have signed the consent memo and it has now been lodged with the court.

Can you please advise whether the Minister will require a letter to that effect, or if the update can wait until we have received the consent order.

Ngaa mihi,

Jamahl Khan

Kaiwhakamahere Kaupapa Here, Rautaki & Whakatupu

Policy Planner, Strategy & Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Rachael Law S 9(2)(a)

Sent: Wednesday, October 15, 2025 12:12 PM

To: Jamahl Khan S 9(2)(a)

Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop

You don't often get email from S 9(2)(a) . [Learn why this is important](#)

Kia ora Jamahl,

Hoping you are well.

Just checking in on this one and how things are going with the consent memo?

Ngā mihi,

Rachael Law (she/her)

Senior Advisor - Policy | Kaitohutohu Matua – Kaupapahere

Urban Policy | Kaupapahere Tāone

Urban and Infrastructure | Kaupapa Here Tāone me te Tūāhanga

From: Jamahl Khan **S 9(2)(a)**

Sent: Friday, September 26, 2025 09:04

To: Rachael Law **S 9(2)(a)**

Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop

MFE CYBER SECURITY WARNING

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Kia ora Rachel,

Apologies for the late reply. We had hoped to have the consent order with the court last week, but some parties requested last-minute amendments to the wording. We will hopefully have all the parties sign the consent memo today to lodge with the court.

The summary of the Ministers decision can be found [here](#), but I am also having trouble finding a copy of the letter in the list of attachments. Thank you for bringing this to our attention, I will follow up on this today.

Ngāa mihi,

Jamahl Khan

Kaiwhakamahere Kaupapa Here, Rautaki & Whakatupu

Policy Planner, Strategy & Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia

Waikato District Council

Subcommittee update:

Topic 6 – SASM & MV

8 July 2025



Topic 6: SASM & MVs

The Appellants

- Blue Wallace Surveyors Ltd
- Federated Farmers

The s274 Parties

- Perjuli Developments Ltd
- Te Whakakitenga o Waikato
- Ngaa Uri o Taminupo ki Whaingaroa Trust
- Heritage NZ
- Tuurangawaewae Board of Trustees

Outstanding issues

Ownership of balance of land including SASM:

- Mana whenua are not yet in agreement over who will receive the land outside of the development area. However, they have been advised that the matter is outside of the RMA process and should not hold up the resolution of the appeal.

Ministers decision on Zoning:

- The matter of zoning within the SASM was referred to the Minister as a qualifying matter. He has deferred his decision and asked to be updated on the progress of the appeal.



Waikato District Council

Thank you

CREATING
LIVEABLE, THRIVING
+ CONNECTED
COMMUNITIES



Tuesday, 8 July 2025

1:00 PM

Committee Rooms 1 & 2, District Office, 15
Galileo Street, Ngaaruawaahia

District Plan Subcommittee Agenda

*He tira ahunga whakamua o Te Kaunihera aa
Takiwaa o Waikato*

Agenda for a meeting of the District Plan Subcommittee to be held in Committee Rooms 1 & 2, District Office, 15 Galileo Street, Ngaaruawaahia on **TUESDAY, 8 JULY 2025** commencing at **1:00 PM**.

Information and recommendations are included in the reports to assist the Committee in the decision-making process and may not constitute Council's decision or policy until considered by the Committee.

The meeting will be opened with a karakia.

1 APOLOGIES AND LEAVE OF ABSENCE

2 CONFIRMATION OF STATUS OF AGENDA

3 DISCLOSURES OF INTEREST

The register of interests is no longer included on agendas, however members still have a duty to disclose any interests under this item.

4 EXCLUSION OF THE PUBLIC

5 REPORTS

Pokeno Traffic Overlay

6 RESUMPTION OF OPEN MEETING

CL Hobbs
CHIEF EXECUTIVE

TERMS OF REFERENCE

PROPOSED DISTRICT PLAN SUBCOMMITTEE

Reports to:	Policy & Regulatory Committee
Chairperson:	Deputy Mayor Carolyn Eyre
Deputy Chairperson:	Cr Eugene Patterson
Membership:	Her Worship the Mayor Cr Crystal Beavis Cr Kandi Ngataki Cr C Eyre Cr Eugene Patterson
Meeting frequency:	As and when required
Quorum:	A majority of members (including vacancies)

Purpose

To assist the Chief Executive and officers to make timely decisions on any matters relating to the hearings on submissions and further submissions on the Proposed Waikato District Plan (including Stages 1, 2 and any variations) (“the Proposed District Plan”) and any appeals or other proceedings relating to Council’s decisions on the Proposed District Plan.

The Subcommittee is delegated the following powers to act:

To make decisions in relation to any direction sought by the Chief Executive and/or officers in relation to any matters relating to:

- a. The hearings on submissions and further submissions on the Proposed District Plan; and
- b. Any appeals or other proceedings relating to Council’s decisions on the Proposed District Plan.

NOTE: The authority under paragraphs 1 a) and b) includes the power to direct the Chief Executive or officers to engage any expert or legal counsel.

- To determine an approach for resolving any appeals or other proceedings on Council’s decisions on the Proposed District Plan.
- To delegate to the Chief Executive or any officer participating in an

alternative disputes resolution process (“ADR process”) (as defined in section 268(4) of the Resource Management Act 1991) in relation to any Environment Court proceeding arising from Schedule 1 of the Act or any other ADR process directed in any other proceedings), the authority to make decisions on behalf of Council, within any parameters given by the Subcommittee, on any matters that may reasonably be expected to arise in the ADR process.

- To authorise the Chief Executive, or his delegate, together with any other member of the Executive Leadership Team, to jointly consider and approve, within any parameters given by the Subcommittee, the content of any draft consent order to be submitted to the Environment Court to resolve any appeal on Council’s decisions on the Proposed District Plan.
- To report to the Policy & Regulatory Committee on a quarterly basis (as a minimum) with a summary of the matters considered and decisions made by the Subcommittee.

From: [Jamahl Khan](#)
To: [Rachael Law](#)
Cc: [Stephanie Gardner](#)
Subject: Re: Variation 3 Enabling Housing Supply / Matter B - Update to Hon Chris Bishop
Date: Wednesday, 3 December 2025 10:29:04 am
Attachments: [Outlook-Logo_comp image.png](#)
[Outlook-hijmqhqu.png](#)
[Outlook-Logo_comp](#)
[Outlook-Logo_comp](#)
[Outlook-Logo_comp](#)
[Outlook-Logo_comp](#)

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Kia ora Rachel, I am well thank you. I hope you are having a good week.

Yes this would technically be a Council alternative recommendation taking in to account the amendments made as a result of the consent order resolving the appeals.

It may take me a little while to locate the appropriate Council and subcommittee minutes, but I will get back to you in the next few days with the information regarding the resolution / delegated authority.

Ngaa mihi,

Jamahl Khan

Kaiwhakamahere Kaupapa Here, Rautaki & Whakatupu

Policy Planner, Strategy & Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: [Jamahl Khan](#)
To: [Rachael Law](#)
Cc: [Stephanie Gard'ner](#); [Zach Andrew](#)
Subject: Re: Variation 3 – Matter B (5837 Great South Road)
Date: Friday, 22 May 2026 11:09:35 am
Attachments: [Outlook-nhk1hzyl.png](#)
[image.png](#)
[image.png](#)
[Map A – QM applied to 5837 Great South Rd, Ngauruawahia.pdf](#)

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Kia ora Rachael,

Please find attached the amended map A. Thank you for bringing the error to my attention.

Have a great weekend!

Ngaa mihi,

Jamahl Khan

Kaiwhakamahere Kaupapa Here, Rautaki & Whakatupu
Policy Planner, Strategy & Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngauruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngauruawahia



From: Jamahl Khan **S 9(2)(a)**
Sent: Friday, May 15, 2026 2:55 PM
To: Rachael Law **S 9(2)(a)**
Cc: Stephanie Gard'ner **S 9(2)(a)**; Zach Andrew
S 9(2)(a); Hazel Coalter **S 9(2)(a)**
Subject: Re: Variation 3 – Matter B (5837 Great South Road)

Kia ora Rachael,

Thank you for your email last week, and apologies for the delay in replying. **S(9)(2)(h)**

[REDACTED]

[REDACTED]

Our response is as follows:

On 16 October 2024, Council resolved to reject the IHP recommendations in relation to the property at 5837 Great South Road, Ngaaruawaahia and referred the matter to the Minister in accordance with clause 101(2) Schedule 1 of the Resource Management Act 1991 (RMA).

As shown in Attachment 1, the independent hearing panel (IHP) recommendation relates to the zoning of the property and application of a qualifying matter (QM) and associated rule. While the QM applies to the area subject to a Site or Area of Significance to Maaori (SASM), making any decisions as to the extent of the SASM was outside the scope of Variation 3 - Enabling Housing Supply. The reason for rejecting the recommendation was due to an ongoing appeal to the proposed district plan relating to the identification of the SASM on the property (ENV-2022-AKL-000045).

The only alternative recommendation given to the minister at that time was that he defer his decision until the appeal had been resolved and orders had been received from the Court. The justification for that position was that the appeal would affect whether the SASM (as a QM) would continue to apply to the property (as well as the extent of the application). That outcome would then determine whether the QM and associated rule would be required.

The Ministers decisions were received by Council on 17 April 2025, confirming that he had adopted the recommendation for Matter B and the decision had been deferred until such time as the appeal was resolved. The appeal (ENV-2022-AKL-000045) relating to the site has since been resolved by way of a consent order dated 5 November 2025, confirming the application and extent of the SASM.

It is Council's understanding that, on the basis that the IHP recommendation was rejected, the decision is now referred to the Minister under clause 105(1) Schedule 1 of the RMA. It was for that reason that Council resolved to make further alternative recommendations to the Minister, including (a) and (c) which reflect the IHP's original recommendations (which were to rezone the property in its entirety with a QM – the SASM – applying to a portion of it).

In response to your request for amended mapping, I attach Map A with the orange line showing the extent of the QM that the IHP recommended in accordance with the SASM at that time, and the green line showing the extent of the QM that Council now recommends to align with the SASM extent agreed to by the parties to the appeal and given effect by consent orders.

I trust this explanation will clarify matters, please contact me should you have any further queries.

Ngaa mihi,

Jamahl Khan

Kaiwhakamahere Kaupapa Here, Rautaki & Whakatupu
Policy Planner, Strategy & Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Rachael Law S 9(2)(a)
Sent: Friday, May 1, 2026 3:09 PM
To: Jamahl Khan S 9(2)(a)
Cc: Stephanie Gard'ner S 9(2)(a); Zach Andrew S 9(2)(a)
Subject: Variation 3 – Matter B (5837 Great South Road)

Kia ora,

Thanks for your letter of 24 March 2026 regarding Matter B, which refers to the matter of Variation 3 to the Waikato District Plan as it applies to 5837 Great South Road, Ngāruawāhia.

We have reviewed the recommendations and need to clarify a couple of points to support the Minister's decision-making under Schedule 1 of the Resource Management Act 1991. From our review, both alternative recommendations:

“(a) accepts the recommendation of the IHP to rezone 5837 Great South Road, Ngaaruawaahia from General Residential zone to Medium Density Residential zone 2; and

...

(c) accepts the variation of the Waikato District Plan Operative in Part to reflect Rule MRZ2-S1A as set out in attachment 2.”

appear to reflect Independent Hearings Panel recommendations that we understand from your 24 March letter the Waikato District Council now accepts. As such, these matters are not required to be referred to the Minister for decision.

The remaining alternative recommendation “(b) applies a site-specific qualifying matter to 5837 Great South Road, Ngaaruawaahia being a Site or Area of Significance to Maaori overlay in accordance with the Map at attachment 1” appears to be the only aspect where

Council is proposing an alternative to the Panel's recommendation. To assist the Minister in making his decision on this alternative recommendation, could you please confirm:

- that the SASM extent shown in Attachment 1 is Council's alternative recommendation; and
- provide an updated version of Attachment 1 that is clearly labelled to show:
 - the extent recommended by the Independent Hearings Panel; and
 - the extent now proposed by Council.

Appreciate your help with this and happy to discuss if useful.

Ngā mihi,

Rachael Law (she/her)

Senior Advisor - Policy | Kaitohutohu Matua – Kaupapahere
Urban Policy | Kaupapahere Tāone
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environment.govt.nz





Legend

 extent of QM recommended by the Independent Hearings Panel  extent of QM now proposed by Councils alternative recommendation

Leah Clark

From: Fiona Hill S 9(2)(a)
Sent: Thursday, 28 November 2024 1:33 pm
To: Leah Clark
Cc: Keri Davis-Miller; Karin Lepoutre; Bridget Parham; Kirsty Ridling
Subject: Referred recommendations Waikato District Council - response to email requests
Attachments: Referred recommendation - SASM 5837 Great South Road.pdf; Referred recommendation - 46 Jackson Street.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

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Kia ora Leah

Since your last email we have made great progress and settled the Upton Appeal. On 22 November the signed Consent Memorandum was sent to the Court with a request that it be considered as a priority. I will send the consent order once received.

This just leaves 5837 Great South Road. The SASM (Sites and areas of significance to Maaori) area on this site is subject to an appeal. The appellant is Blue Wallace Surveyors ENV-2022-AKL-00094. The most recent update is the appeal has been set down for mediation on 17 December 2024.

To assist in your understanding please find attached the requested maps related to each appeal. The extent of each site is shown in yellow. Just a note on the Great South Road map - all of the area originally had the number 5851 Great South Road, however, there has been a recent subdivision and the land that contains the SASM is now numbered 5837 Great South Road. The referred recommendation relates to the SASM area only as is reflected by the attached map of that area.

Lastly, I just wanted to clarify the Council is requesting the Minister defers making a decision until the outstanding appeals are resolved to preserve the appellants' appeal rights under clause 36(2) of Schedule 12 of the Act.

Links to relevant documents you requested:

1. Link to planning evidence provided by Grant Eccles for Simon Upton at Hearing 2 of Variation 3:
https://www.waikatodistrict.govt.nz/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/variations/variation-3-enabling-housing-supply/session-2-ipi-waikato-district-council-variation-3-hearing/submitter-expert-evidence/s-upton-evidence-from-g-eccles-v-3.pdf?sfvrsn=bc9a73c8_1
2. Link to amended notice of appeal for Simon Upton: The amended notice of appeal has been uploaded under Upton – 000030: <https://www.waikatodistrict.govt.nz/your-council/plans-policies-and-bylaws/plans/waikato-district-plan/district-plan-review/appeals/proposed-waikato-district-plan---appeals>

Please get in touch if I have missed anything or you need anything further.

Ngaa mihi

Fiona Hill

Kaiwhakamahere Matua – Kaupapa Here, Rautaki & Whakatupu

Principal Policy Planner, Strategy and Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaaruawaahia 3742

Waahi Mahi: 15 Galileo Street, Ngaaruawaahia



From: Leah Clark

Sent: Thursday, 7 November 2024 9:07 am

To: S 9(2)(a)

Subject: FW: Proposed Waikato District Plan – Decisions on Variation 3: Enabling Housing Supply

Kia ora Fiona,

Hope you are well.

I've been working my way through the detail of the Council's referred recommendations on Variation 3, and have some initial questions:

1. Could the Council please produce two maps that show the outline of the exact areas subject to the two referred recommendations?
 - a. It would be great to please have one map showing the outline of the specific area at 46 Jackson Street that is subject to the referred recommendation; and
 - b. A separate map showing the outline of the specific part of 5837 Great South Road that is subject to the referred recommendation (especially since there appears to be some ambiguity in the references to 5851 and 5837 Great South Road in the documents online).
2. Could you please provide an update on the status of both appeals?
3. Could you please send me the link or a copy of Simon Upton's further submission as I cannot find it online.
4. Could you please send me the link or a copy of Mr Grant Eccles evidence as I cannot find it online.

Thank you,

Leah Clark (she/her)

Senior Analyst | Kaitātari Matua

Urban Policy

Ministry for the Environment | Manatū Mō Te Taiao

S 9(2)(a) | S 9(2)(a) | environment.govt.nz

From: Gavin J. Ion <Gavin.Ion@waidec.govt.nz>

Sent: Thursday, 31 October 2024 3:46 pm

To: 'C.Bishop@ministers.govt.nz' <C.Bishop@ministers.govt.nz>

Cc: Nathan Stocker S 9(2)(a); Leah Clark S 9(2)(a); Keri Davis-Miller S 9(2)(a)

Subject: Proposed Waikato District Plan – Decisions on Variation 3: Enabling Housing Supply

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Kia ora

Apologies, the earlier version of the letter was missing some pages – updated version now attached.

Ngaa mihi
Gavin

Gavin Ion
Chief Execu. ve - Tumu Whakarae

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

■ Waea puukoro: S 9(2)(a) ■ Nama waea: 0800 492 452

Pouaka Poutaapeta: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Gavin J. Ion
Sent: Thursday, 31 October 2024 3:21 pm
To: 'C.Bishop@ministers.govt.nz' <C.Bishop@ministers.govt.nz>
Cc: S 9(2)(a); S 9(2)(a)
; Keri Davis-Miller S 9(2)(a)
Subject: Proposed Waikato District Plan – Decisions on Variation 3: Enabling Housing Supply

Kia ora

Please find attached a letter confirming decisions on Variation 3 for the Proposed Waikato District Plan.

Ngaa mihi
Gavin

Gavin Ion
Chief Executive - Tumu Whakarae

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

■ Waea puukoro: S 9(2)(a) ■ Nama waea: 0800 492 452

Pouaka Poutaapeta: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



Nathan Stocker

From: Leah Clark
Sent: Tuesday, 26 November 2024 1:06 pm
To: Fiona Hill
Cc: Nathan Stocker
Subject: RE: Referred recommendations

Kia ora Fiona,

Thanks for checking in on this – apologies, that would have been a misunderstanding on my part when I was initially reading through the material online. So you can disregard my request for that further submission. We have found the neighbour's further submission now.

And if you could please send through the other information we requested that would be fantastic. We're happy for the status update on the appeals to be provided separately, once available.

Many thanks,

Leah Clark (she/her)
Senior Advisor | Kaitātari Matua
Urban Policy
Ministry for the Environment | Manatū Mō Te Taiao
S 9(2)(a) | S 9(2)(a) | environment.govt.nz

From: Fiona Hill S 9(2)(a)
Sent: Tuesday, 26 November 2024 9:26 am
To: Leah Clark S 9(2)(a)
Subject: Referred recommendations

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Hi Leah

One of the questions related to Mr. Upton's further submission. Can you please clarify whether that is a further submission on Variation 3 or at the time the PDP was notified? I checked yesterday and don't think he made one. A further submission was lodged by their neighbours? If you can clarify that would be helpful.

Thanks Fiona

Fiona Hill

Kaiwhakamahere Matua – Kaupapa Here, Rautaki & Whakatupu
Principal Policy Planner, Strategy and Growth

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 07 824 8633 Waea puukoro: 0800 492 452
Poutaapeta Mahi: Private Bag 544, Ngaaruawaahia 3742
Waahi Mahi: 15 Galileo Street, Ngaaruawaahia

27 February 2025

Rebecca Scannell
Policy Lead – Urban and Infrastructure
Ministry for the Environment
PO Box 10362
Wellington 6143

Dear Ms Scannell,

PROPOSED WAIKATO DISTRICT PLAN – DECISIONS ON VARIATION 3: ENABLING HOUSING SUPPLY

We refer to your letter dated 16 January 2025 (**Clarification Letter**) seeking clarification on matters raised in the referral letter from Waikato District Council (**Council**) dated 31 October 2024.

This letter responds to the questions asked within the Clarification Letter and uses the same numbering for convenience.

Matter A – 46 Jackson Street, Ngaaruawaahia

1. *Does Council agree that the IHP recommendation before the Minister is to rezone 46 Jackson Street to MRZ2?*

Council does agree that the IHP recommendation before the Minister is to rezone 46 Jackson Street to MRZ2.

The property at 46 Jackson Street, Ngaaruawaahia was zoned General Residential in the Proposed District Plan - Decisions Version (**PDP-DV**). The property was subsequently identified as a “relevant residential zone” insofar as it related to the application of the Medium Density Residential Standards (**MDRS**) under the then Resource Management (Enabling Housing and Other Matters) Amendment Act.

As you are aware, the notification of Variation 3 included the application of the Urban Fringe qualifying matter to areas which would have otherwise been relevant residential zones. At the time of the hearing the Urban Fringe qualifying matter was not supported by Council and, it was confirmed by the Independent Hearing Panel (**IHP**) that it did not appear to satisfy the requirements of section 77L of the now Resource Management Act 1991 (as recorded in the Interim Guidance of the IHP).

As a consequence of the Interim Guidance which supported Council's position on the Urban Fringe qualifying matter, the MDRS was extended to apply to all land which was zoned

Medium Density Residential and General Residential under the PDP-DV within the relevant four towns and part of Horotiu, subject to any additional qualifying matters.

Because 46 Jackson Street was zoned General Residential, the removal of the Urban Fringe qualifying matter naturally resulted in the MDRS being extended to that site, which was not subject to any applicable qualifying matters. Furthermore, the Chair of the Panel has also confirmed in an email to the Council that this was the intent of the Panels' recommendation in respect of the property.

Council recommends that staff review Finding 2.4.1.1 at page 15 of the Variation 3 IHP Recommendations Report (**Recommendations Report**) which confirms the above.

Matter B – 5837 Great South Road, Ngaaruawaahia

2. *How does Council consider appeal rights relating to the underlying SASM would be affected by a decision by the Minister on recommendations for Matter B if this decision came before the BWS appeal is resolved?*

We note at the outset that questions 2 and 3 are made on the basis that the BWS appeal does not challenge either the qualifying matter framework nor the extent of the MRZ2 zoning on the property at 5837 Great South Road (**Site**). It was not possible for the appeal to challenge these two matters as neither the qualifying matter nor MRZ2 zoning existed at the time the appeal was filed in March 2022. The appeal predated Variation 3.

Council is of the opinion that if the zoning of the SASM on the Site to MRZ2 is made operative prior to the appeal being resolved, then the ability for Council to agree on potential changes to the District Plan to settle the appeal could be limited. The appeal is not limited to the removal of the scheduled SASM. It seeks changes to the objective, policy and rule framework of the SASM chapter. Further, the appellant has sought consequential changes to give effect to the relief sought in the appeal. These changes could be to other chapters in the PDP. This could include the insertion of a precinct plan or some other mechanism into the PDP to manage development on the site if the scheduled SASM is to remain. If the zoning of the site was made operative then there would be no ability to make these changes. For example, if a precinct plan was to be applied to the site and introduced into the PDP, it could modify land use, subdivision and development on the site in a manner different to what would be enabled under MRZ2. The Council considers it is important to retain the ability for these types of amendments to be on the table in an effort to settle the appeal.

For completeness, rezoning the SASM on the Site to MRZ2 in advance of resolving the appeal is also likely to impact the outcome of BWS' claim (for both BWS and Council) under section 85 of the Act, contrary to Clause 36(2) of Schedule 12 of the RMA. On 23 June 2022 BWS filed an amended notice of appeal (**Amended Appeal**) seeking relief, amongst other matters, that retaining the SASM on the property would make the Site incapable of reasonable use and asking the Court to direct WDC to purchase the Site under section 85 of the RMA (paragraphs

12 e. and f. of the Amended Appeal). This Amended Appeal was opposed by Council. The Court issued a Decision on 4 October 2022 (Decision [2022] NZEnvC 186) allowing the Amended Appeal by BWS. A copy of the Court decision is attached together with the Amended Appeal.

Clause 36(2) of Schedule 12 RMA which expressly states that any appeals against the underlying proposed district plan are not affected by decisions made on an Intensification Planning Instrument under clause 107. However, if the Site is upzoned to MRZ2 now, the qualifying matter will then apply as the SASM remains. The qualifying matter in Rule MRZ2-S1A restricts the number of dwellings on each subdivided site within the SASM layer to 1 primary dwelling as a permitted activity (albeit a dwelling at MDRS scale). By contrast, if the appeal is resolved first and the SASM remains, a primary dwelling and minor dwelling could be developed on each subdivided lot within the SASM overlay as a permitted activity. Therefore, the timing of decisions (in terms of the zoning in play) will have an impact on this aspect of the appeal if the SASM remains.

3. *Can Council confirm that the proposed MRZ2-S1A rule would only apply to the part of the site which is subject to the SASM overlay and the rest of the site can be intensively developed under rule MRZ2-S1 despite the "Note" in that rule that states "This standard does not apply to 5837 Great South Road Ngaaruawaahia"?*

Council confirms that it is the intention for Rule MRZ2-S1A to apply only to the area of the Site to which the SASM overlay applies. The Recommendations Report proposes a note be added to MRZ2-S1 stating *"This standard does not apply to 5837 Great South Road"*. The note was not included in the Council decision as it formed part of the referred recommendation to the Minister. The Recommendations Report then details MRZ2-S1A which is entitled *"Residential Unit within the QM for 5837 Great South Road"*. When reading both Standards together, it is the view of Council that there is an error in the Recommendations Report note for MRZ2-S1 and it should have been worded as follows:

"This standard does not apply to the QM for 5837 Great South Road".

Although MRZ2-S1 is operative, it is Council's opinion that, due to the fact that notes within District Plans are intended to provide guidance only and do not have legal effect, a note can be added as a CI16 amendment to reflect what the wording should have been (that is, to explicitly exclude the QM for 5837 Great South Road from the application of the Standard).

4. *Who is involved in the appeal / are the affected parties for this site? Who would be affected (or not) by a delay to Ministerial decision-making, and why?*

The appellant to the proceedings is Blue Wallace Surveyors (**BWS**). The section 274 parties are as follows:

- Perjuli Developments Ltd (as the legal owners of the Site),
- Nga Uri o Tamaninupo ki Whaingaroa Trust,
- Te Whakakitenga o Waikato,
- Turangawaewae Trust Board, and
- Heritage NZ Pouhere Taonga.

Both BWS and Perjuli have advised Council that they would support the Minister's upzoning of the Site to MRZ2. Council is unaware of the position of the other parties.

Despite that support, it is the Council's opinion that no party would be affected by a delay in the decision making. If the development of the Site went ahead without the Minister's decision being made, it would be limited in implementation in relation to the application of the SASM overlay. The reason for this is if the owner of the property went ahead and decided to develop the property using the MDRS the overriding factor affecting the status of any development on the site is the SASM overlay.

5. *If the outcome of the appeal is that no SASM overlay applies to any part of the site, is it Council's intention to refer an amended recommendation to the Minister in relation to the rule framework for the site?*

It is not clear whether there is any legal ability in the RMA for Council to provide an amended recommendation to the Minister. Our understanding is that once a recommendation has been rejected by Council and referred to the Minister, that is the end of the Council's role. However, Council accepts that if resolution of the appeal results in the SASM overlay being removed, it would be appropriate for the Minister to make a decision to accept the IHP's recommendation to upzone the Site to MRZ2 without the qualifying matter.

Once the outcome of the proceedings are known, Council will use best endeavours to inform the Ministry as soon as practically possible of the outcome, and how, in its opinion, it affects the referred recommendation. If the Minister is able to accept an amended recommendation from Council, Council will assist.

Kind regards,



Tony Whittaker
Chief Operating Officer (on behalf of Craig Hobbs, CE)

Appendix 5: Site map for Matter B



Legend

Property Boundary

Rail

extent of QM recommended by the IHP

extent of QM now proposed by Council's alternative recommendation

Zone Operative

MRZ2 - Medium density residential zone 2

Road

Zone PartOp

Road

GRUZ - General rural zone

GRZ - General residential zone

GIZ - General industrial zone

Appendix 6: Consent order and consent memorandum

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2025] NZEnvC 357

IN THE MATTER OF appeals under clause 14 of the First
Schedule to the Resource Management
Act 1991

BETWEEN BLUE WALLACE SURVEYORS
LIMITED

(ENV-2022-AKL-000045)

FEDERATED FARMERS OF NEW
ZEALAND INCORPORATED

(ENV-2022-AKL-000051)

Appellants

AND WAIKATO DISTRICT COUNCIL

Respondent

AND PERJULI DEVELOPMENTS
LIMITED

TE WHAKAKITENGA O
WAIKATO

NGAA URI O TAMAINUPOO KI
WHAAINGAROA TRUST

HERITAGE NEW ZEALAND
POUHERE TAONGA

TUURANGAWAEWAE TRUST
BOARD

PUKEKOHE VEGETABLE
GROWERS ASSOCIATION

Section 274 Parties

Blue Wallace Surveyors Limited & ors v Waikato District Council – Appeals against the
proposed Waikato District Plan – Topic 6.1: Sites and areas of significance to Māori



Court: Environment Judge S M Tepania, sitting alone under s 279 of the Act
 Last case event: 2 October 2025
 Date of Order: 5 November 2025
 Date of Issue: 5 November 2025

CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to amendment of the planning maps in the Waikato District Plan (Operative in Part) (**DP-OP**) to reduce the extent of the Site of Significance to Maaori (**SASM**) overlay over the property at 5837 (formerly 5851) Great South Road, Ngaaruawaahia in accordance with **Appendix A** to this Order;
- (2) Rules SASM-R1 and SASM-R4 in the SASM chapter of the DP-OP be amended in accordance with **Appendix B** to this Order;
- (3) Blue Wallace Surveyors Limited's appeal is otherwise dismissed; and
- (4) Federated Farmers of New Zealand Incorporated's appeal with respect to 'Topic 6.1: Sites and Areas of Significance to Maaori' is otherwise dismissed.

B: Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns appeals by Blue Wallace Surveyors Limited (**Blue Wallace**) and Federated Farmers of New Zealand Incorporated (**FFNZ**) against part

of the decisions by Waikato District Council on the proposed Waikato District Plan (**PDP**). The PDP became operative on 30 October 2024 (**DP-OP**).

Background

[2] During the hearings on the PDP, the Independent Hearing Panel (**IHP**) made the decision to amend the notified PDP to adopt the National Planning Standards (**NPS**) which came into force after notification of the PDP. The decisions version of the provisions are referred to in this Order.

The appeals

[3] Blue Wallace is a Hamilton-based firm of surveyors, engineers and planners. They have a particular interest in resource management planning and land development throughout the district.

[4] Blue Wallace's appeal sought to remove the scheduling of a site and area of significance to Maaori (**SASM**) from a residential zoned property at 5837 (formerly 5851) Great South Road, Ngaaruawaahia (**Property**). The notified version of the PDP did not include a SASM over the Property. The SASM was applied in the decisions version in response to a submission. The Property is owned by Perjuli Developments Limited (**Perjuli**).

[5] FFNZ is a primary sector organisation that represents the needs and interests of New Zealand farmers involved in a range of rural businesses.

[6] This Order resolves Blue Wallace's appeal in its entirety and appeal points 10 and 12 of FFNZ's notice of appeal which sought amendments to rules SASM-R1 and SASM-R4. This aspect of relief was assigned to 'Topic 6.1: Sites and areas of significance to Maaori and Maaori cultural values – Sites and areas of significance to Maaori' (**Topic 6.1**).

[7] FFNZ withdrew three appeal points relating to SD-O2, MV-R1 and SASM-R3(1) (appeal points 3, 9 and 11 respectively) post-mediation. Appeal points 3 and 9 of FFNZ's notice of appeal were assigned to 'Topic 6.2: Sites and areas of significance to Maaori and Maaori cultural values – Maaori values'. FFNZ's appeal point 11 was

assigned to Topic 6.1. The Court confirmed the withdrawal of the three appeal points on 24 June 2024.

[8] The following persons gave notice of an intention to join this part of Blue Wallace’s appeal pursuant to s 274 of the Act:

- (a) Perjuli;
- (b) Te Whakakitenga o Waikato;
- (c) Ngaa Uri o Tamainupoo Ki Whaaingaroa Trust (**Tamainupoo**);
- (d) Heritage New Zealand Pouhere Taonga (**Heritage NZ**); and
- (e) Tuurangawaewae Trust Board (**Tuurangawaewae**).

[9] The following persons gave notice of an intention to join this part of FFNZ’s appeal pursuant to s 274 of the Act:

- (a) Te Whakakitenga o Waikato;
- (b) Pukekohe Vegetable Growers Association (**PVGA**); and
- (c) Heritage NZ.

Variation 3 to the PDP

[10] Variation 3 to the PDP was notified in 2022, after the filing of the appeals. This was the Council’s intensification streamlined planning process under the housing supply intensification legislation. The Council issued its decisions on Variation 3 on 16 October 2024. The portion of the Property outside the SASM overlay was upzoned from General residential zone (**GRZ**) to Medium density residential zone 2 (**MDRZ2**).

[11] The Variation 3 panel’s recommendation to upzone the land with the SASM overlay to MDRZ2, subject to a qualifying matter restricting density to one dwelling per site, was referred to the Minister for RMA Reform with a request that the zoning

of the land remain GRZ until such time as Blue Wallace's zoning appeal is resolved. This was accepted by the Minister on 17 April 2025.

Agreement reached

[12] The parties attended Court-assisted mediation on 26 February 2024 and 17 December 2024 and engaged in post-mediation discussions.

[13] Schedule 3 of the DP-OP protects the borrow pits located on the Property by way of a SASM overlay identified on the planning maps. The parties have agreed to amend the spatial extent of the SASM over the Property by amending the eastern boundary of the SASM to have a minimum buffer of 5 metres from the edge of each borrow pit.

[14] Perjuli has agreed to sell the Property to the Bridge Housing Trust (**BHT**) if an agreement can be reached with mana whenua on the potential development of the Property and resource consent is secured. BHT has consulted with the iwi parties to the Blue Wallace appeal over an appropriate development for the Property. A concept plan was agreed in principle between the BHT, Tamainupoo and Tuurangawaewae that includes the following:

- (a) the eastern boundary of the SASM be amended to have a minimum buffer of 5 metres from the edge of any borrow pit (as surveyed by Perjuli and BHT's archaeologist, Dr Warren Gumbley). This results in the existing north-eastern boundary of the SASM (identified by the purple line in **Appendix A**) being amended to the red line as shown in **Appendix A**;
- (b) a development area outside of the SASM of approximately 1.36 hectares be utilised for medium density housing; and
- (c) the balance area (SASM) of approximately 1.24 hectares is gifted to mana whenua, to be protected and maintained. In relation to the practical protection and maintenance of the balance area, that will be determined by mana whenua at a later date.

[15] The change in the spatial extent of the SASM overlay on the Property from approximately 1.58 hectares in the decisions version to an area of approximately 1.24 hectares represents a reduction of approximately 21.5%. This is due to the use of an alternative methodology of applying a minimum 5-metre buffer from the edge of the borrow pits to delineate the north-eastern boundary of the SASM, compared to the original methodology of mapping the area within 50 metres of the centre of each of the borrow pits.

[16] The amended extent of the SASM is shown in **Appendix A** to this Order. The amended SASM boundary will enable the balance of the land to be developed.

[17] The agreed amended SASM boundary was supported by a letter from Dr Gumbley dated 5 June 2025. Dr Gumbley's opinion was that the revised SASM boundary "will satisfactorily preserve the borrow pits" and that he supported "rezoning the land situated between" the revised boundary and its current position.

[18] The Council engaged an independent archaeologist, Dr Mathew Campbell from CFG Heritage Limited, to advise if he could support the proposed amended SASM boundary from an archaeology perspective. Dr Campbell was not involved in this matter during the PDP hearing process. Dr Campbell attended the Property on 4 June 2025 and provided a report on 21 July 2025. He concluded that the proposed change to the spatial extent of the SASM "provides appropriate protection for the site and should be protected". Whilst outside the scope of Blue Wallace's appeal, Dr Campbell also made recommendations for the remediation of some of the site, the preparation of a management plan and a full archaeological assessment of effects for any future development proposals for the Property.

[19] The revised SASM extent includes a triangular area of approximately 130m² that was outside of the 50-metre radius originally applied to the borrow pits in the decisions version of the planning maps. While extending the SASM overlay may be considered technically outside of the scope of the appeal, the parties advised that the small area adjacent to Great South Road represents the previous methodology and would be an anomaly if retained on the revised mapping as being outside the SASM.

[20] The affected parties are also parties to the appeal and agree that the SASM should contain the area closest to Pukeiaahua Paa. The boundaries of the decisions version (red polygons) and the amended version of the SASM (green) are shown in the map below:



[21] As a result of this agreement, Blue Wallace does not seek any changes to the provisions in the SASM chapter.

[22] To resolve FFNZ's appeal points, the parties have agreed to amend earthworks rule SASM-R1 to include the maintenance and repair of fences as a permitted activity, and also amend earthworks rule SASM-R4 for clarity to exclude the activities listed in SASM-R1.

[23] The amended rules are set out in **Appendix B** to this Order.

Planning assessment

[24] The Council considers that as the proposed amendments to the earthworks rules in SASM-R1 and SASM-R4 are minor in nature, none of the higher order planning instruments directly engage with the subject matter of those changes. Therefore, the planning assessment is limited to the amended spatial extent of the SASM on the Property.

[25] The parties have agreed that the revised SASM overlay on the Property meets the relevant statutory requirements under the Act as set out below.

Resource Management Act 1991

[26] Section 74(1) of the RMA requires that the Council must prepare a district plan in accordance with Part 2 of the RMA, which also sets out matters that the Council must have particular regard to when exercising its functions and powers.

[27] The parties consider that the amended SASM overlay more accurately defines the spatial extent of the SASM on the Property with input from mana whenua and two archaeologists. They consider that the proposal gives greater recognition to Maaori culture and values as required in Part 2 through the following sections:

- (a) s 6(e) – the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance. The level of cultural significance of the Property is high as the borrow pits on the site are deemed to be of high cultural value to Tamainupoo. The Environment Court in an earlier decision concerning the Property accepted Tamainupoo's evidence of the Property being culturally significant in terms of s 6 of the RMA and

recognised that Tamainupoo (along with Ngaati Mahuta and Tuurangawaewae) can point to a relationship based on one of the matters named in s 6. On this basis, and supported by the parties' recent agreement and the archaeological assessments of Dr Campbell and Dr Gumbley, the parties consider that the amendment to the SASM overlay on the Property provides a more accurate representation of the spatial extent;

- (b) s 6(g) – the protection of protected customary rights is a matter of national importance;
- (c) s 7(a) – kaitiakitanga is a matter to have particular regard to; and
- (d) s 8 – requires the principles of the Treaty of Waitangi are taken into account.

[28] The protection of historic heritage is also a s 6(e) matter of national importance. Historic heritage is defined in the RMA as including sites of significance to Maaori, including waahi tapu.

Heritage New Zealand Pouhere Taonga Act 2014

[29] When exercising its functions and powers under the RMA, the Council must have regard to any relevant entry on the New Zealand Heritage List/Raarangi Koorero required by the Heritage New Zealand Pouhere Taonga Act 2014.

[30] It is noted that the nearby Pukeiaahua Paa, which is approximately 200 metres west of the Property, is included in this list. The Property is considered to have once been encompassed within the Paa. The parties consider that the amended SASM better reflects the interconnectedness of the NZAA recorded sites at the Property and the Paa.

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

[31] The purpose of the Waikato-Tainui Claims (Waikato River) Settlement Act 2010 (**Settlement Act**), as set out in s 4, is to protect the health and mauri of the river and recognise the significance of the river to Waikato-Tainui.

[32] In 2010 a Joint Management Agreement (**JMA**), prepared under the Settlement Act, was signed with Waikato-Tainui. It sets out how the Council and Waikato-Tainui will work together to restore and protect the health and wellbeing of the Waikato River.

[33] The parties advise that the proposed amendment to the spatial extent of the SASM overlay on the Property represents the agreement reached by the parties including mana whenua and Waikato-Tainui, to determine the most appropriate way to use land in support of the health and mauri of the Waikato River. The amendment to the overlay restricts development within the SASM.

[34] The Settlement Act is also unique to the Waikato River and its catchment because it incorporates Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy for the Waikato River) (**Te Ture Whaimana**) into the Waikato Regional Policy Statement 2016 (**WRPS**) and reflects a required comprehensive ‘whole of river’ approach by all territorial authorities. Te Ture Whaimana is the primary direction-setting document for the Waikato River and activities within its catchment. For convenience, and to avoid repetition, the assessment against Te Ture Whaimana is discussed below under the WRPS.

Waikato Regional Policy Statement

[35] Under s 75(3)(c) of the RMA, a district plan must give effect to any regional policy statement. Accordingly, the parties advise that the following objectives and policies of the WRPS are relevant when considering the agreement reached.

Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy for the Waikato River)

[36] Part 1 of the WRPS addresses Te Ture Whaimana and recognises the need for restoration and protection of the relationships of Waikato-Tainui with the Waikato River including their economic, social, cultural, and spiritual relationships. Te Ture Whaimana is deemed in its entirety to be part of the WRPS. If there is any inconsistency, Te Ture Whaimana prevails over that part of the WRPS.

[37] In particular, objective 1.9.5.2 for the Waikato River, includes the restoration and protection of the relationships of Waikato-Tainui with the Waikato River,

including their economic, social, cultural, and spiritual relationships, and the integrated, holistic and co-ordinated approach to management of the natural, physical, cultural, and historic resources.

[38] Of particular importance are the strategies for the Waikato River which include the recognition and protection of waahi tapu and sites of significance to Waikato-Tainui and other river iwi (where they do decide) to promote their cultural, spiritual and historic relationship with the Waikato River, or are of significance to the Waikato regional community.

[39] In relation to SASMs, TETW-P1 provides for the restoration and protection of the health and wellbeing of the Waikato River including by:

- (a) protecting waahi tapu, sites and areas of significance to Maaori;
- (b) recognising and providing for application of maatauranga Maaori; and
- (c) managing the effects of subdivision, use and development including those associated with:
 - (i) building in river setbacks;
 - (ii) intensive farming;
 - (iii) earthworks and land disturbance; and
 - (iv) subdivision.

[40] The parties consider that the proposed amendments to the spatial extent of the SASM overlay is the most appropriate way to give effect to Te Ture Whaimana and TETW-P1, as it restricts development within the SASM.

[41] Part 2 of the WRPS includes objectives for significant resource management issues for the region that are significant to tangata whenua. In particular, SMR-I6 and IM-O4 addresses the restoration and protection of the health and wellbeing of the Waikato River catchment.

[42] SRMR-I5 specifically acknowledges that the relationship of tangata whenua with the environment is being damaged through activities which degrade the mauri of the environment; loss of access to, and use and enjoyment of, resources and places; loss or diminishment of the ability of tangata whenua to be involved in or influence decisions; and loss of ability of tangata whenua to exercise and provide for kaitiakitanga.

[43] The parties consider that the amendments to the spatial extent of the SASM overlay on the Property will result in a site that better represents the area containing culturally significant features. The revised map is considered by the parties to be the most appropriate way to give effect to the following WRPS objectives and policies:

- (a) IM-O1 seeks to ensure that natural and physical resources are managed in a way that recognises the relationships between environmental, social, economic and cultural wellbeing.
- (b) IM-O3 stipulates that decision making is aligned across legislation, adopts a precautionary approach, is based on best available information, including maatauranga Maaori, and includes working with tangata whenua.
- (c) IM-O7 identifies that the relationship of tangata whenua with the environment shall be recognised and provided for.
- (d) IM-P3 outlines that tangata whenua are to be provided appropriate opportunities to express, maintain and enhance the relationship with their rohe through resource management and other local authority processes.
- (e) IM-P5 stipulates that areas of amenity values, including areas of cultural significance, are to be identified, and those values are maintained and enhanced.
- (f) HCV-O1 seeks that sites, areas or places of cultural heritage are protected, maintained or enhanced in order to retain the identity and integrity of the regions and country's history and culture.

- (g) HCV-P1 relates to managing historic and cultural heritage, and specifically addresses collaborative, consistent and integrated management or protection of heritage resources across the region.

[44] The agreement to amend the boundary of the SASM, taking into account consultation with mana whenua and the technical advice of archaeological experts (Dr Gumbley and Dr Campbell), is considered by the parties to be appropriate and gives effect to the higher order planning documents and legislation.

Section 32AA assessment

[45] Section 32AA of the RMA requires a further evaluation report to be prepared when any changes are proposed since an original report was completed under s 32 of the RMA. The Council's planner has prepared a comprehensive stand-alone s 32AA evaluation for the agreed amendments.

[46] In summary, the s 32AA assessment concludes that:

- (a) The proposed amendments are the most appropriate way to achieve the purpose of the RMA because:
 - (i) the proposed amendments promote sustainable management of natural and physical resources in accordance with s 5(1) of the RMA by providing clarity around permitted minor earthworks;
 - (ii) the proposed amendments enable people and communities to provide for their economic well-being through productive use of the land in accordance with s 5(2) of the RMA;
 - (iii) the proposed amendments recognise and provide for the relationship of Maaori to the SASM in accordance with section 6 of the RMA, in particular, protecting the SASM from inappropriate subdivision, use and development; and
 - (iv) in accordance with s 7 of the RMA the proposed amendments provide for kaitiakitanga and maintenance and enhancement of amenity values through providing the opportunity for mana

whenua to access and enhance the SASM while enabling development outside of the SASM and reasonable use (the carrying out of permitted activities) of the land within the SASM by landowners.

- (b) The proposed amendments are considered the most appropriate way to achieve the purpose of the proposal and the RMA because:
 - (i) of the three options that the parties considered regarding the SASM rules, the proposed amendments are considered to be the most effective and efficient option as it protects the cultural values of the site while recognising existing structures and enabling their continued use;
 - (ii) the proposed amendments provide clarity for plan users as to the application of earthworks rules and is anticipated to have a high net benefit in comparison to the other options; and
 - (iii) of the five options that the parties considered regarding the spatial extent of the SASM over the Property, the proposed amendments are considered to be the most effective and efficient option as it continues to protect the cultural values of the site while enabling comprehensive residential development of the balance of the Property.

Consideration

[47] The Court has now read and considered the consent memorandum of the parties dated 2 October 2025 which proposes to resolve the appeals in respect of Topic 6.1.

[48] The making of this Order resolves Blue Wallace's appeal in its entirety and resolves the parts of FFNZ's appeal assigned to Topic 6.1.

[49] The parties have agreed that there is no issue as to costs.

[50] The Court is making this Order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this Order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[51] The Court is satisfied that the agreement reached is one that represents the various interests of the parties. It is clear the parties have considered other reasonably practicable options and assessed costs and benefits. The Court concludes that the parties have taken a nuanced and balanced approach, and the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, the Court considers the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Orders

[52] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (a) the appeal is allowed subject to amendment of the planning maps in the Waikato District Plan (Operative in Part) (DP-OP) to reduce the extent of the Site of Significance to Maaori (SASM) overlay over the property at 5837 (formerly 5851) Great South Road, Ngaaruawaahia in accordance with **Appendix A** to this Order;
- (b) Rules SASM-R1 and SASM-R4 in the SASM chapter of the DP-OP be amended in accordance with **Appendix B** to this Order;
- (c) Blue Wallace Surveyors Limited's appeal is otherwise dismissed; and

- (d) Federated Farmers of New Zealand Incorporated's appeal with respect to 'Topic 6.1: Sites and Areas of Significance to Maaori' is otherwise dismissed.

[53] Under s 285 of the Act, there is no order as to costs.

A handwritten signature in blue ink, appearing to read 'S M Tepania', is written over a horizontal line.

S M Tepania

Environment Judge | Kaiwhakawā i te Kōti Taiao



Appendix A – Amended Spatial Extent of SASM



Appendix B – Amendments to SASM provisions

Part 2: District-wide matters / Historical and cultural values / SASM – Sites and areas of significance to Maaori

Rules

Land use - effects

SASM-R1	Minor earthworks	
All zones	(1) Activity status: PER Where: (a) Disturbance of land within a SASM – Site and area of significance to Maaori as identified in SCHED3 – Sites and areas of significance to Maaori for the purposes of: (i) Gardening; (ii) <u>Maintaining or repairing fences, including</u> installation of fence posts; (iii) Repair or maintenance of existing underground farm infrastructure; and (iv) Interments in a burial ground, cemetery or urupaa.	(2) Activity status where compliance not achieved: n/a
SASM-R4	Earthworks	
All zones	(1) Activity status: RDIS Where: (a) <u>With the exception of activities listed in SASM-R1, E</u>earthworks within a SASM – Site and area of significance to Maaori as identified in SCHED3 – Sites and areas of significance to Maaori. Council's discretion is restricted to the following matters: (b) Effects on heritage and cultural values	(2) Activity status where compliance not achieved: n/a

Pages 19-62 are withheld under s9(2)(h) of the Official Information Act 1982

Appendix 7: Excerpts from the Independent Hearings Panel's Recommendations Report on Variation 3

**WAIKATO DISTRICT COUNCIL
VARIATION 3 – ENABLING HOUSING SUPPLY
TO THE PROPOSED WAIKATO DISTRICT PLAN**

RECOMMENDATIONS OF THE INDEPENDENT HEARING PANEL

Date: 22 March 2024

- k) Huntly is likely to form the most appropriate location for higher density residential development but there is only a limited market size for higher density development, combined with low commercial feasibility.

264. On the demand side, Ms Fairgray concluded:¹⁷⁵

- a) there is a total projected short-term demand for an additional 1,000 urban dwellings within the district's four main urban towns, and an additional 1,400 urban dwellings within the district's urban areas overall;
- b) the projected medium-term demand is for an additional 2,700 urban dwellings in the four main towns, and 5,000 additional dwellings in the long-term (4,000 dwellings and 9,700 dwellings across the district's total urban areas in the medium and long-term respectively);
- c) with a margin applied, there is demand for capacity to accommodate an additional 5,800 urban dwellings in the long-term in the four main towns, and 11,200 urban dwellings across the district's total urban areas; and
- d) nearly two-thirds of the long-term growth is projected to occur within urban areas, increasing their share of the dwelling base from a current 40% to 48% in the long-term.

265. Ms Fairgray's overall conclusion is that commercially feasible capacity in Pookeno, Tuakau and Ngaaruawaahia substantially exceeds the projected demand across all scenarios. In short, demand for 5,800 urban dwelling units and feasible capacity for 42,100 urban dwelling units with the stormwater QM applied.¹⁷⁶

266. With respect to the proposal by Kāinga Ora for a HDZ around centres, Ms Fairgray concluded that the limited market size and lower levels of commercial feasibility in the Waikato towns mean that the centres are unable to sustain consistent density gradients of higher density development to the proposed spatial extent.¹⁷⁷ She saw little justification for imposing such a zone, but accepted that if one was proposed then Huntly centre may be appropriate – although not at the scale proposed by Kāinga Ora (600m – 800 m extent from the centre).¹⁷⁸

7 Qualifying Matters

7.1 QMs in the PDP

267. The s.42A Report notes that Part 2 of the PDP contains all the District-wide provisions which relate to matters in s.6 of the RMA (but only to the spatial extent

¹⁷⁵ Fairgray, *Statement of evidence*, 20 June 2023, at [23]-[25].

¹⁷⁶ Fairgray, *Statement of evidence*, 20 June 2023, at Table A, [23] and [50].

¹⁷⁷ Fairgray, *Statement of evidence*, 20 June 2023, at [83].

¹⁷⁸ Fairgray, *Statement of evidence*, 20 June 2023, at [93]-[95], and [113].

of the mapped overlays), such as:¹⁷⁹

- Historic heritage
- Sites and areas of significance to Maaori
- Notable trees
- Ecosystems and biodiversity
- Natural character.

268. As a corollary, new MRZ2 rules impose setbacks or other restrictions within close proximity to those features, including:

- a) setbacks from buildings, structures and sensitive land uses within the National Grid Yard;
- b) subdivision within the National Grid Subdivision Corridor;
- c) impermeable surface limits;
- d) building setbacks for new buildings or alteration to an existing building for a sensitive land use from the:
 - i) designated boundary of the railway corridor;
 - ii) designated boundary of the Waikato Expressway;
 - iii) boundary of the Alstra Poultry intensive farming activities located on River Road and Great South Road, Ngaaruawaahia;
 - iv) centreline of the gas transmission line; and
- e) setbacks from waterbodies including lake, wetland or rivers including the Waikato and Waipaa Rivers.

7.2 Other QMs

269. Other QMs proposed by Council following the decision not to pursue the notified Urban Fringe QM, include:¹⁸⁰

- a) Havelock Precinct QM¹⁸¹;
- b) Environmental Protection Area (EPA) QM;
- c) Tuurangawaewae surrounds QM;¹⁸²

¹⁷⁹ s.42A Report, 15 June 2023, section 4.4.

¹⁸⁰ s.42A Report, 15 June 2023, Appendices 5 and 6.

¹⁸¹ Noting that this QM includes the residential slope area (natural hazard), the industry buffer (reverse sensitivity) and ridgeline (cultural) QMs.

¹⁸² s.42A Closing Statement, 5 September 2023, section 14.

- iv) Mine subsidence risk area QM; and
- v) MRZ2 Flood Risk QM.
- c) Stormwater;
- d) Other matters comprising:
 - i) minimum vacant lot size, averaging and shape factor;
 - ii) Huntly Commercial Precinct – COMZ and TCZ;
 - iii) the railway safety setback; and
 - iv) retirement village provisions; and
- e) Rezoning requests comprising:
 - i) Horotiu West;
 - ii) 23A Harrisville Road;
 - iii) 111 Harrisville Road; and
 - iv) 99A Ngaaruawaahia Road and 18 Rangimarie Road.

281. We address each of these matters in turn in the sections that follow.

8.1 PDP QMs

282. With respect to the PDP's QMs Mr Ebenhoh noted that:¹⁸⁸

For the majority of qualifying matters, V3 carries forward the standards developed through the PDP process. The Enabling Housing Act allows Waikato DC to vary the MDRS to reduce the level of enabled development to the extent necessary to accommodate a qualifying matter. These standards, which in most cases are a setback between an important feature (for example wetland) or infrastructure with reserve sensitivity concerns (for example wastewater facilities), have been thoroughly tested through the PDP Schedule 1 process.

283. However, Counsel for Council reminded us that because we are considering a proposed plan variation, all QMs are to be considered new QMs under s.77I as s.77K (existing QMs) only applies to operative plan provisions.¹⁸⁹ Counsel identified the following QMs that are proposed to be incorporated from the PDP-Decisions Version:¹⁹⁰

- a) Te Ture Whaimana, the Waikato River, other waterbodies and margins;
- b) Areas of significant indigenous vegetation and significant habitat of indigenous fauna;
- c) Sites and areas of significance to Maaori;
- d) Historic heritage;
- e) Natural hazards;
- f) Infrastructure;
- g) Reverse sensitivity; and
- h) Notable Trees.

¹⁸⁸ Ebenhoh, Statement of evidence, 20 December 2022, at [81].

¹⁸⁹ Opening legal submissions, 10 February 2023, at [5.12].

¹⁹⁰ Opening legal submissions, 10 February 2023, at [5.15 – 5.8 (sic)]

8.1.1 Finding

284. We agree with the Council and note that evidence on the above proposed QMs was subsequently produced.
285. For any of these QMs that we do not address further in subsequent sections, we confirm that accept the Council's evidence and submissions on the necessity for and appropriateness of these QMs.¹⁹¹ We also accept, as the Council noted, that these QMs have been thoroughly tested through the PDP Schedule 1 process.

8.2 New / Additional QMs

8.2.1 Havelock Precinct QM

286. This matter was resolved through the 16 January 2024 consent order issued by the Environment Court as noted in section 7.2.1 above. We accept the Council's recommended provisions for the reasons noted in that section.

8.2.2 EPA QM

287. This matter was also resolved through the 16 January 2024 consent order issued by the Environment Court as noted in section 7.2.2 above. We accept that the EPA QM is no longer required for the reasons noted in that section.

8.2.3 Tuurangawaewae Marae Surrounds QM

288. The Tuurangawaewae Marae Surrounds QM was introduced in a submission by Council to protect the viewshafts from the Marae to areas which are matters of national importance under s.6(e) being Haakarimata Range and Taupiri Maunga. Mr Mansergh had analysed the effects of potential development provided for by Var 3, and the greater height proposed in submissions (but not pursued at the hearing) by Kāinga Ora. He recommended height, height in relation to boundary, and coverage standards to control these effects within a High Potential Effects Area close to the marae. He had also analysed the effects of individual buildings at greater distances from the Marae, within an area referred to as the Building Height Assessment Overlay Area.
289. The significance of the viewshafts between the matters of national importance and the Marae were emphasised in cultural evidence from Mr K Kukutai (cultural witness for Tuurangawaewae Marae) and Mr K Flavell (witness for Te Whakakitenga o Waikato) and supported by planning evidence from Mr G Boundy (principal consultant for GMD Consultants Ltd) for both parties. Mr Boundy acknowledged the scope issues with the principal relief sought detailed by Mr Mansergh but sought recognition of the Waikato awa as an equally important part of the cultural

¹⁹¹ As set out in the Council's s.32 Evaluation Report, s.42A Report relevant expert evidence and legal submissions.

Appendix 8: Excerpt from site appeal

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2022] NZEnvC 186

IN THE MATTER OF

two appeals under cl 14 of Schedule
1 to the Resource Management Act
1991

BETWEEN

BLUE WALLACE SURVEYORS
LIMITED

(ENV-2022-AKL-045)

PERJULI DEVELOPMENTS
LIMITED

(ENV-2022-AKL-053)

Appellants

AND

WAIKATO DISTRICT COUNCIL

Respondent

Court: Chief Environment Court Judge D A Kirkpatrick

Hearing: On the papers

Last case event: 18 August 2022

Submissions: T Gibbons for Blue Wallace Surveyors Limited and Perjuli
Developments Limited
K Ridling for the Waikato District Council
S Graydon for Heritage New Zealand Pouhere Taonga
A Mako for Te Whakakitenga o Waikato
K Huirama for Ngā Uri o Tamainupō Trust
M Campbell for Federated Farmers of New Zealand

Date of Decision: 4 October 2022

Date of Issue: 4 October 2022

DECISION OF THE ENVIRONMENT COURT

Perjuli & Blue Wallace v Waikato District Council



express words of the reference. In my view it is sufficient if the changes directed by the Environment Court can fairly be said to be foreseeable consequences of any changes directly proposed in the reference.

[74] Ultimately, it is a question of procedural fairness. Procedural fairness extends to the public as well as to the submitter and the territorial authority. Adequate notice must be given to those who might seek to take an active part in the hearing before the Environment Court if they know or ought to foresee what the Environment Court may do as a result of the reference. This is implied in ss 292 and 293. The effect of those provisions is to provide an opportunity for others to join the hearing if proposed changes would *not* have been within the reasonable contemplation of those who saw the scope of the original.

[29] One aspect of BWSL's further submission was focussed on the potential for a significant economic and financial burden to be imposed on a landowner when a Maaori Site of Significance is identified on private land. I am mindful that I should not interpret or assess the extent of the scope of a submission so narrowly as to limit appeal rights and on that basis find that including relief under s 85 of the RMA is not too far removed from the concerns raised in BWSL's submission.

[30] Having considered the submissions of the parties I find that BWSL's further submission on the submission by Nabbs & Forsyth provides the necessary scope for BWSL to amend its appeal to include relief in its appeal under s 85 of the RMA.

[31] Finally, as BWSL's appeal already seeks relief in relation to 5851 Great South Road, Ngaaruawaahia, I find that amending the appeal to seek relief in relation to this property under s 85 of the RMA is also within scope.

[32] For these reasons BWSL's application to amend the appeal is granted.

Does Perjuli have standing to bring an appeal?

[33] Perjuli did not make a submission or further submission in relation to 5851 Great South Road, Ngaaruawaahia, as part of the submission process prior to the hearings of submissions. It was invited to address the Council's

Appendix 9: Excerpts from section 32 evaluation reports

Section 32 Report – Volume 2

Qualifying Matters

prepared for

Variation 3 to the Proposed Waikato District Plan

September 2022



Social	There may be conflict between parts of the community with different opinions over the value of biodiversity or the significance of an area.	Benefits to the community in terms of amenity and cultural values
Cultural	May limit the development of Maaori land if there is a significant natural area present	Recognition of cultural values as a part of the biodiversity assessment process

5 Relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga – Section 6(e)

5.1 Introduction

Section 771(a) identifies a matter of national importance that decision makers are required to recognise and provide for under section 6 as a qualifying matter. Section 6(e) of the RMA identifies the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga as a matter of national importance.

The approach of the PDP to this section 6 matter is largely through two mechanisms:

- the identification of Sites and Areas of Significance to Maaori in Schedule 3 and the planning maps; and
- enabling development of Maaori owned land.

The QM is associated with identified sites of cultural significance identified on the planning maps and contained in Schedule 3. There are two identified Sites and Areas of Significance within the four towns subject to Variation 3 which span eight sites, and both are located within Ngaaruawaahia as follows:

PDP Identifier	Location	Significance
318	Corner of Eyre Street and Broadway Street The Point	Currently known as 'The Point'. A site of pre 1900 history that connects to the Hakarimata Range, Puke-i-aahua Paa to the naming of Ngaaruawaahia and the Kiingitanga movement, followed by European occupation.
294	5851 Great South Road	The horticultural soils, borrow pits and associated pa are of scale that makes them an outstanding and significant cultural and archaeological landscape in Aotearoa/New Zealand. It is an archaeological and cultural landscape created by the utilisation of the soils deposited by the Waikato River and is associated with Puke-i-aahua Paa. These are the most extensive complexes of Maaori gardens identified in any region of New Zealand

The following objectives in the PDP provide the policy framework for identification of this QM:

SD-02 Tangata whenua.

Tangata whenua's relationships, interests, including commercial interests, and associations with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes, and other taonga are recognised and provided for.

MV-O1 Recognition of Maaori values.

(1) Maaori values are recognised and mana whenua are able to exercise kaitiakitanga, manaakitanga tikanga and mana whakahaere.

(2) Recognise that only tangata whenua can determine effects on their values, traditions, resources, waters, sites of significance, waahi tapu, other taonga and taonga species.

MV-O2 and SAASM-O2 Hononga.

The connections between tangata whenua and their ancestral lands, water, sites of significance, waahi tapu, other taonga and taonga species are protected or enhanced.

MV-O3 Kaitiakitanga.

The exercise of kaitiakitanga by mana whenua is recognised and maintained.

MV-O4 and SASM-O3 Whakaute ahurao.

Cultural practices and beliefs of mana whenua are respected.

MV-O4 Tikanga aa-iwi o Waikato me te takiwaa o Waikato.

Recognise the cultural significance of Waikato Takiwaa (district).

SASM-O1 Strategic objective – Tautoko te Whakatupuranga.

To support Iwi aspirations to grow prosperous, healthy, vibrant, innovative and culturally strong people.

5.2 What is the effect of the QM?

The provisions of the Sites and Areas of Significance chapter of the PDP decision version will continue to apply to those areas identified on the planning maps as being a Site or Area of Significance to Maaori. This means that within each of these identified sites or areas:

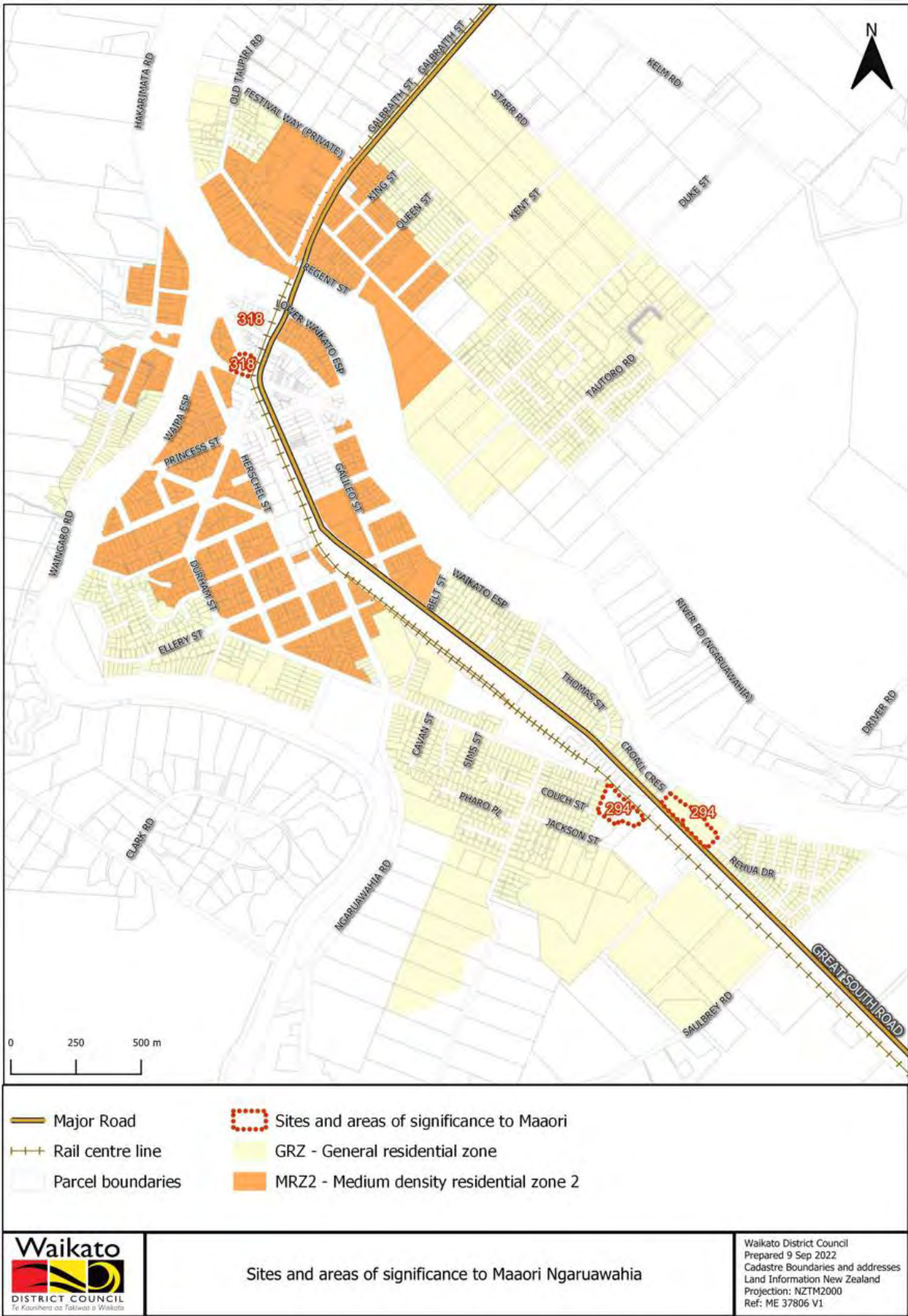
- a. Earthworks requires a resource consent as a restricted discretionary activity in SASM-R4; and
- b. Subdivision is a restricted discretionary activity where the site is wholly located within one proposed allotment (SASM-R5). The activity status cascades to a discretionary activity where subdivision does not comply with this standard.

The response of Variation 3 to this QM is that any works within a mapped Site or Area of Significance to Maaori is controlled by the relevant SASM rule. The activity status for subdivision of a site with a Site or Area of Significance to Maaori will be more restrictive than enabled by Schedule 3A of the Act which requires a controlled activity for subdivision.

5.3 What area does this QM apply to?

This QM applies to the residential zoned sites that have a Site or Area of Significance to Maaori identified on the planning maps.

Figure 5: Sites identified as having a Site or Area of Significance to Maaori in the PDP



5.4 Why is the area subject to the QM?

The sites have a Site or Area of Significance to Maaori in accordance with section 6(e) of the RMA. The Sites or Areas of Significance have been identified through a cultural assessment undertaken by Dr Des Kahotea.

5.5 Why is the QM incompatible with the level of development permitted?

Development (including earthworks or construction) on an identified Site or Area of Significance to Maaori has the potential to adversely affect the historic and cultural values of the site.

Limiting the development potential through the existing SASM rules recognises the national importance of the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga in accordance with section 6(e) of the RMA.

5.6 What is the impact of limiting development?

The existing rules in the SASM chapter of the PDP will limit earthworks and subdivision within the Site or Area of Significance to Maaori. Sites with this notation will be unable to develop to the full potential of the Medium Density Residential Standards as contained in the RMA as either the full or part of the site where the Sites or Area of Significance is located will be unable to be built upon due to the limitations on earthworks. Only two sites are impacted by this QM, therefore the impact on development in the District is very limited.

5.7 Costs and broader impacts of imposing the QM

	Costs	Benefits
Environmental	There are no environmental costs	Protects the integrity of the culturally important sites
Economic	There is an opportunity cost to properties affected by this QM, who are prevented from developing medium density residential developments Reduced ability to utilise the full extent of the property May not result in optimising the existing urban land resource Additional costs involved in obtaining a resource consent	There are no economic benefits
Social	There may be conflict between parts of the community with different opinions over the value of sites and area identified.	Supports community identity Contributes to and enhances the character and amenity of the District for residents and visitors
Cultural	May limit the development of Maaori land if there is a Site or Area of Significance to Maaori present	Cultural historic heritage is protected and maintained for present and future generations Positive impacts on cultural capital to iwi, hapuu, ruunanga, mana whenua and the wider community

Appendix 10: Excerpts from section 42A reports

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan

Hearing 20: Maaori Sites of Significance and Maaori Areas of Significance

Report prepared by: Sheryl Paekau

Dated: 29 June 2020



Road, Ngaaruawaahia because of their proximity to the Paa Site. These are deemed MSOS and of high cultural value to Ngaati Tamainupo and Ngaaruawaahia history. The vast area between Puke-i-aahua Paa and the Waikato River was associated with prehistoric Maaori cultivation. These have slowly been destroyed because of settlement, commercial industry, recreation, a cemetery and infrastructure. Ngaati Tamainupo also present their whakapapa as Mana whenua - to be recognised as having a right to be consulted during the current subdivision development, to preserve their history [REF – Section 15]. The submitters may wish to speak to their submission.

91. Email contact was made with the River Terraces Subdivision, Perjuli Developments Ltd on 13 March 2020 to request access to the property at 5851 Great South Road, Ngaaruawaahia for Dr Kahotea, the submitters and myself to assess the borrow pits of interest to them. The developer declined to meet us and also to allow access to the property. This decision was respected and Dr Kahotea said that there is enough visible evidence and history to carry out a cultural assessment.
92. Dr Kahotea has said that issues raised by Ngaati Tamainupo are best addressed by Council undertaking a review of the state of the remaining Waikato Horticultural Complex borrow pits with tangata whenua, to develop a strategic or management plan with preservation and conservation objectives.
93. I recommend that the cluster of borrow pits, or remaining borrow pits, be added to the planning map and Schedule 30.3 as an MSOS, and the supporting further submissions be accepted.
94. The reasons why these should be accepted, are that the 7 borrow pits situated on 5851 Great South Road, Ngaaruawaahia are the last evidence of the cultural landscape of Maaori horticultural gardens associated with that Pukeiaahua Paa site. The preservation of these pits is sensitive to the history of Tamainupo, Pukeiaahua Paa, Ngaaruawaahia's name and history (Wahia nga rua – Open up the foodpits) that connects to the Hakarimata Range and the meeting of the two rivers at the point.
95. I recommend that further submission Ngaa Uri o Tamainupo ki Whaingaroa Trust [FS1111.2] be accepted in support of [962.1].
96. I recommend that further submission Heritage New Zealand Pouhere Taonga [FS1323.151] supporting mana whenua [962.1] be accepted.

6.6 No changes to MSOS locations

97. Although submitter Elvin Priest [9.2] (reference to NZAA S14/84) PAA) did not seek a decision, he provided a comment that this site was on an early proposed route for the Waikato Expressway at Tamahere and that Transit staff and a Maaori elder had walked the site. There were few physical signs of the defence ditches. This proposed expressway route was later abandoned. There was no response to my email sent on 6 March 2020 to Mr Priest requesting permission to carry out a site visit, therefore I have relied on an NZAA Site Record Update of a site visit on 3 May 2007 by Chris Mallows, Archaeologist, Opus International Consultants, who reported:

“This pa was relocated at 2729654E / 6365379N +27m during the current site survey. Physical evidence of the pa that can be seen on the ground surface is poor. Linear banks and depressions do exist, but they are very ephemeral. Livestock have used the paddock in which

SECTION 42A REPORT

Report on submissions and further submissions – Variation 3
to the Proposed Waikato District Plan

Enabling Housing Supply

Report prepared by: Fiona Hill, Karin Lepoutre and Bessie
Clarke

Date: 15 June 2023

Version 2: Please note that this report was reformatted and uploaded on 19 June 2023. Only
formatting, referencing and list of submitter amendments were made.





Figure 22: Location of 5851 Great South Road

165. In decisions version of the PDP a site or area of significance to Maaori (SASM) was identified on this property and is shown on the map below (Figure 23). The SASM is within an area of the property located within the red dotted line (at least half the property). The Environment Court decision ENV-2021-AKL-000025 concluded that the area is of cultural significance. I note an appeal to the PDP decision has been lodged by Blue Wallace Limited seeking to remove the SASM. The property is also subject the outstanding natural landscape overlay, flood risk overlay and high-risk flood area.
166. In my opinion if the Panel removes the urban fringe qualifying matter the property will have the medium density residential standards applying to this site along with other properties that were located within the urban fringe. The determination of whether the SASM applies to the site will be made by the Environment Court. Notwithstanding the medium density standards applying the ability to build 3 houses on this site, or any other site, will also be affected by qualifying matters and district wide rules for earthworks, subdivision and other activities. In respect of the SASM it is noted rules SASM-R4 Earthworks and SASM-R5 Title boundaries have already been applied as qualifying matters and would apply to this property. SASM-R5 would apply when the first subdivision happens on the site as the title boundaries of a site containing a SASM would be affected. In my opinion, an additional QM under s771(a) is justified for this site because it is culturally significant. That QM would limit the number of residential units from that which could be achieved through the GRZ.

A development by tangata whenua established to be occupied by tangata whenua for residential activities and ancillary social, cultural, economic, conservation and/or recreation activities to support the cultural, environmental and economic wellbeing of tangata whenua.

Kāinga Ora state that the reason for replacing the two definitions with the above definition is to be consistent with definitions of papakaainga across the Waikato Region.

- Amend rules within the GRZ to provide for one papakaainga development as a permitted activity on general title land, to align with permitted levels of development for residential activities and enable urban papakaainga developments.
- Amend MRZ2-S1 to provide for both residential units and papakaainga to be more enabling of this form of development in accordance with Clause 80E(1)(b)(ii) of the RMA.

342. Section 80E(1) of the RMA outlines what an IPI must and may include. Provisions to enable papakaainga in the district ((80E(1)(b)(ii)) are included as provisions that *may* be included.

343. I am of the understanding that the papakaainga provisions were extensively reviewed as part of the district plan review process and no further changes were considered necessary when preparing Variation 3.

344. The PDP includes the following definitions relating to papakaainga:

Papakaainga

Original home, home base, village communal living

Papakaainga housing development

Means a comprehensive residential development for a Tangata Whenua group or organisation residing in the Waikato district to support traditional Maaori cultural living on Maaori land for members of the iwi group or organisation.

345. Part 2 of the PDP (District Wide Matters) includes a Maaori Land Chapter. The PDP defines Maaori land as Maaori freehold land, Maaori customary land, Maaori reservation or treaty settlement land.

346. Rule 1 of the Maaori land chapter states that for land use – the building rules of the underlying zone apply excluding:

- *Number of residential dwellings*
- *Minor residential unit rules*
- *Buildings and structures in the Landscape and Natural Character Areas*
- *Building height; and*
- *Building coverage*

Appendix 11: Excerpts from submissions, further submissions and hearings evidence

Proposed Waikato District Plan

Submission form

19 OCT 2018

Time..... Initials.....
NGARUAWAHIA

ECM Project: DPRPh5-03

ECM #

Submission #

Customer # **29899 \$ 70641**

Property #

To submit electronically please go to: www.waikatodistrict.govt.nz/pdp

Closing date for submissions: 5pm on Tuesday 9 October 2018

Submitter details: (please note that the (*) are required fields and must be completed)

First name*: Kimai & 1-Jay	Last name*: Huirama
Organisation:	
On behalf of: Ngati Tamainupo	
Postal address*:	
Suburb:	Town/City*:
Country:	Postal code*:
Daytime phone: 02102647451	Mobile: 0276443436
Email address*: Kimhuirama@gmail.com	
Please tick your preferred method of contact* ☒ Email ☐ Postal	
Correspondence to* ☒ Submitter ☐ Agent ☐ Both	
Trade competition and adverse effects:* ☐ I could ☒ I could not gain an advantage in trade competition through this submission.	
Note: If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.	
Would you like to present your submission in person at a hearing? ☒ Yes ☐ I do NOT wish to speak in support of my submission and ask that this submission be fully considered.	
If others make a similar submission I will consider presenting a joint case with them at the hearing (do not tick if you would not consider a joint case). ☐ Yes ☐ No	

Please complete the following for every submission point:

Provision number (e.g. 22.4.1.2 P2(a)):

Physical address of the property concerned (if relevant to your submission):

5851 Great South Road Ngauwāhia, 2831 River Road Ngauwāhia.

Do you:

☐ Support ☒ Oppose ☐ Neutral

The decision I would like is:

Ngaati Tamainupoo would like to protect some of the significant burrow pits on these sections and any other section those we would deem to be of high cultural significance (eg proximity to Puke I a hua and size)

My Reason for the above are:

The principal rohe for Ngaati Tamainupoo is Whaingaroa (Raglan area, near the Waitetuna harbour) and Ngaaruawaahia.

M The Marae is located on ancestral land at Whaingaroa (Raglan), and also maintains a mana whenua link to the Ngaaruawaahia rohe through whakapapa to the ancestor, Ngaere, and sites of cultural and historical significance, namely Puke-i-ahua marae, Hakarimata, Te Huinga o Nga Wai (the 'Point'), Waikato River and Waipa river.

We are mana whenua who are descendants of Ngaere, the chief of Pukeiahua Pā in the 1700s. Our marae is Mai Uenuku ki te Whenua, located in Whaingaroa (Raglan). Many of our marae members are fourth and fifth generation residents of Ngāruawāhia. Our mana whenua link to Ngāruawāhia comes from our connection to this land and the sites of significance from the ancestral story of how Ngāruawāhia got its name.

Our aim for the Hapu is to protect and preserve Ngāti Tamainupō identity and integrity. In order to do this we need to engage meaningfully with other stakeholders in the community to ensure that our stories are shared authentically and respectfully.

Please return this form **no later than 5pm on 9 October 2018** to:

Waikato District Council, 15 Galileo Street, Private Bag 544, Ngauwāhia 3742, or e-mail: districtplan@waikato.govt.nz

Signed:

(A signature is not required if you make your submission by electronic means)

Date:

9/10/18.

PRIVACY ACT NOTE: Please note that all information provided in your submission will be used to progress the process for this proposed district plan, and may be made publicly available.

**Proposed Waikato District Plan
Enabling Housing Supply Variation 3
to the Proposed Waikato District Plan
Submission form**

ECM Project: PDP2022V003-03
ECM #
Submission # **103**.....
Customer #
Property #

RMA Form 5

Closing date for submissions: 5pm on Friday 28 October 2022

Submitter details: (please note that the (*) are required fields and must be completed)

Name of submitter*: Perjuli Developments Limited	
Contact person for communications*: Tim Lester	
Agent (if applicable): Blue Wallace Surveyors	
Postal address*: PO Box 38	
Suburb:	Town/City*: Hamilton
Country:	Postal code*: 3840
Daytime phone:	Mobile: 021993223
Email address for submitter*: Email address for agent (if applicable): tim.lester@bluewallace.co.nz	
Please tick your preferred method of contact* ☒ Email ☐ Postal	Correspondence to* ☐ Submitter ☐ Agent ☒ Both
Trade competition and adverse effects:* ☐ I could ☒ I could not gain an advantage in trade competition through this submission. Only if you ticked "I could" above, please answer this question: I am/am not 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. Note: If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part I of Schedule I of the Resource Management Act 1991	
Would you like to present your submission in person at a hearing? ☒ Yes ☐ No If others make a similar submission I will consider presenting a joint case with them at the hearing. ☒ Yes ☐ No	

Please complete a line for every submission point, adding as many additional lines as you need:

The specific provisions of the proposal that my submission relates to e.g provision number, map or natural hazard area	Do you: • Support? • Oppose? • Amend?	What decision are you seeking from Council? What action would you like: • Retain? • Amend? • Add? • Delete?	Reasons
e.g. SUB-R1 Subdivision - general	e.g Support	e.g Retain rule SUB-R1	e.g Subdivision should be allowed for

Please return this form **no later than 5pm on Friday 28 October 2022** to:
 Waikato District Council, 15 Galileo Street, Private Bag 544, Ngaruawahia 3742, or e-mail: districtplan@waikato.govt.nz

Signed: Date:
 (A signature is not required if you make your submission by electronic means)

PRIVACY ACT NOTE: Please note that all information provided in your submission will be used to progress the process for this variation, and may be made publicly available.

28 October 2022
Our Ref: 19038
Client: Perjuli Developments Limited

Waikato District Council
Private Bag 544
Ngāruawāhia 3742

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- Resource Management Planners
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- Registered Professional Surveyors

Phone 07 839 7799

Dear Sir / Madam

Variation 3 – Enabling Housing Supply: Submission of Perjuli Developments Limited

1) Introduction

Blue Wallace Surveyors Limited (BWS) wish to provide the following submission on behalf of Perjuli Developments Limited (the Submitter) on the recently released Intensification Planning Instrument (IPI) by Waikato District Council (WDC).

WDC have named the notified IPI *Variation 3* (VAR 3) to the Proposed Waikato District Plan – Appeals Version (PDP).

The Submitter acknowledges that the IPI process has been introduced by the *Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021* which requires WDC to amend the PDP to provide for high and medium density development in response to an increasing demand for housing in urban areas across the District.

In particular, the 2021 Amendment Act gives effect to the intensification requirements put in place under the in the National Policy Statement on Urban Development 2020 (NPS-UD) and therefore has introduced Medium Density Residential Standards (MDRS).

The MDRS direction will enable up to three dwellings (up to three stories high) in all applicable residential zones in the PDP as a permitted activity. Furthermore, WDC is also required to enable up to six-storey buildings within walkable catchments of commercial centres.

In providing this submission it is understood that the MDRS' are mandatory provisions to be included in the PDP by WDC – and therefore any direct changes to these standards will be out of scope, and hence unable to be changed through the VAR 3 submission process.

2) Submission

The Submitter is the owner of a 2.78ha piece of land located at 5837 Great South Road, Ngaruawahia (being legally described as Allot 82 SBRS OF Newcastle South).

The current land use zoning of the piece of land is Residential (New Residential) within the Operative and Residential (General) in the Proposed Waikato District Plan.

VAR 3 proposes to retain the piece of land as General Residential Zone such that the MDRS provisions will not directly apply to the land.

The Submitter seeks to have the 5837 Great South Road property rezoned to Medium Density Residential Zone 1 (MRZ1) so as to enable a higher level of residential density, and furthermore, to have the MRZ1 zoning reflected on the applicable PDP planning maps.

The submitter acknowledges that WDC has only applied MRZ1 to land previously identified in the PDP as Medium Density Residential Zone, with Medium Density Residential Zone 2 (MRZ2) being limited to walkable catchments of the Waikato District's four main urban centres. However, given the purpose and intent of the NPS-UD, the Submitter contends that enabling a higher density of residential development at 5837 Great South Road is a viable proposition for WDC to consider through the VAR 3 process – as discussed below.

3) Reason for the Submission

The Submitter has reviewed the proposed PDP variation - inclusive of the supporting consultation material that has been made available through WDC's VAR 3 Website.

Based on the information currently available, it is noted that there is *no* land located to the south of Ngaruawahia's central urban area that has been recognised as enabling for medium density development under both the PDP (Decisions Version) and VAR 3.

Given the high employment and commercial use base for many existing, and future, residents of Ngaruawahia - which is provided by Hamilton City - it is considered appropriate that such density be enabled under the proposed PDP variation.

The property at 5837 Great South Road is only 1.1km to the south of Ngaruawahia's MRZ2 area (VAR 3), and therefore considered to be easily accessible to the Town Centre Zone. Furthermore, mass transportation networks (i.e., regular bus services) are easily available to Hamilton City, with the industrial and commercial areas of North Hamilton (Te Rapa) being only 8km to the south of the property.

The Submitter considers that VAR 3 has ignored land to the south of Ngaruawahia as appropriate to enable medium density housing; and consequently, requests that this be addressed through the Variation 3 review process.

Notwithstanding the above, the submitter also considers it relevant to note that the new residential growth area to the south of the township has been provided with new and resilient infrastructure (three waters) as well as from network utility operators (electricity, communications, and gas). This infrastructure has been provided mainly through the comprehensive River Terraces development.

The availability and capacity of such infrastructure is considered to provide Council and the local community with confidence that enabling a higher density of residential development at 5837 Great South Road is a pragmatic and sensible proposition – and furthermore that such density will not be to the detriment of the safe and efficient provision of services to the adjacent residential areas to the south of Ngaruawahia.

The land subject to this submission is immediately adjacent to the recently completed Stage 5 of the River Terraces residential development, and consequently infrastructure (including transportation) has been provided to the location at to a level and standard commensurate the latest resilience and technical construction standards.

Given the recent age of the surrounding area's infrastructure provision, the Submitter considers enabling a higher density of residential development under VAR 3 represents an efficient use of such infrastructure; and furthermore, that such efficiency presents a benefit to both local residents and ratepayers of the wider Waikato District.

4) Decision Sought

The Submitter seeks to have medium density residential development enabled within the land parcel located at 5837 Great South Road.

The Submitter seeks that the PDP Planning Maps are amended to the extent that a Medium Density Residential Zone 1 overlays the property subject to this submission.

The submitter seeks that consequential amendments are made to VAR 3 (Objectives and Policies) to the effect that the piece of land located between the Ngaruawahia Township and the commercial and industrial areas north of Hamilton City represent a suitable location to enable the MDRS' to be applied for future development.

The Submitter could not gain advantage in trade competition through this submission.

The Submitter wishes to be heard in support of this submission.

If others make a similar submission, the Submitter would be willing to consider presenting a joint case with them at hearing.

Any clarification or further information regarding the above submission can be made to the author at tim.lester@bluewallace.co.nz.

Regards



Tim Lester
Blue Wallace Surveyors Ltd



15 July 2020

**Waikato District Plan Hearings Committee
Waikato District Council
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Ngaruawahia 3742
New Zealand**

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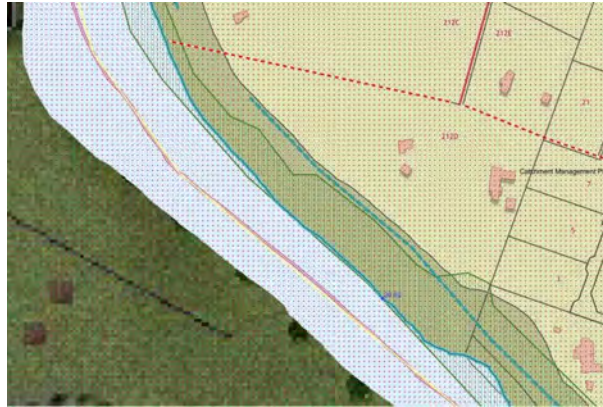
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Dear Sir/Madam

**Hearing 20 – Maaori Sites of Significance & Maaori Areas of Significance:
Evidence Circulation
Submitter FS987.1 (Blue Wallace Surveyors Ltd)**

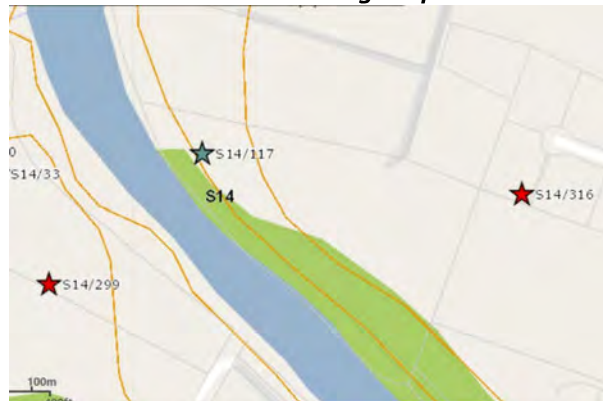
1. Blue Wallace Surveyors Limited ('BWS') - further submitter *FS987.1* - wishes to table evidence with the hearings panel in regard to *Hearing 20 – Maaori Sites of Significance & Maaori Areas of Significance* (MSOS) which commences on 3 August 2020.
2. BWS has reviewed the Council Planner's recommendation (as well as the s42A Technical Report) relating to their further submission and considers that both the recommendation and report do not address, nor adequately respond to, the principle matter of concern expressed in regard to *Submission 978* - this being that "... WDC must undertake further balanced evaluation" before assigning restrictive MSOS annotations on private properties across the district (submission point 7).
3. *FS987* supported *Submitter 978* to the extent that when assigning MSOS there needs to be fair and reasonable collaboration and assessment for cultural feature identification of private land in order to appropriately determine a significance ranking. As currently recommended in the s42A report, nearly all actual and potential sites of cultural interest across the district are deemed to be significant – and are consequently to be annotated on the applicable Proposed Waikato District planning maps.
4. In considering the s42A report recommendation – being to reject *FS987* - BWS contend that the impact of a pre-determined MSOS annotation needs to be taken in to account in regard to a feature's level of significance and the consequential effect on future development of the Site on which it is located.
5. In disagreeing with the s42A Planners recommendation, BWS seek that the Hearings Panel adequately recognize that constraints imposed by a MSOS annotation needs further balanced evaluation against the current zoning of the property and the features degradation and spatial extent so as to ensure the level of significance to be assigned is accurately articulated so not to unreasonably restrict a landowner's development rights. Until such an evaluation is undertaken, the large MSOS purple polygon (as indicated below) is not to be attached on the property (*note: the NZAA notification will remain*).
6. Whilst the feature indicated under *Submission 978* has been subject to archaeological assessment, the accuracy of the relevant assessments are disputed as to the significance, degradation and spatial extent of the Site – and as such, a nominal, large and curiously delineated restrictive notation on the private property will significantly undermine development potential when considered against the land's underlying urban use zoning.



ODP Planning Map



PDP Planning Map



New Zealand Archaeological Association (NZAA) Database Map

7. BWS consider that, in a wider sense, annotating MSOS on private land has the potential to carry with it a significant economic and financial burden to landowners. In the first instance, such a burden needs to be appropriately established and delineated with a degree of accuracy prior to being demarcated on private property.
8. BWS acknowledge the importance in protecting the Waikato District's significant heritage and cultural resources; however, such protection requires a *balanced evaluation*, and thus calibrated against a number of variable elements. Such considerations would assist in determining the level of 'significance' or 'interest' associated with a site; as well as to provide weight to considerations or recommendations that may have been previously recorded against the Site through on-site archaeological investigations provided by the NZAA and landowner.

9. BWS do not believe that the MSOS technical report, and hence S42A recommendation, has reasonably determined the significance of the Site – with the degree of significance being disputed through previous archeological assessments on the property – *a point noted in the applicable technical report (page 91).*
10. In principle, BWS is of the opinion that the Proposed Waikato District Plan MSOS planning map notations need to be subject to a robust archaeological and cultural assessment rather than desktop assumptions in assigning significance (as well as the delineation of the feature). More so, such annotation needs to consider existing environmental factors when assigning a level of significance (i.e., level of modification to the site, underlying resource consents, Heritage Authorities legally established etc.). The current approach underpinning the s42A recommendation to pre-determine significance constraints on private properties without a *balanced evaluation* or landowner involvement is worrying to BWS Clients - and the impact this approach will have to land use development decisions across the Waikato District.
11. In undertaking more *balanced evaluation* (such as the underlying environment, the state of modification and or damage to the site or feature, appropriate mitigation in collaboration with landowners/ developers and Mana Whenua) an appropriate level of significance can be assigned without restricting the underlying land use development without substantive reasoning. Currently, the method used to assign MSOS to private landholdings across the Waikato District runs the risk of being inaccurate for the applicable feature, with the financial burden on the owner of the subject land – hence, BWS seeks a more collaborative approach.

Planners Report

12. The technical report informing the Planner's recommendation is a desktop review of the Site and acknowledges that no on-site investigation was undertaken in evaluating the level of significance of the feature – as well as the spatial extent of the feature.
13. Based on the desktop assessment, the s42A report states that - in regard to *Submission 978*:

"Dr Kahotea comments that the information on MSOS S14/117 is sufficient to recommend that this site remains in place, however if further verification of location is needed it can be obtained either by field visit or GIS analysis of the contours. I therefore recommend that the submissions be rejected and the MSOS remains as located."

14. In regard to *FS987*, the Processing Planner states:

"I recommend that further submission Blue Wallace Surveyors Ltd [FS987.1] be rejected. Cultural values are clearly evident, although present day subdivision development would have affected these features."

15. For the reasons outline above, BWS do not agree with the Processing Planner's recommendation, in that:
 - The recommendation clearly states that further verification is needed, and
 - The level of significance is not clearly evident – the recommendation only refers to *"cultural values"*.
 - No subdivision currently relates to the property.
16. BWS consider that such a discrete process being applied to significantly constrain the use of private land sets an undesirable precedent to the community at large across the Waikato District. Such a precedent is enabling to a level of unverified significance

being assigned to private land on which, in many instances, only a limited account has been given to quantifying the level of significance.

17. BWS contend that the current archaeological mapping provided by the New Zealand Archaeological Association's (NZAA) Archaeological Site Recording Scheme appropriately identifies sites of cultural interest, as well as validating the significance of such sites or features. At the time of development, appropriate and further assessment can be provided as to the level of significance for the Site, as well as to provide appropriate mitigation in collaboration between the landowner/developer, and Mana Whenua. If damage is proposed to occur to the archaeological site then the process set out under the application for an archaeological authority can be undertaken.
18. In regard to the potential for unrecognized sites of cultural interest to be adversely effected by a proposed development – any such application will still be required to assess the land for cultural significance as a component of the consenting process – along with Council being able to request such reporting as part of the s92 information request process.
19. Once a site has been appropriately and collaboratively assessed as being a MSOS – then at this point it is fair and reasonable for the Site or feature to be confirmed through annotation on the applicable planning map.

Existing Protection

20. BWS contend that significance be determined based on robust archaeological and cultural investigations. Such investigations are already mandated through the Heritage New Zealand Pouhere Taonga Act 2014 and represent a clear understanding for all parties in regard to the significance of the Site – as well as the collaborative development of appropriate mitigation should a proposed development prove to have an effect on a MSOS.
21. In consideration of the existing Heritage New Zealand Pouhere Taonga Act 2014 protection and process, BWS contend that assigning a level significance to Maori cultural sites located within land zoned for urban use be undertaken at the time of development planning (i.e., at the resource consent stage) as appropriate. Pre-determining a level of significance as advocated in the s42A report exposes landowners and developers to potentially inaccurate constraints being placed on land or projects.
22. In having the level of significance determined prior to a confirmed archaeological and cultural assessment lends itself to uncertainty and confusion to landowners.

Consistency

23. BWS support *submission 978* where it was stated “WDC must undertake further balanced evaluation” and subsequently consider that the Waikato District Council needs to maintain consistency when notifying culturally significant sites.
24. As indicated in the ODP Plan Change 17: S42A Planning Report on Submissions and Further Submissions September 2016 regarding MSOS, a submission by Perjuli Developments Limited noted:

“Individual investigations can be undertaken as part of the subdivision consent process and will consequently determine whether an archaeological authority is required and how this will affect development. This approach tailors the investigation to the site as opposed to blanket investigation for a number of sites.

The WDP already contains limited information on archaeological sites. Developers work with qualified people who are well aware of obligations under the NZHPT Act 2014 who along with Council can advise developers on requirements.

25. In response to the above submission, Council agreed that such an approach to determining the significance of cultural sites was appropriate in balancing the development rights of private landowners with that of cultural significance.

26. BWS consider that accessible information relating to recorded archaeological and culturally significant sites should determine annotations on the Proposed Waikato District Plan planning maps. If no record exists on the NZAA database – then collaboration between the landowner and Mana Whenua should take place prior to MSOS annotations being applied to a site.

Section 42A Officers Report Recommendations and Blue Wallace's Response

27. The following comments are specific to the recommendation on FS987 as sought by Blue Wallace Surveyors Limited.

Further Submission	Recommendation
FS987.1 Blue Wallace Surveyors Ltd <i>Blue Wallace Seek that the submission point is accepted – and the cultural significance notation on the PDP Planning Map is removed and not reapplied until the significance is confirmed.</i>	<i>I recommend that further submission Blue Wallace Surveyors Ltd [FS987.1] be rejected.</i> <i>Cultural values are clearly evident, although present day subdivision development would have affected these features.</i> Reject submission point
S42A Recommendation not supported For the reasons provided in this statement of evidence, BWS do not agree with the Council Planner's recommendation. BWS do not agree that it is appropriate to pre-determine a level of cultural significance for a site until a collaborative and robust archaeological and cultural evaluation has been undertaken based on all relevant considerations. All relevant environmental, cultural and landowner considerations need to form a <i>balanced evaluation</i> prior to a MSOS annotation being placed on private properties. BWS seek that MSOS annotations are not applied to private land without a preceding balanced evaluation.	

28. In tabling this statement of evidence BWS has requested a time extension in regard to submitting copies of evidence for Hearing 20 – Maaori Sites of Significance & Maaori Areas of Significance for the Proposed Waikato District Plan (dated 10 July). This extension was agreed to by the Hearing's Commissioner on the date of request.

29. Blue Wallace requests that their evidence be submitted to and accepted by Council by 5pm on Wednesday 15 July 2020.

Regards



Tim Lester
For Blue Wallace Surveyors Ltd

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Variation 3 to the Proposed Waikato
District Plan

**STATEMENT OF EVIDENCE OF JAMES DYLAN EBENHOH
FOR WAIKATO DISTRICT COUNCIL FOR OPENING STRATEGIC HEARING**

Dated 20 December 2022

TOMPKINS | WAKE

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78. I note the submission by the Ministry of Housing and Urban Development states it considers V3 has been correctly applied to all relevant residential zones in the district.

Introduction of a High-Density Residential Zone in Huntly and Ngaaruawaahia and Height Overlay in the Same Town Centres

79. Kāinga Ora has also requested a new High density residential zone for the towns of Huntly (within 800 metre walkable catchment of the town centre) and Ngaaruawaahia (within 400 metre walkable catchment of the town centre), with a height limit of 22 metres. Accompanying this, the submission also seeks a height overlay for the business town centre zone in these two towns to allow for building heights to be proportionate to the High-density residential zone, with a height limit of 24.5 metres.
80. Waikato DC does not consider that allowing up to 6 storeys of development within and adjacent to the Huntly and Ngaaruawaahia town centres is commensurate with the level of commercial activity and community services in these towns, as required by Policy 3(d) of the NPS-UD. The Kāinga Ora submission would result in development that is out of character of these towns and is not supported by the FP Strategy, which identifies sufficient capacity for residential demand in the medium and long term for both towns, although a short-term shortfall is expected.³⁷

APPROACH TO QUALIFYING MATTERS GENERALLY

81. For the majority of qualifying matters, V3 carries forward the standards developed through the PDP process.³⁸ The Enabling Housing Act allows

³⁷ Future Proof Strategy 2022, June 2022, p 89-91.

³⁸ Natural character of water bodies and margins, ONFs and ONLs, significant vegetation and habitats, sites or areas of significance to Māori, historic heritage, natural hazards, National Grid setback, Te Ture Whaimana, setbacks from State Highways and Main Truck Rail Line, reverse sensitivity, notable trees.

Waikato DC to vary the MDRS to reduce the level of enabled development to the extent necessary to accommodate a qualifying matter. These standards, which in most cases are a setback between an important feature (for example wetland) or infrastructure with reserve sensitivity concerns (for example wastewater facilities), have been thoroughly tested through the PDP Schedule 1 process.

82. The V3 qualifying matters that do not have corresponding provisions in the PDP include: setbacks from the gas pipeline (although this is sought in an appeal); and the Urban Fringe.
83. I acknowledge that there is a range of approaches to qualifying matters in the submissions on V3. The substantive hearing will consider the specific qualifying matters and whether they are sufficiently justified under the Enabling Housing Act. I will specifically comment on three of the qualifying matters below, which have been raised in the Themes and Issues Report prepared for this hearing.³⁹

Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River

84. A qualifying matter under the Enabling Housing Act may include a matter required to give effect to Te Ture Whaimana. Te Ture Whaimana is common to all three Waikato Councils and forms an important part of the district planning in the sub-region in general. The evidence of Julian Williams for Hamilton City Council sets out the cultural and statutory significance of Te Ture Whaimana to the region. I adopt Mr Williams' evidence in this regard and therefore do not repeat it here.
85. V3 includes standards from the PDP relating to setbacks from waterbodies, impervious surfaces and subdivision standards ensuring

³⁹ Waikato IPI's Opening Hearing Themes and Issues Report, December 2022.

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of Variation 3 to the Proposed Waikato District Plan

**OPENING LEGAL SUBMISSIONS OF COUNSEL FOR WAIKATO DISTRICT COUNCIL
FOR THE JOINT OPENING HEARING**

Dated 10 February 2023

TOMPKINS | WAKE

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Appeals that seek to amend provisions relevant to qualifying matters

- 8.23 All qualifying matters in Variation 3 are classified as new qualifying matters and are subject to the evaluations under sections 77J and 77L.⁴⁶ The alternative process for existing qualifying matters under section 77K does not apply to Variation 3.
- 8.24 The IPI Panel has jurisdiction to determine to what extent a rule can be less enabling of development in the relevant residential zones to accommodate a qualifying matter. The IPI Panel's jurisdiction is however limited to the relevant residential zones in the district.
- 8.25 Where a PDP appeal relates to an infrastructure setback, for example, the Environment Court will have jurisdiction to consider the appropriateness of that setback in the remaining areas of the district not covered by the relevant residential zones.
- 8.26 We do not consider that the Environment Court will have jurisdiction under the PDP appeals to re-open and reconsider the application of qualifying matters to the relevant residential zones in Variation 3.

Appeals seeking to delete a new qualifying matter

- 8.27 There is one appeal seeking to delete a Site and Area of Significance to Maaori (**SASM**) from the planning maps. In our submissions, the existence of a site or area to be protected should be determined by the Environment Court, not the IPI Panel.
- 8.28 The IPI Panel is limited to considering whether the rules that make development in the vicinity of a SASM less enabling are appropriately justified under sections 77J.

⁴⁶ RMA s 77L only relates to 'any other' qualifying matters – the reverse sensitivity and notable trees qualifying matters.

Table 4: Appeals seeking to delete a qualifying matter

Party	PDP Appeal	Relief sought of relevance to the IPI process	Variation 3 submission	Relief sought in Variation 3 submission	Issues to be determined by IPI Hearing Panel	Issues to be determined by the Environment Court
Blue Wallace	Yes	Generally, the appeal seeks the deletion of the sites of significance to Māori (SASMs) over 'contested sites' in the district. Specifically, the appeals seeks the removal of the SASM at 5851 Great South Road. This property is zoned GRZ in the PDP-DV and V3, it is therefore within a relevant residential zone. 	Yes	The submission is limited to provision of infrastructure. The submission does not seek the removal of the SASM at 5851 Great South Road.	The IPI Panel does not have scope to determine whether the SASM at 5851 Great South Road should be deleted. The IPI Panel is limited to considering the appropriateness of any controls that are less enabling of development on this site as a result of the qualifying matters. Variation 3 includes a qualifying matter to make subdivision less enabling on a site that includes as SASM.	Whether the SASM is appropriate.

**BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS IN THE
WAIKATO REGION**

I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHEKE WAIKATO

UNDER the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of Proposed Variation 3 to the Waikato Proposed
District Plan (PDP)

**LEGAL SUBMISSIONS ON BEHALF OF WAIKATO DISTRICT COUNCIL
FOR SUBSTANTIVE HEARING**

21 July 2023

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carefully assess whether any additional qualifying matters were necessary in the GRZ in the four towns.³⁶

85. The Panel subsequently issued Interim Guidance #1 on 14 March 2023 in relation to the Urban Fringe qualifying matter and concluded that “the urban fringe is not a qualifying matter under s771(j) as it does not appear to satisfy the requirements of s77L of the RMA”.³⁷

ADDITIONAL QUALIFYING MATTERS IN RESPONSE TO REMOVAL OF URBAN FRINGE

Introduction

86. It was acknowledged by Council at the Joint Opening Hearing that at the time of preparing Variation 3, limited consideration had been given to whether any additional qualifying matters would be necessary in the GRZ given the Urban Fringe qualifying matter prevents the incorporation of the MRDS into that zone.³⁸ Furthermore, with the exception of the Urban Fringe qualifying matter and the proposed 6m setback from the gas transmission line (MRZ2-S14), all other notified qualifying matters had their origins in the PDP-DV. As signalled in the Opening Legal Submissions,³⁹ due to the Amendment Act coming into force after the completion of the PDP hearings, the PDP Panel did not have the benefit of evidence considering whether the PDP controls were sufficient in relation to a permitted 3x3 development across the GRZ (as opposed to the more limited extent of the MRZ).
87. The Council’s subsequent review has identified that the following additional qualifying matters, or amendments to notified qualifying

³⁶ Legal Submissions for the Joint Opening Hearing dated 10 February 2023, paragraph 5.15.

³⁷ Interim Guidance 1, paragraph 4.

³⁸ Ibid, paragraph 5.12(d).

³⁹ Paragraph 5.8.

matters, are required in response to the removal of the Urban Fringe qualifying matter:⁴⁰

- (a) The protection of culturally significant landscapes within the Havelock Precinct (generally referred to as 'Havelock Precinct Cultural Landscapes QM'⁴¹);
- (b) The protection of culturally significant viewshafts from Tuurangawaewae Marae to the Haakarimata Range, Taupiri Maunga and Waikato Awa (Tuurangawaewae Marae Surrounds QM);
- (c) The management of significant risks from natural hazards within the slope residential area of the Havelock Precinct (Slope Residential Area QM);
- (d) The management of significant risks from natural hazards within the Huntly Mine Subsidence Risk Area ('Mine Subsidence Risk Area QM);
- (e) The management of significant risks from stormwater and flood effects related to both natural hazards and giving effect to Te Ture Whaimana (Stormwater Constraints Overlay QM);
- (f) Amendments to the existing PDP-DV controls to better minimise reverse sensitivity effects of residential activities on industrial operations within the Havelock Precinct ('Havelock Industry Buffer QM' and '40 dBA Noise Contour QM'); and
- (g) The protection of a site and area of significance to Maaori at 5851 Great South Road, Ngaaruawaahia (SASM QM at 5158 Great South Road).

⁴⁰ Section 42A report, 19 June 2023, paragraph 22.

⁴¹ Made up of Ridgeline Height Control QM, Hilltop Parks Height Control QM and Industry Buffer Control QM.

Huntly¹¹⁷ however Ms Fairgray notes that the Stormwater qualifying matter still substantially increases plan enabled capacity from the baseline enabled under the PDP by 69% (+26,3000 dwellings)¹¹⁸ and considers the Stormwater qualifying matter still enables a significant level of intensification to occur in most locations within the outer residential areas.¹¹⁹

180. Ms Fairgray's rebuttal evidence sets out the further modelling undertaken in respect of the effects on residential capacity from the additional qualifying matters relating to SASMs at a particular property, the Huntly mine subsidence area, the Turangawaewae Surrounds and the Havelock Precinct.¹²⁰
181. The SASM applying to 5851 Great South Road does not reduce capacity as the site does not contain planned infrastructure provision within the long-term.¹²¹ The Huntly mine subsidence qualifying matter reduces the plan enabled capacity by 2% across the four towns (- 1,700 dwellings)¹²² or 13% at Huntly.¹²³
182. The combined Stormwater and mine subsidence modelled qualifying matters reduced total plan enabled capacity by 12% (- 8,400 dwellings).¹²⁴
183. Ms Fairgray's evidence is that the qualifying matters in relation to Area D surrounding Turangawaewae Marae may reduce the potential size of more intensive dwellings in Area D if they were to be developed, but does not reduce capacity in that area.¹²⁵

¹¹⁷ Evidence-in-Chief Susan Fairgray, paragraph 62.

¹¹⁸ Paragraph 60.

¹¹⁹ Paragraph 61.

¹²⁰ Rebuttal evidence, Susan Fairgray, paragraph 31.

¹²¹ Ibid, paragraph 33.

¹²² Paragraph 35.

¹²³ Paragraph 36.

¹²⁴ Paragraph 37.

¹²⁵ Paragraph 38.

**BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS IN THE
WAIKATO REGION**

I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHEKE WAIKATO

UNDER the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of Proposed Variation 3 to the Waikato Proposed
District Plan (PDP)

**STATEMENT OF REBUTTAL EVIDENCE OF SUSAN MICHELLE FAIRGRAY FOR
WAIKATO DISTRICT COUNCIL
(Urban Economics)**

Dated 19 JULY 2023

TOMPKINS | WAKE

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development patterns and result in less differentiation among inner and outer areas of the towns, as well as less diversity in the mix of new dwellings, taking into account the existing parcel structure, built form and the type of location.

CAPACITY MODELLING OF FURTHER QUALIFYING MATTERS

31. In July 2023, I have undertaken further modelling of the effect of additional qualifying matters on residential capacity. I modelled the following additional qualifying matters:
 - (a) The Huntly Mine subsidence area;
 - (b) The SASM at 5851 Great South Road, Ngaaruawaahia;
 - (c) The Tuurangawaewae Marae Surrounds; and
 - (d) Those applying to the Havelock Precinct.
32. The Huntly Mine subsidence area and SASM qualifying matters both apply to areas within the former General residential zone. They reduce the density to one dwelling per 450m² lot in each location in the localised areas affected by the qualifying matters.
33. The SASM applied at 5851 Great South Road did not reduce modelled dwelling capacity as the site does not contain planned infrastructure provision within the long-term. Therefore, the site also does not contain dwelling capacity in the absence of the qualifying matter.
34. The modelled results of the Huntly Mine subsidence area are summarised in Table 1 below together with the other previously modelled qualifying matters. The net difference in plan enabled and commercially feasible capacity is shown in relation to the modelled Variation 3 zones without the application of qualifying matters (Scenario 3a from my 12 June 2023 report).

Table 1: Effect of Qualifying Matters on Modelled Capacity (Pookeno, Tuakau, Huntly and Ngaaruawaahia)

MODELLED SCENARIO	Plan Enabled Capacity	Commercially Feasible Capacity			
		Current	Short-Term	Medium-Term	Long-Term
	Net Additional Dwelling Capacity				
Var 3 no QMs (Scenario 3a)	71,700	2,900	5,100	31,000	47,600
Var 3 with Urban Fringe QM (Scenario 3)	41,000	2,300	3,500	14,500	24,800
Var 3 with Stormwater QM	64,100	2,900	5,000	27,300	42,100
Var 3 with Mine Subsidence	70,000	2,900	5,200	31,000	47,200
Var 3 with all QMs (excl. Urban Fringe)	63,300	2,900	5,000	27,200	41,900
	Net Change from Variation 3 with no QMs (Scenario 3a)				
Var 3 with Urban Fringe QM (Scenario 3)	-30,600	-700	-1,700	-16,500	-22,800
Var 3 with Stormwater QM	-7,600	-100	-200	-3,800	-5,500
Var 3 with Mine Subsidence	-1,700	0	0	0	-400
Var 3 with all QMs (excl. Urban Fringe)	-8,400	-100	-200	-3,800	-5,700
	Percentage Change from Variation 3 with no QMs (Scenario 3a)				
Var 3 with Urban Fringe QM (Scenario 3)	-43%	-22%	-32%	-53%	-48%
Var 3 with Stormwater QM	-11%	-2%	-3%	-12%	-12%
Var 3 with Mine Subsidence	-2%	0%	0%	0%	-1%
Var 3 with all QMs (excl. Urban Fringe)	-12%	-2%	-3%	-12%	-12%

Source: M.E Waikato Residential Intensification Model, 2022 and 2023.

35. Table 1 shows that the additional Mine subsidence qualifying matter would reduce the total plan enabled capacity modelled across the four urban towns where MDRS is applied by 2%, equating to 1,700 fewer dwellings. The projected effect on commercially feasible capacity is smaller, at a reduction of 1% in the long-term or 400 fewer dwellings. The effect on commercially feasible capacity is smaller due to a lower portion of these dwellings projected to be feasible in comparison to the urban areas average.
36. The effect of the Mine subsidence area occurs entirely within Huntly, and therefore has a larger relative effect in this location. It reduces the plan enabled capacity at Huntly by 13%, and the long-term commercially feasible capacity by 11%. I note that feasible capacity exceeds demand by only a small margin in Huntly in the medium-term, increasing in the long-term. However, there is a sizeable amount of plan enabled capacity beyond the feasible capacity within Huntly.
37. The combined stormwater and mine subsidence modelled qualifying matters reduce the total plan enabled capacity by 12% (-8,400 dwellings). The reductions on commercially feasible capacity become larger through time as a greater share of the plan enabled capacity that is reduced would

Hon Chris Bishop

Attorney General
Minister of Housing
Minister for Infrastructure
Minister Responsible for RMA Reform
Minister of Transport
Associate Minister of Finance



23 June 2026

CB-COR3023

Aksel Bech
Mayor of Waikato
Waikato District Council
By email: aksel.bech@waidc.govt.nz

Cc Craig Hobbs
Chief Executive
Waikato District Council
By email: craig.hobbs@waidc.govt.nz

Dear Aksel,

On 31 October 2024, I received a letter from former Chief Executive, Gavin Ion, referring two rejected Independent Hearings Panel recommendations and the Council's alternative recommendations to me in relation to Waikato District Council's (the Council's) intensification planning instrument (IPI), Variation 3 Enabling Housing Supply to its Proposed District Plan (PDP).

I made a decision on Matter A (rezoning of 46 Jackson Street, Ngāruawāhia) in April 2025 and deferred making a decision on Matter B (relating to the site at 5837 Great South Road, Ngāruawāhia), until the resolution of an Environment Court appeal on the site. The Environment Court appeal on Matter B has now been resolved.

The referred recommendation for Matter B relates to 5837 Great South Road, Ngāruawāhia, with three component parts:

- Matter B, Part 1: rezoning a specified area of the property from General Residential Zone to Medium Density Residential Zone 2
- Matter B, Part 2: to incorporate rule MRZ2-S1A to the area subject to a SASM qualifying matter which restricts development within the Site and Area of Significance to Māori (SASM) by permitting only one residential unit per site within the SASM extent without resource consent
- Matter B, Part 3: the application of a qualifying matter to the area of the property that is subject to the SASM.

I note officials at the Ministry for the Environment sought clarification from Council officers on the decision sought on 1 December 2025 and on 1 May 2026 regarding a clarified alternative recommendation following the resolution of the appeal. Requesting this information was necessary to inform my decision. I thank Council staff for their assistance in providing this information.

I have made the following decisions on Matter B:

- Matter B, Part 1: accepted the Independent Hearing Panel's recommendation to rezone the specified area of the site from General Residential Zone to Medium Density Residential Zone 2
- Matter B, Part 2: accepted the Independent Hearing Panel's recommendation to incorporate rule MRZ2-S1A to the area subject to the SASM
- Matter B, Part 3: rejected the Independent Hearing Panel's recommendation relating to the spatial extent of the SASM overlay and accepted the Council's alternative recommendation relating to the SASM extent.

My decision for Matter B has been made in accordance with Schedule 1, clause 105 of the Resource Management Act 1991. The reasons for my decision are:

Matters B Parts 1 and 2

- a. the Council's alternative recommendation for rezoning the site to MRZ2 and incorporating rule MRZ2-S1A is now the same as the Independent Hearings Panel's recommendation; and
- b. the Independent Hearings Panel's recommendation complies with the requirements of the Resource Management Act 1991 to implement the medium density residential standards, subject to a justified qualifying matter, and gives effect to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020 by enabling greater development capacity for the site subject to an appropriate qualifying matter

Matter B Part 3

- c. it complies with requirements under the Resource Management Act 1991 to implement the medium density residential standards, subject only to a justified qualifying matter; and
- d. it appropriately applies a Site and Area of Significance to Māori qualifying matter to the spatial extent confirmed by the Environment Court, balancing protection of cultural values identified on the site with enabling development capacity; and
- e. it is consistent with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the National Policy Statement on Urban Development 2020, particularly by providing greater development capacity for the site.

I want to thank the Independent Hearings Panel and Council staff for the work undertaken to progress the Intensification Streamlined Planning Process. Ministry for the Environment officials will also contact Council staff to inform them of my decision.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Bishop'.

Hon Chris Bishop
Minister Responsible for RMA Reform