



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Chris Bishop	<b>Portfolio</b>	RMA Reform
<b>Title of briefing paper</b>	BRF-5265 Waipā District Council intensification planning instrument: Recommendations referred for decisions	<b>Date to be published</b>	25 October 2024

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
7 October 2024	BRF-5265 Waipā District Council intensification planning instrument: Recommendations referred for decisions	Ministry for the Environment
16 October 2024	Signed letter to Mayor Susan O'Regan	Hon Chris Bishop, Minister Responsible for RMA Reform

### Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

### Summary of reasons for redaction

Some information has been withheld under Section 9(2)(a) of the Official Information Act 1982 to protect the privacy of natural persons, including that of deceased natural persons.

Some information has been withheld under Section 9(2)(h) of the Official Information Act 1982 for the reason of maintaining legal professional privilege.



## BRF-5265: Waipā District Council intensification planning instrument: Recommendations referred for decisions

Date submitted: 7 October 2024

Tracking number: BRF-5265

Sub Security level: In-Confidence

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Chris BISHOP <b>Minister Responsible for RMA Reform</b>	Please <b>record</b> your decisions on the recommendations in Appendix 1. Please <b>review</b> and <b>sign</b> the letter in Appendix 5.	11 October 2024
CC Hon Penny SIMMONDS <b>Minister for the Environment</b>	No action required	N/A
CC Hon Chris BISHOP <b>Minister of Housing</b>		

Actions for Minister's office staff
<b>Return</b> the signed briefing to the Ministry for the Environment ( <a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a> and <a href="mailto:RM.Reform@mfe.govt.nz">RM.Reform@mfe.govt.nz</a> ).

## Appendices and attachments

- Appendix 1: Detailed analysis and recommendations for decisions under clause 105 of Schedule 1 of the Resource Management Act 1991
- Appendix 2: Council referral letter to the Minister on rejected Independent Hearing Panel recommendations
- Appendix 3: Maps indicating the spatial extent of the Stormwater Constraint Overlay
- Appendix 4: Notified provisions relating to relocated buildings
- Appendix 5: Draft letter to Waipā District Council on your decisions
- Appendix 6: Relevant excerpts from the Recommendations of the Independent Hearing Panel report
- Appendix 7: Relevant excerpts from Section 32 evaluation report documents
- Appendix 8: Relevant excerpts from selected submissions
- Appendix 9: Relevant excerpts from Section 42A report documents
- Appendix 10: Relevant excerpts from statements of evidence
- Appendix 11: Relevant excerpts from legal submission documents

## Key contacts at Ministry for the Environment

<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Responsible Manager	Linley Wilkinson	s 9(2)(a)	
General Manager	Liz Moncrieff	s 9(2)(a)	✓

## Minister's comments

# Waipā District Council intensification planning instrument: Recommendations referred for decisions

## Key messages

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1. This briefing seeks your decisions on recommendations for Waipā District Council's (the Council) Intensification Planning Instrument (IPI), Plan Change 26 (PC26).
2. On 30 August 2024, the Council referred four rejected Independent Hearings Panel (IHP) recommendations and its corresponding alternative recommendations to you for final decisions. The referred recommendations relate to:
  - a. removal of the Infrastructure Constraint Qualifying Matter Overlay from land surrounding the Commercial Zone in Cambridge (**Matter A**)
  - b. exemption from Rule 2A.4.2.8 – Site coverage within the Stormwater Constraint Qualifying Matter Overlay (**Matter B**)
  - c. deletion of provisions relating to relocated buildings (**Matter C**)
  - d. amendments to Section 18: Financial Contributions (**Matter D**).
3. As required by clause 105 of Schedule 1 of the Resource Management Act 1991 (RMA), the Minister for the Environment (or a relevant Minister with appropriate delegations or transfer of powers under section 7 of the Constitution Act 1986) must decide to accept or reject the referred IHP recommendations. As that Minister, if you reject an IHP recommendation you must decide whether to accept the council's alternative recommendation.
4. The matters you may take into account in making your decisions are limited to material the IHP could have taken into account. You may also have regard to compliance with procedural requirements and timeframes.
5. In relation to **Matter A**, officials recommend you accept the Council's alternative recommendation to retain the Infrastructure Constraint Qualifying Matter Overlay on land surrounding the commercial zone in Cambridge.
6. In relation to **Matter B**, officials recommend you accept the Council's alternative recommendation to remove the proposed exemption for the building coverage rule within the Stormwater Constraint Overlay.
7. In relation to **Matter C**, officials recommend you accept the IHP's recommendation to remove the provisions specific to relocated buildings in the Medium Density Residential Zone.
8. In relation to **Matter D**, officials recommend you accept the IHP's recommendation to retain the financial contributions section of PC26.
9. **Appendix 1** provides:

- a. short summaries of the IHP's referred recommendations and the Council's alternatives
  - b. officials' advice and recommendations
  - c. suggested reasons for accepting the officials' recommendations to send to the Council.
10. If you agree to the recommendations in this briefing, we recommend you send Susan O'Regan, Waipā District Mayor, the letter in **Appendix 5** to notify the Council of your decisions.

## Recommendations

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We recommend that you:

- a. **note** the recommendations referred to you by Waipā District Council and space for your decisions is included in **Appendix 1**
- b. **note** officials will provide additional material relevant to your decisions (such as submissions and further submissions) on request
- c. **sign** the letter included in **Appendix 5** to Susan O'Regan, Waipā District Mayor, notifying the Council of your decisions and reasons for your decisions

Yes | No

- d. **meet** with officials to discuss options if you would like to make different decisions from those recommended by officials or would like to discuss the recommendations

Yes | No

- e. **agree** that this briefing and appendices will be released proactively on the Ministry for the Environment's website within the next eight weeks.

Yes | No

## Signatures

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Linley Wilkinson  
Manager, Urban Implementation  
**Environment Management and Adaptation**  
**8 October 2024**

Hon Chris Bishop  
**Minister Responsible for RMA Reform**  
**Date**

# Waipā District Council intensification planning instrument: Recommendations referred for decisions

## Purpose

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1. This briefing seeks your decisions on recommendations referred to you by the Waipā District Council (the Council) on its Intensification Planning Instrument (IPI), Plan Change 26.
2. Four Independent Hearings Panel (IHP) recommendations along with the Council's alternative recommendations were referred to you. The referred recommendations relate to an Infrastructure Constraint Qualifying Matter Overlay, a Stormwater Constraint Qualifying Matter Overlay, relocated building provisions, and financial contributions.
3. You must decide to accept or reject each of the IHP recommendations that have been referred to you. For any of the IHP's recommendations that you reject, you must decide whether to accept the alternative recommendation proposed by the Council.

## Background

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### Background on intensification planning instruments and relevant Ministerial statutory functions provided in previous briefings

4. In January 2024, we provided you with advice (BRF-4113 refers) on Ministerial statutory functions as they relate to urban and infrastructure under the Resource Management Act 1991 (RMA).
5. BRF-4440: Referral of Western Bay of Plenty District Council's rejected recommendations on its intensification planning instrument also provided a high-level summary of the process for preparing an IPI, relevant Ministerial statutory functions and information about qualifying matters, and a diagram showing the different documents produced at each stage of the Intensification Streamlined Planning Process (ISPP).

### Waipā District Council's intensification planning instrument

6. The Council notified its IPI, called Plan Change 26, on 19 August 2022. The Council was initially directed to complete its work on the ISPP by 31 March 2024 (New Zealand Gazette notice 2022-sl2034). The Council sought an extension for Plan Change 26 until 27 February 2025 and was granted a shorter extension until 30 August 2024 (New Zealand Gazette notice 2024-sl2843).
7. The Council complied with its amended timeframe for its substantive plan change and wrote to you (**Appendix 2**) to notify you of its decisions on the IHPs recommendations on 30 August 2024. The Council has incorporated the IHP recommendations that it accepted into the operative Waipā District Plan.

## Analysis and advice

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### Matters to support decision-making - information and legislative requirements

8. The matters you may take into account in making your decisions are limited (under Schedule 1, clause 105 of the RMA) to material the IHP could have taken into account when making its recommendations. New evidence cannot be commissioned to inform decisions on the recommendations referred to you.
9. You may have regard to the Council's compliance with procedural requirements and timeframes and, if issued, whether the Council had regard to a 'statement of expectations'.
10. Officials have prepared advice for this briefing by referring to the material listed below. Each of these documents have been appended to this briefing to support your decision making:
  - a. Council referral letter, including the Council's reasons for rejecting the IHP's recommendations and the Council's alternative recommendations (**Appendix 2**)
  - b. Relevant excerpts from the Recommendations of the Independent Hearing Panel report (**Appendix 6**)
  - c. Relevant excerpts from Section 32 evaluation report documents (**Appendix 7**)
  - d. Relevant excerpts from selected submissions (**Appendix 8**)
  - e. Relevant excerpts from Section 42A report documents (**Appendix 9**)
  - f. Relevant excerpts from statements of evidence (**Appendix 10**)
  - g. Relevant excerpts from legal submission documents (**Appendix 11**)
11. If you wish to see additional evidence or submissions (including further submissions) considered by the IHP, officials will provide you with these documents. Full copies of the section 32 (evaluation report that accompanied the notified IPI) and the section 42A report (provided before a hearing to support the IHP) can also be provided.

### Recommendations referred to you by Waipā District Council

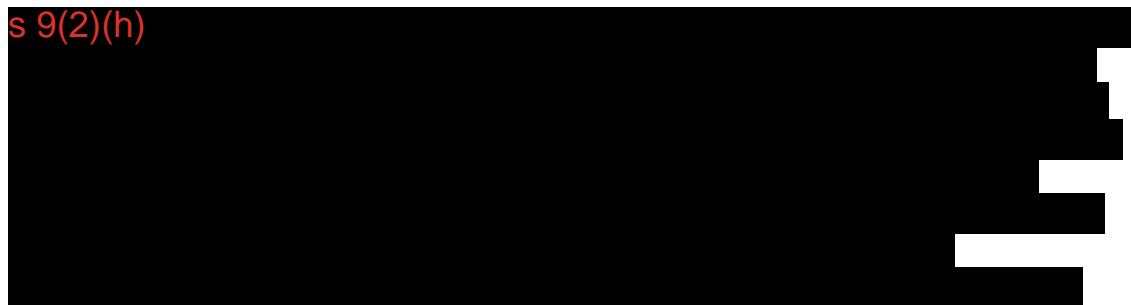
12. The Council rejected four of the IHP's recommendations on its IPI. The recommendations relate to:
  - a. removal of the Infrastructure Constraint Qualifying Matter Overlay from land surrounding the Commercial Zone in Cambridge (**Matter A**)
  - b. exemptions from Rule 2A.4.2.8 – Site coverage within the Stormwater Constraint Qualifying Matter Overlay (**Matter B**)
  - c. deletion of provisions relating to relocated buildings (**Matter C**)
  - d. amendments to Section 18: Financial Contributions (**Matter D**).

### Qualifying matters

13. The default position under the RMA is that the MDRS must be applied to all relevant residential zones. Less enabling height or density requirements can be introduced only to the extent necessary to accommodate qualifying matters.

14. Adjustments to the MDRS to accommodate qualifying matters must be supported by information to:
  - a. demonstrate that the relevant area is subject to a qualifying matter (section 77J(3)(a)(i) of the RMA)
  - b. demonstrate that the qualifying matter is incompatible with the level of development permitted by the MDRS (section 77J(3)(a)(ii) of the RMA)
  - c. assess the impact on development capacity and the costs and broader impacts of the changes (section 77J(3)(b) of the RMA)
  - d. describe how the changes are limited to only those modifications necessary to accommodate qualifying matters (section 77J(4)(b) of the RMA).
15. Matters A and B relate to the use of an Infrastructure Constraint Qualifying Matter Overlay and a Stormwater Constraint Qualifying Matter Overlay to accommodate two qualifying matters under section 77I of the RMA:
  - a. Te Ture Whaimana o Te Awa o Waikato - the Vision and Strategy for the Waikato River (Te Ture Whaimana)<sup>1</sup>
  - b. A matter required to give effect to the National Policy Statement on Freshwater Management 2020 (NPS-FM), namely Te Mana o te Wai
16. Section 12(1)(a) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 states that the Te Ture Whaimana prevails over any inconsistent provision in a national policy statement (such as the NPS-UD), while Section 12(3) states that a local authority must not amend a district plan if the amendment would make it inconsistent with Te Ture Whaimana.
17. There is work underway to amend the NPS-FM, including to rebalance Te Mana o te Wai. However, your decision on the referred recommendations is required to be based on the current legislative framework, including the current NPS-FM provisions.

18. s 9(2)(h)



19. s 9(2)(h) the approach we have taken to our analysis in **Appendix 1** has been:

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<sup>1</sup> The Plan Change 26 definition of Te Ture Whaimana is 'Te Ture Whaimana o Te Awa o Waikato - the Vision and Strategy for the Waikato River as set out in Schedule 2 to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and contained in Appendix O1 to the operative Waipā District Plan, and includes the Waikato River, the Waipā River and the catchments of the Waikato and Waipā Rivers'

- a. assessing whether recommendations that depart from the MDRS have been justified under section 77, and if so;
- b. assessing whether recommendations would be consistent with the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, and if so;
- c. undertaking a broad assessment of the evidence provided to support your decision-making.

### **Other matters**

20. **Appendix 1** sets out our analysis and advice on each recommendation. You must also provide the Council with reasons for your decisions. We have included suggested reasons (alongside the corresponding recommendations) in **Appendix 1** and seek your agreement to these.
21. The Council met the procedural requirements of the ISPP. The Council was not required to have regard to a 'statement of expectations' because no statement was issued.
22. **Table 1** on the following page provides a summary of the IHP's recommendations rejected by the Council, the corresponding alternative recommendations and officials' suggested reasons for your decisions.
23. If you agree to officials' recommendations and the reasons for your decisions, these will be sent to the Council in your response letter (**Appendix 5**) for the Council to publish.
24. The Council will incorporate your accepted recommendations into its District Plan and publicly notify those changes, including your reasons for your decisions. When this is carried out the provisions become operative (clause 106 of Schedule 1 of the RMA).
25. The referred recommendations have raised a number of new issues beyond those identified in previous referred recommendations to you.
  - a. There were changes in position by Council and council experts over the IPI process. There were also differences in position between council experts and Council as a whole. These issues made it difficult to fully understand and communicate the context for some rejected recommendations.
  - b. Where there was general agreement between submitters and the Council, the IHP provided very little reasoning for the changes it accepted and recommended. While this may have made sense at the time, it has made it difficult to consider the merits and justification of those referred recommendations.
  - c. While infrastructure solutions may exist that would enable the densities permitted by the MDRS while also meeting Te Ture Whaimana requirements, evidence about infrastructure was generally high level.

**Table 1: Summary of Independent Hearings Panel and Council recommendations and reasoning behind officials' recommendations**

	Summary of the Independent Hearing Panel's recommendation	Summary of the Council's alternative recommendation	Suggested reasons for decisions to accept the recommendations
<p><b>Matter A</b></p>	<p>Removal of the Infrastructure Constraint Qualifying Matter Overlay from land surrounding the commercial zone in Cambridge</p>	<p>That the Infrastructure Constraint Qualifying Matter Overlay be mapped to cover the full extent of the Medium Density Residential Zone as originally publicly notified by PC26. The effect of this is:</p> <ol style="list-style-type: none"> <li>1. All sites within the Medium Density Residential Zone are also contained within the Infrastructure Constraint Qualifying Matter Overlay</li> <li>2. All of the properties recommended by the IHP to be removed from the Infrastructure Constraint Qualifying Matter Overlay and coloured orange on the map overpage are retained within the Infrastructure Constraint Qualifying Matter Overlay.</li> </ol> <p>That Permitted Activity Rule 2A.4.1.1(b) be deleted  <del>Up to three dwellings per site outside of the:</del></p> <ol style="list-style-type: none"> <li><del>i. Infrastructure Constraint Qualifying Matter Overlay;</del></li> <li><del>ii. Regionally Significant Industry Qualifying Matter Overlay;</del></li> <li><del>iii. Character clusters and Character Cluster Qualifying Matter Overlay.</del></li> </ol> <p>That reference to Rule 2A.4.1.1(b) be deleted from Rule 2A.4.1A(a)                  2A.4.1A The following rules apply to the matter of notification of resource consent applications required under this section of the district plan:</p> <ol style="list-style-type: none"> <li>(a) An application for resource consent under Rule 2A.4.1.1(b), or (c) or (d) that does not comply with one or more of the performance standards in Rule 2A.4.2 will be considered without public notification unless the Council determines that special circumstances exist under the Resource management Act 1991.</li> </ol> <p><b>(Officials' recommendation)</b></p>	<p><i>I consider that there is sufficient evidence that the Infrastructure Constraint Qualifying Matter Overlay is necessary to accommodate Te Ture Whaimana Te Awa o Waikato - the Vision and Strategy for the Waikato River as a qualifying matter. The overlay enables Council to ensure growth does not exceed infrastructure capacity, given that this could negatively impact water quality in Waikato River, which would be inconsistent with Te Ture Whaimana.</i></p> <p><i>I consider that the Council's alternative recommendation is consistent with requirements under the Resource Management Act 1991, National Policy Statement on Urban Development 202, National Policy Statement on Freshwater Management 2020 and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p> <p><i>I also consider that there is insufficient evidence that the Independent Hearing Panel's recommendation would be consistent with the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p>

	Summary of the Independent Hearing Panel's recommendation	Summary of the Council's alternative recommendation	Suggested reasons for decisions to accept the recommendations
<b>Matter B</b>	<p>Apply an exemption from Rule 2A.4.2.8 (site coverage within the Stormwater Qualifying Matter Overlay) for sites that meet the following criteria:</p> <ul style="list-style-type: none"> <li>a. Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% site coverage over the entire site or on specified lots on the site; and</li> <li>b. Any regional discharge consents that are required have been approved and consent notices are in place, where applicable.</li> <li>c. Sites that meet the criteria outlined in 2A.4.2.8(a) and (b) will have maximum site coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site.</li> </ul>	<p>That Rule 2A.4.2.8 be amended to read:</p> <p>On sites located within the Stormwater Qualifying Matter Overlay, the maximum site coverage must not exceed 40% of the net site area. <del>except for sites that meet the following criteria:</del></p> <ul style="list-style-type: none"> <li><del>a. Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% site coverage over the entire site or on specified lots on the site; and</del></li> <li><del>b. Any regional discharge consents that are required have been approved and consent notices are in place, where applicable.</del></li> <li><del>c. Sites that meet the criteria outlined in 2A.4.2.8(a) and (b) will have maximum site coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site.</del></li> </ul> <p>Activities that fail to comply with this Rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>i. The flood effects due to displacement of floodwater arising from the proposed building development; and</li> <li>ii. The impact on rivers and waterbodies and whether any potential adverse effects from a development are required by relevant consent or guidelines to be avoided or mitigated; and</li> <li>iii. An assessment of stormwater disposal and whether this can be accommodated on-site.</li> </ul> <p><b>(Officials' recommendation)</b></p>	<p><i>I consider that the Council has provided sufficient evidence to demonstrate that the Stormwater Constraint Overlay restricts development only to the extent necessary to accommodate relevant qualifying matters and that the Council's alternative recommendation will better enable it to give effect to Te Ture Whaimana.</i></p> <p><i>Furthermore, I consider that the Council's alternative recommendation provides more certainty for plan users, whilst providing a clear pathway for development to proceed where appropriate.</i></p>

	Summary of the Independent Hearing Panel's recommendation	Summary of the Council's alternative recommendation	Suggested reasons for decisions to accept the recommendations
<b>Matter C</b>	Provisions that are specific to relocated buildings in the Medium Density Residential Zone are removed. <b>(Officials' recommendation)</b>	That the relocated building provisions as contained in the notified version of PC26 are retained (and renumbered as necessary). These provisions are included in Appendix 4.	<i>I consider that the proposed requirements for relocated buildings in the Medium Density Residential Zone, particularly the additional consenting and information requirements, would add to the complexity and cost of relocating buildings and are not justified by any effects specifically arising from relocated buildings. The removal of the relocated building provisions is also better aligned with Policy 6(b) of the National Policy Statement on Urban Development 2020.</i>
<b>Matter D</b>	Inclusion of two new financial contributions, for the purpose of mitigating effects on residential amenity and the Waikato River arising from density outcomes associated with PC26. These would apply to all new dwellings in the Medium Density Residential Zone and Commercial Zone. Extend financial contributions to permitted activities. <b>(Officials' recommendation)</b>	<ol style="list-style-type: none"> <li>1. To reject the Financial Contributions provisions in Plan Change 26 in whole.</li> <li>2. To retain / reinstate Section 18 – Financial Contributions of the Operative Waipā District Plan as was in place prior to notification of Plan Change 26.</li> <li>3. To delete the last paragraph of Rule 2A.4: <del>Also refer to the Financial Contributions Section. Activities that result in adverse effects on infrastructure (including permitted activities) may be required to pay financial contributions of money, land, or a combination, prior to commencing the activity.</del></li> </ol>	<i>I consider there is insufficient evidence to justify the scale of change sought by the Council through its alternative recommendation, noting that in making my decision I could only consider evidence that the Independent Hearing Panel could have considered when making its recommendation. By contrast, the Independent Hearing Panel's recommendation is supported by a robust body of evidence, which has been tested through the hearings process.</i>

## Other considerations

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### Legal issues

26. s 9(2)(h) [REDACTED]

27. s 9(2)(h) [REDACTED]

28. s 9(2)(h) [REDACTED]

29. s 9(2)(h) [REDACTED]

### Financial, regulatory and legislative implications

30. No financial, regulatory, or legislative implications are associated with the proposals in this briefing.

### Next steps

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31. If you agree to the recommendations in this briefing, please review and send Susan O'Regan, Waipā District Mayor, the letter in **Appendix 5** to notify the Council of your decision.

32. We will continue to work with relevant councils on their IPIs and brief you on any referred recommendations as they arise.

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

**Appendix 1: Detailed analysis and recommendations for decisions under clause 105 of Schedule 1 of the Resource Management Act 1991**

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## Appendix 1: Detailed analysis and recommendations for decisions under clause 105 of Schedule 1 of the Resource Management Act 1991

### Matter A: Removal of the Infrastructure Constraint Qualifying Matter Overlay from land surrounding the Commercial Zone in Cambridge

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
<p>Removal of the Infrastructure Constraint Qualifying Matter Overlay from land surrounding the commercial zone in Cambridge</p>	<p>That the Infrastructure Constraint Qualifying Matter Overlay is mapped to cover the full extent of the Medium Density Residential Zone as originally publicly notified by PC26.</p> <p>Permitted Activity Rule 2A.4.1.1(b) is deleted.</p> <p>That reference to Rule 2A.4.1.1(b) be deleted from Rule 2A.4.1A(a).</p>	<p><b>Context</b></p> <p><i>Notified provisions</i></p> <p>Plan Change 26 (PC26) was notified with an Infrastructure Constraint Qualifying Matter Overlay (Infrastructure Constraint Overlay) to show where the Waipā District Council (Council) water supply and wastewater infrastructure is at or over capacity. Within these areas, the development of three or more dwellings would require a resource consent as a restricted discretionary activity. This would enable the Council to assess whether the infrastructure networks have capacity to accommodate the additional intensification.<sup>1</sup> PC26 was notified with the Infrastructure Constraint Overlay applying over the full extent of the Medium Density Residential Zone.</p> <p>Density controls that are less enabling than those required under the Medium Density Residential Standards (MDRS), such as those under the Infrastructure Constraint Overlay, can only be set to the extent necessary to accommodate a qualifying matter. The Infrastructure Constraint Overlay is intended to accommodate Te Ture Whaimana o Te Awa o Waikato - the Vision and Strategy for the Waikato River (Te Ture Whaimana)<sup>2</sup> and the National Policy Statement on Freshwater Management 2020 (NPS-FM), both of which are specified qualifying matters under section 771 of the Resource Management Act 1991 (RMA).</p> <p><i>Submissions, hearing, and IHP recommendation</i></p> <p>There were a range of submissions on the Infrastructure Constraint Overlay (both in support and opposition), however these were generally about the overlay as a whole, not specific to its application in the area surrounding the Cambridge centre. However, a submission by Kāinga Ora sought application of a High Density Residential Zone within 400-800m of the Cambridge centre.</p> <p>During the hearing, Tony Quickfall, the Council's Manager of District Plan and Growth, proposed the removal of the Infrastructure Constraint Overlay for the area in a walkable proximity to the Cambridge CBD<sup>3</sup>, as shown in <b>Appendix 2</b>. This change would apply to approximately 425 parcels with a cumulative area of 37.5 hectares. In addition to enabling up to three dwellings as a permitted activity, the removal of the Infrastructure Constraint Overlay would remove the requirement for an infrastructure capacity assessment to be submitted as part of resource consent applications for four or more dwellings under Rule 15.4.2.19A.</p> <p>The Independent Hearing Panel (IHP) accepted the removal of the Infrastructure Constraint Overlay from the area surrounding Cambridge CBD.<sup>4</sup></p>	<p><b>Agree to either:</b></p> <p><b>1. officials' recommended suite of recommendations:</b></p> <ol style="list-style-type: none"> <li><b>reject</b> the Independent Hearings Panel's recommendation;</li> <li><b>accept</b> Waipā District Council's alternative recommendation;</li> <li><b>agree</b> to reason for decision: <ul style="list-style-type: none"> <li><i>I consider that there is sufficient evidence that the Infrastructure Constraint Qualifying Matter Overlay is necessary to accommodate Te Ture Whaimana Te Awa o Waikato - the Vision and Strategy for the Waikato River as a qualifying matter. The overlay enables Council to ensure growth does not exceed infrastructure capacity, given that this could negatively impact water quality in Waikato River, which would be inconsistent with Te Ture Whaimana.</i></li> <li><i>I consider that the Council's alternative recommendation is consistent with requirements under the Resource Management Act 1991, National Policy Statement on Urban Development 2020, National Policy Statement on Freshwater Management 2020 and the Waikato-</i></li> </ul> </li> </ol>

<sup>1</sup> Section 32 Evaluation Report - Appendix 3: Assessment of New Qualifying Matters, pp 4-5.

<sup>2</sup> The PC26 definition of Te Ture Whaimana is "Te Ture Whaimana o Te Awa o Waikato - the Vision and Strategy for the Waikato River as set out in Schedule 2 to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and contained in Appendix O1 to the operative Waipā District Plan, and includes the Waikato River, the Waipā River and the catchments of the Waikato and Waipā River".

<sup>3</sup> Rebuttal Statement of Evidence of Tony Quickfall, para 5.1(c).

<sup>4</sup> Recommendations of the Independent Hearing Panel, para 304.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<p><i>Council rejection of IHP recommendation</i></p> <p>The Council has rejected the IHP's recommendation and seeks that the notified extent of the Infrastructure Constraint Overlay is retained and that Rule 2A.4.1.1(b) is deleted. Rule 2A.4.1.1(b) states that the following is a permitted activity:</p> <p style="padding-left: 40px;"><i>Up to three dwellings per site outside of the:</i></p> <ul style="list-style-type: none"> <li><i>i. Infrastructure Constraint Qualifying Matter Overlay;</i></li> <li><i>ii. Regionally Significant Industry Qualifying Matter Overlay;</i></li> <li><i>iii. Character clusters and Character Cluster Qualifying Matter Overlay.</i></li> </ul> <p>If the Infrastructure Constraint Overlay is reverted to the notified extent (as per the Council's recommendation), it would cover the entire Medium Density Residential Zone, meaning that all developments of three dwellings or more would require resource consent and Rule 2A.4.1.1(b) would be obsolete. Developments of up to two dwellings per site would be permitted (subject to performance standards) under Rule 2A.4.1.1(c). Performance standards would still allow for three storey dwellings as a permitted activity.</p> <p><b>Reasons for the Independent Hearings Panel's recommendation</b></p> <p>The IHP provided little reasoning in its recommendation report<sup>5</sup> for the removal of the Infrastructure Constraint Overlay around the Cambridge CBD. Tony Quickfall's rebuttal evidence, in which the removal of the Infrastructure Constraint Overlay from around Cambridge was originally proposed, stated that the removal was due to the Council team having applied the 'correct policy framework and cascade' and undertaking site specific modelling.<sup>6</sup> No further information on this policy assessment or modelling was provided. The removal of the Infrastructure Constraint Overlay from around Cambridge was supported by the rebuttal evidence of Chris Hardy, Technical Principal (Water and Wastewater) at WSP Ltd, who appeared for the Council and stated that it would 'provide certainty for water and wastewater network planning while removing the current proposed restrictions on development'.<sup>7</sup> He also highlighted that it would result in additional water and wastewater infrastructure being required, over and above current planned infrastructure.</p> <p>The change was also supported by Susan Fairgray, associate director at Market Economics Ltd, who appeared for the Council and stated the change would provide for terraced housing and other medium-density typologies in the area.<sup>8</sup> She also considered that it would encourage a compact urban form, increase the feasibility of development, and provide economic benefits in supporting the vitality and viability of the centre.<sup>9</sup></p> <p>Susan Fairgray also conducted feasibility modelling to understand the effect of the proposed change. This analysis indicated that medium density intensification within this area is likely to be commercially feasible, with feasibility increasing over time. She concluded that 'In the long-term, relaxation of the Infrastructure Overlay is</p>	<p><i>Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p> <p><i>I also consider that there is insufficient evidence that the Independent Hearing Panel's recommendation would be consistent with the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p> <p style="text-align: right;"><b>Yes   No</b></p> <p><b>Or</b></p> <p>2. <b>meet</b> with officials for further discussion.</p> <p style="text-align: right;"><b>Yes   No</b></p>

<sup>5</sup> Recommendations of the Independent Hearing Panel, para 304-307

<sup>6</sup> Rebuttal Statement of Evidence of Tony Quickfall, para 5.1.

<sup>7</sup> Rebuttal Statement of Evidence of Chris Hardy, paras 7.4-7.6.

<sup>8</sup> Rebuttal Statement of Evidence of Susan Fairgray, para 2.5.

<sup>9</sup> Rebuttal Statement of Evidence of Susan Fairgray, para 3.7.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<p>estimated to approximately double the commercially feasible capacity within the proposed Infrastructure Overlay relaxation area around Cambridge'.<sup>10</sup></p> <p><b>Reasons for the Council's alternative recommendation</b></p> <p>The primary reason provided by the Council for rejecting the IHP recommendation was that there was insufficient evidence to justify the removal.</p> <p>The Council considered that the discussion in the IHP report did not record in sufficient detail or demonstrate that further evaluation was undertaken in accordance with the requirements of Section 32AA of the RMA to confirm that removal of the Infrastructure Constraint Overlay was the most appropriate way to achieve the objectives of PC26.</p> <p>The Council considered that the suggested removal of the Infrastructure Constraint Overlay around the Cambridge CBD, put forward by Tony Quickfall, was based on strategic planning grounds but did not provide specific justification or consider the potential adverse effects.</p> <p>The Council also highlighted that the IHP had accepted the expert engineering and planning evidence provided on behalf of the Council that stated that it was necessary to implement the Infrastructure Constraint Overlay to avoid adverse effects from development enabled by the Medium Density Residential Standards (MDRS) and to give effect to Te Ture Whaimana.<sup>11</sup></p> <p>A comprehensive analysis<sup>12</sup> was undertaken by the Council to justify the adjustments to the MDRS (including through the Infrastructure Constraint Overlay) to accommodate the use of Te Ture Whaimana and Te Mana o te Wai under the NPS-FM as qualifying matters under sections 77I and 77J of the RMA.</p> <p>The Council has indicated that without the provisions to address the qualifying matter, the additional development would impact on water abstractions which would cause effects on rivers and other water bodies.<sup>13</sup> Modelling undertaken on behalf of the Council predicted that much of the wastewater network around Cambridge will operate under a surcharge condition in wet weather. It concludes that "wider redevelopment across the area is anticipated to cause issues requiring strategic upgrades due to surcharge conditions and several overflows in the trunk sewer to the treatment plant".<sup>14</sup> Reductions in water quality would adversely impact on the ability to give effect to Te Ture Whaimana, which is focused on the protection and enhancement of the water quality of the Waikato and Waipā Rivers and their catchments.<sup>15</sup></p> <p>In a submission by Waikato Tainui, the iwi stated that<sup>16</sup>:</p> <p><i>Housing intensification, inappropriate subdivisions, use or development of resources has the potential to adversely affect the Waikato River and therefore, fails to give effect to Te Ture Whaimana.</i></p>	

<sup>10</sup> Rebuttal Statement of Evidence of Susan Fairgray, para 5.7.

<sup>11</sup> Recommendations of the Independent Hearing Panel, pp 66-72, particularly para 304.

<sup>12</sup> Section 32 Evaluation Report - Appendix 3: Assessment of New Qualifying Matters, pp 2-6.

<sup>13</sup> Section 32 Evaluation Report - Appendix 3: Assessment of New Qualifying Matters, p 4.

<sup>14</sup> Section 32 Evaluation Report - Appendix 6: Water and Wastewater Infrastructure Assessment, pp 10-11.

<sup>15</sup> Section 32 Evaluation Report - Appendix 3: Assessment of New Qualifying Matters, p 4.

<sup>16</sup> Submission 49: Waikato Tainui, paras 18-20.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<p>...</p> <p><i>Waikato-Tainui agree that the application of the Te Ture Whaimana qualifying matter must be related to impacts on the health and wellbeing of the Waikato River and that the matter required to give effect to Te Ture Whaimana relates to the balance in the relationship between enabled residential densities, and the provision of public infrastructure necessary to address adverse effects arising from development taking up those densities. Managing land use to match infrastructure capacity to protect the health and wellbeing of the Waikato River is part of the role and function of Waipaa District Council.</i></p> <p>...</p> <p><i>Waikato-Tainui are satisfied that the provisions that have been developed and included will give effect to or achieve the objectives of Te Ture Whaimana, with further amendments noted in Table 1 below.</i></p> <p>The removal of the Infrastructure Constraint Overlay around the Cambridge CBD was opposed by Tony Coutts, Principal Engineer for Growth at the Council, who stated that, given the level of potential uptake compared to the expected infrastructure cost, he did not support the change.<sup>17</sup> He also estimated that the Council would need to invest a further \$600m (beyond committed levels of investment) for capital infrastructure expenditure to meet the requirements of the MDRS if the Infrastructure Constraint Overlay was removed across the urban extents of Cambridge, Te Awamutu and Kihikihi.<sup>18</sup> There does not appear to be any information on the proportion of this that would be required if the Infrastructure Constraint Overlay was only removed around the Cambridge CBD.</p> <p>The Council also considered that the removal of the Infrastructure Constraint Overlay would falsely imply that there are no infrastructure concerns with this part of Cambridge. Other reasons given by the Council for preferring their alternative recommendation included a desire to treat all land within the Medium Density Residential Zone consistently in relation to infrastructure capacity issues and requiring all developments of three or more dwellings to provide an infrastructure capacity assessment.</p> <p><b>Advice</b></p> <p>Officials recommend you accept the Council's recommendation to retain the Infrastructure Constraint Overlay in the area surrounding the Cambridge CBD. The need to use the overlay to accommodate Te Ture Whaimana and Te Mana o te Wai under the NPS-FM was demonstrated through evidence in Council's section 32 report and further evidence provided at the hearing, including</p> <ul style="list-style-type: none"> <li>• demonstrating that the relevant area is subject to a qualifying matter (section 77J(3)(a)(i) of the RMA)</li> <li>• demonstrating that the qualifying matter is incompatible with the level of development permitted by the MDRS (section 77J(3)(a)(ii) of the RMA)</li> <li>• assessing the impact on development capacity and the costs and broader impacts of the changes (section 77J(3)(b) of the RMA)</li> </ul>	

<sup>17</sup> Rebuttal Statement of Evidence of Tony Coutts, para 5.5.

<sup>18</sup> Rebuttal Statement of Evidence of Tony Coutts, para 6.5.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<ul style="list-style-type: none"> <li>describing how the changes are limited to only those modifications necessary to accommodate qualifying matters (section 77J(4)(b) of the RMA).</li> </ul> <p>Conversely, there was a lack of evidence referenced by the IHP to demonstrate that the overlay was not appropriate for accommodating the qualifying matters. There was also a lack of evidence that the densities enabled in the area by the MDRS, in the absence of the Infrastructure Constraint Overlay, would be consistent with Te Ture Whaimana and Te Mana o te Wai under the NPS-FM. Providing development capacity that exceeds infrastructure capacity has the potential to impact water quality, which would be inconsistent with Te Ture Whaimana, which is focused on the protection and enhancement of the water quality of the Waikato and Waipā Rivers and their catchments. While this could potentially be managed through infrastructure investment, there was insufficient evidence provided to be certain of this.</p> <p>Section 12(1)(a) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 states that the Te Ture Whaimana prevails over any inconsistent provision in a national policy statement (such as the NPS-UD), while Section 12(3) states that a local authority must not amend a District Plan if the amendment would make it inconsistent with Te Ture Whaimana. Officials consider that there is insufficient evidence that the removal of the Infrastructure Constraint Overlay would be consistent with Te Ture Whaimana.</p>	

**Matter B: Exemption from Rule 2A.4.2.8 – Site coverage within the Stormwater Constraint Qualifying Matter Overlay**

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
<p>Provide an exemption for Rule 2A.4.2.8 – site coverage stormwater qualifying matter overlay</p>	<p>That Rule 2A.4.2.8 be amended to read: On sites located within the Stormwater Qualifying Matter Overlay, the maximum site coverage must not exceed 40% of the net site area. <del>except for sites that meet the following criteria:</del> a. <del>Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% site coverage over the entire site or on specified lots on the site; and</del> b. <del>Any regional discharge consents that are required have been approved and</del></p>	<p><b>Context</b></p> <p><i>Notified provisions</i></p> <p>Plan Change 26 (PC26) was notified with a Stormwater Constraint Qualifying Matter Overlay (Stormwater Constraint Overlay). The Council proposed this overlay to accommodate the following listed qualifying matters, which are provided for under s771 of the RMA:</p> <ul style="list-style-type: none"> <li>(a) give effect to the National Policy Statement for Fresh Water Management 2020 (NPS-FM);</li> <li>(b) give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River.<sup>19</sup></li> </ul> <p>The Stormwater Constraint Overlay covers substantial areas within the Medium Density Residential Zone (MDRZ) in Cambridge, Te Awamutu, and Kihikihi where development to the density permitted by the MDRS would:</p> <ul style="list-style-type: none"> <li>(a) be affected by overland flows (ie, flooding); or</li> <li>(b) potentially exacerbate upstream or downstream stormwater effects.</li> </ul> <p>Within the Stormwater Constraint Overlay, developments with site coverage of more than 40% would require a resource consent as a restricted discretionary activity. The Medium Density Residential Standards (MDRS) would permit site coverage of up to 50%, meaning that developments with up to 50% site coverage would not require a resource consent.</p> <p>Maps indicating the spatial extent of the Stormwater Constraint Overlay are included in <b>Appendix 3</b>.</p> <p><i>Submissions, hearing, and IHP recommendation</i></p> <p>Six submissions and one further submission were received regarding the Stormwater Constraint Overlay. Submitters argued both for and against the overlay, with one submitter (TA Properties Ltd) requesting the removal of the overlay from greenfield sites.<sup>20</sup></p> <p>Waikato Tainui did not submit on the Stormwater Constraint Overlay specifically, but were generally supportive of the Council's application of Te Ture Whaimana as a qualifying matter to make the MDRS less enabling.<sup>21</sup></p> <p>Waikato Regional Council (WRC) also supported PC26's approach to giving effect to Te Ture Whaimana by applying the Stormwater Constraint Overlay, noting that it deferred to Council experts on whether the overlay had been determined appropriately.</p> <p>In its Recommendations Report, the IHP accepted the Council's expert engineering and stormwater evidence that an increase in the permitted building coverage could adversely impact water quality, particularly in downstream receiving environments; that existing district plan stormwater provisions were not designed to</p>	<p><b>Agree to either:</b></p> <p>3. <b>officials' recommended suite of recommendations:</b></p> <ul style="list-style-type: none"> <li>a. <b>reject</b> the Independent Hearings Panel's recommendation;</li> <li>b. <b>accept</b> Waipā District Council's alternative recommendation;</li> <li>c. <b>agree</b> to reason for decision: <i>I consider that the Council has provided sufficient evidence to demonstrate that the Stormwater Constraint Overlay restricts development only to the extent necessary to accommodate relevant qualifying matters and that the Council's alternative recommendation will better enable it to give effect to Te Ture Whaimana.</i> <i>Furthermore, I consider that the Council's alternative recommendation provides more certainty for plan users, whilst providing a clear pathway for development to proceed where appropriate.</i></li> </ul> <p style="text-align: right;"><b>Yes   No</b></p> <p><b>Or</b></p> <p>4. <b>meet</b> with officials for further discussion.</p> <p style="text-align: right;"><b>Yes   No</b></p>

<sup>19</sup> Section 32 Evaluation Report - Appendix 3: Assessment of New Qualifying Matters, p 2.

<sup>20</sup> Section 42A Hearing Report, paras 9.15.39 and 9.15.40.

<sup>21</sup> Submission 49: Waikato Tainui, p 11.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
	<p><del>consent notices are in place, where applicable.</del></p> <p><del>c. Sites that meet the criteria outlined in 2A.4.2.8 (a) and (b) will have maximum site coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site.</del></p> <p>Activities that fail to comply with this Rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <p>i. The flood effects due to displacement of floodwater arising from the proposed building</p>	<p>manage the risk of natural hazards arising from the additional development capacity permitted by the MDRS; and that the Stormwater Constraint Overlay could contribute to managing these risks and effects.<sup>22</sup></p> <p>In response to TA Properties Ltd.'s submission, however, the IHP recommended providing an exemption to the site coverage rule for greenfield sites, provided relevant regional discharge consents are in place to ensure flood effects are mitigated.<sup>23</sup></p> <p>The IHP recommended providing this exemption to the Stormwater Constraint Overlay by amending rule 2A.4.2.8 as follows (underlined text reflects the IHP's recommendation):</p> <p><b>2A.4.2.8</b></p> <p><i>On sites located within the Stormwater Qualifying Matter Overlay, the maximum building coverage must not exceed 40% of the net site area <u>except for sites that meet the following criteria:</u></i></p> <p><i><u>(i) Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% building coverage over the entire site or on specified lots on the site; and</u></i></p> <p><i><u>(ii) Any regional discharge consents that are required have been approved and consent notices are in place, where applicable.</u></i></p> <p><i><u>(iii) Sites that meet the criteria outlined in 2A.4.2.8 (i) and (ii) will have maximum building coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site.</u></i></p> <p><b>Reasons for the IHP's recommendation</b></p> <p>The IHP considers that the requirements of stormwater discharge consents, which are required by Waikato Regional Council and can be recorded as consent notices on titles at the time of subdivision, are sufficiently stringent that they should allay the Council's concerns regarding stormwater discharge on sites that have them (ie, greenfield sites, which have been recently subdivided).<sup>24</sup></p> <p>Likewise, the IHP considers that sites where subdivision consents have been approved by the Council that include stormwater management designed for 50% building coverage should be exempted from the site coverage rule. This is because, in these instances, the Council would be satisfied that sufficient measures are in place to manage or mitigate stormwater effects.</p> <p><b>Reasons for the Council's alternative recommendation</b></p> <p>The Council's primary reason for rejecting the IHP's recommendation, and providing an alternative recommendation, is that there is insufficient evidence to support an exemption from the rule requiring 40% site coverage for sites within the Stormwater Constraint Overlay.</p>	

<sup>22</sup> Recommendations of the Independent Hearing Panel, paras 273 and 274.

<sup>23</sup> Recommendations of the Independent Hearing Panel, para 277.

<sup>24</sup> Recommendations of the Independent Hearing Panel, para 269.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
	<p>development; and</p> <p>ii. The impact on rivers and waterbodies and whether any potential adverse effects from a development are required by relevant consent or guidelines to be avoided or mitigated; and</p> <p>iii. An assessment of stormwater disposal and whether this can be accommodated on-site.</p> <p>These matters will be considered in accordance with the assessment criteria in Section 21.</p>	<p>The Council explain that the IHP accepted the expert engineering and stormwater evidence on behalf of Council that an increase in allowable building coverage could potentially cause adverse effects to water quality and scour of downstream receiving environments, and that the proposed Stormwater Constraint Overlay could reduce such stormwater effects, thus contributing to giving effect to Te Ture Whaimana.<sup>25</sup></p> <p>The Council considers that, having accepted its evidence, the IHP has not completed a further evaluation under s32AA of the RMA to confirm that providing an exemption to the site coverage performance standard is the most appropriate way to achieve the objectives of PC26. The Council considers that the discussion in the IHP report recommending an exemption<sup>26</sup> does not record in sufficient detail or demonstrate that further evaluation was undertaken in accordance with the requirements of s32AA.</p> <p>During the hearings process, in relation to the submission by TA Properties Ltd for an exemption from the Stormwater Constraint Overlay for greenfield sites, the Council argued that:</p> <p><i>“...while an exemption in the limited circumstances described by Mr Coutts is supported in principle, it may be difficult to accurately provide for such an exemption, and it would be more efficient and effective to require a restricted discretionary activity application as currently proposed. This is because:</i></p> <ul style="list-style-type: none"> <li><i>a) The WRC network discharge permit may be obtained many years in advance of the development of individual sites within the growth cell, meaning any rule will not apply to ‘greenfields’ subdivision but will apply to any site within the MDRZ.</i></li> <li><i>b) While the WRC discharge permit may be designed to accommodate 50% building coverage (rather than 40%), this factor may not be recorded on the relevant titles in a way that is meaningful when the site is developed, potentially many years later. In particular, the use of consent notices is a tool only available in respect of a subdivision consent.</i></li> <li><i>c) Given the potential for a long delay between the WRC network discharge permit and the development of a site, it may be necessary to include a ‘long-stop’ on the proposed rule, to ensure that Council is not required to consider discharge permits that were obtained many years, or even decades, previously. In these circumstances the stormwater effects, or the current approach to the management of stormwater, may have changed.”<sup>27</sup></i></li> </ul> <p>Furthermore, the Council argues that:</p> <ul style="list-style-type: none"> <li>• the exemptions will be difficult to monitor and enforce as development could occur well after subdivision has taken place and with stormwater management designed and implemented by different people;</li> <li>• the amended rule is ambiguous and difficult to interpret and implement; and</li> <li>• the ability to increase building site coverage should be proposed and assessed as part of an application for a restricted discretionary activity resource consent and based on site/development specific matters.</li> </ul>	

<sup>25</sup> Recommendations of the Independent Hearing Panel, paras 273 and 274.

<sup>26</sup> Recommendations of the Independent Hearing Panel, paras 277.

<sup>27</sup> Closing Legal Submissions for Waipā District Council (Substantive Hearing), para 6.11.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<p>The Council considers that its alternative recommendation is easier to interpret and administer and will enable the effects of development exceeding permitted site coverage to be considered and assessed on a case-by-case basis specific to individual sites and stormwater design/management solutions.</p> <p><b>Advice</b></p> <p>Officials recommend that you accept the Council's alternative recommendation to remove the proposed exemption for the building coverage rule within the Stormwater Constraint Overlay.</p> <p>Officials consider that the Council has provided sufficient evidence to show that:</p> <ul style="list-style-type: none"> <li>a) in some areas of the district, the level of development permitted by the MDRS is incompatible with the NPS-FM and Tu Ture Whaimana qualifying matters; and</li> <li>a) the Stormwater Constraint Overlay restricts development only to the extent necessary to accommodate these qualifying matters.</li> </ul> <p>This evidence includes the Council's Closing Legal Submission (Substantive Hearing), which specifically addresses the proposed exemption to the Stormwater Constraint Overlay for greenfield sites and outlines why this exemption, though supported by the Council in principle, would be difficult to accurately provide for.</p> <p>When providing its recommendation, the IHP did not effectively address the evidence provided by Council, including through its Closing Legal Submission, or otherwise demonstrate that the Council's application of the Stormwater Constraint Overlay restricts development more than necessary to accommodate relevant qualifying matters.<sup>28</sup></p> <p>Officials note that Council's alternative recommendation is more straightforward to implement and provides more certainty to plan users. While the Council's recommendation may be less enabling of developments with a site coverage between 40% and 50%, the restricted discretionary consent path, with tight matters of discretion, would provide opportunity for these developments to proceed where appropriate.</p>	

<sup>28</sup> Recommendations of the Independent Hearing Panel, para 277.

**Matter C: Deletion of provisions relating to relocated buildings**

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
Provisions that are specific to relocated buildings in the Medium Density Residential Zone are removed.	The relocated building provisions in the notified version of PC26 are retained (and renumbered as necessary).	<p><b>Context</b></p> <p><i>Notified provisions</i></p> <p>PC26 was notified with provisions on relocated buildings within the new Section 2A – Medium Density Residential Zone. These provisions are provided in <b>Appendix 4</b> and include a resource management issue, policies, a permitted activity rule, performance standards, and matters of discretion. The provisions are generally focused on the potential impact on amenity and/or character arising from the appearance and/or lack of maintenance of relocated buildings. The key impact of the provisions is that a Building Relocation Inspection Report would be required as part of building consent applications to relocate buildings over 40m<sup>2</sup>.</p> <p>Under the notified provisions, the Building Relocation Inspection Report would identify any repairs and maintenance required to reinstate the exterior of the relocated building. A Council Building Compliance Officer could also determine that the relocated building requires further external repair works in addition to those identified in the report to 'achieve a tidy and workmanlike external appearance'. These rules would not apply to new buildings that are designed for or intended to be used on a site and that are erected (in whole or in parts) offsite and transported to the site.</p> <p>The relocated building provisions currently apply in the Residential Zone (as well as various other zones) of the Operative Waipā District Plan and PC26 proposed carrying these across unchanged into the new Medium Density Residential Zone chapter. While not specified within the section 32 report, officials presume that the relocated building provisions were included in PC26 as related provisions that support or are consequential on the MDRS under section 80E(1)(b)(iii) of the RMA.</p> <p><i>Submissions, hearing, and IHP recommendation</i></p> <p>Submissions by Kāinga Ora and CKL NZ Limited sought deletion of the provisions. The recommended provisions contained within the IHP report<sup>29</sup> identified the provisions as proposed for deletion. No discussion of their deletion is contained within the body of the IHP report.</p> <p><i>Council rejection of IHP recommendation</i></p> <p>The Council has rejected the IHP's recommendation and seeks the retention of the notified provisions relating to relocated buildings.</p> <p><b>Reasons for the Independent Hearings Panel's recommendation</b></p> <p>The IHP provided no reasoning in its report for removing the relocated building provisions. Key reasons provided by Kāinga Ora for seeking the deletion of these provisions include that:</p> <ul style="list-style-type: none"> <li>relocated buildings would need to meet the development and performance standards<sup>30</sup></li> <li>relocated buildings do not have any inherent qualities that make them unsuitable for urban environments<sup>31</sup></li> </ul>	<p><b>Agree to either:</b></p> <p><b>5. officials' recommended suite of recommendations:</b></p> <ol style="list-style-type: none"> <li><b>accept</b> the Independent Hearings Panel's recommendation;</li> <li><b>reject</b> Waipā District Council's alternative recommendation;</li> <li><b>agree</b> to reason for decision: <i>I consider that the proposed requirements for relocated buildings in the Medium Density Residential Zone, particularly the additional consenting and information requirements, would add to the complexity and cost of relocating buildings and are not justified by any effects specifically arising from relocated buildings. The removal of the relocated building provisions is also better aligned with Policy 6(b) of the National Policy Statement on Urban Development 2020.</i></li> </ol> <p style="text-align: right;"><b>Yes   No</b></p> <p><b>Or</b></p> <p><b>6. meet</b> with officials for further discussion.</p> <p style="text-align: right;"><b>Yes   No</b></p>

<sup>29</sup> Recommendations of the Independent Hearing Panel, Appendix 5

<sup>30</sup> Submission 79: Kāinga Ora - Submission Appendix 1, submission point 45, p 47.

<sup>31</sup> Submission 79: Kāinga Ora - Submission Appendix 1, submission point 45, p 47.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<ul style="list-style-type: none"> <li>• the matters being addressed by the provisions are more appropriately addressed through the Building Act and are not valid resource management issues<sup>32</sup></li> <li>• it is inappropriate to manage the same issue across two legislative frameworks<sup>33</sup></li> <li>• the proposed approach does not encourage the adaptive reuse of existing buildings or account for off-site manufactured buildings.<sup>34</sup></li> </ul> <p>CKL NZ Limited (a consultancy firm) also submitted that it was unclear what Policy 2A.3.3.4 is trying to achieve and that there is not a clear RMA purpose for the relocated building rule (2A.4.2.62)<sup>35</sup>. CKL NZ Limited considered that the building consent process would ensure that buildings are 'up to a certain standard' and would be a more appropriate way of considering the finish of relocated structures.<sup>36</sup></p> <p>After initially opposing these submissions, the Council's section 42a report authors stated, in an addendum to their report, that<sup>37</sup>:</p> <p style="padding-left: 40px;"><i>... The Council has now confirmed that the original reason that these provisions were inserted in the Plan was because there were multiple problems with the condition of relocated buildings in the District. The Council and I now agree the Building Act and Building Code has suitable requirements to address these concerns. For this reason, the Council and I now supports the removal of the relocated building provisions from PC26.</i></p> <p><b>Reasons for the Council's alternative recommendation</b></p> <p>The primary reason given by the Council for rejecting the IHP's recommendation was that there was insufficient evidence to support the removal of relocated building provisions from the Medium Density Residential Zone. The council considered that the IHP had not provided any reasons or completed a further evaluation under Section 32AA of the RMA to confirm that removing the provisions was the most appropriate way to achieve the objectives of PC26. The Council also considered that there was limited analysis or evidence presented on this topic at the hearing.</p> <p>The Council considered that, as the IHP recommendation would make relocated buildings a permitted activity, there would be no controls (other than density standards) that would restrict buildings being relocated onto sites and left indefinitely in a state of disrepair. The Council highlighted that building consent requirements for relocated buildings are limited to foundation and plumbing matters and cannot be relied on to ensure positive amenity and exterior maintenance outcomes.</p> <p>The Council also considered it desirable to retain the relocated building provisions to ensure consistency with other zones where they apply, such as the Residential Zone.</p> <p>The Council's section 42a report authors originally recommended rejecting the submission points that sought deletion of the relocated building provisions. The authors stated that the provisions support policies that aim to</p>	

<sup>32</sup> Submission 79: Kāinga Ora - Submission Appendix 1, submission point 113, p 74. Similar statement is also provided in submission point 141, p 93.

<sup>33</sup> Submission 79: Kāinga Ora - Submission Appendix 1, submission point 45, p 47.

<sup>34</sup> Submission 79: Kāinga Ora - Submission Appendix 1, submission point 75, p 55.

<sup>35</sup> Submission 65: CKL NZ Limited, pp 2-6.

<sup>36</sup> Submission 65: CKL NZ Limited, pp 2-6.

<sup>37</sup> Addendum to Section 42A Hearing Report, para 4.5.15.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<p>ensure the exterior of relocated buildings do not detract from residential amenity<sup>38</sup> and that the provisions are largely unchanged from those that are contained in the Operative District Plan.<sup>39</sup> However, as discussed above, the section 42a authors reversed their position in an addendum to their section 42a report.</p> <p>Other reasons given by the Council for preferring their alternative recommendation included:</p> <ul style="list-style-type: none"> <li>• that relocated buildings could be placed on land without building consent and the proposed provisions would ensure that the Council, neighbours and owners are aware of reinstatement works required and the time within which they should be completed</li> <li>• that owners would gain knowledge about building issues and associated reinstatement costs through the building relocation reports</li> <li>• that a resource consent process could be initiated if an inspection report is not provided or reinstatement works are not completed.</li> </ul> <p><b>Advice</b></p> <p>Officials recommend you accept the IHP's recommendation to remove the relocated building provisions from the Medium Density Residential Zone. These provisions add to the complexity and cost of relocating buildings, particularly through the additional consenting and information requirements, despite this not being justified by any effects specifically arising from relocated buildings. The IHP recommendation is better aligned with Policy 6(b) of the NPS-UD, which requires decision-makers to have particular regard to:</p> <p style="padding-left: 40px;"><i>(b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:</i></p> <p style="padding-left: 80px;"><i>(i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and</i></p> <p style="padding-left: 80px;"><i>(ii) are not, of themselves, an adverse effect</i></p> <p>The IHP's recommendation is more aligned with NPS-UD objectives, including improving housing affordability by supporting competitive land and development markets (Objective 2) and enabling the urban environment to develop and change over time (Objective 4).</p> <p>Submitters and council experts all considered the building consent process as being sufficient for managing the relevant issues, such as the condition of relocated buildings. There was little evidence or reasoning provided in support of retaining the relocated building provisions other than providing consistency across zones.</p> <p>The IHP report lacked an explanation for the change, however this was likely due to the agreed position between the Council and submitters. Both the s42A report addendum and the submission points explained the reasoning behind the proposed change.</p>	

<sup>38</sup> Section 42A Hearing Report - Appendix B, p 30. Similar statements are also provided on pp 35, 43 and 145.

<sup>39</sup> Section 42A Hearing Report - Appendix B, p 33. Similar statements are also provided on pp 55 and 71.

**Matter D: Amendments to Section 18: Financial Contributions**

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
<p>PC26 proposed amendments to Section 18: Financial Contributions including two new financial contributions (for the purpose of mitigating effects on residential amenity and the Waikato River arising from density outcomes associated with PC26) for all new dwellings in the Medium Density Residential Zone and Commercial Zone; and the extension of financial contributions to permitted activities.</p>	<p>To reject the Financial Contributions provisions in Plan Change 26 in whole.</p> <p>To retain / reinstate Section 18 – Financial Contributions of the Operative Waipā District Plan as was in place prior to notification of Plan Change 26.</p>	<p><b>Context</b></p> <p><i>What are financial contributions?</i></p> <p>As opposed to development contributions, which help to recover the cost of infrastructure provided to support planned growth, PC26's financial contributions are designed to manage the effects of 'unplanned' development; that is, development that was not planned prior to PC26 (eg, infill development enabled through the MDRS).<sup>40</sup></p> <p><i>Notified provisions</i></p> <p>Plan Change 26 (PC26) was notified with financial contributions provisions (Section 18: Financial Contributions). These proposed provisions amended the Council's existing financial contributions provisions by:</p> <ul style="list-style-type: none"> <li>(a) introducing two new financial contributions for all new dwellings in the Medium Density Residential Zone and Commercial Zone; and</li> <li>(b) extending financial contributions to cover permitted activities.</li> </ul> <p>Including or amending financial contributions provisions as part of PC26 is optional under the RMA, as per s80E(1)(b)(i).</p> <p>The two new financial contributions proposed through PC26 would be collected for the purpose of:</p> <ul style="list-style-type: none"> <li>(1) restoring and protecting the Waikato and Waipā rivers and their catchments, to address the objectives of Te Ture Whaimana o Te Awa o Waikato – Vision and Strategy (Te Ture Whaimana).</li> <li>(2) avoiding, remedying, mitigating or offsetting adverse effects on residential amenity.<sup>41</sup></li> </ul> <p><i>Submissions and hearings</i></p> <p>Five submissions raised concerns regarding the new residential amenity financial contribution.<sup>42</sup> Matters raised included the appropriateness of collecting financial contributions on permitted activities, uncertainty regarding the amounts collected through the contribution, the effect of residential intensification on amenity and whether this should be considered an adverse effect that requires offsetting.</p> <p>Three submissions raised concerns regarding the new Te Ture Whaimana financial contribution.<sup>43</sup> Matters raised included uncertainty regarding the amounts collected through the contribution, uncertainty regarding the administration of funds collected through the contribution, and the consistency of similar financial contributions across districts.</p> <p>In response to submissions received, the Council amended the proposed financial contributions provisions in its s42A Report (Financial Contributions).</p> <p><b>Independent Hearings Panel's recommendation</b></p>	<p><b>Agree to either:</b></p> <p><b>7. officials' recommended suite of recommendations:</b></p> <ul style="list-style-type: none"> <li>a. <b>accept</b> the Independent Hearings Panel's recommendation;</li> <li>b. <b>reject</b> Waipā District Council's alternative recommendation;</li> <li>c. <b>agree</b> to reason for decision: <i>I consider there is insufficient evidence to justify the scale of change sought by the Council through its alternative recommendation, noting that in making my decision I could only consider evidence that the Independent Hearing Panel could have considered when making its recommendation. By contrast, the Independent Hearing Panel's recommendation is supported by a robust body of evidence, which has been tested through the hearings process.</i></li> </ul> <p style="text-align: right;"><b>Yes   No</b></p> <p><b>Or</b></p> <p><b>8. meet</b> with officials for further discussion.</p> <p style="text-align: right;"><b>Yes   No</b></p>

<sup>40</sup> Recommendations of the Independent Hearing Panel, para 34.

<sup>41</sup> Recommendations of the Independent Hearing Panel, para 426.

<sup>42</sup> Section 42A Hearing Report (Financial Contributions), para 10.5.5.

<sup>43</sup> Section 42A Hearing Report (Financial Contributions), para 10.6.5.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<p>In its Recommendations Report, the IHP addressed four remaining issues of contention, each of which relate to the implementation of the financial contributions provisions:</p> <ul style="list-style-type: none"> <li>• potential confusion with development contributions and the risk of double-dipping;</li> <li>• the extent to which the proposed financial contributions are 'fair, equitable and proportionate' in terms of benefit versus need;</li> <li>• whether Waikato Tainui has a formal role to play in the administration of the Te Ture Whaimana financial contribution; and</li> <li>• whether greenfield developments should be exempt from the new financial contributions.</li> </ul> <p>For each of these issues, the IHP concluded that the issue was adequately addressed in the Council's revised financial contributions provisions in its s42A Report (Financial Contributions).</p> <p>The IHP accepted the revised financial contributions provisions proposed by the Council through its s42A Report (Financial Contributions),<sup>44</sup> thereby recommending that the revised provisions be adopted. The IHP accepted these revised provisions on the basis that they addressed all matters raised by submitters.</p> <p><b>Reasons for the Council's alternative recommendation</b></p> <p>The Council's primary reason for rejecting the IHP's recommendation is that it has decided not to require additional financial contributions, but has no authority to withdraw these provisions of the IPI (as per s80G(1)(c) of the RMA). Consequently, the Council considers that its only option is to reject the IHP's recommendation and revert to the operative financial contributions provisions.</p> <p>The reasons given by the Council for deciding not to progress with the financial contributions provisions proposed as part of PC26 include:</p> <ul style="list-style-type: none"> <li>• The effect of the levying of additional financial contributions in combination with existing development contributions on housing affordability. For example, under the notified provisions, all new dwellings in the MDRZ would be required to pay a financial contribution of \$3725, on top of existing development contributions. The Council considers that the proposed financial contributions represent an additional cost for houses which ultimately make the act of building a dwelling in Waipā less affordable.</li> <li>• The administrative costs and burdens associated with implementing the new financial contributions provisions have now been fleshed out in more detail than when initially proposed, leading the Council to conclude that the costs outweigh any potential benefits.</li> <li>• The uncertainties created by extending financial contributions to permitted activities (while this was enabled by section 77E(1) of the Resource Management Act 1991, no mechanism was provided for collecting financial contributions for permitted activities).</li> </ul> <p>Ultimately, the Council would like to work on a more acceptable financial contributions framework, which it could then introduce through future plan changes.</p> <p><b>Advice</b></p>	

<sup>44</sup> Recommendations of the Independent Hearing Panel, pp 230-251.

Summary of Independent Hearings Panel's recommendation	Summary of Waipā District Council's alternative recommendation	Ministry for the Environment officials' advice	Ministry for the Environment officials' recommendations and reasons for decisions
		<p>Officials recommend that you accept the IHP's recommendation to adopt the revised financial contributions provisions of PC26.</p> <p>Officials consider that the IHP's recommendation is supported by a robust body of evidence, which was tested throughout the hearings process, with input from both submitters and Council experts. Indeed, the IHP's reasoning for recommending that the revised financial contributions provisions be accepted was that they were found to satisfactorily address all matter raised by submitters, and were supported by Council experts.</p> <p>Officials also note that, in making your decision on this matter, you may take into account only those considerations that the IHP could have taken into account when making its recommendation, as per clause 105(2)(a) of Schedule 1 of the RMA. This requirement means that Council's considerations and evidence for rejecting this recommendation cannot be relied on unless these were put before the IHP.</p> <p>Officials consider that, given the council did not raise its concerns with the financial contribution provisions until after the hearing concluded, there is insufficient evidence to justify the scale of change that the Council is seeking through its alternative recommendation (ie, a complete reversion to the operative, pre-PC26 financial contributions provisions).</p>	

## **Appendix 2: Council referral letter to the Minister on rejected Independent Hearing Panel recommendations**

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30/08/2024

11291991

To: Hon Chris Bishop, Minister Responsible for  
RMA Reform

**Digitally Delivered**

Tēnā koe Minister,

**Intensification Planning Instrument – Plan Change 26 – Rejection of Independent Hearings Panel Recommendations – Clause 101, First Schedule to the Resource Management Act 1991**

On 19 August 2024 the Waipā District Council made decisions on the Independent Hearings Panel recommendations to Plan Change 26 to the Waipā District Plan. These decisions were publicly notified on 30 August 2024.

The Waipā District Council resolved to accept all of the IHP recommendations except for recommendations relating to:

- The extent of Infrastructure Constraint Overlay at Cambridge
- Site Coverage exemption within Stormwater Constraint Qualifying Matter Overlay
- Relocated Buildings
- Financial Contributions

The purpose of this letter is to refer these rejected recommendations to you in accordance with Clause 101(2), First Schedule – Resource Management Act 1991.

**Rejections, reasons and alternative recommendations**

We attach to this letter, documentation in your preferred template format which identifies:

- Each rejected recommendation
- Waipā District Councils reasons for rejecting each recommendation; and
- Alternative recommendations that Council has provided for each rejected recommendation.

**Information pertinent to PC26**

Information on PC26 is held on Councils website which can be accessed at the link below:

[Proposed Plan Change 26 – Residential Zone Intensification - Waipā District Council \(waipadc.govt.nz\)](https://www.waipadc.govt.nz/proposed-plan-change-26-residential-zone-intensification)

The following list provides guidance where relevant information on this page can be found:

- Notified Decision (under heading Decision)
- [Independent hearing panel recommendations and tracked provisions report](#)
- Notified Plan change and Section 32 (under heading Proposed Plan Change 26)
- Submissions, Further Submissions and Summaries (under heading Summaries of Submissions)

- Hearing Panel Directions, Legal Submissions, Evidence, Rebuttal Evidence and Section 42A reports including addendums (Under Heading Session 2 – IPI Council Hearing and Session 3 – Hearing in Relation to Financial Contributions)

Please contact us should you require any additional information in relation to PC26, the rejected recommendations or alternative recommendations, or our rationale behind our decision.

Ngā mihi,

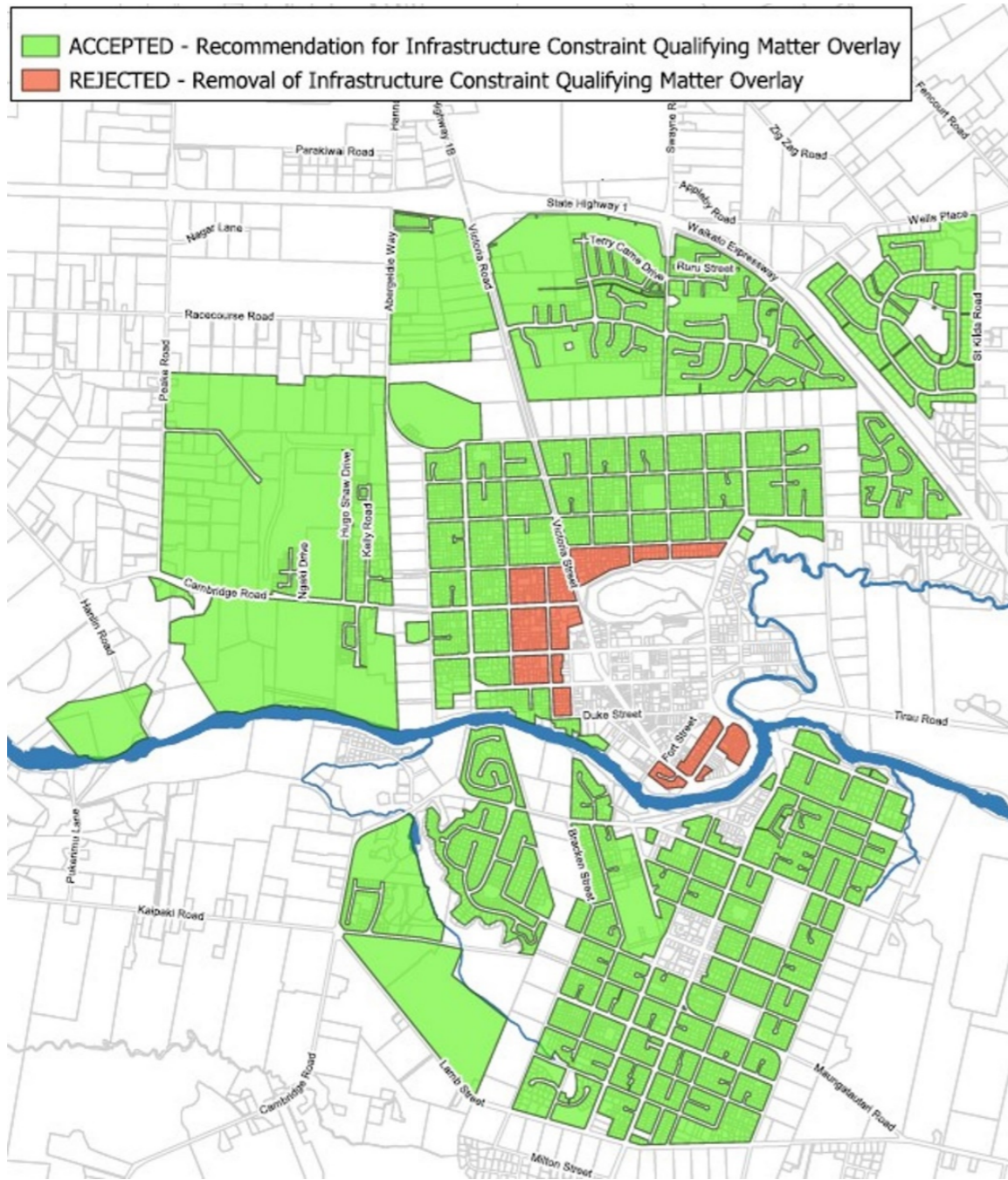


Wayne Allan  
**GROUP MANAGER DISTRICT GROWTH & REGULATORY SERVICES**

## IHP Recommendations to PC26 – Rejections Recommended

IHP provisions / recommendation rejected by Waipā District Council	Description of recommendation	Reasons why the council does not support this recommendation	Alternative recommendation	Why is the alternative recommendation preferred?
<b>MATTER A: REMOVAL OF THE INFRASTRUCTURE CONSTRAINT QUALIFYING MATTER OVERLAY FROM LAND SURROUNDING THE COMMERCIAL ZONE IN CAMBRIDGE</b>				
<p>Removal of the Infrastructure Constraint Qualifying Matter Overlay from land surrounding the commercial zone in Cambridge</p>	<p>The IHP report recommended removal of Infrastructure Constraint Qualifying Matter Overlay in that part of Medium Density Residential Zone surrounding the Commercial Zone in Cambridge and identified in the map on the following page (paragraphs 285 – 307, particularly paragraph 304, of the IHP report.</p>	<p><b>Primary Reasons</b></p> <p>There is insufficient evidence to justify the removal of the Infrastructure Capacity Qualifying Matter Overlay (ICO) from the identified part of Cambridge.</p> <p><b>Supplementary Reasons</b></p> <p>The IHP accepted the expert engineering and planning evidence provided on behalf of the Council that it is necessary to implement the ICO to avoid adverse effects associated with future urban development enabled by the MDRS and to give effect to Te Ture Whaimana (pages 66 to 72, particularly paragraph 304, of the IHP report).</p> <p><u>Section 32AA RMA</u></p> <p>Having accepted the Council's evidence the IHP has not completed a further evaluation under Section 32AA of the Resource Management Act 1991 to confirm that removal of the ICO is the most appropriate way to achieve the objectives of PC26.</p> <p>The discussion in the IHP report recommending removal of the ICO (paragraph 304, pg 71) does not record in sufficient detail or demonstrate that further evaluation was undertaken in accordance with the requirements of Section 32AA.</p> <p><u>Evidence</u></p> <p>The reduction of the extent of the notified ICO was proposed in rebuttal evidence by Mr Quickfall on behalf of Council (Rebuttal evidence dated 19 April 2023 at para 5.1). This evidence supported the reduction on strategic planning grounds, but did not provide specific justification for this proposal or consider the potential adverse effects of removal of the ICO.</p> <p>The rebuttal evidence of Mr Coutts on behalf of Council did not support the removal of the ICO as development to the extent enabled by MDRS in this part of Cambridge would have the same potential adverse effects on infrastructure servicing and Te Ture Whaimana as elsewhere in Cambridge (Rebuttal evidence dated 20 April 2023).</p> <p><u>Implication</u></p> <p>The removal of the ICO from this part of Cambridge results in:</p> <ul style="list-style-type: none"> <li>▪ Each site excluded from the ICO being able to have up to three dwellings as a permitted activity in accordance with MDRS; and</li> <li>▪ Proposals for four or more dwellings not being required to provide an infrastructure capacity assessment under Rule 15.4.2.19A.</li> </ul> <p>The removal of the ICO implies that there are no infrastructure concerns with this part of Cambridge, when this is not the case.</p> <p>There is a need for all development exceeding two dwellings per site to prepare an infrastructure capacity assessment to ensure that there is sufficient capacity in the infrastructure network to deal with additional demand without resulting in adverse effects on the environment, particularly the Waikato River. Removal of sites from the infrastructure constraint overlay signals to developers that there are no constraints.</p>	<p>That the Infrastructure Constraint Qualifying Matter Overlay be mapped to cover the full extent of the Medium Density Residential Zone as originally publicly notified by PC26. The effect of this is:</p> <ol style="list-style-type: none"> <li>1. All sites within the Medium Density Residential Zone are also contained within the Infrastructure Constraint Qualifying Matter Overlay</li> <li>2. All of the properties recommended by the IHP to be removed from the Infrastructure Constraint Qualifying Matter Overlay and coloured orange on the map overpage are retained within the Infrastructure Constraint Qualifying Matter Overlay.</li> </ol> <p>That Rule 2A.4.1.1(b) be deleted:</p> <p><del>(b) Up to three dwellings per site outside of the:</del></p> <ol style="list-style-type: none"> <li><del>(i) Infrastructure Constraint Qualifying Matter Overlay;</del></li> <li><del>(ii) Regionally Significant Industry Qualifying Matter Overlay;</del></li> <li><del>(iii) Character Clusters and Character Cluster Qualifying matter Overlay</del></li> </ol> <p>That reference to Rule 2A.4.1.1(b) be deleted from Rule 2A.4.1A(a)</p> <p>2A.4.1A The following rules apply to the matter of notification of resource consent applications required under this section of the district plan:</p> <ol style="list-style-type: none"> <li>(a) An application for resource consent under Rule 2A.4.1.1(<del>b</del>), or (c) or (d)} that does not comply with one or more of the performance standards in Rule 2A.4.2 will be considered without public notification unless the Council determines that special circumstances exist under the Resource Management Act 1991.</li> </ol>	<p>Including the land surrounding Cambridge Commercial Zone within the Infrastructure Capacity Qualifying Matter Overlay will ensure that:</p> <ol style="list-style-type: none"> <li>1. All land within the Medium Density Zone is treated consistently with respect to infrastructure capacity issues</li> <li>2. All developments of three or more dwellings are required to provide an infrastructure capacity assessment.</li> <li>3. People do not make investment decisions on an incorrect assumption that land is not subject to infrastructure constraints when this may not be the case.</li> </ol> <p>If the full extent of the infrastructure constraint overlay is reinstated by the Minister Rule 2A.4.1.1(b) becomes redundant and should be deleted.</p> <p>Deletion of Rule 2A.4.1.1(b) necessitates that reference to it in other rules also be deleted</p>

IHP provisions / recommendation rejected by Waipā District Council	Description of recommendation	Reasons why the council does not support this recommendation	Alternative recommendation	Why is the alternative recommendation preferred?
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IHP provisions / recommendation rejected by Waipā District Council	Description of recommendation	Reasons why the council does not support this recommendation	Alternative recommendation	Why is the alternative recommendation preferred?
<b>MATTER B: EXEMPTION FROM RULE 2A.4.2.8 – SITE COVERAGE WITHIN THE STORMWATER CONSTRAINT QUALIFYING MATTER OVERLAY</b>				
<p>Exemption from Rule 2A.4.2.8 – site coverage stormwater qualifying matter overlay</p>	<p>The IHP report recommended providing an exemption to the 40% site coverage standard for sites within the Stormwater Constraint Qualifying Matter Overlay (pages 58 – 66, particularly paragraphs 269 to 272 and 277, of the IHP report).</p>	<p><b>Primary Reason</b></p> <p>There is insufficient evidence to support an exemption from the rule requiring 40% site coverage for sites within the Stormwater Constraint Qualifying Matter Overlay.</p> <p><b>Supplementary Reasons</b></p> <p>The IHP accepted the expert engineering and stormwater evidence on behalf of Council that an increase in allowable building coverage could potentially cause adverse effects to water quality and scour of downstream receiving environments, and that the proposed Stormwater Constraint Overlay could reduce such stormwater effects, thus contributing to giving effect to Te Ture Whaimana (paragraphs 273 and 274 of the IHP report).</p> <p><u>Section 32AA RMA</u></p> <p>Having accepted the Council's evidence the IHP has not completed a further evaluation under Section 32AA of the Resource Management Act 1991 to confirm that provision of an exemption to the site coverage performance standard is the most appropriate way to achieve the objectives of PC26.</p> <p>The discussion in the IHP report recommending an exemption (paragraph 277, pg 65) does not record in sufficient detail or demonstrate that further evaluation was undertaken in accordance with the requirements of Section 32AA.</p> <p><u>Council's Submissions</u></p> <p>The submissions in reply on behalf of Council are recorded in paragraph 270, page 63 and conclude "...that while an exemption in the limited circumstances described by Mr Coutts is supported in principle, it may be difficult to accurately provide for such an exemption, and it would be more efficient and effective to require a restricted discretionary activity application as currently proposed. This is because:</p> <p>a) The WRC network discharge permit may be obtained many years in advance of the development of individual sites within the growth cell, meaning any rule will not apply to 'greenfields' subdivision but will apply to any site within the MDRZ.</p> <p>b) While the WRC discharge permit may be designed to accommodate 50% building coverage (rather than 40%), this factor may not be recorded on the relevant titles in a way that is meaningful when the site is developed, potentially many years later. In particular, the use of consent notices is a tool only available in respect of a subdivision consent.</p> <p>c) Given the potential for a long delay between the WRC network discharge permit and the development of a site, it may be necessary to include a 'longstop' on the proposed rule, to ensure that Council is not required to consider discharge permits that were obtained many years, or even decades, previously. In these circumstances the stormwater effects, or the current approach to the management of stormwater, may have changed."</p> <p><u>Implications</u></p> <p>The exemption as recommended by the IHP was intended to apply to greenfield sites, but by application the rule applies to all sites.</p> <p>The exemptions will be difficult to monitor and enforce as development could occur well after subdivision has taken place and with stormwater management designed and implemented by different people.</p> <p>The amended rule is ambiguous and difficult to interpret and implement.</p>	<p>That Rule 2A.4.2.8 be amended to read:</p> <p>On sites located within the Stormwater Qualifying Matter Overlay, the maximum site coverage must not exceed 40% of the net site area. <del>except for sites that meet the following criteria:</del></p> <p><del>a. Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% site coverage over the entire site or on specified lots on the site; and</del></p> <p><del>b. Any regional discharge consents that are required have been approved and consent notices are in place, where applicable.</del></p> <p><del>c. Sites that meet the criteria outlined in 2A.4.2.8 (a) and (b) will have maximum site coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site.</del></p> <p>Activities that fail to comply with this Rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ol style="list-style-type: none"> <li>i. The flood effects due to displacement of floodwater arising from the proposed building development; and</li> <li>ii. The impact on rivers and waterbodies and whether any potential adverse effects from a development are required by relevant consent or guidelines to be avoided or mitigated; and</li> <li>iii. An assessment of stormwater disposal and whether this can be accommodated on-site.</li> </ol> <p>These matters will be considered in accordance with the assessment criteria in Section 21.</p>	<p>The rule, as amended, is easier to interpret and administer and will enable the effects of development exceeding permitted site coverage to be considered and assessed on a case-by-case basis specific to individual sites and stormwater design / management solutions.</p>

IHP provisions / recommendation rejected by Waipā District Council	Description of recommendation	Reasons why the council does not support this recommendation	Alternative recommendation	Why is the alternative recommendation preferred?
		The ability to increase building site coverage should be proposed and assessed as part of an application for a restricted discretionary activity resource consent and based on site / development specific matters.		
<b>MATTER C: DELATION OF PROVISIONS RELATING TO RELOCATED BUILDINGS</b>				
Relocated Buildings – Medium Density Residential Zone.	<p>The IHP report (Appendix 5) recommended the deletion of provisions forming part of PC26 that are specific to relocated buildings in the Medium Density Zone, including:</p> <ul style="list-style-type: none"> <li>▪ Resource Management Issue,</li> <li>▪ Policies,</li> <li>▪ Performance Standards and</li> <li>▪ Assessment Criteria</li> </ul>	<p><b>Primary Reason</b></p> <p>There is insufficient evidence to support the removal of relocated building provisions from the Medium Density Residential Zone.</p> <p><b>Supplementary Reasons</b></p> <p><u>Section 32AA</u></p> <p>The IHP has not provided any reasons or completed a further evaluation under Section 32AA of the Resource Management Act 1991 to confirm that removal of provisions in PC26 relating to relocated buildings in the Medium Density Residential Zone is the most appropriate way to achieve the objectives of PC26.</p> <p><u>Hearing &amp; Evidence</u></p> <p>PC26 was publicly notified with provisions (resource management issue, policies, permitted activity, performance standards, and restriction of discretion) specific to relocated buildings. These provisions apply in the Operative Waipā District Plan and were not proposed to be changed by PC26.</p> <p>While a submission by Kainga Ora sought deletion of the provisions, limited evidence was presented in relation to the removal of these provisions at the hearing.</p> <p>The main reason promoted for deletion of the relocated building provisions by Kainga Ora was that they are unnecessary because they duplicate requirements of the Building Act. The author of the s42A report was in agreement with this.</p> <p>No specific analysis of the deleted provisions was provided and no line of enquiry was entered into by the IHP.</p> <p><u>Implications</u></p> <p>The provisions as recommended by the IHP make relocated buildings a permitted activity. Subject to compliance with density standards there are no controls which restrict buildings being relocated onto sites and left indefinitely in a state of disrepair.</p> <p>Building Consent requirement for relocated buildings are limited to foundation and plumbing matters and they cannot be relied on to ensure the achievement of amenity or exterior maintenance outcomes.</p> <p>The Waipā District Plan in other zones contain the same / similar provisions. It is considered that the relocated building provisions as notified in PC26 should be retained to ensure consistency across all zones.</p>	<p>That the relocated building provisions as contained in the notified version of PC26 be retained (and renumbered as necessary). These provisions are re-created below:</p> <p><b>Resource Management Issue</b></p> <p><i>2A.2.6 – relocated buildings can adversely affect the existing amenity of the neighbourhood.</i></p> <p><b>Policy 2A.3.4.7</b></p> <p><i>Relocated buildings shall not detract from the amenity of the neighbourhood they are located within, by ensuring that exterior maintenance and painting is undertaken.</i></p> <p><b>Rule 2A.4.2.62</b></p> <p><i>A relocated building over 40m<sup>2</sup> GFA shall meet the following requirements:</i></p> <p>a. <i>A Building Relocation Inspection Report shall accompany an application for a building consent. The Building Relocation Inspection Report shall be prepared by one of the following suitably qualified and experienced people:</i></p> <ol style="list-style-type: none"> <li>i. <i>A Waipā District Council Building Compliance Officer (or equivalent); or</i></li> <li>ii. <i>A member of the New Zealand Institute of Building Surveyors; or</i></li> <li>iii. <i>A licensed building practitioner (carpenter or design category); or</i></li> <li>iv. <i>A building inspector from the local authority where the building is being relocated from; and</i></li> </ol> <p>b. <i>If the Building Relocation Inspection Report has been prepared by a person other than a Waipā</i></p>	<p>If the provisions are not reinstated, then within the Medium Density Zone relocated buildings will be able to be located on any site for any duration as a permitted activity subject to compliance with density standards.</p> <p>In this respect, relocated buildings could be sited / stored on land without building consent. Reinstatement of the provisions would ensure that Council, neighbours and owners are aware of reinstatement works required and the time within which they will be completed.</p> <p>Owners, through the building relocation reports also have additional knowledge of issues associated with the buildings, and the costs of reinstatement works.</p> <p>A resource consent process would also be able to be initiated in the event that an inspection report is not provided or reinstatement works are not completed.</p>

IHP provisions / recommendation rejected by Waipā District Council	Description of recommendation	Reasons why the council does not support this recommendation	Alternative recommendation	Why is the alternative recommendation preferred?
			<p><i>District Council Building Compliance Officer (or equivalent position), the accuracy and completeness of the Building Relocation Inspection Report must be confirmed by a Waipā District Council Building Compliance Officer (or equivalent position). This shall be done by undertaking an on-site inspection of the relocated building once it has been relocated. If the Waipā District Council Building Compliance Officer determine that the relocated building requires external repair works in addition to that identified in the submitted Building Relocation Inspection Report in order to achieve a tidy and workmanlike external appearance, then:</i></p> <ul style="list-style-type: none"> <li><i>i. The owner of site to which the building is to be relocated will be contacted and must agree in writing to the additional works within 2 weeks of notification of the requirement for additional works. The additional works then become part of the Building Relocation Inspection Report.</i></li> <li><i>c. All required repairs and maintenance identified in the Building Relocation Inspection Report to reinstate the exterior of the relocated building, including painting, if required, shall be completed within 6 months of the relocated building being delivered to the site; and</i></li> <li><i>d. The owner of site to which the building is to be relocated must supply a signed declaration to Council that the reinstatement work required by the Building Relocation Inspection Report will be completed within 6 months of the relocated building being delivered to the site.</i></li> </ul> <p><i>This rule does not apply to new buildings which are designed for or intended to be used on a site which are erected off the site either in whole or in parts and transported to the site.</i></p> <p><i>Advice Notes:</i></p> <ul style="list-style-type: none"> <li><i>1. Relocated buildings less than 40m<sup>2</sup> are not required to comply with this rule but are required to comply with the relevant rules in 2A.4.2.</i></li> <li><i>2. Information requirements for a Building Relocation Inspection Report are detailed in Section 21.2.27.</i></li> <li><i>3. The onsite inspection by a Waipā District Council Building Compliance Officer (or equivalent position) shall occur at the time of foundation inspection for the Building Consent process, and will not incur additional costs.</i></li> </ul>	

IHP provisions / recommendation rejected by Waipā District Council	Description of recommendation	Reasons why the council does not support this recommendation	Alternative recommendation	Why is the alternative recommendation preferred?
			<p>Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity, with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>▪ Condition of the exterior of the building; and</li> <li>▪ Repairs and works identified for action in Council approved or certified Building Relocation Inspection Report; and</li> <li>▪ Reinstatement works; and</li> <li>▪ Timing for completing any required works.</li> </ul> <p>These matters will be considered in accordance with the assessment criteria in Section 21.</p> <p><b>Assessment Criteria – 21.1.2A.2</b></p> <p><b>Relocated Buildings</b></p> <ul style="list-style-type: none"> <li>(a) The overall condition of the exterior of the building, and the extent to which proposed works will avoid, remedy or mitigate any effects.</li> <li>(b) The extent to which the repairs and works identified for action in Council approved or certified Building Relocation Inspection Report will be carried out.</li> <li>(c) The timing, nature and extent of reinstatement works that are required to the exterior of the building after it has been moved to the new site.</li> <li>(d) The timeliness of the works taking into account the extent and nature of the proposed works.</li> </ul>	
<b>MATTER D: AMENDMENTS TO SECTION 18: FINANCIAL CONTRIBUTIONS</b>				
Section 18 – Financial Contributions	PC26 proposed amendments to Section 18: Financial Contributions including two new new financial contributions (for the purpose of mitigating effects on residential amenity and the Waikato River arising from density outcomes associated with PC26) for all new dwellings in the Medium Density Residential Zone and Commercial Zone; and the extension of financial contributions to permitted activities.	<p><b>Primary Reason</b></p> <p>The Council, as part of Plan Change 26, proposed the introduction of new financial contributions for all new dwellings as an optional part of the Intensification Planning Instrument under Section 80E(1)(b)(i) of the Resource Management Act 1991.</p> <p>The Council has now decided not to require additional financial contributions, but has no authority to withdraw this part of the Intensification Planning Instrument pursuant to Section 80G(1)(c) of the Resource Management Act 1991.</p> <p>Therefore the only option available to Council is to reject the recommendation.</p> <p><b>Secondary Reasons</b></p> <p>The reasons for Council deciding not to progress with the Financial Contributions proposed by Plan Change 26 include:</p> <ul style="list-style-type: none"> <li>▪ The effect of the levying of additional financial contributions in combination with existing development contributions on housing affordability, particularly given the changed economic climate since PC26 was notified in August 2022.</li> <li>▪ The administrative costs and burdens associated with implementing a new financial contributions process have now been fleshed out in more detail than when initially proposed.</li> </ul>	<ol style="list-style-type: none"> <li>1. To reject the Financial Contributions provisions in Plan Change 26 in whole.</li> <li>2. To retain / reinstate Section 18 – Financial Contributions of the Operative Waipā District Plan as was in place prior to notification of Plan Change 26.</li> <li>3. To delete the last paragraph of Rule 2A.4: <del>Also refer to the Financial Contributions Section. Activities that result in adverse effects on infrastructure (including permitted activities) may be required to pay financial contributions of money, land, or a combination, prior to commencing the activity.</del></li> </ol>	<p>The proposed changes to the financial contributions section requires all new dwellings in the Medium Density Zone to pay a financial contribution of \$3725.00 (including GST).</p> <p>The contributions are based on mitigation of adverse effects on residential amenity values and Te Ture Whaimana and are payable for permitted activities and developments requiring resource consent.</p> <p>There are a number of issues associated with the rule framework which are problematic and which Council would like more time to work on to create acceptable provisions through future plan changes. These include:</p> <ol style="list-style-type: none"> <li>1. The financial contributions represent an additional cost for houses which ultimately make the act of building a dwelling in Waipā less affordable.</li> </ol>

IHP provisions / recommendation rejected by Waipā District Council	Description of recommendation	Reasons why the council does not support this recommendation	Alternative recommendation	Why is the alternative recommendation preferred?
		<ul style="list-style-type: none"> <li>▪ The uncertainties created by extending financial contributions to permitted activities (while this was enabled by section 77E(1) of the Resource Management Act 1991, no mechanism was provided for collecting financial contributions for permitted activities).</li> </ul>		<ol style="list-style-type: none"> <li>2. It is difficult to identify and quantify what specific adverse effects are generated by permitted development to the extent that financial contributions are necessary to mitigate these effects.</li> <li>3. It is difficult to identify and quantify what and when discount factors for these financial contributions will be applied by Council.</li> <li>4. The formulae for calculating the contributions do not identify if or when credits are applied to existing dwellings which may be removed from land prior to development.</li> <li>5. The only avenue to propose non-payment of or to object to a financial contribution is through the resource consent process (unless agreement can be reached as to discount factors to be applied).</li> <li>6. Non-payment of a financial contribution prior to building consent being lodged will trigger application of Section 36 of the Building Act and requirement for resource consent. No building can commence until such time as payment is received and section 36 certificates are released</li> </ol>

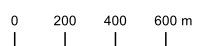
**Appendix 3: Maps indicating the spatial extent of the  
Stormwater Constraint Overlay**

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This map uses information taken from Waipā District Council's databases. It is made available in good faith but its accuracy and completeness are not guaranteed. Any reliance on this information is entirely at the user's risk.

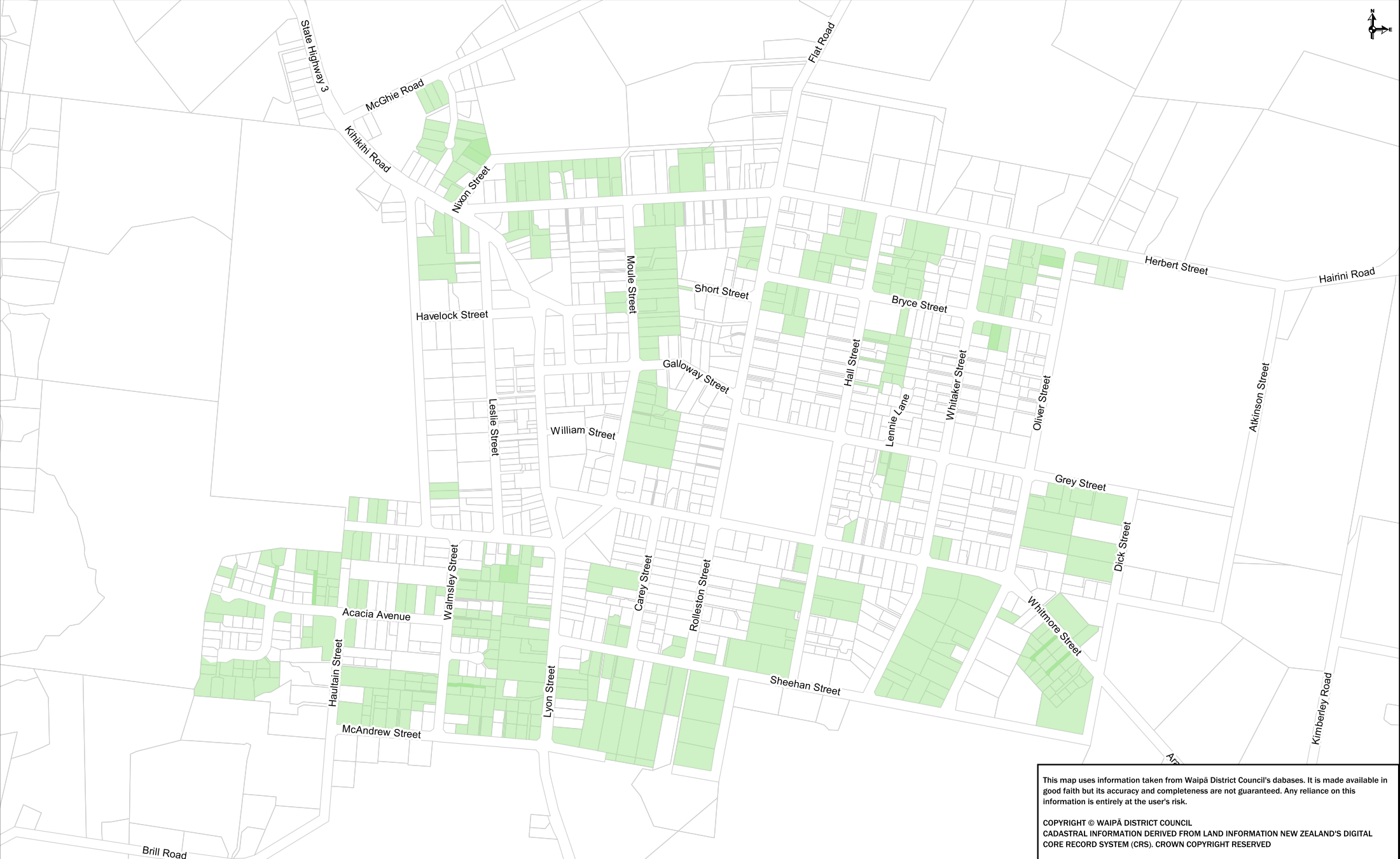
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Date: 13 March 2024  
Scale at A4: 1:30,000

# Plan Change 26 - Stormwater Constraint Qualifying Matter Overlay

## Kihikihi



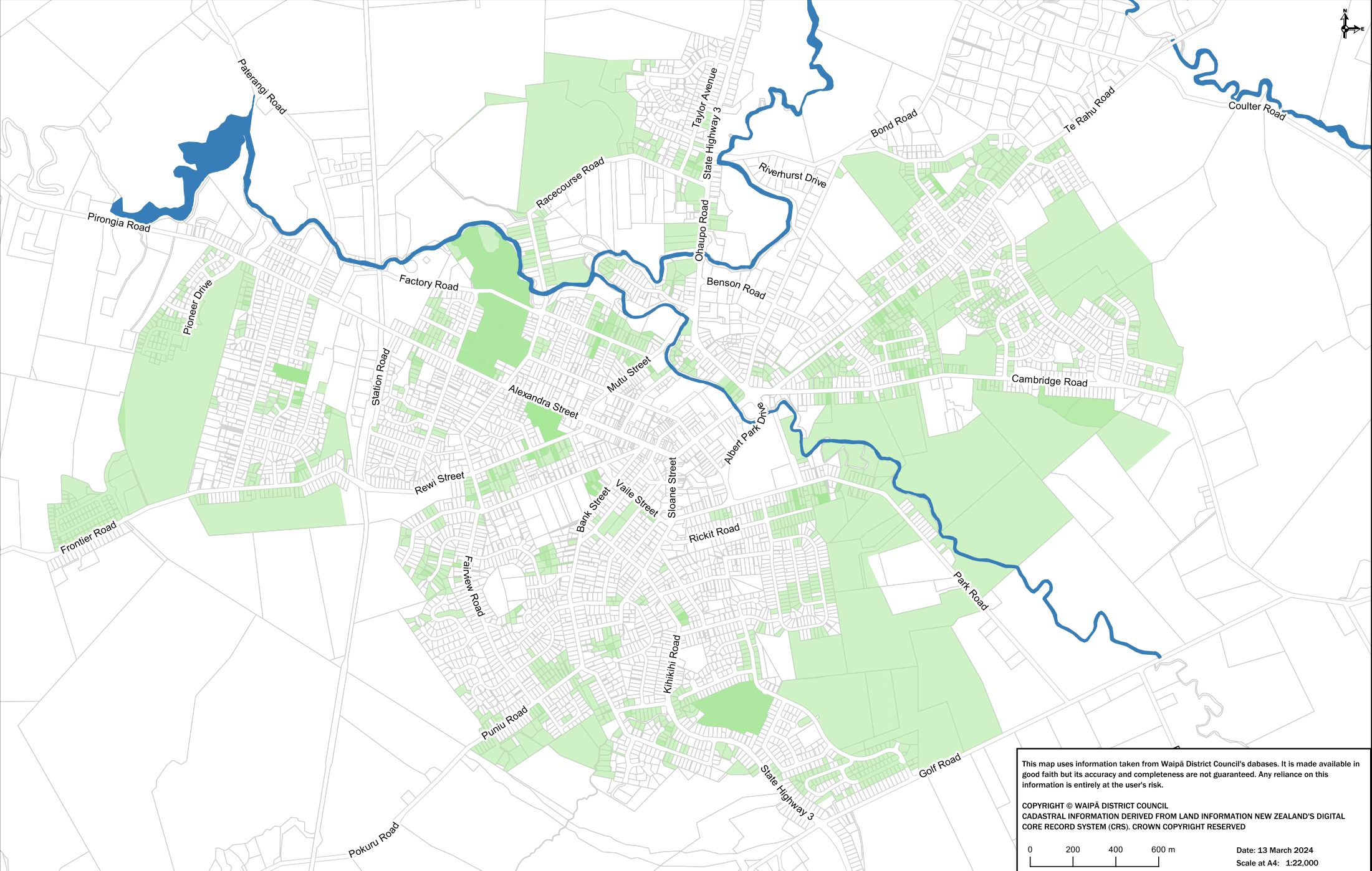
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0 50 100 150 m  
Date: 13 March 2024  
Scale at A4: 1:10,000

# Plan Change 26 - Stormwater Constraint Qualifying Matter Overlay

## Te Awamutu



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## **Appendix 4: Notified provisions relating to relocated buildings**

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## **Resource Management Issue 2A.2.6**

Relocated buildings can adversely affect the existing amenity of the neighbourhood.

### **Policy 2A.3.4.7**

Relocated buildings shall not detract from the amenity of the neighbourhood they are located within, by ensuring that exterior maintenance and painting is undertaken.

### **Rule 2A.4.2.62**

A relocated building over 40m<sup>2</sup> GFA shall meet the following requirements:

a. A Building Relocation Inspection Report shall accompany an application for a building consent. The Building Relocation Inspection Report shall be prepared by one of the following suitably qualified and experienced people:

- i. A Waipā District Council Building Compliance Officer (or equivalent); or
- ii. A member of the New Zealand Institute of Building Surveyors; or
- iii. A licensed building practitioner (carpenter or design category); or
- iv. A building inspector from the local authority where the building is being relocated from; and

b. If the Building Relocation Inspection Report has been prepared by a person other than a Waipā District Council Building Compliance Officer (or equivalent position), the accuracy and completeness of the Building Relocation Inspection Report must be confirmed by a Waipā District Council Building Compliance Officer (or equivalent position). This is to be done by undertaking an on-site inspection of the relocated building once it has been relocated. Should the Waipā District Council Building Compliance Officer determine that the relocated building requires external repair works in addition to that identified in the submitted Building Relocation Inspection Report in order to achieve a tidy and workmanlike external appearance, then:

- i. The owner of site to which the building is to be relocated will be contacted and must agree in writing to the additional works within 2 weeks of notification of the requirement for additional works. The additional works then become part of the Building Relocation Inspection Report.

c. All required repairs and maintenance identified in the Building Relocation Inspection Report to reinstate the exterior of the relocated building, including painting, if required, shall be completed within 6 months of the relocated building being delivered to the site; and

d. The owner of site to which the building is to be relocated must supply a signed declaration to Council that the reinstatement work required by the Building Relocation Inspection Report will be completed within 6 months of the relocated building being delivered to the site.

This rule shall not apply to new buildings which are designed for or intended to be used on a site which are erected off the site either in whole or in parts and transported to the site.

Advice Notes:

1. Relocated buildings less than 40m<sup>2</sup> are not required to comply with this rule but are required to comply with the relevant rules in 2A.4.2.

2. Information requirements for a Building Relocation Inspection Report are detailed in Section 21.2.27.

3. The onsite inspection by a Waipā District Council Building Compliance Officer (or equivalent position) shall occur at the time of foundation inspection for the Building Consent process, and will not incur additional costs.

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity, with the discretion being restricted over:

- Condition of the exterior of the building; and
- Repairs and works identified for action in Council approved or certified Building Relocation Inspection Report; and
- Reinstatement works; and
- Timing for completing any required works.

These matters will be considered in accordance with the assessment criteria in Section 21.

### **Assessment Criteria – 21.1.2A.2**

#### Relocated Buildings

(a) The overall condition of the exterior of the building, and the extent to which proposed works will avoid, remedy or mitigate any effects.

(b) The extent to which the repairs and works identified for action in Council approved or certified Building Relocation Inspection Report will be carried out.

(c) The timing, nature and extent of reinstatement works that are required to the exterior of the building after it has been moved to the new site.

(d) The timeliness of the works taking into account the extent and nature of the proposed works.

**Appendix 5: Draft letter to Waipā District Council on your decisions**

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Susan O'Regan  
Mayor  
Waipā District Council

cc Wayne Allan  
Group Manager District Growth & Regulatory Services, Waipā District Council  
[Wayne.Allan@waipadc.govt.nz](mailto:Wayne.Allan@waipadc.govt.nz)

Dear Susan

On 30 August 2024 I received a letter from Wayne Allan on behalf of the Waipā District Council (the Council) referring four rejected Independent Hearings Panel recommendations and the Council's alternative recommendations to me for a final decision.

The recommendations relate to an Infrastructure Constraint Qualifying Matter Overlay, a Stormwater Constraint Qualifying Matter Overlay, relocated building provisions, and financial contributions.

My decisions, made in accordance with Schedule 1, clause 105 of the Resource Management Act 1991 (RMA), along with the reasons for my decisions, are set out in table format in Attachment A.

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

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

Yours sincerely

Hon Chris Bishop  
**Minister Responsible for RMA Reform**

## Attachment A: Accepted recommendations with reasons and alterations

Accepted recommendation	Reasons for accepting
<p><b>Matter A</b></p> <p><b>Council's recommendation:</b></p> <p>That the Infrastructure Constraint Qualifying Matter Overlay be mapped to cover the full extent of the Medium Density Residential Zone as originally publicly notified by PC26.</p>	<p><i>I consider that there is sufficient evidence that the Infrastructure Constraint Qualifying Matter Overlay is necessary to accommodate Te Ture Whaimana Te Awa o Waikato - the Vision and Strategy for the Waikato River as a qualifying matter. The overlay enables Council to ensure growth does not exceed infrastructure capacity, given that this could negatively impact water quality in Waikato River, which would be inconsistent with Te Ture Whaimana.</i></p> <p><i>I consider that the Council's alternative recommendation is consistent with requirements under the Resource Management Act, National Policy Statement on Urban Development, National Policy Statement on Freshwater Management and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p> <p><i>I also consider that there is insufficient evidence that the Independent Hearing Panel's recommendation would be consistent with the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p> <p><i>I consider that the Council has provided sufficient evidence to demonstrate that the Stormwater Constraint Overlay restricts development only to the extent necessary to accommodate relevant qualifying matters and that the Council's alternative recommendation will better enable it to give effect to Te Ture Whaimana.</i></p> <p><i>Furthermore, I consider that the Council's alternative recommendation provides more certainty for plan users, whilst providing a clear pathway for development to proceed where appropriate.</i></p>
<p><b>Matter B</b></p> <p><b>Council's recommendation:</b></p> <p>That Rule 2A.4.2.8 be amended to read:</p> <p><i>On sites located within the Stormwater Qualifying Matter Overlay, the maximum site coverage must not exceed 40% of the net site area</i></p>	<p><i>I consider that the Council has provided sufficient evidence to demonstrate that the Stormwater Constraint Overlay restricts development only to the extent necessary to accommodate relevant qualifying matters and that the Council's alternative recommendation will better enable it to give effect to Te Ture Whaimana.</i></p> <p><i>Furthermore, I consider that the Council's alternative recommendation provides more certainty for plan users, whilst providing a clear pathway for development to proceed where appropriate.</i></p>

Accepted recommendation	Reasons for accepting
<p><b>Matter C</b></p> <p><b>Independent Hearings Panel's recommendation:</b> Provisions that are specific to relocated buildings in the Medium Density Residential Zone are removed.</p>	<p><i>I consider that the proposed requirements for relocated buildings in the Medium Density Residential Zone, particularly the additional consenting and information requirements, would add to the complexity and cost of relocating buildings and are not justified by any effects specifically arising from relocated buildings. The removal of the relocated building provisions is also better aligned with Policy 6(b) of the National Policy Statement on Urban Development.</i></p>
<p><b>Matter D</b></p> <p><b>Independent Hearings Panel's recommendation:</b> Inclusion of two new financial contributions, for the purpose of mitigating effects on residential amenity and the Waikato River arising from density outcomes associated with PC26. These would apply to all new dwellings in the Medium Density Residential Zone and Commercial Zone.  Extend financial contributions to permitted activities.</p>	<p><i>I consider there is insufficient evidence to justify the scale of change sought by the Council through its alternative recommendation, noting that in making my decision I could only consider evidence that the IHP could have considered when making its recommendation. By contrast, the IHP's recommendation is supported by a robust body of evidence, which has been tested through a fulsome hearings process.</i></p>

## **Appendix 6: Relevant excerpts from the Recommendations of the Independent Hearing Panel report**

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**PROPOSED PLAN CHANGE 26 – RESIDENTIAL ZONE  
INTENSIFICATION  
TO THE WAIPĀ DISTRICT PLAN**

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**RECOMMENDATIONS OF THE INDEPENDENT HEARING PANEL**

**Date: 15 March 2024**

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30. The operative District Plan has only a single “*relevant*” residential zone. The initial translation of the MDRS (prior to applying QMs) for Cambridge, Te Awamutu and Kihikihi was therefore straight-forward and not in dispute.
31. “*Urban non-residential zone*” is any zone in an urban environment that is not a residential zone (s.77F). The only relevant non-residential zone within the urban environments of Cambridge, Te Awamutu, and Kihikihi is the generic Commercial Zone which includes both town centres and neighbourhood shops. As previously noted, those zone translations were not disputed.
32. For completeness we note that the District Plan also has an urban non-residential industrial zone but that does not come within the ambit of either NPS-UD Policy 3(d) or the MDRS because it is clearly not an appropriate zone for residential activity.

## 1.7 Financial Contributions

33. Section 77E enables the Council to make rules requiring a financial contribution (FC) for any class of activity other than a prohibited activity, and ss.77T and s.80E(1)(b)(i) enable the Council to include FC provisions or change existing provisions as part of its IPI.
34. PC26 proposes updates to the FC provisions in Section 18 of the District Plan. In particular, and as noted paragraph 5.2.1 of the s.42A Report:

*PC26 has introduced two new matters that financial contributions can be collected for, which include a contribution to give effect to Te Ture Whaimana and a contribution to provide for residential amenity. The proposed contributions are proposed to be taken to account for ‘unplanned’ growth brought about as a result of the requirement for Council to implement the MDRS.*

35. In accordance with cl.1.(b) of Direction #10,<sup>22</sup> which we issued following the Joint Opening Hearing, all submissions relevant to FCs were to be heard jointly with those related submissions on the Hamilton City District Plan IPI - Plan Change 12 (PC12) in September 2023. However, due to Hamilton City requesting and being granted a deferral of their IPI decision to December 2024 (as noted in our Direction #16),<sup>23</sup> the PC26 proposed FC provisions and relevant submissions were heard separately in September 2023.
36. Submissions, evidence and our recommendations relevant to FCs are addressed in section 8 of this report.

## 1.8 Papakāinga

37. While s.80E(1)(b)(ii) of the RMA enables an IPI to amend or introduce provisions to enable papakāinga housing in the district, PC26 did not contain any such provisions.

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<sup>22</sup> Direction #10, 3 March 2023.

<sup>23</sup> Direction #16, 5 July 2023.

2A.4.1.3	Restricted discretionary activities
	The following activities shall comply with the performance standards of this zone
	<ul style="list-style-type: none"> <li>(c) Solar access; and</li> <li>(d) Where provided, the effects on parking and vehicle manoeuvring; and</li> <li>(e) Signs; and</li> <li>(f) Landscaping.</li> </ul>
	These matters will be considered in accordance with assessment criteria in Section 21.

## 7.6 Stormwater Constraint Overlay

249. PC26 proposes to apply a Stormwater Constraint Overlay to areas within the MDRZ where development to the density permitted by the MDRS would be affected by overland flows or would potentially exacerbate upstream or downstream stormwater effects. The Council submits that the overlay is necessary to:

- a) manage the risks of natural hazards (a s.6(h) RMA matter), particularly flood risk, on sites that fall within the 1 in 100-year flood layer; and
- b) give effect to Te Ture Whaimana by reducing adverse stormwater effects.

250. Within the Stormwater Constraint Overlay maximum building coverage is proposed to be restricted to 40% (rule 2A.4.2.8) as opposed to the 50% provided for by the MDRS. Failure to comply with this rule would require a restricted discretionary activity consent. The Overlay is illustrated on Maps 56 and 57 of PC26 as notified. It extends over selected areas throughout Cambridge, Te Awamutu, and Kihikihi associated with flooding risk and overland flow paths. It covers substantial areas of the proposed MDRZ.

251. The s.42A Report noted that the Stormwater Constraint Overlay had been identified as a new QM under s.77I (a), (b) and (c) and had been evaluated under s.77J. As the Stormwater Constraint Overlay is proposed only within the MDRZ, s.77O does not apply.

252. The extent of the Stormwater Constraint Overlay was based on several information sources.<sup>101</sup> Mr Chapman, Director – Stormwater Engineer at Te Miro Water Consultants Ltd, provided evidence for the Council.

253. In summary Mr Chapman was of the view that:<sup>102</sup>

*The level of development enabled by the MDRS would have an unacceptable level of effects in terms of stormwater, which will make it difficult for Council to comply with its Comprehensive Stormwater Discharge Consents (“CSDC”) and will be inconsistent with the objectives of Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River (“Te Ture Whaimana”). In particular, an increase in building coverage or impermeable area can potentially cause adverse effects to water quality and scour of the downstream receiving environment and increase flood risk to people and property.*

<sup>101</sup> Primary evidence of Michael Chapman, 27 March 2023, at [8.7].

<sup>102</sup> Primary evidence of Michael Chapman, 27 March 2023, at, [4.5].

## 7.6.1 Concerns about floodwater displacement due to infill development

254. Mr Chapman 's evidence explained that:<sup>103</sup>

- a) Retaining the operative 40% site (building) coverage rule within the Stormwater Constraint Overlay, will ensure that the development enabled by PC26 will not adversely impact flood hazards and stormwater compared to the existing scenario. The current cumulative impacts on flood hazards from infill development are not well understood and retaining the current rules in the Stormwater Constraints Overlay is considered prudent in the absence of modelling to assess the impacts of infill.
- b) Urban intensification presents risk if flood storage capacity is reduced over time on a piecemeal basis resulting in cumulative impacts from uncontrolled infill under a permitted activity status. This is because infill can displace floodwater and raise water levels. Other statutory requirements, such as the Building Act 2004, do not consider impacts like loss of flood storage.
- c) The Stormwater Constraint Overlay is necessary to reduce these effects to a prudent manageable level in order to comply with the Council's Comprehensive Stormwater Discharge Consent (CSDC) and contribute to achieving the objectives of Te Ture Whaimana.

255. At the hearing, the Panel asked the Council if it could provide an example of the difference between 40% and 50% site coverage in terms of the stormwater flood effects. This was provided by way of a supplementary statement of evidence of Mr Chapman dated 2 May 2023. This evidence describes the results of flood modelling for a representative ponding area in Cambridge for scenarios of 40% and 50% site (building) coverage. The results of this modelling showed a 20mm increase in ponding depth when moving from 40% to 50% site coverage.

## 7.6.2 Requirements of CSDC

256. Mr Chapman discussed the Council's obligation, as consent holder, to comply with the requirements of the CSDC.<sup>104</sup> These include conditions requiring the management of stormwater quality and erosion relevant to the control of stormwater discharges from individual sites as follows:

- *The consent holder shall not undertake any changes to the municipal stormwater system diversion and discharge activities which would increase the scale or intensity of actual or potential adverse effects of those activities on the receiving environment.*
- *The consent holder shall manage the municipal stormwater system such that the stormwater diversion and discharge activities do not result in significant adverse effects on aquatic ecosystems.*

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<sup>103</sup> Primary evidence of Michael Chapman, 27 March 2023, at [4.7]-[4.9].

<sup>104</sup> Primary evidence of Michael Chapman, 27 March 2023, at [8.5].

### 7.6.3 Impact of Stormwater Constraint Overlay on development capacity

257. The impact that the proposed Stormwater Constraint Overlay would have on the provision of development capacity is discussed in the evidence of Ms Fairgray.<sup>105</sup> Her modelling showed that the QM has no effect on plan enabled capacity but does affect the feasibility of development with moderate effect in the short term, although this diminishes in the longer term. Despite this short-term impact there is still a significant excess of feasible development opportunity relative to demand.

### 7.6.4 Submissions

258. Six submissions and one further submission were received regarding the Stormwater Constraint Overlay for PC26. They can be summarised as follows:

- a) support for the stormwater constraint overlay;
- b) requests to delete or amend rule 2A.4.2.8 to refer to 'impermeable areas' rather than 'building coverage';
- c) a view that assessment criteria should only refer to impermeable area matters not include other matters of discretion;
- c) requests for deletion of the Stormwater Constraint Overlay on the basis that there has been insufficient assessment and justification;
- d) requests that natural hazards be removed as a QM because natural hazards are addressed by s.106 of the RMA, and as such, geotechnical suitability can be investigated, and any adverse effects suitably mitigated as part of that process;
- e) a request from TA Projects Ltd that the Overlay be set aside for greenfield MDRZ land, as such projects generally seek their own bespoke consents and the matter should instead be resolved at the time of subdivision.

259. Kāinga Ora called expert evidence from Mr Jaggard, Director/Infrastructure Specialist Consultant at MPS Ltd, in support of its position that the Stormwater Constraint Overlay be removed. Mr Jaggard's view was that:<sup>106</sup>

- a) there are existing acceptable controls that manage flood displacement effects of new buildings constructed in the flood plain/secondary flow path;
- b) stormwater flows and effects from development of either the 40% or 50% building coverage scenario can be the same/similar and can be appropriately managed by the Regional Infrastructure Technical Standards (RITS) and Stormwater Bylaw; and

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<sup>105</sup> Primary evidence of Susan Fairgray, 24 March 2023, at [9.4] and [10.1].

<sup>106</sup> Primary evidence of Philip Jaggard, 6 April 2023, at [11.16].

- c) the “*Secondary flow path*” definition should be changed from a “1 in 50-year return period rain event” to a “1 in a 100-year return period rainfall event.”

260. Mr Jaggard’s view was that the Stormwater Constraint Overlay is not required to give effect to Te Ture Whaimana because any flood displacement effects generated by development are already addressed through the necessary resource consents for a non-complying activity under the existing planning rules and/or flow attenuation requirements in the RITS.<sup>107</sup>

#### 7.6.5 Council Evidence and Response to Submissions

261. The Council’s principal submission was that the current collection of provisions has, at times, proven insufficient to manage the risk of natural hazards for the existing level of development (one dwelling per site). Furthermore, that the operative rules were not designed to manage the risk of natural hazards arising from the additional development capacity enabled by the MDRS as permitted activities, and that the proposed Stormwater Constraint Overlay is necessary to manage this risk.<sup>108</sup>

262. In particular, the evidence of Mr Coutts, the Council’s Principal Engineer for Growth, regarding the current provisions was that:<sup>109</sup>

- a) the provisions in the District Plan which seek to manage flood risk are outdated, and based on return periods which are no longer appropriate;
- b) the Council’s Stormwater Bylaw has a limited role in assisting the Council to achieve the water quality parameters required by its Comprehensive Stormwater Discharge Permits;
- c) the Building Act 2004 provides only bare minimum requirements which are themselves due for reform to respond to climate change effectively; and
- d) Council cannot enforce RITS requirements for permitted activities.

263. Mr Chapman’s concerns about stormwater quality and erosion were:<sup>110</sup>

- a) increased contaminant loads entering the stormwater network due to larger building areas; and
- b) increased effects of scour and erosion in receiving waterways due to larger building areas.

264. Mr Coutts noted in his supplementary evidence that the intent of the Stormwater Constraint Overlay is an interim measure in order assess displacement flood effects

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<sup>107</sup> Primary evidence of Philip Jaggard, 6 April 2023, at [11.17].

<sup>108</sup> Council closing legal submissions, 19 May 2023, at [6.2].

<sup>109</sup> Rebuttal evidence of Tony Coutts, 20 April 2023, at [6.11]-[6.24].

<sup>110</sup> Primary evidence of Michael Chapman, 27 March 2023, at [8.4].

until such time as Council has adopted a system either within the district plan or outside to accurately convey the flood hazards.<sup>111</sup>

265. In its closing legal submissions, the Council confirmed that it intended to prepare a separate plan change to address flood hazards, natural hazards, and climate change, and that this separate plan change would also address issues identified in the course of the PC26 hearing, including:<sup>112</sup>

- a) whether high risk flood zones or overland flow paths should be mapped within the district plan or outside of the District Plan; and
- b) whether the appropriate return period for flood mapping should be updated.

266. Mr Coutts agreed with Mr Jaggard that the definition of “*secondary flow path*” in the District Plan should be amended to refer to a 1 in a 100-year return period rainfall event (rather than a 1 in 50-year return period rain event).<sup>113</sup> While this change could be considered a related provision consequential on the MDRS, Council considered that it may be caught by the *Waikanae* decision as it is more restrictive than the ODP permits. For this reason, the Council proposes to update the definition as part of the proposed separate plan change (referred to above).<sup>114</sup>

267. Council’s position was that, in the interim, the Stormwater Constraint Overlay rules modify the MDRS only to the extent necessary to accommodate the QMs.<sup>115</sup> In particular:

- the Stormwater Constraint Overlay only applies to sites that fall within the 1 in 100-year flood layer, using the most up to date information available to Council;
- the Stormwater Constraint Overlay requires an application for a restricted discretionary activity where building coverage exceeds 40%; and
- the matters of discretion and the assessment criteria are restricted to the assessment of the effects of the development on stormwater.

268. Council noted<sup>116</sup> that the limited effect of the Stormwater Constraint Overlay reflects the request by Cogswell Surveys that:<sup>117</sup>

*... if the site is outside of a high-risk flood area, are not obstructing an overland flow path and are not within the modelled 100-year flood event, then the buildings are not filling in a flood plain and can therefore tolerate a higher building coverage of 50% as per the MDRS provisions.*

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<sup>111</sup> Supplementary evidence of Tony Coutts, 2 May 2023, at [11].

<sup>112</sup> Council closing legal submissions, 19 May 2023, at [6.2].

<sup>113</sup> Rebuttal evidence of Tony Coutts, 20 April 2023, at [6.20]-[6.21].

<sup>114</sup> Council closing legal submissions, 19 May 2023, at [6.5].

<sup>115</sup> Council closing legal submissions, 19 May 2023, at [6.6].

<sup>116</sup> Council closing legal submissions, 19 May 2023, at [6.7].

<sup>117</sup> Summary statement of Rebecca Steenstra, 28 April 2023, at [7].

269. In relation to the submission by TA Properties Ltd for an exemption from the Stormwater Constraint Overlay for greenfield sites, Mr Coutts recognised that stringent requirements apply in respect of stormwater discharge consents required by the Waikato Regional Council (WRC), which can be recorded as consent notices on the titles. In these circumstances, an exemption from the Stormwater Constraints Overlay may be appropriate.<sup>118</sup>
270. Council's position was that while an exemption in the limited circumstances described by Mr Coutts is supported in principle, it may be difficult to accurately provide for such an exemption, and it would be more efficient and effective to require a restricted discretionary activity application, as currently proposed. This is because:<sup>119</sup>
- a) The WRC network discharge permit may be obtained many years in advance of the development of individual sites within the growth cell, meaning any rule will not apply to 'greenfields' subdivision but will apply to any site within the MDRZ.
  - b) While the WRC discharge permit may be designed to accommodate 50% building coverage (rather than 40%), this factor may not be recorded on the relevant titles in a way that is meaningful when the site is developed, potentially many years later. In particular, the use of consent notices is a tool only available in respect of a subdivision consent.
  - c) Given the potential for a long delay between the WRC network discharge permit and the development of a site, it may be necessary to include a 'long-stop' on the proposed rule, to ensure that Council is not required to consider discharge permits that were obtained many years, or even decades, previously. In these circumstances the stormwater effects, or the current approach to the management of stormwater, may have changed.
271. For these reasons, the Council considered that no exemption from the Stormwater Constraint Overlay should be provided for greenfield sites. Accordingly, the Council proposed that the Overlay be implemented through amendment to the building coverage and assessment criteria as follows:

*New rule no. 2A.4.2.8*

*On sites located within the Stormwater Qualifying Matter Overlays, the maximum building coverage must not exceed 40% of the net site area.*

*Activities that fail to comply with this Rule require a resource consent for a restricted discretionary activity with the discretion being restricted over:*

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<sup>118</sup> Supplementary evidence of Tony Coutts, 2 May 2023, at [19].

<sup>119</sup> Council closing legal submissions, 19 May 2023, at [6.11].

- The impact on rivers and waterbodies and whether any potential adverse effects from a development can be avoided or mitigated; and
- An assessment of stormwater disposal and whether this can be accommodated on-site. These matters will be considered in accordance with the assessment criteria in Section 21.

21.1.2A.9A Assessment criteria for building coverage in the MDRZ - additional criteria:

- (b) Building location, bulk and design; addresses impacts of infill development and runoff from building footprint and impervious services on flood risk (level and velocity) within the site and outside the site.
- (c) Stormwater disposal to treat water quality.
- (d) The building design addresses the impacts of water quality as a result of building coverage through the application of on lot treatment devices.
- (e) The building design addresses the impacts of downstream erosion as a result of building coverage through the application of on lot detention devices.

272. However, the Council advised that should the Hearing Panel be minded to include an exemption for greenfield areas, that could best be achieved by amending rule 2A.4.2.8 as follows:<sup>120</sup>

2A.4.2.8

*On sites located within the Stormwater Qualifying Matter Overlay, the maximum building coverage must not exceed 40% of the net site area except for sites that meet the following criteria:*

- (i) Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% building coverage over the entire site or on specified lots on the site; and
- (ii) Any regional discharge consents that are required have been approved and consent notices are in place, where applicable.
- (iii) Sites that meet the criteria outlined in 2A.4.2.8 (i) and (ii) will have maximum building coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site.

## 7.6.6 Discussion/Findings

273. The Panel accepts the expert engineering evidence from the Council that the ODP rules have not been designed to manage the risk of natural hazards arising from the additional development capacity enabled by the MDRS as permitted activities, and that the proposed Stormwater Constraint Overlay is necessary to manage this risk.

274. We also accept the advice of the Council's stormwater expert<sup>121</sup> that an increase in allowable building coverage could potentially cause adverse effects to water quality and scour of downstream receiving environments, and that the proposed

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<sup>120</sup> Council closing legal submissions, 19 May 2023, at [6.12].

<sup>121</sup> Primary evidence of Michael Chapman, 27 March 2023, at [8.12].

Stormwater Constraint Overlay could reduce such stormwater effects, thus contributing to giving effect to Te Ture Whaimana.

275. We note that adverse effects on water quality and scour from a residential lot is related to total impermeable coverage, i.e., site or building coverage as well as total site impermeability, as pointed out in the evidence of Mr Chapman (noted above). The total allowable site impermeability, a maximum of 60% of the site for most residentially zoned areas (per rule 2A.4.2.9 of the ODP) is not proposed to be changed through the proposed Stormwater Constraint Overlay.
276. With respect to the submission by TA Properties Ltd requesting an exemption from the Stormwater Constraint Overlay for greenfield sites, we note that Council's concern appears to be related to aspects associated with CSDCs rather than bespoke regional consents for a particular subdivision.
277. Given that Mr Coutts' evidence was that an exemption from the Stormwater Constraint Overlay may be appropriate for greenfield sites provided restrictions are imposed on regional consents for stormwater discharges to ensure flood effects are mitigated, we find that such an exemption should be provided through an amendment to rule 2A.4.2.8 as suggested by Council in para 272 above.
278. In terms of the proposed matters of discretion for rule 2A.4.2.8, we consider:
- a) a further matter of discretion relating to floodwater displacement arising from proposed building development should be added, as we understand this matter to be the main reason for the Stormwater Constraint Overlay; and
  - b) a change is required to the matter of discretion relating to impacts on rivers and waterbodies to give more direction on how effects are to be considered and to signal that avoidance or mitigation needs to be driven by the relevant consents or policy guidance.
279. The revised matters of discretion for rule 2A.4.2.8 are thus as follows:
- *The flood effects due to displacement of floodwater arising from the proposed building development; and*
  - *The impact on rivers and waterbodies and whether any potential adverse effects from a building development are required by relevant consents or guidelines ~~can~~ to be avoided or mitigated; and*
  - *An assessment of stormwater disposal and whether this can be accommodated on-site.*
280. With respect to the Council's recommended additional assessment criteria (c) (d) of 21.1.2A.9B (21.1.2A.11 in our provisions), we consider that these should be combined into one criterion, (new (c)) which encompasses consideration of a range of options for avoiding or minimising discharge of contaminants from buildings and which provides reference to guidance on allowable discharge of contaminants in stormwater. This amended criterion is as follows:

(c) *Avoidance or minimising stormwater quality effects of buildings by use of one or more of the following:*

- *source control by use of roof and cladding materials that exclude zinc or copper*
- *on site treatment to improve stormwater quality before surface discharge off site, with assessment of the requirements for and the design of stormwater treatment to be in accordance with applicable CSDC and the Waikato Stormwater Management Guideline 2020*
- *on site disposal by soakage, with assessment of the viability and design of soakage to be in accordance with the Waikato Stormwater Management Guideline 2020.*

281. We note that the total allowable impermeable surfaces for a site under PC26 is not increasing from that in the current ODP (60%). Stream channel erosion effects arising from site development are related to total site impermeable area, not the number of houses, so are not enabled to increase as a result of PC26. We have accordingly deleted Council’s proposed assessment criterion 21.1.2A.9B(c) (21.1.2A.11 in our provisions) which addressed downstream erosion as a result of building coverage (and replaced as noted above).

282. We also consider that an additional assessment criterion (new (d)) addressing Te Ture Whaimana is required as follows:

*(d) The extent to which avoidance, mitigation or minimisation of adverse stormwater effects addressed in criteria (b) and (c) above give effect to Te Ture Whaimana the Vision and Strategy for the Waikato River as per Appendix O1.1.3 (a) and (b)*

283. We have also amended the references from “*building coverage*” to “*site coverage*” for the reasons explained earlier.

284. We consider that with these changes the Stormwater Constraint Overlay QM appropriately manages the stormwater effects arising from the increased PC26 density.

## 7.7 Infrastructure Constraint Overlay

### 7.7.1 Reasons for Overlay

285. PC26 proposes to introduce an Infrastructure Constraint Overlay, which is applied where intensification to the extent enabled by the MDRS would have high or critical impacts on wastewater and water infrastructure. This in turn has the potential to result in adverse effects on the Waikato River and thus would not be giving effect to Te Ture Whaimana, the NPS-FM or Council’s existing regional wastewater discharge consent.

286. The proposed Infrastructure Constraint Overlay has been identified as a QM under s.77I(b) and 77I(c) and has been evaluated in accordance with section 77J.<sup>122</sup>

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<sup>122</sup> s.42A Report, at [9.15.6].

287. Within the Infrastructure Constraint Overlay, development of three dwellings is proposed as a restricted discretionary activity (rules 2A.4.1.1(b) and (c)). Discretion is intended to be limited to an infrastructure capacity assessment (with a particular focus on wastewater, water and stormwater).

### 7.7.2 Extent and Basis of Overlay

288. The Infrastructure Constraint Overlay is shown on maps 56 and 57 that were notified with PC26. The extent of the Infrastructure Constraint Overlay was based on an Infrastructure Capacity Assessment that was undertaken for water and wastewater.<sup>123</sup> The assessment indicated that there was insufficient capacity within the existing infrastructure networks both now and in the future when planned projects are taken into account. The network could not service any increased demand on the networks (over and above that already anticipated) without significant further investment in infrastructure capacity. The s.32 ER also records that housing intensification to the extent enabled by the MDRS will increase the level of (point source) discharges to water which will potentially negatively impact the Council's discharge consents which specify the volume and quality of discharges that are allowed. The Infrastructure Constraint Overlay (as notified) therefore covered the full extent of the MDRZ over Cambridge and Te Awamutu/Kihikihi.

289. The s.32 ER records that water and wastewater are significant issues across the towns of Cambridge, Te Awamutu and Kihikihi. Intensification to the extent enabled by the MDRS will have either a high or critical impact on the infrastructure, taking into account planned upgrades (which have not yet been implemented). The Water and Wastewater assessment concluded that the ability of infrastructure in the identified urban areas to cope with the additional demands of more housing is severely restricted, and application of the MDRS would mean that major upgrades to the existing infrastructure network would have to be brought forward to cope with the additional demands that would be placed on the network through housing intensification at the level prescribed.

### 7.7.3 Implications of Overlay

290. A density control on development is accordingly proposed, which requires development of three dwellings per site within the Infrastructure Constraint Overlay to obtain consent as a restricted discretionary activity based on the outcomes of the infrastructure capacity assessment as outlined above (rule 2A.4.1.3(c)). The level of development in the Infrastructure Constraint Overlay provides for a maximum permitted density, which protects permitted re-development up to a certain level, being two dwellings per lot. The permitted density can then be accounted for in long term infrastructure planning and an

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<sup>123</sup> Appendix 6 of the s.32 ER.

infrastructure assessment will be required for any higher-density development applications.

291. The impact of the Infrastructure Constraint Overlay on development capacity results in a sizable reduction in development capacity, but there remains a large amount of excess capacity relative to demand (at a total level).<sup>124</sup> The main effect of the Infrastructure Constraint Overlay is that it may influence where intensification occurs because it requires a resource consent to authorise greater intensification in the areas to which it applies.

#### 7.7.4 Council Evidence

292. Council's evidence was that the existing Infrastructure Strategy and Long-Term Plan provides for infrastructure upgrades designed to support one dwelling per site in the existing urban areas, as well as the new growth cells which were recently rezoned from Deferred Residential to a live Residential Zone by Plan Change 13. Preliminary estimates suggest that the infrastructure required to support the additional development capacity enabled by the unmodified MDRS would cost in the order of \$600m above existing commitments, which we were told is beyond the reach of the Council.<sup>125</sup>
293. The evidence of Mr Coutts and Mr Hardy (Technical Principal – Water and Wastewater at WSP Ltd), was that enabling development without the required upgrades to infrastructure would result in adverse health and cultural effects, and ecological effects on the rivers and streams.<sup>126</sup>

#### 7.7.5 Submissions and Council Response

294. There were twelve submissions and three further submissions received on the Infrastructure Constraint Overlay. The submissions reflected a variety of views including support, together with requests for modification, provision of additional information and deletion.
295. The Council reporting officer noted that in response to submissions received Council obtained an updated report from Market Economics and had carried out additional infrastructure modelling on the basis of the applied QMs. This modelling concluded that providing for a minimum permitted density of two dwellings per site is appropriate and can then be accounted for in long term infrastructure planning. It follows that an infrastructure assessment for higher-density development should then be completed as part of a restricted discretionary activity consent process. The reporting officer considered that deleting the overlay would result in a situation where development would result in a 'first in first served' outcome with

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<sup>124</sup> Summary statement of Susan Fairgray, 26 April 2023, at [1.1] and Table A.

<sup>125</sup> Rebuttal evidence of Tony Coutts, 20 April 2023, at [6.5].

<sup>126</sup> Primary evidence of Tony Coutts, 24 March 2023, at [5.14]-[5.16] and [5.22]; and Primary evidence of Chris Hardy, 24 March 2023, at [6.8].

development occurring in an ad hoc way across the residential zone until system capacity is used up.<sup>127</sup>

296. In response to submissions, Council proposed to relax the extent of the notified Infrastructure Constraint Overlay within the walkable catchment surrounding the Cambridge Town Centre. This is shown in the rebuttal evidence of Mr Quickfall.<sup>128</sup>
297. In support of Kāinga Ora's submission that the Infrastructure Constraint Overlay was not necessary, Mr Jaggard's evidence was based mainly on his supposition that as the capacity of the water supply and wastewater systems is sufficient to service the growth forecast up to 2050, any future issues identified beyond 2050 need not adversely affect the Waikato River or its catchment. This is because there is sufficient time to plan, design, consent and construct any upgrades required beyond the existing growth forecast.<sup>129</sup>
298. Mr Jaggard's evidence was rebutted by Mr Hardy, with the main points as follows:<sup>130</sup>
- The PC26 water network scenario has issues that could warrant additional upgrades, but the Council is prepared to accept the risk of this at the proposed PC26 two dwellings per site level of permitted development.
  - Mr Hardy's assessment showed that the current planned water and wastewater network are likely to have significant issues if development is undertaken at a higher density.
  - The modelling and assessment were not intended to identify specific issues and remediation. Rather, the intent was to determine an appropriate permitted development level and a mechanism for the assessment of requirements for development beyond the permitted level.
  - The location, timing, and density of actual development is likely to differ from those in the modelled scenarios. However, it is not practical to assess future development in detail where the location of development is uncertain.
  - The inclusion of the Infrastructure Constraint Overlay was not a question of development timing, but one of ultimate demand and network capacity.
  - The proposed Infrastructure Constraint Overlay does not necessarily limit development. It provides a mechanism for the assessment of higher density

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<sup>127</sup> s.42A Report, at [9.15.18].

<sup>128</sup> Rebuttal evidence of Tony Quickfall, 19 April 2023, Appendix 3.

<sup>129</sup> Primary evidence of Philip Jaggard, 6 April 2023, at [1.5].

<sup>130</sup> Primary evidence of Chris Hardy, 24 March 2023, at [8.2]-[8.8]; and Rebuttal evidence of Chris Hardy, 19 April 2023, section 5.

development without imposing requirements on lower-level development that broadly aligns with current planning allowances.

- Mr Hardy did not support the removal of the Infrastructure Constraint Overlay in its entirety from greenfield or brownfield areas. He would however support its removal from specific areas where the level of permitted development and the location would allow additional infrastructure requirements to be defined and planned for in an efficient manner.

299. Ms Fairgray’s economic evidence was that removal of the Infrastructure Constraint Overlay from all locations would be likely to encourage a more dispersed pattern of growth. In addition to reducing the likely intensification around centres, it would also be likely to dilute this growth and spread it across a wider suburban area.<sup>131</sup>

300. TA Projects’ submission included a request that the Infrastructure Constraint Overlay be excluded for greenfield sites. Council considered it appropriate to retain it at this point because of the potential downstream capacity effects (e.g., for wastewater). Council proposes to periodically review and uplift those parts of the Infrastructure Constraint Overlay where greenfield development has taken place or been completed, and appropriate provision has been made for infrastructure. This would need to be undertaken as a separate plan change.<sup>132</sup>

#### 7.7.6 Implementation of the Overlay

301. Implementation of the Infrastructure Constraint Overlay through the ODP is proposed to be achieved by way of an amendment to the Activity Status Table as shown below:

2A.4.1.3	Restricted discretionary activities The following activities shall comply with the performance standards of this zone
(c)	Three dwellings per site within the Infrastructure Constraint Qualifying Matter Overlay.  Discretion will be restricted to the following matters: (i) The outcomes of an infrastructure capacity assessment; and (ii) Stormwater disposal; ...

302. There is also a proposed amendment to assessment criteria for three dwellings within the Infrastructure Overlay as shown below:

<u>Medium Density Residential Zone Assessment</u> Criteria	
21.1.2A.5A	Three dwellings per site within the Infrastructure Constraint Qualifying  (a) The adequacy of the servicing proposed for the development including but not limited to: (i) Effects of the development on the operation and the

<sup>131</sup> Rebuttal evidence of Susan Fairgray, 19 April 2023, at [3.9].

<sup>132</sup> s.42A Report, at [9.15.20].

<u>Medium Density Residential Zone Assessment</u> Criteria	
	<p>Matter Overlay.</p> <p>capacity of three waters infrastructure.</p> <p>(ii) Hydraulic modelling for the purpose of assessing effects, determining mitigations and associated costs related to the upgrade of existing or planned strategic three waters infrastructure, if required by Council.</p> <p>(iii) Effects of proposed water sensitive techniques to minimise water use and their effect on volume, discharge, and rate of use.</p> <p>(iv) Effects of on-site controls proposed to minimise impacts on three waters infrastructure.</p> <p>(v) Effects of the proposed development's water consumption and water and wastewater discharges including proposed locations of connection or discharge.</p>

303. The Council also proposes additional assessment criteria for building coverage in the MDRZ in rule 21.1.2A.9A. The proposed additional assessment criteria (i), (j), and (k) are the same as the Council-proposed assessment criteria (c), (d) and (e) in rule 21.1.2A.9B as described above for the Stormwater Constraint Overlay.

#### 7.7.7 Discussion/Findings

304. The Panel accepts the expert engineering and planning evidence provided on behalf of the Council that it is necessary to implement the Infrastructure Constraint Overlay to avoid adverse effects associated with future urban development enabled by MDRS and to give effect to Te Ture Whaimana. The Panel accepts the “relaxation” of the notified ICO as proposed by Mr Quickfall in rebuttal<sup>133</sup>.

305. We find the proposed amendments to the ODP to achieve implementation of the Infrastructure Constraint Overlay are appropriate, for the reasons noted above. We note that the numbering and wording of some of the provisions referred to above differ slightly in our recommended version as a result of changes we have recommended elsewhere.

306. In relation to the assessment criteria in rule 21.1.2A.9A (which we have renumbered 21.1.2A.11), for the same reasons previously described we have combined criteria (i) and (j) into new (i) which now reads:

*Avoidance or minimising stormwater quality effects of buildings by use of one or more of the following:*

- *source control by use of roof and cladding materials that exclude zinc or copper*
- *on site treatment to improve stormwater quality before surface discharge off site, with assessment of the requirements for and the design of stormwater treatment to be in*

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<sup>133</sup> Quickfall, rebuttal evidence, 19 April 2023, at {Appendix 3}.

*accordance with applicable CSDC and the Waikato Stormwater Management Guideline 2020*

- *on site disposal by soakage, with assessment of the viability and design of soakage to be in accordance with the Waikato Stormwater Management Guideline 2020.*

307. We have also deleted Council 's proposed assessment criteria 21.1.2A.9A(k) (numbered 21.1.2A.10 in our provisions) which relates to the impacts of downstream erosion for the same reasons as described above for the Stormwater Constraint Overlay.

## 7.8 Nationally Significant Infrastructure

### 7.8.1 Safe and Efficient Operation of Nationally Significant Infrastructure

308. Sections 771(e) and 770(e) provide that a specified territorial authority may make the MDRS or relevant building height and density requirements under Policy 3(d) less enabling of development in a relevant residential or urban non-residential zone only to the extent necessary to accommodate the following QM (amongst others):

*a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:*

309. PC26 has retained, as existing QMs, the provisions from the ODP that relate to Nationally Significant Infrastructure – such as the rail corridor, National Grid, and state highway network.

310. These matters were evaluated by the Council as existing QMs under ss.77I and 77K (and its cognate provisions for non-residential urban zones) and are summarised within the s.42A Report. We address each of these in turn below.

### 7.8.2 Rail Corridor

311. The rail designation has limited interface with relevant residential zones. In Cambridge it extends along the length of Victoria Road and sits within a relatively wide road reserve (approx. 40 metres) but is bounded on both sides by residential land use. In Te Awamutu it largely traverses industrial zoned land with limited interface with the relevant residential zone along Station Road.<sup>134</sup>

312. The Rail Corridor meets the tests as a QM under s.77I(e) and (g) as the Rail Corridor is classed as Nationally Significant Infrastructure and is designated.

313. Operative rules associated with the Rail Corridor (2A.4.2.40) relate to noise insulation for noise sensitive activities adjoining the Rail Corridor. As these rules do not reduce the level of development allowed under the MDRS, and do not affect height or density, they do not require assessment under s.77K.<sup>135</sup>

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<sup>134</sup> s.42A Report, at [9.14.25].

<sup>135</sup> s.42A Report, at [9.14.26].

#### 8.6.4 Recommendation

421. Accordingly, we recommend that matters of discretion in rules 2A.4.1.3(b), (c), (f), (g), (h), and rule 15.4.1.1 (e) be amended as follows:

*Alignment with any relevant Urban Design Guidelines approved by Council and included in the District Plan.*

## 9 Financial Contributions

### 9.1 Overview

422. A brief history of FCs and its vicissitudes was outlined in Council’s opening submissions on this topic. These submissions noted that some councils had stopped using FCs in favour of development contributions (DCs) under the Local Government Act 2002 (LGA) in advance of the signalled FCs repeal in 2017, and notwithstanding their subsequent reinstatement in 2019.
423. Waipā has financial contributions (designed to manage the effects of unplanned development) in section 18 of its ODP, which apply to reticulated water services, wastewater collection services, stormwater services, road corridor services, and heavy vehicle impact fees. However, as Mr Quickfall noted, this mechanism has rarely been used since 2019.<sup>215</sup> A description of the policy basis for the existing FC provisions (and its relationship with DCs) was provided by Mr Quickfall and was not in dispute.<sup>216</sup>
424. The FCs included in section 18 of the ODP apply variations on the following formulaic structure (or on the total assessed costs for providing the required capacity in the case of three waters infrastructure):
- Connection to water supply system or wastewater network =  $\$A \times [B/[B+C]]$ ;
  - Connection to the stormwater system =  $\$I \times [J/[J+K]]$ ;
  - Road corridor services =  $\$F \times [G/[G + H]]$ ; and
  - Heavy vehicles on traffic and pedestrian routes =  $\$[(G)/[(F)+(G)]] \times (H)$ .
425. For present purposes the meaning of the particular factors (A, B, C etc) is not important; it is the consistency of the general structure of the formula that is reflected in the proposed new FC.
426. As amended, ss.77T and 80E(1)(b)(i) of the RMA enable a council to include or change their FC provisions through their notified IPI. As recorded, Waipā decided not to comprehensively review its FC provisions through PC26 but instead focus on those unplanned effects arising from intensification brought about through

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<sup>215</sup> Primary evidence of Tony Quickfall on FCs, 4 August 2023, at [4.5].

<sup>216</sup> Primary evidence of Tony Quickfall on FCs, 4 August 2023, at section 4.

implementing the MDRS. Council’s opening legal submissions summarised the changes as:<sup>217</sup>

- (a) *Enabling financial contributions to be taken for permitted activities, as enabled by s77E, as the MDRS provides for more opportunities for residential development to occur as a permitted activity;*
- (b) *Requiring a new financial contribution for the purpose of restoring and protecting the Waikato and Waipā rivers and their catchments, to address the objectives of Te Ture Whaimana o Te Awa o Waikato – Vision and Strategy (Te Ture Whaimana); and*
- (c) *Requiring a new financial contribution for the purpose of avoiding, remedying, mitigating or offsetting adverse effects on residential amenity.*

427. The Residential Amenity FC is to apply to all new dwellings in the MDRZ; while the Te Ture Whaimana FC is to apply to all new dwellings in the MDRZ and Commercial Zones.

428. As examples of the sort of adverse urban residential amenity effects the new Residential Amenity FC is designed to address, Mr Quickfall identified:<sup>218</sup>

- (a) *Effects on reduced levels of service of the provision of open spaces (e.g. parks and playgrounds) arising from increased density and subsequent increased demand on open spaces and related infrastructure.*
- (b) *Effects on the visual amenity of streetscapes arising from densification of built form (increase in building bulk and building height).*
- (c) *Increasing public spaces to compensate or offset the adverse effects of reduced private outdoor/open spaces and vegetation, arising from increased on-site development and built form.*

429. With respect to Te Ture Whaimana Mr Quickfall identified adverse effects arising from:<sup>219</sup>

- (a) *Effects on the integrity and effectiveness of stormwater systems;*
- (b) *Discharge effects;*
- (c) *Effects of increased water abstraction; and*
- (d) *Increase in effects arising from the exercise of Council’s regional water and discharge consents for urban infrastructure, and potential non-compliances requiring a review of these regional consents and/or their conditions.*

430. Council’s legal submissions noted that the Environment Court had recognised that giving effect to Te Ture Whaimana required a proportionate contribution toward the betterment of the river system. The purpose of this FC therefore was:<sup>220</sup>

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<sup>217</sup> Council opening legal submissions on FCs, 15 September 2023, at [4.2].

<sup>218</sup> Primary evidence of Tony Quickfall on FCs, 4 August 2023, at [7.6].

<sup>219</sup> Primary evidence of Tony Quickfall on FCs, 4 August 2023, at [7.10].

<sup>220</sup> Council opening legal submissions on FCs, 15 September 2023, at [4.12]-[4.13].

... to provide for matters such as riparian enhancement; wetland creation, protection, restoration or enhancement; erosion control measures; ecological/biodiversity measures; public access improvements to the river; weed control measures; sediment reduction measures; education; restoration, protection or enhancement of waahi tapu and sites of significance.

**431. The following were the key aspects of the urban amenity FC (as notified):**

*The notified quantum of the financial contribution was:*

- *A fixed financial contribution of \$400 for each additional bedroom at the site created by the development;*
- *Greenfield development will be required to pay 80% of the above rate;*

*The collection of the residential amenity financial contribution is for the following costs:*

- *Where public open spaces can be improved, the cost of land acquisition and development; and*
- *Where streetscape amenity can be enhanced, the cost of that enhancement.*

**432. The following were the key aspects of the Te Ture Whaimana FC (as notified):**

*The notified quantum of the financial contribution was:*

- *A fixed financial contribution of \$400 for each additional bedroom at the site created by the development; and*
- *For non-residential development \$2,000 per 100m<sup>2</sup> of Gross Floor Area.*

**433. The collection of the Te Ture Whaimana FC was identified as being for the following costs:<sup>221</sup>**

- (i) Riparian enhancement;*
- (ii) Wetland creation/protection/restoration/enhancement;*
- (iii) Erosion control measures;*
- (iv) Ecological/biodiversity;*
- (v) Public access improvements to the Waikato River, including its tributaries;*
- (vi) Weed control measures;*
- (vii) Sediment reduction measures;*
- (viii) Waikato and Waipā Rivers / Te Ture Whaimana education; and*
- (ix) Restoration / protection / enhancement of waahi tapu and sites of significance.*

**434. The FCs are to be calculated at the earliest opportunity at which either subdivision, resource or building consent is required, and paid before either the subdivision certificate, building consent or consented activity commences. In accordance with**

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<sup>221</sup> Rule 18.5.1.8.

s.77E(1) RMA, FCs apply to all classes of activity (including permitted activities) other than prohibited activities.

435. The s.42A Report for this topic noted that 15 submissions and two further submissions addressed FCs. Matters were raised in relation to all three of the proposed FCs, as well as the existing ODP FC provisions. Table 1 of the s.42A Report summarised the submissions as including general/partial support, a request for inclusion of a purpose statement for existing FCs, greenfield developments, Te Ture Whenua, specific amendments to s.18, and other matters.
436. Expert conferencing was held on 14 September 2023 between Mr Lawrence McIlrath (for the Council) and Mr Greg Akehurst (for RVA/Ryman), both of whom are Directors at Market Economics. This conferencing resulted in the issue of a Joint Statement, which helpfully clarified the matters of agreement and disagreement.<sup>222</sup>

## 9.2 Revised Financial Contributions

437. As a consequence of submissions received, Council amended its formulae for the two proposed FCs as follows:

***Rule - Determination of the maximum amount of financial contribution***

*18.5.2.2 The financial contribution collected for residential amenity shall be the total of A plus B as follows to a maximum amount of \$1,800 per dwelling:*

$$A - \text{Financial contribution charge} = (FC * n) * F$$

*where:*

*FC = financial contribution per dwelling (\$1,300).*

*n = number of new dwellings.*

*F = discount factor to account for development specific attributes or the value of other contributions (i.e., land for reserves, but excluding development contributions) for the same purpose.*

*B – Tree charge = \$500 per dwelling*

*18.5.2.5 The financial contribution collected for Te Ture Whaimana shall be based on the following calculation to a maximum amount of \$1,500 per dwelling:*

$$\text{Financial contribution charge} = (FC * n) * F$$

*where:*

*FC = financial contribution per dwelling (\$1,500).*

*n = number of new dwellings.*

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<sup>222</sup> Joint Witness Statement – Economics (FCs), 14 September 2023. Limited expert conferencing had also occurred earlier in July prior to evidence being circulated but did not result in a joint statement.

*F = discount factor to account for development specific attributes or the value of other contributions (i.e. land for reserves, but excluding development contributions) for the same purpose.*

438. The Addendum to the s.42A Report also recommended a worked example advice note (18.5.2.23) for illustrative purposes.
439. A further change was to amend the reference in the FC from “bedrooms” to “dwellings” to avoid inappropriately capturing care units / beds and similar (as identified by RVA/Ryman and others).
440. A change was also made to require a restricted discretionary activity consent to be obtained if FCs were not paid at the required time. This amendment was made in response to a request from Kāinga Ora for an alternative consenting pathway.
441. Relatively minor consequential amendments were proposed to the respective purpose, policy and definitions sections of the ODP.
442. Mr McIlrath told us that the capped maximum contribution fee had been calculated on the basis of a model whose main elements included projected household growth; project budget (capital costs) and financial costs (based on a list of projects provided by Council); the district spatial distribution of benefits and costs; and a 10-year timeframe. The anticipated 10-year average annual budget FC portions calculated were:<sup>223</sup>
  - a) Te Ture Whaimana – in the order of \$450,000/annum; and
  - b) Residential amenity – in the order of \$350,000/annum.
443. That resulted in Mr McIlrath’s recommended FCs of:
  - a) Te Ture Whaimana - \$1,500; and
  - b) Residential amenity - \$1,300 plus an additional \$500 / dwelling to reflect the cost of planting a street tree in Waipā.

### 9.3 Issues in Contention

444. The issues remaining in contention were:
  - a) potential confusion with DCs and the risk of double-dipping;
  - b) the extent to which the proposed FCs are ‘fair, equitable and proportionate’ in terms of benefit versus need;
  - c) whether Waikato Tainui has a formal role to play in the administration of the Te Ture Whaimana FC; and
  - d) whether greenfield developments should be exempt from the new FCs.

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<sup>223</sup> Primary evidence of Lawrence McIlrath, 4 August 2023, at [4.6]-[4.13].

### 9.3.1 Double Dipping

445. With respect to the potential overlap and relationship with DCs, Mr McIlrath noted:<sup>224</sup>

*I understand that an FC will not be charged on a service (project or investment) if the funding load associated with that project is fully recovered via DCs. Regardless, the FCs calculation needs to explicitly reflect and consider the potential overlaps with other funding streams to avoid over-recovery of costs.*

446. In that respect the Council's legal submissions noted that s.200(1) of the LGA prevents the taking of a DC for a matter already addressed by a FC (or other funding source), and that s.106(2)(f) LGA requires that FCs are summarised in Council's DCs policy.<sup>225</sup>

### 9.3.2 Fair, Equitable and Proportionate

447. The need for FCs to be fair, equitable and proportionate, was framed by Mr Akehurst, as being particularly relevant for the retirement village sector, in terms of the lesser demand that growth units place on the system.
448. In particular, he noted the reduced demand and benefit to be derived from those living in such villages, whose actual use of the assets to be provided by these FCs was significantly less than that of the general public at large – either because most of that amenity was provided internally, or the use of three waters infrastructure was correspondingly reduced through efficiency gains from joint (e.g. laundries) or on-site (stormwater treatment) facilities. Whilst Mr Akehurst acknowledged the discount factor in the formulae, he calculated corresponding demand ratios as follows:<sup>226</sup>

FC Category	Independent Units	Assisted Living / Care / Memory Units
Residential Amenity - Parks, Reserves, Open Spaces, Public Amenity, Streetscape improvements and other social infrastructure	0.05	0.01
Traffic and Transport	0.27	0.24
Water/ Wastewater	0.40	0.37
Stormwater	<i>based on onsite offsetting/design</i>	
Te Ture Whaimana	<i>Zero FCs</i>	

449. On that basis he calculated an equitable charge (based on demand ratios) of \$64 / independent unit and \$13 / care unit.

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<sup>224</sup> Primary evidence of Lawrence McIlrath, 4 August 2023, at [5.4].

<sup>225</sup> Council opening legal submission on FCs, 15 September 2023, at section 3. That section also noted that the Council's reviewed DC policy was due to come into force on 1 July 2024.

<sup>226</sup> Primary evidence of Lawrence McIlrath, 4 August 2023, Figure 1, at [29].

450. Mr Akehurst expressed the further concern that as Te Ture Whaimana FC was calculated on existing and hypothetical projects, some of which, he considered, related to remedying past problems / issues impacting the Waikato and Waipā Rivers he was not persuaded that this was either a cogent or lawful means for determining an FC. He concluded that the Te Ture Whaimana FC should be discarded and project-funded instead from rates which, of course, retirement villages are levied.

451. Council and the s.42A Report authors rejected Mr Akehurst's conclusions.

452. Whilst accepting that Mr Akehurst's ratios *could* reflect future demand, Mr McIlrath noted that *actual* demand would be development dependent and therefore flexibility was prudent. Both formulae allowed for such flexibility through the discount factor. He also noted that unlike planned greenfield development growth, where the effect on infrastructure systems and Te Ture Whaimana could more accurately be assessed, PC26 intensification was neither spatially nor temporally confined. The ability to estimate the additional load created by particular instances of growth on community facilities and amenities was unknown. It is precisely for that reason that the 10-year horizon was adopted (that being within the foreseeable budget and infrastructure planning forecasts).

### 9.3.3 Waikato Tainui

453. Waikato Tainui sought a role in decision making for the application of the Te Ture Whaimana FC under its Joint Management Agreement with Council.

454. We see no need for PC26 to include provisions relating to the manner by which Council determines the projects to which allocations are made in expending the dedicated FCs. If the Joint Management Agreement provides for something similar, then that will follow.

### 9.3.4 Greenfield Development

455. Mr Craig Shearer, for TA Projects, queried whether greenfield developments should be exempt from these new FCs because the related matters would typically be incorporated into the development itself.

456. We note, as did Council, that the FC formula contains a discount factor. In the event that the matters over which a FC can be levied are addressed in and by a development, it is reasonable to expect that to be appropriately discounted. As such we see no need for specific exemptions to be provided in the Plan.

### 9.3.5 Discussion/Findings

457. In relation to the issue of potential double-dipping, the Panel is satisfied that the requirement for transparency in the respective statutes is sufficient for our purpose and that the two proposed FCs can be distinguished from comparable DCs (and, if not, then remedies are available).

458. In relation to the second issue in terms of what is fair, equitable and proportionate, whilst the Panel has some sympathy with Mr Akehurst’s position regarding uncertainty, it accepts Council’s position that in such circumstances, and until that uncertainty is resolved, it is appropriate to set a capped quantum with discretion to negotiate a discount. We also note that should that capped quantum prove insufficient then, of course, recourse to a targeted rate or similar lies with Council.
459. The consequential text amendments proposed by Council are accepted accordingly.
460. The Panel makes no amending recommendations with respect to the other two matters discussed.

## 10 Operative District Plan Chapters

### 10.1 Strategic Policy Framework

461. As summarised in Part A of PC26, a number of changes to the Strategic Policy Framework are proposed, as follows:
- a) Changes to reflect Te Ture Whaimana being a unique QM, including:
    - (i) relocating the subsection relating to Te Ture Whaimana to a more prominent position in the section;
    - (ii) adding more information about Te Ture Whaimana, such as the four fundamental issues that it seeks to address; and
    - (iii) introducing a new cross boundary issue in section 1.4.4 to address the achievement of the objectives and strategies of Te Ture Whaimana for the restoration and protection of the Waikato and Waipā Rivers and their catchments.
  - b) An updated paragraph on the NPS-UD has been included in subsection 1.1.19(d).
  - c) A new policy relating to towns has been introduced in 1.3.2.2 to provide for medium density residential development in relevant residential zones located within the urban environs of Cambridge and Te Awamutu.
  - d) A number of consequential amendments.

#### 10.1.1.1 Submissions and Council Response

462. The s.42A Report provides a summary of the eight submissions that are relevant to the strategic policy framework.<sup>227</sup>
463. The submissions seek a range of outcomes including:

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<sup>227</sup> s.42A Report, at [9.19].

## Appendix 5 – PC26 Recommended Provisions

## Part A – Proposed Plan Change 26

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### Independent Hearing Panel Recommendation Tracked Changes to Waipā District Plan

The amendments to the District Plan as recommended by the Independent Hearing Panel are set out below.

Under section 80H of the Resource Management Act 1991, the Council is required to show which provisions incorporate the objectives and policies of clause 6 and the density standards in clauses 10-18 of Schedule 3A of the Resource Management Act 1991. These are identified by a footnote.

#### Definitions

##### Key

Text additions proposed by Council, the s42A authors or submitters that the Panel has accepted are shown underlined.

Text deletions proposed by Council, the s.42A authors or submitters that the Panel has accepted are shown ~~struck through~~.

Further text additions or deletions that the Panel has made following the hearing of evidence and submissions are identified with grey shading.

Text that is not underlined or struck through is original PC26 text as notified.

##### 'Act'

means the Resource Management Act 1991.

##### Infill Housing

~~means the further residential SUBDIVISION/DEVELOPMENT of land within the urban limits where SUBDIVISION and LAND USE consents are jointly lodged.~~

##### 'Infrastructure Capacity Assessment'

means an assessment of the capacity of an existing water supply (including fire water supply), wastewater, or stormwater network to determine if there is enough capacity for a proposed development, or to define the requirements for network upgrades that would need to be implemented for the development to be approved. The exact requirements for an Infrastructure Capacity Assessment should be discussed and agreed with WDC on a case-by-case basis.

##### 'Intensification Planning Instrument'

As defined in section 80E(1) of the ACT. Also known as the IPI.

##### 'Intensification Streamlined Planning Process'

Also known as the ISPP and refers to the planning process set out in subpart 5, Part 5 and Part 6 of Schedule 1 of the ACT.

**'Medium Density Residential Standards'** means the standards set out in Schedule 3A 'MDRS to be incorporated by specified territorial authorities' of the ACT.

**'Qualifying Matter'** As defined in section 771 or section 770 of the ACT.

**'Relevant Residential Zone'** Is defined in section 2 of the ACT and

- means all residential zones; but
- does not include—
  - a large lot residential zone;
  - an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment;
  - an offshore island;
  - to avoid doubt, a settlement zone

**'Site Coverage'** Also means 'building coverage' as that term is used in Schedule 3A of the ACT.

**A 'Suitably Qualified and Experienced Person to prepare an Infrastructure Capacity Assessment'** means a Chartered Engineer (or equivalent) experienced in the planning and design of three waters networks who is competent to carry out the assessment of development impacts on three waters networks. It should be noted that Council may require the use of a nominated Consultant to carry out hydraulic modelling on behalf of Council for the purpose of a capacity assessment, but developers may wish to engage their own Engineer to assess on their own behalf.

**'Transport Network / Transportation Network'** means all public rail, public roads, public pedestrian and cycling facilities, public transport, and associated public infrastructure. It includes train stations; bus stops; bus shelters; and park and ride areas serving train stations.

**'Te Ture Whaimana'** means Te Ture Whaimana o Te Awa o Waikato - the Vision and Strategy for the Waikato River as set out in Schedule 2 to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and contained in the Waikato Regional Policy Statement and Appendix O1 to the operative Waipā District Plan, and includes the Waikato River, the Waipā River and the catchments of the Waikato and Waipā Rivers.

- Increased erosion of waterway channels
- Increased flooding risk
- Decreased drainage levels of service
- Increased temperatures which impact freshwater species
- Increased contaminants and decreased water quality.

### **Residential amenity**

- 2A.2.2 The density, design and layout of new developments and subdivisions can result in poor amenity outcomes for that development and neighbouring properties.
- 2A.2.3 There are clusters of existing dwellings in the District that have a special character. New developments, relocated buildings and subdivisions have the potential to detract from the character of these clusters.
- 2A.2.4 Developments and subdivisions can have adverse visual and functional effects on the amenity of the Medium Density Residential Zone. The amenity values of the Medium Density Residential Zone include:
- A low ambient noise environment; and
  - Neighbourhoods that are well maintained, safe, and are free from activities, developments and associated signs that can result in adverse visual and nuisance effects; and
  - Vibrant and active communities that have a mix of demographics and housing types.
- 2A.2.5 Sites where buildings and impermeable surfaces cover large areas of the site can compromise the ability to adequately dispose of stormwater.
- 2A.2.6 Relocated buildings can adversely affect the existing amenity of the neighbourhood.
- 2A.2.76 There is the potential for reverse sensitivity effects when noise sensitive activities locate close to some existing activities such as the Te Awamutu Dairy Manufacturing site, roads with high traffic volumes, and railway lines.
- 2A.2.87 Trends towards more compact residential development such as that provided for by the Medium Density Residential Standards can lead to conflicts as the noise environment is potentially greater than people anticipate, and privacy levels are not the same as those existing in traditional residential areas.
- 2A.2.98 Signs are not consistent with the character of residential neighbourhoods. Signs can also detract from the character and values associated with identified heritage items and character clusters.
- 2A.2.109 Home occupations provide a sustainable working option provided that the scale and nature of the business being carried out is compatible with the character and amenity of the zone.

### **Neighbourhood safety**

- 2A.2.1110 Inappropriate building design, fence design, and site layout can affects the opportunity for

2A.3.3.4 To maintain and enhance the identified character of each character cluster by:

- (a) Avoiding new buildings and relocated buildings between the dwelling and the front boundary of a site; and
- (b) For new buildings or relocated buildings maintaining a similar style, scale, height, bulk, form, building materials, and colour layout and position that complements to other dwellings within the cluster; and
- (c) For relocated buildings ensuring that any maintenance and/or reinstatement work is undertaken; and
- (d) Ensuring that signs do not detract from the character of the building or the cluster.

Advice Note: Guidance on the character of each cluster including the style, form, and scale of buildings is included in Appendix DG1 of the District Plan.

Policy - Subdivision and development adjoining Category A heritage items

2A.3.3.5 To ensure that subdivision and development and associated earthworks adjoining Category A heritage items do not result in adverse effects on the listed heritage building including its setting and vistas to the building.

**Objective - Neighbourhood amenity and safety**

2A.3.4 To maintain recognise amenity values and enhance safety in the Medium Density Residential Zone including:

- i. On site for residents;
- ii. On adjoining sites; and
- iii. For the transport corridor and public open spaces.

Policy - Building setback: road boundary

2A.3.4.1 All buildings shall be designed and setback from roads in a manner which complies with the Medium Density Residential Standards, unless a qualifying matter applies.

Policy - Building setback: character street

2A.3.4.2 To maintain the existing character of character streets by having a consistent minimum building setback.

Policies - Building setback: side boundaries

2A.3.4.3 To maintain a degree of separation between buildings when viewed from the road (except where perimeter block development is proposed), provide opportunities for planting where possible, provide a degree of privacy, maintain sunlight and daylight, provide ongoing access to the rear of the site and enable building maintenance from within the site by maintaining a consistent setback between buildings on different sites.

Advice Note: In some cases affected parties' consents will not be sufficient to address the matters raised in these policies.

Policy - Height of buildings

2A.3.4.4 The height of new buildings shall not be consistent with the Medium Density Residential Standards unless a qualifying matter applies.

*Policies - Site coverage and permeable surfaces*

2A.3.4.5 To ensure that all sites have sufficient open space to provide for landscaping, outdoor activities, storage, on-site stormwater disposal, where parking is provided, and vehicle maneuvering by maintaining a maximum site coverage requirement for buildings in the Medium Density Residential Zone.

2A.3.4.6 Maintain a proportion of each site in permeable surfaces such as lawn and gardens, in order to ensure there is sufficient capacity to enable the on-site disposal of stormwater. In the Cambridge North Structure Plan Area, increased standards apply because of the difficulty of disposing of stormwater in this location. In the C1 and C2/C3 Structure Plan areas on-site disposal of stormwater may not be required where regional and/or district consents for the overall structure plan stormwater system provide for alternative means of stormwater management and disposal. Furthermore, on-site soakage within the C3 cell is not anticipated due to the risk of exacerbating slope stability issues. Alternative methods of stormwater management will need to be demonstrated for the C3 cell.

*Policy - Relocated buildings*

2A.3.4.7 Relocated buildings shall not detract from the amenity of the neighbourhood they are located within, by ensuring that exterior maintenance and painting is undertaken.

*Policy - Maintaining low ambient noise environment*

2A.3.4.87 To ensure that noise emissions and vibration from all activities, including construction, are consistent with the low ambient noise environment anticipated in the Medium Density Residential Zone.

*Policy - Noise sensitive activities located adjacent to railways and strategic roads*

2A.3.4.98 To reduce the potential for reverse sensitivity effects, by requiring noise sensitive activities to be acoustically treated, where they are proposing to locate in close proximity to railways and strategic roads.

*Policy - Residential development in the vicinity of the Te Awamutu Dairy Manufacturing site*

2A.3.4.109 To maintain anticipated levels of residential amenity and to reduce the potential for reverse sensitivity effects on the Te Awamutu Dairy Manufacturing site by requiring new dwellings or bedroom additions to be acoustically treated.

*Policies - Signs*

2A.3.4.110 To maintain the residential character and amenity of the Medium Density Residential Zone, by avoiding signs except for temporary signs and small scale signs associated with a home occupation undertaken on the site where the sign is located.

2A.3.4.1211 Signs not related to the site, including billboards, are not consistent with the character of the Medium Density Residential Zone and shall be avoided.

2A.3.4.1312 To minimise short-term effects on residential character and amenity by managing the location,

	<p>(e) <u>Solar access; and</u></p> <p>(f) <u>Where provided, the Effects on parking and vehicle manoeuvring; and</u></p> <p>(g) <u>Signs; and</u></p> <p>(h) <u>Landscaping.</u></p> <p><u>Additionally for relocated buildings:</u></p> <ul style="list-style-type: none"> <li>▪ <u>Condition of the exterior of the building; and</u></li> <li>▪ <u>Repairs and works identified for action in Council approved or certified Building Relocation Inspection Report; and</u></li> <li>▪ <u>Reinstatement works; and</u></li> <li>▪ <u>Timing for completing any required works.</u></li> </ul> <p><u>These matters will be considered in accordance with the assessment criteria in Section 21.</u></p>
(dA f)	<p><u>Within the Character Cluster Qualifying Matter Overlay - Construction of two or more dwellings except where permitted by 2A.4.1.1(<del>eA d</del>), (<del>q-r</del>) or (<del>f s</del>).</u></p> <p><u>Discretion will be restricted to the following matters:</u></p> <p>(a) <u>For identified character-defining sites;</u></p> <ul style="list-style-type: none"> <li>(i) <u>The extent to which building bulk and design, building materials, and layout complements the style, form, building material, layout and position of other character defining dwellings within the cluster; and</u></li> <li>(ii) <u>The extent to which buildings provide a complementary response to the existing character identified in the cluster as set out in Appendix DG1;</u></li> </ul> <p>(b) <u>For identified non-character defining sites:</u></p> <ul style="list-style-type: none"> <li>(i) <u>The extent to which building design is sympathetic to the established character within the cluster in form, proportion, layout and materiality; and</u></li> <li>(ii) <u>The extent to which building scale manages the relationship between adjacent character-defining sites and responds to the streetscape context; and</u></li> <li>(iii) <u>The extent to which buildings are sympathetic to and acknowledge the character values identified in the cluster as set out in Appendix DG1.</u></li> </ul> <p>(c) <u>Solar access; and</u></p> <p>(d) <u>Where provided, the effects on parking and vehicle manoeuvring; and</u></p> <p>(e) <u>Signs; and</u></p> <p>(f) <u>Landscaping.</u></p> <p><u>These matters will be considered in accordance with the assessment criteria in Section 21.</u></p>

to a maximum height of 1.8m.

Activities that fail to comply with this rule will require a resource consent for a discretionary activity.

### **Rules - Temporary construction buildings**

~~2A.4.2.60~~ 64 Temporary construction buildings shall only be used in conjunction with, and for the duration of, a construction project located on the same site as the construction project, or on a site adjoining the construction project.

~~2A.4.2.61~~ 65 Temporary construction buildings are only permitted for one calendar year and shall comply with the minimum setback requirements for the Medium Density Residential Zone set out in Rules ~~2A.4.2.64~~ to ~~2A.4.2.86~~.

Activities that fail to comply with Rules ~~2A.4.2.60~~ 64 to or ~~2A.4.2.61~~ 65 will require a resource consent for a discretionary activity.

### **Rule — Relocated buildings**

~~2A.4.2.62~~ — A relocated building over 40m<sup>2</sup> GFA shall meet the following requirements:

- ~~(a) — A Building Relocation Inspection Report shall accompany an application for a building consent. The Building Relocation Inspection Report shall be prepared by one of the following suitably qualified and experienced people:~~
- ~~(i) — A Waipā District Council Building Compliance Officer (or equivalent); or~~
  - ~~(ii) — A member of the New Zealand Institute of Building Surveyors; or~~
  - ~~(iii) — A licensed building practitioner (carpenter or design category); or~~
  - ~~(iv) — A building inspector from the local authority where the building is being relocated from; and~~
- ~~(b) — If the Building Relocation Inspection Report has been prepared by a person other than a Waipā District Council Building Compliance Officer (or equivalent position), the accuracy and completeness of the Building Relocation Inspection Report must be confirmed by a Waipā District Council Building Compliance Officer (or equivalent position). This is to be done by undertaking an on-site inspection of the relocated building once it has been relocated. Should the Waipā District Council Building Compliance Officer determine that the relocated building requires external repair works in addition to that identified in the submitted Building Relocation Inspection Report in order to achieve a tidy and workmanlike external appearance, then:~~
- ~~(i) — The owner of site to which the building is to be relocated will be contacted and must agree in writing to the additional works within 2 weeks of notification of the requirement for additional works. The additional works then become part of the Building Relocation Inspection Report.~~
- ~~(c) — All required repairs and maintenance identified in the Building Relocation Inspection Report to reinstate the exterior of the relocated building, including painting, if required, shall be completed within 6 months of the relocated building being delivered to the site; and~~
- ~~(d) — The owner of site to which the building is to be relocated must supply a signed declaration to Council that the reinstatement work required by the Building Relocation Inspection~~

Report will be completed within 6 months of the relocated building being delivered to the site.

This rule shall not apply to new buildings which are designed for or intended to be used on a site which are erected off the site either in whole or in parts and transported to the site.

Advice Notes:

1. Relocated buildings less than 40m<sup>2</sup> are not required to comply with this rule but are required to comply with the relevant rules in 2A.4.2.
2. Information requirements for a Building Relocation Inspection Report are detailed in Section 21.2.27.
3. The onsite inspection by a Waipā District Council Building Compliance Officer (or equivalent position) shall occur at the time of foundation inspection for the Building Consent process, and will not incur additional costs.

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity, with the discretion being restricted over:

- Condition of the exterior of the building; and
- Repairs and works identified for action in Council approved or certified Building Relocation Inspection Report; and
- Reinstatement works; and
- Timing for completing any required works.

These matters will be considered in accordance with the assessment criteria in Section 21.

### **Rule - Residential Based Visitor Accommodation**

2A.4.2.63 66 The use of a dwelling as Residential Based Visitor Accommodation is permitted if it accommodates no more than:

- (a) Three people in a one bedroom dwelling; or
- (b) Five people in a two bedroom dwelling; or
- (c) Seven people in a three bedroom dwelling; or
- (d) No more than 10 people in a dwelling with four or more bedrooms.

2A.4.2.64 67 Where a Sleep Out is used it will be considered as one bedroom.

2A.4.2.65 68 Where there are permanent residents staying on site they will be included in the maximum number of people able to be accommodated overnight in the dwelling:

- (a) No paying overnight visitors are to be accommodated in temporary living spaces, such as tents, caravans, motor vans or campervans.

Activities which fail to comply with Rules 2A.4.2.63 66 to 2A.4.2.65 68 will require a resource consent for a discretionary activity.

## **2.5 Assessment Criteria**

### **2.5.1 Controlled activities and Restricted Discretionary activities**

***For controlled and restricted discretionary activities the assessment will be restricted to the matters over which control or discretion has been reserved, in accordance with the relevant assessment criteria contained in Section 21. Resource consent conditions can only be imposed over the matters which control or discretion has been reserved. The relevant assessment criteria are contained in Section 21.***

### **2.5.2 Discretionary activities**

## Section 18 – Financial Contributions

### Key

Text additions proposed by Council, the s42A authors or submitters that the Panel has accepted are shown underlined.

Text deletions proposed by Council, the s.42A authors or submitters that the Panel has accepted are shown ~~struck through~~.

Further text additions or deletions that the Panel has made following the hearing of evidence and submissions are identified with grey shading.

Text that is not underlined or struck through is original PC26 text as notified.

### 18.1 Interpretation

18.1.1 For the purposes of this section only, the following definitions apply:

(a) ~~**Bedroom** means an area of a residential unit that is not the kitchen, bathroom(s), laundry and toilet(s); the dining room or living room (but not both) whether open plan with the kitchen or not; entrance halls and passageways; garage; and any other room smaller than 6m<sup>2</sup>.~~

(b) ~~**Betterment** means the restoration and protection of the Waikato and Waipā Rivers and their catchments as required under Te Ture Whaimana.~~

(c) **Developer** means any individual, entity, or group undertaking development.

(d) **Development** means any subdivision, building (as defined in section 8 of the Building Act 2004), land use, or work and includes site works, building construction, alterations, extensions or additions.

(e) **Discount factor** means a factor that can be applied to the calculation of the residential amenity and Te Ture Whaimana financial contributions that can reduce the total amount of financial contribution required to be paid. The decision on the appropriate discount factor to apply to each financial contribution calculation will be determined by the Council on a case-by-case basis.

The discount factor will be based on development specific attributes or the value of other contributions for the same purpose as outlined in the relevant performance criteria.

The discount factor cannot include consideration of development contributions paid as these are already excluded from the calculation of financial contributions. The discount factor has no weight or bearing on Development Contributions payable.

(f) ~~**Greenfield development** means subdivision and/or urban development of previously undeveloped rural land.~~

(g) ~~**Gross Floor Area** has the same meaning in Part B ‘Definitions’ of the operative Waipā District Plan.~~

(h) **Infrastructure** has the same meaning in Part B ‘Definitions’ of the operative Waipā District Plan.

(i) **Land value** has the same meaning as ‘land value’ under the Ratings Valuations Act 1998.

(j) ~~**Non-residential development** means all other activities other than residential activities.~~

(k) **Residential development** means the use of land and buildings for people for living accommodation (whether or not the person is subject to care or supervision).

(l) Te Ture Whaimana has the same meaning in Part B ‘Definitions’ of the operative Waipā District Plan.

In the event of any conflict with the definitions in Part B of the Waipā District Plan (Definitions), the above definitions prevail.

## **18.2 Introduction**

~~18.1.1 2.1~~ The financial contributions provisions in this Plan deal with conditions imposed on resource consents. Under section 77E of the Resource Management Act 1991, financial contributions are able to be used as a mechanism for avoiding, remedying or mitigating adverse effects, or ensuring positive effects on the environment to offset any adverse effect. Section 108 of the Act allows Council to impose a consent condition requiring a financial contribution be made when it grants resource consent.

~~18.1.2 2.2~~ Financial contributions ~~achieving the Plan's objectives and~~ are distinct from, and in addition to, Council’s Development Contributions Policy (DCP), ~~which and~~ provides Council with an alternative method to obtain contributions to ~~fund infrastructure manage effects required as a result of growth.~~ Either where financial contributions will be used on their own, or in addition to supplement development contributions will not be used for the same purpose where the development contributions are insufficient to fully avoid, remedy, mitigate or compensate for the adverse effects of the activity. **Table 18.1** below sets out the application of both development and financial contributions.

**Table 18.1: Contributions Overview**

	Legislation	Description
<u>Development Contributions (and Policy)</u>	<u>Local Government Act 2002</u>	<u>Generally applicable to planned or anticipated development, subdivision and growth.</u> <u>Fund and offset the cost of new infrastructure and infrastructure upgrades for planned or anticipated development, subdivision and growth.</u>
<u>Financial Contributions</u>	<u>Resource Management Act 1991</u>	<u>Generally applicable to unplanned, unanticipated, more intensive, or more rapid development, subdivision and growth.</u> <u>Avoid, remedy, mitigate or compensate for adverse effects, or ensure positive effects on the environment to offset any adverse effects, where the adverse effect arises from unplanned or un-anticipated development, subdivision and growth (including permitted activities, activities requiring resource consent, on-site effects and off-site effects).</u>

~~18.1.2~~ In the context of new development and subdivision, this Plan uses financial contributions to build into the cost of the development or subdivision any physical, environmental, or social costs that can be identified. It does this by ensuring that the developer avoids, remedies, mitigates, or compensates for any adverse effects.

### **Purpose of Financial Contributions**

~~18.1.32.3~~ The general purpose of ~~In this Plan,~~ financial contributions are used for the following reasons:

~~(a) To~~ to recover from developers and/or applicants a contribution in the form of money, or land, or a combination of both money and land, which:

~~(i)(a)~~ (i)(a) Avoids, remedies, or mitigates adverse effects of the proposed activity on the

environment, or ensures positive effects on the environment to offset any adverse effects, including but not limited to, effects associated with:

- (i) Three waters/transport network connections, network improvements or capacity upgrades when a development is located outside of Councils reticulated service area(s) and seeks to connect; subject to Council;
  - Approving the connection; and/or
  - Having wastewater capacity; and/or
  - Having the necessary resource consent to discharge;
- (ii) Three waters/transport network connections, improvements or capacity upgrades located off the subject site that are not provided for by any other Council funding mechanism that are required or are likely to be required as a result of a subdivision application, land use consent application or development (including permitted activities).

▪ ~~Three waters/transport capacity upgrades;~~

- (iii) Parks/reserves/open space network enhancement/improvement;
- (iv) Streetscape amenity improvements; and

**And**

- (v) To give effect to Te Ture Whaimana including positive effects on the environment to offset any adverse effects and its requirement for restoration and protection of the Waikato and Waipā Rivers (and their catchments) and the relationship between the Waikato and Waipā Rivers (and their catchments) and Waikato-Tainui, Waikato and Waipā River Iwi, and the Waikato Region's communities and all other objectives and strategies contained within Te Ture Whaimana.

- (b) Where the capital expenditure items identified in this rule are not otherwise funded via Council's Development Contributions Policy.

~~To provide a fair and reasonable contribution to finance the extension or development of bulk services or other infrastructure costs as a result of a development or subdivision; and  
Along with other provisions, to provide a mechanism to avoid, remedy, or mitigate and/or offset adverse effects on the environment; and~~

~~For assessing and quantifying the likely adverse environmental effects of any development or subdivision undertaken in the Waipā District on adjoining districts, cities, towns, and communities outside the District to enable contributions to be collected and made towards the mitigation of those adverse environmental effects.~~

~~18.1.4 2.4~~ In addition to these general purposes, more specific purposes are identified in the Financial Contributions Rules and performance standards part of this section.

~~18.1.4~~ Financial contributions are intended to offset the cost of future capital works and the cost of capital already incurred where a development consumes that capacity; together with other related costs necessitated by new development or subdivision.

~~18.1.5 2.5~~ Financial contributions Fees will vary between areas of the District and also for different types of development or subdivision.

~~18.1.5 2.6~~ A financial contribution in the form of a Heavy Vehicle Impact Fee (HVIF) may be required

where heavy vehicle traffic movements from a development are likely to cause an accelerated reduction in the useful life of the local road network that was not reasonably anticipated when the relevant roads were constructed, and which can be attributed directly or indirectly to the development, mineral extraction activity or subdivision.

Advice Notes:

1. All Financial contribution calculations are exclusive of Goods and Service Tax (GST). GST will apply to all Financial Contributions at the prevailing rate.
- 2 Refer to Section 15 - Infrastructure, Hazards, Development and Subdivision for rules related to vesting land in Council ownership.

### **18.2.3 Resource Management Issues**

~~18.2.1~~ 3.1 New development or subdivision, or infill and intensification, can result in adverse effects on natural and physical resources including, and can result in inequities in cost sharing.

~~18.2.2~~ 3.2 The provision of adequate infrastructure and services is an essential part of effective growth planning and implementation. ~~the development or subdivision process.~~

### **18.3.4 Objectives and Policies**

*Please also refer to the objectives and policies of Part C, Part D and Part E, as relevant.*

#### **Objectives – General purpose of financial contributions**

18.4.1 Financial contributions are required in accordance with the Financial Contributions Rules and performance standards in order to:

- (a) Avoid, remedy, or mitigate adverse effects of the proposed activity or development on the environment; and
- (b) Ensure positive effects on the environment to offset any adverse effects; and
- (c) Give effect to Te Ture Whaimana, including the requirement for betterment.

#### **Objective – Planned, financed growth**

~~18.3.1~~ 4.2.1A To ensure that the a Adverse environmental effects on the District's network infrastructure are funded from the development or subdivision that has or will affect the infrastructure addressed or that has generated or will in order to cater for the generate additional demand generated by new development or subdivision.

#### **Policies – General**

~~18.4.2.1~~ The following general policies apply:

~~18.4.2.2.1.1~~ (a) Require financial contributions for the general purposes set out in Objective 18.4 the General Purpose Statement and the Financial Contributions Rules and performance standards.

~~18.4.2.2.1.2~~ (b) Determine the nature and amount of financial contributions in accordance with the methodology set out in the Financial Contributions Rules and performance standards.

~~18.4.2.3~~ 1.3 (c) Financial contributions in the form of money must shall be paid before the proposed activity or development occurs.

~~18.4.2.4~~ 1.4 (d) Financial contributions in the form of land must shall be vested in Council prior to completion of the activity or development.

~~18.4.2.5~~ 1.5 (e) Financial contributions will shall be applied to the purpose for which they are required.

*Policy - Early recognition of costs*

~~18.3.1.1~~ 4.2.2.1.6 The adverse environmental effects of development or subdivision that can be addressed by requiring a financial contribution, shall be clearly identified at the planning and consenting stage (building and resource consents) of the development or subdivision.

*Policy – Planned growth*

~~18.3.1.2~~ To ensure that planned growth is adequately financed by taking financial contributions up to 10 years in advance of Council undertaking infrastructure works for Council provided infrastructure.

**Objective – Equitable sharing of costs**

~~18.3.2~~ To ensure that there is a fair and reasonable share of the costs of upgrading or providing new infrastructure to meet demands generated by the development or subdivision, and to enable future growth.

*Policy - Costs relating to effects*

~~18.3.2.3~~ 4.2.6.1.10 Ensuring that the amount of financial contribution required reasonably reflects the cost of avoiding, remedying or mitigating the adverse effects, or the cost of ensuring positive effects on the environment to offset any adverse effects.

*Policy – Cumulative effects*

~~18.4.2.8~~ 1.11 Requiring financial contributions for new residential development to address an equitable share of offsetting adverse cumulative effects that accelerated intensification and/or additional population growth has on public streetscapes, public open spaces, and river networks and their catchments.

**Objective - Heavy vehicle impact fee**

~~18.3.3~~ 4.2 To ensure the community is adequately protected from any unpredictable adverse effects of heavy vehicles on the District’s road network due to land use activities.

*Policy - To make provision for a heavy vehicle impact fee*

~~18.3.3.1~~ 4.2.1 A financial contribution in the form of a heavy vehicle impact fee will be required where a development creates adverse effects on the District’s road network which:

(a) ....

## 18.4 5 Rules

~~These rules apply to any activity requiring a resource consent under parts D, E and F of this Plan; and for the avoidance of doubt, the rules also apply to any activity requiring a resource consent due to failing to comply with any performance standard of this Plan.~~

~~These rules specifically relate to financial contributions towards the provision and future operation of network infrastructure owned and/or operated by Waipa District Council, a Council Controlled Organisation, or for roading and transport; any adjoining Territorial Local Authority and/or the New Zealand Transport Agency (NZTA).~~

~~Financial Contributions shall be determined in accordance with the provisions of these rules, and Council may require the payment of financial contributions as a condition of consent.~~

### 18.4.1 Activity Status Tables

~~There are no activity status tables.~~

## **18.5.1 General Rules - General**

~~18.5.1.1 The general rules are as follows:~~

~~(a) For permitted activities, financial contributions will be required prior to either the grant of building consent or the grant of service connection, whichever comes first.~~

~~18.5.1.2 (b) For all classes of activities other than permitted activities, financial contributions will be required as a condition of land use or subdivision consent.~~

~~18.5.1.3 (c) Financial contributions will be in the form of money calculated in accordance with the relevant Rule or performance standard, except where Council exercises its discretion to accept a financial contribution in the form of land, or a combination of land and money, in which case the financial contribution will be calculated in accordance with the relevant Rules or performance standard.~~

~~18.5.1.4 (d) Financial contributions will be required for the purposes set out and on the basis that:~~

~~(i) (e) - (a) Financial contributions for all residential development will be calculated for the specific purposes and in accordance with the methodology in the applicable rules and performance standards; and~~

~~(ii) (f) Financial contributions for all other developments will be calculated for the specific purposes and in accordance with the methodology in the applicable rules and performance standards.~~

### **Rules - Purpose of Requirement for financial contributions**

~~18.5.1.25 The following rules outline the purpose for the financial contributions being taken.~~

~~(a) In addition to the general rules, and performance standards, financial contributions will be required for development as follows for the following purposes:~~

#### Three waters/transport infrastructure network

~~18.5.1.36 To avoid, remedy and mitigate the adverse effects of residential development, or ensure positive effects on the environment to offset any adverse effects, through the recovery of infrastructure network costs associated with the following:~~

~~(a) Three waters connections, network improvements, and capacity upgrades when a development is located outside of Councils reticulated service area(s) and seeks to connect; subject to Council:~~

- ~~• Approving the connection; and/or~~
- ~~• Having wastewater capacity; and/or~~
- ~~• Having the necessary resource consent to discharge.~~

~~and~~

~~(b) Transport connections, including for multimodal transport options, network improvements, and capacity upgrades located off the subject site that are not provided for by any other Council funding mechanism that are required or are likely to be required as a result of a subdivision application, land use consent application or development (including permitted activities).~~

~~(c) These costs will include:~~

- (i) Where an existing network / system / supply is available, the cost of connection with the existing system;
- (ii) Where an existing network / system / supply is available, but the capacity of the system is inadequate to meet the additional generated demand, the cost of connection and capacity upgrading of the existing system;
- (iii) Where an existing network / system / supply is available, but the network requires capacity upgrades or network improvements to ensure the connection does not compromise the network, the costs of those capacity upgrades or network improvements; and
- (iv) Where an existing network / system / network is not available, the cost of extending the network / system / supply;
- (v) Any infrastructure works required under Rule 18.5.1.6 and not otherwise funded via Council's Development Contributions Policy are excluded.

Calculations for contributions shall be as set out in the performance standards.

*Residential amenity (applies to ~~Residential Zones~~ the Medium Density Residential Zone only)*

18.5.1.47 To avoid, remedy, and mitigate the adverse effects, including cumulative effects, of residential development density, or ensure positive effects on the environment to offset any adverse effects, through the recovery of costs associated with maintaining and improving residential amenity.

(a) These costs will include:

- (a) Where urban public open spaces can be improved or extended, the cost of land acquisition and development; and
- (b) Where streetscape amenity can be enhanced, the cost of that enhancement.

But shall exclude any costs otherwise funded via Development Contributions.

Calculations for contributions shall be as set out in the performance standards.

*Te Ture Whaimana (applies to ~~all developments across all zones~~ the Medium Density Residential Zone and the Commercial Zone only)*

18.5.1.58 To give effect to Te Ture Whaimana, including positive effects on the environment to offset any adverse effects, including cumulative effects, and its requirement for restoration and protection of the Waikato and Waipā Rivers and their catchments, and the relationship between the Waikato River and Waikato-Tainui, Waikato River Iwi, and the Waikato Region's communities and all other objectives and strategies contained within Te Ture Whaimana.

(a) These costs ~~will~~ may include, but are not limited to:

- (a) Riparian enhancement;

- (b) Wetland creation/protection/restoration/enhancement;
- (c) Erosion control measures;
- (d) Ecological/biodiversity;
- (e) Public access improvements to the Waikato River, including its tributaries;
- (f) Weed control measures;
- (g) Sediment reduction measures;
- (h) Waikato and Waipā Rivers / Te Ture Whaimana education; and
- (i) Restoration / protection / enhancement of waahi tapu and sites of significance.

~~(b) Calculations for contributions shall be as set out in the performance standards.~~

Advice Note (applies to 18.5.1):

Financial contributions may be used towards the provision, upgrading or future operation of network infrastructure owned and/or operated by any of the following: Waipā District Council; a Council Controlled Organisation; any other community infrastructure management entity; any adjoining Territorial Local Authority; Waka Kotahi (New Zealand Transport Agency); and towards waterway enhancement undertaken by Waikato Tainui or the Waikato River Authority.

#### **18.4.2 — 18.5.2 Performance Standards**

##### **Rule – Residential amenity (to be collected from the Medium Density Residential and Residential Zones only)**

*The following rules should be applied to any development and subdivision, including new development, infill development and permitted development and subdivision.*

~~18.5.2.1 To avoid, remedy or mitigate the adverse effects of medium density residential development through the recovery of costs associated with maintaining and improving residential amenity.~~

~~18.5.2.2 These costs will include:~~

- ~~(a) Where public open spaces can be provided or improved, the cost of land acquisition and development and/or maintenance; and~~
- ~~(b) where streetscape amenity can be enhanced, the cost of that enhancement.~~

##### **Rule - Circumstances when financial contributions may be taken**

~~18.5.2.1 Costs will be recovered for all new dwellings in the Medium Density Residential Zone. where it is necessary to avoid, remedy or mitigate the adverse effects, including the cumulative adverse effects, of medium density residential development to maintain and improve residential amenity in public open spaces and streetscapes.~~

##### **Rule – Determination of the maximum amount of financial contribution**

~~18.5.2.3 For each additional bedroom at the site created by the development, a fixed financial contribution of \$400.00 shall be required. The financial contribution collected for residential amenity shall be the total of A plus B as follows based on the following calculation to a~~

maximum amount of \$1,300 \$1,800 per dwelling:

A – Financial contribution charge = (FC \* n) \* F

where:

- FC = financial contribution per dwelling (\$1,300)
- n = number of new dwellings
- F = discount factor to account for development specific attributes or the value of other contributions (i.e., land for reserves, but excluding development contributions for the same purpose.

B – Tree charge = \$500 per dwelling

18.5.2.3A 4 For the purpose of rule 18.5.2.3, a discount factor will be considered by Council in the following circumstances:

- (a) Where the applicant proposes on-site mitigation measures which contribute to the purposes of the financial contribution in Rule 18.5.1.7;
- (b) By way of example, but without limiting subparagraph (a), land provided to Council for reserves purposes (in addition to any statutory requirements) or protected planting.

18.5.2.4 Greenfield development will be required to pay 80% of the rate specified in Rule 18.5.2.3.

#### **Timing of calculation and payment**

18.5.2.4 A financial contribution under Rules 18.5.2.3 and 18.5.2.4 shall be calculated at the earliest possible time from the options outlined below:

- (a) Subdivision, in which case a financial contribution calculated shall be paid prior to Council issuing any certificates under either Section 223 or 224 of the Act; or
- (b) Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent and prior to the activity commencing; or
- (c) Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.

Activities that fail to comply with residential amenity financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity.

Discretion will be restricted to the following matters:

- The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions);
- The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance;
- The effects that the development will create in relation to the residential amenity financial contribution.

- ~~The mitigation measures provided or the value of other contributions provided in relation to the residential amenity financial contributions.~~

**Rule – Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy for the Waikato River) (to be collected from the Medium Density Residential and Commercial Zones only)**

**The following rules apply to any development and subdivision, including new, infill and permitted development and subdivision.**

- 18.5.2.5 Costs will be recovered for all new dwellings in the Medium Density Residential Zone or the Commercial Zone. ~~where it is necessary to avoid, remedy or mitigate the adverse effects of medium density residential development on the water quality and/or the minimum flows of the Waikato and Waipā Rivers and their catchments.~~

**Rule - Determination of the maximum amount of financial contribution**

- 18.5.2.6 ~~For each additional bedroom at the site created by the development, a fixed financial contribution of \$400.00 shall be required. The financial contribution collected for Te Ture Whaimana shall be based on the following calculation to a maximum amount of \$1,500 per dwelling:~~

~~Financial contribution charge = (FC \* n) \* F~~

~~where:~~

~~FC = financial contribution per dwelling (\$1,500)~~

~~n = number of new dwellings~~

~~F = discount factor to account for development specific attributes or the value of other contributions (i.e. land for reserves, but excluding development contributions) for the same purpose~~

- 18.5.2.7A For the purpose of rule 18.5.2.76, a discount factor will be considered by Council in the following circumstances:

(a) Where the applicant proposes on-site mitigation measures which contribute to the purposes of the financial contribution in Rule 18.5.1.8;

(b) By way of example, but without limiting subparagraph (a), land provided to Council for stormwater management or riparian purposes (in addition to any statutory requirements); stormwater control measures; protected riparian planting; wetland creation, protection, restoration or enhancement (in addition to any statutory requirements); on-site sediment reduction measures (in addition to any statutory requirements); or waahi tapu and sites of significance restoration, protection or enhancement.

- 18.5.2.7 ~~For non-residential development \$2,000.00 per 100m<sup>2</sup> of Gross Floor Area.~~

**Rule – Timing of calculation and payment**

- 18.5.2.8 ~~A financial contribution under Rules 18.5.2.7 and 18.5.2.8 shall be calculated at the earliest~~

~~possible time from the options outlined below:~~

- ~~(a) Subdivision, in which case a financial contribution calculated shall be paid prior to Council issuing any certificates under either Section 223 or 224 of the Act; or~~
- ~~(b) Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent and prior to the activity commencing; or~~
- ~~(c) Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.~~

~~Activities that fail to comply with the Te Ture Whaimana financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity. Discretion will be restricted to the following matters:~~

- ~~• The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions);~~
- ~~▪ The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance;~~
- ~~▪ The effects that the development will create in relation to the Te Ture Whaimana financial contribution;~~
- ~~• The mitigation measures or the value of other contributions provided in relation to the Te Ture Whaimana financial contribution.~~

Advice notes:

1. Te Ture Whaimana has the legal effect of a National Policy Statement. Where there is an inconsistency with provisions in other national planning standards, the New Zealand Coastal Policy Statement and the National Planning Standards, Te Ture Whaimana will prevail.
2. Under s108 (2)(a), a consent authority may impose a condition on a resource consent it has granted that requires a financial purpose. Where a financial contribution is made in cash it must be used reasonably in line with the purpose for which the contribution was received.
3. Financial contributions taken under the above rules will be used to avoid, remedy or mitigate the effects of medium density residential intensification and the resulting discharges on the Council's infrastructure network and/or water takes through the Council's infrastructure network.

### **Rule – Non residential development**

~~18.5.2.8 Non residential development in all zones: \$2,000.00 per 100m<sup>2</sup> of Gross Floor Area.~~

### **Reticulated water services**

*The following rules apply to any development and subdivision, including new, infill and permitted development and subdivision, that seeks to connect to Council's reticulated water services.*

### **Rule - Circumstances when financial contributions may be taken**

~~18.4.2.1~~ ~~18.5.2.98~~ Council will may require the payment of a Financial Contribution where a development or subdivision located outside Council's water supply area seeks to connect, and Council approves such connection, and where development contributions have not been paid or are not payable.

### Rule - Determination of the maximum amount of financial contribution

~~18.4.2.2~~18.5.2.109 The maximum amount of Financial Contribution that may be taken for connection to a water supply system in a Council reticulated water supply area shall be the greater of:

#### EITHER

$$\$A \times [B / [B + C]]$$

#### where:

- A = the replacement value of the specific water reticulation system after adjustment for capital expenditure in this activity at the time the connection is sought.
- B = the number of residential equivalent connections to be added to that reticulation system where:
- ≤ 20mm nb diameter connection = 1 residential equivalent connection
  - 32mm nb dia connection = 3 residential equivalent connections
  - 50mm nb dia connection = 10 residential equivalent connections
  - 75mm nb dia connection = 14 residential equivalent connections
  - 100mm nb dia connection = 25 residential equivalent connections
  - 150mm nb dia connection = 56 residential equivalent connections
- C = the total number of existing connections to that water reticulation system.

#### OR

The total assessed cost of providing additional water supply capacity (including the additional cost of abstraction, treatment, storage and reticulation) in the water reticulation system needed to service the development or subdivision.

### ~~Rule – Timing of calculation and payment~~

~~18.4.2.3~~18.5.2.11 A Financial Contribution under Rules ~~18.4.2.1 and 18.4.2.2~~ 18.5.2.8 and 18.5.2.9 shall be calculated ~~at the earliest possible time from the options outlined below:~~ either at the time of:

- ~~(a) Subdivision, in which case a financial contribution calculated shall be paid prior to Council issuing any certificates under either Section 223 or 224 of the Act; or~~
- ~~(b) Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent, and prior to the activity commencing; or~~
- ~~(c) Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.~~

~~Activities that fail to comply with reticulated water services financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity. Discretion will be restricted to the following matters:~~

- ~~• The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions).~~
- ~~• The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance.~~
- ~~• The effects that the development will create in relation to the reticulated water services financial contribution.~~
- ~~• The mitigation measures provided or the value of other contributions provided in relation to the reticulated water services financial contribution~~

Advice Notes:

1. The replacement value of a Council reticulation system in a reticulated water supply area is the valuation reported in or supporting the most recent Council Annual Report.
2. The financial contributions for reticulated water services will not be levied on Council funded growth cells identified in this Plan or development or subdivision located within Council's reticulated water supply areas.
3. The financial contributions for reticulated water services exclude the cost of connection to a water reticulation system or the cost of water reticulation within the development or subdivision.
4. Once a development or subdivision is physically connected to a Council water reticulation system, it is deemed to be part of that water reticulation system.

### **Wastewater collection services**

*The following rules apply where ~~a~~ **any development or subdivision including new, infill and permitted development and subdivision, seeks to connect to Council's wastewater collection services.***

#### **Rule - Circumstances when financial contributions may be taken**

~~18.4.2.4~~ ~~18.5.2.1210~~ Council ~~will~~ ~~may~~ require the payment of a financial contribution where a development or subdivision located outside any of Council's wastewater service areas seeks to connect, subject to Council having wastewater disposal capacity, and where development contributions have not been paid or are not payable.

#### **Rule - Determination of the maximum amount of financial contribution**

~~18.4.2.5~~ ~~18.5.2.1311~~ The maximum amount of financial contribution ~~that may be~~ taken for connection to a service network system in a Council wastewater service area shall be the greater of:

**EITHER**

$$\$A \times [B / [B + C]]$$

**where:**

A = the replacement value of the specific wastewater system after adjustment for capital

expenditure in this activity at the time the connection is sought.

B = the number of residential equivalent connections to be added to that reticulation system where:

≤ 100mm nb diameter gravity connection = 1 residential equivalent connection

150mm nb dia gravity connection = 3 residential equivalent connections

~~200~~ 150 mm nb dia gravity connection = 10 residential equivalent connections

C = the total number of existing connections to that wastewater system.

**OR**

The total assessed cost of providing additional wastewater system capacity (including the additional cost of storage, pumping, transportation, processing and disposal) to the wastewater system needed to service the development or subdivision.

**Rule—Timing of calculation and payment**

~~18.4.2.6~~~~18.5.2.14~~ A Financial Contribution under Rules ~~18.5.2.12~~ 18.4.2.4 and ~~18.5.2.13~~ 18.4.2.5 shall be calculated at the earliest possible time from the options outlined below: , either at the time of:

- (a) ~~Subdivision, in which case a financial contribution calculated shall be paid prior to Council issuing any Certificates under either Section 223 or 224 of the Act; or~~
- (b) ~~Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent, and prior to the activity commencing; or~~
- (c) ~~Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.~~

~~Activities that fail to comply with wastewater collection services financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity. Discretion will be restricted to the following matters:~~

- ~~• The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions);~~
- ~~• The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance;~~
- ~~• The effects that the development will create in relation to the wastewater collection services financial contribution;~~
- ~~• The mitigation measures provided or the value of other contributions provided in relation to the wastewater collection services financial contribution;~~

Advice Notes:

1. The replacement value of a Council wastewater system in a wastewater service area is the valuation reported in or supporting the most recent Council Annual Report.

2. The financial contributions for wastewater services will not be levied on a Council funded growth cells identified in this District Plan, or development or subdivision located within a Council wastewater service area.
3. The financial contributions for wastewater services exclude the cost of connection to a wastewater system or the cost of sewerage within the development or subdivision.
4. Once a development or subdivision is physically connected to a Council wastewater system, it is deemed to be part of that wastewater system.

### Stormwater services

*The following rules apply where ~~a~~ any development or subdivision including new, infill and permitted development and subdivision, seeks to connect to Council's consented stormwater services.*

#### Rule - Circumstances when financial contributions may be taken

~~18.4.2.7~~ ~~18.5.2.15~~ ~~12~~ Council ~~will~~ ~~may~~ require the payment of a Financial Contribution where a development or subdivision located immediately outside any of Council's stormwater systems seeks to connect, subject to Council having the necessary resource consent to discharge and where development contributions have not been paid or are not payable.

#### Rule - Determination of the maximum amount of financial contribution

~~18.4.2.8~~ ~~18.5.2.16~~ ~~13~~ The maximum amount of Financial Contribution ~~that may be~~ taken for connection to an existing Council stormwater system shall be the greater of:

##### EITHER

$$\$I \times [J / [J + K]]$$

##### where:

- I = the replacement value of the relevant stormwater system after adjustment for capital expenditure in this activity at the time the connection is sought; and
- J = the gross area of the development measured in hectares; and
- K = the gross area served by the relevant stormwater system excluding the activity.

##### OR

The total assessed cost of providing additional stormwater system capacity (including the additional cost of stormwater retention, pumping, transportation, processing, disposal and resource consent variation costs) needed to service the activity.

#### ~~Rule – Timing of calculation and payment~~

~~18.4.2.9~~ ~~18.5.2.17~~ A Financial contribution under Rules ~~18.5.2.15~~ ~~18.4.2.7~~ and ~~18.5.2.16~~ ~~18.4.2.8~~ shall be calculated ~~at the earliest possible time from the options outlined below:~~ , either at the time of:

- ~~(a) – Subdivision, in which case a financial contribution calculated shall be paid prior to Council~~

issuing any Certificates under either Section 223 or 224 of the Act; or

- (b) ~~Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent, and prior to the activity commencing; or~~
- (c) ~~Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.~~

~~Activities that fail to comply with stormwater services financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity. Discretion will be restricted to the following matters:~~

- ~~• The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions).~~
- ~~• The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance.~~
- ~~• The effects that the development will create in relation to the stormwater services financial contribution.~~
- ~~• The mitigation measures provided or the value of other contributions provided in relation to the stormwater services financial contribution.~~

Advice Notes:

1. The replacement value of a Council stormwater system is the valuation reported in or supporting the most recent Council Annual Report.
2. The financial contributions for stormwater services exclude the cost of physical connection to a stormwater system or the cost of stormwater infrastructure within the development or subdivision.
3. Once a development or subdivision is physically connected to a Council stormwater system, it is deemed to be part of that stormwater system.

### Road corridor services

*The following rules apply to development or subdivision, including permitted activities, that gives rise to increases in vehicular and/or pedestrian traffic.*

### Rule - Circumstances when financial contributions may be taken

~~18.4.2.10~~ ~~18.5.2.18~~ ~~18.14~~ Council may require as part of a subdivision or development the payment of a financial contribution. A financial contribution may be payable where infrastructure for vehicles, ~~and pedestrians~~ cycling and walking that is located off the site of the activity that is subject to consent:

- (a) Requires construction, upgrading or improving; and
- (b) The funding of the required works has not, for any reason, been fully or adequately provided for by other funding instruments available to Council; and

- (c) Where a development or subdivision will, or is likely to, adversely ~~effect~~ affect existing or proposed public roads managed by a road controlling authority other than Council, financial contributions may at Council's sole discretion and with appropriate justification, and in consultation with the appropriate road controlling authority, be assessed and used as though the road controlling authority was Council.

**Rule - Determination of the maximum amount of financial contribution**

~~18.4.2.11~~ ~~18.5.2.19~~ ~~15~~ The maximum amount of financial contribution for road corridor services that may be taken shall be determined on the basis of the following formula:

$$\$F \times [G / [G + H]]$$

**where:**

- F = the assessed total cost of constructing, upgrading and/or improving traffic and/or pedestrian routes (including land purchases) as a consequence of the development.
- G = the average annual assessed volume of vehicular traffic measured in vehicles per day directly attributable to the development.
- H = the average annual assessed volume of vehicular traffic measured in vehicles per day currently using routes that will require constructing, upgrading and/or improving as a consequence of a development.

**~~Rule - Timing of calculation and payment~~**

~~18.4.2.12~~ ~~18.5.2.20~~ A financial contribution under Rules ~~18.5.2.18~~ ~~18.4.2.10~~ and ~~18.5.2.19~~ ~~18.4.2.11~~ shall be calculated ~~at the earliest possible time from the options outlined below:~~ , either at the time of:

- ~~(a) Subdivision, in which case a financial contribution calculated shall be paid prior to Council issuing any certificates under either Section 223 or 224 of the Act; or~~
- ~~(b) Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent and prior to the activity commencing; or~~
- ~~(c) Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.~~

~~Activities that fail to comply with road corridor services financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity. Discretion will be restricted to the following matters:~~

- ~~• The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions);~~
- ~~• The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance.~~

~~• The effects that the development will create in relation to the road corridor services financial contribution.~~

~~• The mitigation measures provided or the value of other contributions provided in relation to the road corridor services financial contribution~~

Advice Notes:

1. The assessment of traffic volumes will be based on traffic models acceptable to Council following consultation with the relevant road controlling authority.
2. The financial contributions for Road Corridor Services will not be levied on development located within any funded growth cells identified in this Plan.
3. The financial contributions for Road Corridor Services exclude the cost of physically connection to traffic or ~~pedestrian~~ walking and cycling routes or the cost of providing traffic and ~~pedestrian~~ walking and cycling services within the development or subdivision.
4. Once a development or subdivision is physically connected to the road controlling authority or Council's traffic or ~~pedestrian~~ walking and cycling routes, it is deemed to be part of those traffic or ~~pedestrian~~ walking and cycling routes.

### Heavy vehicle impact fee

*The following rules apply to development, including permitted development, that gives rise to increases in vehicular and pedestrian traffic, and constructing, upgrading or early renewal of traffic and pedestrian routes.*

#### Rule - Circumstances when financial contributions may be taken

~~18.4.2.13~~ ~~18.5.2.21~~ ~~16~~ Council may require as part of a development (including permitted), subdivision or land use consent, the payment of a financial contribution where:

- (a) Routes and other infrastructure for vehicles and pedestrians off the site subject to consent requires construction or upgrading; and/or
- (b) Increases in heavy traffic are likely to lead to infrastructure renewal; and/or
- (c) Construction or upgrades are required earlier than expected; and/or
- (d) Where the effects of the development adversely affect public roads managed by other agencies, any financial contribution taken may be used by those agencies to upgrade those roads.

#### Rule - Determination of the maximum amount of financial contribution

~~18.4.2.14~~ ~~18.5.2.22~~ ~~17~~ The maximum amount of financial contribution for traffic and pedestrian routes that may be taken shall be determined on the basis of the following:

$$\$(G)/[(F) + (G)] \times (H)$$

where:

F = the volume of vehicular traffic (measured in equivalent standard axles for a 40 year design

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period) currently using routes that will require construction, upgrading or earlier renewal as a consequence of the development.

G = the volume of heavy vehicular traffic (measured in equivalent standard axles for a 40 year design period) directly attributable to the development.

H = the cost of construction, upgrading or renewal of traffic and pedestrian routes as a consequence of the development.

Advice Notes:

1. The fee will be charged as a lump sum where the activity is expected to continue for less than three years. Where the development activity is expected to continue for longer than three years, the fee may by agreement be allocated on the basis of a unit rate related to the materials transported.
2. In respect of the Significant Mineral Extraction Zone only - Council, at its sole discretion, may accept any monetary value of financial contribution required, as a supply of aggregate for Council use up to the equivalent monetary value at the market rate at the time of calculation.

### **Rule – Timing of calculation and payment**

~~18.4.2.15 18.5.2.23~~ A financial contribution under Rules ~~18.5.2.21 18.4.2.13 and 18.5.2.22 18.4.2.4~~ shall be calculated, either at the time of:

- ~~(a) — Subdivision, in which case a financial contribution calculated shall be paid prior to Council issuing any certificates under Section 224 of the Act; or~~
- ~~(b) — Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent and in the manner set out by any condition of that consent. ; or~~
- ~~(c) — Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.~~

~~Activities that fail to comply with heavy vehicle impact financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity. Discretion will be restricted to the following matters:~~

- ~~• The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions).~~
- ~~• The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance.~~
- ~~• The effects that the development will create in relation to the heavy vehicle impact financial contribution.~~
- ~~• The mitigation measures provided or the value of other contributions provided in relation to the heavy vehicle impact financial contribution~~

### **Financial contributions of land**

#### **Rule - Contribution of land**

18.5.2.2418 The following rules apply when a contribution of land has been offered:

- (a) Where a developer offers land as a financial contribution, Council has the sole discretion to accept land as a substitute for a monetary financial contribution. The value of the land is to be determined by an independent property valuer agreed between the Council and the developer.
- (b) Where Council exercises its discretion to collect a financial contribution in the form of land, the vesting of this land in Council must be a condition of any land use or subdivision consent.
- (c) Vesting of land shall occur prior to Council issuing a Section 224(c) certification under the Resource Management Act 1991 and prior to Council issuing a Code Compliance Certificate or building consent under the Building Act 2004.
- (d) The land value of the area of land provided shall not be less than the amount of a monetary financial contribution calculated under the relevant Rules or performance standards (whichever applies).

Advice Notes:

- 1. Any land valuation will be undertaken by a qualified and experienced registered valuer.
- 2. The valuation methodology will be industry best practice at the time of the valuation.

#### **Rule - Contribution of land and money**

18.5.2.2519 In circumstances where Council exercises its discretion to collect a financial contribution in the form of a combination of land and money, the contribution must be assessed in terms of both the applicant applicable Rule and performance standards (whichever applies).

#### **Timing of calculation and payment**

##### **Rule - Timing of calculation and payment**

18.5.2.2520 All Financial Contributions shall be calculated at the earliest possible time from the options outlined below:

- (a) Subdivision, in which case a financial contribution calculated shall be paid prior to Council issuing any certificates under either Section 223 or 224 of the Act; or
- (b) Resource consent, in which case a financial contribution calculated shall be paid as a condition of that consent, and prior to the activity commencing; or
- (c) Building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent.

#### **Refund of financial contribution in certain circumstances**

##### **Rule - Refund of financial contribution and return of land where activity does not proceed**

18.5.2.2621 Subject to 18.5.2.2722, where a financial contribution has been paid under rule 18.5.2.2520(c) the Council will refund or return to the applicant, or his or her personal representative, any financial contribution paid or land set aside where:

- (a) The activity does not proceed; and
- (b) The building consent lapses under section 52 of the Building Act 2004; and
- (c) The applicant requests a refund of the financial contribution.

18.5.2.2722 The Council may retain any portion of a financial contribution or land referred to in 18.5.2.2621 to the value equivalent to the costs incurred by the Council in relation to the activity and its discontinuance.

### **Consenting pathway**

18.5.2.23 Activities that fail to comply with the financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity. Any application for resource consent for the above activities will be considered without public or limited notification or the need to obtain the written approval from affected parties. Discretion will be restricted to the following matter:

- The mitigation measures provided or the value of other contributions provided in relation to the financial contribution.

### **Advice note:**

### **Worked Example**

A worked example follows. It demonstrates the steps in calculating the Te Ture Whaimana and Residential Amenity financial contributions using a hypothetical example with the following key assumptions:

- 10-unit intensification development.
- Both Te Ture Whaimana and Residential Amenity contributions apply.
- Two (existing) dwellings are credited.
- The developer is providing (volunteering) their own riparian planting.

<u>Item</u>		<u>Te Ture Whaimana</u>	<u>Residential Amenity</u>	
			<u>Residential Amenity</u>	<u>Tree</u>
<u>FC rate</u>	$FC_{rate}$	<u>1,500</u>	<u>1,300</u>	<u>500</u>
<u>Total dwelling</u>	<u>b</u>		<u>10</u>	<u>10</u>
<u>Credits (for existing dwellings)</u>	<u>c</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>Relevant dwellings</u>	$n = (b-c)$	<u>8</u>	<u>8</u>	<u>8</u>
<u>Unadjusted FC</u>	$e = FC_{rate} * n$	<u>12,000</u>	<u>10,400</u>	<u>4,000</u>
<u>Discount factor<sup>1</sup></u>	<u>F</u>	<u>60%</u>	<u>0%</u>	<u>n/a</u>
<u>Financial contribution</u>	$FC_{charge} = e * (1-F)$	<u>4,800</u>	<u>10,400</u>	<u>4,000</u>

<u>charge to recover</u>		<u>(x)</u>	<u>(y)</u>	<u>(z)</u>
	<u>SUM</u> <u>(x + y + z)</u>	<u>19,200</u>		

1 Based on development attributes and developer's activities

## 21.1.2A Medium Density Residential Zone

Medium Density Residential Zone Assessment Criteria		
<b>Controlled Activities</b>		
<u>21.1.2A.1</u>	<u>One show home per site within a greenfield subdivision</u>	<p>(a) <u>The extent to which the vehicle generation of the activity effects affects the functioning of the road, and the road hierarchy.</u></p> <p>(b) <u>The ability to provide parking (excluding consideration of the number of parking spaces for cars) and manoeuvring space for vehicles and to avoid traffic conflict and maintain public safety.</u></p> <p>(c) <u>Any potential adverse effects due to the hours of operation and duration of the activity on the site.</u></p>
<b>Restricted Discretionary Activities</b>		
<u>21.1.2A.2</u>	<u>Relocated buildings</u>	<p><del>(a) The overall condition of the exterior of the building, and the extent to which proposed works will avoid, remedy or mitigate any effects.</del></p> <p><del>(b) The extent to which the repairs and works identified for action in Council approved or certified Building Relocation Inspection Report will be carried out.</del></p> <p><del>(c) The timing, nature and extent of reinstatement works that are required to the exterior of the building after it has been moved to the new site.</del></p> <p><del>(d) The timeliness of the works taking into account the extent and nature of the proposed works.</del></p>
<u>21.1.2A.32</u>	<u>Retirement village accommodation and associated care facilities and rest homes within or outside the compact housing overlay identified on the Planning Maps</u>  <u>AND</u> <u>Visitor Accommodation in the Visitor Accommodation Overlay in the C1 and C2/C3 Structure Plan Areas (as relevant)</u>	<p>(a) <u>Building design including:</u></p> <p>(i) <u>The extent to which solar potential and good solar aspect is <del>optimized</del> optimised within the development; and</u></p> <p>(ii) <u>Colours; and</u></p> <p>(iii) <u>The materials to be used and how they are to be repeated within the development; and</u></p> <p>(iv) <u>Detail of roof pitches; and</u></p> <p>(v) <u>Details of doorways and the provision of shelter for visitors; and</u></p> <p>(vi) <u>Windows, revetment, balconies and recesses; and</u></p> <p>(vii) <u>Garaging to create visual continuity and cohesion and reflect a residential character; and</u></p> <p>(viii) <u>Whether designs avoid monolithic walls in favour of designs that incorporate smaller scale building elements to promote feelings of interest and diversity.</u></p> <p>(b) <u>Visually permeable fences and glazing of façades that provide for surveillance from the dwelling to the street and other public places such as walkways and reserves.</u></p> <p>(c) <u>Integration with neighbouring residential development that is responsive to local character in terms of its façade treatment, including building proportions, detailing, materials and landscape treatment.</u></p> <p>(d) <u>Outdoor living spaces for independent living units that are private and have good access to sunlight in midwinter and/or have access to a range of communal landscaped outdoor areas that are orientated such that they have good solar aspect.</u></p>

		<p>(e) <u>The location of outdoor storage areas and rubbish and recycling compounds such that the appearance from the street is not adversely affected and on-site amenity, such as the provision of outdoor living spaces is not compromised.</u></p> <p>(f) <u>The design of the road boundary setback:</u></p> <p>(i) <u>Street definition - the extent to which units as opposed to garages orient and face the street creating a strong interface between the public and private domains. Designs need to avoid street frontages that are dominated by garages and outdoor storage areas; and</u></p> <p>(ii) <u>Landscaping - the type and nature of the landscaping both within the front yard setback and throughout the development so that it contributes both to the neighbourhood and to on-site amenity; and</u></p> <p>(iii) <u>Access way design - the width and proportion of the frontage as well as the landscaping and the materials to be used.</u></p> <p>(g) <u>The provision of connections to public walkways/cycleways and the road network.</u></p> <p>(h) <u>Open space character including on-site landscaping, retention of mature trees, and provision of shared driveways.</u></p> <p>(i) <u>Adequate vehicle parking (excluding consideration of the number of parking spaces for cars) and the provision of safe vehicle entrances for pedestrians and vehicles, car parking and manoeuvring and vehicle access to rubbish and recycling compounds, access for emergency vehicles.</u></p> <p>(j) <u>The provision of lighting for amenity and crime prevention without being a nuisance to residents.</u></p> <p>(k) <u>The extent of effects on the surrounding road network including the function of intersections.</u></p> <p>(l) <u>Aural privacy including the noise levels anticipated from on-site and adjacent land uses and the provision of acoustic treatment.</u></p> <p>(m) <u>The adequacy of on-site stormwater disposal methods.</u></p> <p>(n) <u>The adequacy of the servicing proposed for the development.</u></p> <p>(o) <u>The extent to which the site is suitable for the development.</u></p> <p>(p) <u>The benefits provided to residents from communal facilities being provided on site.</u></p>
21.1.2A.43	<p><u>Character clusters - Construction of new buildings, relocated buildings, and removal or demolition of or alterations or additions to existing buildings and second or subsequent dwellings in the Character Cluster Qualifying Matter Overlay.</u></p>	<p>(aa) <u>The extent to which new buildings and relocated buildings are avoided between an existing dwelling and the front boundary of an identified character-defining site.</u></p> <p><del>(a) — The extent to which the scale, height, bulk form, design, building materials, and layout and position of any buildings or additions is similar to the existing character of the cluster.</del></p> <p><del>(b) — The extent to which the new building, additions or alterations to an existing building or removal or demolition of a building contributes or detracts from the Character Cluster Statements in Appendix DG1</del></p> <p>(a b) <u>For identified character-defining sites;</u></p>

		<p>(i) <u>The extent to which building bulk and design, building materials, and layout complements the style, form, building materials, layout and position of other character defining dwellings within the cluster; and</u></p> <p>(ii) <u>The extent to which buildings provide a complementary response to the existing character identified in the cluster as set out in Appendix DG1;</u></p> <p><del>(b c)</del> <u>For identified non-character defining sites:</u></p> <p>(i) <u>The extent to which building design is sympathetic to the established character within the cluster in form, proportion, layout and materiality;</u></p> <p>(ii) <u>The extent to which building scale manages the relationship between adjacent character-defining sites and responds to the streetscape context;</u></p> <p>(iii) <u>The extent to which buildings are sympathetic to and acknowledge the character values identified in the cluster as set out in Appendix DG1;</u></p> <p><del>(e d)</del> <u>The extent to which solar access is optimised in the development.</u></p> <p><del>(e e)</del> <u>The ability to provide parking (excluding consideration of the number of parking spaces for cars) and manoeuvring space for vehicles to avoid traffic conflict and maintain public safety.</u></p> <p><del>(e f)</del> <u>The extent to which the location, size, type and content of any signs affect the locality, taking into account visual clutter and effects on the character of the area.</u></p> <p><del>(f g)</del> <u>The extent to which existing vegetation is retained and landscaping adds to the amenity of the development.</u></p> <p><del>(g-h)</del> <u>The extent to which the new buildings, and or additions or alterations is are visible from public places.</u></p> <p><del>(h i)</del> <u>The risk of natural hazards and the extent to which the risk can be avoided or mitigated.</u></p> <p><u>Additional assessment criteria for relocated buildings:</u></p> <p><del>(i) — The overall condition of the exterior of the building, and the extent to which proposed works will avoid, remedy or mitigate any effects.</del></p> <p><del>(j) — The extent to which the repairs and works identified for action in Council approved or certified Building Relocation Inspection Report will be carried out.</del></p> <p><del>(k) — The timing, nature and extent of reinstatement works that are required to the exterior of the building after it has been moved to the new site.</del></p> <p><del>(l) — The timeliness of the works taking into account the extent and nature of the proposed works.</del></p>
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## **Appendix 7: Relevant excerpts from Section 32 evaluation report documents**

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# **Proposed Plan Change 26: Residential Zone Intensification**

**(Intensification Planning Instrument under section 80E of the  
Resource Management Act 1991)**

**Incorporating**

## **Section 32 Evaluation Report**

**August 2022**

## Appendix 3 – Assessment of New Qualifying Matters

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Section 77I of the Resource Management Act 1991 provides that Council may make modifications to the Medium Density Residential Standards and the relevant building height or density requirements under policy 3 of the National Policy Statement on Urban Development 2022 so that the standards are less enabling of development in relation to an area within a relevant residential zone. The modifications can be made only to the extent necessary to accommodate 1 or more of the qualifying matters that are identified in s77I(a) to (j) of the Act.

Waipā District Council has identified the following new qualifying matters for the application of the Medium Density Residential Standards in the relevant residential zones of Cambridge, Kihikihi and Te Awamutu:

- (a) A matter of national importance under s6(c) of the RMA, being the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s77I(a) of the Act);
- (b) A matter of national importance under s6(a) of the RMA, being the preservation of the natural character of lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development (s77I(a) of the Act);
- (c) A matter of national importance under s6(d) of the RMA, being the maintenance and enhancement of public access to and along lakes and rivers (s77I(a) of the Act);
- (d) A matter required to give effect to the National Policy Statement on Freshwater Management 2020 (s77I(b) of the Act);
- (e) A matter required to give effect to Te Ture Whaimana (s77I(c) of the Act);
- (f) Open space provided for public use (s77I(f) of the Act); and
- (g) Any other matter that makes higher density inappropriate in an area, being the character clusters identified in Cambridge, Kihikihi and Te Awamutu (s77I(j) of the Act).

The tables below set out the required assessment of the new qualifying matters in accordance with the requirements of sections 77J and 77L of the of the Resource Management Act 1991. For new qualifying matters in s77I(a) to (i) of the Act, Council is required to:

- (a) Demonstrate why it considers that the area is subject to a qualifying matter and that the qualifying matter is incompatible with the level of development permitted by the MDRS (s77J(3)(a) of the Act);
- (b) Assess the impact that limiting development capacity, building height or density (as relevant) will have on the provision of development capacity (s77J(3)(b), Act); and
- (c) Assess the costs and broader impacts of imposing those limits (s77J(3)(c) of the Act).

For new qualifying matters in s77I(j) of the Resource Management Act 1991 , Council is required to:

- (a) Identify the specific characteristics that makes the level of development provided by the Medium Density Residential Standards inappropriate in the area;
- (b) Justify why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the National Policy Statement on Urban Development 2020; and

- (c) Include a site-specific analysis that-
- (i) Identifies the site to which the matter relates; and
  - (ii) Evaluates the specific characteristics on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
  - (iii) Evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the Medium Density Residential Standards while managing the specific characteristics.

**Table 1: New qualifying matter – Te Ture Whaimana and National Policy Statement for Freshwater Management 2022**

Te Ture Whaimana o Te Awa Waikato – the Vision and Strategy for the Waikato River National Policy Statement on Freshwater Management 2020
These qualifying matters apply to both the Medium Density Residential Standards and Policy 3 of the National Policy Statement on Urban Development 2020.
<b>The area the qualifying matters apply to (s77J(3)(a)(i) of the Resource Management Act 1991)</b>
<p>The objectives and policies of Te Ture Whaimana are focused on the restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers. This includes through the management of the effects of use and development.</p> <p>The fundamental concept of Te Mana o te Wai as set out in the National Policy Statement for Freshwater Management 2020 is fundamentally linked to Te Ture Whaimana and what it seeks to achieve. Te Mana o te Wai refers to the vital importance of water. Te Mana o te Wai imposes a hierarchy of obligations. This hierarchy means prioritising the health and well-being of water first. The second priority is the health needs of people (such as drinking water) and the third is the ability of people and communities to provide for their social, economic, and cultural well-being.</p> <p>Additional pressures placed on infrastructure through housing intensification could lead to adverse effects on the Waikato and Waipā Rivers and their catchment which conflicts with the Vision, Objectives, and Strategies of Te Ture Whaimana and the concept of Te Mana o Te Wai.</p> <p>The qualifying matter applies over all the relevant residential areas of Cambridge, Kihikihi and Te Awamutu as the Waipā District is located within the Waikato River catchment, to which Te Ture Whaimana applies.</p> <p>The Waikato River catchment is shown on the district planning maps and relevant objectives and policies are contained in the following sections of the district plan:</p> <ul style="list-style-type: none"> <li>▪ Section 01 – Strategic Policy Framework</li> <li>▪ Section 02 – Residential Zone</li> </ul> <p>The District Plan contains the following objectives and Policies in relation to Te Ture Whaimana and the National Policy Statement for Freshwater Management 2020:</p> <p><b>Section 1 Strategic Policy Framework</b></p> <ol style="list-style-type: none"> <li>1. <i>Objective</i> - Implementation of the Waikato River Vision and Strategy - 1.3.5 - the health and well-being of the Waikato River is restored and protected and Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River) is achieved.</li> <li>2. <i>Policy</i> - Health and well-being of the Waikato and Waipā Rivers - 1.3.5.1 -to achieve the directions and outcomes of the Waikato River Vision and Strategy within the catchment area identified on the Planning Maps by District Plan provisions relating to building setbacks and earthworks; and activities on the surface of water; and peat lake catchments; and esplanade reserves; and landscapes; and environmental Benefit Lot provisions for significant natural areas and in some circumstances riparian areas; and significant natural areas and indigenous biodiversity generally; and intensive farming</li> </ol>

**Te Ture Whaimana o Te Awa Waikato – the Vision and Strategy for the Waikato River  
National Policy Statement on Freshwater Management 2020**

activities; and public access; and customary activities; and marae and papakāinga; and cultural sites and cultural landscapes.

There are no objectives or policies for the National Policy Statement for Freshwater. It is discussed in section 1 under the issue of national directions where the concept of Te Mana o te Wai is held to be relevant to all freshwater management. Provisions have been included in the District Plan to manage development and activities that have an adverse effect on the quality of freshwater.

**Section 15 Infrastructure, Natural Hazards, Development & Subdivision**

1. *Objective* - Giving effect to the Waikato River Vision and Strategy - 15.3.13 - to ensure that the Waikato River Vision and Strategy is given effect to by all development and subdivision.
2. *Policy* - Maintaining the health and well-being of land and water bodies - 15.3.13.1 - to give effect to the directions and outcomes in the Waikato River Vision and Strategy and the Waipā River Accord, by ensuring that all development and subdivision shall include the following elements:
  - (a) Low impact design for stormwater, drainage and earthworks; and
  - (b) Building setbacks from lakes and water bodies; and
  - (c) Access to water bodies where appropriate; and
  - (d) Provision for the Te Awa Cycleway, where relevant; and
  - (e) Minimal indigenous vegetation removal and requirements for restoration and enhancement of indigenous vegetation and natural character; and
  - (f) Restricting locations of earthworks, building and wastewater systems within cultural landscapes.

It is proposed that similar objectives and policies are included in new section 2A - Medium Density Residential Zone.

**The qualifying matter is incompatible with the level of development permitted by the Medium Density Residential Standards (as specified in Schedule 3A) or as provided for by policy 3 for that area (s77J(3)(a)(ii), Resource Management Act 1991)**

Waipā District Council commissioned technical assessment reports for stormwater, water, and wastewater across the residential areas of Cambridge, Kihikihi and Te Awamutu. The technical reports used a traffic light system to show the impact of housing intensification in accordance with the Medium Density Residential Standards across the three towns (see Appendix 6). An area shown in green means that intensification would have minimal impact on infrastructure, an area shown in orange means there would be a high impact and an area shown in red shows there would be a critical impact from intensification. The technical reports show that the ability of infrastructure in these areas to cope with the additional demands of more housing is severely restricted.

Water and wastewater are significant issues across the three towns with all the towns being shown as having either high or critical impact on this infrastructure from housing intensification. Each town shows that there would be critical impacts from intensification from the town centres radiating outwards. For Kihikihi, the entire town is shown in red. In Cambridge, the new growth cells and Leamington are shown as orange with some outlying areas being shown in red. For Te Awamutu, most of the town is shown as red with outlying areas being shown as orange.

The assessment of the stormwater infrastructure (Appendix 9) shows that there is a greater variability across the three towns for the infrastructure to be able to cope with additional demands that will be placed on it through intensification. The conclusion that can be drawn from the results of the infrastructure assessments is that there is a need for infrastructure capacity assessments to be done in areas that are highlighted as high to critical impact so that a solution can be developed to deal with the potential adverse effects from housing intensification.

This qualifying matter is incompatible with the medium density residential standards which would allow residential intensification to occur without the need for a resource consent in the relevant residential zones.

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This would place existing infrastructure under immense pressure to deal with the additional demand that will be placed on it. Housing intensification that is not appropriate (i.e. not within the existing capacity of the infrastructure to deal with) will impact on water abstractions under existing consents which will cause effects on rivers and other water bodies. Housing intensification will increase the level of discharges to water (point source or through stormwater systems) which will negatively impact on the discharge consents held by the Council which specify the volume of discharges that are allowed.

Any reduction in water quality adversely impacts on the ability to give effect to Te Ture Whaimana which is focused on the protection and enhancement of the water quality of the Waikato and Waipā Rivers and their catchments.

The implementation of the Medium Density Residential Standards and policy 3(d) of the National Policy Statement on Urban Development 2020 means that major upgrades to the existing infrastructure network will have to be brought forward to cope with the additional demands that will be placed on the network through housing intensification.

The statutory requirement to give effect to Te Ture Whaimana places significant emphasis on the upgrading of infrastructure before intensification occurs. The Council's ability to fund the upgrading of infrastructure is limited. The Council is legally required to set out its work programme through its Long Term and Annual Plans. This includes funding for the upgrading of infrastructure and when that will occur. It is not a simple matter to bring funding forward, especially when there are no projects set out in the Long-Term or Annual Plans that the funding is to go to. For infill housing in brownfield areas, financial contribution will only cover a portion of the costs towards the upgrading of infrastructure. Council will still need to budget for the remaining funds that will be needed.

**Proposed modifications to the Medium Density Residential Standards to accommodate qualifying matters**

**Current District Plan Rules**

The district plan contains current rules which assist in addressing the effects of intensification and are proposed to be retained in the new Medium Density Residential Zone. In particular, rule 2.4.2.13 of the district plan currently requires that impermeable surfaces must not exceed:

- (a) 45% of the net site area in the Cambridge North Structure Plan Area; or
- (b) 60% of the net site area in the remainder of the Zone (except St Kilda Structure Plan Area).

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over on-site stormwater disposal and the effect of stormwater run-off to adjoining properties.

It is proposed to retain this rule in order to address the potential effects of increased stormwater run-off on water quality.

**Alternative Controls Proposed**

As a result of the infrastructure and stormwater technical assessment reports, it is proposed to introduce new policy area overlays which show where the 3 Waters infrastructure is at or over capacity. These have been called the Stormwater Constraint Qualifying Matter Overlay and the Infrastructure Constraint Qualifying Matter Overlay.

It is proposed under Rule 2A.4.2.10, for sites that are located within the Stormwater Constraint Qualifying Matter Overlay, that the maximum building site coverage must not exceed 40% of the net site area. Activities that do not comply with this rule will require resource consent for a restricted discretionary activity with discretion being restricted over:

- Building location, bulk and design; and
- On-site amenity; and
- Outlook for adjoining neighbours; and
- Effects on existing trees; and

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- Landscaping; and
- Stormwater disposal.

For sites within the Infrastructure Constraint Qualifying Matter Overlay, it is proposed that development of more than two dwellings (currently provided for in the residential zone) will require a restricted discretionary resource consent to enable assessment of the capacity of infrastructure to accommodate the additional intensification. This is achieved by rules 2A.4.1.1(b) and (c) and the proposed assessment criteria.

**Assess the impact that limiting development capacity, building height or density (as relevant) will have on the provision of development capacity (s77J(3)(b) of the Resource Management Act 1991)**

The modified standards ensure that Te Ture Whaimana is given effect to and that the restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers occurs. It is considered that the modified standards will not have a significant effect on the achievement of housing intensification as mandated by the Medium Density Residential Standards as the district plan already provides sufficient capacity to meet the projected housing demand for the Waipā District.

The new rules do not prevent housing intensification from occurring. Rather, the new rules enable the assessment of infrastructure capacity to occur which informs whether there is capacity to cope with the demands of proposed developments. It is anticipated that the areas currently covered by the Stormwater Constraint and Infrastructure Constraint Qualifying Matters will be reduced over time as new infrastructure becomes available and/or existing infrastructure is upgraded to cope with increased demands.

**Assess the costs and broader impacts of imposing those limits (s77J(3)(c) of the Resource Management Act 1991)**

The technical reports commissioned for stormwater, water and wastewater have shown that there is limited, and in some places, no capacity for existing infrastructure to accommodate additional demands being placed on the infrastructure networks. It is unknown how infrastructure that is at capacity can deal with additional demand which is likely to result in discharges occurring into the river, with some of those discharges containing contaminants. Where there is insufficient information, the relevant iwi management plans, along with Te Ture Whaimana, recommend that a precautionary approach be adopted.

The alternative controls proposed to accommodate this qualifying matter have been developed in such a way as to give effect to higher level resource management documents by:

- Restoring and protecting the Waikato and Waipā Rivers.
- Meeting the projected demand for housing within the Waipā District.
- Enabling an increase in the supply and typology of housing across Cambridge, Kihikihi and Te Awamutu where the development has demonstrated that it is able to provide the required infrastructure capacity to accommodate an increased demand in water, stormwater, and wastewater.

The alternative approach is to apply the Medium Density Residential Standard as set out in Schedule 3A of the Resource Management Act 1991 without modification in respect of this particular qualifying matter. This approach would not have regard to the potential adverse effects that housing intensification could have on the Waikato and Waipā Rivers and would cause further degradation of the Waikato and Waipā Rivers.

Allowing housing intensification that increases the risk of flooding, stormwater overflows or reduced water pressure is not consistent with the purpose of the Resource Management Act 1991 or the directive given in s6 in respect of matters of national importance (in particular s6(a), s6(b) and s6(e)).

It is acknowledged that people who apply for resource consents to build within these Qualifying Matter Overlays will need to pay the costs associated with applying for resource consent as well as the required infrastructure capacity assessment.

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**A description of how the modifications to the Medium Residential Standards as applied to the relevant residential zones are only limited to those modifications necessary to accommodate qualifying matters**

Proposed new maps 56 ‘Qualifying Matters – Cambridge’ and 57 ‘Qualifying Matters – Te Awamutu / Kihikihi show the location of the Stormwater Constraint Qualifying Matter Overlay and the Infrastructure Constraint Qualifying Matter Overlay for each of the towns. The location of the overlays is based on information contained in the following technical reports:

1. Plan Change 26 Water and Wastewater Infrastructure Assessment – WSP.<sup>1</sup>
2. Stormwater Infrastructure Assessment – Te Miro Water.<sup>2</sup>
3. Summary Synthesis Report: Infrastructure Report Plan Change 26 – Beca.<sup>3</sup>

**Table 2: Preservation of the natural character of rivers and their margins, open space for public use, maintenance and enhancement of public access to and along rivers**

**Preservation of the natural character of rivers and their margins  
Open space for public use  
Maintenance and enhancement of public access to and along rivers**

These qualifying matters apply to both the Medium Density Residential Standards and Policy 3 of the National Policy Statement on Urban Development 2020.

**The area the qualifying matters apply to (s77J(3)(a)(i) of the Resource Management Act 1991)**

The Waikato River and the Karapiro Stream are identified in the district plan as important biodiversity corridors as well as cultural landscape areas – alert. The Mangapiko Stream is identified as a cultural landscape area – alert in the district plan.

The Waikato River runs through Cambridge and is considered to be an essential part of the town’s landscape. Karapiro Stream is located in an area of Cambridge known as Carters’ Flat and holds significance for mana whenua.

The Mangapiko Stream is mainly a low-lying peat stream that runs through the heart of the Waipā District. The stream runs through Te Awamutu and meets with its main tributary, the Mangaohoe Stream.

The following objectives and policies are in the District Plan which refer to the waterbodies mentioned above.

**Section 2 – Residential Zone**

1. *Objective* - Key elements of residential character – 2.3.1 - To maintain and enhance the existing elements of the Residential Zone that give each town its own character.
2. *Policy* – Cambridge - 2.3.1.1 To maintain and enhance Cambridge’s character by: (d) maintaining and enhancing public views to the Waikato River and Karāpiro Stream Valley with development actively facing and providing access to the River and the Stream.
3. *Policy* - Te Awamutu - 2.3.1.2 To maintain and enhance Te Awamutu’s character by: (d) providing linkages to the Mangapiko Stream with development actively facing and providing access to the stream.

<sup>1</sup> Refer to Appendix 6 for the report.

<sup>2</sup> See Appendix 9.

<sup>3</sup> Refer to Appendix 8.

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- Consequently, all planned projects will effectively be brought forward to 2035 and assessed against the higher modelled population density.

This approach is assumed to adequately approximate the impacts of the Plan Change for the purpose of this assessment.

## 5 Enable Housing Supply assessment (PC26)

This section discusses the areas in Table 2 and Table 3 that do not meet or exceed the plan change densities in current planning. The discussion is related to existing network performance and ability of the areas to service development at higher densities.

New development areas that are classed as being OK (in Table 2 and Table 3) are included in current master planning at a density representative of the plan change. However, it should be noted that those areas will contribute to existing network conditions so would be part of any holistic solution. These areas have been assigned a rating based on overall network implications, but they are not discussed separately.

### 5.1 Water reduction measures

On-lot measures such as rainwater or greywater re-use could influence peak water use but may not be reliable enough to completely offset the effects of infill and intensification. Both are rarely used in New Zealand towns. If they are, they are typically only used intermittently for things such as garden watering.

Greywater reuse can reduce the volume of water discharged to the existing wastewater networks. However, similar limitations currently apply to rainwater in that non-discharging uses such as garden watering cannot be always relied on.

Comprehensive and frequent use would be required to result in a level of benefit that would result in water demand and discharges being reduced in a strategic planning sense. Therefore, **for the purpose of this assessment, water reuse is not recommended to be accounted for.**

Inflow and infiltration reduction could have a sufficient effect on existing wastewater networks. Reasonable reductions could be achieved in any catchment that currently sees high I&I rates. However, a significant investment is required to eliminate I&I from poor networks to such a degree and it is typically not relied upon by itself.

**The potential scale and benefit of I&I reduction would need to be assessed against the cost of that versus upgrades in the network.** It should also be noted that I&I reduction in aged networks can be an ongoing investment unless networks are substantially replaced with new. **I&I reduction is not considered in this assessment at this stage.**

It is noted that while water reduction measures could be considered for individual growth areas, implementation for all new development across entire towns is probably of greater benefit and more easily applied in policy. WDC has undertaken a Water Management Plan in 2019<sup>2</sup>, that they are implementing.

### 5.2 Cambridge

The 'Current Model' refers to the 2050 master plan network with Current Model density. Whereas the 'Plan Change Model' refers to the current 2050 masterplan network (as if at 2035) with the plan change population densities (Table 2). The system performance maps are available in Appendix C.

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<sup>2</sup> Waipa District Water Management Plan, November 2019

### 5.2.1 Existing network – Leamington

#### Water

The predicted minimum water pressures in the current model in the Upper and Lower Leamington areas are generally in the range of 20-30 m. Some hydrants are predicted to fail FW2 criteria across Leamington, with the most being in Lower Leamington.

The predicted minimum water pressure in the Plan Change Model is not significantly different to the current model. Minimum pressures typically range between 20-30 m across Leamington.

Fire flow in the Plan Change Model is unchanged from the current model. Parts of the network may be able to accommodate some infill and intensification on a local level. However, **wider redevelopment across the area could cause issues requiring strategic upgrades - modelling is required to increase certainty.**

#### Wastewater

Much of the network in the current model is predicted to operate under a surcharge condition in wet weather. The trunk network downstream to the treatment plant is also predicted to surcharge. Two potential overflows are identified in the model result, which are within the local network.

The trunk network downstream to the treatment plant is still predicted to surcharge in the Plan Change Model. Two potential overflows are identified in the local network.

Parts of the network may be able to accommodate some infill and intensification on a local level. However, **wider redevelopment across the area is anticipated to cause issues requiring strategic upgrades due to surcharge conditions and several overflows in the trunk sewer to the treatment plant.**

### 5.2.2 Existing network – Cambridge central

#### Water

The predicted minimum water pressure in central Cambridge is generally less than 20 m in the Current Model. Only southern areas at a lower elevation near the Waikato River are predicted to exceed 20 m. It is noted that the minimum pressures fall below 20 m for less than 30 minutes during peak hours and so are deemed acceptable.

A significant number of hydrants are predicted to fail FW3. FW2 has not been assessed for the central town area due to a large portion of properties are categorised as commercial requiring FW3 (the model does not consider FW2 in commercial/industrial areas).

The results are unchanged in the Plan Change Model. The minimum pressures of most of Cambridge central remain below 20 m. The minimum pressures stay below 20 m for less than 30 minutes during peak times, like the Current Model results.

**Wider redevelopment across the area could cause issues requiring strategic upgrades.**

#### Wastewater

Much of the Current Model network is predicted to operate under a surcharge condition in wet weather, particularly in the northwest. The trunk network downstream to the treatment plant is also predicted to surcharge. No overflows are identified in the Current Model.

The Plan Change Model network remains under a surcharge condition in wet weather. In particular, the sewer main located on Taylor Street is predicted to surcharge more. No overflows are identified in the Plan Change Model.

The central network is planned to receive a lot of future flows from adjacent growth areas. This means that existing issues will not only be compounded by internal infill but also by

other areas. **Wider redevelopment across the area is anticipated to cause issues requiring strategic upgrades due to surcharge conditions and several overflows in the trunk sewer to the treatment plant.**

### 5.2.3 Existing network – St Kilda

St Kilda is currently planned at about half of the plan change density.

#### Water

The predicted minimum water pressure in St Kilda is generally in the range of 10-20 m in the Current Model. A significant number of hydrants are predicted to fail FW2.

Both minimum pressure and fire flow results are unchanged in the Plan Change Model. **Wider redevelopment across the area could cause issues requiring strategic upgrades - modelling is required to increase certainty.**

#### Wastewater

The Current Model network is predicted to have spare capacity with most areas having a pipe utilisation less than 50 % in peak wet weather. However, surcharging predicted in the network upstream of the St Kilda sewer pump station discharging to the existing Cambridge network.

The Plan Change Model shows similar results. Some of the sewer mains are predicted to have spare capacity to accommodate for the plan change density in St Kilda. The network upstream of the St Kilda pump station remains in a surcharging condition.

No overflows are identified in either model.

Although infill and intensification are not likely to adversely affect the local network, trunk infrastructure from the St Kilda sewer pump station and downstream through Cambridge would be affected. **Infill and intensification above current planned densities will contribute to issues requiring strategic upgrades through the Cambridge network and on to the treatment plant.**

### 5.2.4 Future growth areas

#### Growth areas C4 and C5

Growth areas C4 and C5 had Current Model densities lower than the Plan Change Model densities. The growth areas were updated with increased densities (demands) in the Plan Change Model.

The minimum pressure for C4 and C5 growth cells is between 20-30 m in the Current Model. The minimum pressure for C5 growth cell stayed within the same range when it was modelled at the higher limit in the Plan Change Model. However, the minimum pressure for C4 growth cell is below 20 m in the Plan Change Model.

Water reduction measures in these growth areas could be enough to allow intensification at slightly higher levels. However, the application of water reduction measures on a wider basis is probably better, as noted in Section 5.1 (Ref.1).

#### Growth areas C1, C3, C7 and Cambridge north

Growth areas C1, C3, C7 and Cambridge north had Current Model densities lower than the Plan Change Model densities. The growth areas were updated with increased densities (demands) in the Plan Change Model.

Minimum water network pressures stay above 20 m for all four growth cells. Hydrants are not assessed in the future growth areas.

All areas will discharge through the central Cambridge trunk waste network south to the treatment plant. The existing trunk network downstream of the areas has capacity limitations that these areas will contribute to.

**Densification above current planned densities will contribute to issues that are likely to require additional strategic upgrades though the Cambridge water and wastewater networks.**

### 5.3 Te Awamutu

The 'Current Model' refers to the 2050 master plan network with Current Model density. Whereas the 'Plan Change Model' refers to the current 2050 masterplan network (as if at 2035) with the plan change population densities (Table 3). The system performance maps are available in Appendix C.

#### 5.3.1 Existing network – Te Awamutu

##### Water

The predicted minimum water pressure in Te Awamutu area in the Current Model is generally as follows:

- In the range of 10-20 m in southern and south-eastern areas.
- Greater than 20 m in, central area, north-western areas around the Mangapiko Stream and west of the North Island Main Trunk Railway.

Some hydrants are predicted to fail FW2 and FW3 in various locations across Te Awamutu. Residential areas in the vicinity of Station Road and Goodfellow Street do not have any failing hydrants.

The predicted minimum water pressure in Te Awamutu area in the Plan Change Model is generally as follows:

- Below 20 m in the West side and some of the southern and south-eastern areas.
- In the range of 20-30 m in the central area and most of the southern areas.
- Greater than 30 m in north-western areas around the Mangapiko Stream and west of the North Island Main Trunk Railway.

Fire flow results in the Plan Change Model are not significantly different to the Current Model.

Parts of the network may be able to accommodate some infill and intensification on a local level, but system performance could be affected elsewhere. **Wider redevelopment across the area could cause issues requiring strategic upgrades - modelling is required to increase certainty.**

##### Wastewater

Most of the upper existing networks in Te Awamutu are predicted to have spare capacity with most areas having a pipe utilisation less than 50 % in peak wet weather. However, surcharging predicted in much of the trunk network where upper network flows combine, and strategic sewers on to the treatment plant in both the Current Model and the Plan Change Model. The trunk network is pressured due to the plan change population density.

Six potential overflows are identified in the current model. The number of spilling manholes increased to seven in the Plan Change Model.

Wastewater is predicted to accumulate in the storage tanks at the Albert Park pump station in a wet weather event, in the Current Model and the Plan Change Model. The storage tanks are predicted fill more in the Plan Change Model.

Parts of the network may be able to accommodate some infill and intensification on a local level. However, **wider redevelopment within Te Awamutu is anticipated to cause issues requiring strategic upgrades due to surcharge conditions and predicted overflows in the trunk sewer network.**

### 5.3.2 Existing network – Kihikihi

#### Water

The predicted minimum water pressures in the Current Model are generally as follows:

- In the range of 10-20 m in the north-western corner dropping to less than 10 m along Golf Road.
- Greater than 20 m in the remaining areas of Kihikihi.

Some hydrants are predicted to fail FW2 and FW3 in various locations across Kihikihi. There are no large areas that do not have any failing hydrants.

The predicted minimum water pressure in the Plan Change Model in Kihikihi is generally as follows:

- Dropping below 20 m in the north-western corner and along Golf Road.
- Greater than 20 m in the remainder of Kihikihi.

Fire flow results in the Plan Change Model are unchanged from the Current Model. However, WSP has already advised WDC that the fire flow in Kihikihi could be improved by installing a fire booster pump at the Rolleston Road reservoir.

Most of the network may be able to accommodate some infill and intensification on a local level, but fire flows may be further affected, and system performance could be affected elsewhere. **Wider redevelopment across the area could cause issues requiring strategic upgrades - modelling is required to increase certainty.**

#### Wastewater

Most of the upper local network in Kihikihi (both in the Current Model and the Plan Change Model) is predicted to have spare capacity with most areas having a pipe utilisation less than 50 % in peak wet weather. However, surcharging predicted in some pipelines.

A key issue for Kihikihi is capacity in the transfer sewer to Te Awamutu and on through the Te Awamutu network. Most of the strategic network downstream of Kihikihi is predicted to operate under surcharge conditions, with some overflows predicted in the Current Model (2050) and the Plan Change Model (2035).

One additional potential overflow is identified in the Plan Change Model along the Kihikihi Transfer Sewer.

Parts of the network may be able to accommodate some infill and intensification on a local level. However, **wider redevelopment within Kihikihi is anticipated to cause issues requiring strategic upgrades due to surcharge conditions and predicted overflows in the trunk sewer network downstream through the transfer sewer and within Te Awamutu.**

### 5.3.3 Future growth areas

All the assessed growth areas have currently planned densities lower than the plan change densities. The growth areas were updated with increased densities (demands) in the Plan Change Model.

The Plan Change Model predicts growth cells T2 and T10 will fail to meet the increased demands with minimum water pressures falling below 20 m. All other assessed growth cells still meet the minimum level of service (pressure) requirement in the Plan Change Model.

All areas will discharge through the central Te Awamutu trunk waste network and on to the treatment plant. The existing trunk network downstream of the areas has capacity limitations that these areas will contribute to.

Densification above current planned densities will contribute to issues that are likely to require additional strategic upgrades though the Te Awamutu water and wastewater networks.

## 6 Developable areas mapping

An exercise was carried out to map the likelihood that areas can be developed at higher densities, based on the Plan Change Model results.

### 6.1 Individual water and wastewater mapping

Mapping was carried out separately for water and wastewater based on Plan Change Model system performance maps and the information in preceding sections of this report.

The mapping is interpretive based on a traffic light system where:

- Green – does not appear to have significant constraints within or downstream of the area.
- Orange – has some apparent constraints or could affect the wider network. May have current modelled densities at or close to the plan change densities.
- Red – has significant apparent constraints either locally or downstream, and/or has current planned densities less than the plan change densities.

It should be noted that the status of areas considers potential wider network effects. While an area may appear to be developable from a local perspective it could be red or orange due to wider network issues.

The nature of water and wastewater networks means that it is difficult to identify small areas where development may occur. This results in larger areas all with a similar rating due to the interconnected nature of the networks.

The individual maps are presented in Appendix A.

### 6.2 Compiled mapping

A compiled map has been developed based on the following:

- Overlaying the water and wastewater initial coarse maps and combing areas as follows:
  - Two reds remain red.
  - One red overrides orange = red.
  - Two orange remains orange.
  - One orange overrides green = orange.
  - Two greens remain green.
- Overlaying stormwater maps (by others) and removing areas deemed potentially unsuitable for development due to drainage or flooding issues.

The compiled map is presented in Appendix B.

## 7 Summary and conclusions

The nature of water and wastewater networks means that wider network issues typically govern developability, not only local conditions. This means that even future growth areas could require

## **Appendix 8: Relevant excerpts from selected submissions**



**SUBMISSION TO  
WAIPAA DISTRICT COUNCIL ON  
PROPOSED PLAN CHANGE 26 – RESIDENTIAL ZONE  
INTENSIFICATION**

**30 September 2022**

This submission is filed for Waikato-Tainui by:

**Te Whakakitenga o Waikato Incorporated**

**[REDACTED]**  
**[REDACTED]**

## INTRODUCTION

1. This submission is made on behalf of Te Whakakitenga o Waikato Incorporated (Formerly known as Waikato-Tainui Te Kauhanganui Incorporated).
2. Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) is the governing body for the 33 hapuu and 68 marae of Waikato and manages the tribal assets for the benefit of over 78,000 registered Tribal members.
3. Waikato-Tainui provides this submission to Proposed Plan Change 26 – Enabling Housing on behalf of our hapuu and iwi members.

## BACKGROUND TO WAIKATO-TAINUI

4. Waikato-Tainui marae are kaitiaki of their environment and regard the holistic integrated management of all elements of the environment (such as flora, fauna, land, air and water) with utmost importance.
5. Waikato-Tainui are tangata whenua and exercise mana whakahaere within our rohe (tribal region). Our tribal rohe is bounded by Auckland in the north and Te Rohe Potae (King Country) in the south and extends from the west coast to the mountain ranges of Hapuakohe and Kaimai in the east. Significant landmarks within the rohe of Waikato include the Waikato and Waipaa Rivers, the sacred mountains of Taupiri, Karioi, Pirongia and Maungatautari, and the west coast harbours of Whaaingaroa (Raglan), Manukau, Aotea and Kawhia moana, the eastern areas of Tikapa Moana (Firth of Thames), and principally, New Zealand’s longest river, Te Awa o Waikato.
6. We acknowledge and affirm the intrinsic relationship of Waikato-Tainui with our natural environment.

## TE AWA O WAIKATO

7. To Waikato-Tainui, water has the ability to create and sustain life. It is no coincidence that Waikato-Tainui marae were established alongside or near water bodies. Water is required to sustain the functions of the marae, hapuu, and the people. The significance of water to Waikato-Tainui is immeasurable and the respect taangata whenua has for it is demonstrated by the manner and purposes for which it is used and handled. This includes certain waters being used only for bathing, blessings, healing, spiritual

cleansing, gathering kai, and waters that are totally excluded from use for cultural reasons.

8. The regard that Waikato-Tainui has for the Waikato River cannot be understated. Historically, through tikanga and kawa, Waikato-Tainui learned how to manage water bodies to ensure their capacity to sustain the tribe. Over many generations, successive governments, and the development of plans and policies that dictate the management of all water bodies, the ability of Waikato-Tainui to actively manage its waters diminished. For Waikato-Tainui, the relationship between the tribe and its waters has been weakened due to the following matters:
  - (a) Land confiscation;
  - (b) Lack of recognition of taangata whenua values in local policy;
  - (c) Limited representation of taangata whenua at a governance level;
  - (d) Economic objectives overriding cultural, spiritual and environmental aspirations;
  - (e) The ability to physically access water bodies has diminished;
  - (f) Poor water quality has diminished the desire to use and enjoy water bodies; and
  - (g) Waikato-Tainui does not have an equitable share of allocable water for economic purposes.
  
9. Waikato-Tainui entered into a Deed of Settlement regarding our Waikato River claim under Te Tiriti o Waitangi in 2008 (“2008 Settlement”). This was followed by the signing of a revised Deed in 2009 and ultimately, enactment of the Waikato-Tainui Raupatu (Waikato River) Settlement Act 2010 (“Settlement Act”). The settlement marked the genesis of the Crown’s statutory recognition of Te Mana o te Awa and the establishment of a “co-management” approach between Waikato-Tainui and the Crown regarding matters relating to the Waikato River.

#### **THE RELEVANT PROVISIONS OF THE WAIKATO-TAINUI RAUPATU CLAIMS (WAIKATO RIVER) SETTLEMENT ACT 2010 RELATING TO PROPOSED PLAN CHANGE 26**

10. Section 46 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 is as follows:

#### **46. Preparation, review, change, or variation of Resource Management Act 1991 planning document**

*(1) This section applies to preparing, reviewing, changing, or varying a Resource Management Act 1991 planning document to the extent to which those processes relate to the vision and strategy.*

*(2) The part of the joint management agreement on preparing, reviewing, changing, or varying a Resource Management Act 1991 planning document must provide—*

*(a) that, before the preparation, review, change, or variation commences, the local authority and the Trust must convene a joint working party to discuss and recommend to the local authority—*

*(i) the process to be adopted for the preparation, review, change, or variation; and*

*(ii) the general form and content of any document to be drafted for the purposes of consultation or notification under clause 5 of Schedule 1 of the Resource Management Act 1991:*

*(b) that the local authority and the Trust must decide jointly on the final recommendation to the local authority on whether to commence a review of, and whether to make an amendment to, a Resource Management Act 1991 planning document:*

*(c) that the local authority and the Trust must decide jointly on the final recommendation to a local authority on the content of a Resource Management Act 1991 planning document to be notified under clause 5 of Schedule 1 of the Resource Management Act 1991:*

*(d) that the local authority and the Trust must discuss the potential for the Trust to participate in making decisions on a Resource Management Act 1991 planning document under clause 10 of Schedule 1 of the Resource Management Act 1991.*

*(3) The part of the joint management agreement on preparing, reviewing, changing, or varying a Resource Management Act 1991 planning document must also provide a mechanism for the Trust to participate in processes under Part 2 of Schedule 1 of the Resource Management Act 1991.*

*(4) The local authority and the Trust each bears its own costs of complying with this section.*

*(5) Schedule 7 of the Local Government Act 2002 does not apply to the local authority and the Trust when, under the joint management agreement, they carry out the duties and functions or exercise the powers described in this section.*

## **TAI TUMU, TAI PARI, TAI AO – WAIKATO-TAINUI ENVIRONMENTAL MANAGEMENT PLAN**

11. The Waikato-Tainui Environmental Management Plan, Tai Tumu, Tai Pari, Tai Ao was designed to enhance Waikato-Tainui participation in resource and environmental management. The maimai aroha of Kiingi Taawhiao is the key driver and indicator of environmental health and wellbeing in this Plan. Waikato-Tainui aspires to the restoration of the environment to the state that Kiingi Taawhiao observed when he composed his maimai aroha.
12. The Plan is also intended as a tool to provide clear, high-level guidance on Waikato-Tainui objectives and policies with respect to the environment to resource managers, users and activity operators, and those regulating such activities, within the Waikato-Tainui rohe. Waikato-Tainui recognises that the successful achievement of the objectives in this Plan is a team approach that requires input and support from these external agencies. Tai Tumu, Tai Pari, Tai Ao is a relevant planning document recognised by Te Whakakitenga o Waikato as the iwi authority for the purposes of Section 74(2A) Matters to be considered by territorial authority of the Resource Management Act 1991.
13. Waikato-Tainui supports and promotes a coordinated, co-operative, and collaborative approach to natural resource and environmental management, restoration, and care within the Waikato-Tainui rohe. Through this Plan Waikato-Tainui seeks to achieve a consistent approach to environmental management across the Waikato-Tainui rohe. This Plan is a living, evolving, working document that will be monitored, revised and updated to ensure it remains relevant and provides a framework for continuous improvement.

## **TE TURE WHAIMANA O TE AWA O WAIKATO – THE VISION AND STRATEGY FOR THE WAIKATO RIVER**

14. Te Ture Whaimana is the primary direction setting document for the Waikato River and activities within its catchment affecting the Waikato and Waipaa Rivers. In 2008 Te Ture Whaimana was published and in 2010 the Waikato River Authority was established to oversee Te Ture Whaimana. This legislative document prevails over any inconsistencies in other policies, plans, or processes affecting the Waikato River. Relevant policies, plans, and processes cannot be amended so that they are inconsistent with Te Ture Whaimana and must be reviewed and amended, if required, to address any inconsistencies.
15. Recent plan reviews have sought to incorporate Te Ture Whaimana in planning documents, including maatauranga maaori. This should not be viewed as an optional addition but a key component of any plan review within the Waikato and Waipaa River Catchments.

### **JOINT MANAGEMENT AGREEMENT**

16. Waipaa District Council has a Joint Management Agreement with Waikato-Tainui and therefore, has a duty to uphold Te Ture Whaimana and ensure its achievement as a JMA partner.
17. Waikato-Tainui are disappointed it has required a legislative shift for Waipaa District Council to fully appreciate the significance of Te Ture Whaimana. This could be perceived as only utilising this weighty tool when it benefits Waipaa District Council. However, rather than dwelling on this as a negative, Waikato-Tainui will acknowledge this as a new beginning for Waipaa District Council and its connection with the awa. Waikato-Tainui look forward to other initiatives that Waipaa District Council will undertake with Waikato-Tainui, now that Waipaa District Council appreciate the broadness of its application.

### **QUALIFYING MATTER – TE TURE WHAIMANA O TE AWA O WAIKATO**

18. Housing intensification, inappropriate subdivisions, use or development of resources has the potential to adversely affect the Waikato River and therefore, fails to give effect

to Te Ture Whaimana. Section 771 of the Housing Supply Amendment Act outlines that a specified territorial authority may make Medium Density Residential Standards (and the relevant building height or density requirements under Policy 3) less enabling of development in relation to an area with a relevant zone to the extent necessary to accommodate a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato.

19. This qualifying matter has been assessed and applied through a range of measures. Waikato-Tainui agree that the application of the Te Ture Whaimana qualifying matter must be related to impacts on the health and wellbeing of the Waikato River and that the matter required to give effect to Te Ture Whaimana relates to the balance in the relationship between enabled residential densities, and the provision of public infrastructure necessary to address adverse effects arising from development taking up those densities. Managing land use to match infrastructure capacity to protect the health and wellbeing of the Waikato River is part of the role and function of Waipaa District Council. As a result of this, Waipaa District Council have reviewed available information on three waters infrastructure capacity within the district, providing a traffic-light assessment which highlights areas where there is insufficient infrastructure capacity to meet current demands let alone additional demands that may occur by the amendments required by the NPS-UD or MDRS amendments.
20. Waikato-Tainui are satisfied that the provisions that have been developed and included will give effect to or achieve the objectives of Te Ture Whaimana, with further amendments noted in Table 1 below. The Housing Supply Amendment Act provides for Te Ture Whaimana as a qualifying matter which means Waipaa District Council can enforce less enabling provisions to an extent. Waikato-Tainui consider that medium density residential development is less enabled in areas where it has been identified that there is insufficient infrastructure capacity which may result in adverse effects on the health and wellbeing of the awa. Waipaa District Council have done this through retainment of Rules 2.4.2.12 and 2.4.2.13 which relate to site coverage and impermeable surfaces, requirement of an infrastructure capacity assessment for sites within an identified infrastructure constraint overlay and developments of more than 2 dwellings requiring a Restricted Discretionary Activity resource consent.
21. However, Waikato-Tainui are concerned about the adverse effects as a result of intensive developments in the areas not subject to an infrastructure constraint overlay and consider appropriate provision has not been included to provide for this.

**CONSULTATION ON PROPOSED PLAN CHANGE 26**

22. Waikato-Tainui are disappointed with the lack of consultation prior to the notification of Proposed Plan Change 26. We acknowledge and understand the issues Council's faced regarding timeframes and resourcing, however Clause 4A consultation under Schedule 1 of the Resource Management Act 1991 was not fulfilled as we received an incomplete draft of the PC26 prior to notification. The most important aspects of the Plan Change relating to Te Ture Whaimana as a Qualifying Matter and subsequent provisions were not included in the draft as the technical assessments were not complete by the date Waipaa District Council were required to complete Clause 4A consultation.

**CONCLUSIONS**

- 23. Waikato-Tainui wish to be heard in support of this submission at any hearing.
- 24. If other parties make similar submissions, Waikato-Tainui, may be prepared to present a join case at any hearing.
- 25. Waikato-Tainui could not gain an advantage in trade competition through this submission.

**DATED**

30 September 2022

**TE WHAKAKITENGA O WAIKATO INCORPORATED**



**Marae Tukere**

**Tumu Kootuinga (Chief Operating Officer)**

**Address for service:**

Alana Mako

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**TABLE 1 – WAIKATO-TAINUI PROPOSED PROVISIONS, SPECIFIC RELIEF SOUGHT AND REASONS**

Provision	Relief Sought	Reasons
Section 1.1.33	<p>Amend Section 1.1.33 Clause (e) as follows:</p> <p>“1.1.33 The iwi management plans for the Waipā District are: ... (e) Tai Tiūmu, Tai Pari, Taiae <u>Ao</u>...”</p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	<ul style="list-style-type: none"> <li>To accurately reflect the name of the Waikato-Tainui Environmental Management Plan</li> </ul>
Policy 1.3.1.1	<p>Amend Policy 1.3.1.1 as follows:</p> <p>“1.3.1.1 To achieve the <del>directions and outcome</del> <u>Objectives and Strategies</u> of Te Ture Whaimana...”</p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	<ul style="list-style-type: none"> <li>To accurately reflect Te Ture Whaimana o Te Awa o Waikato.</li> </ul>
<p>Section 2 – Residential Zones</p> <p>2.3 Objectives and Policies</p>	<p>Amend Section 2.3 as follows:</p> <p>Add a new Objective and subsequent policies to Section 2.3 as follows:</p> <p><b><u>Objective X</u></b> <u>Ensure that development within the Residential Zones gives effect to the Vision and Strategy</u></p> <p><b><u>Policy X</u></b> <u>Developments and activities are designed and operated to protect and restore the Waikato River by:</u></p> <p><u>(i). Requiring new subdivision and development to incorporate water-sensitive techniques to reduce demand on water supplies, wastewater disposal and to manage stormwater.</u></p>	<ul style="list-style-type: none"> <li>Plan Change 26 requires further recognition of Te Ture Whaimana in relation to developments in all residential zones. Including this new objective and policy into Section 2.3 will better implement Te Ture Whaimana and ensure it is achieved through new residential developments.</li> </ul>

	<p><u>(ii). Limiting the area of impermeable surface to sustain groundwater recharge and stream flow and reduce the volume of contaminants discharged to surface water.</u></p> <p><u>(iii). Require Financial Contributions from developments to fund works to restore and protect the Waikato River</u></p> <p><u>(iv). Preparing and implementing Integrated Catchment Management Plans</u></p> <p><u>(v). Managing activities to avoid river and stream bank erosion, river and stream bed scouring and deposition</u></p> <p><b><u>Policy XX</u></b>  <u>Avoid development where the direct or cumulative effects on the infrastructure network cannot be mitigated”</u></p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	
<p>Section 2 – Residential Zones</p> <p>2.3 Objectives and Policies</p>	<p>Amend Section 2.3 as follows:</p> <p>Add a new Objective and subsequent policies to Section 2.3 as follows:</p> <p><b><u>“Objective X – Mana whenua</u></b>  <u>The relationship mana whenua have with the Waipaa District is recognised and promoted.</u></p> <p><b><u>Policy X</u></b>  <u>Decisions on land use, subdivision and development include ongoing consultation and collaboration with mana whenua.</u></p> <p><b><u>Policy XX</u></b>  <u>Identifying and providing for mana whenua freshwater and other values and aspirations through the preparation and implementation of</u></p>	<ul style="list-style-type: none"> <li>• Plan Change 26 does little to recognise and provide for the relationship mana whenua have with the awa.</li> <li>• The relief sought also better implements Te Ture Whaimana and ensures achievement of the objectives.</li> </ul>

	<p><u>Catchment Management Plans and Structure Plans.</u></p> <p><b><u>Policy XXX</u></b>  <u>Development and the decisions on developments are to consider any relevant Iwi Management Plan.</u></p> <p><b><u>Policy XXXX</u></b>  <u>Development considers effects on the unique mana whenua relationships, values, aspirations, roles and responsibilities with respect to an area.”</u></p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	
Proposed Section 2A4.1	Retain Rules 2A.4.1.1(b) and (c).	<ul style="list-style-type: none"> <li>• Waikato-Tainui support the inclusion of provision of a Permitted Activity for up to 2 dwellings per site within the Infrastructure Constraint Qualifying Matter Overlay , an Restricted Discretionary Activity for developments of more than two dwellings within the overlay and a Permitted Activity for up to 3 dwellings per site outside the overlay.</li> <li>• Waikato-Tainui support the justification for applying Te Ture Whaimana as a qualifying matter to make Medium Density Residential Standards less enabling. Waikato-Tainui agree with the reasons at page 3 of Appendix 3 – Assessment of New Qualifying Matters where it is noted that following the commissioned technical assessment reports for stormwater, water and wastewater using a traffic light system similar to Hamilton City Council, it was found that “the technical reports show that the ability of infrastructure in these areas to cope with additional demands of more housing is severely restricted.”</li> </ul>

		<ul style="list-style-type: none"> <li>It is also noted on Page 4 of Appendix 3 that “any reduction in water quality adversely impacts on the ability to give effect to Te Ture Whaimana which is focused on the protection and enhancement of the water quality of the Waikato and Waipaa Rivers and their catchments.”</li> </ul>
Proposed Section 2A - Rules – General Standards	<p>Amend proposed Section 2A as follows:</p> <p>Add a new standard to the General Standards for all residential rules as follows:</p> <p><u>Applications for activities that are required under Rule 2A.4.1.1(b) or (c) and Rule 2A.4.1.3 (b) or (c) must provide in the assessment of environmental effects for the proposal, identification of any measures to avoid, remedy or mitigate adverse effects recommended by representatives of Mana Whenua in any engagement carried out for the proposal by the applicant in accordance with consultation and engagement processes identified by mana whenua, Chapter 6 of Tai Tumu, Tai Pari, Tai Ao – Waikato-Tainui Environmental Management Plan or any other iwi management plan</u></p> <p>And</p> <p>Add a new appendix to outline an updated engagement strategy mechanism that Waipaa District Council will implement to provide for this engagement</p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	<ul style="list-style-type: none"> <li>Waikato-Tainui consider that the increase in overall development across Cambridge, Te Awamutu and Kihikihi will be significant which will have an adverse impact on the whenua and awa, therefore it may potentially have an impact on achieving the objectives of Te Ture Whaimana.</li> <li>This relief ensures that consented activities in Cambridge, Te Awamutu-Kihikihi implement and give effect to the Joint Management Agreement, Te Ture Whaimana and engaging mana whenua, it is important that any proposals include in the AEE any recommendations by mana whenua.</li> <li>The scale of development across the district will likely have an impact on mana whenua values.</li> <li>Development within the district directly affect the way Waipā District Council gives effect to Te Ture Whaimana and further provision is required to ensure the development does not affect the Councils ability to provide for the health and wellbeing of the awa and to provide for betterment.</li> <li>Tai Tumu, Tai Pari, Tai Ao outlines a clear consultation and engagement process that is under-utilised by applicants/developers within the Hamilton City boundary.</li> </ul>
2A.4.2 Performance Standards	<p>Insert the following wording into the relevant section to read:</p> <p><u>Applications for activities that are required under Rule 2A.4.1.1(b) or (c) and Rule 2A.4.1.3 (b) or (c) must provide in the</u></p>	<ul style="list-style-type: none"> <li>This relief better reflects the standing and status of iwi plans.</li> <li>This relief makes it clear that in the context of implementing these rules, that the iwi plans are a matter for consideration, both in regards to the</li> </ul>

	<p><u>assessment of environmental effects for the proposal an assessment of any Iwi Management Plans.</u></p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	<p>effects of a proposal and in regards to Section 104(1)(a) and 104(1)(c) of The Resource Management Act 1991.</p>
<p>Section 18 – Financial Contributions</p>	<p>Retain section 18 other than the following amendments:</p> <p>Amend Section 18 to make it clear who will administer and have oversight of the fund for these contributions including that Waikato-Tainui will have oversight</p> <p>And</p> <p>Amend Section 18 to ensure that land provided as a financial contribution for the purposes of achieving Te Ture Whaimana will be exempt from further development OR amend Section 18 to ensure Waikato-Tainui has oversight and participate in decision-making as to the purpose that land is used for</p> <p>And</p> <p>Amend Section 18 to make it clear who will make the decision on the purpose for which the financial contribution will be applied to, including that as a JMA partner, Waikato-Tainui will participate in the decision-making for those purposes</p> <p>And</p> <p>Amend Section 18 to ensure the financial contribution purposes applied to give effect to Te Ture Whaimana are not limited to the costs listed in 18.5.1.5 (a)(i-ix)</p> <p>And</p> <p>Amend Section 18 to ensure there is consistency in requiring financial contributions for the purposes of giving effect to Te Ture Whaimana between Hamilton City Council and other territorial authorities within the Waikato and Waipaa River Catchments</p>	<ul style="list-style-type: none"> <li>• Waikato-Tainui support the inclusion of Section 18.2.3(b) to recover from developers a contribution in the form of money, or land, or a combination, for the purpose of giving effect to Te Ture Whaimana. However, it is unclear who will administer and have oversight of the fund for these contributions, and it is considered appropriate for Waikato-Tainui to have oversight of that fund or the projects the contributions are applied to.</li> <li>• For financial contributions in the form of land, Rule 18.5.2.24 (a) and (b) state: “(a) Where a developer offers land as a financial contribution, Council has the sole discretion to accept land as a substitute for a monetary financial contribution. The value of the land is to be determined by an independent property valuer. (b) Where Council exercises its discretion to collect a financial contribution in the form of land, the vesting of this land in Council must be a condition of any land use or subdivision consent.” However, in terms of that land being a financial contribution for the purposes of giving effect to Te Ture Whaimana, it is unclear what the purpose of that land will be, and it is expected that the land would be exempt from further development.</li> <li>• Further clarity is required on who will make the decision on the purpose for which the financial contribution will be applied to. As a JMA partner, it is appropriate for Waikato-Tainui to be included in the decision-making for this purpose.</li> <li>• The financial contribution purposes applied to give effect to Te Ture</li> </ul>

	<p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	<p>Whaimana should not be limited to the costs listed in 18.5.1.5(a)(i-ix), as there may be other purposes that mana whenua deem more appropriate for a specific development or area.</p> <ul style="list-style-type: none"> <li>• Section 18.5.2.5 states “Costs will be recovered where it is necessary to avoid, remedy or mitigate the adverse effects of medium density residential development on the water quality and/or the minimum flows of the Waikato and Waipā Rivers and their catchments.” Section 18.5.2.6 states “For each additional bedroom at the site created by the development, a fixed financial contribution of \$400.00 shall be required.” Section 18.5.2.7 state “For non-residential development \$2,000.00 per 100m2 of Gross Floor Area.” Waikato-Tainui are concerned that the financial contributions will not be commensurate to the development and the adverse effects it may potentially have on the awa or demonstrate improvement in water quality. Waikato-Tainui do not believe the financial contributions will be enough to offset the effects as well as providing for betterment.</li> <li>• There needs to be consistency between territorial authorities in terms of the approach to determining financial contributions for the purposes of giving effect to Te Ture Whaimana. This means there will be a consistency in approach to giving effect to Te Ture Whaimana and the purposes the contributions are applied to will not vary between districts.</li> </ul>
<p>Infrastructure Capacity Assessment</p>	<p>Amend proposed Section 2A to require an infrastructure capacity assessment for all activities of more than two dwellings on a site</p> <p>And</p>	<ul style="list-style-type: none"> <li>• Waikato-Tainui consider an infrastructure assessment should be required regardless of whether or not the site is within a constraint overlay or not where it is proposed to establish more than two dwellings on</li> </ul>

	<p>Amend Section 21 to outline what assessment criteria are required for an infrastructure capacity assessment</p> <p>And</p> <p>Amend Definitions section to include a definition of a suitably qualified and experienced person</p> <p>And</p> <p>Any consequential amendments or alternative relief to give effect to the matters raised in the submission.</p>	<p>a site. This will better implement and achieve Te Ture Whaimana.</p> <ul style="list-style-type: none"> <li>• Plan Change 26 does not outline what assessment criteria is required under an infrastructure capacity assessment.</li> <li>• Further clarity is required surrounding the definition of a suitable qualified and experienced person. As these will be included as part of the AEE, it is assumed these assessments will be assessed by the processing planner. It is considered that this could result in inconsistency of approach and assessment due to a range of factors such as, experience, qualifications, time etc.</li> </ul>
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30 September 2022

Planning Team  
Waipā District Council  
23 Wilson Street  
Cambridge 3434

**Our Ref: Plan Change 26**

Dear Planning Team,

**RE: Submission on Plan Change 26 – Residential Zone Intensification**

Further to the notification of Plan Change 26 – Residential Zone Intensification on the 19<sup>th</sup> August 2022, please find table below outlining CKL's submission on the Plan Change.

If you have any questions, please contact the writer.

Yours faithfully  
CKL Planning | Surveying | Engineering | Environmental

A handwritten signature in blue ink, appearing to read 'Tracey Morse', with a stylized flourish at the end.

**Tracey Morse**  
Senior Planner – MNZPI

Provision	Submission	Recommended Change
<p><b>Policy 2A.3.3.4</b></p> <p>To maintain and enhance the identified character of each character cluster by:</p> <p>b) For new buildings or relocated buildings maintaining a similar style, form, building materials and colour to other dwellings within the cluster; and</p>	<p>Mimicry of heritage structures isn't always the most appropriate response for new structures/additions. It can dilute the integrity of the heritage character values of the heritage feature. Suggest amending to allow a diverse range of styles.</p>	<p><b>Recommend deleting (b)</b></p> <p><b>Policy 2A.3.3.4</b></p> <p>To maintain and enhance the identified character of each character cluster by:</p> <p><del>b) For new buildings or relocated buildings maintaining a similar style, form, building materials and colour to other dwellings within the cluster; and</del></p>
<p><b>Policy 2A.3.3.4</b></p> <p>To maintain and enhance the identified character of each character cluster by:</p> <p>c) For relocated buildings ensuring that any maintenance and/or reinstatement work is undertaken; and</p>	<p>It is not clear what this policy is trying to achieve, to relocate a building would need to go through building consent sign off and as such they would need to be up to a certain standard.</p>	<p><b>Recommend deleting (c)</b></p> <p><b>Policy 2A.3.3.4</b></p> <p>To maintain and enhance the identified character of each character cluster by:</p> <p><del>c) For relocated buildings ensuring that any maintenance and/or reinstatement work is undertaken; and</del></p>
<p><b>Objective 2A.3.4</b></p> <p>To maintain amenity values and enhance safety in the Medium Density Residential Zone.</p>	<p>This objective use of word "maintain" doesn't appear right. The existing residential character and amenity will be changing as a result of this zone change and how do you enhance safety?</p> <p>The policies which follow this objective are in relation to amenity and there is nothing around 'safety'.</p>	<p><b>Recommend amending the objective</b></p> <p><b>Objective 2A.3.4</b></p> <p>To <u>establish cohesive and liveable environments within</u> <del>maintain amenity values and enhance safety in</del> the Medium Density Residential Zone.</p>

<p><b>Objective 2A.3.6</b></p> <p>To enable a wide range of housing options in Cambridge, Te Awamutu and Kihikihi.</p>	<p>The objective is for the Medium Density Residential Zone, however the objective just lists the three main towns. Suggest this references the zones</p>	<p><b>Amend as follows:</b></p> <p>To enable a wide range of housing options in <u>the Medium Density Residential Zone Cambridge, Te Awamutu and Kihikihi.</u></p>
<p><b>Objective 2A.3.8</b></p> <p>To restrict the establishment of non-residential activities in the Medium Density Residential Zone, except for visitor accommodation, activities within listed heritage items, areas specifically identified on structure plans for this purpose, and those activities that provide for the health and well-being of the community, and have a functional and compelling need to locate within a Medium Density Residential Zone.</p>	<p>Within denser residential environments it is beneficial to have some non-residential activities including dairies, laundrettes and childcare facilities and these should not be restricted.</p>	<p><b>Amend as follow</b></p> <p>To restrict the establishment of non-residential activities in the Medium Density Residential Zone, except for visitor accommodation, activities within listed heritage items, areas specifically identified on structure plans for this purpose, and those activities that provide for the health and well-being of the community, and have a functional and compelling need to locate within a Medium Density Residential Zone <u>such as dairies, laundrettes and childcare facilities.</u></p>
<p><b>Activity Status Table 2A.4.1 (e)</b></p> <p>Accessory buildings to any permitted activity.</p>	<p>Often when subdividing a site, a garage or shed is left on the vacant lot. It is often required to store building material with the construction of a new dwelling, however as accessory buildings are only permitted if a residential dwelling is on the site, this should be removed to allow to have a shed or garage on a vacant lot.</p>	<p><b>Delete part</b></p> <p><b>Activity Status Table 2A.4.1 (e)</b></p> <p>Accessory buildings <del>to any permitted activity.</del></p>

<p><b>Activity Status Table 2A.4.1.3 (b)</b></p> <p>Four or more dwellings per site outside of the Infrastructure Constraint Qualifying Matter Overlay.</p> <p>Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with discretion being restricted over:</p> <ul style="list-style-type: none"> <li>• Building location, bulk and design; and</li> <li>• Development density; and</li> <li>• ....</li> </ul>	<p>Within the matters of discretion, this should not include density as there is no effect of density, potentially could mean residential amenity?</p>	<p>Four or more dwellings per site outside of the Infrastructure Constraint Qualifying Matter Overlay.</p> <p>Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with discretion being restricted over:</p> <ul style="list-style-type: none"> <li>• Building location, bulk and design; and</li> <li>• <del>Development density; and</del></li> </ul> <p>....</p>
<p><b>Activity Status Table 2A.4.1.3 (c)</b></p> <p>Three or more dwellings per site within the Infrastructure Constraint Qualifying Matter Overlay. Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with discretion being restricted over:</p> <ul style="list-style-type: none"> <li>• Building location, bulk and design; and</li> <li>• Development density; and ...</li> </ul>	<p>Within the matters of discretion, this should not include density as there is no effect of density, potentially could mean residential amenity?</p>	<p><b>Activity Status Table</b></p> <p><b>Rule 2A.4.1.3 (c)</b></p> <p>Three or more dwellings per site within the Infrastructure Constraint Qualifying Matter Overlay. Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with discretion being restricted over:</p> <ul style="list-style-type: none"> <li>• Building location, bulk and design; and</li> <li>• <del>Development density; and</del></li> <li>• ...</li> </ul>

<p><b>Rule 2A.4.2.9 (b)</b></p> <p>Impermeable surfaces must not exceed:</p> <p>(a) 45% of the net site area in the Cambridge North Structure Plan Area; or</p> <p>(b) 60% of the net site area in the remainder of the Zone (except St Kilda Structure Plan Area).</p>	<p>The different coverage for the Cambridge North Structure Plan Area is included as part of this rule, but then the St Kilda Structure Plan Area is excluded without stating what the rule for impervious surfaces there is, or being directly followed by the equivalent rule. It also appears that Council forgot to include within the Medium Density Zone section any controls for impermeable surfaces for the St Kilda Structure Plan Area.</p>	<p><b>Amend as follows</b></p> <p><b>Rule 2A.4.2.9</b></p> <p>Impermeable surfaces must not exceed:</p> <p>(a) 45% of the net site area in the Cambridge North Structure Plan Area; or</p> <p><del>(b) 60% of the net site area in the remainder of the Zone</del> <b>(b) 50% of the net site area in the St Kilda Structure Plan Area; or</b></p> <p><del>(b) 60%</del> <b>(bc) 60%</b> of the net site area in the remainder of the Zone (highlighted space to enter the impermeable surfaces control that Council intended to be within the District Plan following PC26).</p>
<p><b>Rule 2A.4.2.22</b></p> <p>A residential dwelling of 2 or more stories shall have a minimum roof pitch of:</p> <p>(a) 30 degrees in any character area or compact housing area overlay</p> <p>(b) 15 degrees in all other parts of the zone</p>	<p>There isn't a clear RMA purpose of this rule. Providing roof pitches of these angles doesn't necessarily equate to quality urban design outcomes. Suggest remove.</p>	<p><b>Delete in full</b></p> <p><del><b>Rule 2A.4.2.22</b></del></p> <p><del>A residential dwelling of 2 or more stories shall have a minimum roof pitch of:</del></p> <p><del>(a) 30 degrees in any character area or compact housing area overlay</del></p> <p><del>(b) 15 degrees in all other parts of the zone</del></p>
<p><b>Rules 2A.4.2.25-30, .55, .57-59</b></p>	<p>These rules should go at end of the rules for the zone, as they are all solely site-specific. Otherwise, zone-wide standards can get lost/missed.</p>	<p><b>Amend order of rules so that those listed are last within Section 2A</b></p>

<p><b>Rule 2A.4.2.62</b></p> <p>A relocated building over 40m<sup>2</sup> GFA shall meet the following requirements:</p> <p>...</p>	<p>There isn't a clear RMA purpose of this rule. Surely the aesthetic and weatherproof finish of relocated structures is more appropriately covered by the Building Act / Building Code / Building consent process.</p>	<p><b>Delete in full</b></p> <p><del>Rule 2A.4.2.62</del></p> <p><del>A relocated building over 40m<sup>2</sup> GFA shall meet the following requirements:</del></p> <p><del>...</del></p>
<p><b>Rule 15.4.1.1 (o)</b></p> <p>Subdivision to create three to six lots for infill housing between 350m<sup>2</sup> to 500m<sup>2</sup> in conjunction with a land use consent for the development</p> <p><b>Residential Zone – RD</b></p> <p><b>Medium Density Residential Zone – NA</b></p>	<p>Infill subdivision should not be limited to three to six lots, CKL have previous been granted consent to undertake infill development comprising one additional infill lot and up to nine infill lots. Other proposals we have sought pre-application advice on have given the nod to fourteen infill lots without land use consent for 400m<sup>2</sup>, therefore this shouldn't be restricted by number or by concurrent land use consent. If a proposed dwelling does not meet the rules of the ODP this will be picked up at building consent stage and a land use consent would then be sought at this stage.</p> <p>There is no reason to have this limitation on number of lots being created and this also should apply to the Medium Density Residential Zone.</p>	<p><b>Amend rule as follows</b></p> <p><b>Rule 15.4.1.1 (o)</b></p> <p>Subdivision to create three <del>to six</del> <u>or more</u> lots for infill housing between 350m<sup>2</sup> to 500m<sup>2</sup> <del>in conjunction with a land use consent for the development</del></p> <p><b>Residential Zone – RD</b></p> <p><b>Medium Density Residential Zone</b> <del>for four or more lots –</del> <u>NA-RD</u></p>



**30 September 2022**

Attn: Waipā District Council  
Private Bag 2402,  
Te Awamutu 3840  
*Submission via email: [districtplan@waipadc.govt.nz](mailto:districtplan@waipadc.govt.nz)*

**KĀINGA ORA – HOMES AND COMMUNITIES SUBMISSION ON PROPOSED  
PLAN CHANGE 26 (RESIDENTIAL ZONE INTENSIFICATION) TO THE  
OPERATIVE WAIPĀ DISTRICT PLAN UNDER CLAUSE 5 (INTENSIFICATION  
PLANNING INSTRUMENT) OF SCHEDULE 1 OF THE  
RESOURCE MANAGEMENT ACT 1991**

This is a submission on Proposed Plan Change 26 – Residential Zone Intensification (“**PC26**”) to the Operative Waipā District Plan (“**the Plan**” or “**the District Plan**”), prepared by Waipā District Council (“**the Council**”).

Kāinga Ora does not consider it can gain an advantage in trade competition through this submission. In any event, Kāinga Ora is directly affected by an effect of the subject matter of the submission that:

- Adversely affects the environment; and
- Does not relate to trade competition or the effects of trade competition.

**The specific provisions of the proposal that this submission relates to:**

PC26 to the District Plan in its entirety.

**This document and the Appendices attached is Kainga Ora submission on PC26.**

## Appendix 1: Decisions sought on PC26

The following table sets out the amendments sought to the PC26 and also identifies those provisions that Kāinga Ora supports.

*Proposed changes are shown as ~~strike~~through for deletion and underlined for proposed additional text.*

ID	Specific Provision and Section of Plan	Support/ Support in Part/ Oppose	Reasons	Relief sought:  <i>Where Kāinga Ora seeks specific amendments to text, these are shown as <del>strikethrough</del> for deletion and <u>underlined</u> for proposed addition in the 'Specific Provision and Section of Plan' column of this table, in addition to the relief sought below.</i>
	<p>(b) <u>Neighbourhoods that are well maintained, safe, and are free from <del>non-residential activities, developments</del> and associated signs that can result in adverse visual and nuisance effects;</u></p> <p>(c) <u>Vibrant and active communities that have a mix of demographics and housing types.</u></p>		<p>stated issues, and ensure it does not conflict with objectives and policies in the MDRZ that otherwise-reflect that the NPS-UD and MDRS anticipates effects of development as a result of change in density and the urban form that is enabled.</p>	<p>terminology consistent with the NPS-UD and MDRS in Housing Supply Act.</p> <p>3. Amendments are sought to ensure the MDRZ provisions are consistent with Policy 6(b) of the NPS-UD and that intensification in accordance with the planned built form of the MDRZ is not an adverse effect of itself.</p>
44.	<p><u>2A.2.5 Sites where buildings and impermeable surfaces cover large areas of the site can compromise the ability to adequately dispose of stormwater.</u></p>	Support in part	<p>Kāinga Ora generally supports the provision, to the extent that it is consistent with the overall Kāinga Ora submission.</p>	<p>Include the provision as notified, to the extent it is consistent with the overall Kāinga Ora submission and relief sought.</p>
45.	<p><del>2A.2.6 Relocated buildings can adversely affect the existing amenity of the neighbourhood.</del></p>	Oppose	<p>Kāinga Ora opposes this provision. Relocated buildings can locate within urban environments where they meet the development and performance standards. Relocated buildings do not have any inherent qualities that make them unsuitable for urban environments. This also does not consider Offsite Manufactured Homes. The associated standards relating to relocated buildings are all managed through the Building Act, and it is not appropriate to manage the same issue across two legislative frameworks.</p>	<p>Delete the provision and associated provisions in their entirety.</p>
46.	<p><del>2A.2.7 There is the potential for reverse sensitivity effects when noise sensitive activities locate close to some existing activities such as the Te Awamutu Dairy Manufacturing site, roads with high traffic volumes, and railway lines.</del></p>	Oppose	<p>Kāinga Ora opposes this provision as this does not align with the NPS-UD wherein high-density development is encouraged around rapid transport routes.</p> <p>Kāinga Ora is opposed to provisions concerning reverse sensitivity, that require mitigation for effects generated by other activities (whether infrastructure or otherwise). Effects</p>	<p>Delete the provision as notified.</p>

ID	Specific Provision and Section of Plan	Support/ Support in Part/ Oppose	Reasons	Relief sought:  <i>Where Kāinga Ora seeks specific amendments to text, these are shown as <del>strikethrough</del> for deletion and <u>underlined</u> for proposed addition in the 'Specific Provision and Section of Plan' column of this table, in addition to the relief sought below.</i>
73.	<p><u><i>Policies - Site coverage and permeable surfaces</i></u></p> <p><u>2A.3.4.5</u> To ensure that all sites have sufficient open space to provide for landscaping, outdoor activities, storage, on-site stormwater disposal, parking, and vehicle manoeuvring by maintaining a maximum site coverage requirement for buildings in the Medium Density Residential Zone.</p>	Support in part	Kāinga Ora generally supports the provision, to the extent consistent with the overall Kāinga Ora submission.	Include the provision as notified, to the extent it is consistent with the overall Kāinga Ora submission and relief sought.
74.	<p><u>2A.3.4.6</u> Maintain a proportion of each site in permeable surfaces such as lawn and gardens, in order to ensure there is sufficient capacity to enable the on-site disposal of stormwater. In the Cambridge North Structure Plan Area, increased standards apply because of the difficulty of disposing of stormwater in this location. In the C1 and C2/C3 Structure Plan areas on-site disposal of stormwater may not be required where regional and/or district consents for the overall structure plan stormwater system provide for alternative means of stormwater management and disposal. Furthermore, on-site soakage within the C3 cell is not anticipated due to the risk of exacerbating slope stability issues. Alternative methods of stormwater management will need to be demonstrated for the C3 cell.</p>	Support in part	Kāinga Ora generally supports the provision, to the extent consistent with the overall Kāinga Ora submission.	Include the provision as notified, to the extent it is consistent with the overall Kāinga Ora submission and relief sought.
75.	<p><del><u><i>Policy – Relocated buildings</i></u></del></p> <p><del><u>2A.3.4.7</u> Relocated buildings shall not detract from the amenity of the neighbourhood they are located within, by ensuring that exterior maintenance and painting is undertaken.</del></p>	Oppose	Kāinga Ora opposes the provisions associated with relocated buildings as the requirements of the standard can all be addressed appropriately under the Building Act. The proposed approach does not encourage the adaptive reuse of existing buildings or account for off-site manufactured buildings.	Delete the policy.
76.	<p><u><i>Policy - <del>Maintaining low a</del> Ambient noise environment</i></u></p> <p><u>2A.3.4.8</u> To ensure that noise emissions and vibration from all activities, including construction, are consistent with the <del>low</del> ambient noise environment anticipated in the Medium Density Residential Zone.</p>	Oppose	Kāinga Ora propose amendments consistent with its submission on 2A.2.4, to ensure the policy does not conflict with objectives and policies in the MDRZ that otherwise-reflect that the NPS-UD and MDRS anticipates effects of development as a result of change in density and urban form and enabled.	Include the provision with the proposed tracked amendments as shown in 'Specific Provision and Section of Plan' column of this table.
77.	<p><u><i>Policy - Residential development in the vicinity of the Te Awamutu Dairy Manufacturing site</i></u></p> <p><u>2A.3.4.10</u> To maintain anticipated levels of residential amenity and to reduce the potential for reverse sensitivity effects on the Te Awamutu Dairy Manufacturing site by requiring new dwellings <del>of</del> <del>bedroom additions</del> to be acoustically treated.</p>	Oppose in part	Kāinga Ora considers it simpler to require new buildings to be acoustically treated. Requiring treatment for bedroom additions does not acknowledge existing uses.	Amend the policy as shown in the tracked amendments, in 'Specific Provision and Section of Plan' column of this table.

ID	Specific Provision and Section of Plan	Support/ Support in Part/ Oppose	Reasons	Relief sought:  <i>Where Kāinga Ora seeks specific amendments to text, these are shown as <del>strikethrough</del> for deletion and <u>underlined</u> for proposed addition in the 'Specific Provision and Section of Plan' column of this table, in addition to the relief sought below.</i>
	<p><del>(f) — Landscaping and permeable surfaces: At least 20 percent of the net site area of any site or unit site area shall be grassed, planted in trees and/or shrubs or otherwise landscaped in a manner that retains the permeable nature of the surface.</del></p> <p><del>(g) — A communal outdoor service area or storage court shall be provided that does not exceed 10m<sup>2</sup> of site area and it shall be screened so that it is not visible from the front boundary of the site.</del></p> <p><del>(h) — Outdoor living areas shall:</del></p> <p style="padding-left: 20px;"><del>(i) — Be located and/or screened so that at least 50 percent of the outdoor living area has complete visual privacy from the living rooms and outdoor living areas of other dwellings on the same site and shall be screened from adjoining sites; and</del></p> <p style="padding-left: 20px;"><del>(ii) — Be oriented to the north, east or west of the dwelling, but not the south of east or west measured from the southernmost part of the dwelling; and</del></p> <p><del>(i) — An area for letterboxes at the front of the property; and</del></p> <p><del>(j) — A place for refuse and recycling material that is accessible to a two-axled truck shall be provided; and</del></p> <p><del>(k) — Dwellings that are parallel to, or adjoin the road boundary of the site shall have a front door that faces the road.</del></p> <p><del>Advice Notes: Prior to a decision being issued by Council an independent review of the urban design report may be requested by Council at the applicant's expense.</del></p> <p><del>Activities that fail to comply with this rule will require a resource consent for a discretionary activity.</del></p>			
113.	<p><del><b>Rule — Relocated buildings</b></del></p> <p><del>2A.4.2.62 — A relocated building over 40m<sup>2</sup> GFA shall meet the following requirements:</del></p> <p><del>(a) — A Building Relocation Inspection Report shall accompany an application for a building consent. The Building Relocation Inspection Report shall be prepared by one of the following suitably qualified and experienced people:</del></p> <p style="padding-left: 20px;"><del>(i) — A Waipā District Council Building Compliance Officer (or equivalent); or</del></p> <p style="padding-left: 20px;"><del>(ii) — A member of the New Zealand Institute of Building Surveyors; or</del></p> <p style="padding-left: 20px;"><del>(iii) — A licensed building practitioner (carpenter or design category); or</del></p> <p style="padding-left: 20px;"><del>(iv) — A building inspector from the local authority where the building is being relocated from; and</del></p>	Oppose	Kāinga Ora opposes standards for relocated buildings. The standard seeks to manage matters that are more appropriately addressed through the Building Act and are not valid resource management issues. This is neither efficient nor effective as there is the potential for resource consents to be triggered on the basis of Building Act matters that do not directly address specific 'environmental' effects. Any building relocating on a site would be a new building and subject to the various activities and standards within the zone.	Delete the 'relocated buildings' provisions as they are more-appropriately managed through the Building Act.

ID	Specific Provision and Section of Plan			Support/ Support in Part/ Oppose	Reasons	Relief sought:  <i>Where Kāinga Ora seeks specific amendments to text, these are shown as <del>strikethrough</del> for deletion and <u>underlined</u> for proposed addition in the 'Specific Provision and Section of Plan' column of this table, in addition to the relief sought below.</i>
141.	<u>21.1.2A.2</u>	<b>Restricted Discretionary Activities</b>  <u>Relocated buildings</u>	<del>(a) The overall condition of the exterior of the building, and the extent to which proposed works will avoid, remedy or mitigate any effects;</del> <del>(b) The extent to which the repairs and works identified for action in Council approved or certified Building Relocation Inspection Report will be carried out;</del> <del>(c) The timing, nature and extent of reinstatement works that are required to the exterior of the building after it has been moved to the new site;</del> <del>(d) The timeliness of the works taking into account the extent and nature of the proposed works;</del>	Oppose	Kāinga Ora opposes (other than being a permitted activity) standards for relocated buildings. The standard seeks to manage matters that are more-appropriately addressed through the Building Act and are not valid resource management issues. This is neither efficient nor effective as there is the potential for resource consents to be triggered on the basis of Building Act matters that do not directly address specific 'environmental' effects. Any building relocating on a site would be a new building and subject to the various activities and standards within the zone.	Delete the 'relocated buildings' provisions as they are more-appropriately managed through the building act.
142.	<u>21.1.2A.3</u>	<del>Retirement village accommodation and associated care facilities and rest homes within or outside the compact housing overlay identified on the Planning Maps</del>  <u>AND</u> <u>Visitor Accommodation in the Visitor Accommodation Overlay in the C1 and C2/C3 Structure Plan Areas (as relevant)</u>	<u>(a) Building design including:</u> <u>(i) The extent to which solar potential and good solar aspect is optimized within the development; and</u> <u>(ii) Colours; and</u> <u>(iii) The materials to be used and how they are to be repeated within the development; and</u> <u>(iv) Detail of roof pitches; and</u> <u>(v) Details of doorways and the provision of shelter for visitors; and</u> <u>(vi) Windows, revetment, balconies and recesses; and</u> <u>(vii) Garaging to create visual continuity and cohesion and reflect a residential character; and</u> <u>(viii) Whether designs avoid monolithic walls in favour of designs that incorporate smaller scale building elements to promote feelings of interest and diversity.</u>	Oppose in part	Kāinga Ora opposes compact housing and its associated land use activity and provisions. The existing overlay applies within urban areas in proximity to centres, and imposes standards more-restrictive than the MDRS standards which has not been sufficiently justified under S77J-L of the Housing Supply Act. Kāinga Ora considers that the activity and associated overlay are therefore no longer required and are inefficient. Any such development would simply be considered as 4+ dwellings. The remaining activities (i.e., retirement villages etc) can be considered on their merits and do not need to be restricted to such an overlay location.	Delete compact housing and the overlay from the District Plan and include the assessment criteria as notified, to the extent they remain consistent with the relief sought in the overall Kāinga Ora submission.

## **Appendix 9: Relevant excerpts from Section 42A report documents**

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# RMA HEARINGS PANEL REPORT



**To:** Independent Hearings Panel

**From:** Damien McGahan, Principal, Aurecon on behalf of the Waipā District Council

**Subject:** **Section 42A Hearing Report on Proposed Plan Change 26**

**Hearing Date:** 26 April to 3 May 2023

## EXECUTIVE SUMMARY

This suite of reports is prepared under the provisions of Section 42A of the Resource Management Act 1991 (RMA) and assesses information provided in the submissions on Proposed Plan Change 26 to the Operative Waipā District Plan (WDP), identified as Plan Change 26 (PC26). As a result of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 the Council is required to incorporate new medium density residential standards (MDRS) and to give effect to Policy 3 of the National Policy Statement on Urban Development (NPS-UD).

PC26 seeks to enable more medium density residential development through an Intensification Planning Instrument (IPI) and an Intensification Streamlined Planning Process (ISPP) in the residentially zoned areas of Cambridge, Kihikihi and Te Awamutu. PC26 creates a new section 2A 'Medium Density Residential Zone' to the District Plan which incorporates the MDRS along with new rules which modify the standards to accommodate qualifying matters.

PC26 was publicly notified on 19 August 2022 with a submission period of 30 working days, attracting 79 submissions. The summary of submissions (by submitter and by topic) were notified on 28 November 2022, with a further submission period of 10 working days, 8 further submissions were lodged.

The submissions covered a range of sub-topics which have been arranged for reporting purposes into five higher level topics.

- Topic 1 **National Policy Statement – Urban Development Policy 3(d)**
- Topic 2 **Medium Density Residential Standards (MDRS)**
- Topic 3 **Qualifying Matters**
- Topic 4 **Specific Changes**
- Topic 5 **Rezoning**

Subject to contrary or additional information being presented at the Hearing, it is recommended that PC26 be approved with modifications in accordance with revised provisions set out in **Appendix A** to this report.

9.15.26. In terms of the Infrastructure Overlay, the following specific response to submissions are recommended.

- Amend Policy 1.3.1.1 as follows:
  - 1.3.1.1 To achieve the [directions and outcome Objectives and Strategies](#) of the Te Ture Whaimana... (49.2)
- Amend 2A.4.1.3(c) as follows
  - 2A.4.1.3(c) Three [or more](#) dwellings per site within the Infrastructure Constraint Qualifying Matter Overlay (53.5)  
[Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with discretion being will be restricted over to the following matters:](#) (32.17)
    - [Building location, bulk and design; and](#)
    - [Development density; and](#)
    - [Landscaping; and](#)
    - [Location of parking areas and vehicle manoeuvring; and](#)
    - [Crime Prevention Through Environmental Design; and](#)
    - [Traffic generation and connectivity; and](#)
    - [Privacy within and between adjoining sites; and](#)
    - [Noise; and](#)
    - [The outcomes of an infrastructure capacity assessment; and](#)
    - [Stormwater disposal; and](#)
    - [Alignment with any relevant Urban Design Guidelines adopted by Council.](#) (53.5)
- Include the following additional advice note after Rule 15.4.2.25 as follows:
  - [4. The Waikato Stormwater Management Guideline 2020 are applicable.](#) (30.33)

### **Stormwater Constraint Qualifying Matter Overlay**

#### **Evaluation Against s77I & s77J**

9.15.27. The Stormwater Constraint Qualifying Matter Overlay (Stormwater Constraint Overlay) is introduced as part of PC26. Within the Stormwater Constraint Overlay maximum building coverage is restricted to 40% (Rule 2A.4.2.8) as opposed to 50% as provided for by the MDRS. Failure to comply with this rule requires a restricted discretionary activity to be sought.

9.15.28. The Stormwater Constraint Overlay is illustrated on Maps 56 and 57 of PC26 and extends over selected areas throughout Cambridge and Te Awamutu/Kihikihi associated with flooding risk and overland flow paths. It covers areas of the proposed MDRZ.

9.15.29. The following table summarises the qualifying matter evaluation undertaken for the Stormwater Constraint Overlay as a qualifying matter in PC26.

## WAIPĀ DISTRICT PLAN: PROPOSED PLAN CHANGE 26 – RESIDENTIAL ZONE INTENSIFICATION

New Qualifying Matters	S77I - Relevant Considerations	S77J – Relevant Considerations
<b>Stormwater Constraint Qualifying Matter Overlay</b>	<ul style="list-style-type: none"> <li>77I(a) – a matter of national importance that decision makers are required to recognise and provide for under section 6 – s6(h) the management of significant risks from natural hazards.</li> <li>77I(c) – a matter to give effect to Te Ture Whaimana o Te Waikato – the Vision and Strategy for the Waikato River.</li> <li>77I(b) – a matter required in order to give effect to a national policy statement (National Policy Statement on Freshwater Management 2020).</li> </ul>	<ul style="list-style-type: none"> <li>The Section 32 demonstrates the area that is subject to the qualifying matters. <ul style="list-style-type: none"> <li>Maps 56 and 57</li> </ul> </li> <li>The section 32 App. 3, 6, 8, and 9 identifies that the qualifying matter is incompatible with the level of development permitted by the MDRS that area.</li> <li>The section 32 App. 3, 6, 8, and 9 and the updated Residential Capacity Modelling Medium Density Residential Standards and Qualifying Matters report (Appendix C) assess the impact that limiting building coverage in these areas will have on development capacity.</li> <li>The section 32 App. 3, 6, 8, and 9 assess the costs and broader impacts of imposing those limits.</li> <li>The section 32 App. 3, 6, 8, and 9 provides a description of how the modification to the MDRS is limited to only those modifications necessary to accommodate the qualifying matters and, in particular, how the overlay is proposed to apply.</li> </ul>
<b>Qualifying matter tests met</b>	Yes	Yes

9.15.30. Based on this assessment, the Stormwater Constraint Overlay has been correctly identified as a new qualifying matter under s77I (a), (b) and (c) and has been evaluated under s77J. I consider the evaluation in further detail below.

9.15.31. The rule and related provisions associated with the Stormwater Constraint Overlay are outlined in the following table.

	Existing rules	Existing rules carried into PC 26	New rules	Related provisions
<b>Rules</b>	n/a	n/a	Section 2A – Medium Density Residential Zone <ul style="list-style-type: none"> <li>Rule 2A.4.2.8 Rules – Building coverage must not exceed 40% within the Stormwater Constraint Qualifying Matter Overlay</li> </ul> New maps 56 ‘Qualifying Matters – Cambridge’ and 57 ‘Qualifying Matters – Te Awamutu / Kihikihi’	Objective 1.3.5 Implementation of the Waikato River Vision and Strategy  Policy 1.3.5.1 Health and Wellbeing of the Waikato and Waipa Rivers  Objective 15.3.1.3.1 Giving effect to the Waikato River Vision and Strategy  Policy 15.3.13.1 Maintaining the Health and Wellbeing of land and waterbodies

- 9.15.32. The Stormwater Constraint Overlay was shown on maps 56 and 57 that were notified for PC26. The extent of the Stormwater Constraint Overlay was based on a number of information sources as summarised by Mr Chapman (Te Miro Water).
- 9.15.33. Following the preparation of the ‘properties at risk layer’ detailed above, the Council generated the Stormwater Constraint Overlay including a wider range of properties intersected by the 100-year ARI flood depth layer (i.e., the 2018 development with the inclusion of climate change (RCP 6.0 - 2013)). This layer therefore provides a more conservative qualifying matter (s77J(3)(a)(i)). I note that Te Miro Water support this approach.
- 9.15.34. The area identified as the Stormwater Constraint Overlay (process to define extent outlined above) has been found by Te Miro Water to be incompatible with the level of development provided by the MDRS in terms of building coverage of 50% permitted by the MDRS and a limit has been imposed as a lower level of 40%. This level has been assessed by Te Miro Water to be reasonably close to existing development coverage and therefore the current impacts on flooding associated with development will not be increased as a result of PC26 (s77J(3)(a)(ii)).
- 9.15.35. The impact that limiting building coverage would have on the provision of development capacity has been expanded on by Market Economics and in the evidence of Ms Fairgray. The qualifying matter has no effect on plan enabled capacity but does affect the feasibility of development with moderate effect in the short term, but this diminishes in the longer term. Despite this short-term impact there is still a large amount of feasible development opportunity relative to demand (s77J(3)(b)).
- 9.15.36. In summary, the additional development capacity still enabled while giving effect to higher order documents such as Te Ture Whaimana, the NPS on Freshwater Management and ensuring the management of significant risks from natural hazards is more than adequate when balanced with the potential impacts of more intense development taking place in flood hazard areas or areas subject to overland flow paths identified by the Stormwater Constraint Overlay. I consider that the rule is necessary to accommodate the qualifying matter (s77J(3)(c)).
- 9.15.37. The Stormwater Constraint Overlay applies to select areas throughout the MDRZ as introduced by PC26 associated with flooding hazard areas, overland flow paths and considering the implications of climate change as outlined above and shown on Maps 56 (Cambridge) and 57 (Te Awamutu) and notified with PC26 (s77J(4)(b)).
- 9.15.38. The Stormwater Constraint Overlay does not extend onto areas outside of the MDRZ (s77J(5)).

### **Submissions**

- 9.15.39. Six submissions and one further submission<sup>72</sup> have been received regarding the Stormwater Constraint Overlay for PC26.
- 9.15.40. These submissions can be summarised as follows:

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<sup>72</sup> Submitter 37 (Henwood, Margaret Jean); Submitter 46 (Wilkinson, Alan); Submitter 50 (TA Projects); Submitter 53 (Cogswell Survey Ltd); Submitter 72 (Metlifecare Ltd); Submitter 79 (Kāinga Ora); Further Submission 2 (Fonterra Ltd)

- Support for the stormwater constraint overlay.
- Request to delete or amend Rule 2A.4.2.8 to refer to ‘impermeable areas’ rather than ‘building coverage’ in relation to controlling stormwater runoff and that assessment criteria should also only refer to impermeable areas matters, and other matters of discretion should be deleted.
- Insufficient assessment and justification is provided for the stormwater constraint overlay and it should be deleted.
- Requesting that natural hazards be removed as a qualifying matter as the submitter states that natural hazards are addressed by s106 of the RMA and as geotechnical suitability can be investigated and any adverse effects suitably mitigated.
- A request relating to both the stormwater and infrastructure qualifying matters and greenfield sites has been received from TA Projects Limited (Submitter 50) who requested that for unsubdivided and undeveloped MDRZ land that the qualifying matters set aside (stormwater) should be matters that are resolved at the time of subdivision of existing unsubdivided land. The submitter adds that financial contributions are set out in section 18 of PPC26 to achieve this.

9.15.41. The Stormwater Constraint Overlay has been justified as a qualifying matter above in relation to giving effect to Te Ture Whaimana, the NPS for Freshwater Management and in managing the risks of natural hazards as provided for under Section 6 of the RMA.

9.15.42. Reference to building coverage is taken from the MDRS provisions (see rule 2A.4.2.7).

9.15.43. The matters of discretion at rule 2A.4.2.8 are considered relevant to sites within the River Gully Overlay. However it is acknowledged that some confusion may be caused by the combined matters of discretion for both Overlays, it is therefore recommended that the rules and matters of discretion be separated to avoid this confusion.

9.15.44. Impermeable areas are referred to in other rules, building coverage is intended to be referred to in this specific provision (2A.4.2.8)

9.15.45. Council has considered the request from TA Projects and does not agree that the Stormwater Constraint Overlay should be removed from greenfield Medium Density Residential Zoned land as this relates to flooding hazards areas and overland flow paths so remains a valid restriction on all relevant sites.

### **Recommendation**

9.15.46. A matter required to give effect to Te Ture Whaimana, being the Stormwater Constraint Overlay is recommended to be retained as a qualifying matter. Based on the above assessment, I consider that the proposed amendments to the MDRS are necessary to accommodate the qualifying matter.

9.15.47. The following specific changes to PC26 based on matters raised by submissions are recommended:

2A.4.2.7 The maximum building coverage must not exceed 50% of the net site area.

## WAIPĀ DISTRICT PLAN: PROPOSED PLAN CHANGE 26 – RESIDENTIAL ZONE INTENSIFICATION

Activities that fail to comply with this Rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- Building location, bulk and design; and
- On-site amenity; and
- Outlook for adjoining neighbours; and
- Effects on existing trees; and
- Landscaping; and
- The impact on rivers and waterbodies and whether any potential adverse effects from a development can be avoided or mitigated; and
- The impact of the development on indigenous flora and fauna and the ability to avoid, remedy or mitigate any adverse effects on these; and
- An assessment of stormwater disposal and whether this can be accommodated on-site.

These matters will be considered in accordance with the assessment criteria in Section 21. (53.3, 53.4)

2A.4.2.8 On sites located within the Stormwater Qualifying Matter ~~and the River / Gully Proximity Qualifying Matter~~ Overlays, the maximum building coverage must not exceed 40% of the net site area.

Activities that fail to comply with this Rule ~~2A.4.2.7 to 2A.4.2.8~~ will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- ~~Building location, bulk and design; and~~
- ~~On-site amenity; and~~
- ~~Outlook for adjoining neighbours; and~~
- ~~Effects on existing trees; and~~
- ~~Landscaping; and~~
- The impact on rivers and waterbodies and whether any potential adverse effects from a development can be avoided or mitigated; and
- ~~The impact of the development on indigenous flora and fauna and the ability to avoid, remedy or mitigate any adverse effects on these; and~~ (53.3, 53.4)
- An assessment of stormwater disposal and whether this can be accommodated on-site.

These matters will be considered in accordance with the assessment criteria in Section 21.

2A.4.2.8.1 On sites located within the River / Gully Proximity Qualifying Matter Overlay, the maximum building coverage must not exceed 40% of the net site area.

Activities that fail to comply with this Rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- [Building location, bulk and design; and](#)
- [On-site amenity; and](#)
- [Outlook for adjoining neighbours; and](#)
- [Effects on existing trees; and](#)
- [Landscaping; and](#)
- [The impact on rivers and waterbodies and whether any potential adverse effects from a development can be avoided or mitigated; and](#)
- [The impact of the development on indigenous flora and fauna and the ability to avoid, remedy or mitigate any adverse effects on these.](#)

[These matters will be considered in accordance with the assessment criteria in Section 21. \(53.3, 53.4\)](#)

9.15.48. The following specific amendment is recommended based on the evidence of Mr Chapman (Te Miro Water).

- Add the following criteria to assessment criteria 21.1.2A.9:

21.1.2A.9 Building coverage

[\(h\) Building location, bulk and design; that addresses impacts of infill development and runoff from building footprint and impervious services on flood risk within the site and outside the site.](#)

[\(i\) Stormwater disposal to treat water quality. \(53.3, 53.4\)](#)

### **River / Gully Proximity Qualifying Matter Overlay**

Evaluation **against** s77I & s77J

9.15.49. PC26 has introduced a new qualifying matter to preserve the natural character of rivers and their margins, and to enable public access to and along rivers. This is proposed to be achieved via a River / Gully Proximity Qualifying Matter Overlay (River / Gully Overlay) illustrated on Maps 56 and 57. The overlay traverses through the centre of relevant residential areas in both Cambridge and Te Awamutu covering a 120m corridor associated with the Waikato River, Karāpiro Stream, Mangaipiko Stream, and Mangaohoi Stream that pass through these towns.

9.15.50. The River / Gully Overlay introduces a building coverage limit of 40% within the overlay (Rule 2A.4.2.8). If building coverage exceeds 40% within the River / Gully Overlay the activity becomes a restricted discretionary activity with discretion restricted to building location, bulk and design; on-site amenity; outlook for adjoining neighbours; effects on existing trees; landscaping; the impact on rivers and waterbodies and whether any potential adverse effects from a development can be avoided or mitigated; and the impact of the development on indigenous flora and fauna and the ability to avoid, remedy or mitigate any adverse effects on these.

9.15.51. The following table summarises the qualifying matter evaluation undertaken for the the River / Gully Overlay as a new qualifying matter introduced by PC26.

**Response to Submissions** (excluding Financial Contribution and Inclusionary Zoning submissions)

## **Plan Change 26: Residential Intensification**

### **By Topic**

March 2023

Sub point	Position	Topic	Provisions	Submission Summary	Decision Requested	Further Submissions	Response
47.22	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.37	Supports the exclusion of use or testing of station and vehicle sirens or alarms used by emergency services from the noise limits in the MDRZ.	Retain 2A.4.2.37 as notified.		<b>Support noted</b>
47.23	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.53	Supports the exemption of emergency vehicles from this rule.	Retain 2A.4.2.53 as notified.		<b>Support noted</b>
49.15	Amend	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.1.1(b)	Waikato-Tainui consider an infrastructure assessment should be required regardless of whether or not the site is within a constraint overlay or not where it is proposed to establish more than two dwellings on a site. This will better implement and achieve Te Ture Whaimana. PC26 does not outline what assessment criteria is required under an infrastructure capacity assessment.	Amend proposed Section 2A to require an infrastructure capacity assessment for all activities of more than two dwellings on a site. And any consequential amendments or alternative relief to give effect to the matters raised in the submission.		That the point of submission is <b>accepted in part</b>  An Infrastructure Capacity Assessment for 3 or more dwellings in the Infrastructure Constraint qualifying matter is required by 2A.4.1.3(c). Less than three dwelling (i.e. 1 or 2) does not require an ICA as the overlay is proposed to be retained.
63.7	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.40 - 2A.4.2.41	Supports the inclusion of noise insulation provisions within the MDRS. This will ensure that undue restrictions are not placed on the operation of the state highway network and the health and wellbeing of nearby residents is protected.	Retain Rules-Noise Insulation: noise sensitive activities (2A.4.2.40 - 2A.4.2.41) as notified.	FS8 - oppose	<b>Support noted</b>
65.9	Amend	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.9 (b)	The different coverage for the Cambridge North Structure Plan Area is included as part of this rule, but then the St Kilda Structure Plan Area is excluded without stating what the rule for impervious surfaces there is, or being directly followed by the equivalent rule. It also appears that Council forgot to include within the Medium Density Zone section any controls for impermeable surfaces for the St Kilda Structure Plan Area.	Amend as follows:  Rule 2A.4.2.9 Impermeable surfaces must not exceed: (a) 45% of the net site area in the Cambridge North Structure Plan Area; or (b) % of the net site area in the St Kilda Structure Plan Area; or (bc) 60% of the net site area in the remainder of the Zone (% to be entered in (b) for the impermeable surfaces control that Council intended to be within the District Plan following PC26).		That the point of submission is <b>accepted</b>  See response to submission point 32.12
65.10	Oppose	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.22	There isn't a clear RMA purpose of Rule 2A.4.2.22. Providing roof pitches of these angles doesn't necessarily equate to quality urban design outcomes. Suggest remove.	Delete in full: Rule 2A.4.2.22 <del>A residential dwelling of 2 or more stories shall have a minimum roof pitch of:</del> <del>(a) 30 degrees in any character area or compact housing area overlay</del> <del>(b) 15 degrees in all other parts of the zone</del>		That the point of submission is <b>accepted in part</b>  Reference to the compact housing overlay was retained in error. Pitch of roof restricted in character cluster areas retained. Roof pitch provisions should also remain across the remainder of the zone as these form part of the district's broader urban character.
65.12	Oppose	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.62	There isn't a clear RMA purpose of Rule 2A.4.2.62. Surely the aesthetic and weatherproof finish of relocated structures is more appropriately covered by the Building Act / Building Code / Building consent process.	Delete in full Rule 2A.4.2.62 <del>A relocated building over 40m<sup>2</sup> GFA shall meet the following requirements:</del> ---		That the point of submission is <b>rejected</b>  The Plan includes policies to support the exterior of relocated building been to a standard that does not detract from residential amenity. This rule supports the implementation of this policy.
67.1	Amend	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.21	It is considered that this is an excessive requirement, that will result in inefficient outcomes with regards to thermal loss. In particular, this blanket approach doesn't account for orientation of the façade, and whether the loss from such a large area of glazing can be balanced with solar gains from sunlight access.	Amend 2A.4.2.21:  2A.4.2.21 Any residential dwelling facing the street: (a) On a northern orientation must have a minimum of 2015% of the street-facing façade in glazing, and (b) On a southern orientation must have a minimum of 8% of the street-facing façade in glazing. This can be in the form of windows or doors. Orientation of façade shall be determined using the methodology in Appendix O6.		That the point of submission is <b>rejected</b>  This provision is a requirement of the MDRS.
67.2	Amend	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.31	It is considered that this is an excessive requirement, that will result in inefficient outcomes with regards to thermal loss. In particular, this blanket approach doesn't account for orientation of the façade, and whether the loss from such a large area of glazing can be balanced with solar gains from sunlight access.	Amend 2A.4.2.31:  2A.4.2.31 The minimum area of glazing on the front façade(s) of a building that adjoins a reserve shall be 15% for the façade facing a northern orientation, and 8% for		That the point of submission is <b>rejected</b>  This requirement aligns with Councils direction to have active facades facing reserves.

Sub point	Position	Topic	Provisions	Submission Summary	Decision Requested	Further Submissions	Response
73.97	Support in Part	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.7 and 2A.4.2.8	Seeks the removal of Rule 2A.4.2.8 as it does not align with clause 14 of the MDRS and building coverage is not directly relevant to the stormwater qualifying matter (the impermeable surface standard should be used instead).	Seeks that Rule 2A.4.2.8 is deleted as follows:  2A.4.2.7 The maximum building coverage must not exceed 50% of the net site area. <del>2A.4.2.8 On sites located within the Stormwater Qualifying Matter and the River / Gully Proximity Qualifying Matter Overlays, the maximum building coverage must not exceed 40% of the net site area.</del>		That the point of submission is <b>rejected</b>  Retain River/Gully Proximity Qualifying Matter. This links to s6matters – preservation of natural character (s6a), protection of areas of significant vegetation (s6c) and s6e as well as NPS FM and Te Ture Whaimana
73.99	Oppose in Part	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.9	Opposes Rule 2A.4.2.9 (Impermeable surfaces standards) as a 60% impermeable surface standard is likely to bar the practical achievement of the 50% building coverage standard. the submitter considers the impermeable surface standard is a better tool to regulate the stormwater qualifying matter, except that it should provide for technical solutions (such as retention and detention).	Seeks that Rule 2A.4.2.9 is amended to provide a 70% impervious surface standard.		That the point of submission is <b>rejected</b>  The pipe capacity (10 year + RCP 6) and flood hazard modelling (100 year +RCP 6) provides the basis for the qualifying overlays.  An infrastructure assessment will inform technical solutions.
73.106	Oppose	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.22	The submitter opposes Rule 2A.4.2.22 (roof pitch standard) as the MDRS do not include this standard.	Delete Rule 2A.4.2.22.		<b>Support amendment in part</b>  Reference to the compact housing overlay was retained in error. Pitch of roof restricted in character cluster areas retained. Roof pitch provisions should also remain across the reminder of the zone as these form part of the district's broader urban character.
73.109	Oppose	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.31 - 2A.4.2.36	Rules 2A.4.2.31 – 2A.4.2.35 do not align with the MDRS provisions.	Delete Rules 2A.4.2.31 – 2A.4.2.36.		That the point of submission is <b>rejected</b>  These rules support the Qualifying Matters to preserve the natural character of rivers and their margins, open space for public use, maintenance and enhancement of public access to and along rivers.  Critical rules to support good urban design and open space network outcomes.
76.3	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.1	Supports the Building Height Rule 2A.4.2.1.	Supports Building Height Rule 2A.4.2.1.	FS7 – support in part	<b>Support noted</b>
76.4	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.2.4.2	Supports Height in Relation to Boundary Rule 2A.2.4.2.	Supports Height in Relation to Boundary Rule 2A.2.4.2.		<b>Support noted</b>
76.5	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.4	Supports Setbacks Rule 2A.4.2.4.	Supports Setbacks Rule 2A.4.2.4.		<b>Support noted</b>
76.6	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.7 and 2A.4.2.8	Supports Building Coverage Rule 2A.4.2.7 and 2A.4.2.8.	Supports Building Coverage Rule 2A.4.2.7 and 2A.4.2.8.		<b>Support noted</b>
76.7	Support	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.9	Supports Impermeable Surface Rule 2A.4.2.9.	Supports Impermeable Surface Rule 2A.4.2.9.		<b>Support noted</b>
79.89	Oppose	Section 2A - Medium Density Residential Zone - Performance Standards	2.4.2.51	Opposes any rules that differentiate relocated buildings from dwellings or residential activities. The matters within rule 2.4.2.51 can be addressed through the building consent process.	Delete Rule 2.4.2.51 Relocated buildings in its entirety.		That the point of submission is <b>rejected</b>  This rule is in the Residential Zone and is largely unchanged by PC26. Objectives and Policies in the ODP and in PC26 support controls on relocated buildings.

Sub point	Position	Topic	Provisions	Submission Summary	Decision Requested	Further Submissions	Response
					Activities that fail to comply with this rule will require a resource consent for a <u>restricted discretionary activity, with the discretion being restricted over: Design and layout of the proposal in relation to the adjoining water body.</u> These matters will be considered in accordance with the <u>assessment criteria in Section 21.</u>		
79.252	Support in Part	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.39	Support the standards as notified, and the need to ensure that activities within the zone do not generate excessive levels of noise that would compromise residential amenity.	Include Rule-Construction noise 2A.4.2.39 as notified.		<b>Support noted</b>
79.253	Support in Part	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.46	The threshold for earthworks does not enable the anticipated level of development on sites within the medium density residential zone. Kāinga Ora request that the earthworks rules are amended to enable up to three dwellings on a site without requiring consent for earthworks. Provision should also be made for activities that exceed the earthworks threshold being considered as a Restricted Discretionary Activity.	Amend Rule -Earthworks 2A.4.2.46 to enable a level of earthworks to facilitate up to three dwellings per site, supported by an additional note advising that sediment control guidelines should be adhered to.		That the point of submission is <b>accepted in part</b>  The earthworks limits should be increased to account for additional development potential as a permitted activity. The limits are recommended to be tripled.
79.254	Oppose in Part	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.46	The threshold for earthworks does not enable the anticipated level of development on sites within the medium density residential zone. Kāinga Ora request that the earthworks rules are amended to enable up to three dwellings on a site without requiring consent for earthworks. Provision should also be made for activities that exceed the earthworks threshold being considered as a Restricted Discretionary Activity.	Amend Rules - Earthworks 2A.4.2.46 as follows:  2A.4.2.46 Earthworks shall not exceed a total volume of 250m³ or a total area of 21000m² in a single activity or in cumulative activities in any calendar year, provided that this rule shall not apply to earthworks incidental to an approved resource consent or building consent. Advice Notes: 1. ... ... 5. <u>Earthworks should adhere to TR 2009/02 Erosion and sediment control: guidelines for soil disturbing activities, Waikato Regional Council.</u>		That the point of submission is <b>accepted in part</b>  The earthworks provisions have not been altered as a part of PC26. It is noted that these rules only apply to earthworks not associated with a building or land use consent so would not apply to any development of buildings in the MDRZ. The Additional advice note is supported.  Add advice note to Rule - Earthworks 2A.4.2.46 as follows:  Advice Notes: 1. ... ... 5. <u>Earthworks should adhere to TR 2009/02 Erosion and sediment control: guidelines for soil disturbing activities, Waikato Regional Council.</u>
79.256	Oppose	Section 2A - Medium Density Residential Zone - Performance Standards	2A.4.2.62; various	Opposes standards for relocated buildings. The standard seeks to manage matters that are more appropriately addressed through the Building Act and are not valid resource management issues. This is neither efficient nor effective as there is the potential for resource consents to be triggered on the basis of Building Act matters that do not directly address specific 'environmental' effects. Any building relocating on a site would be a new building and subject to the various activities and standards within the zone.	Delete the 'relocated buildings' provisions as they are more-appropriately managed through the Building Act.		That the point of submission is <b>rejected</b>  The Plan includes policies to support the exterior of relocated building been to a standard that does not detract from residential amenity. This rule supports the implementation of this policy.
47.20	Support in Part	Section 2A - Medium Density Residential Zone - Performance Standards – Setback Modifications	2A.4.2.6	Supports the matters of discretion listed in 2A.4.2.6.	Fire and Emergency support the matters of discretion listed in 2A.4.2.6		<b>Support noted</b>
47.21	Support in Part	Section 2A - Medium Density Residential Zone - Performance Standards – Setback Modifications	2A.4.2.10	Firefighting access requirements are managed through the NZBC, however it important that these controls are brought to the attention of plan users (i.e. developers) in the resource consent process so that they can incorporate the NZBC requirements early on in their building design.	Add advice note to 2A.4.2.10: <u>Advice note: Site layout requirements are further controlled by the Building Code. This includes the provision for firefighter access to buildings and egress from buildings. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered/granted.</u>	FS8 – support in part	That the point of submission is <b>rejected</b>  The advice note from FENZ is not required, risk of missing provisions.

Sub point	Position	Topic	Provisions	Submission Summary	Decision Requested	Further Submissions	Response
				considered that subsequent policy 2A.3.8.3 provides Council the ability to assess whether any future emergency service facility is of a scale and design suitable for the Medium Density Residential Zone.	identified local need. Examples include education facilities, childcare and preschool facilities, <u>emergency service facilities</u> , places of worship, facilities that provide respite care, community centres, marae and hospitals. New activities shall not be established on rear sites, and sites located on cul-de-sacs, or that have access to strategic roads unless provided for in a structure plan.		
56.9	Support	Section 2A Medium Density Zone - Objectives and Policies	2A.3.4.10, 2.3.2.11	Fonterra supports the deletion of Policy 2.3.2.11 provided that an identical policy (with the ODP wording) is included within the new Residential Medium Density Zone provisions proposed as Section 2A.	Delete Policy 2.3.2.11 from Section 2 Residential Zone as notified; and Retain new Policy 2A.3.4.10 in Section 2A Medium Density Residential Zone.		That the point of submission is <b>accepted</b>  Support for deletion and insertion noted
56.10	Support in Part	Section 2A Medium Density Zone - Objectives and Policies	Section 2A	Supports the insertion of Section 2A Medium Density Residential Zone to the extent that it gives effect to the RMA-EHS and NPS-UD, insofar as it relates to residential zoned land in the vicinity of the Fonterra sites at Hautapu and Te Awamutu.	Supports the insertion of Section 2A Medium Density Residential Zone to the extent that it gives effect to the RMA-EHS and NPS-UD, insofar as it relates to residential zoned land in the vicinity of the Fonterra sites at Hautapu and Te Awamutu .		<b>Support noted</b>
63.11	Support	Section 2A Medium Density Zone - Objectives and Policies	2A.3.4.9	Waka Kotahi supports policy 2A.3.4.9 as it ensures that noise sensitivity adjacent strategic roads will be acoustically treated. This will ensure the function and operation of the transport network is not compromised by adverse effects, including reverse sensitivity effects.	Retain Policy 2A.3.4.9 as notified.	FS8 - oppose	<b>Support noted</b>
65.1	Oppose	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.3.4(b)	Mimicry of heritage structures isn't always the most appropriate response for new structures/additions. It can dilute the integrity of the heritage character values of the heritage feature. Suggest amending to allow a diverse range of styles.	Seeks that 2A.3.3.4(b) be deleted:  Policy 2A.3.3.4 To maintain and enhance the identified character of each character cluster by: b) For new buildings or relocated buildings maintaining a similar style, form, building materials and colour to other dwellings within the cluster; and		That the point of submission is <b>rejected</b>  The Plan includes policies to support the exterior of relocated building been to a standard that does not detract from residential amenity. This rule supports the implementation of this policy.
65.2	Oppose	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.3.4(c)	It is not clear what this policy is trying to achieve, to relocate a building would need to go through a building consent sign off and as such they would need to be up to a certain standard.	Seeks that 2A.3.3.4(c) be deleted:  Policy 2A.3.3.4 To maintain and enhance the identified character of each character cluster by: ... c) For relocated buildings ensuring that any maintenance and/or reinstatement work is undertaken; and		That the point of submission is <b>rejected</b>  The Plan includes policies to support the exterior of relocated building been to a standard that does not detract from residential amenity. This rule supports the implementation of this policy.
65.3	Amend	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4	This objective use of word "maintain" doesn't appear right. The existing residential character and amenity will be changing as a result of this zone change and how do you enhance safety? The policies which follow this objective are in relation to amenity and there is nothing round 'safety'.	Amend Objective 2A.3.4:  Objective 2A.3.4 To establish cohesive and liveable environments within <del>maintain amenity values and enhance safety in the</del> Medium Density Residential Zone.		That the point of submission is <b>accepted in part</b>  The maintenance of amenity values in the MDRZ is accepted as subject to change. This has been addressed throughout section 2A. Safety can be enhanced through consideration of CPTED.  Recommend amending Objective 2A.3.4 as follows: To <del>maintain</del> <b>recognise</b> amenity values—and enhance safety in the Medium Density Residential Zone.

Sub point	Position	Topic	Provisions	Submission Summary	Decision Requested	Further Submissions	Response
				Enabling Housing Supply Act, to the extent consistent with the overall Kāinga Ora submission.			qualifying matter such as Nationally Significant Infrastructure (State Highway Network) applies.
79.183	Oppose in part	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4.3	Generally supports the intent of Policy 2A.3.4.3, with the exception of the 'perimeter block' reference which is just one of a range of dwelling typologies possible. The policy can be simplified to reference separation between 'detached' buildings. The advice note is inconsistent with the 'boundary activity' and 'deemed permitted' activities under the RMA. The note also pre-empts an assessment of effects and will depend on the specifics of the development.	Amend Policy 2A.3.4.3 Building Setback: side boundaries as follows:  2A.3.4.3 To maintain a degree of separation between <del>detached</del> buildings when viewed from the road <del>(except where perimeter block development is proposed)</del> , provide opportunities for planting where possible, provide a degree of privacy, maintain a reasonable level of sunlight and daylight, provide ongoing access to the rear of the site and enable building maintenance from within the site by maintaining a consistent setback between buildings on different sites. Advice Note: In some cases affected parties consents will not be sufficient to address the matters raised in these policies.		That the point of submission is <b>accepted in part</b>  The addition of the word 'detached' would exclude attached buildings so this is not supported. The wording except where perimeter block development is proposed is also agreed to not make sense. The amendments to sunlight and advice note are not supported as these change the intent of the policy.  Amend Policy 2A.3.4.3 as follows: <i>Policies - Building setback: side boundaries</i> 2A.3.4.3 To maintain a degree of separation between buildings when viewed from the road <del>(except where perimeter block development is proposed)</del> , (79.183) provide opportunities for planting where possible, provide a degree of privacy, maintain sunlight and daylight, provide ongoing access to the rear of the site and enable building maintenance from within the site by maintaining a consistent setback between buildings on different sites.  Advice Note: In some cases affected parties consents will not be sufficient to address the matters raised in these policies.
79.184	Support in part	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4.4	Generally supports Policy 2A.3.4.4 to the extent consistent with the overall Kāinga Ora submission.	Include Policy 2A.3.4.4 Height of buildings as notified, to the extent it is consistent with the overall Kāinga Ora submission and relief sought.		<b>Support noted</b>
79.185	Support in part	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4.5	Generally supports Policy 2A.3.4.5 to the extent consistent with the overall Kāinga Ora submission.	Include Policy 2A.3.4.5 Site coverage and permeable surfaces as notified, to the extent it is consistent with the overall Kāinga Ora submission and relief sought.		<b>Support noted</b>
79.186	Support in part	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4.6	Generally supports Policy 2A.3.4.6 to the extent consistent with the overall Kāinga Ora submission.	Include Policy 2A.3.4.6 as notified, to the extent it is consistent with the overall Kāinga Ora submission and relief sought.		<b>Support noted</b>
79.187	Oppose	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4.7	Opposes the provisions associated with relocated buildings as the requirements can be addressed under the Building Act. The proposed approach does not encourage the adaptive reuse of existing buildings or account for off-site manufactured buildings.	Delete Policy-Relocated Buildings 2A.3.4.7		That the point of submission is <b>rejected</b>  The ODP includes controls on relocated buildings which have been carried through to the MDRZ.
79.188	Oppose	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4.8	Amendments are proposed, consistent with the Kāinga Ora submission on 2A.2.4, to ensure the policy does not conflict with objectives and policies in the MDRZ that otherwise reflect that the NPS-UD and MDRS anticipates effects of development as a result of change in density and urban form are enabled.	Amend Policy 2A.3.4.8 as follows:  Policy - <del>Maintaining low</del> <del>a</del> Ambient noise environment 2A.3.4.8 To ensure that noise emissions and vibration from all activities, including construction, are consistent with the <del>low</del> ambient noise environment anticipated in the Medium Density Residential Zone.		That the point of submission is <b>rejected</b>  The MDRZ is still anticipated to have a low ambient noise environment.
79.189	Oppose in part	Section 2A Medium Density Residential Zone - Objectives and Policies	2A.3.4.10	It is simpler to require new buildings to be acoustically treated. Requiring treatment for bedroom additions does not acknowledge existing uses.	Amend Policy 2A.3.4.10 as follows:  Policy- Residential development in the vicinity of the Te Awamutu Dairy Manufacturing site 2A.3.4.10 To maintain anticipated levels of residential amenity and to reduce the potential for reverse sensitivity	FS2 - oppose	That the point of submission is <b>rejected</b>  Although it is agreed that it would be easier to just require new buildings to be acoustically treated, however, bedroom spaces are more susceptible to noise, especially night-time noise so this provision is considered to be logical and should remain.

Sub point	Position	Topic	Provisions	Submission Summary	Decision Requested	Further Submissions	Response
73.50	Oppose	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.1 2	Opposes the description of on-site amenity values as it does not recognise that retirement villages provide on-site amenity through a range of communal areas or that retirement village operators are best placed to understand the amenity needs of their residents.	Delete Section 2A.2.12		That the point of submission is <b>rejected</b>  This issue relates to all development in the MDRZ not just retirement villages and is appropriate to consider in the context of on-site amenity and the positioning of buildings.
79.132	Oppose	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.2	Opposes the assumption that new developments and subdivisions result in poor amenity outcomes by virtue of the act they are new. The issue statement should be amended to relate to the methods employed to address the stated issues, and ensure it does not conflict with MDRZ and reflect that the NPS-UD and MDRS anticipates effects of development as a result of change in density and urban form and enabled.	Amend 2A.2.2 Residential Amenity as follows:  2A.2.2 The density, design and layout of new developments and subdivision <u>need to be managed to ensure they do not can</u> result in poor amenity outcomes for that development and neighbouring properties.		That the point of submission is <b>rejected</b>  The use of the word 'can' does not assume that new developments 'do' result in poor amenity outcomes.
73.134	Oppose	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.3	Opposes reference to character clusters in 2A.2.3.	Delete 2A.2.3 as notified.		That the point of submission is <b>rejected</b>  The justification for and extent of the qualifying matter has been reviewed by technical experts and changes are recommended to the extent of the character clusters, however they are recommended to be retained.
79.135	Oppose	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.4	Opposes the assumption that new developments and subdivisions result in poor amenity outcomes by virtue of the act they are new. The issue statement should be amended to relate to the methods employed to address the stated issues, and ensure it does not conflict with MDRZ and reflect that the NPS-UD and MDRS anticipates effects of development as a result of change in density and urban form and enabled.	Amend 2A.2.4 as follows: Developments and subdivisions <u>need to manage potential can have</u> adverse visual and functional effects <u>on the amenity of the Medium Density Residential Zone.</u> <del>The amenity values of to ensure the Medium Density Residential Zone includes provides:</del> (a) <del>A low</del> An ambient noise environment <u>consistent with the planned medium density urban built form outcomes of the zone;</u> and (b) Neighbourhoods that are well maintained, safe, and are free from <u>non-residential activities developments</u> and associated signs that can result in adverse visual and nuisance effects; (c) Vibrant and active communities that have a mix of demographics and housing types.		That the point of submission is <b>rejected</b>  The use of the word 'can' does not assume that new developments 'do' result in poor amenity outcomes. Other proposed amendments do not add to the description of the amenity values of the MDRZ.
79.138	Support in part	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.5	Generally supports 2A.2.5 to the extent that it is consistent with the overall Kāinga Ora submission.	Include 2A.2.5 as notified, to the extent it is consistent with the overall Kāinga Ora submission and relief sought.		<b>Support noted</b>
79.139	Oppose	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.6	Relocated buildings can locate within urban environments where they meet the development and performance standards. They do not have any inherent qualities that make them unsuitable for urban environments. The Building Act manages relocated buildings.	Delete 2A.2.5 and associated provisions relating to relocated buildings in their entirety.		That the point of submission is <b>rejected</b>  The ODP includes controls on relocated buildings which have been carried through to the MDRZ.
79.141	Oppose	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.8	Noise levels within the MDRZ would comply with noise standards anticipated within any residential activity. This issue is already stated under 2A.2.4. Privacy effects are a separate 'amenity' issue and can be adequately managed through design as per 2A.2.2	Delete 2A.2.8 as the issues are already identified in other provisions.		That the point of submission is <b>rejected</b>  The issue outlined in 2A.2.8 is much more specific than that mentioned in 2A.2.4.
79.145	Support in part	Section 2A Medium Density Residential Zone - Resource Management Issues	2A.2.1 1	While Kāinga Ora supports the issue, it reads as a statement rather than a resource management 'issue' to be addressed.	Amend 2A.2.11 Neighbourhood Safety as follows: Inappropriate building design, fence design, and site layout <u>has the potential to reduce opportunities affects the opportunity</u> for passive surveillance from dwellings to roads and other public places and as a consequence adversely affect community safety.		That the point of submission is <b>accepted in part</b>  Following amendment recommended: 2A.2.11 Inappropriate building design, fence design, and site layout <u>can affects</u> the opportunity for passive surveillance from dwellings to roads and other public places and as a consequence adversely affect community safety.

Sub Point	Position	Topic	Provisions	Submission Summary	Decision Requested	Further Submissions	Response
49.7	Amend	Section 21 - Assessment Criteria and Information Requirements	2A.4.1; 2A.4.1.3	Waikato-Tainui consider that the increase in overall development across Cambridge, Te Awamutu, and Kihikihi will be significant which will have an adverse impact on the whenua and awa, therefore it may potentially have an impact on achieving the objectives of Te Ture Whaimana. This relief ensures that consented activities in Cambridge, Te Awamutu, and Kihikihi implement and give effect to the JMA, Te Ture Whaimana and engaging mana whenua, it is important that any proposals include in the AEE any recommendations by mana whenua. The scale of development across the district will likely have an impact on mana whenua values. Further provision is required to ensure the development within the district does not affect the Council's ability to provide for the health and wellbeing of the awa and to provide for betterment. Tai Tumu, Tai Pari, Tai Ao outlines a clear consultation and engagement process that is under-utilised by applicants/developers.	Amend proposed Section 2A as follows: Add a new standard to the General Standards for all residential rules as follows: <u>Applications for activities that are required under Rule 2A.4.1.1(b) or (c) and Rule 2A.4.1.3 (b) or (c) must provide in the assessment of environmental effects for the proposal, identification of any measures to avoid, remedy or mitigate adverse effects recommended by representatives of Mana Whenua in any engagement carried out for the proposal by the applicant in accordance with consultation and engagement processes identified by mana whenua, Chapter 6 of Tai Tumu, Tai Pari, Tai Ao – Waikato-Tainui Environmental Management Plan or any other iwi management plan.</u>  And any consequential amendments or alternative relief to give effect to the matters raised in the submission.	FS8 - oppose	That the point of submission is <b>rejected</b>  This request is acknowledged, and I note that the Joint Management Agreement provides an appropriate forum to engage on matters as appropriate.
49.9	Amend	Section 21 - Assessment Criteria and Information Requirements	2A.4.2	This relief better reflects the standing and status of iwi plans. This relief makes it clear that in the context of implementing these rules, that the iwi plans are a matter for consideration, both in regards to the effects of a proposal and in regards to Section 104(1)(a) and 104(1)(c) of the RMA.	Insert the following wording into the relevant section to read: <u>Applications for activities that are required under Rule 2A.4.1.1(b) or (c) and Rule 2A.4.1.3(b) or (c) must provide in the assessment of environmental effects for the proposal an assessment of any Iwi Management Plans.</u>  And any consequential amendments or alternative relief to give effect to the matters raised in the submission.	FS8 - oppose	That the point of submission is <b>rejected</b>  In relation to rule 2A.4.1.3(b) iwi management plans should be assessed in all relevant applications, not just in relation to this rule. It would be incomplete to mention this just in this matter of discretion. Reference to iwi management plans is better described generally (as they are) in section 1.1.31/32 and 33.  Rules 2A.4.1.1 (b) and (c) are permitted activity rules so matters of discretion do not apply.  Matters of discretion for rule 2A.4.1.3 (c) have been restricted to matters relating to infrastructure assessment.
79.13	Amend	Section 21 - Assessment Criteria and Information Requirements	Section 21	Amendments are sought to ensure consistency across the Kāinga Ora submission, particularly in relation to: acknowledging that the amenity of urban environments will change (as-per Policy 6(B) of the NPS-UD), the revised assessment criteria for four or more dwellings in the MDRZ and 7 or more dwellings in the proposed HDRZ, and the removal of criteria associated with activities that are sought to be deleted.	Amendments are sought to ensure consistency across the Kāinga Ora submission, particularly in relation to: acknowledging that the amenity of urban environments will change (as-per Policy 6(B) of the NPS-UD), the revised assessment criteria for four or more dwellings in the MDRZ and 7 or more dwellings in the proposed HDRZ, and the removal of criteria associated with activities that are sought to be deleted.		<b>Submission point noted</b>  This is a general submission point and does not request specific relief. Where appropriate, specific submission points have been addressed in the relevant sections of this submission summary document.
79.308	Oppose	Section 21 - Assessment Criteria and Information Requirements	21.1.2A.2	Opposes (other than being a permitted activity) standards for relocated buildings. The standard seeks to manage matters that are more-appropriately addressed through the Building Act and are not valid resource management issues. This is neither efficient nor effective as there is the potential for resource consents to be triggered on the basis of Building Act matters that do not directly address specific 'environmental' effects. Any building relocating on a site would be a new building and subject to the various activities and standards within the zone.	Delete the 'relocated buildings' provision in 21.1.2A.2.		That the point of submission is <b>rejected</b>  The Plan includes policies to support the exterior of relocated building been to a standard that does not detract from residential amenity. This rule supports the implementation of this policy.
79.312	Oppose	Section 21 - Assessment Criteria and Information Requirements	21.1.2A.4	Relocated buildings are more appropriately managed through the Building Act.	Delete the 'relocated buildings' provisions in 21.1.2A.4.		That the point of submission is <b>rejected</b>  The Plan includes policies to support the exterior of relocated building been to a standard that does not detract from residential amenity. This rule supports the implementation of this policy.
79.313	Oppose in part	Section 21 - Assessment Criteria and Information Requirements	21.1.2A.5	Consistent with the overall Kāinga Ora submission, Kāinga Ora seeks consequential amendments to the criteria to reflect the relief sought in relation to: •Enabling up to three dwellings per site and papakāinga development; •Deletion on the infrastructure constraint and stormwater	Amend the activity described in 21.1.2A.5, delete the criteria in 21.1.2A.5 (a)-(t) and replace with the criteria (a) - (e) as shown below to be consistent with the overall Kāinga Ora submission and relief sought:		That the point of submission is <b>rejected</b>  The corresponding requests have not been supported as papakāinga development is

# RMA HEARINGS PANEL REPORT



**To:** Independent Hearings Panel

**From:** Damien McGahan, Principal Aurecon and Melissa Needham, Manager,  
Aurecon on behalf of the Waipa District Council

**Subject:** **Addendum to Section 42A Hearing Report on Proposed Plan Change 26**

**Hearing Date:** 26 April to 3 May 2023

4.5.13. Council agrees that there are some problems with the average lot size and lot frontage requirements and agrees the choice of the circle or a rectangle for meeting lot shape requirements would be helpful for narrower shaped lots.

4.5.14. The following amendments are offered in response to Kāinga Ora's request.

- Average Net Lot Area removed for the MDRZ
- Lot frontage requirements reduced from 20m to 10m in the MDRZ
- Lot shape factor in the MDRZ amended as follows:
  - 13m diameter circle or 8m by 15m rectangle
  - 16m diameter circle or 8m by 15m rectangle

#### **Relocated buildings**

4.5.15. Mr Campbell has requested the removal of provisions relating to relocated buildings. These provisions were not proposed to be removed in the section 42A report as the background of why these provisions were originally put into the Plan was still being determined. They were not directly commented on in the section 42A report but were addressed in individual responses to submission points in Appendix B of the section 42A report (see submission point 79.139). The Council has now confirmed that the original reason that these provisions were inserted in the Plan was because there were multiple problems with the condition of relocated buildings in the District. The Council and I now agree the Building Act and Building Code has suitable requirements to address these concerns. For this reason, the Council and I now supports the removal of the relocated building provisions from PC26.

- Relocated building provisions deleted in PC26.

#### **4.6. KIWIRAIL HOLDINGS LTD**

4.6.1. Ms Heppelthwaite, supported by evidence from Michael Brown and Stephen Chiles has requested on behalf of KiwiRail a 5-metre setback to the rail corridor as a qualifying matter, amended noise controls to extend to 100 metres and new vibration controls within 60 metres of the rail corridor as outlined in section 9.14.29 of the s42A report.

4.6.2. In response to this request, I have considered the existing controls in the Plan that apply to the rail corridor and the extent of the properties that will be impacted by this proposed change.

4.6.3. The existing controls on the rail corridor in the Plan include:

- The designation of the corridor (D1)
- Policy's 2.3.2.9 and 2A.3.4.9 **Noise sensitive activities located adjacent to railways and strategic roads**
- Rule's 2.4.2.29 and 2A.4.2.40 which follow:

##### **Rules - Noise insulation: noise sensitive activities**

**2.4.2.29/2A.4.2.40** Where a noise sensitive activity or is proposed to be located within 40m of a railway track, the building shall be insulated so that it achieves the following noise levels:

# RMA HEARINGS PANEL REPORT



**To:** Independent Hearings Panel

**From:** Damien McGahan, Principal, Aurecon on behalf of the Waipā District Council

**Subject:** **Section 42A Hearing Report on Proposed Plan Change 26 – Financial Contributions / National Policy Statement for Indigenous Biodiversity**

**Meeting Date:** 20 September to 22 September 2023 (to be confirmed)

## 10.5. NEW RESIDENTIAL AMENITY FINANCIAL CONTRIBUTION

### Introduction

- 10.5.1. The residential amenity financial contribution seeks to avoid, remedy, mitigate, offset or compensate adverse effects on urban amenity. As outlined in the purpose statement for the contribution (18.2.3 (iv and (v)) these include but are not limited effects associated with parks, reserves and open space network enhancement and improvement and streetscape amenity improvements.
- 10.5.2. The financial contribution may be monetary, a contribution of land or a combination of both.
- 10.5.3. The notified quantum of the financial contribution was:
- A fixed financial contribution of \$400 for each additional bedroom at the site created by the development (Rule 18.5.2.3).
  - Greenfield development will be required to pay 80% of the above rate (Rule 18.5.2.4).
- 10.5.4. The collection of the residential amenity financial contribution is for the following costs (18.5.1.4(a)(i) and (ii)):
- (i) Where public open spaces can be improved, the cost of land acquisition and development; and
  - (ii) Where streetscape amenity can be enhanced, the cost of that enhancement.

### Submissions

- 10.5.5. Five submitters have raised concerns with the residential amenity financial contribution as follows:
- Ryman Healthcare Limited (70) and Retirement Village Association of New Zealand (73) have raised the same submission points regarding the residential amenity financial contribution. The submitters' state that the financial contribution that will be required is not clearly set out as the residential amenity financial contribution does not recognise the amenity that residential intensification can provide. The submitters have requested:
    - More certainty on the financial contributions to be paid be provided; or
    - The residential amenity financial contribution be deleted.
  - Metlifecare Limited (72) has submitted that they have concerns with the Council requiring financial contributions to offset any adverse effects on the environment as the submitter states that if an application for consent is granted, that it is accepted that the resulting level of effect is appropriate (because adverse effects are avoided, remedied, mitigated or offset). In relief Metlifecare Limited have requested that the purpose of the residential amenity financial contribution be deleted (18.5.1.4).
  - Sam Shears (76) has sought clarity on the amounts that will be collected for the residential amenity financial contribution and the locations it would be applied.
  - Kāinga Ora (79) seeks the deletion the residential amenity financial contribution, including the deletion of provision 18.5.1.4 and overall seeks that the full set of provisions proposed on financial contributions are deleted, reviewed and proposed in a separate plan change

process. Kāinga Ora (79) have opposed the inclusion of a financial contribution relating to parks / reserves / open space network and streetscape amenity as although intensification of the district will contribute to a change in character and amenity, this is not an adverse effect that they believe requires offsetting through financial payments.

### **Assessment of submissions**

- 10.5.6. The purpose of the residential amenity financial contribution is to provide streetscape and urban open space improvements or expansions in response to additional growth resulting from the introduction of the MDRS.
- 10.5.7. In her evidence (dated 24 March 2023, section 6.28) Ms McElrea outlines that intensification has potential to create several adverse effects in respect to the functionality and amenity of parks and reserves and street trees including but not limited to:
- loss of natural character as well as a loss of the viewshafts to and from the Waikato River and Karāpiro Stream.
  - loss of amenity and usable space as a result of visual dominance of adjoining buildings and increased overland flows from adjoining developments.
  - restrictions on activities and development on parks and reserves as a result of reverse sensitivities.
  - negative impacts on the health of large specimen trees within reserves and streets.
- 10.5.8. The additional growth that will occur overtime will be expected to have good urban design outcomes, however, inevitably the growth will result in less private open space for recreation and fewer large mature trees. The public sphere, including the streetscape, will therefore become increasingly important. The development contribution framework for parks and reserves only caters for planned capital expenditure projects to respond to growth in greenfield locations. Financial contributions can be used for growth not planned for or covered by the development contribution framework within existing urban areas, or infill development and additional growth not planned for in greenfield locations. The residential amenity financial contribution will therefore be used to fund ‘urban’ parks, which are currently not funded by the development contribution regime.
- 10.5.9. For the above reasons the residential amenity financial contribution is considered to be justified and is recommended to be retained and not deleted as requested by Ryman Healthcare Limited (70), Metlifecare Limited (72), Retirement Village Association of New Zealand (73) and Kāinga Ora (79).
- 10.5.10. Metlifecare Limited (72) requests that financial contributions should not be sought to offset adverse effects on the environment as the submitter states that if an application for consent is granted, that it is accepted that the resulting level of effect is appropriate. This statement is not accepted. Not all effects of increased intensification can be addressed by individual development. It is appropriate to require financial contributions as a contribution to identified cumulative effects and to offset adverse effects. Even if a resource consent is granted the Act allows local authorities to require contributions to fund the impacts of growth. This point is emphasized as the Act now clarifies that funds can be sought by local authorities in relation to any activity other

than a prohibited activity, therefore including activities that are permitted and do not require resource consent<sup>3</sup>.

- 10.5.11. In reply to the question by submitter Sam Shears (76) the location that the residential amenity financial contribution will be collected for is recommended to be limited to development in the MDRZ only as this is the focus of PC26 and where additional growth is enabled by PC26.
- 10.5.12. In response to the amounts that will be collected for the residential amenity financial contribution as raised by Ryman Healthcare Limited (70), Retirement Village Association of New Zealand (73) and Sam Shears (76); Mr McIlrath has reviewed the methodology and quantum for the contribution in his evidence and has recommended updates to the provisions. The revised amount will be based on a cost per dwelling, rather than per bedroom.

### **Recommendation on submissions**

- 10.5.13. The residential amenity financial contribution is recommended to be retained. Submission points requesting it be deleted by Ryman Healthcare Limited (70), Metlifecare Limited (72), Retirement Village Association of New Zealand (73) and Kāinga Ora (79) are therefore rejected.
- 10.5.14. The residential amenity financial contribution is recommended to be amended in response to submission points 70.116; 73.116; 76.18 and as outlined in the planning and economic review of the contribution and summarised below.

#### **Recommended amendments to PC26**

Recommended amendments to the residential amenity contribution as follows: (32.15)

- Revision of the quantum for the residential amenity financial contribution. (32.15; 70.116; 73.116; 76.18)
- Amendment to the residential amenity financial contribution to be collected from the Medium Density Residential Zone only. (32.15; 76.18)
- Addition of the word 'urban' public open spaces to explain where the costs of the residential amenity financial contribution will be applied. (32.15)
- Deletion of the percentage for greenfield development to contribute to the residential amenity financial contribution. (32.15)
- Deletion of the repetition of the residential amenity financial contribution purpose rules in the performance standards. (32.15)
- Addition of a 'circumstances where financial contributions will be taken' section to the residential amenity financial contribution to align with the existing rule set out in section 18. (32.15)
- Addition of a 'timing of calculation and payment' to the residential amenity financial contribution to align with the existing rule set out in section 18. (32.15)

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<sup>3</sup> Section 77E(1) Resource Management Act 1991

## 10.6. NEW TE TURE WHAIMANA FINANCIAL CONTRIBUTION

### Introduction

- 10.6.1. The purpose of the Te Ture Whaimana financial contribution (18.2.3(vii)) is to give effect to Te Ture Whaimana including positive effects on the environment to offset adverse effects and its requirement for restoration and protection of the Waikato and Waipā Rivers (and their catchments) and the relationship between the Waikato and Waipā Rivers (and their catchments) and Waikato-Tainui, Waikato and Waipā River Iwi, and the Waikato Region’s communities and all other objectives and strategies contained within Te Ture Whaimana.
- 10.6.2. The financial contribution may be monetary, a contribution of land or a combination of both.
- 10.6.3. The notified quantum of the financial contribution was:
- A fixed financial contribution of \$400 for each additional bedroom at the site created by the development (Rule 18.5.2.6).
  - For non-residential development \$2,000 per 100m<sup>2</sup> of Gross Floor Area (Rule 18.5.2.7).
- 10.6.4. The collection of the Te Ture Whaimana financial contribution is for the following costs (18.5.1.5(a)(i)-(ix)):
- (i) Riparian enhancement;
  - (ii) Wetland creation/protection/restoration/enhancement;
  - (iii) Erosion control measures;
  - (iv) Ecological/biodiversity;
  - (v) Public access improvements to the Waikato River, including its tributaries;
  - (vi) Weed control measures;
  - (vii) Sediment reduction measures;
  - (viii) Waikato and Waipā Rivers / Te Ture Whaimana education; and
  - (ix) Restoration / protection / enhancement of waahi tapu and sites of significance.

### Submissions

- 10.6.5. Three submitters raised concerns with the Te Ture Whaimana financial contribution.
- Waikato Tainui (49) have raised the following submission points:
    - Requested clarity over who will administer and have oversight for the funds collected for the Te Ture Whaimana financial contribution.
    - Requested clarity on the purpose of land collected for financial contributions will be and if the land be exempt from development.
    - Raised concerns if the costs listed in 18.5.1.5(a)(i-ix) will be enough to offset the effects of the development on the awa as well as providing for betterment.
    - Sought consistency between the approach of Te Ture Whaimana financial contributions and the purposes for which contributions are applied between districts.

- Sam Shears (76) has sought clarity on the amounts that will be collected for the Te Ture Whaimana financial contribution and the locations it would be applied.
- Kāinga Ora (79) have opposed the Te Ture Whaimana financial contribution for several reasons including:
  - They do not support monies collected to be paid to Council or a Council established group where the intent and purpose of collecting the monies is unclear.
  - There is an opportunity for a joint-management approach to be achieved that can deliver an enhanced outcome for the Waikato River and this an option not explored by Council in the Section 32 analysis.
  - Kāinga Ora seeks to ensure that any such financial contribution is fully justified both in terms of the purpose and the quantum of contribution.
  - Kāinga Ora considers that the proposed approach by Council is not considered to be in the spirit of Te Ture Whaimana and does not acknowledge the role that the Waikato River Authority plays in the management of the Waikato River, and the ties between that authority and local iwi through board representation.

### **Assessment of submissions**

- 10.6.6. As outlined above, the purpose of the Te Ture Whaimana financial contribution is to give effect to Te Ture Whaimana and provide for restoration and protection of the Waikato and Waipā Rivers (and their catchments). As outlined by Ms McElrea in her evidence (s5.4, dated 24 March 2023) recent residential expansion in growth cells identified in Council’s District Growth Strategy, intensification of brownfield areas in the three main centres and industrial growth in Cambridge have highlighted the challenges and opportunities that growth presents in relation to identifying, protecting, restoring and/or enhancing open space values; including biodiversity, mana whenua, historic heritage, recreation and amenity values. It has highlighted the importance of a strong planning framework to achieve Council’s desired open space network outcomes and meet its responsibilities under Te Ture Whaimana and national policy statements.
- 10.6.7. In his evidence Mr Chapman also outlined the importance of giving effect to Te Ture Whaimana in PC26 to manage the effects of water quality and stream erosion on receiving environments (s8.17(b) dated 27 March 2023).
- 10.6.8. In response to Waikato Tainui’s (49) request regarding who will administer the funds collected for the Te Ture Whaimana financial contribution it is noted that Council is responsible for the use of financial contributions for the purpose which they have been received<sup>4</sup>. Council is currently updating their Development Contribution Policy, which will include commentary on Financial Contributions. The updated Development Contribution Policy is intended to set out the administration of financial contributions and may include partnerships with Waikato Tainui or the Waikato River Authority. An advice note in the PC26 provisions is recommended to be amended to include the Waikato River Authority and Waikato Tainui as entities that contributions may be undertaken by.

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<sup>4</sup> Section 111 Resource Management Act 1991

- 10.6.9. In response to Waikato Tainui’s (49) question on what the purpose of land collected for financial contributions will be and if the land will be exempt from development, as required by Policy (18.4.2.4) of PC26, financial contributions in the form of land must vest in Council prior to the completion of the activity or development. The vesting requires the purpose of the land to be specified. The purpose of the contribution is to give effect to Te Ture Whaimana (18.2.3(vii)). The costs associated with the contribution are also specified in the provisions (18.5.1.5(a)(i)-(ix)). Any land is likely to be vested for reserve purposes to meet the requirements of section 18.
- 10.6.10. In response to the concerns raised by Waikato Tainui relating to if the costs listed in 18.5.1.5(a)(i-ix) will be enough to offset the effects of the development on the awa as well as providing for betterment a change to the wording of provision 18.5.13 is recommended as outlined in the recommendations below.
- 10.6.11. Responding to Waikato Tainui’s request for Te Ture Whaimana provisions to be aligned across the region the Council has endeavoured to create consistency with Hamilton City Council’s provisions in drafting the Te Ture Whaimana financial contribution. Unfortunately, the joint hearing of both councils’ provisions is no longer possible as Hamilton City has requested to delay their hearing for PC12. Formatting changes are recommended to Waipā’s provisions to better align them with Hamilton City’s notified provisions. Therefore, although the provisions in each Council will not be the same, I believe Waipā has sought consistency between the approach and the purposes for which contributions are applied between districts as requested by Waikato Tainui (49).
- 10.6.12. In response to submission points raised by Sam Shears (76) and Kāinga Ora (79) the amounts that will be collected for the Te Ture Whaimana financial contribution has been reviewed by Market Economics. In his evidence Mr McIlrath has recommended changes to the methodology and quantum collected for this.
- 10.6.13. Sam Shears (76) has also queried the location that the Te Ture Whaimana financial contribution will apply to. The notified provisions for PC26 did not limit where the Te Ture Whaimana financial contribution applied to, however this has been revised and the Te Ture Whaimana contributions are recommended to be collected from the Medium Density Residential and Commercial Zones only as this is the focus of PC26 and where additional growth is expected to occur.
- 10.6.14. In response to the submission point raised by Kāinga Ora (79) on the Te Ture Whaimana financial contribution, including that a joint management approach has not been explored with Waikato Tainui as outlined above (10.6.8), the Development Contribution Policy review will address the administration of financial contributions. The administration of financial contributions is considered to sit best outside of the District Plan and in this Policy. In terms of the approach by Council not being in the spirit of Te Ture Whaimana it is noted that Waikato Tainui supports the general approach taken by Council for the Te Ture Whaimana financial contribution. It is unclear exactly why the submitter considers that the Council’s approach is not in the spirit of Te Ture Whaimana.
- 10.6.15. In response to the submission that the intent and purpose of the Te Ture Whaimana financial contribution is unclear, it is considered that this has been addressed in the evidence from Mr Quickfall and the revised provisions as follows:
- Purpose (18.5.1.3)

- To give effect to Te Ture Whaimana, including positive effects on the environment to offset any adverse effect and its requirement for restoration and protection of the Waikato and Waipā Rivers and their catchments, and the relationship between the Waikato River and Waikato- Tainui, Waikato River Iwi, and the Waikato Region’s communities and all other objectives and strategies contained within Te Ture Whaimana.
- Intent (18.5.1.3)
  - Riparian enhancement
  - Wetland creation/protection/restoration/enhancement
  - Erosion control measures
  - Ecological/biodiversity
  - Public access improvements to the Waikato River, including its tributaries
  - Weed control measures
  - Sediment reduction measures
  - Waikato and Waipā Rivers / Te Ture Whaimana education
  - Restoration / protection / enhancement of waahi tapu and sites of significance.

**Recommendation on submissions**

10.6.16. It is recommended that the Te Ture Whaimana financial contribution be retained.

10.6.17. It is recommended that the application of costs for the Te Ture Whaimana financial contribution be amended as per the submission from Waikato Tainui.

10.6.18. It is recommended that the application of the Te Ture Whaimana financial contribution be clarified to only be collected from the Medium Density Residential and Commercial Zones.

**Recommended amendments to PC26**

- Amend the advice note following the rules under 18.5.1 as follows:  
Advice Note (applies to 18.5.1): (32.15)  
Financial contributions may be used towards the provision, upgrading or future operation of network infrastructure owned and/or operated by any of the following: Waipā District Council; a Council Controlled Organisation; any other community infrastructure management entity; any adjoining Territorial Local Authority; Waka Kotahi (New Zealand Transport Agency); and towards waterway enhancement undertaken by the Waikato River Authority. (32.15)
- Amend 18.5.13 as follows:  
18.5.13        These costs ~~will~~ may include but are not limited to: (49.13)
- The following changes to the Te Ture Whaimana financial contribution based on the planning and economic reviews of the provisions: (32.15)

- Revision of the quantum for the Te Ture Whaimana financial contribution.
- Amendment of the Te Ture Whaimana financial contribution to apply to the Medium Density Residential and Commercial Zones only.
- Deletion of the non-residential Te Ture Whaimana financial contribution.
- Deletion of the repetition of the Te Ture Whaimana financial contribution purpose rules in the performance standards.
- Addition of a ‘circumstances where financial contributions will be taken’ section to the Te Ture Whaimana contribution to align with the existing rule set out in section 18.
- Addition of a ‘timing of calculation and payment’ to the Te Ture Whaimana financial contribution to align with the existing rule set out in section 18.

## **Appendix 10: Relevant excerpts from statements of evidence**

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**REBUTTAL STATEMENT OF EVIDENCE OF TONY GRANT QUICKFALL**

**Dated 19 April 2023**

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**TOMPKINS | WAKE**

Westpac House  
Level 8  
430 Victoria Street  
PO Box 258  
DX GP 20031  
Hamilton 3240  
New Zealand  
Ph: (07) 839 4771  
[tompkinswake.co.nz](http://tompkinswake.co.nz)

## 5. COUNCIL'S INTENSIFICATION SOLUTION

- 5.1 The Council team has applied the correct policy framework and cascade, and undertaken site specific modelling. Accordingly, Council proposes a commensurate level of intensification in the centres of Cambridge, Te Awamutu and Leamington as follows:
- (a) A maximum height of 18m (providing for 5 stories) in Cambridge and Te Awamutu town centres and Leamington Commercial Centre as a height overlay.
  - (b) No specified number of storeys.
  - (c) Removal of the Infrastructure Capacity Overlay in a walkable proximity to the Cambridge CBD (allowing three dwellings as a permitted activity).
- 5.2 I attach as Appendix 3 a series of three plans showing the changes that are proposed within Cambridge, Te Awamutu and Leamington.
- 5.3 Note that I would also support "3x3" residential intensification within walkable distance of Te Awamutu and Leamington centres as a sound urban planning outcome. However this is not proposed by Council due to concerns around infrastructure affordability, relative to the modelled demand for this intensification and levels of uptake, well beyond the life of the Operative District Plan.
- 5.4 Council proposes commensurate intensification within the Leamington commercial centre to give full effect to the NPSUD Policy 3(d) in recognition of the Leamington Commercial Zone being an important and strategic suburban centre. The Council is also keen to consolidate Leamington as a suburban centre in anticipation of two large scale growth cells ("C4 and C5") which will between them bring around 2,000 additional houses (around 4,000 to 5,000 additional residents) to Leamington. The C4 growth cell is live-zoned now for residential and C5

is in the process of stakeholder consultation for a private plan change to “live zone” it from deferred residential. While each of these growth cells will provide for their own local commercial centres, it is important to differentiate *local* centres from the Leamington *suburban* centre, which the proposed intensification will assist with.

## 6. KĀINGA ORA: OTHER MATTERS

### Scope and Consultation on Centres Intensification

- 6.1 In considering centres intensification, there is a question of possible scope. I understand that no parties have challenged scope to include centres intensification (on the basis it did not form part of the plan change as notified), and I confirm that the Council is open to amending the District Plan to include centres intensification, as proposed by the Council. I do however have concerns regarding the scope of introducing an entire new HDRZ as proposed, and leave the Hearings Panel to determine if centres intensification as an entire new zone, is within the scope of amendments that can lawfully be made to the District Plan through PC26.
- 6.2 A more concerning issue, related to scope, is that the centres intensification has not been consulted on. Centres intensification did not form part of PC26 as notified (it was intended to be part of PC21), and Waipā residents have not had any opportunity to provide a community view, either on Kāinga Ora’s proposal or Council’s proposal. Kāinga Ora have offered no commentary in their evidence around this aspect, aside from noting the significant change from the Operative District Plan to what they propose.
- 6.3 In this regard I bring to the Hearing Panel’s attention a matter of *natural justice*, in making a quite significant change to Cambridge’s and Te Awamutu’s future form and function. I would describe Kāinga Ora’s centres intensification proposals (as well as permitting 3x3 everywhere

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**REBUTTAL STATEMENT OF EVIDENCE OF SUSAN MICHELLE FAIRGRAY**

**Dated 19 April 2023**

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**TOMPKINS | WAKE**

Westpac House  
Level 8  
430 Victoria Street  
PO Box 258  
DX GP 20031  
Hamilton 3240  
New Zealand  
Ph: (07) 839 4771  
[tompkinswake.co.nz](http://tompkinswake.co.nz)

## **1. INTRODUCTION**

1.1 My full name is Susan Michelle Fairgray and I am an associate director at Market Economics Ltd.

1.2 My qualifications and experience were set out in my Statement of Evidence dated 24 March 2023. I repeat the confirmation in my Statement of Evidence that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

1.3 In this rebuttal statement of evidence, I respond to the evidence of:

- (a) Philip Osborne on behalf of Kāinga Ora;
- (b) Philip Jaggard on behalf of Kāinga Ora;
- (c) Michael Campbell on behalf of Kāinga Ora; and
- (d) Cameron Wallace on behalf of Kāinga Ora.

1.4 The fact that this rebuttal statement does not respond to every matter raised in the evidence of a submitter within my area of expertise should not be taken as acceptance of the matters raised. I have focussed this rebuttal statement on the key points of difference that warrant a response.

## **2. RESPONSE TO MR OSBORNE**

### **High Density Residential Zone**

2.1 Mr Osborne supports the inclusion of a High Density Residential Zone (HDR) to enable intensification within central areas of Cambridge surrounding the commercial centre.

2.2 The revised Kāinga Ora proposed HDRZ covers approximately 40ha across 429 Residential Zone parcels in a 400-600m walking catchment

surrounding the Cambridge commercial centre. This extends up to 2 full city blocks out from the edge of the Commercial Zone. It would enable development up to 6 storeys across this area<sup>1</sup>.

- 2.3 Mr Osborne calculates a plan enabled capacity for up to 5,293 higher density dwellings across this area in Cambridge. It is not clear what assumptions Mr Osborne has applied, but I estimate this area could potentially accommodate up to around 8,000 higher density dwellings, based on an average dwelling size of 120m<sup>2</sup>. Within this, Mr Osborne estimates an uptake rate of 88 dwellings, which equates to 2% of the enabled capacity (or 1% if capacity is closer to 8,000 dwellings).
- 2.4 In my view, much of the intensification around centres in smaller urban economies, such as Cambridge, occurs through more intensive forms of medium-density development. This includes more intensive forms of terraced housing and other attached dwellings such as townhouses.
- 2.5 I consider that the alternative proposed increased height allowance within the Commercial Zones and relaxation of the Infrastructure Overlay (around Cambridge), as set out in Mr Quickfall's evidence, would enable this type of intensification to occur within the central parts of Cambridge, and within the Te Awamutu commercial centre if delivered by the market. The relaxation of the Infrastructure Overlay would still provide for the development of terraced housing and other medium-density typologies surrounding the Cambridge commercial centre at a density that is substantially more intensive than previously enabled within areas surrounding the centre.
- 2.6 A level of intensification could potentially also occur around Te Awamutu commercial centre through the provision for two dwellings per site

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<sup>1</sup> I note that Kāinga Ora have also proposed a limit of 3 dwellings per site as a Permitted Activity (with 4 or more dwellings with a Restricted Discretionary activity status) within the HDR Zone. It is unclear how this would affect the development of 6 storey residential apartment buildings in relation to the configuration of dwellings within each building.

enabled with the application of the Infrastructure Overlay. This is an increase in density than that enabled by the current provisions, providing for some intensification. The lower demand within Te Awamutu (than Cambridge) means that this level of enabled intensification may align with the patterns of demand in the short to medium-term. However, I note that this does not contain any differentiation in density between the residential areas surrounding the Te Awamutu commercial centre and less central residential suburban areas further away from the commercial centre. Therefore, I consider that while it enables a level of intensification to occur around the commercial centre, it is less likely to encourage it to occur over more dispersed patterns of growth than if the Infrastructure Overlay were also relaxed in the areas surrounding the Te Awamutu commercial centre.

2.7 In my view, there may be a level of market demand substitution in Cambridge between the more intensive typologies enabled through the relaxation of the Infrastructure Overlay and the higher density vertically-attached apartments additionally enabled through the proposed HDR in Cambridge. This means that some of the estimated market demand for higher density dwellings could alternatively be accommodated through more intensive medium-density dwellings in areas of higher amenity surrounding the Cambridge centre.

2.8 Mr Osborne considers that the HDRZ would provide dwelling typology choice within the market, and differs to the higher density development enabled within the Commercial Zone. I agree with Mr Osborne and note there are differences between development of a building with non-residential uses on the ground floor, and one which is fully residential on all floors. There may also be differences in the feasibility of higher density development between the Commercial Zone and the immediately surrounding residential area.

- 2.9 However, I consider that a key aspect of the appropriateness of any provision for higher density development relates to the scale and spatial extent of the provision within the context of the projected market size and consumer preferences. Smaller urban economies have less potential to sustain this type of development than do the main urban economies, and have smaller areas around centres which are suited for intensification. It is important that provision is appropriately scaled and located. If the provision is too extensive (in terms of height or geography), relative to demand then it may dilute the limited market size for this type of development and therefore weaken the benefits of intensification that would otherwise ensue if intensification is geographically more concentrated within and around the centre. Isolated developments may occur opportunistically in locations that do not function together with the town centre and are inconsistent with the surrounding urban form.
- 2.10 I consider that Mr Osborne's analysis suggests the potential for this to occur. While I have not reviewed the technical aspects of the calculations themselves, his estimates indicate that only 88 dwellings are likely to be taken up, at higher densities, within the HDRZ around Cambridge as proposed by Kāinga Ora. This amounts to only 2% of the 6 storey plan-enabled capacity within the proposed extent of the zone (which I have assumed is estimated across the long-term).
- 2.11 I agree with Mr Osborne that a HDRZ surrounding the Te Awamutu commercial centre is less appropriate. In my view, there is less market demand for higher density development within this location.

### **Commercial Zones**

- 2.12 Mr Osborne suggests that increased height allowances within the Commercial Zone would increase the feasibility of higher density development. Kāinga Ora propose a height limit of 24.5m to apply, without variation, across most of the Commercial Zone area of Cambridge

and Te Awamutu. Mr Osborne has modelled buildings of up to 7 storeys within these areas.

- 2.13 I agree that greater heights, up to a point that corresponds with the timing of market demand, may increase the feasibility of a development, including in terms of land and development costs per dwelling. However, feasibility depends on a number of factors, and it is also important to take into account the level of demand at any time, the competition from new and existing dwellings of other typologies in the central area and other locations, consumer preferences, ability to pay and so on. I also consider that there may be other factors such as environmental considerations that may see development at a lower height more appropriate.
- 2.14 In my view, within the context of other non-economic factors, an important aspect is whether development within the alternative proposed height limits (as set out in the evidence of Mr Quickfall) is still viable. The Commercial Zone alternative proposed height of 18m, together with a removal of maximum storeys, may enable buildings of around five storeys. I note that Table 3 in Mr Osborne's evidence indicates that development at five storeys is still likely to be feasible, albeit at a lower rate than a greater number of storeys.
- 2.15 There have been several recent (2017-2022) apartment unit developments within Cambridge's urban area, summarised in Table 1 below. These have mainly occurred at 3 storeys within the Commercial zone (which contains half of the units consented). In the residential zoned area they are a combination of 2 to 3 storeys and are predominantly retirement dwellings. These developments account for around 7% of the total building consents within Cambridge during this period.
- 2.16 Examination of the above consents show they are mainly constructed as horizontally-attached dwellings, with most in the form of terraced housing or townhouses. There are few vertically-attached apartments.

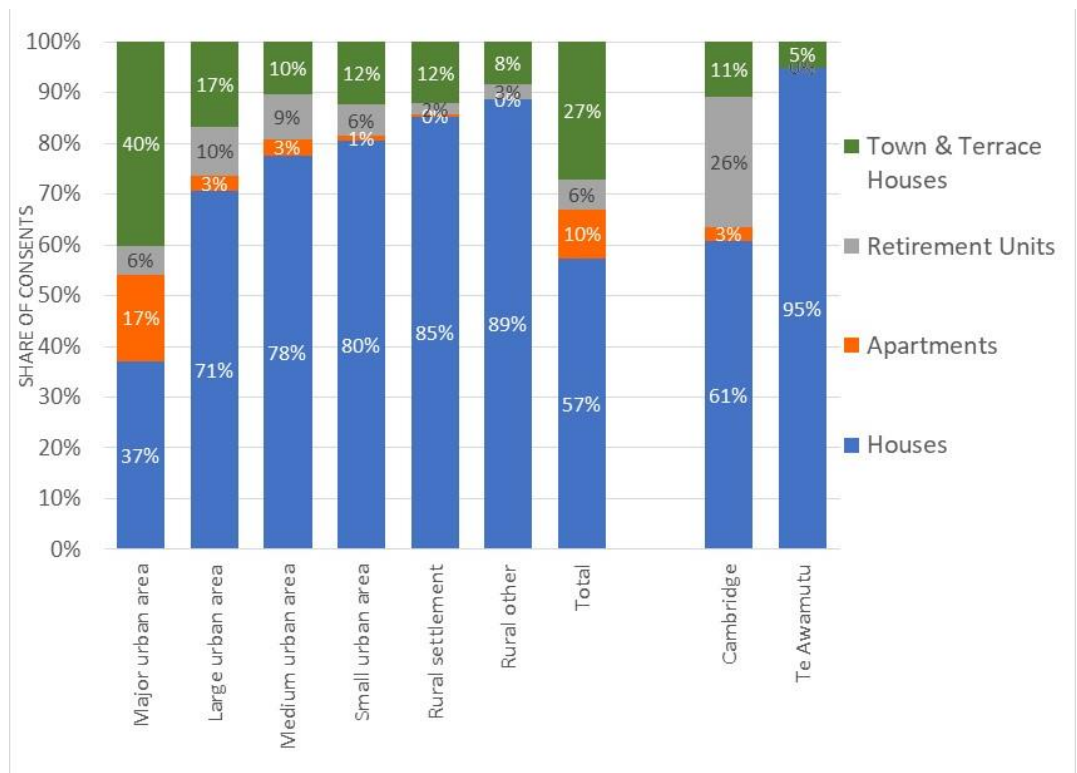
**Table 1: Recent Cambridge Apartment Consent Information Collected by Waipā District Council**

Zone	Storeys			Share as Retirement Units
	2	3	Total	
Commercial Zone	1	66	<b>67</b>	0%
Residential Zone	12	23	<b>35</b>	66%
Deferred Residential	36	-	<b>36</b>	100%
<b>Total</b>	<b>49</b>	<b>89</b>	<b>138</b>	<b>43%</b>

Source: Waipa District Council, 2017-2022.

2.17 Figure 1 below shows the total distribution of recent building consents within Cambridge and Te Awamutu in comparison to other urban areas. Cambridge has similar levels of apartment, town and terraced housing to other small to medium urban areas. It has a significantly larger share of consents for retirement dwellings, most of which are likely to occur as attached dwellings. In contrast, there are few consents for attached dwellings within Te Awamutu. In my view, this shows the lower relevance for higher density provision within Te Awamutu.

**Figure 1: Dwelling Consents by Urban Type: 2016-2022**



Source Statistics New Zealand, 2023

### **3. RESPONSE TO MR JAGGARD**

- 3.1 Mr Jaggard, at paragraph 6.3, has noted there may be inconsistencies between the capacity figures presented in my evidence and those applied within the infrastructure modelling in Mr Hardy's evidence.
- 3.2 I can confirm that the capacity estimates applied within Mr Hardy's modelling do align with the capacity estimates produced by my residential capacity assessment for the Residential Zone. The differences relate to the use of gross figures (i.e. existing dwellings plus potential future capacity) within Mr Hardy's infrastructure modelling vs. net figures (i.e. net additional dwelling capacity) within my assessment. There are approximately 15,700 existing urban dwellings within the urban towns of Cambridge and Te Awamutu/Kihikihi, accounting for the differences observed by Mr Jaggard.
- 3.3 For clarification, the Existing 2050 Growth – Baseline Model (27,763 dwellings) and MDRS (75,346 dwellings) gross figures from Mr Hardy's evidence align with the net additional plan enabled capacity of 13,100 dwellings (Scenario 1 – Operative Waipā District Plan Baseline) and 59,700 dwellings (Scenario 3 – MDRS) in Figure 2 of my evidence. The PC26 gross figures (35,443 dwellings) align with the long-term commercially feasible capacity of a net additional 19,700 dwellings (Scenario 3 – PC26) from Figure 2 of my evidence. I note that Mr Hardy's evidence contains updated modelling, which applies the plan enabled capacity also within the PC26 Scenario.
- 3.4 I note that the capacity figures show the potential capacity enabled under each planning scenario, and the proportion of these which are likely to represent commercially feasible development options for a commercial developer if they were available to the market. Only a portion of this opportunity is likely to be taken up as growth, which is likely to be more aligned with the projected level of demand.

- 3.5 Mr Jaggard, at paragraph 7.10, notes that the demand projections within Table 1 of my evidence do not completely reconcile. This is because Mr Jaggard is comparing the sum of the existing dwelling base and net increases with a margin with the baseline growth in demand without a margin. The first section of my table shows the baseline level of demand without a margin, with subsequent columns showing the net increases with and without a margin.
- 3.6 I agree with Mr Jaggard (paragraph 7.14) that the provisions are unlikely to result in greater population growth across the towns at the total level. Importantly, I also agree with Mr Jaggard that the provisions will affect the location and type of growth, and the urban form of the townships. As set out in my evidence, this gives rise to important economic effects.
- 3.7 In my view, the application of the Infrastructure Overlay within the alternative Waipā position (as set out in Mr Quickfall's evidence) will encourage a compact urban form through greater centralisation of growth around the Cambridge town centre. Increasing the potential yield in these areas through a relaxed Infrastructure Overlay increases the feasibility of development, encouraging intensification within these areas of greater accessibility and higher amenity. From an economic perspective, I consider that this also provides economic benefits in supporting the vitality and viability of the centre.
- 3.8 I note that Mr Jaggard (paragraph 7.28) supports a compact urban form on the basis of infrastructure costs. He states that concentrated growth reduces the network extent required to support more growth.
- 3.9 I consider that the removal of the Infrastructure Overlay from all locations would, in contrast, be likely to encourage a more dispersed pattern of growth. In addition to reducing the likely intensification around centres, it would be likely to dilute this growth to be spread across a wider suburban area.

- 3.10 I therefore consider that the application of an Infrastructure Overlay with the proposed relaxation around the Cambridge commercial centre is likely to produce a more compact and centralised urban form than the removal of an Infrastructure Overlay.
- 3.11 Mr Jaggard considers that growth under all scenarios is lower than the acceptable infrastructure network capacity, with growth expected to exceed the existing capacity unlikely to occur till beyond the long-term. On this basis he considers that residential development should not be constrained by the Infrastructure Overlay with the potential to instead manage this growth in the future planning.
- 3.12 While I do not assess the infrastructure effects, in my view, there are important urban form economic effects that are likely to arise from this approach. Urban form develops incrementally and cumulatively through time. The effects gradually become more significant through time through the increasing aggregation of individual land use decisions. Importantly, the long-term urban form is dependent upon development trajectories that occur across all of the short, medium and long-terms.
- 3.13 I therefore consider that the achievement of an efficient compact urban form in the long-term, when Mr Jaggard states that infrastructure capacities may be reached, is dependent upon the appropriate management of growth in the short to medium-term. As set out above, I consider, from an economic perspective, that the alternatively proposed Infrastructure Overlay may form an important part of this growth management.

#### **4. RESPONSE TO MR CAMPBELL**

- 4.1 Mr Campbell states (paragraph 4.13) that enabling intensification to occur around centres is an important part of supporting the diversity, viability and comparative advantage of centres. He considers that the Kāinga Ora proposed HDRZ is required to enable this intensification to

occur. Part of his position states the need to take into account future needs of the towns rather than only the existing levels of activity.

- 4.2 Mr Campbell supports (paragraph 4.22) the revised Kāinga Ora proposed extent of the HDR around Cambridge on the basis of a 400-600m walkable catchment area from the commercial area. He considers that the increased heights within the HDRZ are required to increase the feasibility of this development immediately adjacent to the town centres.
- 4.3 I agree with Mr Campbell that it is important to allow for intensification in and around centres to occur, where appropriate, and consider that this is a core part of a well-functioning urban environment. In my view, it is critical that intensification is enabled in a way that is appropriate within the local economic context of a smaller urban economy. I consider that the largest share of intensification is likely to occur at medium densities, such as at the scale of terraced housing or town houses, both of which would be enabled around Cambridge through the proposed relaxation of the Infrastructure Overlay in Waipā's alternative position as set out in the evidence of Mr Quickfall.
- 4.4 Given the role of medium density development in intensification, it is my view that it is important, as part of a well-functioning urban environment, to also encourage this medium-density development to occur within locations surrounding the commercial centres of Cambridge and Te Awamutu, and to appropriately limit its occurrence in areas away from the centre. In my view, this is likely to occur in Cambridge with the alternatively proposed relaxed Infrastructure Overlay, which will enable medium density intensification around the centre, and reduce the dispersal of this growth away from the centre. I also consider that the Infrastructure Overlay still enables a level of intensification to occur in these suburban locations, but is at a scale which is better aligned with suburban level development in these areas.

- 4.5 In my view, smaller urban economies are able to sustain higher density development across smaller distances than large urban economies. I consider that a reduced area for higher density development is likely to be more appropriate for a well-functioning urban environment and better aligned with the projected market size. A higher density zone that is too extensive within the context of a small market demand may result in isolated developments further from the centre that are inconsistent with the surrounding form and undermine intensification that would otherwise occur in areas closer to the centre.

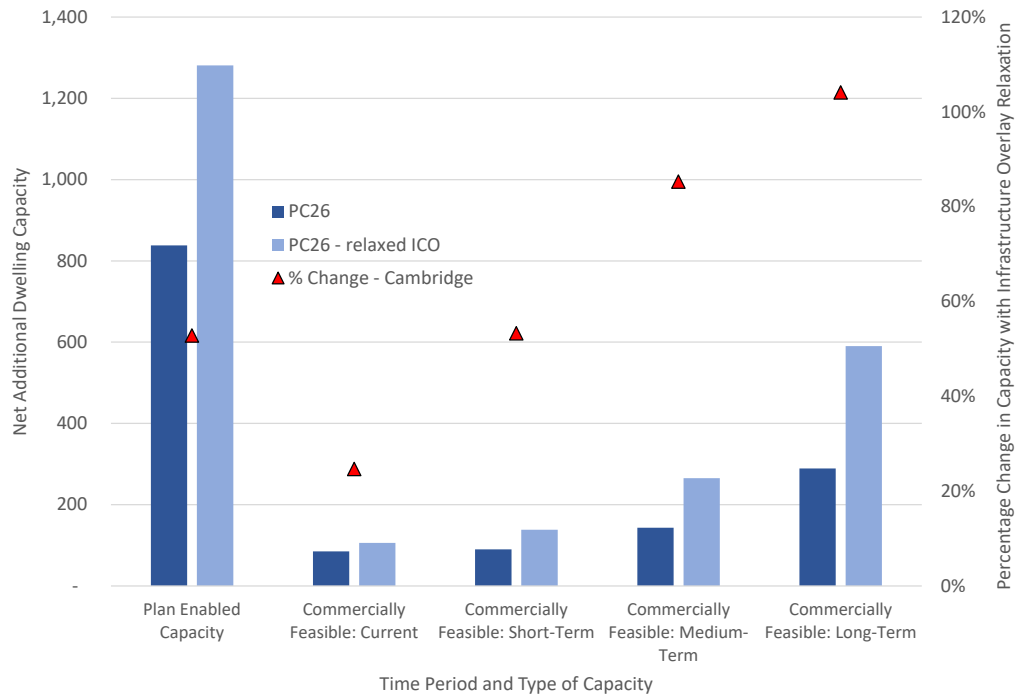
## **5. RESPONSE TO MR WALLACE**

- 5.1 Mr Wallace supports the inclusion of provision for higher density development surrounding Cambridge commercial centre. He supports the Kāinga Ora revised HDRZ extent to avoid diluting more intensive development across a larger area and undermining the level of intensification around centres. As set out above, I agree with the reasons for Mr Wallace's support for a reduction in the Kāinga Ora proposed higher density area.
- 5.2 Mr Wallace states that the new HDRZ extent is formed on the basis of natural boundaries within the landscape, including street boundaries. He considers (at paragraph 7.5) that these would provide natural transitions from more intensive higher density development to low-scale MDRZ.
- 5.3 My analysis suggests that much of the intensification within the area immediately surrounding centres (within the Kāinga Ora proposed HDRZ extent) is likely to occur at the medium-density scale, with only a minor share of the development occurring at higher densities. This is also reflected in Mr Osborne's evidence where he projects that only 2% of the plan enabled capacity would be developed at higher densities. I therefore question whether the extension of the HDRZ to reach road/other boundaries is still appropriate (when considering the level of

development based on the market size) on the basis of the changes in the level of development intensity.

- 5.4 Mr Wallace states that the development within areas surrounding centres is unlikely to be feasible at the heights enabled by the MDRS (11m), therefore requiring the additional height within the proposed HDRZ to enable intensification within these areas. He refers to the analysis undertaken by Mr Osborne in relation to different storeys of higher density residential development.
- 5.5 It is not clear what assumptions Mr Osborne has applied in his analysis in relation to the modelled development typology at the 11m (3 storey) height. If he has calculated the feasibility of vertically-attached apartments at this height, then I would agree that these are less likely to be feasible at this height. However, I consider that other three-storey typologies are likely to be feasible at this height. These include terraced housing and townhouses, which would be enabled within the relaxed Infrastructure Overlay area and typically form important components of the intensification within smaller urban economies. I have summarised the level of three-storey development within Cambridge commercial centre in paragraphs 2.15 and 2.16 above.
- 5.6 I have conducted further feasibility modelling to understand the effect of relaxing the Infrastructure Overlay around Cambridge commercial centre on plan enabled and feasible capacity. This is summarised in Figure 2 below which shows the modelled plan enabled and commercially feasible capacity within the Residential Zone areas around Cambridge where the alternative Waipā position proposes to relax the Infrastructure Overlay. It also shows the percentage change in capacity within each time period that occurs with the relaxation of the Infrastructure Overlay.

**Figure 2: Modelled Capacity within the Proposed Infrastructure Overlay Relaxation Area: With and Without Infrastructure Overlay Application**



Source: M.E Waipa Residential Capacity Model, 2023.

5.7 The analysis indicates that medium density intensification within this area is likely to be commercially feasible, with increased feasibility through time with market growth. It also indicates that enabling more intensive medium-density development within these areas (through a relaxation of the Infrastructure Overlay) would increase both the plan enabled and feasible capacity. This would occur through the higher yields enabled on sites where sites can be developed more efficiently. The analysis indicates that the increases in feasible capacity are likely to occur during the medium to long-term as the market grows and becomes more established within these typologies. In the long-term, relaxation of the Infrastructure Overlay is estimated to approximately double the commercially feasible capacity within the proposed Infrastructure Overlay relaxation area around Cambridge.

## 6. CONCLUSION

- 6.1 I support the application of the Infrastructure Overlay, but with the relaxation in areas surrounding the Cambridge commercial centre in the proposed alternative Waipā position set out in Mr Quickfall's evidence. I would also support the relaxation of the Infrastructure Overlay in areas surrounding the Te Awamutu and Leamington commercial centres. I consider that this will support the development of a well-functioning urban environment. It will enable and encourage medium-density intensification around the centres and reduce the likelihood of more dispersed patterns of growth. Much of the intensification around centres within smaller urban economies occurs at the medium-density scale.
- 6.2 I consider that it would be appropriate to apply the Infrastructure Overlay (with the relaxation around centres) from the short-term onwards. This is because the development of an efficient urban form in the long-term occurs incrementally and cumulatively through time as a result of development trajectories applying within the short, medium and long-terms.
- 6.3 I agree that increased building height allowances within commercial centres are likely to increase the feasibility of higher density development. I also consider that there may be other factors such as environmental considerations that may see development at a lower height more appropriate than that which results in the greatest economic profit margin. In my view, a key aspect is whether development is still viable and likely to occur at different potential height limits. I therefore support an increase in heights within appropriate parts of the Commercial Zone areas, including that of 18m contained within the proposed alternative Waipā position.
- 6.4 Despite lower demand, I also support the proposed increased building height limit (18m) within the Te Awamutu Commercial Centre Zone area contained within Mr Quickfall's evidence. I consider that it provides

development opportunities for the market if demand arises in the future. I consider that any development within the Commercial Zone would be likely to function together with the centre due to its location.

- 6.5 In my view, the revised Kāinga Ora proposed HDRZ area is still likely to be relatively too large within the context of the local market and level of long-term projected demand for higher density dwellings. From an economic perspective, I consider that a more reduced area (from that currently proposed by Kāinga Ora) for higher density residential provision may be appropriate in the residential areas immediately surrounding Cambridge commercial centre.

**Susan Michelle Fairgray**  
**Dated 19 April 2023**

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**REBUTTAL STATEMENT OF EVIDENCE OF CHRISTOPHER ALLINGTON HARDY**

**Dated 19 April 2023**

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**TOMPKINS | WAKE**

Westpac House  
Level 8  
430 Victoria Street  
PO Box 258  
DX GP 20031  
Hamilton 3240  
New Zealand  
Ph: (07) 839 4771  
[tompkinswake.co.nz](http://tompkinswake.co.nz)

5.25 I do not support the removal of the Infrastructure Overlay and associated controls on the basis that development is not likely to occur as assumed in the assessment.

## **6. RESPONSE TO MICHAEL CAMPBELL (KĀINGA ORA)**

6.1 Mr Campbell requests the removal of the Infrastructure Overlay in its entirety. Mr Campbells evidence generally references Mr Jaggard's evidence which he supports.

6.2 I do not have further comment specific to Mr Campbell's evidence and reference should be made to my responses to Mr Jaggard's evidence above.

## **7. RESPONSE TO GURVINDERPAL SINGH (KĀINGA ORA)**

7.1 Mr Singh states the following in paragraph 10.5 of his evidence (emphasis added):

.....the removal of the ICO would not in itself have an adverse effect on the health and wellbeing of the Rivers. Rather, what is required are the appropriate checks and balances associated with permitted development thresholds to ensure that urban development contributes to positive effects on the Awa. Kāinga Ora consider that the use of water conservation measures such as low flow fixtures, in conjunction with the building consent and connections approval processes that currently exist, is adequate to address the Council's concerns of infrastructure capacity.....

7.2 In paragraph 5.23 above I stated my opinion that Infrastructure Assessments would likely be required for all proposed development if the Infrastructure Overlay is removed and the MDRS densities adopted. In this regard the Infrastructure Overlay provides a mechanism for checks and balances without imposing assessment requirements on low level development already reasonably provided for within current planned infrastructure.

7.3 It is my opinion that the proposed Infrastructure Overlay and associated controls represents an appropriate check and balance for development

as requested by Mr Singh, without strictly limiting development subject to detailed assessment.

- 7.4 In my previous evidence I state that removal of the overlay may be appropriate if a specific area is identified for higher density development, for which capacity can be planned for and implemented.
- 7.5 Waipā District Council has presented an alternative proposal in the rebuttal evidence of Mr Tony Quickfall which would remove the Infrastructure Overlay within a defined area surrounding the town centre of Cambridge.
- 7.6 I would support the alternative proposal because it will provide certainty for water and wastewater network planning while removing the current proposed restrictions on development. I note that additional water and wastewater infrastructure will be required over and above current planned infrastructure to accommodate this, which is yet to be defined in detail.
- 7.7 Areas outside of the alternative proposal would still need to be subject to limitations on development due to the predicted network capacity issues.

## **8. CONCLUSION**

- 8.1 Hydraulic modelling and assessment was undertaken to identify potential network issues and the need for controls on development resulting from the MDRS. The assessment showed that the current planned water and wastewater network are likely to have significant issues if development is undertaken at a higher density.
- 8.2 The modelling and assessment were not intended to identify specific issues and remediation. Rather, the intent was to determine an appropriate permitted development level and a mechanism for the

assessment of requirements for development beyond the permitted level.

- 8.3 I acknowledge that the location, timing, and density of actual development is likely to differ from those in the modelled scenarios. However, it is not practical to assess future development in detail where the location of development is uncertain, which can have a significant effect on the location and scale of infrastructure.
- 8.4 In my experience, network modelling and planning is always based on a reasonable prediction of population and development considering other factors such as land zoning. Sensitivity is typically tested for the timing of development but not location unless specific information is available.
- 8.5 I note that the inclusion of the Infrastructure Overlay was not a question of development timing, but one of ultimate demand and network capacity.
- 8.6 Master plans are typically reviewed and revisited over time to reflect actual development and changes in demand. Development exceeding planned requirements are often subject to more detailed assessment to determine if they can be approved or if additional infrastructure is required.
- 8.7 The proposed Infrastructure Overlay does not necessarily limit development. It provides a mechanism for the assessment of higher density development without imposing requirements on lower-level development that broadly aligns with current planning allowances.
- 8.8 I do not support the removal of the Infrastructure Overlay in its entirety from greenfield or brownfield areas.

- 8.9 I would support the removal of the Infrastructure Overlay from specific areas where the level of permitted development and the constrained location will allow additional infrastructure requirements to be defined and planned for in an efficient manner.



**Chris Hardy**  
**Dated 19 April 2023**

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**REBUTTAL STATEMENT OF EVIDENCE OF TONY SHANE COUTTS**

**Dated 20 April 2023**

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**TOMPKINS | WAKE**

Westpac House  
Level 8  
430 Victoria Street  
PO Box 258  
DX GP 20031  
Hamilton 3240  
New Zealand  
Ph: (07) 839 4771  
[tompkinswake.co.nz](http://tompkinswake.co.nz)

## 1. INTRODUCTION

1.1 My full name is Tony Shane Coutts and I am the Principal Engineer for growth at Waipā District Council (Council), managing the Development Contribution Policy we utilise to recover funding on our growth investments.

1.2 My qualifications and experience were set out in my Statement of Evidence dated 24 March 2023. I repeat the confirmation in my Statement of Evidence that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

1.3 In this rebuttal statement of evidence, I respond to the evidence of:

- (a) Alec Duncan on behalf of Fire and Emergency New Zealand (FENZ).
- (b) Hannah Craven on behalf of Waikato Regional Council (WRC).
- (c) Craig Shearer on behalf of TA Projects Limited (TAPL).
- (d) Gurvinderpal Singh on behalf of Kāinga Ora (KO).
- (e) Philip Jaggard on behalf of KO.
- (f) Michael Campbell on behalf of KO.

1.4 The fact that my rebuttal statement does not respond to every matter raised in the evidence of a submitter within my area of expertise should not be taken as my acceptance of the matters raised. I have focussed this rebuttal statement on the key points of difference that warrant a response.

## 2. RESPONSE TO ALEC DUNCAN (FENZ)

2.1 Mr Duncan states that FENZ requires all sites to provide a minimum vehicle crossing width of no less than 3.5m at site entrances, provided tight turns are not required, and understands the response provided by Mr McGahan's reasoning. He has also requested that rule 21.1.15.6(c) be amended as follows:

(c) The extent to which the proposal achieves suitable access and manoeuvring for all lots, with particular regard given to emergency service access.

2.2 I acknowledge the reason for inclusion of the suggested addition in the assessment criteria, but I have confidence in the Council's existing vehicle crossing application process to ensure compliance with safety standards, including emergency service access. Increasing the minimum vehicle crossing width may not always be warranted, and the current range allows for flexibility in accommodating varying access requirements.

2.3 Mr Duncan states that FENZ strongly supports new Rule 15.4.2.19 that requires an infrastructure capacity assessment to be required where it is proposed to establish more than two dwellings on a site located within a qualifying matter overlay.

2.4 FENZ supports the new definition in part as it does now provide clarity as to the purpose of an infrastructure capacity assessment, but outlines that it does not include the requirement for a suitably qualified and experienced person to demonstrate that the proposed subdivision or development can be adequately serviced in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS 4509:2008).

2.5 An infrastructure capacity assessment aims to ensure that the capacity of the more comprehensive network is not adversely affected by the proposed development and to identify any necessary network upgrades

or implementations on-site to minimise demand. This assessment is separate from building code requirements, which is typically what a qualified fire engineer would review and comprise a solution to enable. Therefore, including SNZ PAS 4509:2008 as a mandatory requirement within the definition may not be necessary, as it is already considered by Council in their network planning and design processes.

- 2.6 While FENZ's concerns are acknowledged, I consider that the Council's existing provisions and definitions are comprehensive and sufficient to enable an appropriate review. The outcome of an infrastructure capacity assessment is to ensure that the water network capacity is maintained, and necessary upgrades or contributions (Development and/or Financial) are made, and this can be addressed in the new Rule 15.4.2.19 without duplicating requirements already in place.
- 2.7 To reemphasise the importance of fire water supply capacity, I would support Mr Hardy's recommendation for an amendment to the proposed definition of an infrastructure capacity assessment as follows:

Infrastructure Capacity Assessment means an assessment of the capacity of an existing water, wastewater, or stormwater network to determine if there is enough capacity (including fire water supply) for a proposed development, or to define the requirements for network upgrades that would need to be implemented for the development to be approved. The exact requirements for an Infrastructure Capacity Assessment should be discussed and agreed with WDC on a case-by-case basis.

### **3. RESPONSE TO HANNAH CRAVEN (WRC)**

- 3.1 Ms Craven supports the recommended amendments made to address the WRC submission points and agrees the District Plan will require a full update to better incorporate climate change at a later date, but has requested some further amendments to better integrate transportation and climate change outcomes within PC26 and has related these to chapter 2A – Medium Density Residential Zone.

- 3.2 Ms Craven (at paragraphs 35 and 36) requests the following additional wording within the advice notes of section 2A:

Urban intensification is likely to result in an increase in impermeable surfaces within urban environments. It is important for the district plan to manage potential adverse effects that can result from increased impermeable surfaces such as:

- Increased erosion of waterway channels
- Increased flooding risk
- Decreased drainage levels of service (specifically the Hautapu and Fencourt drainage districts adjacent to the northern boundary of Cambridge)
- Increased temperatures which impact freshwater species
- Increased contaminants and decreased water quality.

- 3.3 While I support the messaging instilled within the advice note, I consider that the District Plan manages these effects through specific infrastructure assessments or larger scale consents. In addition, Hautapu and St Kilda are zoned Industrial and Rural respectively and are subject to structure plans which contain stringent criteria for stormwater management.

- 3.4 Ms Craven (at paragraph 52) requests the following additional objectives and policies:

New policy 2A.3.4: To recognise amenity values and enhance safety in the Medium Density Residential Zone including:

- On site for residents;
- On adjoining sites, and
- For the transport corridor and public open spaces.

Insert new policies 2A.3.4.X and 2A.3.4.Y: Vehicle crossings  
Limit the number of vehicle crossings to prioritise pedestrian and cyclist safety and amenity on public roads or publicly accessible spaces used to give access to development. Ensure vehicle crossings are minimised on road frontages where narrow dwellings are proposed and where shared paths and separated cycle ways are located.

Insert new policy 2A.3.4.Z: Tree canopy

Promote the establishment and maintenance of a continuous tree canopy along transport corridors to improve amenity for corridor users and adjoining land use, minimise the urban heat island effects of urban intensification, enhance biodiversity and ecological function, provide summer shade to make the corridors more comfortable for walking, cycling, and micro-mobility during hotter weather, and store carbon.

Insert new objective and policies 2A.3.11: Climate change

Residential development incorporates sustainable features, technologies and methods to minimise the effects of climate change and reduce greenhouse gas emissions.

2A.3.11.1 Ensure development implements methods and technologies to minimise the effects on climate change, including:

- i. Locating land uses and densities in such a way as to support walking, cycling, micromobility and public transport
- ii. Providing for electric mobility and its associated charging infrastructure.

2A.3.11.2 Reduce embodied greenhouse gas emissions and operational greenhouse gas emissions.

3.5 I support the proposed amendment to objective 2A.3.4 as it aligns with the provisions of the Crime Prevention Through Environmental Design (CTPED), which aims to enhance public amenities, promote pedestrian and transit use, and increase public safety. The amendment seeks to recognize and improve amenity values and security in the Medium Density Residential Zone, including on-site for residents, on adjoining sites, and for the transport corridor and public open spaces. The specificity of the proposed amendment ensures the effective implementation of the CTPED's objectives in the specific zone.

3.6 While I support in part the substance of the requested new policies 2A.3.4.X and 2A.3.4.Y, I believe the current District Plan provisions, which may require additional entrances to achieve a forward-facing manoeuvre (provided the separation distances are met), sufficiently cover this topic. Ensuring we are making the forward-facing manoeuvres exiting the proposed developments ensures the safety of the pedestrian/cycle users. The forward-facing and separation distance requirements fulfil this obligation and therefore I do not believe the inclusion will add to the desired outcome.

3.7 While I support the inclusion of new objectives and policies contained within 2A.3.11: climate change, they would in essence reflect our previous compact housing overlay areas, which were strategically located near hubs to encourage the outcomes sought. I support in part the inclusion, but consider that it should not be too prescriptive, and would recommend the following alterations recommended by the Council's s42A report author:

*Insert new objective and policies 2A.3.11: Climate change Residential development incorporates enables sustainable features, technologies and methods to minimise the effects of climate change and reduce greenhouse gas emissions.*  
*2A.3.11.1 Ensure Enable development that implements methods and technologies to minimise the effects on climate change, including:*  
*i. Locating land uses and densities in such a way as to support walking, cycling, micromobility and public transport*

#### **4. RESPONSE TO CRAIG SHEARER (TAPL)**

4.1 Mr Shearer has requested the removal of the Infrastructure Constraint Qualifying Matter Overlay (Infrastructure Overlay) from the growth cells identified for residential development, with specific reference to the T3 growth cell.

4.2 Mr Shearer states in paragraphs 26 and 27 of his evidence:

In respect of water supply and wastewater services, I find it hard to make a significant link to the vision and strategy set out in Te Ture Whaimana being compromised. The vision is:

“Our Vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come.

I understand the Te Awamutu water supply scheme obtains its water from a number of sources, including from the Mangauika Stream on Mt Pirongia, from a bore on Frontier Road and from the Waikato River. The water will be needed by a growing population regardless of whether that is in medium density developments or low-density developments. I do not see how the vision above will be compromised by tensions in the supply of water and wastewater.

4.3 The statement that water supply and wastewater services will not compromise the vision and strategy of Te Ture Whaimana (TTW) is only partially accurate. As outlined in my Statement of Evidence dated 24 March 2023, the risks associated with local network constraints resulting from poorly planned growth, whether it be greenfield or brownfield, can strain infrastructure and potentially lead to surcharging of wastewater lines, both upstream and downstream. These challenges can compromise the vision of a healthy Waikato River sustaining abundant life and prosperous communities, as outlined in TTW.

- 4.4 The Te Awamutu water supply scheme's multiple water sources do not discount these potential impacts. Council's planning for growth may require significant investment with no guarantee of uptake, further straining infrastructure and potentially compromising the vision and strategy set out in TTW.
- 4.5 The Infrastructure Overlay approach is considered a balanced approach to managing intensification on a case-by-case basis regardless of scale, considering the local network constraints and the need to protect the health and well-being of the Waikato River and its surrounding areas. It is crucial to acknowledge the potential risks and impacts, including surcharging of wastewater lines or drawing of water in dry months, resulting from poorly planned growth and take a prudent approach to ensure the sustainability of the Waikato River, in line with TTW.
- 4.6 Mr Shearer states in paragraphs 29 and 30 of his evidence:
- In my opinion it is notoriously difficult to retrofit local networks in existing housing areas and in my experience far easier to provide water and wastewater services for greenfields developments. In practice councils do not need to provide for reticulation in new greenfields development areas – the developers are required to pay for the full reticulation in the subdivided area, with the Council, funded by development contributions/financial contributions, picking up the tab for network upgrades. It is not so easy in established brownfield areas, with irregular development providing minimal funding opportunities for Council outside rates.
- And I do see the opportunity for greenfields development such as that proposed at 836 Bond Road, to make significant contributions via development and/or financial contributions to the upgrades needed for water and wastewater services.
- 4.7 While I agree that retrofitting local networks in existing housing areas can be challenging, it still does not take away from the effect greenfields may have on those receiving environments, which also needs to be considered when allowing intensification. It is important to review the infrastructure requirements at the time of subdivision consent, and I consider the infrastructure capacity assessment will help allow for innovative ways to demonstrate mitigations on demand.

- 4.8 It is worth noting that the proposed greenfields development at 836 Bond Road falls within the T3 growth cell and is unique in that it is owned by one landowner, which may simplify the infrastructure planning and upgrades process. However, it is important to acknowledge that the majority of other growth cells have fragmented ownership, which can complicate the ability to have an integrated approach to infrastructure planning.
- 4.9 It is important to consider the unique circumstances of each development, including ownership, zoning, location, and regulatory requirements, and work towards a balanced approach that takes into account the needs of the community and the sustainability of the infrastructure, in line with the vision and strategy of TTW.
- 4.10 The Infrastructure Overlay and infrastructure capacity assessment provide a fair and equitable approach to managing infrastructure. Council is willing to work with the developer to assess the necessary contributions and ensure the development is balanced and complies with zoning requirements. Council understands the need for upgrades or mitigations to manage intensified development safely, and is committed to working collaboratively to ensure that the water and wastewater services are provided sustainably and responsibly.
- 4.11 I do not support the removal of the Infrastructure Overlay for greenfield areas, as it serves as an appropriate trigger for infrastructure assessments that can identify potential issues and mitigations, both for brownfield and greenfield developments.

## **5. RESPONSE TO GURVINDERPAL SINGH (KO)**

- 5.1 Mr Singh's evidence (at paragraphs 8.1 to 8.3) seeks the removal of the Infrastructure Overlay proposed by Council in its entirety and also seeks the inclusion of a High Density Residential Zone (HDRZ) surrounding the

Cambridge central business district, but does acknowledge the removal of the request for a HDRZ surrounding Te Awamutu based on the alignment between economists' understanding of uptake within the area. Mr Singh's evidence supports an increase in the height limit within the Commercial Zones of both Cambridge and Te Awamutu from 14m to 24.5m.

- 5.2 An indicative costing exercise was undertaken to determine the potential investment Council would need to undertake to forward fund and enable a HDRZ in Cambridge. The estimated level of investment was close to 90 million dollars in capital expenditure (encompassing transportation, community facilities and three waters) in order to service this potential HDRZ.
- 5.3 Based on the level of projected demand and patterns of capacity within Ms Fairgray's evidence, together with past patterns of growth, it is likely that up to 15% of the plan enabled capacity will be taken up as growth over the long-term through intensification within Cambridge's existing urban area.
- 5.4 This presents a huge risk in the discrepancy between uptake demand and what is plan enabled. Over time, this discrepancy will grow and the debt will increase due to the interest on forward funded investment that was carried out and which needs to be recovered through a fair rated plan enabled catchment.
- 5.5 Given the level of potential uptake foreseen versus expected infrastructure cost, I would not support implementation of a HDRZ in any capacity around the CBD area of Cambridge and I would not currently support a relaxation of the Infrastructure Overlay in this location, as proposed in the Council's Alternative Proposal.
- 5.6 Mr Singh, in paragraphs 10.2 to 10.4 of his evidence, notes that the evidence of Mr Jaggard supports the idea that redevelopment and

intensification of existing urban environments poses an opportunity for Council to improve existing infrastructure networks as well as include infrastructure both on a site and within the wider network to contribute to an overall enhancement of existing systems.

- 5.7 I will respond to the evidence of Mr Jaggard in more detail later in my rebuttal, but the opportunity suggested by Mr Singh is not lost with Council's Infrastructure Overlay being included. Keeping the overlay allows Council to react to market specific requests for intensification in a sustainable way and properly inform and address the effects in a collaborative manner that provide innovative solutions to meet the desired outcomes. This, in turn, allows Council to have a fairer understanding in line with the development market and plan accordingly for proposed development rather than relying on reactive checks of a failed infrastructure network that could occur without the proposed overlay.

## **6. RESPONSE TO PHIL JAGGARD (KO)**

- 6.1 Mr Jaggard's evidence seeks to provide context to the removal of the Infrastructure Overlay in support of KO's planning submission.

- 6.2 Mr Jaggard (paragraph 5.1) states the following:

The proposed Infrastructure Constraint Overlay restricts the permitted density of a lot to two dwellings, in contrast to the proposed permitted density limit of three houses per lot intended by the MDRS legislation. Within the Overlay, development of three dwellings triggers the requirement for a resource consent (restricted discretionary), placing additional controls and requirements on developments than proposed by the MDRS legislation.

- 6.3 I agree that the Infrastructure Overlay restricts uncontrolled permitted activities which is its intention as the extent of permitted development enabled by the MDRS creates massive uncertainty for Council planning of infrastructure as expressed in my Statement of Evidence dated 24 March 2023, backed by the modelling data and report prepared by Mr Hardy that demonstrates the risk. The Infrastructure Overlay still allows for

development at higher density, but enables Council to assess infrastructure effects in a way that is severely lacking under the Building Act 2004. It will also enable the imposition of conditions of consent to ensure ongoing compliance with infrastructure obligations.

- 6.4 In sections 6 and 7 of Mr Jaggard's evidence, he agrees that infrastructure capacity is necessary in order to properly service urban development and that Council is required to provide sufficient infrastructure to service current households and reasonably expected growth, but fails to comment on the difficulty councils face in anticipating the extent and location of growth in order to plan and invest effectively.
- 6.5 For context, as part of the Long Term Plan process Council is currently undertaking, I collated the technical reports for community facilities (prepared by Xyst Ltd), transportation (prepared by BBO) and three waters (prepared by WSP and Te Miro Water) to determine what the Council would need to invest, from an infrastructure perspective, in order to meet the requirements of the MDRS if the Infrastructure Overlay was removed across the urban extents of Cambridge, Te Awamutu and Kihikihi and to ensure we are meeting our level of service requirements and the obligations of the NPS. The requirement for the entirety of the urban extents (including growth cells pre 2035) would mean Council would need to invest upwards of 600 million dollars over above the current capital expenditure it had already committed to in the Long Term Plan. I note that this does not incorporate the operational expenditure that would come from such investment. I also note these expected capital expenditure costs include the sums mentioned above with regards to the HDRZ mentioned in my rebuttal to Mr Singh's evidence, which are hard to exclude in location and function as core infrastructure related to transportation, water and wastewater infrastructure.
- 6.6 This investment would be in conjunction with existing infrastructure upgrades contained within the network models that are supported by Mr

Hardy's evidence. As stated in Mr Hardy's evidence, the network model master planned upgrades up until 2050. This timeframe was utilised in Mr Hardy's reporting in order to demonstrate plan enabled capacity and its effect on the network. In order to meet the MDRS blanket cover with no Infrastructure Overlay in place, if that became plan enabled, the Council would need to invest heavily and early (i.e. within the first 10 years), accelerating these projects along with the ones outlined above. As this is plan enabled growth, it will need to be spread across the assumed catchments based on the enabled growth figures in order to fairly and equitably distribute cost amongst the development community. I note that once it is planned and dedicated, it needs to sit within either the Development Contribution Policy or as a Financial Contribution; it cannot sit within both as that would be seen as a double dip. Ms Fairgray's evidence outlines the significant discrepancy between projected uptake, commercial feasibility and plan enabled capacities. Over time, this discrepancy will create a more substantial development charge as interest is applied with less recovery, which can further limit commercial feasibility over and above the projected uptake due to the additional recovery expected by Council.

- 6.7 This risk cannot be overlooked when assessing the need for an Infrastructure Overlay, which provides a balanced approach to manage the demand, and charge the appropriate level of contribution, in order to ensure growth fairly contributes to growth.
- 6.8 It is on this basis that I do not agree or support Mr Jaggard's statements or conclusions for the removal of the Infrastructure Overlay from either an economic or infrastructure effects perspective.
- 6.9 Mr Jaggard states in paragraph 10.4 of his evidence the following:

The potential adverse impacts from intensification are managed through various guidance documents district plan rules, comprehensive discharge consents and the Building Act 2004 and associated bylaws and technical evidence such as flood hazard mapping undertaken by Council.

6.10 Comprehensive discharge consents look at requirements from a macro level, which need to be instilled on a micro level, which in turn aligns with our proposed Stormwater Overlay inclusion. I therefore do not support this aspect of Mr Jaggard's statement.

6.11 The Building Act 2004 manages stormwater to a degree, but provides only bare minimum requirements which, if not maintained, create wider network issues. This issue is exacerbated over time with no real ability for Council to ensure compliance of devices that may be undersized given the current provisions without transformational reform under the Building Act that looks at sustainable buildings and responds to climate change effectively.

6.12 Mr Jaggard states in paragraph 10.12 of his evidence the following:

In addition, it is important to note that the following requirements under the RITS can provide improved stormwater quality outcomes from redevelopment of sites:

(a) Water quality treatment is provided, unless an alternative criterion is provided within a relevant approved Integrated Catchment Management Plan (ICMP) or Waikato Regional Council Stormwater Consent.

(b) Flow attenuation (2 or 10 year) ARI events - required to match pre-development flow rates through attenuation, noting it is catchment dependent and always required in the upper half of the catchment, but may not be required if the site is the lower half of the catchment.

(c) Flooding - if a downstream flooding is identified, (or risk of) then detention is required limiting the post development 100- year flow rate to 80% of the pre development 100-year ARI event.

6.13 I agree with Mr Jaggard's comments regarding the outcomes of RITS but note that these outcomes are considered as part of an application under the Resource Management Act. While Council can under the Act enforce these requirements, it cannot do so for permitted activities. Council would expect, as an outcome of the infrastructure assessment, to discuss and impose solutions to enable higher intensification.

6.14 Mr Jaggard states in paragraph 10.15 of his evidence the following:

In addition, Council has the stormwater Bylaw to manage compliance with the Councils' CSDC that will contribute to achieving appropriate environmental outcomes consistent with Te Ture Whaimana.

6.15 Council's Stormwater Bylaw does not necessarily provide for treatment outcomes and only assists from a monitoring and enforcement perspective to ensure compliance with the Comprehensive Stormwater Discharge Consents (CSDC) Council has with WRC. The Stormwater Bylaw also does not speak to the minimum requirements in the Building Act 2004. It is the Stormwater Overlay which provides an opportunity for Council to impose the innovative solutions necessary to ensure compliance with the Stormwater Bylaw and overarching consents on a micro level.

6.16 Mr Jaggard states in paragraphs 11.6 – 11.9 of his evidence the following:

The Waipā District Plan - Section 15 Infrastructure, Hazards, Development and Subdivision, includes the following rules in relation to the management of flood hazards and risks:

- (a) Existing rule 15.4.2.14 – site suitability: within or adjoining a Flood Hazard Area – shall have building platforms in a complying location that can achieve a minimum free-board level 500mm above the 1% AEP (100-year flood level)
- (b) Existing rule 15.4.2.15 – no subdivision and development shall occur within a High Risk Flood Zone 26
- (c) Existing rule 15.4.2.26 – development shall not obstruct overland and secondary flow paths - path taken by runoff in excess of the primary design flow for a once in 50 years return period rain event.

Secondary flow paths can be defined as the course taken by excess flood waters when design capacity of the primary drainage system has been exceeded, and therefore include flood plains.

Activities that fail to comply with Rules 15.4.2.14, 15.4.2.15 and 15.4.2.26 will require a resource consent for a non-complying activity.

Therefore, any proposed development within the 50-year flood plain/secondary flow path would require the developer to prepare a flood hazard assessment report on a site by suitably qualified experts as part of any non-complying resource consent application.

6.17 Existing rule 15.4.2.14 does not accurately account for displacement as it only requires a minimum floor level to be provided. This in conjunction with the Building Act requirement to only consider the 50 year overland paths not affecting adjacent property owners creates a gap in terms of

100 year event displacement. The Stormwater Overlay provides the correct return period and allows for consideration of displacement, which in turn ensures up stream and down stream flows are mitigated.

6.18 I also note that existing rule 15.4.2.4.15 does not account for Council's most recent flooding information which has recently been undertaken and is based on regional river flood mapping focussed on Te Awamutu. In comparison, the Stormwater Overlay references the most recent data available to Council and, with the potential flood mapping plan change which is to be explored, may remove the need to update this further.

6.19 Rule 15.4.2.26 typically relies on the known overland flow paths that Council may have an easement over, which is not the best metric to review and confirm overland flow protection. Unlike the Stormwater Overlay, existing rule 15.4.2.26 does not allow for the 100 year events which is not considered as effective when considering TWW. Based on the comparison of the existing rules set out above, I do not support the removal of the Stormwater Overlay.

6.20 Mr Jaggard states in paragraph 11.14 of his evidence the following:

If, following the review of above, Council was concerned about the difference between development obstructing or causing flood displacement effects in the area between the 50 and 100-year flood plain, the most appropriate solution would be to change the "Secondary flow path" definition from a "1 in 50-year return period rain event" to a "1 in a 100-year return period rainfall event".

6.21 I would support such a definition change as it will allow for consistency with what the Stormwater Overlay identifies. If not addressed as part of this plan change, I would recommend that it be thoroughly investigated in any future flood mapping plan change.

6.22 Mr Jaggard states in paragraph 11.16 of his evidence the following:

Therefore, I support Kāinga Ora's position that the Stormwater Constraint Overlay is removed on the basis that:

(a) There are existing acceptable controls that manage flood displacement effects of new buildings constructed in the flood plain/secondary flow path.

(b) Stormwater flows and effects from development of either the 40% or 50% building coverage scenario can be the similar/same and can be appropriately managed by the RITS and Stormwater Bylaw.

(c) The “Secondary flow path” definition is changed from a “1 in 50-year return period rain event” to a “1 in a 100-year return period rainfall event.”

6.23 I do not agree that existing controls provide the level of protection to manage flood risk safely without the Stormwater Overlay acting as the trigger to implement the various guidance documents and rules.

6.24 The building coverage rule within the Stormwater Overlay should remain as 40% to align with Council’s precautionary approach to managing flood risk and the uncertainty surrounding impacts of infill development and displacement of flood storage when considering TTW.

## **7. CONCLUSION**

7.1 Evidence from all of the parties acknowledges the need for growth to be planned sustainably and understands the risk involved with funding such density ranges where there is no evidence supporting such a level of uptake and in uncertain locations. This uncertainty leads to significant risks in ensuring Council meets its obligation under TWW and as an organisation that protects its community from risks outlined by unplanned and uncertain growth. As such, I do not seek any changes to the Infrastructure Overlay provisions implemented through PC 26, other than those recommended changes as set out above.

**Tony Shane Coutts**  
**Dated 20 April 2023**

## **Appendix 11: Relevant excerpts from legal submission documents**

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**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**CLOSING LEGAL SUBMISSIONS OF COUNSEL FOR WAIPĀ DISTRICT COUNCIL  
FOR SUBSTANTIVE HEARING**

**Dated 19 May 2023**

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**TOMPKINS | WAKE**

Wendy Embling (Wendy.Embling@tompkinswake.co.nz)

Westpac House  
Level 8  
430 Victoria Street  
PO Box 258  
DX GP 20031  
Hamilton 3240  
New Zealand  
Ph: (07) 839 4771  
tompkinswake.co.nz

been planned based on a density of 12-15 dwellings per hectare. An increase in density would not only require additional infrastructure within the growth cell (which could be addressed by conditions of the subdivision consent), but also downstream of the growth cell as the existing infrastructure will not be adequately sized for the increased density.<sup>39</sup> Accordingly, it is necessary for the Infrastructure Overlay to apply to greenfields areas.

## 6. **STORMWATER OVERLAY**

6.1 PC26 proposes to apply a Stormwater Overlay to areas within the Medium Density Residential Zone where development to the density permitted by the MDRS would be affected by overland flows, or would potentially exacerbate upstream or downstream stormwater effects. The Council submits that the rules are necessary to accommodate two qualifying matters:

- (a) First, the rules are necessary to manage the risks of natural hazards, particularly flood risk, on sites that fall within the 1 in 100 year flood layer; and
- (b) Second, by reducing the stormwater effects, the rules contribute to giving effect to Te Ture Whaimana.

6.2 The evidence for Kāinga Ora suggests that these matters are adequately addressed by current provisions in the District Plan, the Council's Stormwater Bylaw and the Building Act 2004.<sup>40</sup> The Council's principal submission is that the current collection of provisions have, at times, proven insufficient to manage the risk of natural hazards for the existing level of development (one dwelling per site). The Council's evidence is that the current rules have not been

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<sup>39</sup> Paragraphs 15 to 18 of the Supplementary Statement of Evidence of Tony Coutts dated 2 May 2023.

<sup>40</sup> Paragraph 11.16 of the Statement of Evidence of Philip Jaggard dated 6 April 2023.

designed to manage the risk of natural hazards arising from the additional development capacity enabled by the MDRS as permitted activities, and that the proposed Stormwater Overlay is necessary to manage this risk.

6.3 In particular, the evidence of Mr Coutts regarding the current provisions is that:

- (a) The provisions in the District Plan which seek to manage flood risk are outdated, and based on return periods which are no longer appropriate.<sup>41</sup>
- (b) The Council's Stormwater Bylaw has a limited role in assisting the Council to achieve the water quality parameters required by its Comprehensive Stormwater Discharge Permits.<sup>42</sup>
- (c) The Building Act 2004 provides only bare minimum requirements which are themselves due for reform to respond to climate change effectively.<sup>43</sup>

6.4 Like many local authorities, the Council has recognised the need to prepare and notify a plan change regarding natural hazards to respond to the additional development capacity enabled by the MDRS, as well as the need to respond to climate change. This separate plan change will address a number of issues that have been identified in the course of the PC26 hearing including:

- (a) Whether high risk flood zones or overland flow paths should be mapped within the district plan or outside of the District Plan; and
- (b) Whether the appropriate return period for flood mapping should now be updated.

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<sup>41</sup> Paragraphs 6.16 to 6.24 of the Rebuttal Statement of Evidence of Tony Coutts dated 19 April 2023.

<sup>42</sup> Paragraph 6.15 of the Rebuttal Statement of Evidence of Tony Coutts dated 19 April 2023.

<sup>43</sup> Paragraph 6.11 of the Rebuttal Statement of Evidence of Tony Coutts dated 19 April 2023.

- 6.5 In particular, Mr Coutts has agreed that the definition of “secondary flow path” in the District Plan should be amended to refer to a 1 in a 100-year return period rainfall event (rather than a 1 in 50-year return period rain event).<sup>44</sup> While this change could be considered to be a related provision that is consequential on the MDRS, it may be prevented by the *Waikanae* decision as it is more restrictive than the current District Plan.<sup>45</sup> For this reason, the Council proposes to update the definition as part of the separate plan change referred to in paragraph 6.4.
- 6.6 In the interim, it is submitted that the Stormwater Overlay rules modify the MDRS only to the extent necessary to accommodate the qualifying matters. In particular:
- (a) The Stormwater Overlay only applies to sites that fall within the 1 in 100 year flood layer, using the most up to date information available to Council.
  - (b) The Stormwater Overlay requires an application for a restricted discretionary activity where building coverage exceeds 40%.
  - (c) The matters of discretion and the assessment criteria are restricted to the assessment of the effects of the development on stormwater.
- 6.7 The limited effect of the Stormwater Overlay exactly reflects the request by Cogswell Surveys that:<sup>46</sup>

I comment that if the site is outside of a high-risk flood area, are not obstructing an overland flow path and are not within the modelled 100-year flood event, then the buildings are not filling in a flood plain and can therefore tolerate a higher building coverage of 50% as per the MDRS provisions.

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<sup>44</sup> Paragraphs 6.20 and 6.21 of the Rebuttal Statement of Evidence of Tony Coutts dated 19 April 2023

<sup>45</sup> . The Council may wish to make further submissions on this issue, if the *Waikanae* decision is overturned or clarified by the High Court.

<sup>46</sup> Paragraph 7 (first dash) of the Summary Statement of Rebecca Steenstra dated 28 April 2023.

- 6.8 The Commissioners have questioned whether the appropriate modification of the MDRS is to amend the building coverage limit from 50% to 40% within the Stormwater Overlay, and requested an example of the difference in stormwater effects. The Supplementary Evidence of Mr Chapman shows a measurable difference in stormwater effects as a result of the increase in building coverage from 40% to 50%.<sup>47</sup> However, in practice, the building coverage arising from low density development of one dwelling per site is likely to be much lower than 40% (and in the example modelled by Mr Chapman was 25%).<sup>48</sup> Therefore the increase in building coverage enabled by the MDRS could be significantly higher than 10%. However, the “trigger” of 40% building coverage has been adopted by the Council as it reflects the current building coverage rule in the Residential Zone and is therefore not more restrictive than the current District Plan (and is therefore consistent with the *Waikanae* decision).
- 6.9 Mr Allan for Kāinga Ora has submitted that the redevelopment of sites to a multi-storey configuration may provide an opportunity to reduce the building coverage<sup>49</sup> – if this is the case either the 40% building coverage won’t be infringed and no consent will be required, or a restricted discretionary consent will be able to be obtained as a result of proposed on-site measures. The 40% building coverage control will also play a role in encouraging developers to reduce their building coverage, as well as provide the Council with an opportunity to record any proposed on-site measures as conditions of consent, to ensure that these are maintained in the long term.

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<sup>47</sup> Supplementary Statement of Evidence of Michael Chapman dated 2 May 2023.

<sup>48</sup> Paragraph 13 of the Supplementary Statement of Evidence of Michael Chapman dated 2 May 2023.

<sup>49</sup> Paragraph 6.3(b)(iii) of the Legal Submissions on behalf of Kāinga Ora dated 21 April 2023.

- 6.10 The submission by TA Properties Limited requests an exemption from the Stormwater Overlay for greenfields sites. The Supplementary Evidence of Mr Coutts recognises that stringent requirements apply in respect of stormwater discharge consents required by the Regional Council, which can be recorded as consent notices on the titles. In these circumstances, an exemption from the Stormwater Overlay may be appropriate.<sup>50</sup>
- 6.11 While an exemption in the limited circumstances described by Mr Coutts is supported in principle, the Council submits that it may be difficult to accurately provide such an exemption, and it would be more efficient and effective to require a restricted discretionary activity application, as currently proposed. This is because:
- (a) The Regional Council discharge permit may be obtained many years in advance of the development of individual sites within the growth cell; this means that any rule will not apply to “greenfields” subdivision, but will apply to any site within the Medium Density Residential Zone.
  - (b) While the Regional Council discharge permit may be designed to accommodate 50% building coverage (rather than 40%), this factor may not be recorded on the relevant titles in a way that is meaningful when the site is developed, potentially many years later. In particular, the use of consent notices is a tool only available in respect of a subdivision consent.
  - (c) Given the potential for a long delay between the Regional Council discharge permit and the development of a site, it may be necessary to include a “long-stop” on the proposed rule, to ensure that Council is not required to consider discharge permits that were obtained many years, or decades, previously. In these circumstances the stormwater effects, or

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<sup>50</sup> Paragraph 19 of the Supplementary Statement of Evidence of Tony Coutts dated 2 May 2023.

the current approach to the management of stormwater, may have changed.

- 6.12 For these reasons, the Council considers that no exemption from the Stormwater Overlay should be provided for greenfields sites. However, should the Hearing Panel be minded to include such an exemption, the Council's section 42A authors have proposed the following amendment to Rule 2A.4.2.8:

**2A.4.2.8**

On sites located within the Stormwater Qualifying Matter Overlay, the maximum building coverage must not exceed 40% of the net site area except for sites that meet the following criteria:

- (i) Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% building coverage over the entire site or on specified lots on the site; and
- (ii) Any regional discharge consents that are required have been approved and consent notices are in place, where applicable.

Sites that meet the criteria outlined in 2A.4.2.8 (i) and (ii) will have maximum building coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site.

**7. RIVERS, STREAMS, SIGNIFICANT NATURAL AREAS AND RESERVES**

- 7.1 The significant values of the Waipā District's rivers, streams, significant natural areas and reserves are recognised in the objectives and policies of the District Plan and are protected by a range of rules which are proposed to be retained in PC26. These rules are necessary to accommodate a number of qualifying matters including the protection and enhancement of the natural character of Waipā's waterways, significant indigenous vegetation and significant habitats of indigenous fauna, as well as enabling public access to rivers and streams and giving effect to Te Ture Whaimana.<sup>51</sup>

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<sup>51</sup> Paragraphs 2.1 and 2.2 of the Supplementary Statement of Evidence of Anna McElrea dated 2 May 2023.

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



16 October 2024

CB-COR0913

Susan O'Regan  
Mayor  
Waipa District Council  
Susan.O'Regan@waipadc.govt.nz

Cc: Wayne.Allan@waipadc.govt.nz

Dear Susan,

On 30 August 2024 I received a letter from Wayne Allan on behalf of the Waipā District Council (the Council) referring four rejected Independent Hearings Panel recommendations and the Council's alternative recommendations to me for a final decision.

The recommendations relate to an Infrastructure Constraint Qualifying Matter Overlay, a Stormwater Constraint Qualifying Matter Overlay, relocated building provisions, and financial contributions.

My decisions, made in accordance with Schedule 1, clause 105 of the Resource Management Act 1991 (RMA), along with the reasons for my decisions, are set out in table format in Attachment A.

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

Yours sincerely

A handwritten signature in blue ink that reads 'Chris Bishop'.

Hon Chris Bishop  
**Minister Responsible for RMA Reform**

## Attachment A: Accepted recommendations with reasons and alterations

Accepted Recommendations	Reasons for accepting
<p><b>Matter A</b>  <b>Council's recommendation:</b>            That the Infrastructure Constraint Qualifying Matter Overlay be mapped to cover the full extent of the Medium Density Residential Zone as originally publicly notified by PC26.</p>	<p><i>I consider that there is sufficient evidence that the Infrastructure Constraint Qualifying Matter Overlay is necessary to accommodate Te Ture Whaimana Te Awa o Waikato - the Vision and Strategy for the Waikato River as a qualifying matter. The overlay enables Council to ensure growth does not exceed infrastructure capacity, given that this could negatively impact water quality in Waikato River, which would be inconsistent with Te Ture Whaimana.</i></p> <p><i>I consider that the Council's alternative recommendation is consistent with requirements under the Resource Management Act, National Policy Statement on Urban Development, National Policy Statement on Freshwater Management and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p> <p><i>I also consider that there is insufficient evidence that the Independent Hearing Panel's recommendation would be consistent with the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</i></p> <p><i>I consider that the Council has provided sufficient evidence to demonstrate that the Stormwater Constraint Overlay restricts development only to the extent necessary to accommodate relevant qualifying matters and that the Council's alternative recommendation will better enable it to give effect to Te Ture Whaimana.</i></p> <p><i>Furthermore, I consider that the Council's alternative recommendation provides more certainty for plan users, whilst providing a clear pathway for development to proceed where appropriate.</i></p>
<p><b>Matter B</b>  <b>Council's recommendation:</b>            That Rule 2A.4.2.8 be amended to read:  <i>On sites located within the Stormwater Qualifying Matter Overlay, the maximum site coverage must not exceed 40% of the net site area</i></p>	<p><i>I consider that the Council has provided sufficient evidence to demonstrate that the Stormwater Constraint Overlay restricts development only to the extent necessary to accommodate relevant qualifying matters and that the Council's alternative recommendation will better enable it to give effect to Te Ture Whaimana.</i></p> <p><i>Furthermore, I consider that the Council's alternative recommendation provides more certainty for plan users, whilst providing a clear pathway for development to proceed where appropriate.</i></p>

<p><b>Matter C</b>  <b>Independent Hearings Panel's recommendation:</b>  Provisions that are specific to relocated buildings in the Medium Density Residential Zone are removed.</p>	<p><i>I consider that the proposed requirements for relocated buildings in the Medium Density Residential Zone, particularly the additional consenting and information requirements, would add to the complexity and cost of relocating buildings and are not justified by any effects specifically arising from relocated buildings. The removal of the relocated building provisions is also better aligned with Policy 6(b) of the National Policy Statement on Urban Development.</i></p>
<p><b>Matter D</b>  <b>Independent Hearings Panel's recommendation:</b>  Inclusion of two new financial contributions, for the purpose of mitigating effects on residential amenity and the Waikato River arising from density outcomes associated with PC26. These would apply to all new dwellings in the Medium Density Residential Zone and Commercial Zone.  Extend financial contributions to permitted activities.</p>	<p><i>I consider there is insufficient evidence to justify the scale of change sought by the Council through its alternative recommendation, noting that in making my decision I could only consider evidence that the IHP could have considered when making its recommendation. By contrast, the IHP's recommendation is supported by a robust body of evidence, which has been tested through a fulsome hearings process.</i></p>