| | |
|---|---|
| IN THE MATTER | of the Resource Management Act 1991, Subpart 6 concerning the Intensification Streamlined Planning Process |
| AND | |
| IN THE MATTER | of Plan Change 2, a Council-led proposed plan change to the Kapiti Coast District Plan under the Resource Management Act 1991, Schedule 1 Subpart 6. |

# Plan Change 2
# Council Officers' Planning Evidence


**Authors:** Andrew Banks
Katie Maxwell


**Dated:** 24 February 2023

# Contents

## Appendices

**Acronyms and terms used throughout this document**

| Term | Meaning |
|---|---|
| Amendment Act | Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 |
| A.R.T | Ātiawa ki Whakarongotai, Ngā Hapū o Ōtaki (of Ngāti Raukawa ki te Tonga) and Ngāti Toa Rangatira |
| Council | The Kāpiti Coast District Council |
| FENZ | Fire and Emergency New Zealand |
| HBA | Housing and Business Development Capacity Assessment |
| HIRB | Height in relation to boundary |
| IPI | Intensification Planning Instrument (as outlined under section 80E of the RMA) |
| ISPP | Intensification Streamlined Planning Process (as outlined under Part 6 of Schedule 1 to the RMA) |
| LDMR | *Land Development Minimum Requirements, April 2022* |
| LTP | The Kāpiti Coast District Council Long-term Plan 2021-41 |
| MDRS | Medium Density Residential Standards (as defined in section 2 of the RMA) |
| NPS-FM | National Policy Statement for Freshwater Management 2020 |
| NPS-HPL | National Policy Statement for Highly Productive Land 2022 |
| NPS-UD | National Policy Statement on Urban Development 2020 (May 2022) |
| NZCPS | New Zealand Coastal Policy Statement 2010 |
| PC1 | Plan Change 1 to the Wellington Regional Policy Statement |
| PC2 | Plan Change 2 to the Operative Kapiti Coast District Plan 2021 |
| PC(N) | Notified PC2 |
| PC(R1) | PC(N) as amended by the recommendations contained within this report |
| RMA | Resource Management Act 1991 |
| RPS | Wellington Regional Policy Statement (Operative 2013) |
| RSLR | Relative sea level rise |
| RVA | Retirement Villages Association |

# 1.0 Executive Summary

*Author: Andrew Banks*

(1) This evidence outlines the consideration of submissions received by Kāpiti Coast District Council ('the Council') on Proposed Plan Change 2 to the Operative Kapiti Coast District Plan 2021 ('PC2').

(2) PC2 is an intensification planning instrument under section 80E of the Resource Management Act 1991 ('RMA'). The purpose of PC2 is to:

(a) Incorporate the Medium Density Residential Standards (the 'MDRS') into the District Plan;

(b) Give effect to Policy 3 of the National Policy Statement on Urban Development 2020 (the 'NPS-UD');

(c) To provide for a range of existing and new qualifying matters in relation to (a) and (b) above;

(d) To amend the District Plan to enable papakāinga;

(e) To amend financial contributions provisions.

(3) PC2 was notified on 18 August 2022 following engagement with tangata whenua and the public, which included consultation on a full draft of the Plan Change in April 2022. A total of 219 primary submissions were received on notified PC2 ('PC(N)'), containing 1,295 decisions requested (also referred to as 'submission points'). Following the request for further submissions, a total of 99 further submissions were received, containing 1,099 further submission points.

(4) A broad range of matters were raised in submissions on PC2. These are summarised in terms of the following broad topics, which form the structure for the consideration of submissions throughout this evidence:

- Matters raised by tangata whenua;
  - General matters related to the MDRS and Policy 3 of the NPS-UD;
  - Specific matters related to the application of Policy 3 of the NPS-UD;
  - Application of the MDRS and Policy 3 of the NPS-UD at Ōtaki;
  - Cultural values as a component of amenity values;
  - Infrastructure;
  - Qualifying Matters;
  - Design Guides;

  - Financial contributions;
- Papakāinga;
- MDRS & NPS-UD;
  - General matters;
  - Infrastructure;
  - Additional activities;
  - Subdivision;
  - Design Guides;
  - *Land Development Minimum Requirements, April 2022*;
- Qualifying matters
  - General matters;
  - Coastal Qualifying Matter Precinct;
  - Marae Takiwā Precinct;
  - Kārewarewa Urupā;
- Rezoning;
- Financial contributions.

(5) Some submissions that seek to incorporate the rezoning of various sites into PC2 have been found, upon analysis, to be outside of the scope of PC2. Matters of scope are discussed in further detail in the body of the evidence (refer to section 4.14).

(6) Recommendations on all submission points are set out in the recommendation tables contained in Appendix B, which organises submission points by topic. While the body of this evidence provides for the assessment and recommendations on recurring matters raised in submissions, or matters that require more in-depth analysis, approximately half of all submission points are assessed directly in the recommendation tables. To assist submitters, Appendix C organises the recommendation tables by primary submitter. This is intended to enable submitters to readily identify the recommendations associated with all decisions requested by them in their primary submissions.

(7) Following consideration of the matters raised in submissions, this evidence recommends over 100 amendments to the provisions of PC(N). The recommended amendments are set out in PC(R1), which is contained in Appendix A and includes the following:

- Amendments to objectives and explanatory text in the DO – District Objectives chapter;
- Amendments to policies in the UFD – Urban Form and Development chapter;
- Amendments to the provisions of the PK – Papakāinga chapter;
- Amendments to the provisions of the GRZ – General Residential Zone chapter, including:
  - Amendments to the introductory text;
  - Amendments to the zone policies;

  - Amendment to the MDRS rule (GRZ-Rx1);
  - Simplification of the MDRS restricted discretionary activity rules (GRZ-Rx5 to GRZ-Rx7);
  - Amendments to the restricted discretionary activity rules for papakāinga (GRZ-Rx9 and GRZ-Rx10);
  - Other amendments;
- Amendments to the provisions of the MCZ – Metropolitan Centre Zone, TCZ – Town Centre Zone, LCZ – Local Centre Zone, MUZ – Mixed Use Zone and HOSZ – Hospital Zone chapters, including:
  - Amendments to zone policies;
  - Amendments to enable papakāinga in the Metropolitan Centre, Local Centre and Mixed Use zones;
  - Amendments to the papakāinga rules in the Town Centre Zone;
  - Amendments to preclude public notification under restricted discretionary activity rules for buildings and structures;
- Amendments to subdivision provisions, including:
  - Rationalisation of the rule cascade for subdivision in the General Residential Zone;
  - Amendments to provide for notification preclusions across several subdivision rules;
  - Amendments to the minimum vacant allotment size;
  - Various amendments to standards, matters of control and matters of discretion.
- Amendments to papakāinga provisions within the GRZ – General Rural Zone, RLZ – Rural Lifestyle Zone, RPROZ – Rural Production Zone and FUZ – Future Urban Zone chapters;
- Amendments to the provisions of the FC – Financial Contributions chapter;
- Amendments to provisions within other chapters of the District Plan, including:
  - Amendments to rules CE-R1 and CE-R2 in the CE – Coastal Environment Chapter;
  - Amendments to rule TR-R3 in the TR – Transport chapter;
- Amendments to the proposed Residential Design Guide and proposed Centres Design Guide;
- Amendments to the District Plan Maps;
- Amendments to District Plan definitions;
- Amendments to rules related to existing qualifying matters.

(8) Each recommended change to PC(N) is accompanied by an evaluation of the change under section 32AA of the RMA. These evaluations correspond to the scale and significance of each change. In summary, the evaluations identify that the recommended amendments to the provisions contained in PC(R1) are a more appropriate means of achieving the purpose of

the RMA, giving effect to higher-order planning documents, and achieving the objectives of PC2 than the provisions proposed by PC(N).

# 2.0 Introduction

*Author: Andrew Banks*

## 2.1 Purpose of this evidence

(9) The purpose of this evidence is to provide the Independent Hearings Panel (the 'Panel') with assessment and recommendations on submissions on Plan Change 2 to the Operative Kapiti Coast District Plan 2021 ('PC2').

(10) The evidence is structured as follows:

- **Section 2.0 Introduction** outlines the purpose of this evidence, the Panel's directions for the preparation of this evidence, describes the authors, and outlines procedural matters for the Panel's consideration.
- **Section 3.0 Statutory considerations** outlines the statutory and policy considerations relevant to PC2 and identifies new higher-order planning documents that have been gazetted or notified since PC2 that may be relevant to PC2.
- **Section 4.0 Consideration of Submissions** forms the substantial part of this evidence. This section describes the consideration given to submissions, including recommendations on the decisions requested by submitters and the assessment and reasons for the recommendations. This section must be read in conjunction with the recommendation tables contained in Appendix B and Appendix C.
- **Section 5.0 Correction of minor errors** identifies minor errors that have been identified in the course of making recommendations on matters raised in submissions, and recommends that these errors are corrected under clause 16(2) of Schedule 1 to the RMA.

(11) This evidence is intended to assist the Panel to fulfil their functions as an Independent Hearings Panel within the Intensification Streamlined Planning Process outlined under Part 6 of Schedule 1 of the RMA. The Panel may choose to adopt (or otherwise) the recommendations made in this evidence and may make different recommendations based on the information and evidence provided to them by submitters or based on matters raised at the hearing.

## 2.2 Purpose of PC2

(12) The purpose of PC2 is to:

(a) Incorporate the Medium Density Residential Standards (the 'MDRS') into the District Plan;

(b) Give effect to Policy 3 of the National Policy Statement on Urban Development 2020 (the 'NPS-UD');

(c) To provide for a range of existing and new qualifying matters in relation to (a) and (b) above;

(d) To amend the District Plan to enable papakāinga;

(e) To amend financial contributions provisions.[1]

(13) A more fulsome description of the purpose of PC2 can be found under section 1.1 of the Section 32 Evaluation Report for PC2[2].

(14) The Section 32 Evaluation Report (including the appendices to the report) can be accessed at the Council website for Plan Change 2: https://www.kapiticoast.govt.nz/your-council/forms-documents/district-plan/closed-for-further-submissions/proposed-plan-change-2-intensification/about-pc2/

## 2.3 Panel's directions for Council's planning evidence

(15) This evidence has been prepared in accordance with the Panel's directions outlined in Minute 1[3]. The directions of the Panel that are relevant to the structure and content of this evidence are outlined below.

### *2.3.1 Scope of evidence*

(16) This planning evidence responds to submissions[4].

(17) The expert evidence of Mr Derek Todd, on behalf of the Council, is provided in response to submissions on the Coastal Qualifying Matter Precinct, which are addressed under section 4.11.1 of this evidence.

### *2.3.2 Framework for the classification of submissions*

(18) The Panel have requested a framework for the classification of submissions according to topic[5]. This framework is outlined in Table 1. The table also identifies the section, author and recommendations table related to each topic.

[1] Section 32 Evaluation Report, p.12.
[2] Section 32 Evaluation Report, pp.12-14.
[3] See https://www.kapiticoast.govt.nz/media/v4wcufxn/pc2-k%C4%81piti-coast-district-council-minute-1-11-november-2022.pdf
[4] Minute 1, para 20. I note that while the minor errors identified in section 5.0 are not a direct response to submissions, they have been identified while making recommendations on matters raised in submissions and are located within provisions that are the subject of submissions.
[5] Minute 1, para 21.

*Table 1: framework for the classification of submissions*

| Theme | Topic | Sub-topic | Evidence section | Evidence author | Recommen-dations table |
|---|---|---|---|---|---|
| **Matters raised in the submissions of tangata whenua** | | General matters related to the MDRS and Policy 3 of the NPS-UD | 4.2.1 | Andrew Banks | B1 |
| | | Specific matters related to the application of Policy 3 of the NPS-UD | 4.2.2 | Andrew Banks | B1 |
| | | Application of the MDRS and Policy 3 of the NPS-UD at Ōtaki | 4.2.3 | Andrew Banks | B1 |
| | | Cultural values in relation to amenity values | 4.2.4 | Andrew Banks | B1 |
| | | Infrastructure | 4.2.5 | Andrew Banks | B1 |
| | | Qualifying matters | 4.2.6 | Andrew Banks | B1 |
| | | Design guides | 4.2.7 | Andrew Banks | B1 |
| | | Financial contributions | 4.2.8 | Andrew Banks | B1 |
| **Papakāinga** | | | 4.3 | Andrew Banks | B2 |
| **MDRS & NPS-UD** | General matters | General matters | 4.4.1 | Andrew Banks | B3 |
| | | MDRS Objectives and Policies | 4.4.3 | Andrew Banks | B3 |
| | | PC1 to the Wellington Regional Policy Statement | 4.4.3 | Andrew Banks | B3 |
| | | Kāinga Ora's request to rezone the | 4.4.4 | Andrew Banks | B3 |

| Theme | Topic | Sub-topic | Evidence section | Evidence author | Recommen-dations table |
|---|---|---|---|---|---|
| | | General Residential Zone and increase the level of development enabled by PC2 | | | |
| | | Requests to amend the Residential Intensification Precincts | 4.4.5 | Andrew Banks | B3 |
| | Infrastructure | General matters related to infrastructure | 4.5.10 | Andrew Banks | B4 |
| | | Provision for firefighting | 4.5.2 | Andrew Banks | B4 |
| | | Rail corridors | 4.5.3 | Andrew Banks | B4 |
| | Additional activities | Emergency services facilities | 4.6.1 | Andrew Banks | B5 |
| | | Retirement villages | 4.6.2 | Andrew Banks | B5 |
| | | Community corrections activities | 4.6.3 | Andrew Banks | B5 |
| | Subdivision | | 4.7 | Andrew Banks | B6 |
| | Design Guides | | 4.8 | Andrew Banks | B7 |
| | *Land Development Minimum Requirements, April 2022* | | 4.9 | Andrew Banks | B8 |
| **Qualifying Matters** | General matters | General submissions on flood hazards | 4.10.1 | Andrew Banks | B9 |
| | | Liquefaction hazard | 4.10.2 | Andrew Banks | B9 |
| | | Other matters | 4.10.3 | Andrew Banks | B9 |
| | Coastal Qualifying | Matters raised by 'CRU' submissions | 4.11.1 | Andrew Banks | B10 |

| Theme | Topic | Sub-topic | Evidence section | Evidence author | Recommen-dations table |
|---|---|---|---|---|---|
| | Matter Precinct | Matters raised by 'Beach Residential' submissions | 4.11.2 | Andrew Banks | B10 |
| | | Other matters | 4.11.3 | Andrew Banks | B10 |
| | Marae Takiwā Precinct | | 4.12 | Andrew Banks | B11 |
| | Kārewarewa Urupā | | 4.13 | Andrew Banks | B12 |
| **Rezoning** | Scope | | 4.14 | Katie Maxwell | B13 |
| | Submissions on rezonings proposed by PC(N) | | 4.15 | Katie Maxwell | B13 |
| | Other rezoning requests | | 4.16 | Katie Maxwell | B13 |
| **Financial contributions** | | | 4.17 | Andrew Banks | B14 |

### 2.3.3 *Council officer recommendation tables*

(19) The Panel have requested that the evidence include tables with recommendations for each submission point organised by topic and submitter[6]. These tables are contained in Appendix B.

(20) It is noted that many submissions on PC(N) include multiple submission points that span across several topics. For the benefit of submitters, a table with recommendations organised by primary submitter is included in Appendix C. This is intended to assist primary submitters to identify the recommendations associated with all submission points related to their submission.

(21) Further submissions are grouped with the primary submission to which they relate, so further submitters will need to refer to the relevant primary submission on which they submitted to identify the recommendations relevant to their further submission.

### 2.3.4 *Out of scope requests*

(22) The Panel have requested that the planning evidence include a record of the Council's view of out-of-scope requests in the recommendations tables[7]. Where a request is considered to be out-of-scope, this is recorded as such in the recommendations tables contained in Appendix B and Appendix C.

[6] Minute 1, para 22(a).
[7] Minute 1, para 22(b).

(23) The Panel has also requested that the evidence include a summary of what the Council considers to be out-of-scope requests. The table contained in section 4.14.3 of this evidence includes an assessment and summary of submissions points that are considered to be out-of-scope.

### 2.3.5 Nomenclature

(24) The Panel have requested that the following nomenclature be used to identify the various versions of PC2[8]:

*Table 2: nomenclature for versions PC2*

| Nomenclature | Description |
|---|---|
| PC(N) | PC2 as notified. |
| PC(R1) | Amendments to PC(N) recommended by this evidence. |
| PC(R2) | Amendments to PC(N) recommended as part of the Council's right of reply. |
| PC(C) | The plan change provisions recommended by the Panel in its report. |

(25) This nomenclature is used throughout this evidence. Where "PC2" is referred to in this evidence, this is a reference to PC2 more broadly (as opposed to any specific version of PC2).

### 2.3.6 Council officer recommendations version of PC2 (PC(R1))

(26) The Panel have requested that the planning evidence include a tracked changes version of PC(N), outlining the changes as a result of the recommendations made in this evidence in response to submissions[9]. This is contained in Appendix A and is referred to as PC(R1).

(27) The formatting for tracked changes is outlined in the introduction to PC(R1), and the submissions related to each recommended change are identified using sidebar annotation.

### 2.3.7 Information related to Ōtaki

(28) The Panel have also requested that the Council:

> *Provide some historical and cultural research as part of its evidence to provide context for the historical development patterns in Ōtaki Township, including setting aside land for native reserves if applicable.*[10]

[8] Minute 1, para 36.
[9] Minute 1, para 38.
[10] Minute 1, para 17.

(29) The Council has prepared a report in response to the request, which is available online as an ArcGIS StoryMap, at the following address:

https://storymaps.arcgis.com/stories/7724ec2de3db463b819c873677e69b92

(30) This report does not include information on the setting aside of land for native reserves. Understanding the history related to the setting aside of land for native reserves is complex and requires thorough research by suitable experts, with access to appropriate sources of information (including Māori Land Court records, Crown records, the evidence of tangata whenua and other historical evidence)[11]. Within the time and resources constraints associated with preparing this evidence, the Council was not able to gather suitably researched information on this matter. While it is acknowledged that this is not what the Panel has requested, the report does include maps identifying the present state of land held under Te Ture Whenua Māori Act 1993[12] at Ōtaki. It is hoped that this will provide the Panel with some useful context in relation to Māori land at Ōtaki.

## 2.4 Authors

(31) This evidence has been prepared by multiple authors. The author for each section of this evidence is specified under the relevant heading, as well as in Table 1 above.

(32) The following sections outline the qualifications and experience of the report authors.

**Andrew Banks**

(33) My name is Andrew Peter Banks. I hold the qualifications of Bachelor of Architecture from Victoria University Wellington and Master of Resource and Environmental Planning from Massey University. I am employed as a planner at Boffa Miskell Limited based in Wellington.

(34) I have two years' experience undertaking policy planning work, and for the majority of this time I have worked as a consulting policy planner to the Kāpiti Coast District Council. Prior to this I worked as an architect and urban designer for thirteen years, during which time I acquired experience in spatial, structure and master planning at site, neighbourhood and area/suburb scales, as well as the design, consenting and construction of complex multi-storey residential, commercial, historic heritage and special purpose buildings.

(35) I was the lead planner in the preparation of PC2. I undertook the drafting of the Intensification Planning Instrument and prepared the Section 32 Evaluation Report on behalf of the Council. I also prepared, oversaw, or coordinated the preparation of several of the technical

[11] Native reserves are a matter that may be addressed by the Waitangi Tribunal as part of its Porirua ki Manawatū inquiry, however I note that the Waitangi Tribunal is yet to release a report on the Ōtaki area as part of this inquiry.
[12] Sourced from the Ministry of Justice Māori Land Online dataset. This data is up to date as of 2017.
See also: https://www.maorilandonline.govt.nz/gis/home.htm

assessments that supported the development of PC2 and which are found as appendices to the Section 32 Evaluation Report. I am familiar with Operative Kapiti Coast District Plan 2021, its structure and general content, and the provisions as they relate to PC2. I am familiar with the specific requirements for the preparation of Intensification Planning Instruments outlined under Subpart 5A of the RMA.

(36) Although this is a hearing of an Independent Hearings Panel, I confirm that I have read the Code of Conduct for Expert Witnesses (Section 9 of the Environment Court of New Zealand Practice Note 2023), and I agree to comply with it.

(37) The scope of my evidence relates to PC2, and I provide this evidence as a planner. I confirm that the evidence I give is within my area of expertise. In giving my evidence, the principal source of information I rely upon is the Section 32 Evaluation Report for Plan Change 2 (including the appendices to the report)[13]. Where I rely on other sources of information, I reference these in footnotes.

(38) For specific sections of my evidence, I have relied on the following expert evidence:

- The evidence of Mr Derek Todd on Coastal Hazards.

(39) Any data, information, facts and assumptions I have considered in forming my opinions are set out in the relevant sections of this report, and where I have set out my opinions, I also state the reasons for forming those opinions.

(40) I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

**Katie Maxwell**

(41) My name is Katie Monique Maxwell. I hold the qualifications of Bachelor of Urban Planning (Honours) from the University of Auckland. I am an Intermediate member of the New Zealand Planning Institute. I have over 6 years' experience working for district councils, central government, and consultancy.

(42) I hold the position of Planner at Boffa Miskell Limited, a national firm of consulting planners, ecologists, and landscape architects. I have held this position since January 2022. In this role to date, I have assisted district councils with plan policy, developed structure plans, and have prepared outline plans and assessments of environmental effects for complex projects.

[13] The Section 32 Evaluation Report can be accessed at the Council website for Plan Change 2: https://www.kapiticoast.govt.nz/your-council/forms-documents/district-plan/closed-for-further-submissions/proposed-plan-change-2-intensification/about-pc2/

(43) My previous experience includes as a Policy Advisor at the Ministry of Housing and Urban Development in their Large-Scale Projects team, where I was involved in the Eastern Porirua Regeneration programme, land use covenants research and general urban development and infrastructure planning.

(44) Prior to this I held the position of Policy Planner at Auckland Council where I reported on private plan changes, developed plan policy, provided policy interpretation assistance for resource consents staff, reported on the efficiency and effectiveness of operational provisions, engaged with iwi and stakeholders, and reported to elected members. Before this I held the role of Graduate Planner at the Council, where I worked in several departments including Western Resource Consents, Open Space Policy, and Built Heritage Policy. In this role I provided planning advice, developed strategic open space policy, and assisted the built heritage team with resource consent assessments on alterations and additions to heritage buildings.

(45) I have been engaged to undertake an assessment of the submissions relating to rezoning requests. As part of assessing these submissions, I have undertaken a scope analysis, based on legal advice from Simpson Grierson attached in Appendix D.

(46) I confirm that I have read the Code of Conduct for Expert Witnesses (Section 9 of the Environment Court of New Zealand Practice Note 2023), and I agree to comply with it.

(47) The scope of my evidence relates to PC2, and I provide this evidence as a planner. I confirm that the evidence I give is within my area of expertise. In giving my evidence, the principal source of information I rely upon is the Section 32 Evaluation Report for Plan Change 2 (including the appendices to the report). Where I rely on other sources of information, I reference these in footnotes.

(48) Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the relevant sections of this report, and where I have set out my opinions, I also state the reasons for forming those opinions.

(49) I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

## 2.5 Procedural matters

(50) At the time of writing this report, there has not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on PC(N).

(51) There are, however, several procedural matters to bring to the attention of the Panel.

### 2.5.1 *Late primary submissions*

(52) PC2 was publicly notified on Thursday 18 August 2022. The submission period was notified to close at 5pm on Thursday 15 September 2022, however the submission period was extended by the Council to close at 5pm on Tuesday 27 September 2022.

(53) Under clause 98(3) of Schedule 1 of the RMA, the Panel may decide to accept or reject any late submission.

(54) There were two late primary submissions. These were:

(a) S123 **Liakhovskaia, Stacey**. This submission was received on 27 September 2022 (the day the original submission period closed) but after the 5pm deadline.

(b) S219 **Poole, Sally**. This submission was received by e-mail on 19 October 2022.

(55) In relation to S123, the submission was late by a matter of hours. The submission was an update of a previous submission, the updates were minor, and there were no changes to the decisions requested. I consider that it would be unreasonable to reject this submission on the basis that it was late and recommend that the Panel accept this submission.

(56) In relation to S219, while this submission was considerably late, the decisions requested and reasoning contained within the submission are identical to those contained in another original submission [S50 **Poole, Quentin**]. Because S219 does not introduce new matters (beyond those already introduced in S50], I consider that it would not impact the interests of other submitters for the panel to give consideration to this submission. I therefore recommend that the panel accept this submission.

(57) In making these recommendations I have taken into account whether considering these late submissions would have an unreasonable impact on the interests of individuals or the wider community or would undermine the duty to avoid unreasonable delay. In my opinion, for the reasons stated above, it would not.

(58) For the avoidance of doubt, the recommendations above are not a recommendation to accept the decisions requested in the submission. Recommendations on decisions requested are addressed later in this report.

### 2.5.2 *Further submissions*

**Late further submissions**

*S259.FS.1*

(59) The further submission of **Campbell and Susan Ross Trust** [S259.FS.1] was received on 1 December 2022, a week after the close of the further submission period (on 24 November 2022).

(60) The submission relates to land at and around 340A Ngarara Road, which is located within the General Rural Zone (PREC61 – Waikanae North Eco Hamlet Precinct). The further submission requests changes to the subdivision rules associated with the Eco Hamlet Precinct to simplify the minimum allotment size requirements to a minimum allotment size of 0.4ha and remove the requirement for balance allotments. The submission states that it is in support of several primary submissions, and a clarification e-mail received by the Council on 2 December 2022 states that it supports "submission "Ref" 136, Landlink", however I note that submission S136 is a submission by Richard Trow, and the submission of Landlink is S206. In any case, I cannot deduce a clear link between the subject of the further submission, and the primary submissions that the further submission states it is in support of.

(61) I note that no primary submission relates to the land subject to the further submission. I also note that notified PC(N) did not propose any change of zoning of the land subject to the further submission. I therefore consider that S259.FS.1 is not limited to a matter in support of or opposition to a primary submission and recommend that it is not considered as a further submission.

# 3.0 Statutory considerations

*Author: Andrew Banks*

## 3.1 Resource Management Act 1991

(62) PC(N) has been prepared in accordance with the requirements of the RMA, in particular:

- Section 74 (matters to be considered by territorial authorities);
- Section 75 (contents of district plans);
- Section 77E (local authority may make rule about financial contributions);
- Section 77G (duty of specified territorial authorities to incorporate the MDRS and give effect to policy 3 or 5 in residential zones);
- Section 77N (duty of specified territorial authorities to give effect to policy 3 or policy 5 in non-residential zones);
- Sections 80E to 80H (intensification planning instruments).

(63) For the avoidance of doubt, it is noted that:

- PC2 is an intensification planning instrument under section 80E of the RMA;
- PC2 is not a review under section 79 of the RMA.

(64) There are a range of statutory and policy directions and considerations that are relevant to PC2. These are outlined in section 2.0 of the Section 32 Evaluation Report, and for conciseness I do not repeat them here.

### *3.1.1 Section 32AA*

(65) Where recommendations are made in this evidence that would result in a change to PC(N), evaluation of the change has been undertaken in accordance with section 32AA of the RMA. In particular, section 32AA(1) states that:

> ***32AA Requirements for undertaking and publishing further evaluations***
>
> *(1) A further evaluation required under this Act—*
>
> *(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and*
>
> *(b) must be undertaken in accordance with section 32(1) to (4); and*

> *(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
>
> *(d) must—*
>
> > *(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or*
> >
> > *(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section*

(66) The required section 32AA evaluation for the changes recommended in this evidence is located with each recommended change. The evaluations are either located in the body of this report, or where the recommended change is assessed directly within the recommendations table, the evaluation will be located in Appendix B alongside the recommendation.

(67) Some of the changes to PC(N) recommended in this evidence relate to qualifying matters[14]. Sections 77J and 77P of the RMA require that an evaluation report prepared under *section 32* of the RMA include additional specified assessments in relation to the qualifying matter. It is not clear under sections 77J and 77P whether these assessments are required for evaluations under section 32AA, however given the overall scheme of the Amendment Act in relation to qualifying matters, it is logical that these assessments would be necessary for evaluations under section 32AA. For the avoidance of doubt, where changes are recommended to provisions that relate to qualifying matters, and these changes may have the effect of restricting the level of development otherwise required by the MDRS or Policy 3 of the NPS-UD, the assessments required by sections 77J(3) and 77P(3) of the RMA are included with the relevant section 32AA evaluation.

## 3.2 New higher-order planning documents

(68) Several higher-order planning documents have been gazetted or notified since the notification of PC2. These are outlined below in relation to PC2.

(69) I am mindful that I can only make recommendations on matters raised in submissions, so I have refrained from making recommendations in relation to these documents (except where it is identified that the documents are relevant to matters raised in submissions). However, the Panel may wish to consider the following observations on the relationship between these

[14] Refer to section 6.1 of the Section 32 Evaluation Report for a description of qualifying matters in relation to PC2.

higher-order documents and PC2, when considering these documents as part of making its recommendations on PC2.

### 3.2.1 National Policy Statement for Highly Productive Land 2022

(70) The National Policy Statement for Highly Productive Land 2022 ('NPS-HPL')[15] came into force on 17 October 2022. The NPS-HPL has a single objective, which is that:

> *Highly productive land is protected for use in land-based primary production, both now and for future generations.*

(71) The NPS-HPL includes a range of policies and implementation methods that provide for:

- Recognition of the value of highly productive land for land-based primary production;
- Identification and mapping of highly productive land in regional policy statements and district plans;
- Restrictions on urban rezoning, rural lifestyle rezoning, or subdivision of highly productive land (except in certain circumstances);
- Supporting the appropriate use, and avoiding inappropriate use and development of highly productive land;
- Managing reverse sensitivity effects.

(72) The Council is required to notify changes to the objectives, policies and rules in the District Plan to give effect to the NPS-HPL no later than 2 years after the required amendments to the RPS to incorporate regional maps of highly productive land become operative. The Regional Council has 3 years within which to notify a proposed change to the RPS to incorporate these maps.

(73) Prior to the incorporation of maps into the RPS, the NPS-HPL specifies a default position on the definition of highly productive land for the purpose of giving effect to the NPS. The default position is outlined in clause 3.5(7) of the NPS-HPL, which states that highly productive land[16]:

> *(a) is*
>
> *(i) zoned general rural or rural production; and*
>
> *(ii) LUC 1, 2, or 3 land; but*
>
> *(b) is not:*
>
> *(i) identified for future urban development; or*

[15] Ministry for the Environment. (2022). *National Policy Statement for Highly Productive Land 2022.* See: https://environment.govt.nz/assets/publications/National-policy-statement-highly-productive-land-sept-22-dated.pdf
[16] NPS-HPL, clause 3.5(7).

*(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.*

(74) There is one site proposed to be rezoned from a rural zone to General Residential Zone as part of PC(N) that contains LUC 1, 2 or 3 land. This is the site located at 234 & 254 Rangiuru Road, Ōtaki[17]. However, because this site is part of PC(N), it is not subject the NPS-HPL because of the exemption outlined under clause 3.5(7)(b)(ii) above. For completeness, I note that the relevant higher order policy direction in relation to highly productive land at this site continues to be policy 59 of the operative RPS, and analysis of this matter is outlined in section 2.4.1 of the Section 32 Evaluation Report[18].

(75) However, I consider that the NPS-HPL would be relevant to submissions that seek rezoning of sites as part of PC2 that were not included in PC(N). This is because the exemptions outlined under clause 3.5(7)(b) would not apply to these sites. The relevance of the NPS-HPL to sites seeking to be rezoned through submissions is outlined in the response to the relevant submissions.

### *3.2.2 Proposed Change 1 to the Regional Policy Statement for the Wellington Region*

(76) Section 74(2)(a)(i) of the RMA requires that the Council have regard to any proposed regional policy statement when changing the District Plan.

(77) Proposed Change 1 to the Wellington Regional Policy Statement was publicly notified on 19 August 2022[19], the day after PC2 was notified.

(78) Proposed Change 1 to the RPS is significant change to the RPS. It has a broad scope beyond giving effect to Policy 3 of the NPS-UD, and generally covers the following matters:

- Freshwater quality and Te Mana o te Wai;
- Stormwater quality and quantity;
- Climate change (including freshwater bodies, water supply, transport infrastructure, emissions assessments, resilient urban areas, and nature-based solutions);
- Biodiversity offsetting and compensation;
- Mana whenua/tangata whenua values;
- Managing indigenous biodiversity;
- Integrated management and decision making;
- Natural hazards;

[17] Refer to Appendix V of the Section 32 Evaluation Report for further information.
[18] Section 32 Evaluation Report, p.41.
[19] The proposed RPS is available on the Greater Wellington Regional Council website at the following address: https://www.gw.govt.nz/your-region/plans-policies-and-bylaws/updating-our-regional-policy-statement-and-natural-resources-plan/regional-policy-statement-2022-changes/

- Greenhouse gas emission reduction;
- Well-functioning urban environments and giving effect to the NPS-UD.

(79) Plan Change 1 to the RPS received 156 primary submissions and is at an early stage of the Schedule 1 process (I understand that hearings on submissions are yet to be scheduled). Many of these submissions challenge the provisions of the proposed RPS. As a result, the notified provisions of the proposed RPS may be subject to change through the Schedule 1 process. I therefore consider that the provisions of the proposed RPS should be given minimal weighting, until it has progressed further through the Schedule 1 process.

(80) Proposed Change 1 to the RPS is particularly relevant to the submissions of the Greater Wellington Regional Council [S097] on PC(N). I address this in further detail in section 4.4.3 of this report. As part of considering these submissions, I have had regard to what I consider to be the relevant provisions of PC1 to the RPS as they relate to PC(N), and my analysis is set out in Appendix E. Based on this analysis, I do not consider that any amendments to PC(N) are necessary as part of incorporating the MDRS or giving effect to policy 3 of the NPS-UD.

### *3.2.3 Emissions Reduction Plan 2022*

(81) Since 30 November 2022, section 74(2)(d) of the RMA requires that the Council have regard to any emissions reduction plan when changing the District Plan.

(82) The purpose of the first Emissions Reduction Plan[20] is to "contribute to global efforts to limit temperature rise to 1.5°C above pre-industrial levels[21]. The plan outlines programme of strategies, policies and other actions across the economy, as well as within specific sectors, to contribute towards the national target of achieving net zero emissions by 2050.

(83) The actions outlined in the emissions reduction plan generally provide for central government to develop strategies, policies, regulations or other work programmes at a more detailed level as part of implementing the plan. This includes implementing the plan through the reforms to the resource management system and assessing existing national direction[22].

[20] Ministry for the Environment. (2022). *Te hau mārohi ki anamata Towards a productive, sustainable and inclusive economy: Aotearoa New Zealand's First Emissions Reduction Plan.* See: https://environment.govt.nz/assets/publications/Aotearoa-New-Zealands-first-emissions-reduction-plan.pdf
[21] Ministry for the Environment. (2022). *Te hau mārohi ki anamata Towards a productive, sustainable and inclusive economy: Aotearoa New Zealand's First Emissions Reduction Plan,* p.29.
[22] See Action 7.1. Ministry for the Environment. (2022). *Te hau mārohi ki anamata Towards a productive, sustainable and inclusive economy: Aotearoa New Zealand's First Emissions Reduction Plan,* p.133.

(84) I note that Action 7.2 under the plan is to support emissions reductions and climate resilience via policy, guidelines, direction and partnerships on housing and urban development[23]. This action outlines several key initiatives, including:

- Implementation of the National Policy Statement on Urban Development 2020;
- Implementation of Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021;
- Implementation of MAIHI Ka Ora (the National Māori Housing Strategy).

(85) As outlined in the Section 32 Evaluation Report, PC2 either implements, or contributes towards implementing, each of these matters.

(86) I consider that there are no other actions outlined in the emissions reduction plan that contain specific direction for district plans, such that amendment to PC(N) would be necessary as part of having regard to the emissions reduction plan.

### *3.2.4 National Adaptation Plan 2022*

(87) Since 30 November 2022, section 74(2)(e) of the RMA requires that the Council have regard to any national adaptation plan when changing the District Plan.

(88) The National Adaptation Plan[24] outlines the range of government-led strategies, policies and proposals to help New Zealand to adapt to the changing climate and its effects. The plan sets out a series of actions to achieve this purpose, most of which are led by central government agencies or other crown entities. Actions include reform of the resource management system and developing national direction on natural hazard risk management and climate adaptation[25]. Once complete, reform of the resource management system and new or amended national direction would be addressed by the Councils through lower-order planning documents, such as the District Plan.

(89) However, I consider that there is one aspect of the National Adaptation Plan that provides direction that is relevant to PC2. When making or changing district plans, the National Adaptation Plan recommends that Councils consider a range of specified climate change scenarios[26], and refers to interim guidance published by the Ministry for the Environment in July 2022 to assist with the consideration of appropriate climate change scenarios for various land use planning purposes[27].

[23] Ministry for the Environment. (2022). *Te hau mārohi ki anamata Towards a productive, sustainable and inclusive economy: Aotearoa New Zealand's First Emissions Reduction Plan,* p.134.
[24] Ministry for the Environment. (August 2022). *Aotearoa New Zealand's first national adaptation plan.* https://environment.govt.nz/assets/publications/climate-change/MFE-AoG-20664-GF-National-Adaptation-Plan-2022-WEB.pdf
[25] Ministry for the Environment. (August 2022). *Aotearoa New Zealand's first national adaptation plan,* pp.71-72.
[26] Ministry for the Environment. (August 2022). *Aotearoa New Zealand's first national adaptation plan.* Pp. 68-69.
[27] Ministry for the Environment. July 2022. *Interim guidance on the use of new sea-level rise projections.* See: Interim-guidance-on-the-use-of-new-sea-level-rise-projections-August-2022.pdf (environment.govt.nz)

(90) This matter is relevant to the consideration of submissions on the Coastal Qualifying Matter Precinct, and is discussed in further detail in section 0 of this report (at paras (484) and (485)), as well as in the statement of evidence of Mr Todd.

# 4.0 Consideration of Submissions

## 4.1 Overview

*Author: Andrew Banks*

(91) A total of 219 primary submissions were received, containing 1,295 decisions requested (also referred to as 'submission points'). A total of 99 further submissions were received, containing 1,099 further submission points.

### *4.1.1 Format for consideration of submissions and making recommendations*

(92) Due to the quantity of submission points, the body of this report does not evaluate each individual submission point. Rather, the body of this report is used to evaluate:

(a) matters that are common across multiple submissions or submission points; or

(b) matters that require a deeper level analysis (which would otherwise not be appropriate to evaluate within the confines of the recommendations table contained in Appendix B).

(93) Where matters are evaluated in the body of this report, the evaluation has been undertaken under the following sub-headings:

- Matters raised by submitters;
- Assessment;
- Recommendations;
- Section 32AA evaluation (where an amendment to PC(N) is recommended).

(94) The recommendations table contained in Appendix B identifies the assessment and recommendations for each submission point. Where the assessment and recommendations for a submission point are addressed in the body of this report, the table will cross-refer to the relevant section of this report. The recommendations table is structured as an extension of the Summary of Decisions Requested Report for PC(N), and is structured as follows:

*Table 3: recommendations table structure*

| Column heading | Description |
|---|---|
| **Submissions**<br><br>For primary submissions, the information contained in this group of columns matches that contained in the Summary of Decisions Requested Report. | |
| **Submission point number** | Identifies the unique number for each submission point. |

| Column heading | Description |
|---|---|
| **Submitter name** | Identifies the name of the submitter. |
| **Specific provision/matter** | Records the specific provision or matter to which the submission point relates. |
| **Position** | Records the submitter's position on the provision or matter. |
| **Reasons** | Records a summary of the submitter's reasons for their submission. |
| **Decision requested** | Records the decision requested by the submitter. |
| **Section 42A Report Recommendations**<br><br>This group of columns identifies the recommendations on each submission point. | |
| **Evidence section** | This identifies the section of the body of the evidence (this document) that is relevant to the recommendations on the submission point. |
| **Assessment** | This provides an assessment of the decision requested by the submitter.<br><br>Where the assessment is covered in the body of the report, this column will instead cross-reference the relevant section of the body of the evidence for the analysis. |
| **Officer's recommendation** | This will identify the Council officer's recommendation as a result of the assessment. The recommendation will be to either:<br><br>• **Accept** the decision requested. Recommendations to accept are shown in a green cell.<br><br>• **Accept in part** (in which case, I will identify which part of the request to accept, and which part to reject). Recommendations to accept in part are shown in a yellow cell.<br><br>• **Do not accept** the decision requested. Recommendations to reject are shown in an orange cell.<br><br>• **No recommendation.** There are some instances where a submitter has not requested a particular decision be made on PC(N). In these instances, a recommendation is not made. |
| **Amendments to PC(N)?** | This column will identify there are any amendments to PC(N) as a result of the recommendation. If there are then:<br><br>• This column will refer to the relevant part of the PC(R1) for the location of the recommended amendment; and<br><br>• Include a section 32AA evaluation of the recommended amendment. If the section 32AA evaluation is covered in |

| Column heading | Description |
|---|---|
| | the body of the report, then this will cross-reference the relevant section of the report.<br><br>For ease of identification, recommendations that result in amendments to PC(N) will be highlighted in a blue cell. |

(95) This approach is consistent with clause 10(2)(a) of Schedule 1 of the RMA and provides for an efficient balance between evaluating the matters raised in submissions at an appropriate level of detail while also ensuring that there is a clear recommendation made on each submission point.

(96) Appendix A contains the "Council Officer Recommendations Version" of the PC2 Intensification Planning Instrument (referred to as PC(R1)). Where amendments are recommended to PC(N), these are recorded as a tracked change in PC(R1). The text conventions used to highlight recommended amendments are explained in the introduction to PC(R1). Sidebar annotation is used alongside each recommendation to identify the submission point to which each recommendation relates.

### *4.1.2 Further submissions*

(97) Further submissions have been summarised into further submission points and incorporated into the recommendations table contained in Appendix B. Further submission points are identified in italicised text and are numbered using the convention *Sx.x.FSy*, where *Sx.x* is the submission point number of the relevant primary submission, and *y* is the further submission point number.

(98) Further submission points are located below the primary submission points to which they relate. They are identified in grey rows within the recommendations tables contained in Appendix B and Appendix C.

(99) Matters raised in further submissions have been considered as part of the assessment of the primary submission to which the further submission relates. Recommendations in relation to further submissions reflect the recommendations on the relevant primary submission.

(100) There are several further submissions that support or oppose primary submissions in their entirety. In these cases, the matters raised in the further submission have been considered as part of the assessment and recommendations on decisions requested in the primary submission. The following table identifies those further submissions that relate to the entirety of a primary submission:

*Table 4: further submissions that relate to full primary submissions*

| Primary submission | Further submission | Position of further submission |
|---|---|---|
| **Fleming, Michael** [S002] | **Ātiawa ki Whakarongotai** [S100.FS.1] | Supports primary submission |
| **Fleming, Michael** [S002] | **Fleming, Michael** [S002.FS.1] | Appears to support primary submission (the further submission is largely a restatement of the primary submission) |
| **Infill Tapui Limited** [S028] | **Jonas, Malu** [S054.FS.1] | Opposes primary submission |
| **Cuttriss Consultants Ltd** [S043] | **Jonas, Malu** [S054.FS.1] | Supports primary submission |
| **Milne, Philip** [S064] | **Gomez, Nancy** [S160.FS.03] | Supports primary submission |
| **Manly Flats Limited** [S067] | **Gomez, Nancy** [S160.FS.03] | Supports primary submission |
| **Cancer Society of NZ (Wellington Division)** [S073] | **Low Carbon Kapiti** [S252.FS.1] | Supports primary submission |
| **Francis Holdings Ltd.** [S077] | **Foote, Jacinda and Thomson, Daniel** [S232.FS.1] | Supports primary submission |
| **Greater Wellington Regional Council** [S097] | **Jonas, Malu** [S054.FS.1] | Supports primary submission |
| **Wiggs, Glen** [S098] | **Houston, David** [S085.FS.2] | Supports primary submission |
| | **Yager, Graeme** [S108.FS.1] | Supports primary submission |
| **Ātiawa ki Whakarongotai** [S100] | **McDonald, Diedre** [S244.FS.1] | Supports primary submission |
| | **Jonas, Malu** [S054.FS.1] | Supports primary submission |
| **Toka Tū Ake EQC** [S101] | **McDonald, Diedre** [S244.FS.1] | Supports primary submission |
| **Waikanae Beach Residents Society Inc** [S105] | **Tate, Karen** [S225.FS.2] | Supports primary submission |
| **Land Matters Limited** [S107] | **McDonald, Diedre** [S244.FS.1] | Supports primary submission |

| Primary submission | Further submission | Position of further submission |
|---|---|---|
| **Kāinga Ora Homes and Communities** [S122] | **Gomez, Nancy** [S160.FS.1] | Opposes primary submission |
| | **Boyd, Jacob** [S220.FS.1] | Opposes primary submission |
| | **Crow, Adam** [S221.FS.1] | Opposes primary submission |
| | **Hazelton, Andrew** [S074.FS.1] | Opposes primary submission |
| | **Tselentis, Evangelia Leah** [S190.FS.1] | Opposes primary submission |
| | **Cathie, Richard** [S177.FS.1] | Opposes primary submission |
| | **Lambert, Nicholas** [S191.FS.1] | Opposes primary submission |
| | **Lambert, William** [S193.FS.1] | Opposes primary submission |
| | **Helson, Lindsay** [S233.FS.1] | Opposes primary submission |
| | **Heads, Ann** [S238.FS.1] | Opposes primary submission |
| | **Jonas, Malu** [S054.FS.1] | Opposes primary submission |
| **Gomez, Nancy** [S160] | **Gomez, Nancy** [S160.FS.3] | Supports primary submission |
| **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161] | **McDonald, Deidre** [S244.FS.1] | Supports primary submission |
| | **Jonas, Malu** [S054.FS.1] | Supports primary submission |
| **Ngati Haumia ki Paekakariki** [S180] | **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161.FS.1] | Supports primary submission |
| **Gunn, Ian and Jean** [S186] | **Gunn, Ian and Jean** [S186.FS.1] | Supports primary submission |
| **Retirement Villages Association of New Zealand Incorporated (RVA)** [S197] | **Metlifecare Limited** [S207.FS.1] | Supports primary submission |
| **Ngā Hapū o Ōtaki** [S203] | **McDonald, Deidre** [S244.FS.1] | Supports primary submission |
| | **Jonas, Malu** [S054.FS.1] | Supports primary submission |

| Primary submission | Further submission | Position of further submission |
|---|---|---|
| **Metlifecare Limited** [S207] | **Ātiawa ki Whakarongotai** [S100.FS.1] | Supports primary submission |
| **A.R.T (Ātiawa ki Whakarongotai, Ngā Hapū o Ōtaki (of Ngāti Raukawa ki te Tonga) and Ngāti Toa Rangatira)** [S210] | **McDonald, Deidre** [S244.FS.1] | Supports primary submission |
| | **Jonas, Malu** [S054.FS.1] | Supports primary submission |
| **Coastal Ratepayers United Inc** [S218] | **Tate, Karen** [S225.FS.2] | Supports primary submission |

## 4.2 Matters raised in the submissions of tangata whenua

*Author: Andrew Banks*

(101) Tangata whenua[28] raised a broad range of matters through their submissions on PC(N). The submissions of tangata whenua include:

- **Ātiawa ki Whakarongotai** [S100];
- **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161];
- **Ngati Haumia ki Paekakariki** [S180];
- **Ngā Hapū o Ōtaki** [S203];
- **A.R.T (Ātiawa ki Whakarongotai, Ngā Hapū o Ōtaki (of Ngāti Raukawa ki te Tonga) and Ngāti Toa Rangatira)** [S210].

(102) I note that the following sections of this report also contain assessment and recommendations on matters raised in the submissions of tangata whenua:

- Section 4.3 Papakāinga;
- Section 4.4.2 MDRS Objectives and Policies;
- Section 4.12 Qualifying Matters – Marae Takiwā Precinct;
- Section 4.13 Qualifying Matters – Kārewarewa Urupā.

(103) I wish to state at the outset that the Council has endeavoured to meaningfully engage with iwi during the development of PC2, and this engagement is outlined in section 3.4 of the Section 32 Evaluation Report[29]. I wish to acknowledge the efforts made by Ngāti Toa Rangatira, Te Ātiawa ki Whakarongotai and Ngā Hapū o Ōtaki to engage with the Council throughout the development of PC2, including through the hui that were held to discuss the development of PC2, the extensive work on the papakāinga provisions, and through the detailed submissions on both the draft and notified versions of the plan change.

(104) I acknowledge however that the timeframes imposed on the Council by central government to prepare PC2[30] created limitations on the engagement that could be undertaken. I also acknowledge that this has been compounded by the Ministerial deadline to notify a decision on PC2 no later than 1 year after it was notified, which has made it impractical to undertake post-notification engagement[31]. Further, the prescriptive statutory planning requirements imposed on the Council by the legislation have constrained the Council's ability to address several of the matters raised by iwi. Within the limitations and constraints placed on it by

[28] The term *tangata whenua* is used throughout this evidence. I acknowledge that this term may have a different meaning within some te Ao Māori contexts. Where used in this evidence, the term *tangata whenua* is intended to mean the same as set out in section 2 of the RMA, which is "in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area".
[29] Section 32 Evaluation Report, pp.101-117.
[30] The Amendment Act came into force on 21 December 2021 and required the Council to notify an IPI by 20 August 2022.
[31] For context, ordinary plan changes under Schedule 1 of the RMA are required to notify a decision within 2 years of notifying the plan change.

central government and the legislation, the Council has sought to accommodate the concerns raised by iwi, however I acknowledge that, as expressed by iwi in their submissions on PC2, this is not considered to be sufficient. This is summarised by iwi themselves under section 1 of the submission of A.R.T [S210][32], which I do not repeat here.

(105) I observe that a consequence of the obligations and constraints imposed on the Council by the legislation has been to create a situation where iwi consider they have been unable to meaningfully participate in several aspects of the plan change[33]. This is regrettable, and not a situation that the Council sought to be in. While some of the statutory obligations (in particular the MDRS and the NPS-UD) are enduring aspects of the legislation, the constraints in relation to timeframes and statutory scope are not. I therefore wish to emphasise that the assessment and recommendations I make here are strictly limited to Plan Change 2 only and must not be seen to constrain, limit or preclude the engagement between iwi and Council outside of the constraints of the ISPP.

(106) I acknowledge that there are several submission points that request, in general terms that tangata whenua and the Council take the time to review various matters within the District Plan [these are outlined under submission points S100.04, S100.08, S100.68, S100.69, S161.33, S161.34, 161.36, 161.48, S180.03, S203.03, S203.08, S203.11, S203.15, S203.20, S203.57, S203.66, S203.67, S203.69, S210.02, S210.09, S210.12, S210.15]. These matters include:

- Recognition of tangata whenua cultural values, tikanga, and connections to land and water throughout the District;
- Further development of provisions related to sites and areas of significance to Māori;
- Further development of provisions related to matters that PC2 identifies as qualifying matters;
- Development of design guidance specific to tangata whenua;
- Procedural matters, including the role of Design Review Panels and cultural impact assessments as part of consent processes;
- Development of provisions related to coastal hazards;
- Review of explanatory text to the District Objectives;
- Planning for the development of infrastructure.

(107) I agree that it would take time for Council and tangata whenua to work together on these matters, and I have not recommended that these reviews be undertaken as part of PC2, principally because of the constraints on PC2 and the ISPP discussed above. However, I wish to emphasise that my recommendations are not a reflection on the merits of these requests. I note that the Council is preparing several separate plan changes (including a mana whenua

[32] S210, pp.2-3.
[33] S210, pp.2-3.

plan change) where I consider it would be appropriate to address these matters outside of the constraints of PC2, and I note that the Council would welcome further discussion with iwi about how they might work together to address these matters.

(108) I also acknowledge the general submission points that seek that iwi and the Council take "the extra time and steps to ensure we 'grow well' to achieve well-functioning urban and rural environments"[34]. Notwithstanding the constraints imposed on the Council in relation to PC2, it is not the only tool available to the Council to provide for the planning of future urban development. I note that *Te tupu pai* (the District Growth Strategy), which sets out the Council's strategy for sustainable development in the district[35], outlines a range of activities that will be undertaken by the Council as part of its broader urban development planning functions[36]. Some of these activities include:

(a) Future changes to the district plan including a flood risk plan change, coastal environment plan change, and a mana whenua plan change;

(b) Ongoing infrastructure capacity planning, including through regular review of the Council's Long-term Plan and Infrastructure Strategy;

(c) Review of the Council's development contributions policy;

(d) Projects as part of the Wellington Regional Growth Framework, including a project to assess the future public transport and infrastructure requirements ion the Kāpiti and Horowhenua Districts, and a project focussed on facilitating future housing development opportunities in Ōtaki;

(e) Development of Town Centre plans;

(f) Implementation of the Council's Housing Strategy (and PC2 supports this in a range of ways, including by enabling the development of papakāinga);

(g) Ongoing assessment and monitoring required by the NPS-UD (including population and housing forecasts, and regular updates to the Housing and Business Development Capacity Assessment).

(109) I consider that each of these activities provide the opportunity for tangata whenua and Council to work meaningfully together on an ongoing basis on the planning for future urban development.

[34] S210, p.3.
[35] Section 32 Evaluation Report, pp.46-47.
[36] Kāpiti Coast District Council. (2022). *Te tupu pai, Growing Well*, pp.46-52.
Refer to https://www.kapiticoast.govt.nz/media/42mmy4nr/growth-strategy-2022.pdf

### *4.2.1 General matters related to the MDRS and Policy 3 of the NPS-UD*

**Matters raised by submitters**

(110) **Ātiawa ki Whakarongotai** [S100], **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161], **Ngati Haumia ki Paekakariki** [S180], **Ngā Hapū o Ōtaki** [S203] and **A.R.T** [S210] each raise a range of general matters related to incorporating the MDRS and giving effect to Policy 3 of the NPS-UD. These include:

(a) General requests to amend PC(N) [S203.02, S203.03, S203.70, S210.03, S210.04, S210.05];

(b) General submissions on engagement with tangata whenua [S203.02, S210.02];

(c) General submissions on amendments to District Objectives and Urban Form and Development policies associated with incorporating the MDRS or giving effect to Policy 3 of the NPS-UD [S100.01, S100.04, S161.03, S161.13, S161.18, S161.21, S161.22, S161.27, S203.17, S210.13];

(d) Submission points related to the policies that incorporate the MDRS and give effect to Policy 3 of the NPS-UD in the General Residential Zone [S161.29, S203.26, S203.29, S203.30, S203.31, S203.34];

(e) Submission points related to giving effect to Policy 3 of the NPS-UD in the centres zones [S161.35, S161.38, S161.39, S203.42, S203.43];

(f) Submission points related to incorporating the MDRS and giving effect to Policy 3 of the NPS-UD at Paekākāriki [S161.37, S180.01, S180.02, S180.04];

(g) Submission points related to subdivision [S100.05, S100.11, S203.47, S203.48, S203.49, S203.50, S203.51];

(h) A submission point related to bulk and location standards in part of the General Industrial Zone to the south of Ōtaki [S203.64].

**Assessment and recommendations**

(111) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

### *4.2.2 Specific matters related to the application of Policy 3 of the NPS-UD*

**Matters raised by submitters**

(112) **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161], **Ngā Hapū o Ōtaki** [S203] and **A.R.T** [S210] each raise matters related to how Policy 3 of the NPS-UD has been applied. Specifically, the submitters request that:

(a) The explanatory text to DO-O16 (the objective for Centres) is amended to avoid the centres hierarchy being used as a barrier to tangata whenua [S161.14, S210.14]:

(i) developing their own housing and land development aspirations (for instance, papakāinga, education etc.);

(ii) implementing and expressing their cultural practices; or

(iii) implementing Tino Rangatiratanga.

(b) Objective DO-Ox3 and policy GRZ-Px6 (which relate to the Residential Intensification Precincts) are amended to ensure the role of tangata whenua within the precinct (including papakāinga) [S161.09, S161.33, S203.13, S210.10];

(c) Residential Intensification Precinct A is amended to ensure their location and extent is appropriate given the impacts of climate change, infrastructure constraints and the presence of high character values [S161.30, S210.16].

**Assessment**

*Objective DO-O16 and the centres hierarchy*

(113) The submitters consider that the application of Policy 3 of the NPS-UD flows from the district's centres hierarchy.

(114) The centres hierarchy is part of the operative District Plan. Clause 4 of Objective DO-O16 describes three tiers to the centres hierarchy, being:

(a) The Paraparaumu Sub-Regional Centre (which is comprised of the Metropolitan Centre Zone at Paraparaumu and the Mixed Use Zone surrounding it);

(b) The District's Town Centre zones; and

(c) The District's Local Centre zones.

(115) Each tier of the hierarchy performs a different function, which is further articulated under clause 4. In summary:

(a) The "Paraparaumu Sub-Regional Centre" is the principle commercial, retail, cultural, civic and tourist centre for the District;

(b) Town Centre zones are the urban focus for commercial, community and civic activities (as well as housing) to meet the needs of the surrounding township community;

(c) Local Centres provide for commercial activities within a residential context, primarily to serve the local convenience, community and commercial needs of the surrounding community.

(116) Policies MCZ-P4, TCZ-P2, LCZ-P3 and MUZ-P3 describe the zones and other areas in the district that are a part of the centres hierarchy (see Figure 1).

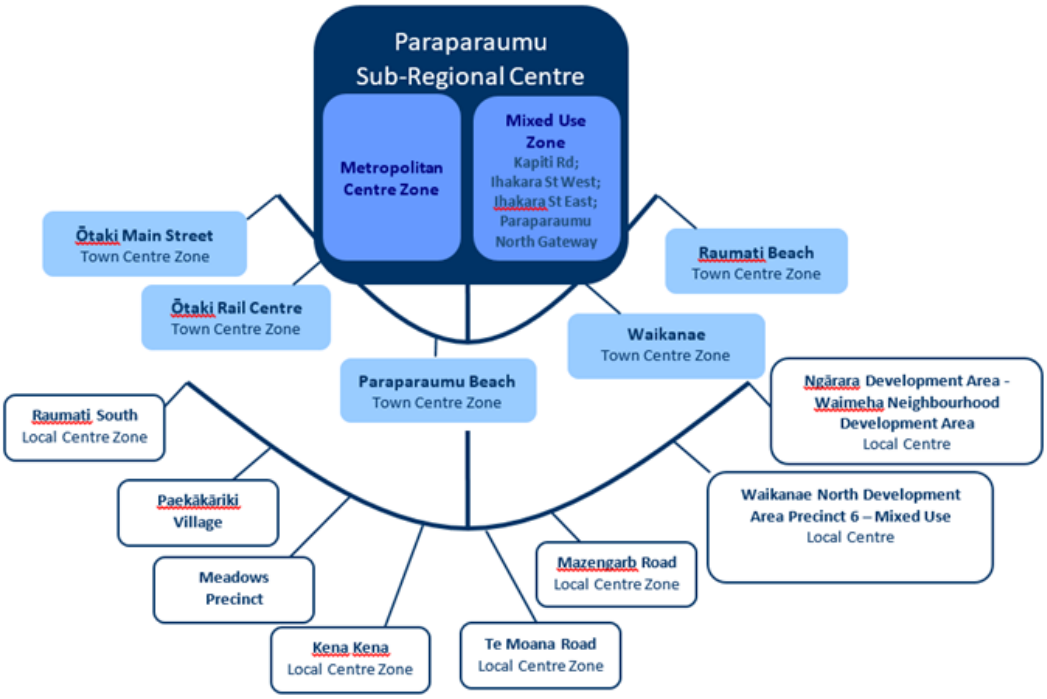


*Figure 1: the District Plan centres hierarchy.*

(117) PC(N) does not propose to change the centres hierarchy, or change the zoning of Metropolitan, Town and Local Centre zones that are part of the centres hierarchy. Rather, PC(N) gives effect to Policy 3 of the NPS-UD based on the Metropolitan, Town and Local Centre zones as they are in the operative District Plan. While I acknowledge the point raised by the submitters that "decisions to 'up zone' certain areas have flowed from the Centres

Hierarchy", given that PC(N) does not change the centres hierarchy I consider that the increase in building heights and densities in fact flows from the requirement to give effect to Policy 3 of the NPS-UD within and around the Metropolitan, Town and Local Centre zones contained in the operative District Plan. While I also note the point raised by the submitters that "it seems to have been left to Council's discretion as to how they arrange the centres in the hierarchy", I do not consider this to be the case in relation to PC(N), because PC(N) does not seek to change the centres hierarchy.

(118) I also note that the submitters identify that the walkable catchment approach employed by PC(N) in relation to giving effect to Policy 3 around centres zones appears to have been applied in an arbitrary manner in relation to Paekākāriki. Paekākāriki includes a Local Centre Zone at Beach Street (at the main road entrance to Paekākāriki and adjacent to the Paekākāriki train station). The general approach for giving effect to Policy 3(d) in the Local Centre Zones is to enable 4-storey buildings within approximately 200 metres of the zone[37]. However, because Paekākāriki includes a rapid transit stop, the requirements under Policy 3(c) override those of Policy 3(d), and as a result, 6-storey buildings are enabled in an 800m walkable catchment of Paekākāriki station.

(119) In relation to the submitters' request for amendments to avoid the centres hierarchy being used as a barrier to tangata whenua housing and land development aspirations, implementing and expressing cultural practices and implementing Tino Rangatiratanga, I acknowledge this and consider that in relation to the centres zones themselves my recommendations (in response to submitters' requests) to enable the development of papakāinga within the Centres and Mixed Use Zones would contribute towards addressing this (refer to section 0 of this report). In relation to the Residential Intensification Precincts surrounding the centres zones and rapid transit stops, I address this next.

*Objective DO-Ox3 and the Residential Intensification Precincts*

(120) The submitters consider that while DO-Ox3 gives effect to increased height and density within the parts of the General Residential Zone, it does not provide for papakāinga and tangata whenua aspirations into the future and does not account for impacts on the Sites and Areas of Significance to Māori.

(121) Before addressing this, I briefly describe the purpose of DO-Ox3, and how it is given effect to through policies and rules. DO-Ox3 (Residential Intensification Precincts) is intended to give effect to Policy 3 of the NPS-UD in the General Residential Zone. I note that this objective is structured in a similar manner to DO-Ox2, which is the mandatory objective for the MDRS in the General Residential Zone[38].

[37] See section 5.2.4 of the Section 32 Evaluation Report, pp.141-145.
[38] In accordance with clause 6(1)(a) of Schedule 3A of the RMA.

(122) DO-Ox3 provides for two "Residential Intensification Precincts":

(a) Residential Intensification Precinct A, which provides for buildings up to 6-storeys. This precinct gives effect to Policy 3(c) of the NPS-UD, which requires the District Plan to enable buildings of at least 6 storeys within a walkable catchment of the edge of the Metropolitan Centre Zone and rapid transit stops.

(b) Residential Intensification Precinct B, which provides for buildings up to 4-storeys. This precinct gives effect to Policy 3(d) of the NPS-UD, which requires within and adjacent to the Town and Local Centre zones, the District Plan to enable building heights and densities commensurate with the level of commercial activity and community services.

(123) Objective DO-Ox3 is achieved through the following policies and rules:

(a) **Policy GRZ-Px6.** This policy provides for higher density housing in Residential Intensification Precincts.

(b) **Rule GRZ-Rx2.** This rule amends the underlying MDRS permitted activity rule (GRZ-Rx1) to permit buildings up to 6-storeys in Residential Intensification Precinct A and 4-storeys in Residential Intensification Precinct B.

(c) **Rules GRZ-Rx5, GRZ-Rx6 and GRZ-Rx7.** This rule provides that development that breaches permitted activity standards under rule GRZ-Rx2 is a restricted discretionary activity, subject to specified matters of discretion.

(124) Objective DO-Ox3, and the policies and rules that flow from it, are enabling of increased building heights. However, I do not consider that these provisions dictate or require those building heights to be achieved. In other words, this objective does not limit tangata whenua from undertaking development that is of a lower density than the building heights specified in the objective.

(125) In relation to the link between papakāinga and the Residential Intensification Precincts, I acknowledge that the exclusion for papakāinga outlined under rule GRZ-Rx2 may give the appearance that papakāinga are not provided for as part of the Residential Intensification Precinct. However, the purpose of this exclusion is not to exclude papakāinga from the Residential Intensification Precincts, rather it is to ensure that papakāinga are not subject to the full range of restrictive standards under rules GRZ-Rx1 and GRZ-Rx2. Papakāinga are provided for under rules GRZ-Rx4 (which is the permitted activity rule for papakāinga), GRZ-Rx9 and GRZ-Rx10 (which are the restricted discretionary activity rules for papakāinga), and I observe that standard 1(b) under rule GRZ-Rx4 and standard 2 of GRZ-Rx9 provide that where papakāinga are located in a Residential Intensification Precinct, they may avail themselves of the additional building height provided for by the precincts. Papakāinga are therefore provided for within the Residential Intensification Precincts, and this affords tangata

whenua developers who wish to use the papakāinga provisions with broad discretion over the design and density of their development.

(126) Having established that papakāinga are provided for within the Residential Intensification Precincts, I consider that objective DO-Ox3 does not displace the objectives for papakāinga. Rather where papakāinga are located within a Residential Intensification Precinct, objective DO-Ox3 is complementary to the objectives for papakāinga (DO-Ox4 to DO-Ox10). I therefore consider that there is an adequate link between the Residential Intensification Precincts and papakāinga.

(127) In relation to sites and areas of significance to Māori, across the District there are four sites and areas of significance to Māori identified in Schedule 9 located within a Residential Intensification Precinct:

(a) Mūtikotiko puke and urupā (WTS0056), a Wāhanga Toru site located within Residential Intensification Precinct B to the north of Ōtaki Main Street Town Centre Zone;

(b) Te Rauparaha's Statue and the Jubilee Monument (WTS0146A), a Wāhanga Toru site located within Residential Intensification Precinct B to the north of Ōtaki Main Street Town Centre Zone;

(c) Makuratawhiti urupā (WTS0034), a Wāhanga Tahi site located within Residential Intensification Precinct B to the east of Ōtaki Main Street Town Centre Zone;

(d) Ruakōhatu urupā (WTS0316A), a Wāhanga Tahi site located within Residential Intensification Precinct A to the east of Waikanae Town Centre Zone.

(128) In relation to these areas, the rules contained in the Sites and Areas of Significance to Māori chapter of the District Plan will apply regardless of any additional building height enabled by the provisions associated with the Residential Intensification Precincts. I note that the rules associated with Wāhanga Tahi sites are intended to provide a high level of protection where there is a high risk that land disturbance will encounter koiwi. In relation to Wāhanga Toru sites, these rules are intended to allow for a level of development to occur but retain controls on volume of land disturbance. However, there are tighter controls on the construction of new buildings and subdivision within the waahi tapu is actively discouraged[39]. Because these rules have been provided for as an existing qualifying matter[40], I consider that sites and areas of significance to Māori identified in Schedule 9 of the District Plan are taken into account.

(129) I also note that under rules GRZ-Rx6 and GRZ-Rx7, where development breaches permitted activity standards in the Residential Intensification Precincts, effects on cultural values are to

[39] Refer to the "Explanation of waahi tapu and other places and areas of significance to Māori wāhanga" table contained in Schedule 9 of the District Plan.
[40] Refer to section 6.1.1 and Appendix D of the Section 32 Evaluation Report.

be considered as a matter of discretion, where the development is located adjacent to a place or area of significance to Māori identified in Schedule 9 of the District Plan.

(130) In summary, papakāinga are enabled within the Residential Intensification Precincts provided for under DO-Ox3, and I do not consider that DO-Ox3 limits the development aspirations that tangata whenua may have in this regard. In relation to sites and areas of significance to Māori, the provisions that restrict development in relation to these sites continue to apply, regardless of the application of the precinct. I therefore do not consider it necessary to amend objective DO-Ox3 because:

(a) Papakāinga are already enabled within the Residential Intensification Precincts;

(b) Rules that protect sites and areas of significance to Māori identified in Schedule 9 of the District Plan located within the Residential Intensification Precincts continue to apply as an existing qualifying matter; and

(c) Effects on cultural values are able to be considered as a matter of discretion as part of resource consent applications for development that breaches permitted activity standards in the Residential Intensification Precincts.

*Specific matters related to Residential Intensification Precinct A*

(131) In relation to Residential Intensification Precinct A, the submitters consider that the impacts of climate change, infrastructure constraints and the presence of high character values should be taken in account as part of the provisions associated with the precinct.

(132) In relation to the impacts of climate change, I note that Residential Intensification Precinct A does not include land located within the Coastal Qualifying Matter Precinct. In addition to this, while the District Plan identifies that there are existing flood hazards located within Residential Intensification Precinct A, the District Plan rules associated with flood hazards will continue to apply to new development regardless of the additional building height enabled by the provisions of the Residential Intensification Precinct[41].

(133) In relation to infrastructure constraints, I address this in detail in section 4.2.5 of this report. In summary however:

(a) Where it is identified that there is insufficient existing or planned infrastructure capacity to provide sufficient development capacity, then the NPS-UD directs the Council to address this through its Long-term Plan and Infrastructure Strategy;

[41] I discuss how the existing flood hazard provisions functions in further detail in section 4.11.2 of this report.

(b) In relation to the provision of infrastructure as part of undertaking development, I note that there are a range of policies and rules in the District Plan that require development to be adequately serviced by a range of infrastructure.

(134) In relation to the presence of character values in certain precincts, I understand the submitters may be referring to the Beach Residential Precincts and Waikanae Garden Precinct (referred to as "special character areas" in the operative District Plan). I note that the Section 32 Evaluation Report describes the consideration given to these areas as part of incorporating the MDRS and giving effect to Policy 3 of the NPS-UD[42]. In summary, the character and amenity values of these areas are not identified as a qualifying matter, and because of this, the building heights identified under policy 3(c) of the NPS-UD must be enabled in these areas.

(135) I also note that the submitters refer to the exclusion of the Johnsonville Line from consideration as a rapid transit service under the approach taken by the Wellington City Council to giving effect to Policy 3 of the NPS-UD as part of their IPI. I do not consider this to be relevant in this case, because it is the Kāpiti Line that runs through the Kāpiti Coast District. I note that the Kāpiti Line is considered as a rapid transit service by both Wellington City Council[43] and Porirua City Council[44] through their IPIs. I also note that the Section 32 Evaluation Report for PC2[45] describes the Kāpiti Line as a rapid transit service with reference to both the Wellington Regional Public Transport Plan 2021[46], and the Wellington Regional Public Transport Plan 2021 – 2031[47].

(136) I therefore consider that the location and extent of Residential Intensification Precinct A is appropriate in relation to the matters identified by the submitters, and I do not consider it necessary to amend the precinct on this basis.

**Recommendations**

(137) While I acknowledge the matters raised by submitters, for the reasons outlined in my assessment above I recommend that:

[42] Refer to section 6.1.6 of the Section 32 Evaluation Report, pp.169-172.
[43] Wellington City Council. (2022). *Section 32 Evaluation Report, Part 1: Context to s32 evaluation and evaluation of proposed Strategic Objectives*, p.34. See: https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/reports/section-32-part-1-context-to-evaluation-and-strategic-objectives.pdf?la=en&hash=C433D3521179B827BBCA3822BD154886D619A463
[44] Porirua City Council. (2022). *Section 32 Evaluation Report, Part A: Overview to Section 32 Evaluation,* p.38. See: https://storage.googleapis.com/pcc-wagtail-media/documents/Section_32_Evaluation_Report_-_Part_A_-_Overview_to_s32_Evaluation.pdf
[45] Section 32 Evaluation Report, p.52.
[46] Greater Wellington Regional Council. (2021). *Wellington Regional Land Transport Plan 2021,* p.129. See: https://www.gw.govt.nz/assets/Documents/2021/10/Wellington-Regional-Land-Transport-Plan-2021web.pdf
[47] Greater Wellington Regional Council. (2021). *Wellington Regional Public Transport Plan 2021-2031,* pp.102-107. See: https://www.gw.govt.nz/assets/Documents/2021/10/J001366-Public-Transport-Plan-v5-web.pdf

(a) Submission points that request the explanatory text to DO-O16 (the objective for Centres) be amended [S161.14, S210.14] are **not accepted**;

(b) Submission points that request objective DO-Ox3 and policy GRZ-Px6 (which relate to the Residential Intensification Precincts) are amended [S161.09, S161.33, S203.13, S210.10] are **not accepted**;

(c) Submission points requesting that Residential Intensification Precinct A is amended [S161.30, S210.16] are **not accepted**.

### *4.2.3 Application of the MDRS & Policy 3 of the NPS-UD at Ōtaki*

**Matters raised by submitters**

(138) In general, **Ngā Hapū o Ōtaki** [S203] oppose the application of the MDRS and Policy 3 of the NPS-UD at Ōtaki provided for by PC(N), for a broad range of reasons. In relation to this, they request that:

(a) Ōtaki is not designated as a "future urban zone" [S203.06, S203.27];

(b) PC(N) is amended to limit intensification to the building heights provided for by the operative District Plan [S203.02, S203.07], and/or that PC(N) is amended to "pause" intensification at Ōtaki [S203.27, S203.33];

(c) That the Residential Intensification Precincts in Ōtaki are deleted [S203.14];

(d) The explanatory text for District Objective DO-O16 is amended to recognise that Ōtaki is different from other areas [S203.21].

(139) I also note that Ngā Hapū o Ōtaki identify infrastructure capacity and provision as a matter at several points throughout their submission. I address infrastructure separately in section 4.2.5 of this report.

**Assessment**

(140) Prior to outlining my assessment of these requests, I wish to acknowledge that the Ōtaki township and the wider takiwā are of particular significance to Ngā Hapū o Ōtaki. This is clearly set out in their submission on PC(N)[48], and was clearly communicated by Ngā Hapū o Ōtaki throughout engagement on the development of PC2. Further, I acknowledge the concerns raised by Ngā Hapū o Ōtaki about the potential effects of intensification within their rohe. These too were clearly communicated by Ngā Hapū o Ōtaki throughout engagement on

[48] S203. Refer in particular to page 6 of the submission.

PC2. The Council recognises these concerns, and during the preparation of PC2 the Council made efforts to address them within the constraints placed on it by the legislation[49]. However, I also acknowledge that, from the perspective of Ngā Hapū o Ōtaki, these efforts are not considered to be sufficient[50].

(141) I therefore wish to emphasise that my assessment and recommendations in response to the matters raised by Ngā Hapū o Ōtaki are shaped by my own, and the Council's (as expressed through the Section 32 Evaluation Report), understanding of the obligations and responsibilities placed on the Council by the legislation to incorporate the MDRS and give effect to Policy 3 of the NPS-UD at Ōtaki. I wish to further emphasise that my assessment and recommendations on these matters relate to PC2 only. While some of the requirements of the legislation are enduring, my recommendations in relation to PC2 must not be taken to constrain, limit or preclude engagement between Ngā Hapū o Ōtaki and Council on district plan changes and other urban and environmental planning initiatives (some of which I have outlined at paras. (106) to (109)) outside of the constraints of the ISPP.

*Ōtaki as an 'urban environment'*

(142) In relation to the request by Ngā Hapū o Ōtaki that Ōtaki is not designated as a "future urban zone" I wish to state my understanding of what the submitter means by referring to Ōtaki being designated as a "future urban zone". Neither the operative District Plan nor PC(N) designates Ōtaki as a "future urban zone". There is a defined area of land zoned as Future Urban Zone located directly to the north of Ōtaki, however this has been in the District Plan for some time, and PC(N) does not propose to change this. Based on the information contained in the submission, I do not consider that the submission intended to refer to this particular area of land specifically (because PC(N) does not propose to change it). Rather, I have inferred (based on the reference to updated population estimates in the submission) that the submission intended to refer to Ōtaki being identified as an "urban environment". I address this submission on this basis.

(143) Section 5.2.1 of the Section 32 Evaluation Report[51] outlines the Council's position on *urban environments* within the Kāpiti Coast district. This position is supported by an analysis of the definition of *urban environment* outlined under section 77F of the RMA (and the NPS-UD), taking into account factors specific to the district. In relation to the matters raised by Ngā Hapū o Ōtaki, it is the second limb of the definition of *urban environment* that is of particular importance. Specifically, an area is an urban environment if it:

[49] Refer to pages 110 to 117 of the Section 32 Evaluation Report for a summary of the matters raised by iwi as part of engagement on PC2, and the Council's response to these matters. Refer to pages 110 to 112 for specific matters related to Ōtaki.
[50] In relation to the development of PC2, this is also recognised on page 112 of the Section 32 Evaluation Report.
[51] Section 32 Evaluation Report, pp.136-138.

*(b) is, or is intended by the specified territorial authority to be, part of a housing and labour market of at least 10,000 people.*[52]

(144) The analysis contained in the Section 32 Evaluation Report examines this aspect of the definition by identifying the 2018 census population and 2051 forecast population of the "Ōtaki Functional Urban Area". Functional urban areas are a Statistics New Zealand proxy for housing and labour markets[53]. According to Statistics New Zealand, Ōtaki is not part of the same functional urban area as the remainder of the Kāpiti Coast District, with the boundary between the two being the Ōtaki River. Figure 2 shows the Ōtaki Functional Urban Area in relation to the Kāpiti Coast Functional Urban Area.

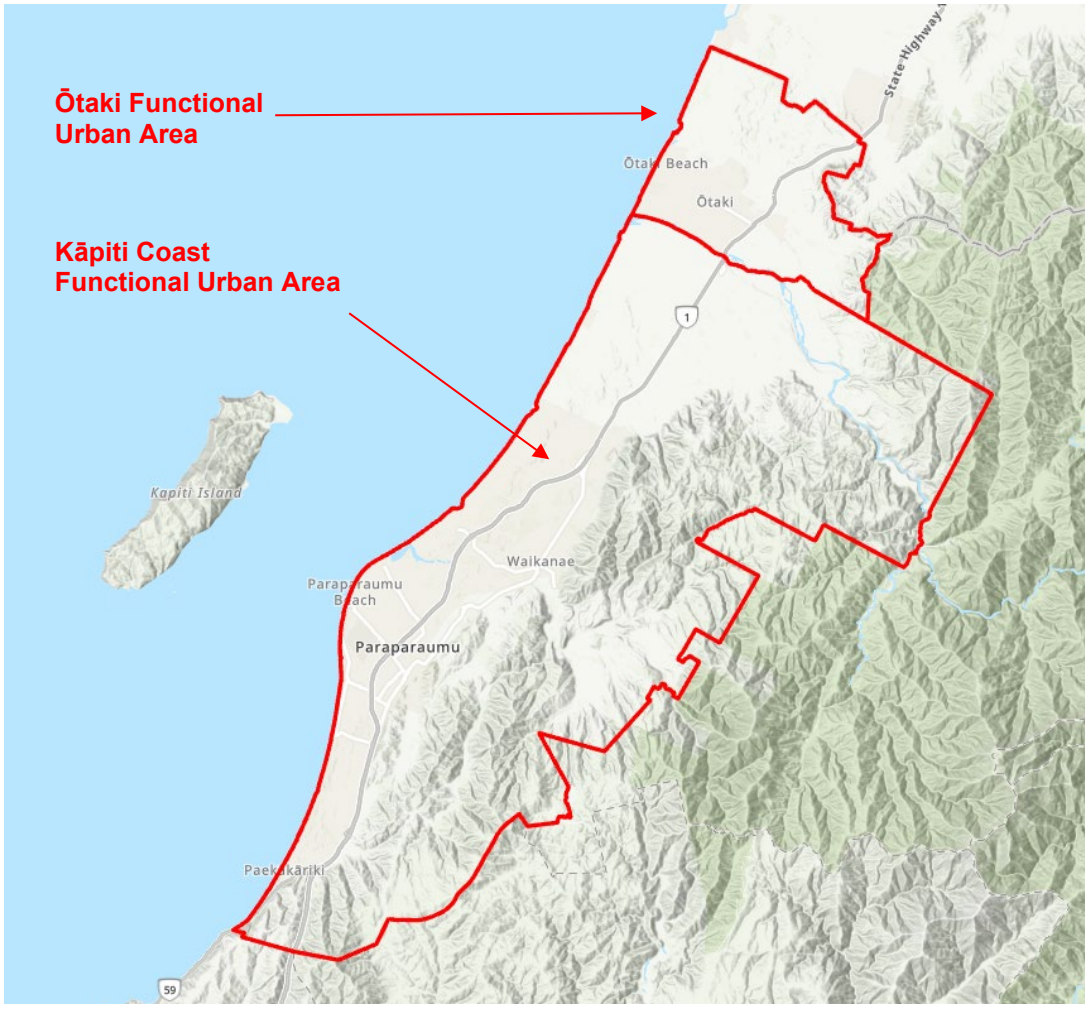


*Figure 2: map showing the Ōtaki Functional Urban Area (outlined in red to the north) in relation to the Kāpiti Coast Functional Urban Area (outlined in red to the south). Source: Statistics New Zealand.*

[52] RMA, section 77F.
[53] Section 32 Evaluation Report, p.136. Referencing Statistics New Zealand (2021), the Section 32 Evaluation Report notes that functional urban areas are "socially and economically integrated areas based on the linkages between where people live and where they work, and subsequently learn, trade, and access facilities and services", and can be used as a proxy for determining the spatial extent of a housing and labour market. Refer also Stats NZ (2021). *Functional urban areas – methodology and classification*, p. 11 (https://www.stats.govt.nz/assets/Methods/Functional-urban-areas-methodology-and-classification.pdf)

(145) In relation to the relevance of the 2051 forecast population, the Section 32 Evaluation Report notes:

> *The 2051 projected population is relevant because the test is whether an area "is intended to be" part of a housing and labour market of at least 10,000 people. 2051 is situated within the "long term" as defined by the NPS-UD, which means "between 10 and 30 years"*[54].

(146) The Section 32 Evaluation Report then identifies that the population of the "Ōtaki Functional Urban Area" at the 2018 Census was 6,984, while the forecast population of the same area in 2051 is 14,388. The Report then identifies that on this basis the area "[is] intended to be, part of a housing and labour market of at least 10,000 people"[55] (emphasis added).

(147) As requested in the submission, I have considered updated population forecasts to see whether the analysis contained in the Section 32 Evaluation Report still holds. These updated forecasts are based on 2022 data available through the Council website[56], and the Council has provided me with a breakdown of this data by Statistics New Zealand SA2 unit so that it can be analysed consistently with the approach used in the Section 32 Evaluation Report (see Appendix G). Based on the updated population data, the forecast 2051 population of the Ōtaki Functional Urban Area[57] is outlined in Table 5 below.

*Table 5: 2051 forecast population of the Ōtaki Functional Urban Area, based on the 2022 updated population forecast*

| Spatial Extent of the Ōtaki Functional Urban Area | 2051 Forecast Population |
|---|---|
| Ōtaki SA2 Unit | 7,044 |
| Ōtaki Beach SA2 Unit | 2,776 |
| Waitohu SA2 Unit | 1,369 |
| Forest Lakes (Kāpiti Coast District) SA2 Unit | 2,219 |
| **Total for the Ōtaki Functional Urban Area** | **13,408** |

(148) While the updated 2051 forecast population has reduced somewhat from that identified in the Section 32 Evaluation Report, it is still above 10,000. Based on the updated population forecasts, I consider that the urban areas within Ōtaki (as expressed in section 5.2.1 of the Section 32 Evaluation Report) continue to meet the definition of an *urban environment* under the updated population forecasts.

[54] Section 32 Evaluation Report, p.137 (footnote 47).
[55] Section 32 Evaluation Report, p.137.
[56] See: https://www.kapiticoast.govt.nz/our-district/the-kapiti-coast/population-and-demographics/
[57] Which, as outlined at page 137 of the Section 32 Evaluation Report, is comprised of the Ōtaki, Ōtaki Beach, Waitohu and Forest Lakes (Kāpiti Coast District) Statistics New Zealand SA2 units.

*Pausing intensification, or retaining the status quo building heights at Ōtaki*

(149) Prior to outlining my assessment of this matter, I consider it useful to identify the changes proposed by PC(N) to plan-enabled building heights at Ōtaki. These are outlined in Table 6.

*Table 6: comparison of operative District Plan building heights at Ōtaki, with those proposed by PC(N)*

| Zone | Operative District Plan | PC(N) |
|---|---|---|
| General Residential Zone | 2-storeys (8 metres) as a permitted activity | 3-storeys (11 metres) |
| General Residential Zone (Residential Intensification Precinct B) | | 4-storeys (14-metres) |
| General Residential Zone (Marae Takiwā Precinct) | | 2-storeys (8 metres) |
| Town Centre Zone | 3-storeys (12 metres) as a permitted activity | 3-storeys (12 metres) as a permitted activity<br><br>6-storeys (21 metres) as a restricted discretionary activity |
| Town Centre Zone (Marae Takiwā Precinct) | 3-storeys (12 metres) as a permitted activity | 3-storeys (12 metres) as a permitted activity |

(150) I also note that there are a range of provisions related to existing qualifying matters contained in the operative District Plan, as well as new qualifying matters that will apply as part of PC(N), which will provide restrictions on development despite the building heights enabled by PC(N) within the underlying zones at Ōtaki. These include:

(a) The Marae Takiwā Precinct, which is proposed by PC(N) to restrict development in areas adjacent to Raukawa Marae[58];

(b) The Coastal Qualifying Matter Precinct, which is proposed by PC(N) to maintain the status quo level of development provided for by the operative District Plan in an area along Marine Parade at Ōtaki Beach[59];

(c) Provisions that restrict development on scheduled sites and areas of significance to Māori in Ōtaki[60]. Within the General Residential Zone at Ōtaki, these apply to the three

[58] See section 6.1.5 of the Section 32 Evaluation Report for a description of provisions related to the Marae Takiwā Precinct.
[59] See section 6.1.3 of the Section 32 Evaluation Report for a description of provisions related to the Coastal Qualifying Matter Precinct.
[60] See Section 32 Evaluation Report, Appendix D, pp.13-19, for a description of provisions related to sites and areas of significance to Māori.

sites outlined at para (127), as well as an area of land at the health camp in Ōtaki Beach.

(d) Historic heritage provisions, which restrict development on sites that contain scheduled heritage features[61]. There are 27 scheduled heritage features within Ōtaki that are protected by these provisions. These will apply in particular within and around the Ōtaki Main Street Town Centre Zone, where here is a high concentration of scheduled heritage features.

(e) Flood hazard provisions, which restrict development to various degrees on sites where flood hazards are identified in the District Plan maps. How these provisions work in relation to the various mapped flood hazards is described in further detail in section 0 of this report.

(f) Provisions that protect scheduled key indigenous trees[62] and notable trees[63], which restrict the modification or removal of protected trees as part of undertaking development. There are 229 trees that are protected by these provisions across Ōtaki.

(g) Provisions that restrict development in relation to scheduled ecological sites[64]. There are several sites scheduled in Ōtaki, including in the General Residential Zone at Waitohu, in the area to the west of Rangiatea Church off Te Rauparaha Street and parts of the General Residential Zone around Ōtaki Beach Recreational Reserve.

(151) However, in relation to the general request by Ngā Hapū o Ōtaki to pause intensification or retain the status quo building heights at Ōtaki generally, I do not consider that this is consistent with the requirement under sections 77G and 77N to incorporate the MDRS and give effect to Policy 3 of the NPS-UD in the District Plan. Ngā Hapū o Ōtaki's submission seeks that a qualifying matter be applied across Ōtaki to achieve this outcome. While I consider such an outcome is theoretically possible under sections 77G(6) and 77N(3)(b) of the RMA, I consider that it would only be possible if:

(a) it can be demonstrated that there is a qualifying matter that applies across all of Ōtaki, and that it can be demonstrated that it is necessary to retain the building heights at the level provided for by the operative District Plan in order to accommodate the qualifying matter (in the terms set out under sections 77I and 77O of the RMA); and

(b) that there is sufficient information to justify the qualifying matter as required by sections 77J(3) and 77P(3) of the RMA.

[61] See Section 32 Evaluation Report, Appendix D, pp.10-12, for a description of provisions related to historic heritage features.
[62] See Section 32 Evaluation Report, Appendix D, pp.20-21, for a description of provisions related to key indigenous trees.
[63] See Section 32 Evaluation Report, Appendix D, pp.12-13, for a description of provisions related to notable trees.
[64] See Section 32 Evaluation Report, Appendix D, pp.19-20, for a description of provisions related to ecological sites.

(152) I am not aware of any qualifying matter at Ōtaki that meets these requirements across the full extent of Ōtaki. I therefore do not consider that pausing intensification or retaining the status quo building heights at Ōtaki is consistent with the requirement to incorporate the MDRS and give effect to Policy 3 of the NPS-UD in the District Plan.

*Deleting the Residential Intensification Precincts in Ōtaki*

(153) In relation to the request to delete the Residential Intensification Precincts, I note that the submission refers to the report *Assessment of Kapiti Coast Residential Intensification Area Feasibilities* (Property Economics, 2022) contained in Appendix M to the Section 32 Evaluation Report. I agree with the submitter that in relation to the two Residential Intensification Precincts in Ōtaki, the report states that "the intensified areas/walkable catchments around… Ōtaki centres are unlikely to deliver a level of intensified residential development significantly more than what the MDRS would deliver"[65].

(154) I consider that the finding of Property Economics that the market is unlikely to deliver development greater than the MDRS in the Residential Intensification Precincts at Ōtaki, while notable, is not a decisive factor in giving effect to Policy 3(d) of the NPS-UD (which is the function of the Residential Intensification Precincts at Ōtaki). Policy 3(d) is applied based on the adjacency of an area to a centre zone and the level of commercial activity and community services provided for by that zone, rather than market demand for development. I consider that this is consistent with Objective 3(a) of the NPS-UD, which seeks that "district plans enable more people to live… near a centre zone" as a separate matter to demand (which is addressed separately under Objective 3(c)).

(155) While I acknowledge the point raised by Ngā Hapū o Ōtaki, I consider that it would not be consistent with Objective 3(a) and Policy 3(d) the NPS-UD to delete the Residential Intensification Precincts at Ōtaki solely on the grounds that the market may be unlikely to deliver development beyond that provided for by the MDRS in these areas.

*Objective DO-O16 and the centres hierarchy*

(156) I have described DO-O16, the centres hierarchy and its relationship with PC2 in section 4.2.2 above. In summary, I note that PC(N) does not change the centres hierarchy and gives effect to Policy 3(d) of the NPS-UD in Ōtaki based on the town centre zones contained in the operative District Plan.

(157) In relation to the request to amend the explanatory text to DO-O16 to recognise that Ōtaki is distinct from other areas, I note that the purpose of the explanatory text is to explain the purpose, function and intended outcomes of the district's centres hierarchy in general, not

[65] Property Economics. (2022). *Assessment of Kapiti Coast Residential Intensification Area Feasibilities,* p.12. See: https://www.kapiticoast.govt.nz/media/ssjisyp1/pc2_s32_appendixm_intensfeasibilityassessment.pdf

how the centres hierarchy has been applied to specific locations (except for the Paraparaumu sub-regional centre, which holds a singular position in the centres hierarchy). I also note that the explanatory text to DO-O11 recognises the distinctiveness of each area in the district, including Ōtaki. I therefore do not consider it appropriate to amend the explanatory text in the manner sought by Ngā Hapū o Ōtaki (as I considered this is already provided for under the explanatory text to DO-O11).

**Recommendations**

(158) While I acknowledge the matters raised by Ngā Hapū o Ōtaki, for the reasons stated above, I recommend that:

(a) The requests that Ōtaki is not designated as a "future urban zone" [S203.06, S203.27] are **not accepted**;

(b) The requests that PC(N) is amended to limit intensification to the building heights provided for by the operative District Plan [S203.02, S203.07], and/or that PC(N) is amended to "pause" intensification at Ōtaki [S203.27, S203.33] are **not accepted;**

(c) The request that the Residential Intensification Precincts in Ōtaki are deleted [S203.14] is **not accepted**;

(d) The request that the explanatory text for District Objective DO-O16 is amended [S203.21] is **not accepted**.

### *4.2.4 Cultural values as a component of amenity values*

**Matters raised by submitters**

(159) **Ātiawa ki Whakarongotai** [S100], **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161], **Ngā Hapū o Ōtaki** [S203] and **A.R.T** [S210] each raised the matter of cultural values in their submissions. Principally, the issue highlighted by the submitters is that cultural values are a component of amenity values[66]. In relation to amenity values, PC(N) includes various amendments to objectives and policies across the District Plan to replace wording that seeks that amenity values are "maintained" or "enhanced" to wording that seeks that development in urban environments "has regard to" or "gives consideration to" amenity values. As I understand it, the submitters consider that this constitutes a downgrading of the recognition of cultural values in the District Plan, and that this is contrary to section 6(e) of the RMA.

[66] Under section 2 of the RMA, *amenity values* means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

(160) The submitters seek various amendments to PC(N) that either:

(a) Retain the operative District Plan objective and policy wording in relation to amenity values [S100.07, S100.09, S161.02, S161.03, S161.10, S161.11, S161.23, S161.26, S203.10, S203.15, S203.18, S302.39, S203.41, S210.11];

(b) Include new wording or provisions to adequately recognise cultural values as a component of amenity values [S100.08, S100.10, S100.12, S100.13, S100.14, S161.24, S203.16, S203.20, S203.32, S203.40, S203.46, S210.12].

**Assessment**

(161) Based on the definition of amenity values under section 2 of the RMA, I agree with the submitters that cultural values could be considered as a component of amenity values. Specifically, the position of cultural values within the definition of amenity values is focussed on the natural or physical qualities or characteristics that contribute to people's appreciation of the cultural attributes of an area.

(162) In relation to Part 2 of the RMA, amenity values are provided for under section 7(c), which requires decision makers to have particular regard to the maintenance and enhancement of amenity values. However, PC2 is also required to give effect to Objective 4 of the NPS-UD, which provides that urban environments, including their amenity values, develop and change over time[67]. Amenity values are specifically mentioned under this objective, and I consider this to be strong direction to require that, in relation to urban environments, amenity values are enabled to change (as opposed to being maintained).

(163) However, under Part 2 of the RMA, I do not consider that cultural values are solely provided for as a component of amenity values. In my opinion, cultural values can be considered as a component of the range of matters of national importance outlined under section 6 of the RMA. I note that there are a range of objectives, policies and rules within the District Plan that relate to section 6 matters, and that where these provisions intersect with the urban environment, PC(N) has provided for them as existing qualifying matters[68]. In particular, I note the following provisions that relate to section 6 matters are retained as existing qualifying matters[69]:

- Provisions that protect scheduled historic buildings, structures, sites or areas (under section 6(f));
- Provisions that protect scheduled notable trees (under section 6(f));

[67] Section 32 Evaluation Report, p.19.
[68] See section 6.1.1 of the Section 32 Evaluation Report.
[69] See Appendix D to the Section 32 Evaluation Report.

- Provisions that protect scheduled places and areas of significance to Māori (under sections 6(e) and (f));
- Provisions that protect scheduled ecological sites (under section 6(c));
- Provisions that protect scheduled key indigenous trees (under section 6(c));
- Provisions that protect scheduled outstanding natural features and landscapes (under section 6(b)).

(164) Because PC(N) provides for these matters as existing qualifying matters, these provisions will continue to apply to subdivision, use and development across the District. To the extent that they already do so, they will continue to protect cultural values.

(165) I also note that PC(N) provides for two new qualifying matters that can be seen as recognising and providing for tangata whenua cultural values, namely the Marae Takiwā precincts located around Raukawa and Whakarongotai marae[70], and the addition of Kārewarewa Urupā to Schedule 9 of the District Plan[71]. These matters both refer to section 6(e) (and in the case of Kārewarewa urupā, section 6(f)) for their justification.

(166) On this basis I do not consider that the various amendments proposed by PC(N) for decision makers to "have regard to" or "give consideration to" amenity values displaces or undermines the protection or recognition of cultural values provided for by the District Plan provisions related to section 6 matters (outlined above).

(167) I also note that the qualifying matter framework outlined under the RMA is an enduring one, and not limited in its application to PC2. It will continue to apply to future district plan changes where the MDRS or Policy 3 of the NPS-UD are relevant, at which time the cultural values identified by tangata whenua in relation to future District Plan changes can be appropriately recognised and provided for as qualifying matters.

(168) I therefore consider that it is appropriate (and necessary in order to implement Objective 4 of the NPS-UD) to amend the objectives and policies that relate to amenity values in the manner provided for by PC(N). As a related matter, I do not consider it necessary to include new wording or provisions to recognise cultural values as a component of amenity values because:

(a) "Cultural attributes" are already recognised as a component of amenity values under section 2 of the RMA; and

(b) Where cultural values identified by tangata whenua are sought to be recognised and provided for, the appropriate means of doing so is as a qualifying matter with reference

[70] See section 6.1.5 of the Section 32 Evaluation Report.
[71] See section 6.1.4 of the Section 32 Evaluation Report.

to section 6 of the RMA, through the relevant District Plan provisions that relate to section 6 matters (as outlined above).

**Recommendations**

(169) For the reasons stated above, I recommend that:

(a) Submission points that request retaining the operative District Plan objective and policy wording in relation to amenity values [S100.07, S100.09, S161.02, S161.03, S161.10, S161.11, S161.23, S161.26, S203.10, S203.15, S203.18, S302.39, S203.41, S210.11] are **not accepted**;

(b) Submission points that request amendments to include new wording or provisions to adequately recognise cultural values as a component of amenity values [S100.08, S100.10, S100.12, S100.13, S100.14, S161.24, S203.16, S203.20, S203.32, S203.40, S203.46, S210.12] are **not accepted**.

### *4.2.5 Infrastructure*

**Matters raised by submitters**

(170) **Ātiawa ki Whakarongotai** [S100], **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161], **Ngati Haumia ki Paekakariki** [S180], **Ngā Hapū o Ōtaki** [S203] and **A.R.T** [S210] each raise the provision of infrastructure to support development as a matter in their submissions. In general, the submissions are concerned that there is (or will be) insufficient provision of infrastructure to support the level of development enabled by PC(N). The submission of Ngati Haumia ki Paekakariki [S180] is specifically concerned with the provision of infrastructure at Paekākāriki, and the submission of Ngā Hapū o Ōtaki [S203] is specifically concerned with the provision of infrastructure at Ōtaki.

(171) In relation to the provision of infrastructure, the submitters request a range of amendments to PC(N), including that:

(a) Infrastructure is provided for as a qualifying matter, either generally [S100.02], or specifically at Ōtaki [S203.09, S203.35, S203.36, S203.38, S203.44];

(b) Objectives and policies are amended to require the availability of infrastructure before development occurs [S161.01, S161.04, S161.20, S161.25, S180.03].

**Assessment**

*Infrastructure as a qualifying matter*

(172) In assessing these matters, I firstly address with whether it is appropriate to recognise infrastructure as a qualifying matter. In considering this, I have inferred from the submissions that the submitters seek that a lack of sufficient *development infrastructure*[72] is considered as a qualifying matter, and that as a result, the level of development otherwise required by the MDRS or Policy 3 of the NPS-UD should not be applied in the area where there is insufficient development infrastructure.

(173) In considering whether it is appropriate to recognise insufficient development infrastructure as a qualifying matter, it is important to recognise that the adequacy (or lack thereof) of infrastructure is not listed as a qualifying matter under sections 77I or 77O of the RMA, or under clause 3.32 of the NPS-UD[73]. This means that in order for it to be considered as a qualifying matter, it must be able to be defined as an "other" matter under sections 77I(j) or 77O(j) of the RMA (or clause 3.32(1)(j) of the NPS-UD). This imports a set of further requirements, set out under sections 77L and 77R of the RMA (and clause 3.33 of the NPS-UD), that must be met in order for the matter to be considered as a qualifying matter. These sections require, amongst other things, justification as to why the characteristic of an area (in this case, the suggestion that there is insufficient development infrastructure) makes the level of development otherwise required by the MDRS or Policy 3 of the NPS-UD inappropriate in light of the national significance of urban development and the objectives of the NPS-UD. It is therefore necessary to refer to the NPS-UD itself as part of determining whether a lack of adequate development infrastructure meets the requirements to be considered as an "other" qualifying matter.

(174) Objective 6(a) of the NPS-UD is the objective that is most relevant to the provision of development infrastructure. This objective states:

> *Local authority decisions on urban development that affect urban environments are… integrated with infrastructure planning and funding decisions;…*

(175) The words "integrated with" are particularly important. I consider that this provides that infrastructure planning and funding decisions must respond to the need for urban development, and vice versa. In my opinion, this does not mean that decisions on urban development (which in the case of PC2 is the decision to incorporate the MDRS or give effect to Policy 3 of the NPS-UD) must necessarily be "subject to" infrastructure planning and funding decisions.

[72] Development infrastructure is defined under the NPS-UD as: *mean[ing] the following, to the extent they are controlled by a local authority or council controlled organisation (as defined in section 6 of the Local Government Act 2002): (a) network infrastructure for water supply, wastewater, or stormwater; (b) land transport (as defined in section 5 of the Land Transport Management Act 2003)*.

[73] I note that the safe and efficient operation of nationally significant infrastructure is a qualifying matter under (c) of the qualifying matter sections/clause. However, the matter being considered here is development infrastructure, not nationally significant infrastructure (as defined under the NPS-UD).

(176) I note that the NPS-UD includes a mechanism that provides for the integration of infrastructure planning and funding with urban development at a strategic level. This is provided for under clauses 3.2, 3.3, 3.4 and 3.7 of the NPS-UD, which require that local authorities must provide for sufficient housing and business development capacity to meet expected demand over the short, medium and long terms, and that as part of this, the development capacity must be *infrastructure-ready*. Clause 3.4(3) specifies that development capacity is *infrastructure-ready* if[74]:

> *(a) in relation to the short term, there is adequate existing development infrastructure to support the development of the land*
>
> *(b) in relation to the medium term, either paragraph (a) applies, or funding for adequate development infrastructure to support development of the land is identified in a long-term plan*
>
> *(c) in relation to the long term, either paragraph (b) applies, or the development infrastructure to support the development capacity is identified in the local authority's infrastructure strategy (as required as part of its long-term plan).*

(177) If it is determined that there is insufficient infrastructure capacity to support the demand for development over the short, medium or long terms (in other words, if development capacity is determined not to be *infrastructure-ready*), then under clause 3.7, the local authority must update "any other relevant plan or strategy" to address this. Were it to be determined that there is insufficient development infrastructure to support development capacity, I consider that clause 3.7 obliges the local authority to update the Long-term Plan and Infrastructure Strategy to address this insufficiency.

(178) Whether or not there is sufficient development infrastructure to support development capacity is assessed through the Housing and Business Development Capacity Assessment ('HBA') prepared under subpart 5 of the NPS-UD. The HBA is required to be prepared every three years in time to inform the development of the Long-term plan. The Section 32 Evaluation report describes the issue of infrastructure capacity[75], and in doing so references the most recent HBA[76]. I note that the current HBA identifies that there is sufficient existing or planned capacity to meet the demands of short term (3 years) to medium term (10 years) and that while there is considered to be sufficient capacity in the long term, this is caveated by the need to undertake further assessment work alongside the District Growth Strategy to help

[74] The May 2022 version of the NPS-UD appears to use incorrect paragraph numbers for this clause. I have assumed that the numbering (a), (b) and (c) was intended.
[75] Section 32 Evaluation Report, pp.63-67.
[76] Kāpiti Coast District Council. (2022). *Housing and Business Development Capacity Assessment (HBA) 2021*. See: https://wrlc.org.nz/wp-content/uploads/2022/05/HBA-Chapt-5-KCDC-with-Appendices_web.pdf

inform infrastructure planning and investment as part of the next (and future) Long-Term plans[77].

(179) I therefore do not consider that infrastructure (or more specifically, insufficient development infrastructure) is justified as a qualifying matter under sections 77I(j) or 77O(j) of the RMA because:

(a) The HBA identifies that in at least the short to medium term, there is sufficient existing or planned development infrastructure to support development capacity;

(b) Even if it were determined that there was insufficient existing or planned development infrastructure, the NPS-UD directs the Council to update the Long-term Plan and Infrastructure Strategy to address this insufficiency.

(180) Notwithstanding this, I acknowledge that the submitters have identified through their submissions several concerns with the capacity of infrastructure and its ability to meet the needs of population growth. I do not wish to downplay these concerns. Rather, I consider that the appropriate means of addressing these concerns is through the Long-term Plan and Infrastructure Strategy.

*Providing for infrastructure before development occurs*

(181) The submissions also seek a range of amendments to objectives and policies along the lines that infrastructure is available prior to development occurring. Providing for infrastructure to be available or delivered in coordination with development 'on the ground' is an altogether different matter to providing for sufficient development infrastructure at a District-wide level (as discussed above). I agree that it is important that when and where development occurs, it is appropriately serviced.

(182) The District Plan includes a range of provisions that seek to provide for this outcome. Specifically:

(a) Policies in the Infrastructure and Transport chapters, including:

(i) INF-GEN-P7, which requires amongst other matters that subdivision, use and development can be efficiently integrated with existing infrastructure, or serviced by new infrastructure in a cost effective manner;

(ii) INF-GEN-P8, which requires development to be staged where it is out of sequence with Council's planned investment in infrastructure. Additionally, in certain circumstances developers may bring forward the provision of

[77] Kāpiti Coast District Council. (2022). *Housing and Business Development Capacity Assessment (HBA) 2021*. p.38.

infrastructure as part of the development, and where there is unplanned infrastructure works, a financial contribution may be required to address this;

(iii) INF-GEN-P11, which requires that subdivision and development is undertaken in accordance with the Council's *Land Development Minimum Requirements, April 2022* ('LDMR'). The LDMR is a document incorporated by reference into the District Plan that outlines a range of requirements for the design and construction of development infrastructure as part of undertaking subdivision and development.

(iv) INF-MENU-P17, which requires that subdivision and development in hydraulically neutral;

(v) INF-MENU-P18, which requires that the adverse effects of stormwater runoff from subdivision and development be minimised, including a range of assessment criteria to be considered;

(vi) INF-MENU-P19, which requires that new residential development connected to the public potable water supply include rainwater storage tanks or other methods to manage water demand;

(vii) INF-MENU-P20, which requires that all new subdivision, use and development will have an adequate water supply;

(viii) INF-MENU-P21, which requires subdivision, use and development to ensure adequate treatment and disposal of wastewater appropriate for the end use and location.

(ix) TR-P1, which requires development and subdivision to be integrated with and consistent with the transport network hierarchy.

(b) These policies are supported by several rules across the plan, including:

(i) INF-MENU-R27, which requires that development in all zones to be undertaken in accordance with the LDMR;

(ii) INF-MENU-R28, which requires that new or relocated residential buildings on land where potable public water supply is available must install a rainwater tank, or a combination of rain water tank and grey-water reuse system;

(iii) INF-MENU-R29, which requires that residential buildings in the General Residential Zone at Te Horo Beach (which is not connected to the reticulated water supply network) provide a potable water supply (including a supply for firefighting);

(iv) Subdivision rules SUB-DW-Rx1 and SUB-DW-R5 require all new subdivision to be hydraulically neutral, to be connected to the Council reticulated water supply and wastewater network (where this is available in or adjacent to the area), and to be connected to the telecommunications and energy supply networks;

(v) Subdivision rules SUB-RES-Rx1 and SUB-RES-R27 require that subdivision in areas not connected to the Council reticulated wastewater network are required to provide on-site domestic wastewater disposal suitable for each allotment, in accordance with specified standards;

(vi) Rules in the transport chapter provide standards for vehicle movements (TR-R2), site access and loading (TR-R3), and the design and layout of parking where it is provided (TR-R4, and TR-R5, although I note that because of Policy 11 of the NPS-UD, except for accessible parking, the District Plan does not require a minimum amount of parking to be provided). I also observe that Plan Changes 1A and 1C propose to insert rules that requires a minimum amount of accessible car parks and cycle parking to be provided for multi-unit residential developments with 4 or more dwellings (TR-PARK-R18 and TR-PARK-R19).

(183) Based on the above, I consider that there is adequate provision across the District Plan for the coordinated delivery of infrastructure as part of undertaking development 'on the ground'. I therefore do not consider it necessary to amend the objectives and policies in the manner requested by the submitters, as I consider that they outcome they seek is already provided for by these provisions.

**Recommendations**

(184) For the reasons outlined above, I recommend that:

(a) Submission points requesting that infrastructure is provided for as a qualifying matter, either generally [S100.02], or specifically at Ōtaki [S203.09, S203.35, S203.36, S203.38, S203.44] are **not accepted**;

(b) Submission points that request that objectives and policies are amended to require the availability of infrastructure before development occurs [S161.01, S161.04, S161.20, S161.25, S180.03] are **not accepted**.

### 4.2.6 Qualifying Matters

**Matters raised by submitters**

(185) **Ātiawa ki Whakarongotai** [S100], **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161], **Ngā Hapū o Ōtaki** [S203] and **A.R.T** [S210] include a range of submission points related to qualifying matters. These include:

(a) Submission points related to the Coastal Qualifying Matter Precinct [S100.06, S100.64, S100.65, S100.67, S161.34, S161.36, S161.40 and S203.28]. These submission points generally support the approach, or request that it be strengthened or extended.

(b) Submission points that relate specifically to places and areas of significance to Māori [S100.63, S161.48, S203.57 and S210.09].

(c) Submission points that relate to the approach to existing qualifying matters generally [S100.46, S100.68, S161.19, S161.49, S203.08, S203.59, S203.60, S203.61, S203.62, S203.63, S302.65].

(186) I note that submission points related to the Marae Takiwā Precinct are addressed separately under section (571) of this report, and submission points related to Kārewarewa Urupā are addressed separately under section 0 of this report.

**Assessment and recommendations**

(187) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

### 4.2.7 Design Guides

**Matters raised by submitters**

(188) **Ātiawa ki Whakarongotai** [S100], **Ngā Hapū o Ōtaki** [S203] and **A.R.T** [S210] each raised matters related to the design guides through their submissions. Specifically:

(a) Ātiawa ki Whakarongotai [S100.69] and Ngā Hapū o Ōtaki [S203.67, S203.69] both request that the design guides are amended to reflect tangata whenua values;

(b) Ātiawa ki Whakarongotai [S100.69], Ngā Hapū o Ōtaki [S203.66] and A.R.T [S210.15] request that a design panel is established to assess the design of development;

(c) Ngā Hapū o Ōtaki [S203.68] request that the 'Responding to Context' section of the Design Guide is amended to give more priority to the careful consideration of the design

of new development and how it will impact sites and areas of significance to Ngā Hapū o Ōtaki.

**Assessment**

*Incorporating tangata whenua values into the Design Guides, and Design Panels*

(189) In relation to amending the design guides to reflect tangata whenua values, I note that the submitters identify design guides as an opportunity to incorporate or give expression to tangata whenua "kaupapa (values) and huanga (vision)"[78], and to provide for tangata whenua to "see themselves reflected in the district, not just in papakāinga. The inclusion of tangata whenua cultural expressions in the design guides will enhances and benefit the entire community"[79].

(190) I agree that mechanisms to recognise and provide for broader tangata whenua cultural expression through urban development would be likely to benefit both tangata whenua and the community at large. However, I consider that to appropriately incorporate cultural values into the design guides (or to create design guides that specifically recognise these values), it is necessary to take sufficient time (and resources) to work with tangata whenua to ensure that this is carefully considered. In my opinion, in addition to ensuring that cultural values are expressed though guidelines that accurately reflect the outcomes sought by tangata whenua, careful consideration is required to ensure that they are also incorporated in a manner that avoids the risk of inappropriate use or mis-appropriation of cultural values as part of development (which will not always be undertaken by, or in consultation with, tangata whenua). Further, I consider that guidelines incorporating cultural values would need to be expressed in such a manner that is able to be practically applied by both applicants and consent officers without creating an obligation that applicants must consult with tangata whenua in order to appropriately interpret the guidelines as part of preparing a resource consent application[80]. Recognising that the design guides apply to all residential development with 4 or more residential units, I consider that there is also a potential risk of creating a heavy consultation burden for tangata whenua where well-intentioned applicants do seek their advice on the appropriate interpretation of cultural values through design.

(191) Somewhat related to this is the matter of the potential role for design panels, which is also raised by the submitters. I understand that design review panels are used by several territorial authorities[81] as part of providing for the consideration of the effects of the design of

[78] S100, p.26.
[79] S203, p.25.
[80] I consider that to do so would be contrary to clause 6(3) of Schedule 4 of the RMA.
[81] For example, the Auckland Council has established the Auckland Urban Design Panel to provide review of certain applications where specified thresholds are met (for example, developments with more than 20 residential units). The panel assesses projects and provides recommendation to the applicant, which are taken into account by the Council's urban designer and planner when assessing the resource consent application. See: https://www.aucklandcouncil.govt.nz/about-auckland-council/how-auckland-

development both internally and on its surroundings. Such an approach could function as a mechanism for ensuring that cultural values are appropriately interpreted and integrated into design, particularly where there were tangata whenua representatives included as part of the panel. However, to establish such a panel would require careful consideration of a range of practical matters including the terms of reference of the panel, the circumstances under which the panel would be used, the constitution of the panel, and the processes through which their advice would be incorporated into resource consent decision making. Other processes (including funding processes) under the Local Government Act 2002 may also be necessary to establish such a panel.

(192) I do not suggest that matters associated with incorporating tangata whenua cultural values into the design guides or providing for design panels cannot be resolved through engagement with tangata whenua and careful consideration by Council. Rather, I do not consider that these matters can be sufficiently addressed within the constraints associated with the ISPP (including time within which a decision must be made). I note that the Council is preparing several plan changes outside of PC2 where these matters may be appropriately addressed.

(193) In relation to the design guides that have been incorporated into PC(N), I consider their principal purpose is to demonstrate how appropriate levels of amenity can be achieved at higher densities. While I acknowledge that Ātiawa ki Whakarongotai and Ngā Hapū o Ōtaki seek that the design guides provide for the expression of cultural values (and do not wish to discount them doing so in the future following thorough consideration), I consider that as notified, the design guides are an effective means of demonstrating how appropriate levels of amenity can be achieved at higher densities[82], and therefore on balance provide a net benefit.

*Relationship with places and areas of significance to Māori*

(194) As identified by Ngā Hapū o Ōtaki [S203.68], the design guidelines do seek that consideration is given to specific matters where development is occurs near to a site or area of significance to Māori. This appears as guideline 60 in the Residential Design Guide and guideline 75 in the Centres Design Guide. While I acknowledge that a more comprehensive approach to recognising and providing for the relationship between higher density development and sites of significance to Māori could be incorporated into the design guides as part of incorporating tangata whenua cultural values generally into the design guides (as discussed above), I do consider that, the guideline as worded provides an appropriate prompt for developers to give consideration to the potential effects of development on its surroundings, particularly where these are a place or area of significance to Māori.

council-works/advisory-panels/Documents/audp-terms-reference-2017.pdf#:~:text=The%20Purpose%20of%20the%20Auckland%20Urban%20Design%20Panel,contribute%20to%20safe%2C%20healthy%20and%20attractive%20urban%20environments.

[82] This is discussed in further detail in section 0 of this report.

**Recommendations**

(195) For the reasons outlined above, I recommend that:

(a) Submission points that request that the design guides are amended to reflect tangata whenua values [S100.69, S203.67, S203.69] are **not accepted**;

(b) Submission points that request that a design panel is established to assess the design of development [S100.69, S203.66, S210.15] are **not accepted**;

(c) The submission point that requests that the 'Responding to Context' section of the Design Guide is amended to give more priority to the careful consideration of the design of new development and how it will impact sites and areas of significance to Ngā Hapū o Ōtaki [S203.68] is **not accepted**.

(196) In making these recommendations, I wish to emphasise that I do not consider the matters raised by the submitters to be without merit. Rather, I reiterate that I consider that the ISPP does not provide an appropriate process to address these matters, and they would be more appropriately explored and addressed outside of the ISPP following thorough and careful consideration and engagement with tangata whenua. I observe that the Council is preparing several plan changes where it may be appropriate to explore some of these matters.

### *4.2.8 Financial Contributions*

**Matters raised by submitters**

(197) **Ātiawa ki Whakarongotai** [S100], **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161], **Ngā Hapū o Ōtaki** [S203] and **A.R.T** [S210] raise several matters related to financial contributions. These include:

(a) The consideration of effects on cultural values as part of the consideration of financial contributions [S100.15, S100.16, S210.17];

(b) The ability for tangata whenua to be involved in decision-making on financial contributions [S100.49, S161.42, S161.43, S161.54, S203.52, S210.18]

(c) Opposition to providing for financial contributions to contribute towards offsetting and compensation [S161.42, S161.44, S203.53, S210.19];

(d) Amendments to the provisions to enable land to be transferred to tangata whenua as a financial contribution [S161.45, S203.54, S210.17].

**Assessment and recommendations**

(198) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

## 4.3 Papakāinga

*Author: Andrew Banks*

**Matters raised by submitters**

(199) **Ātiawa ki Whakarongotai** [S100.20, S100.40, S100.41], **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161.16] and **Ngā Hapū o Ōtaki** [S203.04, S203.23] request that papakāinga are enabled in the Metropolitan Centre, Local Centre and Mixed Use Zones. Ātiawa ki Whakarongotai [S100] and Ngā Hapū o Ōtaki [S203] identify that they have yet to finalise their Treaty of Waitangi settlements with the Crown, and that it would be inappropriate to exclude potential papakāinga from these zones within their rohe. Further, the submitters identify that their relationship with ancestral land (and waters) is not limited to zone boundaries.

**Assessment**

*Enabling papakāinga in the Metropolitan Centre, Local Centre and Mixed Use Zones*

(200) PC(N) enables the development of papakāinga in the Town Centre Zone. I note that there is land held under Te Ture Whenua Māori Act 1993 located within the Ōtaki Main Street Town Centre Zone, Ōtaki Railway Town Centre Zone, and the Waikanae Town Centre Zone, and that on this basis there is clearly land that has been determined to be ancestral land located within the Town Centre Zone. Providing for the development of papakāinga in the Town Centre Zone is therefore consistent with several of the objectives for papakāinga, which seek, in amongst other matters, that tangata whenua are empowered and enabled to develop and live on their ancestral land (see in particular DO-Ox4, DO-Ox6, DO-Ox7 and DO-Ox8). I also observe that Raukawa marae in Ōtaki and Whakarongotai marae in Waikanae are located either in (Whakarongotai) or adjacent to (Raukawa) the Town Centre Zone, so I consider that providing for papakāinga to be developed near these marae would serve to support thriving communities in relation to these marae (which is sought generally as part of DO-Ox5).

(201) I also observe that there is (presently) no land held under Te Ture Whenua Māori Act 1993 located in the Metropolitan Centre Zone, Local Centre Zone or Mixed Use Zone (the zones where the submitters request that papakāinga are enabled).

(202) If the test for enabling the development of papakāinga in a particular zone was the presence of land held under Te Ture Whenua Māori Act 1993, then there would not be much of a case for doing so in relation to the Metropolitan Centre, Local Centre and Mixed Use Zones. However, as identified by Ātiawa ki Whakarongotai, the relationship between tangata whenua and ancestral land does not conform to zone boundaries. Further, as implied by the reference in the submissions of Ātiawa ki Whakarongotai and Ngā Hapū o Ōtaki to Treaty of Waitangi

settlement negotiations, the matter of the location and extent of ancestral land in the district is not a settled matter. I also observe that the papakāinga provisions are intended in part as a means of addressing the issue of land loss[83] by "reconnecting" tangata whenua to ancestral land through enabling tangata whenua to develop papakāinga wherever a whakapapa or ancestral connection is demonstrated (be it on land held under Te Ture Whenua Māori Act 1993, or on general title land owned by tangata whenua). The provisions themselves include appropriate mechanisms (such as the restricted discretionary activity rules for the development of papakāinga by tangata whenua on general title land) to ensure that a whakapapa or ancestral connection to the land is appropriately demonstrated. In this context, it seems arbitrary to exclude the Metropolitan Centre, Local Centre and Mixed Use Zones just because they do not currently contain any land held under Te Ture Whenua Māori Act 1993.

(203) Notwithstanding this, it is appropriate to consider whether enabling papakāinga in these zones would be consistent with the objectives and policies for these zones. Regarding the objective for centres (DO-O16) the objective provides that the district's centres are the primary focus for commercial, retail and community activities in the district, and I do not see papakāinga development as being inherently contrary to this. As pointed out by Ātiawa ki Whakarongotai, the papakāinga provisions provide for all of these activities to occur as part of a papakāinga. In relation to the residential component of a papakāinga, I also note that policies within each of these zones anticipate residential activities to occur as part of promoting the mixed use of centres (see MCZ-P7, LCZ-P5 and MUZ-P6). In these respects, the papakāinga provisions enable the activities that are anticipated to occur in the Metropolitan Centre, Local Centre and Mixed Use zones.

(204) However, were an entirely residential papakāinga to be developed within these zones, I consider that there is a risk that this may adversely impact on the functionality of the zone, which seeks a mixed use (but principally commercial activity) outcome. I consider this risk to be acceptable in the Metropolitan Centre and Mixed Use zones, which I consider are sufficiently sized such that it would be unlikely for a papakāinga to be development over a majority of the zone. However, I do not consider this to be the case for the Local Centre Zones, which are small in scale, and whose function "to primarily serve the local convenience, community and commercial needs of the surrounding residential community"[84] may be significantly curtailed were an entirely residential papakāinga to be developed that constituted the majority or entirety of the spatial extent of the zone in any given location. The zone provisions seek to avoid this outcome through the permitted activity rules for residential activities in each of the zones (MCZ-R3, LCZ-R5 and MUZ-R5), which provide that residential activities must be located above the ground floor or separated from the street frontage by retail activities.

[83] Section 32 Evaluation Report, p.69.
[84] See DO-O16(4)(c).

(205) In considering whether the risk to the functionality of the Metropolitan Centre, Local Centre and Mixed Use zones outlined above is acceptable, I am mindful that enabling papakāinga in any zone, in the manner provided for in PC(N), is consistent with the Council's obligation to recognise and provide for the matters outlined under section 6(e) of the RMA[85]. On this basis I consider that the potential risk of impacts on functionality in the Metropolitan Centre and Mixed Use zones is acceptable, principally because the size of these zones and the diversity of landholdings within them means that, in my opinion, the risk of a fully residential papakāinga development covering a significant portion of the zone is unlikely.

(206) The greater risk in relation to Local Centre Zones arises from their smaller scale (generally comprising one or two properties). Were an entirely residential papakāinga development to occur in one of the Local Centre Zones, I consider that there is a high risk that this could result in a Local Centre Zone that simply did not function as one. However, I consider that this risk would be addressed by providing that papakāinga in the Local Centre Zone must comply with the permitted activity standard under LCZ-R5 that requires residential activities to be located either above the ground or separated from the street by retail activities.

(207) On this basis, I therefore consider that it is appropriate to:

(a) In relation to the Metropolitan Centre Zone and Mixed Use Zone, enable papakāinga in the same manner that PC(N) enables papakāinga in the Town Centre Zone. That is, to provide for papakāinga as a permitted activity on land held under Te Ture Whenua Māori Act 1993 and as a restricted discretionary activity on general title land, subject to compliance with the building height, height in relation to boundary and setback standards of the underlying zone; and

(b) In relation to the Local Centre Zone, enable papakāinga in the same manner as PC(N) enables papakāinga in the Town Centre Zone (as outlined above), but also require papakāinga to comply with the permitted activity standard under LCZ-R5 that requires residential activities to be located either above the ground or separated from the street by retail activities.

**Recommendations**

(208) In relation to the requests by **Ātiawa ki Whakarongotai** [S100.20, S100.40, S100.41], **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161.16] and **Ngā Hapū o Ōtaki** [S203.04, S203.23] that papakāinga are enabled in the Metropolitan Centre, Local Centre and Mixed Use Zones, for the reasons stated above I recommend that:

[85] Note that I make similar observations on the risks to the functionality of the Centres and Mixed Use Zones in relation to retirement villages in section 4.6.2 of this report. However, because providing for papakāinga relates to a matter of national importance under section 6 of the RMA, I consider that they can be evaluated in a different light to retirement villages.

(a) Requests to amend PC(N) to enable the development of papakāinga in the Metropolitan Centre and Mixed Use Zones are **accepted**; and

(b) Requests to amend PC(N) to enable the development of papakāinga in the Local Centre Zone is **accepted in part**, subject to providing that papakāinga comply with the permitted activity standard under LCZ-R5 that requires residential activities to be located either above the ground or separated from the street by retail activities.

**Section 32AA evaluation**

(209) In relation to the recommended amendments to enable papakāinga in the Metropolitan Centre, Local Centre and Mixed Use Zones, I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because:

(a) They better enable Council to fulfil its obligations under s6(e), s7(a) and s8 of the RMA;

(b) They more effectively provide for the objectives for papakāinga (as outlined under DO-Ox4 to DO-Ox10) to be achieved by enabling papakāinga development to occur in a greater number of zones, where tangata whenua hold land to which they have a whakapapa or ancestral connection within these zones;

(c) In my opinion, potential risks (as identified above) to the functionality of the Metropolitan Centre and Mixed Use zones are acceptable, and in the case of Local Centres Zones, are suitably mitigated through the application of the permitted activity standard under rule LCZ-R5 to papakāinga development.

**Other matters raised by submitters**

(210) In addition to those matters discussed above, the following submissions requested a range of decisions related to the Papakāinga provisions. These include submissions in support of or opposition to the provisions, and submissions seeking a range of amendments. My recommendations on these submissions are addressed directly in the table in Appendix B.

- **Ātiawa ki Whakarongotai** [S100];
- **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161];
- **Ngā Hapū o Ōtaki** [S203];
- **A.R.T (Ātiawa ki Whakarongotai, Ngā Hapū o Ōtaki (of Ngāti Raukawa ki te Tonga) and Ngāti Toa Rangatira)** [S210];
- **Kress, Sahra** [S011];
- **Opperman, Reinier and Suzette** [S042];
- **Cuttriss Consultants Ltd** [S043];

- **Rowan, Jennifer** [S049];
- **Fire and Emergency New Zealand** [S089];
- **Greater Wellington Regional Council** [S097];
- **Kāinga Ora Homes and Communities** [S122];
- **Hager, Mandy** [S132];
- **Oakley, Andy** [S147];
- **Davey, Frederick** [S152].

## 4.4 MDRS & NPS-UD – General Matters

*Author: Andrew Banks*

### *4.4.1 General matters*

(211) Several submissions raised a range of general matters related to the application of the MDRS and Policy 3 of the NPS-UD across the District Plan. These submissions include:

- **Kilbride, James** [S005];
- **Watson, Hillary and Stephen** [S007];
- **Callister, Dr. Paul** [S009];
- **Kress, Sahra** [S011];
- **Mann, Amos** [S016];
- **Amad, Linda** [S022];
- **Mansell, RP, AJ and MR** [S023];
- **Ryan, Rachel** [S027];
- **Infill Tapui Limited** [S028];
- **O'Brien, Nicola** [S033];
- **Murphy, Christine** [S041];
- **Cuttriss Consultants Ltd** [S043];
- **Le Harivel, John** [S045];
- **Vickers, Amanda** [S046];
- **Rowan, Jennifer** [S049];
- **Franks, Jeffery** [S051];
- **Waka Kotahi** [S053];
- **Malu, Jonas** [S054];
- **Fiti, Faimasulu** [S069];
- **Cancer Society of NZ (Wellington Division)** [S073];
- **Halliburton, Barbara** [S079];
- **Paekākāriki Housing Trust** [S082];
- **Fire and Emergency New Zealand** [S089];
- **Greater Wellington Regional Council** [S097];
- **Breese, Steve** [S103];
- **Land Matters Limited** [S107];
- **Mitchell, Chris and Smith, Sue** [S110];
- **Ara Poutama Aotearoa, The Department of Corrections** [S111];
- **Z Energy Limited, BP Oil New Zealand Limited & Mobil Oil New Zealand Limited** [S114];
- **Templeton Kāpiti Limited** [S115];

- **Carter, Brian** [S117];
- **Kāinga Ora Homes and Communities** [S122];
- **Maclean, Sarah** [S131];
- **Wilson, Rochelle** [S133];
- **Smith, Jan** [S134];
- **Jones, Lesley** [S135];
- **Gibbons, Christine** [S137];
- **Holman, Linda** [S138];
- **Dinniss, Philip** [S140];
- **Van Beek, Hanne** [S141];
- **Marshall, Graeme and Christine** [S144];
- **Cobeldick, Paul** [S145];
- **Hynd, Clare** [S148];
- **McMahon, Frederick** [S149];
- **Stevenson, Douglas** [S150];
- **Foster, Dan** [S151];
- **Davey, Frederick** [S152];
- **Survey + Spatial New Zealand Wellington Branch** [S153];
- **Sutherland, Bruce** [S154];
- **Gomez, Nancy** [S160];
- **Lewis, Keith** [S171];
- **McArthur, Angela** [S185];
- **Gunn, Ian and Jean** [S186];
- **Stevenson-Wright, Margaret** [S192];
- **Curtis, Felicity** [S194];
- **Retirement Villages Association of New Zealand Incorporated (RVA)** [S197];
- **Leith Consulting Ltd** [S202];
- **Peacock, David** [S204];
- **Landlink** [S206];
- **Metlifecare Limited** [S207];
- **Neumann, Stefanie** [S212];
- **Webber, Allison** [S216];
- **Frauenstein, Martin** [S217].

(212) In general, the matters raised through submissions include (in no particular order):

- General support for or opposition to incorporating the MDRS and giving effect to Policy 3 of the NPS-UD;

- General requests to increase or reduce the building heights and densities enabled by PC2;
- Amendments to a range of other density standards (including height in relation to boundary, setbacks, outdoor living space, outlook space, and landscape area);
- The alignment of strategic direction (including District Objectives and Urban Form and Development policies) with the MDRS and the NPS-UD;
- General improvements to clarify or simplify policies and rules, or improve their alignment with the MDRS and NPS-UD;
- Concerns around changes in amenity, including loss of sunlight, privacy, views, and change in character;
- Recognition of a broader range of housing types (including tiny-houses, co-housing, community housing, multi-generational living, transitional and emergency housing);
- Provision for commercial activities or community services as part of higher density housing development;
- Reverse sensitivity, particularly in relation to lawfully established non-residential activities;
- Provision for car parking;
- Access to and provision of public open space;
- Notification preclusions (seeking that they are either expanded or removed).

(213) Except as otherwise provided for under more specific topics throughout this report, my assessment and recommendations on these submissions are addressed directly in the table in Appendix B.

### *4.4.2 MDRS Objectives and Policies*

**Matters raised by submitters**

(214) Several submissions sought amendments to one or more of the proposed objectives and policies that are prescribed by clause 6 of Schedule 3A of the RMA (DO-Ox1, DO-Ox2, GRZ-Px1, GRZ-Px2, GRZ-Px3, GRZ-Px4 and GRZ-Px5). These submissions include:

- **The Loyalty Initiative** [S026],
- **Transpower New Zealand** [S076],
- **Ātiawa ki Whakarongotai** [S100],
- **Ara Poutama Aotearoa** [S111],
- **Te Rūnanga o Toa Rangatira** [S161]
- **Ngā Hapū o Ōtaki** [S203].

**Assessment**

(215) Clause 6 of Schedule 3A of the RMA prescribes a set of objectives and policies that the District Plan "must include". Clause 6 then goes on to state in clear terms what those objectives and policies are. Proposed district objectives DO-Ox1 and DO-Ox2 are the objectives prescribed by clause 6(1) and proposed General Residential Zone policies GRZ-Rx1 to GRZ-Rx5 are the policies prescribed by clause 6(2). Clause 6 is clear that these objectives and policies must be included, and I do not consider that the clause authorises them to be amended.

**Recommendations**

(216) I consider that it would be contrary to the requirements in clause 6 of Schedule 3A of the RMA to amend DO-Ox1, DO-Ox2, GRZ-Px1, GRZ-Px2, GRZ-Px3, GRZ-Px4 or GRZ-Px5. I recommend that submission points seeking to amend these objectives and policies are **not accepted**.

### *4.4.3 Proposed Wellington Regional Policy Statement*

**Matters raised by submitters**

(217) Several submissions of the **Greater Wellington Regional Council** [S097] request amendments to PC(N) as part of having regard to Proposed Change 1 ("PC1") to the Wellington Regional Policy Statement ("RPS") [S097.02, S097.03, S097.04, S097.05, S097.06, S097.07, S097.08, S097.09, S097.10, S097.11, S097.12, S097.13, S097.14, S097.15, S097.16, S097.27, S097.29, S097.30, S097.31, S097.32, S097.33, S097.34].

**Assessment**

(218) Proposed Change 1 to the Wellington Regional Policy Statement was publicly notified on 19 August 2022[86]. This was the day after PC2 was notified.

(219) PC1 to the RPS is significant change to the RPS. It has a broad scope, which includes the following matters:

- Freshwater quality and Te Mana o te Wai;
- Stormwater quality and quantity;
- Climate change (including freshwater bodies, water supply, transport infrastructure, emissions assessments, resilient urban areas, and nature-based solutions);
- Biodiversity offsetting and compensation;

[86] The proposed RPS is available on the Greater Wellington Regional Council website at the following address: https://www.gw.govt.nz/your-region/plans-policies-and-bylaws/updating-our-regional-policy-statement-and-natural-resources-plan/regional-policy-statement-2022-changes/

- Mana whenua/tangata whenua values;
- Managing indigenous biodiversity;
- Integrated management and decision making;
- Natural hazards;
- Greenhouse gas emission reduction;
- Well-functioning urban environments and giving effect to the NPS-UD.

(220) Generally, the Regional Council's submissions seek that PC(N) is amended to "have regard to" PC1 to the RPS. However, the submissions seek extensive changes to the District Plan generally, which, in my opinion, effectively seek that the District Plan is amended to substantially give effect to the proposed RPS through PC2. PC1 to the RPS, which received 156 primary submissions, is at an early stage of the planning process (I understand that hearings on submissions are yet to be scheduled). As a result, the notified provisions of the proposed RPS may change through Schedule 1 process (and I observe that the statutory deadline for notifying decisions on the proposed RPS is August 2024, which is a year after the statutory deadline for PC2). I consider that it would be inappropriate to amend the district plan to give effect to the notified provisions of the proposed RPS at such an early stage the plan change process. It would also be inefficient, as it may put the Council in the position of having to give effect to the RPS twice (now, and again once it becomes operative with provisions that may have changed).

(221) The changes proposed by the Regional Council to the RPS are significant, complex, and go well beyond giving effect to Policy 3 of the NPS-UD. In my opinion, amending the District Plan to give effect to an RPS change as extensive as PC1 is a significant undertaking which would require careful and thoughtful review of provisions across the plan, engagement with tangata whenua and the wider community, an appropriate level of evaluation under section 32 of the RMA, and scrutiny through a Schedule 1 plan change process where the public has the opportunity to consider the changes proposed to the District Plan to give effect to the RPS. I do not consider it appropriate to make these amendments through submissions on PC2, as this does not provide for the careful drafting of provisions, does not provide for the amendments to be subject to an appropriate level of evaluation under section 32 of the RMA, and limits the ability for the public and tangata whenua to be involved in the development of the provisions. I consider that the appropriate time to amend the District Plan to give effect to the proposed RPS would be after the RPS becomes operative.

(222) In addition to this, I consider the relief sought by the Regional Council in the majority of their submission points to be vague and sought by the Regional Council to the *provisions* of PC(N) are largely unspecified. I find this to be unhelpful, as it makes it difficult for me (and presumably other submitters) to determine what, in fact, the Regional Council is seeking in terms of amendments to the provisions of PC(N). It also makes it difficult to assess whether the amendments sought by the Regional Council support or are consequential to incorporating

the MDRS or giving effect to Policy 3 of the NPS-UD. The Regional Council may wish to clarify the amendments they seek to the provisions of PC(N) at the hearing.

(223) Notwithstanding this, as the Regional Council points out, section 74(2)(a)(i) of the RMA requires that territorial authorities have regard to a proposed RPS when changing a district plan. I have had regard to what I consider to be the relevant provisions of PC1 to the RPS as they relate to PC2, and my analysis is set out in Appendix E. Based on this analysis, I do not consider that any amendments to PC(N) are necessary as part of incorporating the MDRS or giving effect to policy 3 of the NPS-UD.

(224) Some of the Regional Council's submission points [S097.02, S097.03, S097.04] also refer to the provisions of the operative RPS and the NPS-FM. I note that section 2.2.3 of the Section 32 Evaluation Report identifies how PC(N) gives effect to the relevant provisions of the NPS-FM, and section 2.4.1 of the Section 32 Evaluation Report identifies how PC(N) gives effect to the relevant provisions of the operative RPS. I do not consider that the submission contains any new information that would alter the analysis contained in these parts of the Section 32 Evaluation Report.

**Recommendations**

(225) For the reasons outlined above, I recommend that the various submissions of the Greater Wellington Regional Council that request amendments to PC(N) as part of having regard to Proposed Change 1 ("PC1") to the Wellington Regional Policy Statement ("RPS") [S097.02, S097.03, S097.04, S097.05, S097.06, S097.07, S097.08, S097.09, S097.10, S097.11, S097.12, S097.13, S097.14, S097.15, S097.16, S097.27, S097.29, S097.30, S097.31, S097.32, S097.33, S097.34] are **not accepted**.

### *4.4.4 Kāinga Ora's request to rezone the General Residential Zone and increase the level of development enabled by PC2*

**Matters raised by submitters**

(226) **Kāinga Ora** [S122] include in their submission several requests that seek broad based alterations to the way the MDRS and Policy 3 of the NPS-UD have been incorporated into the District Plan through Plan Change 2. These requests include:

(a) Replacing the General Residential Zone chapter with a Medium Density Residential Zone chapter (outlined in Appendix 2 of the original submission) and a High Density Residential Zone chapter (outlined in Appendix 3 of the original submission) [S122.01, S122.03, S122.04, S122.34, S122.58, S122.59, S122.62, S122.106]. I note that **Infill Tapui Limited** [S028.55] and the **Retirement Villages Association** [S197.20,

S197.31, S197.44] have made similar requests, and I have considered their submissions alongside Kāinga Ora's. This includes:

(i) Deleting the Residential Intensification Precincts and replacing them with the High Density Residential Zone (in the case of Residential Intensification Precinct A) and a height variation control overlay (in the case of Residential Intensification Precinct B) [S122.09, S122.11, S122.45, S122.106];

(ii) Amendments to the District Plan maps (as outlined in Appendix 4 of the original submission) to provide for the relief sought [S122.07, S122.08, S122.12, S122.106].

(b) Review of the Centres hierarchy [S122.01];

(c) Expansion of the Ōtaki Main Street and Ōtaki Railway Town Centre Zones [S122.05, S122.12];

(d) Increase in building heights and the spatial extent of walkable catchments in a range of zones [S122.01, S122.03, S122.04, S122.05, S122.06, S122.09, S122.14, S122.48, S122.58, S122.106, S122.112, S122.116, S122.121, S122.122, S122.126, S122.133, S122.137, S122.145, S122.147, S122.150, S122.159, S122.160];

(e) Alteration to several density standards, including:

(i) More lenient height in relation to boundary standards in the height variation control areas in the Medium Density Residential Zone, the High Density Residential Zone, centres zones and Hospital Zone [S122.03, S122.04, S122.14, S122.114, S122.122, S122.133, S122.147, S122.159]; and

(ii) Exclusion of eaves up to a maximum of 600mm in width and gutters or downpipes up to an additional width of 150mm from building coverage and setback standards [S122.03, S122.04];

(iii) More lenient alternative outdoor living spaces standards in the Medium Density Residential Zone and High Density Residential Zone [S122.03, S122,04];

(iv) Alteration to the outdoor living space standards in the centres and Mixed Use zones so that residential units above the ground floor with 2 or fewer bedrooms are not required to provide outdoor living space [S122.115, S122.122, S122.133, S122.148].

(f) Notification preclusions for non-compliance with a range of standards in the centres, Mixed Use and Hospital Zones [S122.116, S122.126, S122.137, S122.150, S122.160], including:

(i) Public and limited notification preclusions for non-compliance with outdoor living space standards and outlook space standards for residential units, and a range of urban or public realm design standards;

(ii) Public notification preclusions for non-compliance with the height in relation to boundary standards and standards for setback from residential zone boundaries.

**Assessment**

*Replacing the General Residential Zone with a Medium Density and High Density Residential Zone*

(227) In relation the requests of Kāinga Ora, Infill Tapui Ltd and the Retirement Villages Association to replace the General Residential Zone (and Residential Intensification Precincts) with a Medium Density and High Density Residential Zone, I consider that there are two aspects to this request that need to be considered:

(a) Firstly, is replacing the General Residential Zone with a Medium Density and High Density Residential Zone the most efficient and effective method of incorporating the MDRS and giving effect to Policy 3 of the NPS-UD?

(b) Secondly, is it appropriate to incorporate the Medium Density and High Density Residential Zone chapters sought by Kāinga Ora into the District Plan, and is it necessary to do so in order to incorporate the MDRS or give effect to Policy 3 of the NPS-UD?

(228) In relation to the first question, the zone framework options for incorporating the MDRS and giving effect to Policy 3 of the NPS-UD are evaluated in section 8.3.4 of the Section 32 Evaluation Report[87]. This evaluation considers two options, one being to retain the General Residential Zone and amend the existing objectives, policies and rules of the zone to incorporate the MDRS and give effect to Policy 3 of the NPS-UD, the other being to replace the General Residential Zone with two new residential zones (a Medium Density Residential Zone and a High Density Residential Zone). In summary, the evaluation concluded that while both options would provide for incorporating the MDRS and giving effect to Policy 3 of the NPS-UD, the first option would do so in a more efficient manner.

(229) While I acknowledge that Kāinga Ora have referred to regional consistency on this matter, in my opinion, the primary considerations when deciding on an appropriate zoning framework as part of amending a District Plan are the operative District Plan zone framework and the National Planning Standards. In this regard, the appropriate zoning framework may vary from district to district depending on the range of environments that are sought to be managed by

[87] Section 32 Evaluation Report, p.233.

the District Plan. The operative Kāpiti Coast District Plan already implements the National Planning Standards. It uses one residential zone (the General Residential Zone) to provide for a common set of provisions to manage development across the residential environment and applies precincts to manage place-based matters (such as building density). PC(N) continues this approach on the basis that it is the most efficient method of incorporating the MDRS and giving effect to Policy 3 of the NPS-UD, while also being consistent with the National Planning Standards. I consider the use of precincts to be particularly efficient because they provide for Policy 3 of the NPS-UD to be given effect to through one objective (DO-Ox3), one policy (GRZ-Px6) and one rule (GRZ-Rx2) act to modify the underlying zone provisions. The alternative approach, which the Section 32 Evaluation Report identifies as being less efficient, requires the creation of two new zones (which, except for DO-Ox3, GRZ-Px6 and GRZ-Rx2, would contain largely duplicated provisions) to achieve the same outcome. In summary, I consider it both unnecessary and inefficient to depart from the operative District Plan zone framework.

(230) For the avoidance of doubt, I consider this approach proposed by PC(N) to be consistent with the National Planning Standards. I note that the definition of the General Residential Zone in the National Planning Standards is "areas used predominantly for residential activities with a mix of building types, and other compatible activities"[88]. This is consistent with the purpose of the zone outlined under MDRS Policy 1, which is to "enable a variety of housing typologies with a mix of densities"[89], including higher density typologies (such as lifted apartments) that are anticipated in parts of the zone where Policy 3 of the NPS-UD applies. In addition to this, I consider the use of precincts to apply Policy 3 of the NPS-UD is consistent with the National Planning Standards, because the application of Policy 3 constitutes a place-based modification of the outcomes anticipated in the underlying zone[90].

(231) In relation to the second question, as to whether it is appropriate to incorporate the Medium Density and High Density Residential Zone *chapters* sought by Kāinga Ora into the District Plan, at the outset I note that it would not be appropriate to simply replace the General Residential Zone chapter with the chapters proposed by Kāinga Ora because the chapters are structured differently to the zone chapters contained in the operative District Plan. The key differences include:

(a) A different approach to rule cascades (the operative District Plan provides separate rules for each activity, grouped by activity status, whereas the chapters proposed include single rules for each activity with multiple activity status under each rule);

[88] Ministry for the Environment. (2022). *National Planning Standards*, p.36.
[89] RMA Schedule 3A clause 6(2)(a).
[90] See definition of *precinct* in Ministry for the Environment. (2022). *National Planning Standards*, p.50.

(b) A general separation of standards from rules (where the operative District Plan incorporates relevant standards into each rule).

(232) While Kāinga Ora seek that the proposed provisions are restructured to align with the plan structure and chapter format, I consider that the differences between the chapters that Kāinga Ora seek to incorporate into the plan, and the amendments to the General Residential proposed by PC(N), go well beyond restructuring of the chapters proposed by Kāinga Ora, and into matters of substance. I note the following matters in particular:

(a) The chapters include a range of new zone-specific objectives which are different to the district-wide objectives proposed by PC(N). It is unclear whether Kāinga Ora seek that these zone-specific objectives apply in place of, or in addition to, the district-wide objectives proposed by PC(N).

(b) The chapters include range of new or significantly amended policies, and it is unclear whether Kāinga Ora seek that these policies apply in addition to, or in place of, the amendments to policies proposed by PC(N). In particular, I note that Kāinga Ora seek to include:

(i) More generalised policies for non-residential activities (Kāinga Ora MRZ-P2 and MRZ-P6) which do not take into account the range of factors to be considered under the General Residential Zone policy for non-residential activities (GRZ-P19).

(ii) A general policy around commercial activities in the Medium Density Residential Zone (Kāinga Ora MRZ-P3). It is unclear whether this is intended to replace, amend or be in addition to the General Residential Zone policy for home business activity (GRZ-P18).

(iii) A policy which seeks to provide for retirement villages in the Medium Density Residential Zone (Kāinga Ora MRZ-P5). It is unclear whether this is intended to replace, amend or be in addition to the General Residential Zone policy for supported living and older persons accommodation (GRZ-P18)[91].

(iv) I also note that the policies proposed to included in the High Density Residential Zone are substantially different to those proposed by Kāinga Ora to be included in the Medium Density Residential Zone. It is unclear to me whether this is intentional or not, as the differences between the policies do not appear to relate entirely to density.

[91] Note that I also address the matter of providing for retirement villages under section 4.6.2 of this report.

(c) In relation to the rules and standards in the chapters proposed by Kāinga Ora, the key substantive differences between these and the rules and standards within the General Residential Zone under PC(N) include[92]:

(i) Amendment to the standard for rainwater tanks to be a *maximum capacity* of 5,000L (Kāinga Ora MRZ-R3 and MRZ-S10), as opposed to a *minimum capacity* of 10,000L under the operative District Plan (INF-MENU-R28);

(ii) A new rule and standards and stand-alone walls (Kāinga Ora MRZ-R4 and MRZ-S11);

(iii) An alternative rule for papakāinga development (Kāinga Ora MRZ-R6 and HRZ-R5) with more restrictive standards compared to those proposed by PC(N);

(iv) A more permissive permitted activity rule for visitor accommodation (Kāinga Ora MRZ-R7 and HRZ-R6), compared to the controlled activity rule for visitor accommodation in the operative District Plan (GRZ-R11);

(v) A new restricted discretionary activity rule for retirement villages (Kāinga Ora MRZ-R9 and HRZ-R8)[93];

(vi) A new permitted activity rule for educational facilities, including home-based childcare services (Kāinga Ora MRZ-R11);

(vii) A new permitted activity rule for supported residential care that provides for occupancy of up to 10 residents (Kāinga Ora MRZ-R12 and HRZ-R4). I assume Kāinga Ora seek that this would replace the operative permitted activity rule for supported living accommodation which provides for no more than 6 residents (GRZ-R4);

(viii) New restricted discretionary activity rules for healthcare facilities and community facilities (Kāinga Ora MRZ-R13, MRZ-R14, HRZ-R11 and HRZ-R12). I assume that Kāinga Ora seek that this override the existing status of these activities as permitted activities (subject to standards) under the permitted activity rules of the General Residential Zone and Community Facilities chapter of the operative District Plan.

(ix) A new permitted activity rule for educational facilities (including home-based childcare services) in the High Density Residential Zone (Kāinga Ora HRZ-R10);

[92] Noting that I address amendments to the height, height in relation to boundary, setback and outdoor living space standards sought by Kāinga Ora separately below.
[93] Note that I also address the matter of providing for retirement villages under section 4.6.2 of this report.

(x) A new restricted discretionary activity rule for commercial activities on the ground floor of a building in the High Density Residential Zone (Kāinga Ora HRZ-R13).

(d) Some of the activities sought by Kāinga Ora (including supported residential care, home-based childcare services) are not defined in the District Plan, so appropriate definitions would need to be developed. The submission does not include proposed definitions for these activities.

(e) The chapters proposed by Kāinga Ora include a range of new or altered matters of discretion across the range of restricted discretionary activities sought by Kāinga Ora.

(f) I have not analysed the level of consequential amendment that would be required across the District Plan to incorporate these new chapters, however based on the scale of change sought by Kāinga Ora, I consider that consequential amendments are likely to be substantial, including consequential amendments to subdivision provisions, and new definitions for activities that are not already defined in the District Plan.

(233) Overall, I consider that replacing the General Residential Zone chapter proposed by PC(N) with the Medium and High Density Residential Zone chapters proposed by Kāinga Ora is not a matter of directly incorporating the chapters into the plan, nor is it simply a matter of restructuring the chapters to fit within the Kāpiti Coast District Plan. Rather, I consider that the chapters proposed by Kāinga Ora represent a significant change to the objectives, policies, rules and standards provided for in the General Residential Zone under PC(N). Further, the chapters seek to either amend the provisions associated with a range of activities (including non-residential activities, commercial activities, visitor accommodation, supported residential care, papakāinga, community facilities, rainwater tanks and fences) or provide specific rules for a range of new activities (including retirement villages, educational facilities, and healthcare). Some of these matters may or may not have merit. However, such a significant shift requires, in my opinion, a commensurate level of evidence to justify both why the proposed chapters are more appropriate than the amendments to the General Residential Zone chapter proposed by PC(N), as well as whether the range of provisions within the proposed chapters fall within the scope of matters that can be included in an IPI (under section 80E of the RMA). Aside from general statements related to regional consistency, I am unable to discern any substantial justification within the submission for the matters sought by Kāinga Ora within the proposed chapters. As such I do not consider it appropriate to replace the General Residential Zone chapter proposed by PC(N) with the Medium and High Density Residential Zone chapters sought by Kāinga Ora.

*Review of the centres hierarchy*

(234) In relation to Kāinga Ora's request that the centres hierarchy is reviewed, while Kāinga Ora do not specify any particular changes sought to the centres hierarchy, I note that the

submission refers to regional consistency on this matter[94]. PC(N) does not amend the operative District Plan centres hierarchy (nor is this required to give effect to Policy 3 of the NPS-UD)[95], and I consider that the operative District Plan centres hierarchy is consistent with the regional centres hierarchy outlined under policy 30 of the operative RPS[96], and the proposed amendments to policy 30 under PC1 to the RPS[97]. I therefore do not consider that any amendments to the operative centres hierarchy are necessary to achieve regional consistency, or to give effect to Policy 3 of the NPS-UD.

*Expansion of the Ōtaki Main Street and Ōtaki Railway Town Centre Zones*

(235) In relation to Kāinga Ora's request to extend the Ōtaki Main Street and Ōtaki Railway Town Centre Zones, I note that this matter is not explicitly covered in the body of Kāinga Ora's submission and is only identified in the amendments to the maps contained in Appendix 4 of the Kāinga Ora submission. The extension sought by Kāinga Ora to the Ōtaki Main Street Town Centre Zone is identified in Figure 3 and the extension to the Ōtaki Railway Town Centre Zone is identified in Figure 4. In considering this matter, I note that PC(N) does not propose to change the spatial extent of the Town Centre zones contained in the operative District Plan.

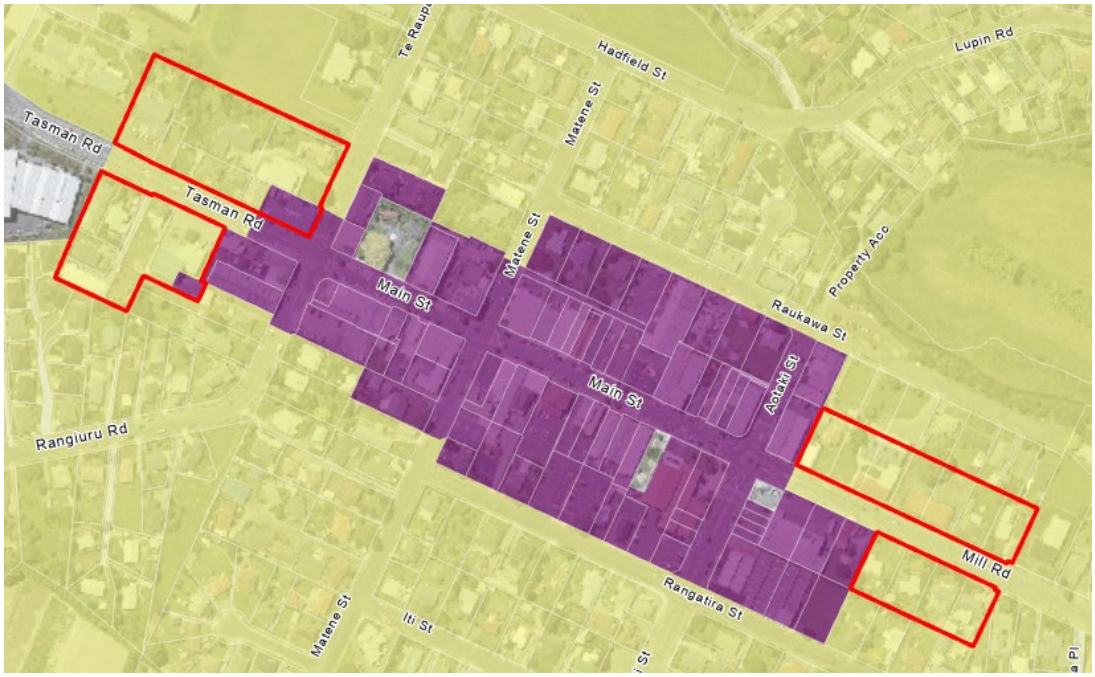


*Figure 3: extension of the Ōtaki Main Street Town Centre Zone sought by Kāinga Ora (shown in red).*

[94] See S122.01.
[95] The centres hierarchy is discussed in further detail in section 4.2.3 of this report.
[96] Section 32 Evaluation Report, p.38.
[97] Refer to the analysis of the amendments to this policy contained on page C12 of Appendix E.

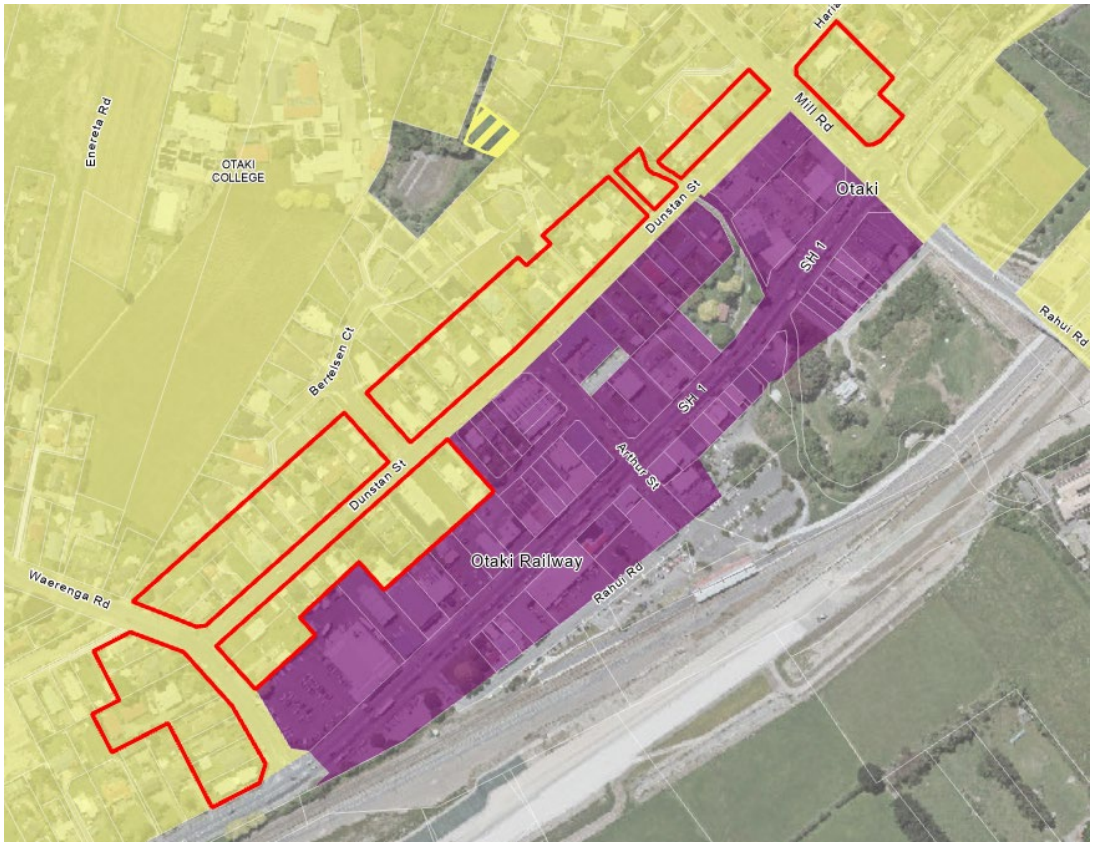


*Figure 4: extension of the Ōtaki Railway Town Centre Zone sought by Kāinga Ora (shown in red).*

(236) I am unable to identify any justification for the expansion of either of the Town Centre zones at Ōtaki within the Kāinga Ora submission. Further, it is not clear to me that such expansion is necessary to give effect to Policy 3 of the NPS-UD. I also observe that the expansion sought by Kāinga Ora to the Ōtaki Main Street Town Centre Zone would cover the Raukawa Marae, and that Ngā Hapū o Ōtaki request that this be disallowed in their further submission[98]. In the absence of any evidence to justify expanding the Town Centre zones at Ōtaki, I do not consider Kāinga Ora's request to be appropriate.

*Increase in building heights and the extent of walkable catchments*

(237) Kāinga Ora seek amendments to increase the building heights enabled in various zones under Policy 3 of the NPS-UD, as well as the extent of the walkable catchments within which these heights are enabled. The following table summarises the amendments sought by Kāinga Ora, compared with the heights and walkable catchments proposed under PC(N):

[98] See further submission S203.FS.1 and further submission point S122.12.FS02.

| NPS-UD Policy | Location | PC(N) | Kāinga Ora submission |
|---|---|---|---|
| Policy 3(b) | Metropolitan Centre Zone | Metropolitan Centre Zone:<br>• 21 metres (6-storeys) as a permitted activity<br>• 40 metres (12-storeys) as a restricted-discretionary activity | Metropolitan Centre Zone:<br>• 53 metres (15-storeys) as a permitted or restricted discretionary activity |
| Policy 3(c)(i) | Walkable catchment of rapid transit stops | General Residential Zone (Residential Intensification Precinct A):<br>• 800m walkable catchment<br>• 20 metres (6-storeys) as a permitted activity<br>• No more than 3 residential units as a permitted activity | High Density Residential Zone:<br>• 800m walkable catchment<br>• 22 metres (6-storeys) as a permitted activity<br>• No more than 6 residential units as a permitted activity |
| Policy 3(c)(iii) | Walkable catchment of the edge of the Metropolitan Centre Zone | General Residential Zone (Residential Intensification Precinct A):<br>• 800m walkable catchment<br>• 20 metres (6-storeys) as a permitted activity<br>• No more than 3 residential units as a permitted activity | High Density Residential Zone (height variation control area):<br>• 400m walkable catchment<br>• 36 metres (10-storeys) as a permitted activity<br>• No more than 6 residential units as a permitted activity |
| | | | High Density Residential Zone:<br>• 1,500m walkable catchment (although I note that the maps included in Appendix 4 appear to show an 800m walkable catchment)<br>• 22 metres (6-storeys) as a permitted activity<br>• No more than 6 residential units as a permitted activity |

| NPS-UD Policy | Location | PC(N) | Kāinga Ora submission |
|---|---|---|---|
| | | Mixed Use Zone (Ihakara Street West, Ihakara Street East and Kāpiti Road precincts):<br>• 12 metres (3-storeys) as a permitted activity<br>• 21 metres (6-storeys) as a restricted discretionary activity | Mixed Use Zone (Ihakara Street West, Ihakara Street East and Kāpiti Road precincts):<br>• 22 metres (6-storeys) as a permitted activity |
| Policy 3(d) | Town Centre Zone | Town Centre Zone:<br>• 12 metres (3-storeys) as a permitted activity<br>• 21 metres (6-storeys) as a restricted discretionary activity | Town Centre Zone:<br>• 22 metres (6-storeys[99]) as a permitted or restricted discretionary activity |
| | Adjacent to the Town Centre Zone | General Residential Zone (Residential Intensification Precinct B):<br>• 400m walkable catchment<br>• 14 metres (4-storeys) as a permitted activity<br>• No more than 3 residential units as a permitted activity | High Density Residential Zone:<br>• 800m walkable catchment<br>• 22 metres (6-storeys) as a permitted or restricted discretionary activity<br>• No more than 6 residential units as a permitted activity |
| | Local Centre Zone | Local Centre Zone:<br>• 12 metres (3-storeys) as a permitted activity<br>• 15 metres (4-storeys) as a restricted discretionary activity | Local Centre Zone:<br>• 18 metres (5-storeys[100]) as a permitted or restricted discretionary activity |
| | Adjacent to the Local Centre Zone | General Residential Zone (Residential Intensification Precinct B):<br>• 200m walkable catchment<br>• 14 metres (4-storeys) as a permitted activity | Medium Density Residential Zone (height variation control area):<br>• 400m walkable catchment<br>• 18 metres (5-storeys) as a permitted activity |

[99] Kāinga Ora's submission point S112.48 also seeks that 8-storeys is enabled in the Town Centre Zone.
[100] Kāinga Ora's submission point S112.48 also seeks that 6-storeys is enabled in the Local Centre Zone.

| NPS-UD Policy | Location | PC(N) | Kāinga Ora submission |
|---|---|---|---|
| | | • No more than 3 residential units as a permitted activity | • No more than 3 residential units as a permitted activity |

(238) I consider that the level of development sought to be enabled through the Kāinga Ora submission represents a significant increase on that proposed by PC(N). I acknowledge that the use of the term "at least" throughout Policy 3 of the NPS-UD enables District Plans to specify building heights, densities, and walkable catchment sizes beyond those specified in Policy 3, however I consider that to do so to the extent requested by Kāinga Ora requires analysis to determine whether it is necessary, and evaluation of the benefits and costs. I am unable to identify any justification within the Kāinga Ora submission for the necessity of such a significant increase.

(239) Further, it is not clear that the additional development capacity sought by Kāinga Ora would be feasible or realisable[101], particularly as it relates to the development of multi-storey apartment buildings. Economic analysis of the feasibility of development within the Residential Intensification Precincts proposed by PC(N) is included in the Section 32 Evaluation Report[102]. The economic analysis identifies that while the Residential Intensification Precincts theoretically enable a significant level of development capacity (because they enable apartment development beyond that provided for by the MDRS), only a small proportion of this capacity (on average, 5%) is likely to be realised[103]. Apartment development (which is the type of development that would be further enabled by the amendments sought by Kāinga Ora) forms only a component of the development that is expected to be realised (see Figure 5). I conclude from the economic analysis that while apartments are "a more realistic development option in the Kāpiti Coast housing market overall"[104], the actual extent to which they are likely to be realised in the Residential Intensification Precincts included in PC(N) is low.

[101] Clause 3.2 of the NPS-UD seeks that development capacity is "feasible and reasonably expected to be realised", and in my opinion this is a relevant consideration when considering the merits of enabling the level of development sought by Kāinga Ora in this case.
[102] Property Economics (2022). *Assessment of Kāpiti Coast Residential Intensification Area Feasibilities.* See Appendix M to the Section 32 Evaluation Report.
[103] Property Economics (2022). *Assessment of Kāpiti Coast Residential Intensification Area Feasibilities,* p.11.
[104] Property Economics (2022). *Assessment of Kāpiti Coast Residential Intensification Area Feasibilities,* p.16.

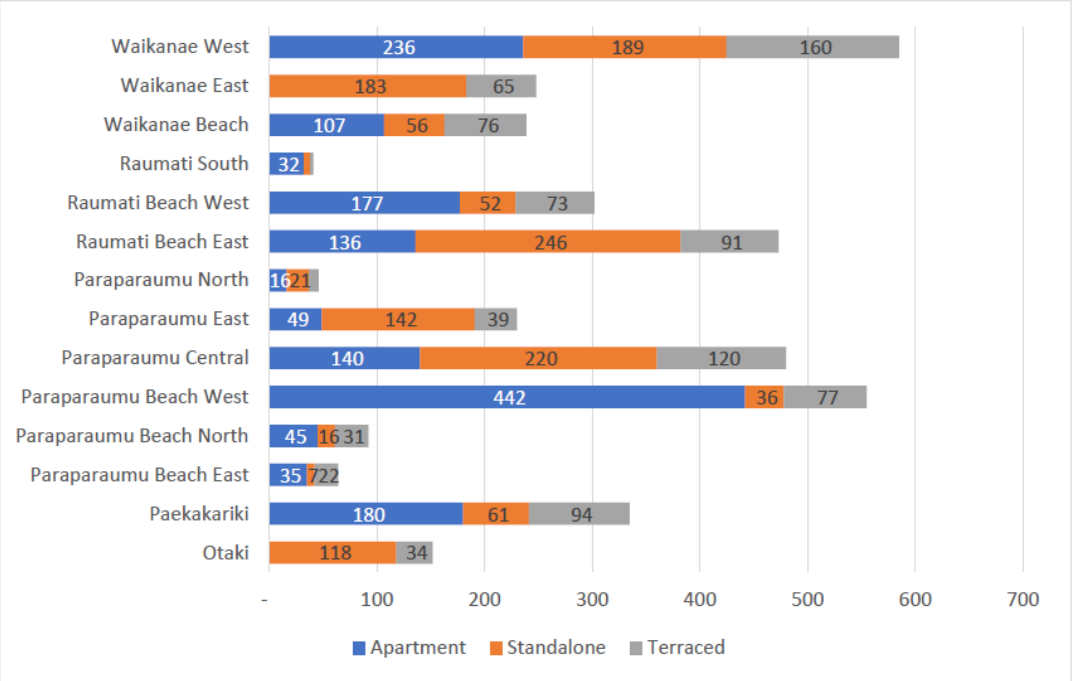


*Figure 5: distribution of realisable development capacity within the Residential Intensification Precincts included in PC(N) (source: figure 5, Property Economics (2022)).*

(240) Taking into account the above (and in the absence of evidence to support the increased level of development sought), I consider that there is likely to be little benefit to increasing the level of development capacity enabled by the District Plan in the manner sought by Kāinga Ora. On the other hand, I consider that the changes sought could result in a range of potentially adverse outcomes, including (but not limited to):

(a) **Diffuse distribution of higher density development over wider areas.** Because higher density development (such as apartment development) is already not considered to be highly realisable, increasing the areas in which it is enabled could result in low levels of high-density development being distributed over a larger area, rather than high-density development that is concentrated close to the areas sought by the NPS-UD (adjacent to centres and rapid transit stops). This could also reduce the degree to which high-density development would support the vibrancy and vitality of centres.

(b) **A lower degree of certainty around the location of higher density development.** The distribution of high-density development over wider areas would, in my opinion, lead to a lower degree of certainty for the community as to where high-density development (including the localised adverse effects associated with it) will actually occur. This may also make it more difficult for the Council to plan for long-term upgrades to local infrastructure networks to support high density development.

(241) I also consider that the increased building heights and walkable catchment extents sought by Kāinga Ora are inconsistent with those identified in *Te tupu pai*, the District Growth Strategy. The heights and walkable catchments outlined in the Growth Strategy (which I consider to be consistent with Policy 3 of the NPS-UD) were developed in consultation with the community, and *Te tupu pai* was adopted by the Council in February 2022.

(242) Based on the above, I do not consider that there is sufficient justification contained within the submission to support the increased building heights and walkable catchments sought by Kāinga Ora. It is not clear that the increased level of development sought to be enabled is either feasible or realisable. Further, I do not consider that the increased level of development sought would necessarily contribute to achieving the objectives of the NPS-UD. On the contrary, by enabling high density development to be distributed over wider areas I consider that it could be counterproductive in relation to Objective 3, which seeks a concentration of development near centres and rapid transit stops. Overall, I do not consider that the changes sought by Kāinga Ora are necessary to give effect to Policy 3 of the NPS-UD. I therefore do not consider that the increased building heights and walkable catchments sought by Kāinga Ora are appropriate.

*Amendments to density standards*

(243) In addition to the increases in building height discussed above, Kāinga Ora also request alteration to several other density standards, including:

(a) More lenient height in relation to boundary standards in the height variation control areas in the Medium Density Residential Zone, the High Density Residential Zone, centres zones and Hospital Zone;

(b) Exclusion of eaves up to a maximum of 600mm in width and gutters or downpipes up to an additional width of 150mm from building coverage and setback standards;

(c) More lenient alternative outdoor living spaces standards in the Medium Density Residential Zone and High Density Residential Zone;

(d) Alteration to the outdoor living space standards in the centres zones so that only residential units above the ground floor with 2 or fewer bedrooms are not required to provide outdoor living space.

(244) In relation to the more lenient height in relation to boundary ("HIRB") standards sought by Kāinga Ora, the following table summarises the differences between the standards proposed by PC(N) and those proposed by Kāinga Ora:

| Zone | PC(N) | Kāinga Ora submission |
|---|---|---|
| General Residential Zone | General Residential Zone (including Residential Intensification Precincts):<br><br>• MDRS standard (60° recession plane measured from a point 4m above the ground level at the boundary). | Medium Density Residential Zone:<br><br>• MDRS standard (60° recession plane measured from a point 4m above the ground level at the boundary). |
| | | Medium Density Residential Zone (height variation control area):<br><br>• Within 22m of the road boundary: 60° recession plane measured from a point 6m above the ground level at the boundary.<br><br>• Greater than 20m[105] from the road boundary: MDRS standard (60° recession plane measured from a point 4m above the ground level at the boundary). |
| | | High Density Residential Zone:<br><br>• Within 22m of the road boundary: 60° recession plane measured from a point 19m above the ground level at the boundary.<br><br>• Along all other boundaries: 60° recession plane measured from a point 8m above the ground level at the boundary.<br><br>• Boundaries with the Medium Density Residential Zone: 60° recession plane measured from a point 6m above the ground level at the boundary.<br><br>• Boundaries with sites containing a heritage item or sites and areas of significance to Māori: 45° recession plane measured from a point 3m above the ground level at the boundary.[106] |
| Metropolitan Centre Zone, Town Centre | • 60° recession plane measured from a point 4m above the ground level at the boundary. | • Within 22m of the road boundary: 60° recession plane measured from a point 19m |

[105] I consider this must be an error in the submission, and that 22m was intended.
[106] I note that this particular standard is more restrictive that that required by the MDRS and would need to be provided for as a qualifying matter, however I have not been able to locate any analysis of this matter within the submission. It is also unclear to me why this would only apply to the High Density Residential Zone sought by Kāinga Ora, and not other zones.

| Zone | PC(N) | Kāinga Ora submission |
|---|---|---|
| Zone, Local Centre Zone, Mixed Use Zone, Hospital Zone | • Standard generally only applied at the edge of the zone (and not to boundaries within the zone). | above the ground level at the boundary.<br>• Along all other boundaries: 60° recession plane measured from a point 8m above the ground level at the boundary.<br>• Standard generally only applied at the edge of the zone (and not to boundaries within the zone). |

(245) Kāinga Ora's submission generally justifies the amendments sought to the HIRB standards on the basis that it provides greater design flexibility[107]. I do not doubt this to be the case, however I also consider that the amendments sought would permit a greater level of adverse effects on surrounding properties, principally in the form of shading. The shading effects caused under a variety of different HIRB standards were tested as part of the preparation of PC2[108], which generally found that development under HIRB standards greater than the MDRS could result notable shading effects on surrounding properties (particularly those located to the south of the development site)[109]. Overlooking and loss of privacy are also relevant adverse effects that would be increased because of the more lenient HIRB standards sought by Kāinga Ora.

(246) Because they are a permitted activity standard, the more lenient HIRB standards would enable these additional adverse effects to be simply disregarded. While I recognise that Objective 4 of the NPS-UD provides for amenity values, such as access to sunlight, daylight and privacy, to develop and change over time, I do not consider that this of itself justifies disregarding the adverse effects associated with the potential shading associated with more lenient HIRB standards. I also do not consider that this is justified by a need for design flexibility. Design flexibility implies that there will be a range of built form options that could be considered as part of the design of development, including options that have more or less adverse effects on shading and privacy for surrounding sites, and its not clear to me that a more lenient height in relation to boundary standard is necessary to provide for an appropriate level of flexibility.

(247) I note that non-compliance with the HIRB standard proposed by PC(N) (which is the MDRS HIRB standard) is a restricted discretionary activity. I consider that this appropriately balances design flexibility (which is the matter sought by Kāinga Ora) with an ability for the adverse

[107] See for example S122.114.
[108] Boffa Miskell (2021). *Kāpiti Coast Intensification Evaluation: Bulk and location analysis.* See Appendix F of the Section 32 Evaluation Report.
[109] I note that the analysis did not test the MDRS HIRB standard, but did test a range of more lenient standards similar to those sought by Kāinga Ora.

effects on surrounding properties to be assessed through a resource consent process (where the standards proposed by PC(N) are breached)[110]. This places some incentive on designers and developers to exercise design flexibility by considering options that seeks to avoid, remedy or mitigate adverse effects that are managed by the HIRB standard on surrounding properties (or at least articulate reasons why these effects are acceptable in the circumstances).

(248) In summary, I do not consider that design flexibility is a sufficient justification for the more lenient HIRB standards sought by Kāinga Ora, as it disregards the additional adverse effects on surrounding properties that would be permitted. I consider that it is appropriate that these additional effects are able to be considered through a restricted discretionary activity resource consent, which I consider would also has the benefit of incentivising the consideration (by designers and developers) of designs that manage these effects. I therefore do not consider that the more lenient HIRB standards sought by Kāinga Ora are justified as being more appropriate than those proposed by PC(N).

(249) In relation to the exemption for eaves and gutters from the building coverage and yard setback standards, it is not clear to me why this exemption is necessary, and I am unable to locate any justification for this within the submission. I note that in relation to the yard setback, the exemption sought by Kāinga Ora would have the effect of enabling the roof edge to be built to within 250mm of the side and rear boundaries, and I consider that this would place practical constraints on the ability to undertake maintenance at or around the roof edge (for example, to erect scaffolding) without crossing the boundary[111]. I do not consider the exemption sought by Kāinga Ora to be justified, and therefore do not consider it to be appropriate.

(250) In relation to outdoor living space standards, I summarise the changes sought by Kāinga Ora as follows:

(a) In relation to the Medium and High Density Residential Zones, where outdoor living space is located on the west, north or east of the unit and directly connected to the living room or dining room:

(i) Ground floor units can provide an 8m$^2$ outdoor living space (instead of the 20m2 otherwise required under the MDRS standard for outdoor living space);

(ii) One-bedroom units above the ground floor can provide a 5m2 outdoor living space (instead of the 8m$^2$ otherwise required under the MDRS standard);

[110] I also do not consider this approach to be inconsistent with Policy 3 of the NPS-UD. Policy 3 seeks that increased height and density of urban form are *enabled*, and clause 3.4(2) of the NPS-UD describes development as being plan-enabled where it is a permitted, controlled or restricted discretionary activity.
[111] This is a matter raised by KiwiRail [S094] and which is discussed in section 4.5.3 of this report.

(iii) In the High Density Residential Zone, up to 40% of above ground units can be provided with a 'juliet balcony'[112].

(b) In the centres and Mixed Use Zones, to only require residential units above the ground floor with more than 2 bedrooms to provide outdoor living space.

(251) PC(N) applies the MDRS outdoor living space standard consistently to all residential development in the General Residential Zone (including the Residential Intensification Precincts), the centres zones and the Mixed Use zone. The MDRS outdoor living space standards are minimum requirements that consider the range of differing outdoor living space requirements associated with different residential unit types, including ground floor residential units (which could be detached, terraced or apartment types) and above-ground residential units (which would be apartment types). The standards also enables outdoor living space to be grouped cumulatively by area in a communally accessible location, which I consider enables a degree of design flexibility. The overall effect of the standard is that all residential units have access to a reasonable amount of outdoor living space, which is either attached to the unit, or accessible to the unit as part of a larger communal outdoor living space.

(252) In relation to the amendments to the MDRS outdoor living space standards sought by Kāinga Ora in residential zones, while I appreciate that these may incentivise better-located outdoor living space, it is not clear to me that the reduction in size is justified. I find no particular justification for the reduction in size in the Kāinga Ora submission, except that 5m$^2$ may be appropriate in relation to studio and one-bedroom residential units[113]. In relation to the exemption sought to enable 'juliet balconies', I do not consider this appropriate as I simply do not consider that they provide outdoor living space. 'Juliet balconies' enable full height windows to be opened, but they do not enable the occupants of the building to leave the interior, and do not create a space that can be occupied as an outdoor living space.

(253) In relation to the amendments sought by Kāinga Ora to only require residential units above the ground floor with more than 2 bedrooms to provide outdoor living space, this would result in residential units with no access to either private or communal outdoor living space. In the absence of any justification for this (which I am unable to locate within the submission), I do not consider it appropriate to remove this requirement.

(254) I consider that one of the outcomes sought by the MDRS is that, as part of enabling higher density living environments, all residential units are provided with access to a reasonable level of outdoor living space. In my opinion, departure from the MDRS minimum standards for outdoor living space standard requires justification, particularly given that one of the potential trade-offs for enabling higher density living environments is increased scarcity land available

[112] This term is not defined in the Kāinga Ora submission, but I consider it to mean a permeable balustrade installed directly in front of a full-height window opening in the external wall of a building.
[113] See for example S122.115.

for outdoor living space. I do not consider there to be sufficient justification in Kāinga Ora's submission for the reduction in outdoor living space standards sought by Kāinga Ora, and on this basis, I do not consider it appropriate to amend the outdoor living space standards.

*Notification preclusions*

(255) Kāinga Ora generally seek public and limited notification preclusions for non-compliance with standards that manage the following matters in the centres, Mixed Use and Hospital Zones (where applicable):

(a) Outdoor living space standards and outlook space standards for residential units;

(b) A range of urban or public realm design standards, including: setbacks from the street or pedestrian routes, standards for the provision of trees, pedestrian exterior lighting standards, verandah standards, pedestrian pathway design standards, active frontage standards, standards for the location of retail activities, maximum block length standards, and vehicle entrance location standards.

(256) I do not consider it appropriate to preclude public and limited notification for urban design and public realm standards, as these matters may be of interest to (and result in adverse effects of concern to) the broader public. In these instances, I consider the normal notification assessment provided for under sections 95A and 95B of the RMA is appropriate. However, I consider that it is appropriate to preclude public notification in relation to non-compliance with outdoor living space standards and outlook space standards for residential units, as well as height in relation to boundary standards and standards for setback from residential zone boundaries, as I consider that the adverse effects associated with breaching these standards are unlikely to impact on the broader public. I also note that public notification preclusion for these matters is consistent with the MDRS.

**Recommendations**

(257) For the reasons stated above, I recommend that:

(a) Kāinga Ora's requests to replace the General Residential Zone chapter with a Medium Density Residential Zone chapter (outlined in Appendix 2 of the original submission) and a High Density Residential Zone chapter (outlined in Appendix 3 of the original submission) [S122.01, S122.03, S122.04, S122.07, S122.08, S122.09, S122.11, S122.12, S122.34, S122.45, S122.58, S122.59, S122.62, S122.106] are **not accepted**. Alongside this, I recommend that the requests of Infill Tapui Limited [S028.55] and the Retirement Villages Association [S197.20, S197.31, S197.44] to rezone the General Residential Zone to a Medium Density and High Density Residential Zone are also **not accepted**;

(b) Kāinga Ora's request for a review of the Centres hierarchy [S122.01] is **not accepted**;

(c) Kāinga Ora's requests to expand the Ōtaki Main Street and Ōtaki Railway Town Centre Zones [S122.05, S122.12] are **not accepted**;

(d) Kāinga Ora's requests to increase in building heights and the spatial extent of walkable catchments in a range of zones [S122.01, S122.03, S122.04, S122.05, S122.06, S122.09, S122.14, S122.48, S122.58, S122.106, S122.112, S122.116, S122.121, S122.122, S122.126, S122.133, S122.137, S122.145, S122.147, S122.150, S122.159, S122.160] are **not accepted**;

(e) Kainga Ora's request to alter height in relation to boundary standards [S122.03, S122.04, S122.14, S122.114, S122.122, S122.133, S122.147, S122.159], exempt eaves and downpipes from building coverage and setback standards Alteration to several density standards [S122.03, S122.04], and amend outdoor living space standards [S122.03, S122,04, S122.115, S122.122, S122.133, S122.148] are **not accepted**;

(f) Kāinga Ora's requests to preclude notification for non-compliance with a range of standards in the centres, Mixed Use and Hospital Zones [S122.116, S122.126, S122.137, S122.150, S122.160] are **accepted in part**. Specifically, that rules MCZ-R13, TCZ-R11, LCZ-R12, MUZ-R13 and HOSZ-R8 are amended to preclude public notification for non-compliance with outdoor living space standards and outlook space standards for residential units, as well as height in relation to boundary standards and standards for setback from residential zone boundaries.

**Section 32AA evaluation**

(258) In relation to the recommended amendments to preclude notification for certain matters under rules MCZ-R13, TCZ-R11, LCZ-R12, MUZ-R13 and HOSZ-R8, I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because they provide for greater certainty and more efficient administration of the rules by precluding notification assessment for matters that are unlikely to result in broader adverse effects on the public. I also consider the amendments to generally be in support of giving effect to Policy 3 of the NPS-UD in the centres, Mixed Use and Hospital Zones.

### *4.4.5 Requests to amend the Residential Intensification Precincts*

**General matters raised by submitters**

(259) As summarised in section 5.2.4 of the Section 32 Evaluation Report[114], the purpose of the Residential Intensification Precincts is to give effect to Policy 3 of the NPS-UD within the General Residential Zone. Specifically:

(a) Residential Intensification Precinct A gives effect to policy 3(c) of the NPS-UD by enabling building heights up to (and including) 6-storeys within an 800m walkable catchment of the edge of the Metropolitan Centre Zone and rapid transit stops;

(b) Residential Intensification Precinct B gives effect to Policy 3(d) of the NPS-UD by enabling building heights up to (and including) 4-storeys in areas "adjacent to" the Town Centre and Local Centre. The approach taken by PC2 is to interpret "adjacent to" as meaning an approximate 400m walkable catchment of a Town Centre Zone and an approximate 200m walkable catchment of a Local Centre Zone.

(260) Several submissions requested a range of amendments to the Residential Intensification Precincts proposed by PC(N). These include:

- **Mann, Amos** [S016];
- **Infill Tapui Limited** [S028];
- **Crockford, Geoffrey** [S037];
- **Parnell, Ruth** [S039];
- **Milne, Philip** [S064];
- **Manly Flats Limited** [S067];
- **Friends of Lake Karuwha** [S085];
- **Davey, Frederick** [S152];
- **Gomez, Nancy** [S160];
- **Wilson Group Developments Otaki Ltd** [S182];
- **McArthur, Angela** [S185];
- **Gunn, Ian and Jean** [S186];
- **HW Developments Ltd** [S188];
- **Stevenson-Wright, Margaret** [S192.01];
- **Ridley, Helen** [S198];
- **Landlink** [S206];
- **Metlifecare Limited** [S207];
- **Queree, Neville** [S215].

[114] Section 32 Evaluation Report, pp.141-143.

(261) The matters raised by these submissions include:

(a) Increasing the size of the walkable catchments/Residential Intensification Precincts [S016.15, S028.57];

(b) Replacing Residential Intensification Precinct B with Residential Intensification Precinct A [S028.56];

(c) Reducing the size of the walkable catchments/Residential Intensification Precincts [S160.01, S186.01, S192.01, S215.01];

(d) Deleting Residential Intensification Precinct B from Paraparaumu Beach [S064.06, S067.06], Kena Kena [S064.07, S067.07,] Waikanae Beach [S185.01][115], and Ōtaki [S198.01][116];

(e) Providing for a staged implementation of intensification through sub-precincts that radiate out from selected centres [S037.02, S039.02];

(f) Submissions regarding the methodology used to determine walkable catchments [S037.01, S039.01, S152.10].

(262) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

**Specific requests to amend the boundaries of the Residential Intensification Precincts**

(263) Three submitters request specific adjustments to the boundary of parts of the Residential Intensification Precincts in response to factors related to the site or surrounding area.

(264) **Friends of Lake Karuwha** [S085.01] request that the boundary of Residential Intensification Precinct B to the north-east of the Ōtaki Main Street Town Centre Zone is adjusted to remove 4, 6, 8, 10, 12, 14, 16, 18 and 20 Tamihana Street from Residential Intensification Precinct B (refer Figure 6).

(265) **Wilson Group Developments Otaki Ltd** [S182.01] and **Landlink** [S206.02] request that the boundary of Residential Intensification Precinct B to the south-west of the Ōtaki Main Street Town Centre Zone is adjusted to include the land which was formerly at 15 Mātai Street (see Figure 7).

[115] Note that the application of Residential Intensification Precinct B at Waikanae Beach is also discussed in section 4.11.2 of this report.
[116] Note that the application of Residential Intensification Precinct B at Ōtaki is also discussed in section 4.2.4 of this report.

(266) In addition to this, **HW Developments Ltd** [S188.01] and **Landlink** [S206.02] request that the boundary of Residential Intensification Precinct B in the same location is adjusted to include land which was formerly Section 75 Block IX Waitohu SD (see Figure 7).

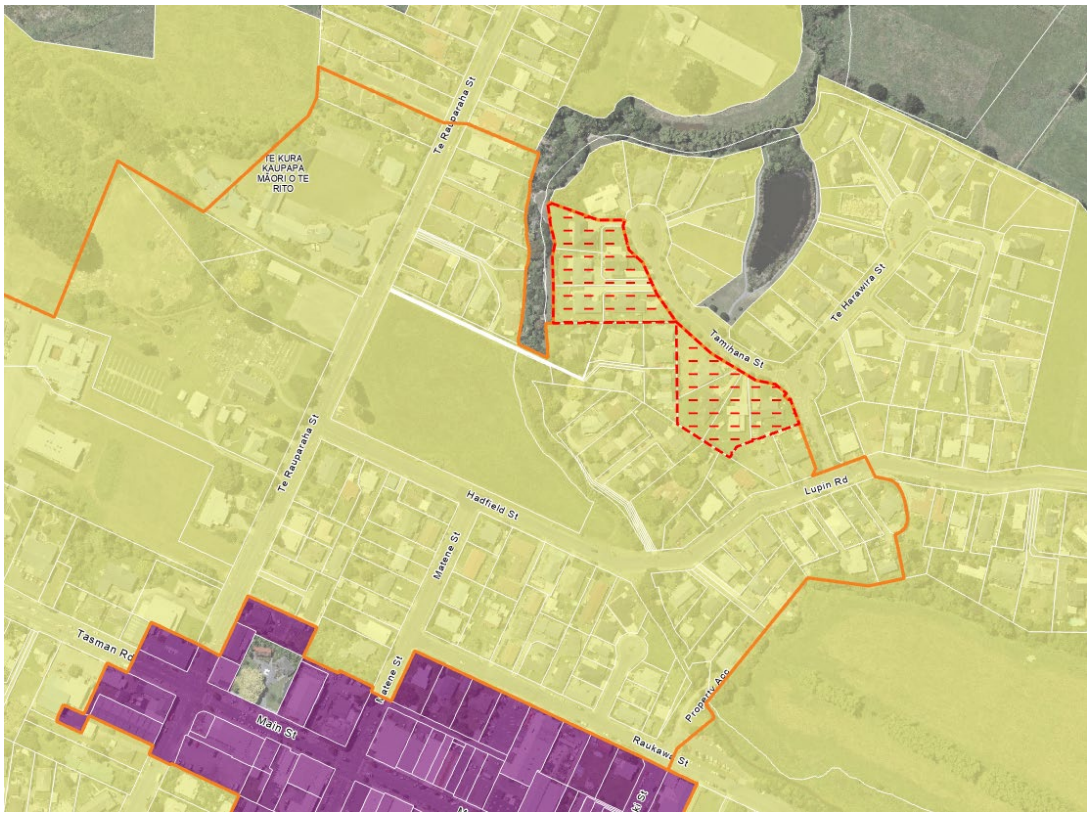


*Figure 6: amendment to the boundary of Residential Intensification Precinct B to the north-east of the Ōtaki Main Street Town Centre Zone requested by Friends of Lake Karuwha [S085.01]. The boundary of the Residential Intensification Precinct proposed by PC(N) is shown in orange. The extent requested to be removed from the precinct is shown in a red dashed outline with a red "-" symbol hatching.*

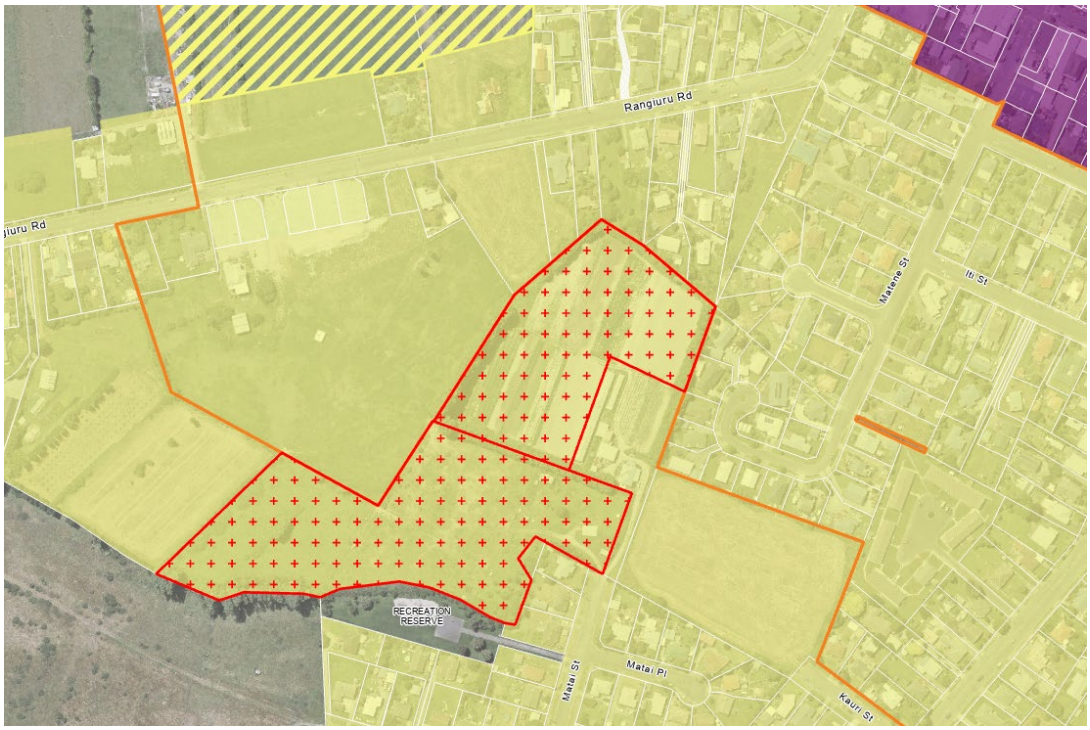

*Figure 7: amendments to the boundary of Residential Intensification Precinct B to the south-west of the Ōtaki Main Street Town Centre Zone requested by Wilson Group Developments Otaki Ltd [S182.01] and HW Developments Limited [S188.01] and Landlink [S206.02]. The boundary of the Residential Intensification Precinct proposed by PC(N) is shown in orange. The extent requested to be added to the precinct is shown in a red outline with a red "+" symbol hatching.*

**Assessment**

*Friends of Lake Karuwha submission*

(267) Appendix E to the Section 32 Evaluation Report[117] justifies the spatial extent of the Residential Intensification Precincts proposed by PC(N). The Friends of Lake Karuwha note that the justification for including 4, 6, 8, 10, 12, 14, 16, 18 and 20 Tamihana Street outlined in Appendix E to the Section 32 Evaluation Report is that the area is "extended around the south-western edge of Tamihana Street, to ensure a rational boundary to the north-eastern extent of the intensification area" (see Figure 8).

(268) Friends of Lake Karuwha consider that including these properties would not lead to a rational boundary to the precinct for several reasons, including[118]:

(a) Tamihana Street is considered to be a coherent community, however the precinct is applied to only the south side of Tamihana Street;

(b) The properties on Tamihana Street located within the precinct are separated from the remainder of the precinct to the west by the Mangapouri Stream, and as a result, the properties on Tamihana Street are not appropriately connected to the remainder of the precinct;

(c) The properties on Tamihana are not located within the 400-metre walkable catchment of the Ōtaki Main Street Town Centre Zone.

[117] Boffa Miskell. (2022). *Spatial Application of NPS-UD Intensification Policies*.
See: https://www.kapiticoast.govt.nz/media/wnic5k0t/pc2_s32_appendixe_spatialapplicationpolicy3.pdf
[118] S085.01.

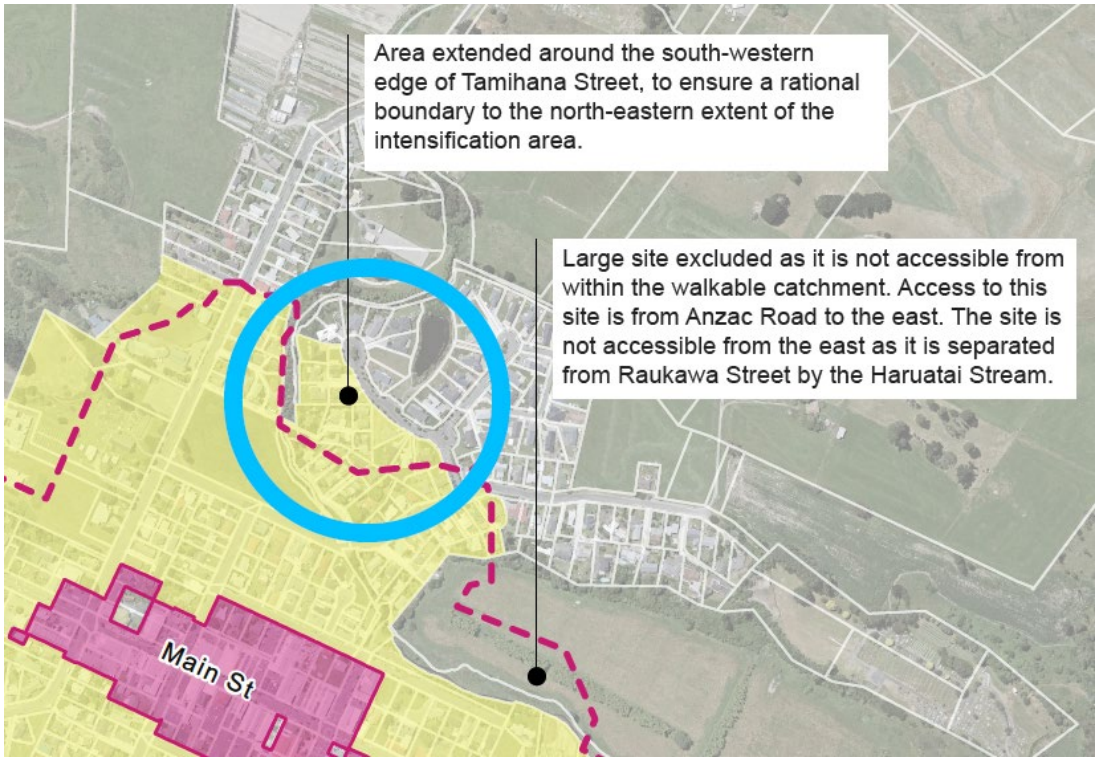


*Figure 8: justification for the edge of the Residential Intensification Precinct to the north-east of Ōtaki Main Street Town Centre Zone, from drawing IP.1 of Appendix E to the Section 32 Evaluation Report. The area which is the subject of the submission is outlined in the blue circle.*

(269) Taking into consideration the range of matters raised by the Friends of Lake Karuwha, I agree that removing the sites on Tamihana Street from the precinct would lead to a more rational boundary to the north-eastern edge of the precinct, and I consider it would be appropriate to remove these properties from the precinct on that basis. I also consider that removing these properties from the precinct would not be contrary to Policy 3(d) of the NPS-UD, because these properties are located outside the walkable catchment used to determine the application of this policy as part of PC2.

*Wilson Group Developments Otaki Limited, HW Developments Ltd and Landlink submissions*

(270) I have considered the Wilson Group Developments Otaki Limited [S182.01], HW Developments Ltd [S188.01] and Landlink [S206.02] submissions together, because they both seek extension to Residential Intensification Precinct B to the south-west of the Ōtaki Main Street Town Centre Zone in a contiguous area, for similar reasons.

(271) The Wilson Group Developments Otaki Limited [S182.01] relates to a site which is subject to a subdivision consent to adjust the boundaries between 255 Rangiuru Road and 15 Matai Street. The boundary adjustment incorporated a large portion of the 15 Matai Street site into the existing site at 255 Rangiuru Road, and the subdivision consent for this adjustment was

granted in May 2022[119]. The submitter considers that because the portion of 15 Matai Street that was incorporated into 255 Rangiuru Road is now access from Rangiuru Road within Residential Intensification Precinct B, the boundary of the precinct should be adjusted to incorporate the full extent of the newly amalgamated allotment[120] (see Figure 9, which shows the newly amalgamated allotment).

(272) The HW Developments Ltd submission [S188.01] relates to a neighbouring site to the west, where subdivision consent was granted in June 2022 to amalgamate part of 16 Matai Street into the adjacent site at 237 Rangiuru Road[121]. A resource consent for an 84-lot residential subdivision has been granted for the amalgamated allotment[122]. The resource consent for the residential subdivision shows that the development will be accessed from Rangiuru Road (see Figure 10).

[119] The submitter has included the granted consent as part of their submission. See resource consent reference number RM220091, appended to S182.
[120] S182, p.10.
[121] S218, p.6.
[122] The submitter has included the granted consent as part of their submission. See resource consent reference number RM210070, appended to S188.

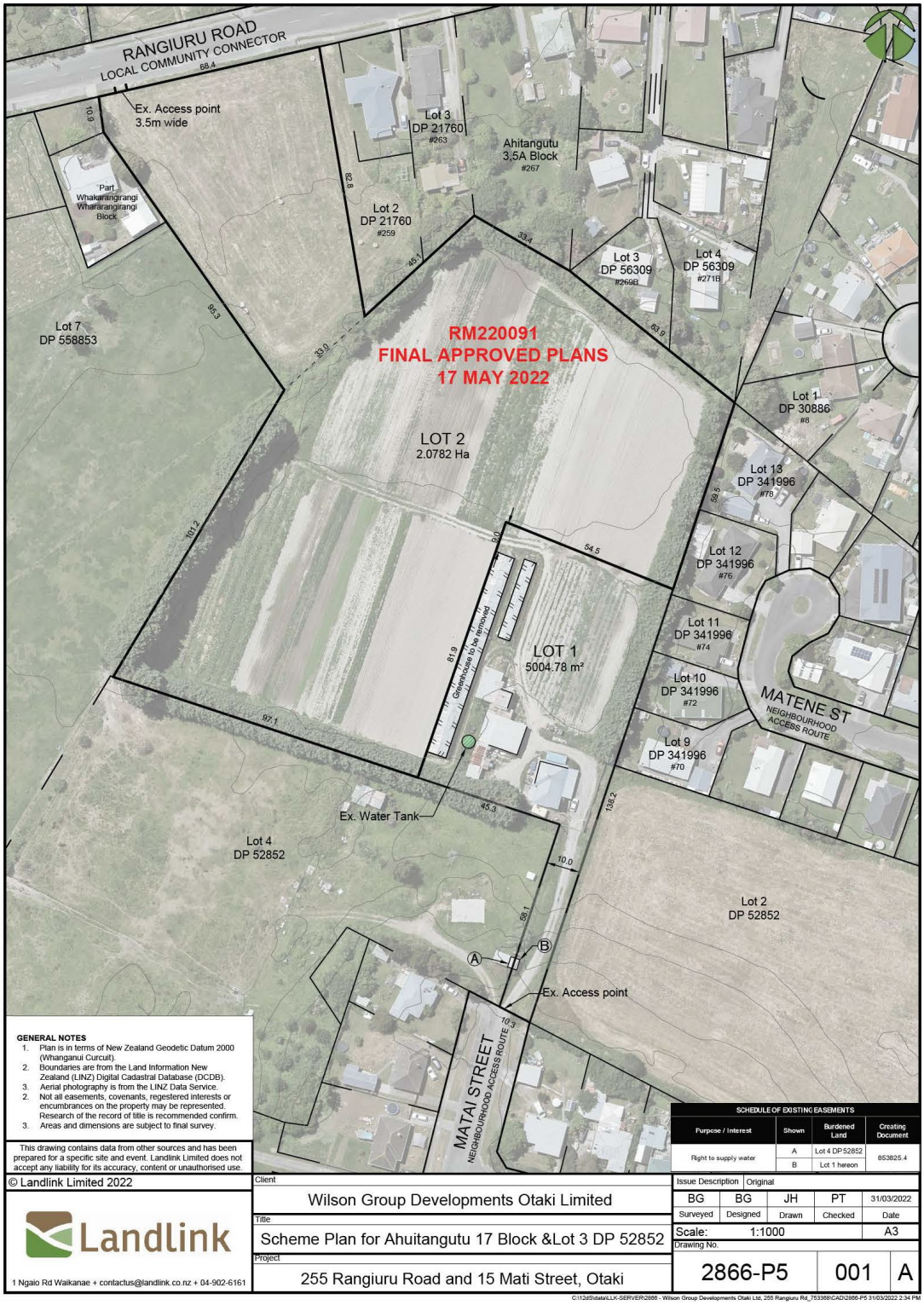


*Figure 9: survey plan from the Wilson Group Developments Otaki Limited submission [S182.01] showing the amalgamated allotment (identified as LOT 2), accessed from 255 Rangiuru Road.*

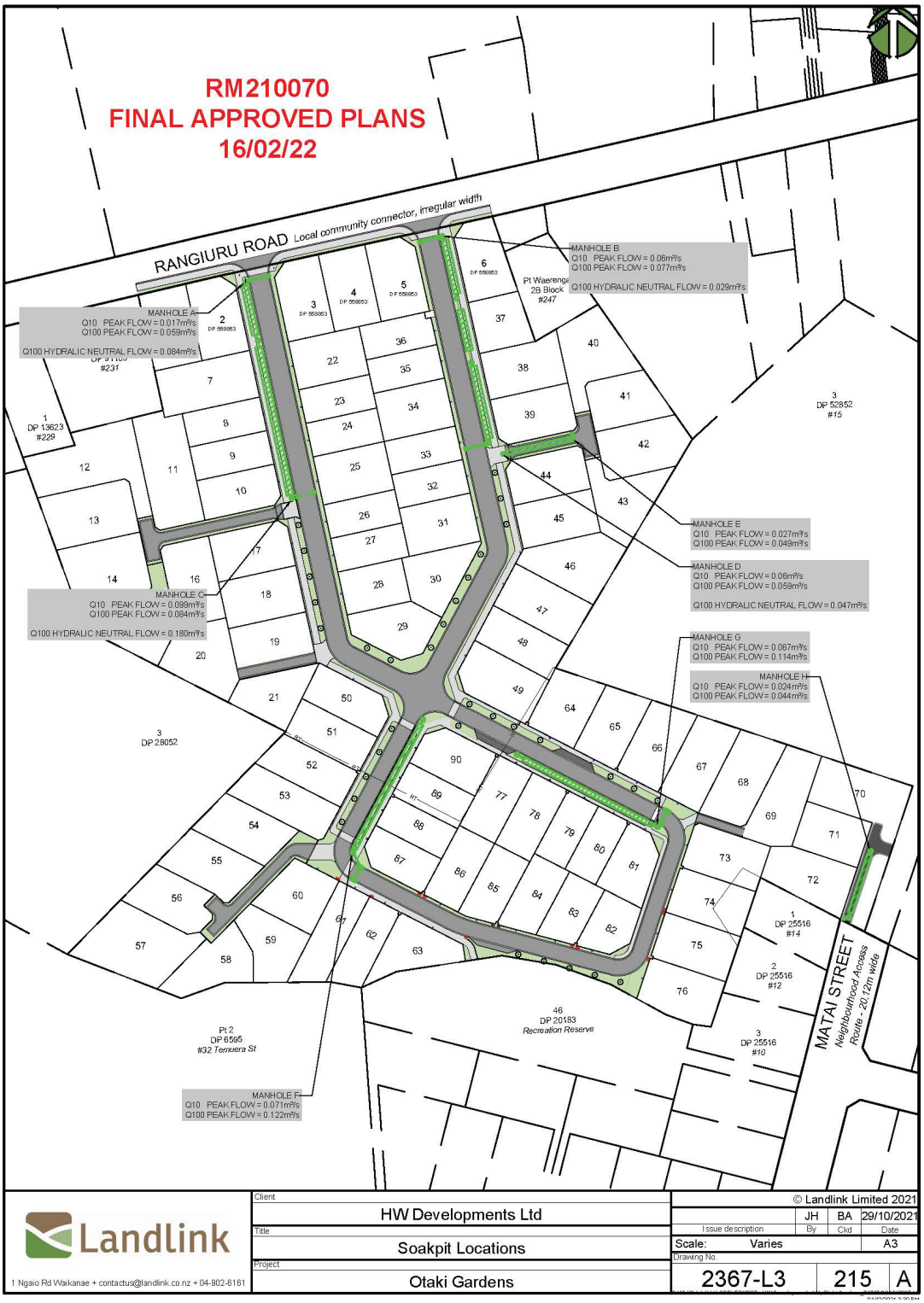


*Figure 10: scheme plan from the HW Developments Ltd submission [S188.01] showing the arrangement of the subdivision of the amalgamated allotment at 237 Rangiuru Road, including the arrangement of access from Rangiuru Road.*

(273) The methodology for identifying intensification areas outlined in Appendix E to the Section 32 Evaluation Report includes the following principles for identifying the edge of the Residential Intensification Precinct (which it refers to as "intensification areas")[123]:

(a) The edge of the intensification area conforms to property boundaries;

(b) Where the road boundary of any property is located within a walkable catchment, it is included in the intensification area.

(274) I note that the report contained in Appendix E was published in June 2022, and is based on property boundary data that does not account for the amalgamation of the allotments outlined in both submissions. Had the report in Appendix E considered the amalgamations, then I consider that full extent of both amalgamated sites would have been included in Residential Intensification Precinct B, on the basis that this would have been consistent with the methodology for determining the boundary of the precinct.

(275) I therefore consider it appropriate to extend the boundary of Residential Intensification Precinct B in the manner requested by Wilson Group Developments Otaki Limited [S182.01] and HW Developments Ltd [S188.01], on the basis that, taking into account the site amalgamations identified in the submissions, doing so is consistent with the methodology for identifying the boundary of the precinct employed by PC2. I also consider that extending the boundary would support the District Plan to give effect to Policy 3(d) of the NPS-UD in this area.

**Recommendations**

(276) For the reasons outlined in my assessment above, I recommend that:

(a) The request by **Friends of Lake Karuwha** [S085.01] that the boundary of Residential Intensification Precinct B to the north-east of the Ōtaki Main Street Town Centre Zone is adjusted to remove 4, 6, 8, 10, 12, 14, 16, 18 and 20 Tamihana Street from Residential Intensification Precinct B (outlined in Figure 6) is **accepted**;

(b) The requests by **Wilson Group Developments Otaki Ltd** [S182.01], **HW Developments Ltd** [S188.01] and **Landlink** [S206.02] to extend the boundary of Residential Intensification Precinct B to the south-west of the Ōtaki Main Street Town Centre Zone to incorporate the land which was formerly at 15 and 16 Mātai Street (outlined in Figure 7) are **accepted**.

[123] Boffa Miskell. (2022). *Spatial Application of NPS-UD Intensification Policies*, p.7.

**Section 32AA evaluation**

(277) I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because:

(a) The amendments provide for a more rational boundary to the Residential Intensification Precinct around the Ōtaki Main Street Town Centre Zone by:

(i) Recognising the specific characteristics of Tamihana Street that make it irrational to extend the precinct along the southern edge of the street in the manner proposed by PC(N) (including its nature as a cul-de-sac, and the adjacent stream with acts as a barrier to connectivity);

(ii) Recognising the amalgamation of sites to the south of Rangiuru Road and adjusting the boundary of the precinct consistent with the methodology to determining the boundary of the precinct outlined in Appendix E to the Section 32 Evaluation Report. This ensures that there is not an arbitrary edge to the precinct located within newly amalgamated allotments.

(b) Overall, the recommended amendments provide for a net increase of 2.87ha in the area of land located within Residential Intensification Precinct B around Ōtaki Main Street Town Centre Zone. I consider this better enables PC2 to give effect to Policy 3(d) of the NPS-UD by enabling greater development capacity in the area adjacent to the Town Centre Zone.

## 4.5 MDRS & NPS-UD – Infrastructure

*Author: Andrew Banks*

### *4.5.1 General matters related to infrastructure*

**Matters raised by submitters**

(278) Several submissions raised a range of general matters related to infrastructure. These submissions include:

- **Fleming, Michael** [S002];
- **Callister, Dr. Paul** [S009];
- **Kress, Sahra** [S011];
- **Mann, Amos** [S016];
- **O'Brien, Nicola** [S033];
- **Cuttriss Consultants Ltd** [S043];
- **Waka Kotahi** [S053];
- **Jonas, Malu** [S054];
- **Fire and Emergency New Zealand** [S089];
- **Greater Wellington Regional Council** [S097];
- **Ministry of Education Te Tāhuhu o Te Mātauranga** [S112];
- **Kāinga Ora Homes and Communities** [S122];
- **Liakhovskaia, Stacey** [S123];
- **Ringrose, Paul** [S139];
- **Kapiti Cycling Action (Kapiti Cycling Incorporated)** [S170];
- **Retirement Villages Association of New Zealand Incorporated** (RVA) [S197];
- **Leith Consulting Ltd** [S202].

(279) In general, the matters raised through submissions include (in no particular order):

(a) General submissions on the provision of infrastructure, funding for infrastructure, the impacts of enabling intensification on existing infrastructure, and limiting or altering the level of intensification enabled by PC(N) as a result of infrastructure constraints or capacity [S002.01, S002.02, S009.02, S011.02, S033.03 S043.14, S054.01, S054.07, S097.28, S123.02, S139.01];

(b) Provision for bicycle and micro mobility device parking [S016.09];

(c) Whether the requirement to provide rainwater storage tanks is inconsistent with the MDRS [S043.12];

(d) Recognition of accessibility to active or public transport through objectives and policies [S053.01, S053.08, S053.09];

(e) Recognition of 'additional infrastructure' as defined under the NPS-UD through objectives and policies [S112.01, S112.02, S112.03];

(f) Provision for alternative wastewater systems [S097.26];

(g) Provision for active transport facilities [S170.01];

(h) Submissions seeking alterations to transport policies [S197.21, S197.22];

(i) Alterations to standards associated with vehicle trip generation [S197.23];

(j) Provision for pedestrian access to sites as an alternative to vehicle access [S202.10];

(k) Provision for hydraulic neutrality [S202.15];

(l) Submissions in support of amendments to a range of objectives, policies or rules related to infrastructure [S089.03, S089.04, S122.66, S122.67, S122.68, S122.69, S122.70

**Assessment and recommendations**

(280) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

(281) In relation to general submissions on the provision of infrastructure, or which seek that the level of intensification enabled by PC(N) is reduced or altered as a result of infrastructure constraints or capacity, I refer to section 4.2.5 of this report, which describes how the NPS-UD directs the Council to address the provision of development infrastructure through the Long-term Plan, and describes the range of District Plan provisions that require the coordinated delivery of infrastructure as part of undertaking development.

### *4.5.2 Provision for firefighting*

**Matters raised by submitters**

(282) **Fire and Emergency New Zealand** ('FENZ') [S089] request several decisions in their submission related to the provision of water supply for firefighting purposes, and provision of access for fire appliance. These include:

(a) Requests to insert objectives and policies into the General Residential, Metropolitan Centre, Town Centre, Local Centre, Mixed Use, General Rural, Rural Production and

Rural Lifestyle Zone chapters to ensure that development is appropriately serviced, including with water supply for firefighting purposes [S089.06, S089.17. S089.23, S089.32, S089.37, S089.51, S089.53, S089.55];

(b) Requests to add standards and matters of control or discretion into several rules in the General Residential, Metropolitan Centre, Town Centre, Local Centre, Mixed Use zones, as well as rules in the subdivision chapters, to require development to be provided with a water supply, including a firefighting water supply [S089.08, S089.10, S089.12, S089.14, S089.15, S089.19, S089.20, S089.21, S089.25, S089.26, S089.27, S089.28, S089.30, S089.34, S089.35, S089.39, S089.41, S089.42, S089.45, S089.46, S089.48, S089.49, S089.50, S089.57];

(c) Requests to amend several subdivision rules to require the provision of access to sites for fire appliances [S089.43, S089.45, S089.46, S089.47, S089.48, S089.49, S089.50].

**Assessment**

*Objectives and policies for appropriate servicing, including firefighting water supply*

(283) In relation to the request that a range of zones include an objective that "public health and safety is maintained through the appropriate provision of infrastructure", I note that DO-O13 is a district-wide objective for the provision of infrastructure. DO-O13 seeks:

> *To recognise the importance and national, regional and local benefits of infrastructure and ensure the efficient development, maintenance and operation of an adequate level of social and physical infrastructure and services throughout the District that:*
>
> 1. *meets the needs of the community and the region; and*
> 2. *builds stronger community resilience, while avoiding, remedying or mitigating adverse effects on the environment.*

(284) I consider that DO-O13 already provides for the matters sought by FENZ in relation to the provision of infrastructure.

(285) In relation to the request that a range of zones include a policy to "ensure all development is appropriately serviced including wastewater, stormwater, and water supply with sufficient capacity for firefighting purposes", I consider that these matters are already provided for through a range of district-wide policies in the INF – Infrastructure chapter, including:

(a) INF-MENU-P17 and INF-MENU-P18, which provide for subdivision and development to achieve hydraulic neutrality and minimise the adverse effects of stormwater runoff;

(b) INF-MENU-P19 and INF-MENU-P20, which require new subdivision, land use and development to have an adequate supply of water (including for firefighting purposes), and to include methods to manage demand on the public potable water supply;

(c) INF-MENU-P21, which requires subdivision, land use and development to ensure that the treatment and disposal of wastewater will be adequate for the anticipated end uses appropriate to the location.

(286) I therefore consider that the objectives and policies for the provision of infrastructure that FENZ request are incorporated into a range of zone chapters are unnecessary, because these matters are already addressed through district-wide objective DO-O13 and a range of district-wide infrastructure policies incorporated into the INF – Infrastructure chapter.

*Rules, standards and matters of control or discretion for firefighting water supply*

(287) In relation to the requests to incorporate standards and matters of control or discretion into a range of rules to require development to be provided with a water supply, including a firefighting water supply, I note that the following provisions of the District Plan (as amended by PC(N)) provide for this matter:

(a) Standard 4 under rules SUB-DW-R5 and SUB-DW-Rx1 (which relate to subdivision in the zones identified in the FENZ submission) requires that allotments are in or adjoining areas which are served with a Council reticulated water supply must be provided with a connection to that supply;

(b) Rule INF-MENU-29 requires that residential buildings in the General Residential Zone at Te Horo Beach (which is not serviced by the Council reticulated water supply) provide potable water supply, in compliance with a range of standards;

(c) Standard 9 under rule SUB-RES-Rx1 requires that within the General Residential Zone at Te Horo Beach, a firefighting water supply must be provided which complies with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. An advice note to the standard provides that applicants should consult with FENZ on this matter.

(d) Rule INF-MENU-R27 requires that for permitted activities in all zones, development must be undertaken in accordance with the Council's *Land Development Minimum Requirements*. The *Land Development Minimum Requirements* provide that:

(i) Water supply systems shall "provide for an adequate water supply that will meet fire-fighting and domestic needs… in accordance with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice"[124]; and

(ii) Where reticulated water supplies are unavailable or insufficient, an alternative firefighting water supply shall be provided in accordance with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice[125].

(288) I therefore consider that the amendments sought by FENZ are not necessary, because the rules and standards outlined above already provide for the provision of water supply, including firefighting water supply, in the zones identified by FENZ.

(289) There is one exception to this. As outlined above, standard 9 under rule SUB-RES-Rx1 requires that new allotments in the General Residential Zone at Te Horo Beach are provided with a firefighting water supply. There is no equivalent standard under rule SUB-RES-R27, which applies to subdivision in the Coastal Qualifying Matter Precinct at Te Horo Beach, and I consider this to be an oversight. In response to FENZ's submission on this rule [S089.48], I recommend amending SUB-RES-R27 to include an equivalent standard.

*Fire appliance access*

(290) Regarding the requests to amend subdivision rules to include standards for the provision of access for fire appliances, I consider that there are two components to the amendments sought by FENZ:

(a) Amendments that seek that each allotment has legal and physical access to a road.

(b) Amendments that seek specific standards for the design and provision of fire appliance access from the road to the site (and presumably to buildings within the site).

(291) In relation to legal and physical access to a road, I consider that the amendments sought by FENZ are unnecessary, because each of the subdivision rules already include a standard requiring each allotment to have legal and physical access to a road.

(292) In relation to the standards for the design and provision of fire appliance access, I consider that this matter is regulated under the Building Act 2004 and the New Zealand Building Code. Clause C5.3 of the Building Code requires that buildings must be provided with access for fire services vehicles, and the two Acceptable Solutions to Clause C of the Building Code (C/AS1 and C/AS2) include a range of detailed standards for the length, width, clearance, bearing capacity and surface treatment for fire service vehicle access, with variations depending on

[124] Land Development Minimum Requirements, April 2022, p.74.
[125] Land Development Minimum Requirements, April 2022, p.75.

the building use[126]. I therefore consider it both unnecessary and inefficient to regulate this same matter through standards in the District Plan.

(293) If there is concern about the design of roads themselves in relation to fire appliance access, I note that clause D(iii)(f) of the *Land Development Minimum Requirements* provides that the layout and structure of the road network shall provide for the safe, efficient and comfortable passage of emergency vehicles (and the clause references SNZ PAS 4509:2008).

**Recommendations**

(294) For the reasons outlined in my assessment above, I recommend that:

(a) Requests to insert objectives and policies into the General Residential, Metropolitan Centre, Town Centre, Local Centre, Mixed Use, General Rural, Rural Production and Rural Lifestyle Zone chapters to ensure that development is appropriately serviced, including with water supply for firefighting purposes [S089.06, S089.17. S089.23, S089.32, S089.37, S089.51, S089.53, S089.55] are **not accepted**;

(b) Requests to add standards and matters of control or discretion into several rules in the General Residential, Metropolitan Centre, Town Centre, Local Centre, Mixed Use zones, as well as rules in the subdivision chapters, to require development to be provided with a water supply, including a firefighting water supply [S089.08, S089.10, S089.12, S089.14, S089.15, S089.19, S089.20, S089.21, S089.25, S089.26, S089.27, S089.28, S089.30, S089.34, S089.35, S089.39, S089.41, S089.42, S089.45, S089.46, S089.48, S089.49, S089.50, S089.57] are **not accepted**;

(c) The request to amend rule SUB-RES-R27 to include a standard related to the provision of a firefighting water supply [S089.48] is **accepted in part**, by amending the rule to include a standard for the provision of a firefighting water supply in the General Residential Zone at Te Horo Beach that is the equivalent of standard 9 under SUB-RES-Rx1 (refer to section 10.7 of PC(R1) for the recommended amendment);

(d) Requests to amend several subdivision rules to require the provision of access to sites for fire appliances [S089.43, S089.45, S089.46, S089.47, S089.48, S089.49, S089.50] are **not accepted**.

[126] Refer clause 6.1 of Acceptable Solution C/AS1: https://www.building.govt.nz/assets/Uploads/building-code-compliance/c-protection-from-fire/asvm/cvm1-cas1-protection-from-fire-amendment-5.pdf
Refer also clause 6.1 of Acceptable Solution C/AS2: https://www.building.govt.nz/assets/Uploads/building-code-compliance/c-protection-from-fire/asvm/cas2-2019-protection-from-fire-amendment-2.pdf

**Section 32AA evaluation**

(295) In relation to the recommended amendment to SUB-RES-R27 to include a standard for the provision of firefighting water supply in the General Residential Zone at Te Horo Beach [S089.48], I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because it ensures that firefighting water supply is consistently required in the General Residential Zone at Te Horo Beach, regardless of whether the subdivision is located within the Coastal Qualifying Matter Precinct.

### *4.5.3 Rail corridors*

**Matters raised by submitters**

(296) **KiwiRail** [S094] raise two matters in relation to incorporating the MDRS and giving effect to Policy 3 of the NPS-UD near the rail corridor. Specifically:

(a) KiwiRail request that buildings in the General Residential, Metropolitan Centre, Town Centre and Local Centre Zones are set back 5 metres from a boundary with the rail corridor [S094.01, S094.02, S094.03, S094.04];

(b) KiwiRail request amendment or inclusion of noise and vibration controls, specifically:

(i) That operative acoustic design standards provided for under standard 1 of rule NOISE-R14, which apply to habitable rooms within buildings containing noise sensitive activities within 40 metres of the railway corridor, are extended to apply to buildings containing noise sensitive activities within 100 metres of the railway corridor [S094.05];

(ii) That a new rule is incorporated into the District Plan to introduce indoor railway vibration standards to apply to new buildings or alterations to existing buildings containing noise sensitive activities within 60 metres of the railway corridor [S094.06, S094.07].

(297) For the avoidance of doubt, I consider that references to the 'rail corridor' are references to the KiwiRail Holdings Ltd railway purposes designation (KRH-001).

**Assessment**

*Setback from the railway corridor*

(298) KiwiRail consider that the rail corridor is a qualifying matter under sections 77I(e) and 77O(e) of the RMA, which relates to the safe and efficient operation of nationally significant

infrastructure, and sections 77I(g) and 77O(g) of the RMA, which relates to the need to give effect to a designation (but only in relation to the land that is subject to the designation). Where the MDRS require that the District Plan provide for a 1 metre side and rear yard setback[127], the submission states that a 5 metre setback is necessary from the rail corridor "to ensure that people can use and maintain their land and buildings safely without needing to extend out into the railway corridor"[128].

(299) Based on the information contained in the submission, it is not clear to me why the amount of space required to maintain a building adjacent to the railway corridor would be different to the amount of space required to maintain a building adjacent to any other private property boundary. Unless there is an easement in place, no building owner or occupier can rely on access to adjacent private property to maintain their building and would need to seek permission from the adjacent landowner to extend maintenance activities over the property boundary. I consider that the same would apply in relation to the rail corridor. On this basis, it is not clear to me that a 5 metre (or any other) setback from the rail corridor is necessary to prevent the extension of building maintenance activities into the rail corridor, when this outcome could be achieved by KiwiRail refusing access to the rail corridor for this purpose.

(300) Further, I also do not consider that there is sufficient information in the submission to demonstrate that the assessment requirements for new qualifying matters (under sections 77J(3) and 77P(3) of the RMA) have been met.

(301) I therefore do not consider it appropriate to provide for a 5 metre setback from the rail corridor in the manner requested by KiwiRail, because:

(a) It is not clear that a 5 metre setback is necessary to prevent the extension of building maintenance activities into the rail corridor; and

(b) I do not consider that there is sufficient information contained in the submission to demonstrate that the assessment requirements for new qualifying matters (under sections 77J(3) and 77P(3) of the RMA) have been met.

*Noise and vibration controls*

(302) Standard 1 under the operative rule NOISE-R14 requires that habitable rooms in buildings containing noise sensitive activities within 40 metres of the boundary of a designation for rail corridor purposes must be protected from noise arising from outside the building by ensuring that the habitable rooms achieve a specified acoustic performance standard. The rule

[127] The submission notes at para 20 that under rule GRZ-R6, the eaves exemption would leave only 400mm of setback to the boundary. Rule GRZ-R6 applies only to the Coastal Qualifying Matter Precinct, within which there are approximately 6 properties located adjacent to the rail corridor (at the southern end of Paekākāriki). Outside of the Coastal Qualifying Matter Precinct, rule GRZ-Rx1 applies. Under this rule, standard 4 requires *buildings* and *structures* (including their eaves) to be set back 1 metre from side and rear boundaries.
[128] S094, para 14(b).

references a range of acceptable construction solutions that are deemed to achieve this requirement, or alternatively, and acoustic engineer can certify compliance with the standard. PC(N) does not propose to alter this rule, and it will continue to apply to new development enabled by PC2[129].

(303) KiwiRail request that rule NOISE-R14 is amended to apply to noise sensitive activities within 100 metres of the "rail corridor" (which I take to mean the boundary of the designation).

(304) In addition to this KiwiRail seek to introduce a new permitted activity rule for indoor railway vibration, to apply to buildings containing noise sensitive activities within 60 metres of the boundary of the designation. The rule would include the following standards[130]:

> *1. Any new buildings or alterations to existing buildings containing a noise sensitive activity, within 60 metres of the boundary of any railway network, must be protected from vibration arising from the nearby rail corridor.*
>
> *2. Compliance with standard 1 above shall be achieved by a report submitted to the council demonstrating compliance with the following matters:*
>
> > *(a) the new building or alteration or an existing building is designed, constructed and maintained to achieve rail vibration levels not exceeding 0.3 mm/s vw,95 or*
> >
> > *(b) the new building or alteration to an existing building is a single-storey framed residential building with:*
> >
> > > *i. a constant level floor slab on a full surface vibration isolation bearing with natural frequency not exceeding 10 Hz, installed in accordance with the supplier's instructions and recommendations; and*
> > >
> > > *ii. vibration isolation separating the sides of the floor slab from the ground; and*
> > >
> > > *iii. no rigid connections between the building and the ground.*

(305) Cumulatively, the length of railway designation that runs through or adjacent to the District's urban zones is approximately 10 kilometres. While I have not calculated the number of properties that might be affected by the additional acoustic and vibration performance requirements sought by KiwiRail, the number is likely to be significant. I therefore consider

[129] For the avoidance of doubt, I do not consider that rule NOISE-R14 needs to be provided for as a qualifying matter. This is because the standards under the rule are not contrary to any of the requirements, permissions or conditions outlined under Schedule 3A of the RMA. In particular, I note that while the rule specifies the need to comply with acoustic performance standards as a permitted activity, I do not consider that these acoustic standards constitute an "other density standard" that are otherwise restricted under clause 2(2) of Schedule 3A, because the acoustic standards to not meet the definition of a "density standard".
[130] S094.06.

that it is necessary to demonstrate that the standards would be efficient and effective at managing reverse sensitivity effects in the Kāpiti Coast District, that the costs are reasonable in light of the benefits, and that there is sufficient information on which to evaluate the provisions as being appropriate. Additionally, I consider that, given the scale and significance of the request, it is necessary that alternative approaches (including approaches that manage the effects within the rail corridor) have been considered and found to be less appropriate that applying the standards requested by KiwiRail.

(306) It is not clear to me from the information contained in the submission why it is necessary to extend the application acoustic standards under rule NOISE-R14 from 40 metres to 100 metres. However, I am particularly concerned about the introduction of a new vibration rule. The rule is highly technical, but there is no information contained in the submission to demonstrate that the technical standards required to be complied with are appropriate. In particular, I consider that there is uncertainty in relation to the following matters:

(a) How "rail vibration levels not exceeding 0.3 mm/s vw,95" are to be measured or certified, or by whom (although I assume an acoustic engineer would be required as part of this process);

(b) Whether reference to a New Zealand or international technical standard is required in order to determine what "0.3 mm/s vw,95" means[131];

(c) Whether compliance with this standard is practicable using building design and construction techniques, systems and expertise that are reasonably available in New Zealand. I observe that the acceptable solution proposed by KiwiRail under standard 2(b) (which in any case has a limited application to "single storey framed residential buildings") requires full-surface vibration isolation bearing of the ground floor slab, vibration isolation separating the sides of the slab and no rigid connections between the building and the ground. While they may be possible, I consider that these solutions are novel (at least in relation to residential construction).

(d) Whether compliance with the rule would lead to unreasonable design, construction and ongoing maintenance costs for building owners;

(e) To what extent the rule would impose costs on Council to retain or commission suitable expertise to assess compliance with the standard at the building consent stage (given that compliance with the standard is a permitted activity, and a resource consent would not be required);

[131] If reference to a New Zealand or international standard is required, then I consider it would be inappropriate to incorporate reference to such a standard into the District Plan through a submission on PC(N), as the requirements under clause 34 of Schedule 1 to the RMA would not have been met.

(f) Whether compliance with the rule would make it more difficult for buildings to comply with aspects of the New Zealand Building Code, including clause B1 (structure) and clause E2 (external moisture). It is not clear to me, (at least in relation to the construction methods required under standard 2(b)) whether it is possible to achieve the requirements under the rule while also complying with commonly used methods of compliance with the New Zealand Building Code, including NZS3604:2011 (Timber-framed buildings) and E2/AS1 (Acceptable solution for external moisture).

(307) I also consider that the requirement under standard 2(a) of the rule, that buildings are maintained to comply with the standard on an ongoing basis, to be potentially onerous. Ongoing monitoring would be required to demonstrate that buildings are maintained to comply with the standard. Additionally, should vibration effects at the source increase after the construction of a building, this would presumably place an obligation on the building owner to undertake remedial works to maintain compliance with the standard. The potential costs associated with maintaining compliance with the standard are not quantified, and it is not clear that they would be reasonable.

(308) In short, it is not clear to me that the vibration rule can be reasonably complied with, either at the time of constructing a building, or on an ongoing basis.

(309) I do not disagree that, in general, reverse sensitivity can be an issue in relation to noise and vibration effects from rail corridors. However, in light of the scale and significance of the amendments requested by KiwiRail, I do not consider that there is sufficient information contained within the submission to conclude that the amendments requested will be efficient or effective at addressing reverse sensitivity in the Kāpiti Coast context, or whether the amendments requested are more appropriate than alternative approaches. In relation to the vibration rule, I also consider that the risk of incorporating a rule into the plan that may not be able to be reasonably complied with is high, because I consider that there is a high level of uncertainty about whether the standards proposed by KiwiRail can be reasonably and feasibly incorporated into the design, construction and ongoing maintenance of buildings. I therefore do not consider it appropriate to amend rule NOISE-R14 in the manner requested by KiwiRail, or to incorporate a new rule into the plan for indoor railway vibration.

**Recommendations**

(310) For the reasons outlined in my assessment above, I recommend that:

(a) KiwiRail's request that buildings in the General Residential, Metropolitan Centre, Town Centre and Local Centre Zones are set back 5 metres from a boundary with the rail corridor [S094.01, S094.02, S094.03] is **not accepted**;

(b) KiwiRail's request that operative acoustic design standards provided for under standard 1 of rule NOISE-R14 are extended to apply to buildings containing noise sensitive activities within 100 metres of the railway corridor [S094.05] is **not accepted**;

(c) KiwiRail's request that a new rule for indoor railway vibration is incorporated into the District Plan [S094.06, S094.07] is **not accepted**.

## 4.6 MDRS & NPS-UD – Additional Activities

*Author: Andrew Banks*

### *4.6.1 Emergency Services Facilities*

**Matters raised by submitters**

(311) **FENZ** [S089] request several changes to PC(N) to provide for emergency services facilities. In particular, they request:

(a) That emergency services facilities are a permitted activity in the General Residential Zone, Metropolitan Centre Zone, Town Centre Zone, Local Centre Zone, General Rural Zone, Rural Lifestyle Zone and Rural Production Zone;

(b) That hose drying towers up to 15 metres in height are excluded from height and height and relation to boundary standards within the General Residential Zone, Town Centre Zone, Local Centre Zone, and Mixed Use Zone, and in addition to this, emergency services facilities up to 9m are excluded from height and height in relation to boundary standards in the Coastal Qualifying Matter Precinct (GRZ-R6) and the Marae Takiwā Precinct (GRZ-Rx3).

**Assessment**

(312) FENZ's submission states that "depending on development, a new fire station could conceivably be required in any of the urban zones within the district and FENZ requests that new stations are provided for in all zones permitted, controlled or restricted discretionary activities with permitted standards appropriately recognising emergency services"[132].

(313) FENZ's submission notes that "the effects of a fire station can be largely anticipated and, in the most part, do not differ to the effects of a number of activities that may be anticipated in urban or peri-urban environments"[133]. In summary, the submission notes the following in relation to the anticipated effects of fire stations[134]:

(a) Fire stations are generally single-storey buildings of approximately 8-9m in height;

(b) Hose drying towers are required in some cases, which can be around 15m in height;

(c) Setbacks are required from road frontages to accommodate the stopping of fire appliances outside appliance bays;

[132] S089, p.4.
[133] S089, p.3.
[134] S089, p.3.

(d) Vehicle movements to and from fire station sites differ depending on whether a fire station accommodates volunteer or career firefighters, on the number of emergencies, and are primarily related to fire appliances movements and firefighter private vehicles.

(e) Noise will also be produced on site by operational activities such as cleaning and maintaining equipment, training activities and noise produced by emergency sirens. In relation to noise, FENZ has assessed that a fire station will be capable of meeting the standards set out in NZS 6802:2008 Acoustics - Environmental noise (Table 3 - Guideline residential upper noise limits), with the exclusion of noise created by emergency sirens.

(f) Training may take place anywhere between 7:00am and 10:00pm.

(g) Cleaning and maintenance will generally take place during the day; however, it can take place after a call out which can occur at any time.

(314) FENZ consider that because emergency services facilities are not a defined activity, they are likely to be considered a non-complying activity. I disagree with this. The District Plan lists specific activities as being non-complying in each of the zones mentioned by FENZ, and I do not consider that any of the listed non-complying activities would apply to emergency services facilities (specifically fire stations) as FENZ describe them.

(315) While 'emergency service facilities' are not a defined activity in the District Plan, I consider that, as described by FENZ, they are likely to be considered as a *community facility*. The definition of *community facility* in the District Plan is the National Planning Standards definition, which "means land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility". This is a broadly inclusive definition which I consider would encompass emergency service facilities because they are principally used for safety, health and welfare purposes. On this basis, they would be subject to the rules of the Community Facilities chapter, which provide for community facilities generally as:

(a) In zones that are not rural or open space zones:

(i) A permitted activity (subject to standards) under rule CF-R2;

(ii) A restricted discretionary activity under rule CF-R3, where permitted activity standards are not met; and

(b) A discretionary activity in rural and open space zones (under rule CF-R4).

(316) I therefore consider FENZ's request that emergency service facilities be specifically provided for as a permitted activity in the General Residential and centres zones is not necessary, because I consider that they are already provided for as such under the provisions of the Community Facilities chapter. FENZ also seek that emergency service facilities are a permitted activity in the rural zones, however I consider that this request is outside the scope of what can be included in an IPI, because the MDRS and Policy 3 of the NPS-UD do not apply to the rural zones.

(317) I note that certain effects of fire stations, as highlighted by FENZ, would be managed under district-wide rules. Specifically:

(a) Vehicle movements and the parking of fire appliances are managed under the provisions of the Transport chapter. This includes permitted activity rules for vehicle movements, vehicle access and parking. Where a fire station does not meet permitted activity standards for vehicle movements, it will be a restricted discretionary activity, and where it does not meet permitted activity standards for vehicle access and parking it will be a discretionary activity[135].

(b) Noise effects (including noise associated with training activities and vehicle cleaning and maintenance) are managed under the provisions of the Noise chapter. This includes permitted activity rules for noise in the residential zones (NOISE-R1), noise in the Centres Zones (NOISE-R3 and NOISE-R4) and noise in the rural zones (NOISE-R2). FENZ note that, with the exception of noise created by emergency sirens, fire station noise is capable of meeting the standards set out in NZS 6802:2008 (Table 3) While I note that the upper noise limits provided for in the noise provisions of the District Plan are 5 dB less than those provided for in Table 3 of NZS 6802:2008, I also note that warning devices used by emergency services for emergency purposes are exempt from the relevant noise rules noted above (see standard 4(b) under each of these rules). Where noise effects associated with fire stations (excluding those associated with warning devices) exceed permitted activity standards, resource consent is required as a discretionary activity (under NOISE-R21).

(318) I therefore do not consider it necessary to amend PC(N) to specifically provide for an 'emergency service facilities' activity in the manner sought by FENZ because:

(a) I consider that emergency service facilities are already provided for as a permitted or restricted discretionary activity in the General Residential and centres zones under the provisions of the Community Facilities chapter;

[135] It is possible that parking of a fire appliance in the Residential Zones could be a non-complying activity under rule TR-R16, if a fire appliance meets the definition of a *heavy trade vehicle*, however based on the information contained in the submission, I am unable to determine whether this rule would apply to fire appliances.

(b) I consider that the effects associated with vehicle movements, access, parking and noise are appropriately managed under the rules of the Transport and Noise Chapters, which provide for these effects to be managed either as a permitted activity (subject to standards) or as a restricted discretionary activity (in the case of vehicle movements) or a discretionary activity (in the case of other transport and noise effects).

(319) In relation to the request to exclude 9-metre tall emergency services facilities from the building height standards in the General Residential Zone, I note that fire stations will benefit from the increased building bulk and location standards provided for by PC(N). The exception to this is within the Coastal Qualifying Matter Precinct and Marae Takiwā Precinct in the General Residential Zone. In these precincts, the maximum permitted building height remains 8 metres. FENZ note that fire stations are typically 8 to 9 metres tall, so I consider that in these two precincts it is reasonable that where a fire station is proposed, the applicant can either consider options to design the fire station to meet the 8-metre permitted activity standard for building height, or seek resource consent so that the effects of a 9-metre tall fire station can be considered within their context. I therefore do not consider it necessary or appropriate to provide for an exemption for 9-metre tall emergency services facilities in these precincts.

(320) With respect to the request to exclude hose drying towers up to 15 metres tall from height and height in relation to boundary standards, I note that the definition of *minor building* in the District Plan includes "fire hose drying towers not exceeding 15 metres in *height* (above *original ground level*) on New Zealand Fire Service *property*". *Minor buildings* are excluded from the requirement to comply with permitted activity standards for buildings in each of the rules for which FENZ seeks an exclusion for hose drying towers. I therefore consider that the relief sought by FENZ is unnecessary, because the District Plan already provides for hose drying towers to be excluded from height and height in relation to boundary standards.

**Recommendations**

(321) With respect to FENZ's submission points that request that PC(N) is amended to specifically provide for emergency services facilities as a permitted activity in the General Residential Zone, Metropolitan Centre Zone, Town Centre Zone, Local Centre Zone, General Rural Zone, Rural Lifestyle Zone and Rural Production Zone, for the reasons outlined above I recommend that this request is **not accepted.**

(322) With respect to FENZ's submission points that request 9-metre tall emergency services facilities are exempt from height and height in relation to boundary standards in the Coastal Qualifying Matter and Marae Takiwā Precincts of the General Residential Zone, for the reasons outlined above I recommend that this request is **not accepted.**

(323) With respect to FENZ's submission points that request that PC(N) be amended to exclude hose drying towers up to 15 metres tall from height and height in relation to boundary standards, for the reasons outlined above I recommend that this request is **not accepted** (noting that the District Plan already provides for this exclusion).

### *4.6.2 Retirement Villages*

**Matters raised by submitters**

(324) The **Retirement Villages Association** ('RVA') [S197] seeks a range of amendments to PC(N) to specifically provide for retirement villages. Amendments sought by the submitter include:

(a) Within the General Residential Zone:

(i) The addition of a retirement village policy, or amendment of policy GRZ-P16 to better provide for retirement villages;

(ii) A new permitted activity rule for retirement villages (not subject to any standards);

(iii) Modifications to permitted activity rule GRZ-Rx1 to provide for 'retirement units';

(iv) A new restricted discretionary activity rule for retirement villages that breach permitted activity standards for buildings.

(b) Within the Metropolitan Centre Zone, Town Centre Zone, Local Centre Zone and Mixed Use Zones:

(i) A new policy for retirement villages;

(ii) A new permitted activity rule for retirement villages (not subject to any standards);

(iii) Modifications to permitted activity rules for buildings to provide for 'retirement units';

(iv) A new restricted discretionary activity rule for retirement villages that breach permitted activity standards for buildings.

(c) Amendments to District-wide Objective DO-O3 and Urban Form and Development policies UFD-P2 and UFD-P4 to better provide for retirement villages (and add an Urban Form and Development policy for retirement villages).

(325) **Metlifecare** [S207] request similar amendments to the RVA submission, however the focus of Metlifecare's submission is on the General Residential Zone.

(326) Both the submissions of **Summerset Group Holdings Limited** [S014] and **Ryman Healthcare Limited** [S196] refer to the submission of the **RVA** [S197] for decisions requested, so I have considered their submissions alongside that of the Retirement Villages Association.

**Assessment**

*How does the District Plan treat retirement villages?*

(327) Before addressing the matters raised by submitters, based on the information contained in the RVA submission I outline in general terms how the District Plan treats retirement villages.

(328) The District Plan definition of *retirement village* is the same as that contained in the National Planning Standards 2019:

> *means a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities.*

(329) The District Plan also includes a definition of *retirement accommodation*, which it notes is a "subcategory of *retirement village*". This definition focusses on residential component of retirement villages, and is defined as:

> *means premises (including any land and associated buildings) within a complex of premises for occupation as residences predominantly by persons who are retired and any spouses or partners of such persons.*

(330) In the General Residential Zone, neither *retirement villages* nor *retirement accommodation* are provided for as specific activities within the zone rules. Rather, the rules provide for *supported living accommodation*, which is defined as:

> *means accommodation where live-in health or pastoral care/support is provided on-site. This definition does not include visitor accommodation, boarding houses, shared and group accommodation or family homes where foster parents receive payment for children in their care.*

(331) The RVA considers that retirement villages would be "bundled with" *supported living accommodation*[136], and I agree that this may well be the case (depending on the range of activities that were included in any specific retirement village proposal).

(332) *Supported living accommodation* in the General Residential Zone is provided for by policy GRZ-P16 (which PC(N) does not propose to amend), which states:

> *GRZ-P16: Supported Living and Older Persons Accommodation*
>
> *The development of supported living accommodation will be provided for in a range of forms, including units, minor residential units, complexes, shared accommodation, rest homes and retirement accommodation, where it is located within the Residential Zones and integrated with the surrounding environment. Supported living accommodation includes accommodation specifically designed for older persons.*
>
> *Supported living accommodation will be undertaken in accordance with the following principles:*
>
> 1. *on-site pedestrian movement and use of open space by residents will not be unduly restricted by the slope of the land;*
> 2. *design and development to promote interaction with surrounding communities, without compromising privacy and safety;*
> 3. *the scale and design of development will reflect the residential nature and character of the location, and ensure access through the subject site by the public and residents, including the provision of public legal roads and pedestrian accessways consistent with residential scale blocks; and*
> 4. *where practicable, the development will be located within walking distance of essential facilities such as local shops, health and community services and public transport networks.*

(333) In the General Residential Zone, *supported living accommodation* is a permitted activity, subject to the following standards (as outlined under PC(N)):

[136] S197, p.39.

| GRZ-R4 | *Shared and group accommodation* and *supported living accommodation*. |
|---|---|
| Permitted Activity | **Standards**<br><br>Number of residents and residential units<br><br>1. No more than 6 residents shall be accommodated at any time.<br>2. No more than one *residential unit* shall be provided.<br><br>Buildings<br><br>3. Any *building* (excluding *minor buildings*) used for the purposes of *shared and group accommodation* or *supported living accommodation* must comply with the standards in GRZ-R6 excluding standard ~~2~~ 1 a) i., GRZ-Rx1, GRZ-Rx2 or GRZ-Rx3. |

(334) Supported living accommodation that does not meet these standards will be a discretionary activity under rule GRZ-R19.

(335) I note that the definition of *supported living accommodation* includes live-in health or pastoral care/support but does not provide for other commercial or retail activities. If other commercial or retail activities were to be included in if a retirement village in the General Residential Zone, then this would be a non-complying activity under rule GRZ-R25. This is because except for some small-scale commercial activities, the District Plan generally does not seek that commercial activities are established within the General Residential Zone[137].

(336) In the Centres and Mixed Use Zones, supported living and older persons accommodation is not provided for through policies (in other words, there is no equivalent of policy GRZ-P16). Instead, while a range of land uses are provided for (including residential activities), business activities (which includes retail activities, commercial activities and industrial activities) are the primary land use and function[138].

(337) In addition to this, in the Centres and Mixed Use Zones, neither retirement villages nor retirement accommodation are provided for as specific activities. Instead, retirement villages (again depending on the activities involved) are likely to be considered based on the bundle of activities that constitute them. Typically:

(a) Commercial activities (which may include the provision of live-in health or pastoral care/support) and retail activities are permitted subject to standards. Non-compliance with permitted activity standards is typically a restricted discretionary activity.

(b) Residential activities are typically a permitted activity, subject to being located either above the ground floor, or separate from street frontages by retail activities. Non-

[137] As this would be inconsistent with DO-O16 (the District Objective for Centres), and the policies in the BA – Business Activities chapter, in particular BA-P2.
[138] See MCZ-P5, TCZ-P3, LCZ-P3 and MUZ-P4.

compliance with permitted activity standards is typically a restricted discretionary activity.

*Is it appropriate to provide for retirement villages as a permitted/restricted discretionary activity in the General Residential Zone?*

(338) In considering whether it is appropriate to provide for retirement villages as a permitted or restricted discretionary activity in the General Residential Zone, I consider it important to first identify whether doing so is required as part of incorporating the MDRS or giving effect to Policy 3 of the NPS-UD in the zone, in the terms set out under section 80E of the RMA.

(339) In relation to the MDRS, the permitted and restricted discretionary activity rules that must be included in the District Plan under clauses 2 and 4 of Schedule 3A of the RMA relate to the construction and use of *residential units*. As identified above, *retirement villages* potentially involve a range of non-residential activities in addition to residential activities. *Retirement villages* are not the same as *residential units*, and therefore I do not consider that providing for them as a permitted or restricted discretionary activity is necessary as part of incorporating the MDRS into the General Residential Zone.

(340) In relation to Policy 3 of the NPS-UD, in the General Residential Zone, this policy requires that certain building heights are enabled within walkable catchments of the Metropolitan Centre Zone, rapid transit stops and adjacent to Town and Local Centre zones. I do not consider that the direction to enable certain building heights under Policy 3 equates to a requirement to provide for retirement villages as a permitted or restricted discretionary activity.

(341) It may be argued that providing for retirement villages as a permitted or restricted discretionary activity could be considered as supporting of or consequential to incorporating the MDRS into the District Plan or giving effect to Policy 3 of the NPS-UD, however I consider this to be tenuous given the focus of the MDRS on *residential units* and the focus of Policy 3 on enabling building height.

(342) Further, I consider that doing so would also be contrary to the policies of the General Residential Zone. In particular, I consider that policy GRZ-P16 is carefully worded to provide support for older persons accommodation in a manner that is consistent with residential activities being recognised and provided for as the principal use of the zone (as outlined in policy GRZ-P9). This is evident in the reference to *retirement accommodation* within policy GRZ-P16, as opposed to *retirement villages*. I also consider that allowing retirement villages to be provided for as a permitted or restricted discretionary activity within the General Residential Zone could, to the extent that they incorporate commercial activities, be contrary

to the range of objectives and policies within the district plan that seek to avoid detracting from the vitality of the Centres zones[139].

(343) Setting aside whether it is required as part of incorporating the MDRS and giving effect to Policy 3 of the NPS-UD, I am concerned that the nature and scale of effects associated with the non-residential activities that would be enabled as part of a retirement village is uncertain and potentially open ended. Because of this uncertainty, and in light of the objectives and policies that seek to appropriately manage the effects associated with non-residential activities in the General Residential Zone, I do not consider that providing specifically for retirement villages as a permitted or restricted activity in the terms sought by the RVA and Metlifecare is appropriate. Rather, I consider that it is more appropriate to retain the discretionary activity status (or non-complying activity status in the case of commercial activities) for retirement villages as currently provided for by the operative District Plan.

*Is it appropriate to provide for retirement villages as a permitted/restricted discretionary activity in the Centres and Mixed Use Zones?*

(344) In considering whether it is appropriate to provide for retirement villages as a permitted or restricted discretionary activity in the Centres and Mixed Use zones, in relation to section 80E of the RMA it is only the requirement to give effect to Policy 3 of the NPS-UD that applies. As outlined at para (340) above, I do not consider that the direction to enable certain building heights under Policy 3 equates to a requirement to provide for retirement villages as a permitted or restricted discretionary activity.

(345) Further, as outlined at para (337) above, the activity status of a retirement village in the Centres or Mixed Use zone will depend on the activities associated with it. I consider this to be an appropriate approach as the activities (and associated standards) within these zones have been structured to give effect to the objectives and policies associated with these zones, in particular:

(a) That they are a focus for social and community life[140], and support community cohesion and sense of place[141];

(b) That they provide the primary focus for commercial, retail and community activities within the District[142];

(c) That business activities are the primary land use and function[143].

[139] Refer particularly objectives DO-O3(2) and DO-O15(1)(a) and policies BA-P2(1) and GRZ-P19(1)(d).
[140] See DO-O16.
[141] See DO-O16(2).
[142] See DO-O16(1).
[143] See MCZ-P5, TCZ-P3, LCZ-P3 and MUZ-P4.

(346) As outlined at para (328), there are a range of activities that could be included as part of a *retirement village*. In relation to the objectives and policies for the Centres and Mixed Use zones, I have the following concerns with this:

(a) That the residential activities as part of a retirement village could be established in such a way that that is contrary to the purpose of these zones, which is that they are a focus for commercial, retail and community activities in the District.

(b) That, under the definition of *retirement villages*, the non-residential activities associated with retirement villages are for residents within the complex (rather than the community at large). I consider that as a result, these activities could not be relied on to achieve the objectives for centres which seek that they are a focus for social and community life, and that they support community cohesion and sense of place.

(347) I also note that the spatial extent of individual Centres and Mixed Use zones in the district is relatively limited. Given that the spatial extent of retirement villages is uncertain (although historical precedent for their development in the district suggests they can be quite large), I am concerned that providing for retirement villages in the Centres and Mixed Use zones could result in large parts (if not the entirety) of these zones being subsumed to the extent that they are unable to function effectively as centres.

(348) Again, setting aside whether it is required as part of giving effect to Policy 3 of the NPS-UD, I am concerned that the nature and scale of effects associated with retirement villages on the purpose and function of the Centres and Mixed Use zones is uncertain and potentially open ended. Because of this, and in light of the objectives and policies for the Centres and Mixed Use zones (as outlined above) I do not consider that providing specifically for retirement villages as a permitted or restricted activity in the terms sought by the RVA is appropriate. Rather I consider that it is more appropriate to retain the current approach in these zones, which is that individual retirement village proposals would be considered against the range of rules for activities within the Centres and Mixed Use zones, based on the bundle of activities that comprise the proposal.

*Objective and policy recognition of housing for an ageing population*

(349) Notwithstanding my assessment above, I consider that the submitters raise several good points about the level of policy recognition for 'housing for an ageing population' contained in the District Plan. Both the mandatory MDRS objectives and policies (prescribed under clause 6 of Schedule 3A) and the other policies of the NPS-UD (particularly policy 1) emphasise the need for housing variety and choice for all people, and I agree that improving the policy recognition for 'housing for an ageing population' is a supporting component to this.

(350) For the reasons outlined above, I do not consider this equates to providing a specific policy for retirement villages per se. However, as identified above, the District Plan does include a policy for supported living and older persons accommodation (GRZ-P16), and I consider that it would be appropriate to amend this policy to better recognise the housing needs of older persons, along the lines requested by the RVA [S197.39] (but excluding the specific provision for retirement villages sought by the RVA). Notwithstanding this, I disagree with the RVA [S197.03] that DO-O3 should be amended to recognise the housing and care needs of the ageing population. DO-O3 is a high-level objective that seeks, amongst other things, sufficient variety of living areas, enabling more people to live within the urban environment, and providing an adequate supply of housing to meet the needs of the population. It does this in general terms, without singling out a specific sector of the population. I therefore consider that it would be inappropriate to amend DO-O3 to do so.

(351) Metlifecare also seek amendments policies UFD-Px [S207.07] and GRZ-R9 [S207.12] to provide for the housing needs of the ageing population and improve consistency with the MDRS, and I generally agree with the amendments sought, although I consider that the amendment sought to UFD-Px (which relates mainly to the scale of urban built form) are more appropriately located in UDF-P2.

*Ability to undertake additions and alterations*

(352) In their submission on rule GRZ-Rx1 [S207.19], Metlifecare identify that the construction of rule GRZ-Rx1 would lead to minor works, additions and alterations to a retirement village being a restricted discretionary activity, on the assumption that a retirement village is likely to contain more than 3 residential units. In fact, this would be an issue for any multi-unit development (particularly apartment development). I agree with Metlifecare that this is onerous, and, so long as the additions or alterations do not increase the number of residential units on a site, and comply with permitted activity standards, additions and alterations to already consented developments should be a permitted activity. Metlifecare seek a new rule to provide for this, however I consider that it would be more straightforward to exempt minor works, additions and alterations from standard 1 under rule GRZ-Rx1, so long as the minor works, additions and alterations do not increase the number or residential units per site.

*Recognising intensification opportunities provided by larger sites*

(353) The RVA submission points on DO-O3 [S197.03], and policies in the Centres and Mixed Use zones [S197.50, S197.56, S197.62 and S197.68] request amendments to provide objective and policy recognition of the "intensification opportunities provided by larger sites, by providing for more efficient use of those sites". I consider the direction provided by such a policy to be somewhat vague and that it would be unclear how such a policy would be assessed in the circumstances (for example, it is unclear what would constitute a 'larger site', what is meant by 'more efficient use', and against what level of efficiency this should be measured). I am

uncertain as to whether such an objective or policy would support incorporating the MDRS or giving effect to Policy 3 of the NPS-UD. In any case, I consider that "larger sites" are likely to be able to be more efficiently planned and developed because of their size, which would enable more efficient arrangement of residential units, efficient layout of access and other development infrastructure, and a lower proportion of site area located adjacent to existing boundaries. I therefore do not consider that it is necessary to include a policy to provide for the more efficient use of larger sites, because I consider that they are likely to be able to be more efficiently used in any case. On this basis I do not consider it appropriate or necessary to amend PC(N) as requested to provide specific policy recognition of larger sites.

*Recognising changing communities in the Centres and Mixed Use zones*

(354) Several RVA submission points request the addition of a 'changing communities' policy to the Centres and Mixed Use zones [S197.50, S197.56, S197.62 and S197.68]. This policy would "provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the [Zone] will change over time to enable a variety of housing types with a mix of densities". I consider it unnecessary to add such a policy because:

(a) In relation to providing for the diverse and changing needs of communities, and recognising change in character and amenity over time, I consider this is adequately recognised by policies MCZ-P5, TCZ-P3, LCZ-P3, and MUZ-P4, as amended by PC(N);

(b) In relation to enabling housing at a mix of densities within the Centres and Mixed Use zones, I consider this is appropriately provided for under policies MCZ-P7 and MCZ-P8, TCZ-P5 and TCZ-P6, LCZ-P5 and LCZ-P6, and MUZ-P6 and MUZ-P7, as amended by PC(N).

**Recommendations**

(355) In relation to submission points by the **RVA** [S197] and **Metlifecare** [S207] that request the addition of new policies and rules (or amendments to policies and rules included in PC(N)) to provide for retirement villages in the General Residential Zone, for the reasons outlined above I recommend that these requests are **not accepted**.

(356) In relation to submission points by the **RVA** [S197] that request the addition of new policies and rules (or amendments to policies and rules included in PC(N)) to provide for retirement villages in the Metropolitan Centre Zone, Town Centre Zone, Local Centre Zone and Mixed Use Zone, for the reasons outlined above I recommend that these requests are **not accepted**.

(357) In relation to the submission points by the **RVA** [S197] that request amendments to DO-O3 [S197.03], for the reasons outlined above I recommend that these requests are **not accepted**.

(358) In relation to the submission points by the **RVA** [S197] that request amendments to GRZ-P16 [S197.39], for the reasons outlined above I recommend that these requests are **accepted in part** to provide improved recognition for the housing needs of older persons in a similar manner to that requested by the RVA (but excluding the specific provision for retirement villages).

(359) In relation to the submission points by **Metlifecare** [S207] that request amendments to policies UFD-Px [S207.07] and GRZ-P9 [S207.12], for the reasons outline above I recommend that these requests are **accepted** or **accepted in part** (with the amendments requested under S207.07 to UFD-Px instead being located in UFD-P2, and with minor amendments to the wording requested for simplification).

(360) In relation to the submission point by **Metlifecare** [S207.19] on rule GRZ-Rx1 requesting new rules to provide that minor works, additions and alterations to a retirement village are a permitted activity, for the reasons outlined above I recommend that this request is **accepted in part.** In lieu of the new rules requested by Metlifecare, I consider that it would be more straightforward (and achieve the outcome sought by Metlifecare) to exempt minor works, additions and alterations from standard 1 under rule GRZ-Rx1, so long as the minor works, additions and alterations do not increase the number or residential units per site.

(361) In relation to the submission points by the **RVA** [S197] that request new objectives and policies recognising the intensification opportunities provided by larger sites and new policies for recognising changing communities in the Centres and Mixed Use zones, for the reasons outlined above, I recommend these requests are **not accepted**.

**Section 32AA evaluation**

(362) In relation to the amendments to policies UFD-P2 [S207.07], GRZ-P9 [S207.12], and GRZ-P16 [S197.39], I consider these to be a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because it provides appropriate recognition of the housing needs of older persons in a manner that is consistent with the policies of the NPS-UD and MDRS that promote housing variety and choice.

(363) In relation to the amendment to rule GRZ-Rx1 [S207.19], I consider this to be a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provision because enabling minor works, additions and alterations as a permitted activity (subject to standards) is a more efficient outcome and is consistent with the requirements of the MDRS.

### *4.6.3 Community Corrections Activities*

(364) **Ara Poutama, the Department of Corrections** [S111] include several submission points [S111.01, S111.05 and S111.06] that request amendments to PC(N) to provide for community corrections activities in the Metropolitan Centre, Town Centre, Mixed Use and General Industrial Zones. My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

## 4.7 MDRS & NPS-UD – Subdivision

*Author: Andrew Banks*

**General matters raised by submitters**

(365) Several submissions requested a range of amendments to the subdivision provisions proposed by PC(N). These include:

- **The Loyalty Initiative** [S026];
- **Infill Tapui Limited** [S028];
- **Cancer Society of NZ (Wellington Division)** [S073];
- **Fire and Emergency New Zealand** [S089];
- **Land Matters Limited** [S107];
- **Templeton Kapiti Limited** [S115];
- **Kāinga Ora Homes and Communities** [S122];
- **Survey + Spatial New Zealand Wellington Branch** [S153];
- **Leith Consulting Ltd** [S202];
- **Landlink** [S206].

(366) The general matters raised by these submissions include:

(a) General application of rule SUB-RES-Rx1 (the MDRS subdivision rule) to subdivision;

(b) The function of standards 1 and 2 under rule SUB-RES-Rx1 (which relate to complying with land use rules, or having a land use consent granted) in order to undertake subdivision as a controlled activity;

(c) Amendments to standards under SUB-RES-Rx1 to improve clarity of interpretation;

(d) Public and limited notification preclusions for subdivision rules;

(e) Activity status of rule SUB-RES-R23 (the non-complying activity rule for subdivision that does not meet standards for connecting to infrastructure);

(f) Amendments to the minimum vacant allotment sizes specified in table SUB-RES-Table x1;

(g) Consistency of subdivision standards with the Council's *Land Development Minimum Requirements, April 2022*;

(h) Duplication of standards or matters of control with matters already provided for under the RMA.

(367) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

**Specific matters raised by submitters – complexity and appropriateness of the Subdivision in Residential Zones rule cascade**

(368) In addition to the matters outlined above, **Infill Tapui Limited** [S028] raise several points related to rules SUB-RES-R27, SUB-RES-R30 and SUB-RES-R32. These are the operative restricted discretionary, discretionary, and non-complying activity rules in the cascade for subdivision in the General Residential Zone, which PC(N) amends as part incorporating the MDRS into the zone. In general terms, Infill Tapui Limited identify that:

(a) Rule SUB-RES-R27 is opposed, in part because there is little difference between the standards in this rule, and the controlled activity for subdivision that is consistent with the MDRS (SUB-RES-Rx1) [S028.48, S028.49];

(b) Rule SUB-RES-R30 (the discretionary activity rule) unreasonably cascades vacant allotment subdivision to non-complying activity status [S028.50];

(c) Cascading to a non-complying activity rule (SUB-RES-R32) is unreasonable in the context of the MDRS (and a reasonable cascade would end with a restricted discretionary activity rule) [S028.51].

(d) Public and limited notification should be precluded from rules in the cascade [S028.49, S028.50].

(369) **The Loyalty Initiative** [S026.04], **Land Matters Limited** [S107.03, S107.04, S107.05], **Survey + Spatial New Zealand Wellington Branch** [S153.12], **Leith Consulting Ltd** [S206.02, S202.11] and **Landlink** [S206.09] each raise matters of a similar nature in relation to these provisions.

**Assessment**

(370) I agree with the general thrust of the Infill Tapui submission that the subdivision rule cascade is overly onerous in the context of incorporating the MDRS. I also consider that the cascade has become unnecessarily complex as a result of the amendments proposed to the rules by PC(N).

(371) There are two principles driving the amendments to the Subdivision in Residential Zones rules. These are:

(a) That the rules must provide for subdivision as a controlled activity, with public and limited notification precluded in accordance with clauses 3 and 5(3) of Schedule 3A to the RMA; and

(b) The existing rules for subdivision in the Coastal Qualifying Matter Precinct should continue to apply, because the purpose of the precinct is to maintain the status quo level of development in that area.

(372) However, I consider that the method by which these principles have been applied to the existing rule cascade has led to the issues highlighted above. Specifically, PC(N) incorporates the subdivision requirements of the MDRS into the existing cascade, while retaining parts of the cascade (including SUB-RES-R26, SUB-RES-R27, SUB-RES-R30 and SUB-RES-R32) to ensure that these provisions continue to apply to subdivision in the Coastal Qualifying Matter Precinct. The result is an unnecessarily complex cascade, and one that, in my opinion, does not appropriately provide for the MDRS.

(373) To address this, I consider it appropriate to amend PC(N) to split the rule cascade so that subdivision within the Coastal Qualifying Matter Precinct is provided for under a separate cascade (which I refer to as the Coastal Qualifying Matter Precinct cascade) to subdivision in the General Residential Zone outside of the Coastal Qualifying Matter Precinct (which I refer to as the MDRS cascade). I therefore recommend amendments to the provisions of PC(N) that will result in the following cascades:

| **Activity status** | **MDRS cascade** | **Coastal Qualifying Matter Precinct cascade** |
|---|---|---|
| **Controlled** | **SUB-RES-Rx1 – Subdivision in the General Residential Zone**<br><br>This rule is generally retained as notified (except where amendments to standards or matters of control are recommended in response to other submissions). | **SUB-RES-R26 – Subdivision in the Coastal Qualifying Matter Precinct (except in the areas noted under the rule)**<br><br>This rule is generally retained as notified (except where amendments to standards or matters of control are recommended in response to other submissions). |
| **Restricted Discretionary** | | **SUB-RES-R27 – Subdivision in the Coastal Qualifying Matter Precinct not provided for under rule SUB-RES-R26**<br><br>This rule is amended to disconnect it from the MDRS cascade (which includes removing standards 1 and 2 from the rule, which are only relevant to the MDRS cascade). |

| Activity status | MDRS cascade | Coastal Qualifying Matter Precinct cascade |
|---|---|---|
| **Discretionary** | **SUB-RES-R30 – Subdivision in the General Residential Zone that is not provided for under SUB-RES-Rx1**<br><br>This rule is amended to remove the rule from the Coastal Qualifying Matter Precinct cascade. The rule now functions as the end of the MDRS cascade.<br><br>The rule is amended to preclude public and limited notification in accordance with the clause 5(3) of Schedule 3A to the RMA. | |
| **Non-complying** | | **SUB-RES-R32 – Subdivision in the Coastal Qualifying Matter Precinct not provided for under rules SUB-RES-R26 and R27**<br><br>This rule is amended to disconnect it from the MDRS cascade. |

(374) I consider that the amended cascade provides for clearer interpretation and application of the subdivision rules, by providing for a clear separation between the rules that apply within the Coastal Qualifying Matter Precinct, and those that don't. The amendments also achieve the principles outlined at para (371) above, specifically:

(a) The MDRS cascade appropriately provides for incorporating the MDRS into the District Plan subdivision rules by providing for a simple cascade with a controlled activity rule for subdivision (with notification precluded) and a discretionary activity rule for subdivision that does not meet standards (with notification also precluded).

(b) The Coastal Qualifying Matter Precinct cascade generally retains the existing (operative) rule cascade for subdivision within the precinct, which is consistent with the purpose of maintaining the status quo level of development in the precinct.

(375) I also consider that the amendments address the majority of the matters raised by Infill Tapui in their submission points on this matter [S028.48, S028.49, S028.50, S028.51] (as well as the related submission points of the other submitters as identified above), specifically:

(a) SUB-RES-R27 is removed from the MDRS cascade and only applies to subdivision in the Coastal Qualifying Matter Precinct [S028.48];

(b) Public and limited notification is precluded for all subdivision rules in the MDRS cascade [S028.9, S028.50]. In addition to the matters raised by the submitter on this point, I consider that clause 5(3) of Schedule 3A to the RMA requires public and limited notification to be precluded from the rules in this cascade;

(c) The non-complying activity rule is removed from the MDRS cascade [S028.51]. I agree with Infill Tapui that a non-complying activity rule is unreasonable in the context of incorporating the MDRS into the subdivision rules. I also note that this is consistent with the general approach to subdivision in the District Plan, which reserves non-complying activity status for particular issues (such as the provision of infrastructure or subdivision in certain flood hazard areas).

(376) However, I also note that Infill Tapui effectively seek that the end of the MDRS cascade be a restricted discretionary activity (as opposed to a discretionary activity, which is what I recommend). I do not consider this to be appropriate. The standards under rule SUB-RES-Rx1 are not all technical in nature, and in particular, standards 1 and 2 ensure that subdivision of vacant allotments that enable the construction of 4 or more residential units on the parent allotment cannot be undertaken as a controlled activity (at least without a land use consent for development on those allotments). This ensures that a controlled activity subdivision consent (which must be granted) cannot be used to get an 'end run' around the land use rule for the development of four or more residential units on a site (GRZ-Rx6). Because the effects associated with enabling 4 or more residential units to be constructed through a subdivision consent are likely to be broader than technical matters, I consider it appropriate that non-compliance with the standards under rule SUB-RES-Rx1 is a discretionary activity. I do not consider this to be inconsistent with providing for the MDRS, because in any case, the level of development provided for by the MDRS is enabled through the controlled activity subdivision rule (SUB-RES-Rx1). If an applicant wishes to avoid discretionary activity status for their subdivision consent, they can do so by seeking a land use consent for 4 or more residential units under the land use rule (GRZ-Rx6) concurrently with the subdivision consent (in which case the subdivision would continue to be a controlled activity under SUB-RES-Rx1).

(377) In addition to this, while I consider it appropriate (and necessary) to preclude notification under the MDRS cascade, I do not consider it appropriate to add notification preclusions to the subdivision rules that only apply to development within the Coastal Qualifying Matter Precinct (SUB-RES-R26, SUB-RES-R27 and SUB-RES-R32), because:

(a) This would be inconsistent with the purpose of the precinct, as it may enable a greater level of development to occur; and

(b) This is not required as part of incorporating the MDRS, because the MDRS are not incorporated into the Coastal Qualifying Matter Precinct.

**Recommendations**

(378) For the reasons outlined above, I recommend that the decisions requested by **Infill Tapui Limited** [S028.48, S028.49, S028.50, S028.51] are **accepted in part.** Specifically, I recommend that rules SUB-RES-R27, SUB-RES-R30 and SUB-RES-R32 are amended to separate out the MDRS subdivision rule cascade from the Coastal Qualifying Matter Precinct subdivision rule cascade in the manner described in my assessment above, by:

(a) Amending SUB-RES-R27[144] so that it only applies to subdivision in the Coastal Qualifying Matter Precinct that is not provided for under rule SUB-RES-R26. This includes removal of standards 1 and 2 (which are only relevant to MDRS subdivision).

(b) Amending SUB-RES-R30[145] so that it only applies to subdivision outside of the Coastal Qualifying Matter Precinct that is not provided for under the MDRS controlled activity subdivision rule (SUB-RES-Rx1). The rule is also amended to preclude public and limited notification, as required by clause 5(3) of Schedule 3A to the RMA.

(c) Amending SUB-RES-R32 so that it only applies to subdivision in the Coastal Qualifying Matter Precinct that is not provided for under SUB-RES-R26 or SUB-RES-R27;

(d) Consequentially amend rule SUB-RES-Rx1 (which is the start of the MDRS cascade) to remove references to SUB-RES-R26 (which is the start of the Coastal Qualifying Matter Precinct cascade).

(379) I also recommend that the related decisions requested by **The Loyalty Initiative** [S026.04], **Land Matters Limited** [S107.03, S107.04, S107.05], **Survey + Spatial New Zealand Wellington Branch** [S153.12], **Leith Consulting Ltd** [S206.02, S202.11] and **Landlink** [S206.09] are **accepted in part**, to the extent that this is consistent with the recommendations outlined above.

**Section 32AA evaluation**

(380) I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because:

(a) They provide for a more appropriate activity status to the subdivision rule cascade that implements the MDRS, particularly by removing non-complying activity rule from the cascade;

[144] Note that non-compliance with the boundary adjustment subdivision rule (SUB-RES-R25) in the Coastal Qualifying Matter Precinct will continue to enter the cascade under this rule.
[145] Note that as a consequential amendment, non-compliance with the boundary adjustment subdivision rule (SUB-RES-R25) outside of the Coastal Qualifying Matter Precinct will enter the cascade under this rule.

(b) They ensure that the notification preclusions required by clause 5(3) of Schedule 3A to the RMA are provided for under the subdivision rules that incorporate the MDRS;

(c) They ensure that existing (operative) rules related to subdivision in the Coastal Qualifying Matter Precinct continue to apply to subdivision in the precinct;

(d) They reduce complexity and provide for improved interpretation and implementation of the subdivision rules, by providing a clearer delineation between those subdivision rules that apply within the Coastal Qualifying Matter Precinct, and those that apply outside the precinct.

## 4.8 MDRS & NPS-UD – Design Guides

*Author: Andrew Banks*

**Matters raised by submitters**

(381) **Kāinga Ora** [S122] oppose the inclusion of Design Guides in the District Plan, which they describe as "de facto rules to be complied with"[146]. In their submission, they state that "Design Guidelines should be treated as a non-statutory tool… where particular design outcomes are to be achieved, these should be specified in matters of discretion or assessment"[147]. The submitter generally requests that the Design Guides are removed from PC(N). Instead, the submitter requests that the Design Guides sit outside the District Plan as non-statutory guidance documents, and that the District Plan include advice notes stating that "acceptable means of compliance and best practice urban design guidance is contained within the Council's Design Guidelines"[148]. As part of this, the submitter requests various decisions to:

(a) Remove references to the Design Guides from all objectives, policies or rules (including matters of control and discretion); and

(b) Not append the Design Guides to the District Plan.

(382) Alternatively, **Kāinga Ora** [S122] requests that:

(a) The Design Guides are amended, simplified and written in a manner that is easy to follow, and that the outcomes sought in the guidelines should read as desired requirements with sufficient flexibility to provide for a design that fits and works on site, rather than rules that a consent holder must follow and adhere to [S122.20];

(b) If they are to remain a statutory document, that Kāinga Ora has the opportunity to review these guidelines [S122.21].

(383) The **Retirement Villages Association** [S197] opposes "the requirement to meet the needs of" the Design Guides. The submitter argues that retirement villages are a unique activity with substantially differing functional and operational needs, and that there is no guidance provided as to why the requirements in the Design Guides that are applicable to non-retirement village activities apply in the same manner to retirement villages. The submitter also argues that the Design Guides do not align with the expectations under the NPS-UD or RM(EHS)AA. In general, the submitter requests that references to the Design Guides are removed from

[146] S122.82.
[147] S122.17.
[148] S122.17.

policies in the General Residential Zone, Centres Zones and Mixed Use Zone, and that amendments are made so that the Design Guides do not apply to retirement villages.

(384) The submission of **Metlifecare** [S207] opposes the Residential Design Guide for similar reasons, and seeks similar relief.

**Assessment**

*Kāinga Ora submission [S122]*

(385) **Kāinga Ora's** [S122] primary submissions on the Design Guides request that they are removed from PC(N) and instead sit outside the District Plan as a non-statutory document. The reasons stated in the submission include:

(a) They would otherwise act as de facto rules to be complied with;

(b) Where particular design outcomes are to be achieved, these are more appropriately located within specific rules, matters of discretion or assessment criteria;

(c) Concern that the Design Guides will limit flexibility for development proposals to adapt to site conditions.

(386) In responding to Kāinga Ora's submission I consider it important to review the overall purpose and function of the Design Guides and their related plan provisions as part of PC(N). In relation to Part 2 of the RMA, the Section 32 Evaluation Report identifies that the Design Guides contribute towards having particular regard to sections 7(c) and (f) of the RMA[149]. The purpose of the Design Guides (as stated in section 1 of both Guides) is "to provide urban design guidance to inform the design of high quality… development in the Kāpiti Coast District". Under the heading "Why is a design guide necessary?" on the same page, the Design Guides state that "as the density of urban areas increases, high quality urban design becomes an important tool to ensure that the development of buildings, spaces and places provide for the demands of a growing population, while ensuring that the impacts of development on amenity and other environmental values within and around the development are appropriately managed through methods that are integrated into the design of the development". In essence, the purpose of the Design Guides is to demonstrate how appropriate levels of amenity can be achieved at higher densities.

(387) PC(N) appends two design guides to the District Plan: a Residential Design Guide which applies in the General Residential Zone, and a Centres Design Guide which applies in the Metropolitan Centre, Town Centre, Local Centre and Mixed Use Zones.

[149] Section 32 Evaluation Report, p.19.

(388) In the General Residential Zone, the Residential Design Guide is referred to through Policy GRZ-Px6, which provides for higher density housing in Residential Intensification Precincts, "where development meets the requirements of the Residential Design Guide". The Residential Design Guide is a matter of discretion in rules GRZ-Rx5, Rx6 and Rx7, which are the restricted discretionary activity rules for development that breaches the permitted activity rules for the development of buildings in the zone (GRZ-Rx1 and GRZ-Rx2). In the Centres and Mixed Use Zones, a similar approach applies in relation to the Centres Design Guide, which are referred to through policies and applied as a matter of discretion through restricted discretionary activity rules.

(389) The Design Guides are not a permitted activity standard, and do not apply to development that is a permitted activity.

(390) PC(N) amends the "General Approach" chapter of the District Plan to require that resource consents for activities where the Design Guides are relevant include a "Design Statement". The purpose of the Design Statement is to demonstrate how the Design Guides have been applied to that particular development. The requirements for a Design Statement are identified in section 3 of the Design Guides, which states that "the design guide aims to recognise that all development proposals will be unique and that *only those guidelines that are relevant to the site, activity or development proposal should be applied.* The Design Statement provides applicants with the opportunity to explain which guidelines are relevant to the proposal, and how they have been applied" (emphasis added).

(391) From a practical perspective the Design Guides "provide clarity as to the Council's expectations of what constitutes high-quality development, which improves efficiency for applicants and Council officers processing resource consents"[150]. In relation to the term "high-quality development", I note that policy GRZ-Px5 (which is a policy that must be included in the District Plan under clause 6(e) of Schedule 3A of the RMA) requires that "high-quality" development is encouraged, and I consider that that the Design Guides assist with achieving this.

(392) Regarding the matters outlined in the Kāinga Ora submission, I disagree with the position that the Design Guides constitute de facto rules that must be complied with. The Design Guides are not an activity standard, and 'compliance' with them does not determine the activity status of development, nor does it trigger a requirement for a resource consent. Instead, they operate as a matter of discretion for activities that require resource consent as a restricted discretionary activity for breaching permitted activity standards. Rather than being de facto rules to be complied with, a more accurate description of the Design Guides is that they are

[150] Section 32 Evaluation Report, p.211.

assessment criteria to be considered as part of the overall consideration of a resource consent application.

(393) In relation to whether it would be more appropriate to provide for the outcomes sought by the Design Guides through objectives, policies, rules, matters of discretion and assessment criteria, I do not consider that such an approach would be more efficient and effective when compared to the approach taken by the notified Design Guides and associated plan provisions. As noted in para (391), the Design Guides provide clarity for Council and applicants about what constitutes high-quality development. Further, as noted in para (386), a key aspect of the purpose of the Design Guides is to provide practical guidance around how "the impacts of development on amenity and other environmental values within and around the development are appropriately managed through methods that are integrated into the design of the development". I consider that these benefits would be lost or at best diluted in the absence of the Design Guides as a frame of reference.

(394) In relation to concerns that the Design Guides will limit flexibility, I consider that the Design Guides are able to be applied in a manner that adapts to the circumstances specific to the site, activity or development proposal. As identified at paragraph (390), this is achieved through the preparation of a Design Statement, which allows applicants to explain the guidelines that are relevant to the proposal, and how they have been applied. I consider that this provides for an appropriate level of flexibility to enable the guidelines to be applied in a manner that best suits the circumstances of individual proposals.

(395) However, I consider that this intended flexibility has not been sufficiently acknowledged through several policies relevant to the application of the Design Guides. For example, the term "requirements" under notified policy GRZ-Px6 is confusing because the term "requirements" could be interpreted as suggesting that all guidelines must be applied at all times. A similar issue is apparent in several Centres and Mixed Use Zone policies that enable development "in accordance with" the Centres Design Guide. To address this, I recommend amending GRZ-Px6, MCZ-P2, MCZ-P7, TCZ-P5, LCZ-P5 and MUZ-P6 to adopt consistent policy language that refers to development that is "consistent with the relevant matters" in the Design Guides. In my opinion, this would ensure that these policies appropriately recognise the intended flexibility in the application of the Design Guides (as stated in section 3 of the Design Guides).

(396) Overall, for the reasons outlined above, I consider that retaining the Design Guides as appendices to the District Plan, and referencing them through relevant policies and matters of discretion is a more efficient and effective approach when compared to removing the Design Guides.

(397) In lieu or the removal of the Design Guides from PC(N), Kāinga Ora request alternative relief. In relation to the alternative request that the Design Guides are amended, simplified and

written in a manner that is easy to follow, and that the outcomes sought in the guidelines should read as desired requirements with sufficient flexibility to provide for a design that fits and works on site, rather than rules that a consent holder must follow and adhere to [S122.20], it is not clear what amendments are sought by Kāinga Ora in this regard. I note that I have already explained why I do not consider that the guidelines constitute de facto rules, and why I consider that the Design Guides provide for sufficient flexibility to be applied to the circumstances of the proposal.

(398) In relation to the request that Kāinga Ora is given the opportunity to review the guidelines [S122.21], I note that draft versions of the Design Guides were included as part of consultation on draft PC2, which was open for public feedback during April 2022. Indeed, feedback from several parties on the draft Design Guides led to changes that were incorporated into the notified version of the Design Guides. Taking into account both the opportunity for Kāinga Ora to provide feedback on the Design Guides through consultation on draft PC2, and the ability to submit on the Design Guides as part of PC(N), in my opinion Kāinga Ora have already had sufficient opportunity to review and provide comment on the Design Guides.

*Retirement Villages Association [S197] and Metlifecare [S206] submissions*

(399) In general, the submissions of the **Retirement Villages Association** [S197] and **Metlifecare** [S206] oppose the application of the Design Guides to retirement village activities. The submitters argue that the Design Guides do not make specific reference to retirement villages and fail to recognise or provide for the differing functional or operational needs of retirement villages.

(400) In response to this point, I return to the ability for the Design Guides to be flexibly applied to circumstances that are relevant to the site, activity or development proposal (as described at para (390)). As identified by the submitters, it may well be that there are aspects of the Design Guides that are not relevant to retirement villages. However, the preparation of a Design Statement as part of the application of the Design Guides enables an applicant to explain the aspects of the Design Guides that are or are not relevant to a retirement village, and for this to be tested through the consent process. Because of this, I do not consider it necessary to exclude retirement villages from the relevant policies or matters of discretion associated with the Design Guides.

(401) On the broader matter raised by the **Retirement Villages Association** [S197] that the Design Guides do not align with the MDRS or NPS-UD, I disagree. Firstly, where development complies with the MDRS density standards, it will be a permitted activity and the Design Guides will not apply. The Design Guides only apply to development that is denser than the MDRS (and therefore requires a resource consent). In relation to the NPS-UD, I do not consider that the objectives and policies of the NPS-UD preclude the use of Design Guides as part of providing for Policy 3 in the District Plan.

(402) In relation to Centres and Mixed Use Zone policies that refer to the Design Guides (MCZ-P7, TCZ-P5, LCZ-P5 and MUZ-P6), the **Retirement Villages Association** [S197] argues that the requirement in these policies that "a high level of amenity… is achieved" is contrary to the MDRS policy to "encourage high-quality development", and request that the word "achieved" is replaced with "encouraged". In relation to these policies, I do not consider the MDRS policies to be relevant because the MDRS apply only to relevant residential zones, and not the Centres or Mixed Use Zones. Rather, it is Policy 3 of the NPS-UD that is relevant, and in this regard I do not consider that seeking a high level of amenity is contrary to Policy 3 (or any other objectives and policies in the NPS-UD). Further, I consider that seeking a high level of amenity in the Centres and Mixed Use Zones is appropriate in the context of the District Objective for Centres (DO-O16) which seeks "to have vibrant, safe and economically sustainable centres that function as… a focus for social and community life… and as places for living, entertainment and recreation". In my opinion, the role of the centres as a focus for social and community life, alongside the increased density of built form directed by Policy 3 of the NPS-UD justifies a policy direction that seeks a high level of amenity. For these reasons I do not consider there to be a sufficient basis to amend the wording of these policies as sought by the submitter.

**Recommendations**

(403) In relation to **Kāinga Ora's** [S122] submission points relevant to the Design Guides, for the reasons stated in the assessment above, I recommend that:

(a) Submission points that request that references to the Design Guides are deleted and replaced with design objectives specified through objectives, policies, rules, matters of discretion or assessment criteria are **not accepted**;

(b) Submission points that request the addition of guidance notes referring the Council's Design Guidelines as "non-statutory" documents outside of the District Plan are **not accepted**;

(c) Submission points that seek sufficient flexibility in the application of design guides [S122.20] and that request amendment to policies MCZ-P2 [S122.142], MCZ-P7 [S122.144], TCZ-P5 [S122.129], LCZ-P5 [S122.111] and MUZ-P6 [S122.120] are **accepted in part**. For the reasons outlined in para (395) I recommend that these policies are amended to adopt consistent language to provide for "development that is consistent with the relevant matters" in the Design Guides;

(d) Submission points that seek that the Design Guidelines are amended and simplified (in an unspecified manner) are **not accepted**;

(e) Submission points that request further opportunity to review the Design Guides as part of PC(N) are **not accepted**.

(404) In relation to the **Retirement Villages Association** [S197] and **Metlifecare** [S206] submission points relevant to the Design Guides, for the reasons stated above I recommend that submission points that oppose the application of the Design Guides to retirement village activities, and request that references to the Design Guides are deleted from relevant policies are **not accepted**.

(405) In relation to the **Retirement Villages Association** [S197] submission points requesting that policies MCZ-P7, TCZ-P5, LCZ-P5 and MUZ-P6 are amended to replace the word "achieved" with "encouraged", for the reasons stated above I recommend that these requests are **not accepted**.

**Section 32AA evaluation**

(406) In relation to the recommended amendments to MCZ-P2 [S122.142], MCZ-P7 [S122.144], TCZ-P5 [S122.129], LCZ-P5 [S122.111] and MUZ-P6 [S122.120], I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because they provide for consistent use of language in relation to the application of the Design Guides, which provides for a more efficient and effective interpretation of these policies through policy wording that acknowledges the intended flexibility in the application of the Design Guides.

**Other matters raised by submitters**

(407) In addition to those matters discussed above, the following submissions request a range of decisions related to the Design Guides. My recommendations on these submissions are addressed directly in the table in Appendix B.

- **Dyer, Mary** [S001];
- **Mann, Amos** [S016];
- **Infill Tapui Limited** [S028];
- **Waka Kotahi** [S053];
- **Cancer Society of NZ** [S073];
- **Templeton Kapiti Limited** [S115];
- **Kapiti Cycling Action** [S170];
- **McArthur, Angela** [S185];
- **Leith Consulting Ltd** [S202];
- **Landlink** [S206].

## 4.9 MDRS & NPS-UD – Land Development Minimum Requirements (LDMR)

*Author: Andrew Banks*

**General considerations for the Panel**

(408) The *Land Development Minimum Requirements, April 2022* ('LDMR') is a document that outlines a range of requirements for the design and construction of infrastructure as part of subdivision and development within the district, and is an update to the Council's *Subdivision and Development Principles and Requirements, 2012* ('SDPR')[151]. PC(N) replaces all references in the District Plan to the SDPR with references to the LDMR (refer to sections 16.1 and 20.6 of the IPI). The LDMR (like the SDPR which it replaces) is a document incorporated by reference under Part 3 of Schedule 1 to the RMA.

(409) The Section 32 Evaluation Report includes several sections that are relevant to the LDMR. These include:

(a) The SDPR, and the operative District Plan provisions that relate to it, are described on pages 91 and 92 of the Section 32 Evaluation Report;

(b) Section 3.5.3 (pages 121 to 123 of the Section 32 Evaluation Report) describes the consultation on the proposal to include the LDMR as a document incorporated by reference. This includes a summary of the consultation undertaken to inform the review of the LDMR, was well as the consultation required under clause 34 of Schedule 1 to the RMA;

(c) Section 5.2.5 (pages 145 to 146 of the Section 32 Evaluation Report) describes the proposal to replace references to the SDPR with references to the LDMR. This section includes a summary of the differences between the LDMR and the SDPR, with reference to a more detailed schedule of changes contained in Appendix Y to the Section 32 Evaluation Report. In relation to the statutory scope of an IPI, the Section 32 Evaluation Report states that "the changes improve the efficiency and effectiveness of the document and recognise the increased levels of multi-unit development that may occur under the MDRS. As such, replacing references to the SDPR with the LDMR supports the incorporation of the MDRS into the District Plan"[152].

(410) I wish to highlight to the Panel that the Council's ability to incorporate references to the LDMR into the District Plan are constrained by clause 30(2) of Schedule 1 to the RMA, and as such I consider that the Panel's recommendations (and my own) on this matter are equally constrained. Clause 30(2) provides that:

[151] Section 32 Evaluation Report, p.13.
[152] Section 32 Evaluation Report, p.146.

*Material may be incorporated by reference in a plan or proposed plan—*

*(a) in whole or in part; and*

*(b) with modifications, additions, or variations specified in the plan or proposed plan.*

(411) I therefore consider that with respect to the LDMR, the following recommendations are open to consideration by the Panel:

(a) That the whole of the LDMR is incorporated by reference into the District Plan (which is the approach proposed by PC(N));

(b) That only a part of the LDMR is incorporated by reference into the District Plan;

(c) That the LDMR is not incorporated by reference into the District Plan (in which case, references to the SDPR in the operative District Plan would be retained and continue to have effect);

(d) While I do not consider it open to the Panel to recommend modifications to the LDMR document itself, under clause 30(2)(b) it is open to the Panel to recommend that modifications, additions or variations to the LDMR are specified in the District Plan.

(412) Without wishing to the limit the recommendations of the Panel, I note that following consideration of the submissions on the LDMR, I have only made recommendations to incorporate references to the whole of the LDMR into the District Plan (as outlined in (a) above).

**Matters raised by submitters**

(413) Several submitters opposed replacing references to the SDPR with the LDMR in the District Plan, sought removal of standards within subdivision rules related to the LDMR or requested that consideration be given to amendments to the LDMR. Submissions also raise the matter of whether sufficient consultation was undertaken in relation to the LDMR. These submissions include:

- **Infill Tapui Limited** [S028.53];
- **Cuttriss Consultants Limited** [S043.09, S043.10, S043.11];
- **Survey + Spatial New Zealand Wellington Branch** [S153.10];

(414) The **RVA** [S197.11] request that policy UEDI-P2 is amended to provide that subdivision and development give consideration to the LDMR (as opposed to being consistent with it);

(415) **Kāinga Ora** [S122.28, S122.81] supports updating references to the LDMR;

(416) **Leith Consulting Ltd** [S202.13] request that standard 1 of rule INF-MENU-R27 (which relates to the application of the LDMR to permitted activities) is updated to incorporate reference to the LDMR.

**Assessment and recommendations**

(417) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

## 4.10 Qualifying Matters – General Matters

*Author: Andrew Banks*

### *4.10.1 General submissions on flood hazards*

**Matters raised by submitters**

(418) Several submissions request amendments to PC(N) (in various terms) which generally seek that the level of development enabled by PC(N) be restricted in areas subject to flood hazards. Submissions of this nature include **Grant, John** [S025.02], **Ryan, Rachel** [S027.01], **O'Brien, Nicola** [S033.04] and **Edwards, Lorraine** [S167.01]. I note that this matter is also raised by several submitters in the 'Beach Residential' submitter group, which is discussed further under "Assessment of Matter D" in section 4.11.2 of this report.

**Assessment**

(419) PC(N) provides for the operative District Plan flood hazard provisions to continue to apply as an existing qualifying matter[153]. In response to these submissions, I consider it necessary to provide an overview of these provisions.

(420) The flood hazard provisions are contained in the NH-FLOOD – Flood Hazards chapter of the District Plan. The operative District Plan adopts a risk-based approach to the management of flood hazards. This approach includes the following components:

(a) The District Plan defines nine different flood hazard categories[154]:

- River corridor;
- Stream corridor;
- Overflow path;
- Residual overflow path;
- Ponding;
- Residual ponding areas;
- Shallow surface flow areas;
- Flood storage areas;
- Fill control areas.

(b) Flood hazards are categorised according to their hazard level. High hazard flood categories include river corridors, stream corridors, overflow paths and residual overflow paths. Within these areas, the District Plan generally seeks that new

[153] Refer to section 6.1.1 of the Section 32 Evaluation Report.
[154] Operative District Plan, NH-FLOOD-Table 1 – Flood Hazard Categories.

development is avoided, unless the hazard can be mitigated on site, and there are no adverse effects on flood flow[155]. New development within these areas is not a permitted activity, and generally requires resource consent as a restricted discretionary, discretionary or non-complying activity (depending on the hazard).

(c) Lower hazard flood categories include ponding, residual ponding, shallow surface flow, flood storage and fill control areas. Within these areas, the District Plan seeks that new development is managed so that buildings are constructed above the 1% AEP flood hazard level[156], and that development (including earthworks) does not adversely effect flooding on surrounding sites. New development within these areas is subject to additional permitted activity standards, and in some cases is a controlled activity.

(d) Each flood hazard category is identified in the District Plan maps (see Figure 11). Flood hazard have been mapped using the 1% AEP flood modelling, which accounts for projected impacts of climate change and precautionary freeboard[157]. Where new subdivision, use and development is located within a mapped flood hazard area, it is subject to the relevant policies and rules in the NH-FLOOD chapter.

(e) The flood hazard provisions operate as an overlay in accordance with the National Planning Standards. This means that they override the provisions of the underlying zone (except in the case of river corridors, which have no underlying zone).

(421) This approach is consistent with policies 29 and 51 of the operative RPS, which are the relevant higher order directions in relation to flood hazard management. These policies provide for a risk-based approach to natural hazard management, which seeks that inappropriate subdivision and development is generally avoided in high-risk areas, unless it is shown that effects, including residual risk, will be managed appropriately, while the effects of flood hazard on subdivision and development in areas that are not defined as high risk are to be remedied or mitigated through appropriate provisions in the plan.

[155] This is a summary of operative District Plan policy NH-FLOOD-P12.
[156] The District Plan defines this as "a flood event that has a one in one hundred (1%) chance of being equaled or exceeded in any one year. The flood categories (except residual ponding areas and residual overflow paths) on the District Plan Maps are a representation of this event."
[157] Refer to operative District Plan policy NH-FLOOD-P8.

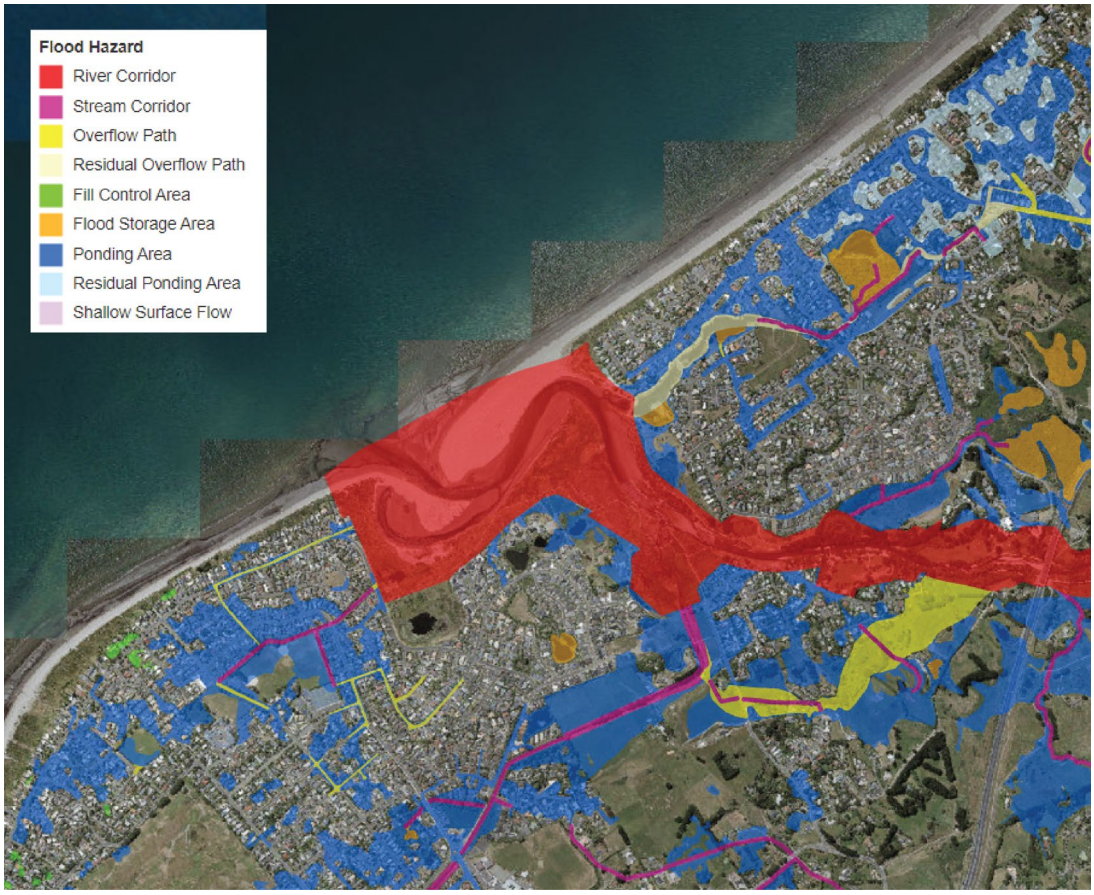


*Figure 11: example showing the flood hazard category areas mapped in the operative District Plan around the Waikanae River (the Waikanae River corridor is shown in red).*

(422) PC(N) provides for the District Plan's flood hazard provisions to continue to apply as an existing qualifying matter[158]. As a result, while PC(N) may incorporate the MDRS or give effect to Policy 3 of the NPS-UD in the underlying zone, where there is a flood hazard located on the land, the relevant rules associated with that flood hazard will apply as an overlay, restricting development to the extent provided for by the relevant flood hazard rule. I observe that Porirua City Council, Wellington City Council, Hutt City Council and Upper Hutt City Council all provide for a similar approach to the management of flood hazards as part of their proposed plans or IPIs.

(423) Appendix D to the Section 32 Evaluation Report describes how each flood hazard rule restricts subdivision, use and development in relation to each flood hazard category area[159]. I summarise these provisions in the following table:

[158] Refer to section 6.1.1 of the Section 32 Evaluation Report, pp.150-152.
[159] Refer to Appendix D to the Section 32 Evaluation Report, pp.2-9.

| Flood hazard category area | Activity | Summary of development restriction(s) | Relevant rule |
|---|---|---|---|
| **Ponding areas and shallow surface flow areas** | New or relocated buildings | New or relocated buildings are a permitted activity subject to the building floor level being constructed above the 1% AEP flood event level. | NH-FLOOD-R3 (permitted) |
| | Earthworks | Earthworks are permitted, subject to a restriction on altering the ground level by no more than 1 metre vertically, and a restriction on disturbing no more than 20m$^3$ of land in any 10-year period. | NH-FLOOD-R4 (permitted) |
| | Subdivision | Subdivision is a restricted discretionary activity, which includes standards that require building areas to be located above the 1% AEP flood level, and that formed vehicle access does not adversely affect the flood hazard risk on other properties. | SUB-DW-R7 (restricted discretionary) |
| **Residual ponding areas** | New or relocated buildings | New or relocated buildings are a permitted activity subject to the building floor level being constructed above the 1% AEP flood event level. | NH-FLOOD-R3 (permitted) |
| | Subdivision | Subdivision is a restricted discretionary activity, which includes standards that require building areas to be located above the 1% AEP flood level, and that formed vehicle access does not adversely affect the flood hazard risk on other properties. | SUB-DW-R7 (restricted discretionary) |
| **Flood storage areas** | Development[160] and earthworks | Development and earthworks are a controlled activity subject to the development achieving hydraulic neutrality, providing sufficient hydraulic modelling to test the consequences of the proposed activity, and building floor levels being constructed above the 1% AEP flood event level. | NH-FLOOD-R8 (controlled) |

[160] The district plan defines *development* as meaning "the construction of, addition to or alteration of buildings; the erection of fences/walls and detached structures; network utilities; earthworks or the construction of earth retaining structures; and any construction of artificial surfaces or platforms e.g. roads, decks or patios, driveways".

| Flood hazard category area | Activity | Summary of development restriction(s) | Relevant rule |
|---|---|---|---|
| | Subdivisions | Subdivision is a restricted discretionary activity, which includes standards that require building areas to be located above the 1% AEP flood level, and that formed vehicle access does not adversely affect the flood hazard risk on other properties. | SUB-DW-R7 (restricted discretionary) |
| **Fill control areas** | Development and earthworks | Development and earthworks are a controlled activity subject to the development achieving hydraulic neutrality, providing sufficient hydraulic modelling to test the consequences of the proposed activity, and building floor levels being constructed above the 1% AEP flood event level. | NH-FLOOD-R8 (controlled) |
| **Overflow paths and residual overflow paths** | Earthworks | Earthworks are permitted, subject to a restriction on altering the ground level by no more than 0.5 metres vertically, a restriction on disturbing no more than $10m^3$ of land in any 10-year period, and a restriction on earthworks that impede the flow of floodwaters. | NH-FLOOD-R4 (permitted) |
| | | Earthworks involving fill are a restricted discretionary activity. | NH-FLOOD-R10 (restricted discretionary) |
| | Alterations and additions to existing buildings | Additions and alterations to existing buildings are a restricted discretionary activity. | NH-FLOOD-R12 (restricted discretionary) |
| | New or relocated buildings | New or relocated buildings are a non-complying activity. | NH-FLOOD-R16 (non-complying) |
| | Subdivision | Subdivision of land is a discretionary activity. | SUB-DW-R16 (discretionary) |
| **Stream corridors and river corridors** | Earthworks | Earthworks are permitted, subject to a restriction on disturbing no more than $10m^3$ of land in any 10-year period, and that works must be undertaken by the Regional Council, District Council or Department of Conservation. | NH-FLOOD-R4 (permitted) |

| Flood hazard category area | Activity | Summary of development restriction(s) | Relevant rule |
|---|---|---|---|
| | | Earthworks involving fill are a discretionary activity. | NH-FLOOD-R15 (discretionary) |
| | Buildings | Buildings are a non-complying activity. | NH-FLOOD-R17 (non-complying) |
| | Subdivision | Subdivision of land containing a stream or river corridor is a discretionary activity. | SUB-DW-R17 (discretionary) |
| | | Subdivision of land wholly located in a stream or river corridor is a non-complying activity. | SUB-DW-R20 (non-complying) |

(424) In addition to the above provisions, under rules SUB-RES-R26 and SUB-RES-Rx1, each allotment in the General Residential Zone must have a flood free building area located above the estimated 1% AEP flood event, regardless of whether it is located within a flood hazard area identified in the District Plan maps.

(425) The following examples provide a simple illustration of the operative flood hazard provisions work in relation to the application of the MDRS:

(a) In a ponding area, the construction of up to three residential units is a permitted activity under rule GRZ-Rx1, subject to:

(i) The ground floor level being constructed above the 1% AEP flood level (under permitted activity rule NH-FLOOD-R3);

(ii) Any earthworks required to locate the ground floor level above the 1% AEP flood level must not alter the ground level by more than 1 metre vertically, and there must be no more 20m$^3$ of land disturbance on the site in any 10-year period (under permitted activity rule NH-FLOOD-R4).

(b) In an overflow path, the construction of any new residential units is a non-complying activity under rule NH-FLOOD-R16, regardless of whether they comply with rule GRZ-Rx1. This means that the construction of any new residential units would require resource consent prior to occurring[161].

[161] And I consider that any consent sought could only be granted in circumstances where the criteria outlined in policy NH-FLOOD-P12 are met.

(426) The operative District Plan provides for a risk-based approach to the management of flood hazards which includes flood hazard areas identified in the District Plan maps, and provisions that restrict development in these areas. This approach is consistent with the relevant higher order direction on this matter outlined in the RPS. PC(N) provides for the existing flood hazard provisions as an existing qualifying matter, and as such, they continue to apply as an overlay, regardless of whether development is enabled in the underlying zone. I therefore consider that where submitters request that PC(N) is amended to restrict development in relation to flood hazards, it is unnecessary to do so on the basis that the operative flood hazard provisions within the District Plan already provide for this outcome.

(427) I note that my assessment and recommendations on this matter are limited to PC2 only, and that the Council is separately preparing future plan changes related to both the coastal environment and flood risk/stormwater management[162].

**Recommendations**

(428) For the reasons outlined in my assessment above, I recommend that the requests to amend PC(N) in relation to flood hazards outlined under the submission points of **Grant, John** [S025.02], **Ryan, Rachel** [S027.01], **O'Brien, Nicola** [S033.04] and **Edwards, Lorraine** [S167.01] are **not accepted**.

**Other matters raised by submitters**

(429) The following submissions raise a range of other matters in relation to the management of flood hazards. My recommendations on these submissions are addressed directly in the table in Appendix B.

- **Infill Tapui Limited** [S028];
- **Cuttriss Consultants Ltd** [S043];
- **Greater Wellington Regional Council** [S097];
- **Kāinga Ora Homes and Communities** [S122];
- **Lewis, Keith** [S171];
- **Gunn, Ian and Jean** [S186];
- **Leith Consulting Ltd** [S202];
- **Landlink** [S206];
- **Metlifecare Limited** [S207].

[162] As summarised in section 1.3 of the Section 32 Evaluation Report. I note that the Council is in the process of reviewing its existing flood hazard models to inform the development of these future plan changes.

### *4.10.2 Liquefaction hazard*

**Matters raised by submitters**

(430) **Toka Tū Ake EQC** [S101] request that liquefaction is identified as a qualifying matter, and that the Greater Wellington Regional Council's liquefaction hazard maps are incorporated into the District Plan as an overlay [S101.01, S101.02].

(431) **Leith Consulting Ltd** [S202] consider that the existing rule for subdivision on sand and peat soils (a proxy for the presence of liquefaction hazard), rule SUB-DW-R9, should be amended to align with the MDRS [S202.08]. **Landlink** [S206] request that SUB-DW-R9 is removed from the District Plan entirely [S206.06].

**Assessment**

*Background*

(432) *Liquefaction* is defined in the District Plan as "the process by which water saturated sediment temporarily loses strength because of strong shaking caused by seismic activity".

(433) The operative District Plan 2021 included a rule for land use on land with sand or peat soils (NH-EQ-R23), and an equivalent rule for subdivision on the same land (SUB-DW-R9). As outlined under policy NH-EQ-P17 (Liquefaction Prone Land), "land with sand or peat soils" is a proxy for the presence of liquefaction hazard.

(434) Plan Change 1B, which became operative on 31 October 2022, removed the rule for land use on land with sand or peat soils (NH-EQ-R23) from the District Plan. The principal reason for doing this was to respond to changes to the New Zealand Building Code that came into effect in November 2021. These changes require new building work to undergo varying degrees of assessment to determine liquefaction vulnerability, and the level of assessment required to comply with the Building Code varies depending on the development scenario and the degree of certainty about liquefaction vulnerability at the site. Where the assessment identifies liquefaction risk in relation to both the site and development scenario, specific engineering design (which may include both geotechnical and structural engineering design) is required for new building work to demonstrate compliance with clause B1 (Structure) of the New Zealand Building Code[163].

(435) The Section 32 Evaluation Report for Plan Change 1B identifies that "the management and mitigation of risks to new buildings located on land that has the potential for liquefaction or lateral spread will, from 29 November 2021, be addressed by the New Zealand Building Code

[163] See: https://www.building.govt.nz/building-code-compliance/geotechnical-education/ensuring-new-buildings-can-withstand-liquefaction-risks/

through the building consent process", and that "the Council is satisfied that the risks to buildings from liquefaction-prone land will be effectively managed using the specialist processes and skills of the New Zealand Building Code"[164]. Plan Change 1B therefore removed rule NH-EQ-R23 from the District Plan to "avoid any potential conflict or confusion between the requirements of the New Zealand Building Code and the Plan"[165].

(436) Because the Building Code does not manage subdivision, Plan Change 1B did not remove the rule for subdivision on land with sand or peat soils (SUB-DW-R9), and this rule continues to apply. There are no maps within the District Plan that identify the location of sand and peat soils. When assessing applications for subdivision consents in practice, I understand that the Council applies a general assumption (at least within the parts of the District that are not hill country) that land is likely to contain sand or peat soils unless this is demonstrated not to be the case by the applicant. This may involve requests under section 92 of the RMA to determine whether sand or peat soils are or are not present (and ultimately determine whether the rule applies).

*Should liquefaction be a qualifying matter?*

(437) Regarding the requests by Toka Tū Ake EQC that liquefaction should be treated as a qualifying matter, I consider that this matter has already been addressed by Plan Change 1B. Plan Change 1B was an ordinary plan change under Schedule 1 of the RMA, and the outcome of this process was a determination that, in relation to the design and construction of buildings, the management and mitigation of risks to new buildings located on land that has the potential for liquefaction is most appropriately addressed through specialist processes under the Building Act 2004 and the New Zealand Building Code, and that it would not be appropriate to duplicate this management through the District Plan. I consider that providing for liquefaction as a qualifying matter under PC2 would effectively re-insert the management of liquefaction hazard for the construction of new buildings back into the District Plan, and I consider that this would be contrary to Plan Change 1B. Given that this matter has been addressed through Plan Change 1B, I do not consider it appropriate to provide for liquefaction as a qualifying matter as part of PC2.

(438) Toka Tū Ake EQC also request that the Greater Wellington Regional Council liquefaction risk maps are incorporated into the District Plan. I do not consider this to be necessary on the basis that I do not consider it appropriate to provide for liquefaction as a qualifying matter under PC2 (as discussed above). In any case, I note that the metadata associated with the maps identifies that the data should only be used at scales between 1:50,000 and 1:250,000, and that use at larger scales requires more detailed investigation[166]. Noting that the District

[164] Section 32 Evaluation Report for Plan Change 1B, p.88. See: https://www.kapiticoast.govt.nz/media/cctfotkt/section-32-evaluation-report-on-proposed-plan-changes-1a-1b-1c.pdf
[165] Section 32 Evaluation Report for Plan Change 1B, p.88.
[166] See: https://data-gwrc.opendata.arcgis.com/datasets/GWRC::wellington-region-liquefaction-potential/about

Plan maps related to urban areas are prepared at a scale of 1:11,000, I consider that it would not be appropriate to incorporate the Greater Wellington Region Council liquefaction risk maps into the District Plan in any case, without the further investigation required for using this data at a larger scale.

*Subdivision on land with sand or peat soils (rule SUB-DW-R9)*

(439) Rule SUB-DW-R9 is as follows[167]:

| SUB-DW-R9 | *Subdivision* (excluding *boundary adjustments* or *subdivision* of *land* where no additional *allotments* are created) of *land* with peat or sand soils. | |
|---|---|---|
| *Restricted Discretionary Activity* | **Standards**<br>1. Geotechnical information must be provided by a suitably qualified and experienced person (to *building* consent level) on *liquefaction risk*.<br>2. Proposed *building* areas with a minimum dimension of 20 metres must be identified for each *allotment*. | **Matters of Discretion**<br>1. The outcomes of the geotechnical investigation on *liquefaction risk*.<br>2. Whether the potential *risk* to the health and safety of people, and property from *liquefaction* can be avoided or mitigated.<br>3. The design and layout of the *subdivision* including *earthworks*, servicing and the location of any *building* platforms.<br>4. *Council's Land Development Minimum Requirements*.<br>5. The imposition of *financial contributions* in accordance with the Financial Contributions chapter. |

(440) Leith Consulting Ltd identify that the rule for subdivision on land with sand or peat soils (SUB-DW-R9) should be amended to align with the MDRS. I agree that the rule does not meet the requirements of Schedule 3A to the RMA, specifically:

(a) That subdivision must be a controlled activity under clause 3 of Schedule 3A (SUB-DW-R9 is a restricted discretionary activity);

(b) That public and limited notification must be precluded under clause 5(3) of Schedule 3A to the RMA (SUB-DW-R9 does not preclude notification); and

(c) That there must be no minimum lot size or shape requirements (except for vacant allotments) under clause 8 of Schedule 3A (standard 2 under SUB-DW-R9 prescribes a minimum size and shape requirements for building platforms on allotments).

(441) Because the rule does not meet the requirements of Schedule 3A, it must be demonstrated that retaining the rule without amendment is necessary to provide for a qualifying matter. Because sand and peat soils are not mapped in the District Plan (and assessment as to whether there are sand or peat soils is undertaken on a site-specific basis), I do not consider it appropriate to retain the rule without amendment on the basis that the requirement under sections 77J(3)(a)(i) and 77P(3)(a)(i) of the RMA to demonstrate the area within the District

[167] This incorporates amendments proposed by PC(N) to reference the Council's *Land Development Minimum Requirements* under matter of discretion 4.

that is subject to the qualifying matter (in this case, the location of sand and peat soils) is not met.

(442) To comply with the requirements of Schedule 3A to the RMA, I therefore consider it necessary to amend rule SUB-DW-R9 as follows:

(a) To amend the activity status from restricted discretionary to controlled;

(b) To preclude public and limited notification from the rule;

(c) To remove standard 2 from the rule.

(443) In relation to standard 2, I note that Leith Consulting Ltd requested amendments to the standard to reduce the minimum dimension of building areas required to be identified (or alternatively to include building areas that match those identified on detailed building plans submitted at the time of subdivision). Given that Plan Change 1B removed the management of liquefaction hazard in relation to the construction of new buildings from the District Plan, it is not clear to me why standard 2 is necessary at all given that building design in relation to liquefaction hazard is managed under the Building Code (as discussed above). If control over building location as part of subdivision is considered necessary because of geotechnical investigations, then appropriate conditions to this effect can be imposed under matters of control 1, 2 or 3. On this basis, I consider it more appropriate to remove standard 2 from the rule (rather than reduce its application in the manner requested by Leith Consulting Ltd).

(444) Regarding controlled activity status, I am not concerned that this limits the Council's ability to decline consent in appropriate circumstances. If the geotechnical investigations undertaken under the rule identify that there is a significant risk from liquefaction hazard such that it would be appropriate to decline the subdivision consent, then the Council has the power to do so under section 106 of the RMA.

(445) In relation to the request by Landlink that rule SUB-DW-R9 is removed from the plan, I do not consider this to be appropriate. While Plan Change 1B removed the land use rule for liquefaction hazard (for the reasons discussed above), it did not remove the subdivision rule explicitly because the Building Code does not manage liquefaction hazard in relation to subdivision. I consider removing SUB-DW-R9 from the District Plan would be inappropriate on this basis. In any case, I do not consider removing the rule to be necessary, on the basis that I consider my recommended amendments to the rule ensure that it complies with the requirements of Schedule 3A to the RMA.

**Recommendations**

(446) For the reasons outlined above, I recommend that:

(a) The requests by **Toka Tū Ake EQC** that liquefaction is identified as a qualifying matter, and that the Greater Wellington Regional Council's liquefaction hazard maps are incorporated into the District Plan as an overlay [S101.01, S101.02] are **not accepted**;

(b) The request by **Leith Consulting Ltd** that the existing rule for subdivision on sand and peat soils (rule SUB-DW-R9) are amended to align with the MDRS [S202.08] is **accepted in part** by:

(i) Amending the activity status of the rule from restricted discretionary to controlled;

(ii) Precluding public and limited notification from the rule;

(iii) Deleting standard 2 from the rule;

(c) The request by **Landlink** that SUB-DW-R9 is removed from the District Plan entirely [S206.06] is **not accepted**.

**Section 32AA evaluation**

(447) In relation to the amendments to rule SUB-RES-R9 in response to the submission of Leith Consulting Ltd [S202.08], I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because:

(a) They are necessary to ensure that rule SUB-DW-R9 meets the requirements of Schedule 3A of the RMA.

(b) They continue to provide for the management of liquefaction hazard in relation to subdivision, in a manner that is consistent with District Objective DO-O5, by continuing to provide that geotechnical assessment is undertaken on land with sand or peat soils, and by continuing to provide for appropriate conditions to be imposed on subdivision through matters of control. Where subdivision is determined to be inappropriate because of liquefaction hazard identified through geotechnical assessment, then the Council retains the power to decline the consent under section 106 of the RMA.

(c) The amendment to remove standard 2 is consistent with Plan Change 1B, which removed the management of liquefaction hazard in relation to the construction of buildings on the basis that this matter is managed through the New Zealand Building Code. Removal of standard 2 avoids unnecessary duplication with a matter that is addressed through the New Zealand Building Code.

### *4.10.3 Other matters*

(448) Several submissions raise general matters related to the way in which PC(N) provides for qualifying matters. These submissions include:

- **Rowan, Jennifer** [S049];
- **Jonas, Malu** [S054];
- **Transpower New Zealand Limited** [S076];
- **Fire and Emergency New Zealand** [S089];
- **Greater Wellington Regional Council** [S097];
- **Toka Tū Ake EQC** [S101];
- **Land Matters Limited** [S107];
- **Kāinga Ora Homes and Communities** [S122];
- **Retirement Villages Association of New Zealand Incorporated (RVA)** [S197];
- **Leith Consulting Ltd** [S202];
- **Landlink** [S206].

(449) The general matters raised by these submissions include:

(a) The identification of qualifying matters in the District Plan (including through the definition of *qualifying matter area* proposed by PC(N));

(b) Appropriate recognition of the constraints imposed by qualifying matters within District Plan objectives and policies;

(c) Reduction of building heights in areas adjacent to sites and areas of significance to Māori;

(d) The identification of tsunami hazard as a qualifying matter;

(e) The relationship between land use and subdivision rules for natural hazards;

(f) The method of providing for qualifying matters (through overlays or precincts);

(g) Clarification of the relationship between the MDRS and qualifying matters that are provided for through District Plan overlays.

(450) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

## 4.11 Qualifying Matters – Coastal Qualifying Matter Precinct

*Author: Andrew Banks*

### *4.11.1 Matters raised by CRU submissions*

(451) The following section evaluates a group of submissions that I refer to as the 'CRU' submissions. 'CRU' is an acronym used by the submitters to refer to the Coastal Ratepayers United Incorporated. I have considered the submissions as a group because:

(a) They are similarly worded;

(b) They all refer to the submission of CRU as part of stating their reasons for the decisions requested;

(c) The decisions requested across all submissions in the group are the similar.

(452) There are 41 submissions in this group, comprised of the following submitters:

- **Grattan Investments Ltd** [S030];
- **Jones, Peter and Paul, Heather** [S034];
- **Hazlitt, Joanne** [S035];
- **Hazlitt, David** [S036];
- **Heyne, Axel** [S044];
- **Driver, Hugh** [S048];
- **McIntyre, Andrew** [S055];
- **Camp, Rod** [S056];
- **Scholl, Stephan** [S057];
- **Davis, Briony and Lloyd** [S058];
- **Feast, Deborah** [S059];
- **Feast, John** [S060];
- **Pritchard, Mary** [S062];
- **Pritchard, Stuart** [S063];
- **Woon, James** [S065];
- **Bismark, Matthew** [S066];
- **Brewerton, Paul** [S070];
- **Wyatt, Warwick** [S072];
- **Brain, Peter** [S075];
- **Mealings, Marion** [S080];
- **Mealings, Michael** [S081];
- **Bevin, Helen** [S083];
- **Bevin, Thomas** [S084];

- **Starr, Alex** [S090];
- **Antcliff, Norman** [S092];
- **Berthold, Thomas and Fiona** [S095];
- **Brady, Diane and Steve** [S096];
- **Herrington, Garry** [S113];
- **Coastal Ratepayers United Inc** [S119];
- **Brown, Melissa** [S120];
- **Gunston, Robin** [S121];
- **Wakem, Leon** [S129];
- **Robertson, David** [S165];
- **Munro, Steven** [S166];
- **Smail, David** [S169];
- **Clode, Brian** [S172];
- **Smith, John** [S173];
- **Padamsey, Salima** [S176];
- **Dunmore, Paul** [S179];
- **Chrisp, Prue** [S214];
- **Coastal Ratepayers United Inc** [S219].

(453) There are two submissions from CRU (S119 and S218), however for the avoidance of doubt I have primarily considered the reasoning contained S218 as part of undertaking my evaluation because:

(a) S218 contains substantive reasoning for the decisions requested; and

(b) In stating its reasons for the decisions requested, S119 refers to the submission of CRU (which I consider must be a reference to S218).

**Matters raised by submitters**

(454) The submitters oppose the Coastal Qualifying Matter Precinct for several reasons, including:

(a) That the basis for the precinct is the report *Kāpiti Coast Coastal Hazards Susceptibility and Vulnerability Assessment Volume 2: Results* (Jacobs, 2022)[168];

(b) That the approach does not properly apply policies 24 and 25 of the NZCPS;

(c) That the approach does not properly interpret or apply section 6 of the RMA;

[168] Refer https://www.kapiticoast.govt.nz/media/pwynpxj1/coastal-hazard-technical-assessment-technical-report-volume-2-report.pdf

(d) That the Council has adopted an inconsistent approach to qualifying matters by adopting a Coastal Qualifying Matter Precinct for coastal erosion (but not other matters).

(455) The submitters request that the Coastal Qualifying Matter Precinct is deleted and replaced with:

(a) A new enlarged area based on further advancing NZCPS objectives and policies already addressed in the District Plan, which at a minimum would include all land identified as the "Adaptation Area" in the Takutai Kāpiti GIS Map Viewer[169] (identified as submission point SXXX.01 for each of the relevant submissions in Appendix B); or

(b) An area that only includes land that is currently identified in the District Plan as within the 'no build' and 'relocatable' coastal hazard zones (identified as submission point SXXX.02 for each of the relevant submissions in Appendix B).

**Assessment**

*Background – the purpose and function of the Coastal Qualifying Matter Precinct*

(456) Before assessing the matters raised by the submitters, I briefly summarise the purpose of the Coastal Qualifying Matter Precinct as described in PC(N). This description is a summary only, and I refer readers to section 6.1.3 of the Section 32 Evaluation Report for a full description of the purpose of the precinct, its impacts on the provision of development capacity and alternatives approaches considered.

(457) The Coastal Qualifying Matter Precinct applies in the General Residential Zone as well as small parts of the Town Centre and Local Centre Zones. The purpose of the Coastal Qualifying Matter Precinct is described in a statement included in the introduction to the relevant zone chapters, which states:

> *The Coastal Qualifying Matter Precinct covers parts of the Zone near to the coast that have been identified as being potentially susceptible to coastal erosion hazard. The purpose of this precinct is to identify the area within which the level of subdivision and development otherwise required by the Medium Density Residential Standards and policy 3 of the NPS-UD will not be enabled until the management of coastal hazards is addressed through a future coastal environment plan change. The precinct and the provisions associated with it will be reviewed as part of this future plan change process.*

[169] This is referred to as the Takutai Kāpiti Coastal Hazard Susceptibility Assessment, which can be found at https://maps.kapiticoast.govt.nz/portal/apps/storymaps/stories/dbc000c7263f4d63b8978047ed0e826b

(458) As outlined in the Section 32 Evaluation Report, the reference to a "future plan change process" is a key aspect of the purpose of the precinct. Prior to the introduction of the NPS-UD and the MDRS, the Council initiated (in 2019) the *Takutai Kāpiti Coastal Adaptation Project*, which is a "collaborative, community-led process working in partnership with iwi" for "developing solutions and pathways for adapting to coming change"[170]. In relation to future changes to the District Plan, the report notes that "the recommendations of the Takutai Kāpiti project will assist the Council in the development of District Plan provisions to manage a range of coastal environment issues, including coastal hazards. A coastal environment plan change will be notified after considering the recommendations from the Takutai Kāpiti project, and after consulting widely on draft plan change provisions". The Council's LTP includes provision for a future coastal plan change[171].

(459) The Section 32 Evaluation Report summarises the purpose and function of the precinct as:

> *to maintain the status quo level of development enabled by the provisions of the operative District Plan in the relevant area, to ensure that the management of coastal hazards can be appropriately addressed through the future coastal environment plan change process, while avoiding intensification in areas that may need to be subsequently reversed as part of this process*[172]

(460) Functionally the Coastal Qualifying Matter Precinct maintains the status quo level of development by retaining existing rules for land use and subdivision in the area covered by the Precinct (albeit PC(N) amends these existing rules to remove parts of the rule that are not relevant to the areas within the Precinct). I also note that within the Coastal Qualifying Matter Precinct, PC(N) does not introduce any new rules that restrict development to less than what is provided for by the Operative District Plan.

(461) The counterfactual approach is to have no Coastal Qualifying Matter Precinct and to apply the MDRS and Policy 3 of the NPS-UD to the area, while relying on "existing 1999 District Plan coastal yards"[173] to manage development in relation to coastal erosion hazard. This approach was evaluated in the Section 32 Evaluation Report[174] and was not considered to be an appropriate approach in part because "these provisions are more than 20 years old, and do not align with the evidence about the potential nature and scale of coastal erosion hazard in the district"[175]. In summarising the evaluation of this option, the Report considers that the

[170] Section 32 Evaluation Report, p.153.
[171] Kāpiti Coast District Council. (2021). *Long-term Plan 2021-41*. P.254.
[172] Section 32 Evaluation Report, p.153.
[173] These lines are identified in rule D1.2.1 of the Coastal Environment chapter of the Operative Kapiti Coast District Plan 2021, and are identified as the "20m Building Line Restriction" and "30m Relocatable Area" lines on the "District Plan 1999 Features" layer of the Operative Kapiti Coast District Plan 2021 map viewer.
[174] This option is identified as Option 2 in the evaluation of alternatives to the Coastal Qualifying Matter Precinct outlined in section 8.3.2 of the Section 32 Evaluation Report.
[175] Section 32 Evaluation Report, p.221

existing 1999 District Plan coastal yards are not "an appropriate planning regime for managing risks associated with more intensive urban development in relation to coastal erosion hazard"[176].

(462) The proposed policies[177] associated with the Coastal Qualifying Matter Precinct indicate that this gap will be addressed through a future coastal environment plan change (as discussed at para (458) above). The Section 32 Evaluation Report identifies that the Coastal Qualifying Matter Precinct is intended as an interim measure, and "it is expected that the purpose, extent and provisions associated with the precinct will be reviewed as part of the future coastal environment plan change process"[178].

*Has the Jacobs assessment been appropriately used?*

(463) The Section 32 Evaluation Report states that "the spatial extent of the precinct has been determined based on *Kāpiti Coast Coastal Hazards Susceptibility and Vulnerability Assessment Volume 2: Results* (Jacobs, 2022)". I refer to this report as the Jacobs Assessment. Pages 154-156 of the Section 32 Evaluation Report provides an explanation of the assessment and how the information within it has been used to inform the spatial extent of the precinct. In summary, the assessment identifies areas potentially susceptible to coastal erosion out to 2120 by identifying a range of "projected future shoreline positions" based on various relative sea level rise scenarios.

(464) Mr Todd, who was the technical lead of the team that prepared the Jacobs Assessment, outlines the purpose of the assessment, its intended use, and the methodology used to prepare it, in his statement of evidence.

(465) The submitters consider that using the results of the Jacobs Assessment as part of PC2 is "speculative and premature", and state two reasons[179]:

(a) That further analysis on risks from the hazard are required before the assessment is used;

(b) That the assessment "has not been subject to public submissions, nor have the results been tested under a technical merits review".

(466) I consider that neither of these matters preclude the use of a technical assessment as part of the preparation of a plan change or as part of undertaking a section 32 evaluation. However, for completeness I respond to both reasons.

[176] Section 32 Evaluation Report, p.223.
[177] See GRZ-Px7, TCZ-Px1 and LCZ-Px1.
[178] Section 32 Evaluation Report, p.153.
[179] S219, para 8.

(467) In relation to the first reason, a key consideration of risk related to coastal erosion hazard, as outlined in the Section 32 Evaluation Report, is the risk of acting or not acting if there is uncertain or insufficient information about the management of the hazard. While the potential for coastal erosion hazard to occur is clearly stated in the Jacobs assessment, methods to manage the risks that arise from this hazard are not[180]. Rather, developing methods to manage the risks associated with coastal hazards is the task of the Takutai Kāpiti project, which has yet to come to any conclusions on this matter. As a result, there is uncertainty as to how the risks that arise from coastal erosion hazard will be managed in the District Plan in future, and this uncertainty is a material factor in considering the range of options for incorporating the MDRS and giving effect to Policy 3 of the NPS-UD in areas near the coastline.

(468) The risk of acting or not acting is assessed in the Section 32 Evaluation Report in relation to two of the options associated with the Coastal Qualifying Matter Precinct:

(a) Option 2: no Coastal Qualifying Matter Precinct[181]; and

(b) Option 3: apply a Coastal Qualifying Matter Precinct, but with a spatial extent reduced to a more seaward projected future shoreline position identified in the Jacobs' Assessment[182].

(469) In relation to both of these options, the Section 32 Evaluation Report states that there is uncertain or insufficient information and that the risk of acting is high for several reasons, including:

- "The Takutai Kāpiti community planning process, and subsequent coastal environment plan change process, have not made recommendations on, or evaluated, how coastal erosion hazard would be managed in each of the areas identified as potentially susceptible to coastal erosion hazard";
- Specifically in relation to Option 3, "in the absence of any information on appropriate methods for managing the risks of coastal erosion hazard within each of the areas identified in the Jacobs' Assessment, it is not certain which of the more seaward projected future shorelines would form an appropriate boundary for enabling intensification".

(470) The Section 32 Evaluation Report also identifies that there is a risk that both options increase the costs associated with implementing future coastal hazard management methods. Specifically in relation to Option 3, by predetermining which of the more seaward projected

[180] This is clearly identified in the Jacobs assessment, which states that "for some uses, further analysis on risks from the hazard are required (e.g. for the review of coastal hazard planning provisions in the District Plan)". See: Jacobs. (2022). *Kāpiti Coast Coastal Hazards Susceptibility and Vulnerability Assessment Volume 2: Results*. P.13.
[181] Section 32 Evaluation Report, pp.221-223.
[182] Section 32 Evaluation Report, pp.223-224.

future shoreline positions represents an appropriate boundary for enabling intensification, this option risks reducing the scope of options that can be considered by the Takutai Kāpiti project or making some of those options more costly to implement (because intensification may have already occurred in those areas).

(471) So, in relation to the first reason included in the submission, in my view the risks associated with intensification in the context of coastal erosion hazard are considered in the evaluation of options for the Coastal Qualifying Matter Precinct. In particular, this includes consideration of the risk of acting to incorporate the MDRS and give effect to Policy 3 of the NPS-UD in the absence of an appropriate regime for managing the risks that arise from coastal erosion hazard, acknowledging that this matter is actively being addressed through a separate planning process designed for this purpose. I therefore consider that risks that arise from coastal erosion hazard (or more specifically, the lack of appropriate management of these risks in the operative District Plan, and the separate planning process that has been initiated to address this), have been considered alongside the use of the base data contained within the Jacobs assessment to inform the evaluation of options for the Coastal Qualifying Matter Precinct as part of PC(N).

(472) In relation to the second reason included in the submission, it is not a requirement under Schedule 1 of the RMA for technical assessments to be subject to public submissions as part of the preparation of the assessment, or for them to be subject to peer review, prior to their use as part of a plan change process. Notwithstanding this, I note that:

(a) Use of the Jacobs assessment as base data to inform the Coastal Qualifying Matter Precinct was identified in draft PC2, which was subject to public submissions during April and May 2022;

(b) As identified by Mr Todd in his evidence, the methodology and results of the assessment were externally peer reviewed by appropriately qualified and experienced specialists[183].

(473) In summary, I consider that the Jacobs Assessment has been used appropriately as base data to inform the spatial extent and evaluation of options for the Coastal Qualifying Matter Precinct, and that its use for a district planning purpose has been subject to appropriate analysis, particularly as it relates to the risks of acting or not acting associated with the range of options evaluated. While not required by Schedule 1 of the RMA, its use as base data for the Coastal Qualifying Matter Precinct was open for public submissions as part of consultation on draft PC2, and the assessment itself was externally peer reviewed by appropriately qualified and experienced specialists. I therefore do not consider that it is "speculative or

[183] Evidence of Mr Todd, para. 28.

premature" (as the submission puts it) to use the assessment in the manner that it has been used as part of PC2.

*Policies 24 and 25 of the New Zealand Coastal Policy Statement*

(474) The Section 32 Evaluation Report states that the Coastal Qualifying Matter Precinct is a qualifying matter under sections 77I(b) and 77O(b) of the RMA (that is, "a matter required in order to give effect to… the New Zealand Coastal Policy Statement 2010"). The report goes on to state that the precinct is "required to ensure that PC2 does not reduce the degree to which the District Plan gives effect to policy 25" of the NZCPS[184].

(475) The submitters consider that the Coastal Qualifying Matter Precinct is not a qualifying matter under section 77I(b) of the RMA because "the Council's approach does not implement policy 24 and is premature in terms of policy 25"[185]. The submitters also consider that the Jacobs Assessment "does not give effect to NZCPS Policy 24 – Hazard identification, and therefore any of its outputs cannot be used to implement or address NZCPS Policy 25"[186], and provide a detailed analysis of how they consider policy 24 has not been given effect to by the Jacobs Assessment.

(476) I make several points in response to this. Firstly, I disagree with the characterisation that a technical assessment somehow does not give effect to policy 24 of the NZCPS. A technical assessment, in and of itself, is not a planning instrument. Rather, it provides information to inform (amongst a range of matters as part of the section 32 evaluation) a plan change process under Schedule 1 of the RMA. It is the planning instrument and the plan change process, not the technical assessment, that gives effect to the objectives and policies of higher-order planning documents.

(477) Notwithstanding this, I note that Mr Todd, in his evidence, identifies that the Jacobs assessment has regard to the eight factors to which assessments of coastal hazards are required to have regard under policy 24[187].

(478) Secondly, as I understand it, the submitters consider that the basis for determining the Coastal Qualifying Matter Precinct is contrary to policy 24, because the scenario from the Jacobs Assessment used to identify the spatial extent of the precinct is not itself based on a likely effect of climate change (I refer to this scenario as the 'landward scenario'). This scenario is described in the Section 32 Evaluation Report as the "most landward scenario modelled by Jacobs, and while it is described as highly unlikely, it does have the potential to occur"[188].

[184] Section 32 Evaluation Report, p.153.
[185] S219, para 18.
[186] S219, para 10.
[187] Statement of evidence of Mr Todd, para. 14.
[188] Section 32 Evaluation Report, p.155.

(479) The submission states that "policy 24 does not require that unlikely or "highly unlikely" hazards be identified"[189]. I disagree with this statement. Policy 24 requires the identification of areas *potentially affected* by coastal hazards. While priority is to be given to identifying areas at high risk of being affected, this does not preclude the identification of an area that is unlikely to be (but still potentially) affected by a coastal hazard. Clearly though, the use of an unlikely scenario must be justified as being appropriate in relation to both the plan change at hand, and the other policies in the NZCPS that are relevant to coastal hazards, in particular, policy 25.

(480) Policy 25 of the NZCPS seeks that:

> *In areas potentially affected by coastal hazards over at least the next 100 years:*
>
> *a. avoid increasing the risk of social, environmental and economic harm from coastal hazards;*
>
> *b. avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards…*

(481) As outlined in the previous section, the absence of appropriate provisions for the management of coastal erosion hazard in the District Plan, alongside the fact that this matter is being actively considered through a separate planning process, are notable considerations in the evaluation of options for the Coastal Qualifying Matter Precinct outlined in the Section 32 Evaluation Report. They are also notable considerations in the analysis of how the spatial extent for the Coastal Qualifying Matter Precinct included in PC(N) was determined. The Section 32 Evaluation Report evaluates the range of 'potential future shoreline position' scenarios within the Jacobs Assessment and concludes that the landward scenario is the most appropriate scenario in the circumstances. While the landward scenario is described as unlikely (but possible), the report specifies three reasons for its use[190]:

- *It represents an area potentially affected by coastal erosion hazard over at least the next 100 years;*
- *It ensures that PC2 does not reduce the degree to which the District Plan gives effect to policy 25 of the NZCPS in areas potentially affected by coastal erosion hazard over at least the next 100 years;*
- *Because it is the most landward of the scenarios modelled, it retains the greatest degree of flexibility for the Takutai Kāpiti and future coastal environment plan change process to determine an appropriate hazard*

[189] S219, para 17.
[190] Section 32 Evaluation Report, p.155.

*management regime within all areas identified as being potentially susceptible by the Jacobs assessment.*

(482) Therefore, I do not consider it the approach taken by PC(N) to be "premature in terms of policy 25" (as the submission puts it) because, having identified that:

(a) there is a part of the district that is *potentially affected* by coastal erosion hazard (as outlined in the Jacobs assessment); and

(b) that there is an absence of appropriate provisions in the District Plan for the management of coastal erosion hazard in that area;

it is consistent with policy 25 of the NZCPS that the MDRS and Policy 3 of the NPS-UD are not applied in that area (being the Coastal Qualifying Matter Precinct). This is reinforced by the evaluation of alternatives, all of which were found to be less consistent with policy 25 of the NZCPS[191].

(483) For the avoidance of doubt, I consider that the use of the landward scenario outlined in the Jacobs assessment as a means if determining the spatial extent of the Coastal Qualifying Matter Precinct is only justified in the context of PC2 because PC(N) does not propose to change the status quo within the precinct. If PC(N) proposed provisions that were more restrictive than the status quo (which it does not), the rationale for using the landward scenario may not hold, as there is currently insufficient information to justify a more restrictive approach. This observation reinforces the purpose of the Precinct, which, as stated previously, is to maintain the status quo level of development so that information on how to appropriately manage coastal erosion hazard can be developed through a separate planning process that is already underway (Takutai Kāpiti and the subsequent future coastal environment plan change). In this context, not only is the Coastal Qualifying Matter Precinct consistent with policy 25 of the NZCPS, but it is also, in my view, a necessary part of an ongoing process of giving effect to it.

(484) In addition to this, I note that the National Adaptation Plan[192] (which was published after the Council's decision to notify PC(N)) recommends that Councils consider a range of climate change scenarios when changing district plans[193]. The National Adaptation Plan refers to interim guidance published by the Ministry for the Environment in July 2022 to assist with the consideration of appropriate climate change scenarios for various land use planning

[191] This included evaluating the use of a more seaward scenario outlined in the Jacobs assessment (as outlined under the evaluation of Option 3 on pages 223 and 224 of the Section 32 Evaluation Report), as well as evaluating alternative sources of information for informing the spatial extent of the Coastal Qualifying Matter Precinct (as outlined in Appendix U to the Section 32 Evaluation Report).
[192] Since 30 November 2022, territorial authorities are required have regard to the National Adaptation Plan when changing a District Plan. See section 74(2)(e) of the RMA. For the National Adaptation Plan, see: Ministry for the Environment. (August 2022). *Aotearoa New Zealand's first national adaptation plan.* https://environment.govt.nz/assets/publications/climate-change/MFE-AoG-20664-GF-National-Adaptation-Plan-2022-WEB.pdf
[193] Ministry for the Environment. (August 2022). *Aotearoa New Zealand's first national adaptation plan.* Pp. 68-69.

purposes[194]. Mr Todd outlines the relevant aspects of this guidance in his statement of evidence[195].

(485) As outlined by Mr Todd[196], of relevance to PC2 is the part of the Ministry for the Environment guidance that states that immediate decisions related to intensification should use "medium confidence sea-level rise out to 2130 and the SSP5-8.5 H+ (83rd percentile SSP-8.5 or p83) scenario that includes the relevant [vertical land movement] for the local/regional area"[197]. Mr Todd goes on to explain that the differences between the scenario recommended by the MfE guidance and the scenario used in the Jacobs assessment are insignificant[198]. On this basis, I consider that the use of the landward scenario in the Jacobs assessment to determine the spatial extent of the Coastal Qualifying Matter Precinct is consistent with the Ministry for the Environment guidance on this matter, and therefore consistent with the recommendations of National Adaptation Plan.

(486) In summary, for the reasons stated above, I disagree with the position outlined in the submission that "the Council's approach does not implement policy 24 and is premature in terms of policy 25" of the NZCPS[199]. I consider that policy 24 requires the identification of areas *potentially affected* by coastal hazards, and this does not preclude the identification of an area potentially affected by coastal erosion hazard just because it is unlikely (but still possible) that that area would be affected, so long as it is appropriately justified in the context of the plan change. In the case of the use of the landward scenario in the Jacobs Assessment, I consider this is justified based on the evaluation of a range of alternative approaches outlined in the Section 32 Evaluation Report. Because, in the context of PC2, the alternatives considered have been demonstrated to be inconsistent with policy 25 of the NZCPS, I do not consider that the approach taken is "premature" in relation to policy 25. In fact, I consider the approach is a necessary part of an ongoing process of giving effect to policy 25, because it provides for the Takutai Kāpiti project (and subsequent plan change process) to consider a range of options for managing the risks that arise from coastal erosion hazards, within all areas identified as being potentially susceptible to coastal erosion hazard outlined in the Jacobs assessment.

(487) I also consider that the approach taken by PC(N) in relation to the Coastal Qualifying Matter Precinct is consistent with the National Adaptation Plan.

[194] Ministry for the Environment. July 2022. *Interim guidance on the use of new sea-level rise projections.* See: Interim-guidance-on-the-use-of-new-sea-level-rise-projections-August-2022.pdf (environment.govt.nz)
[195] Statement of evidence of Mr Derek Todd, paras 29-35.
[196] Statement of evidence of Mr Derek Todd, para 34.
[197] Refer to row B of Table 3 in: Ministry for the Environment. July 2022. *Interim guidance on the use of new sea-level rise projections,* pp.18-19.
[198] Statement of evidence of Mr Derek Todd, para. 39.
[199] S219, para 18.

*Section 6 of the RMA*

(488) The submissions state that because, in their view, the landward boundary of the Coastal Qualifying Matter Precinct does not give effect to the NZCPS, it is "not "*necessary to accommodate"* (RMA section 77I) section 6 (h) of the RMA"[200]. I consider this to be a moot point. Section 6(h) of the RMA[201] is not identified as the basis for the Coastal Qualifying Matter Precinct. Rather, the Coastal Qualifying Matter Precinct is identified as matter necessary to give effect to the coastal hazard provisions of the NZCPS (in particular policy 25, as outlined above). Consequently, it is a qualifying matter under sections 77I(b) and 77O(b)) of the RMA[202].

(489) The submissions also state that "the Council has failed to recognise and provide for the matters set out in RMA section 6 (a)"[203]. For same reason as stated at para (488) above, I consider that section 6(a) is not relevant to the Coastal Qualifying Matter Precinct. However, section 6(a) is a matter that has been raised by other submitters in relation to PC(N), and I address it in further detail in section 4.11.2 of this report.

*Is the Coastal Qualifying Matter Precinct an inconsistent approach?*

(490) Finally, as I understand it, the submitters consider that the Coastal Qualifying Matter Precinct is an inconsistent approach because:

(a) "The Council's approach to coastal erosion hazard is inconsistent with its approach to other natural hazards"[204]; and

(b) In relation to other policies in the NZCPS, the approach does not provide for policies 6, 7 and 14 in particular[205].

(491) Addressing firstly the matter of whether the Coastal Qualifying Matter Precinct is inconsistent with the approach taken to other natural hazards, I note that for flood hazards and earthquake hazards, these matters are addressed as 'existing qualifying matters' by retaining existing district plan rules relevant to these matters[206]. As discussed at para (461), this approach was considered as an option for addressing coastal erosion hazard as part of PC2, but the existing 1999 District Plan coastal yards were not considered to be "an appropriate planning regime

[200] S219, para 20.
[201] Section 6(h) of the RMA relates to "the management of significant risks from natural hazards".
[202] Section 32 Evaluation Report, p.154.
[203] S219, para 21.
[204] S219, para 27.
[205] S219, paras 30-34. I also note that at para 39, policies 1, 13 and 19 of the NZCPS are also cited. I do not consider that policies 1 or 19 are relevant to PC2 to the extent that they would justify a qualifying matter. However, Policy 13 is directive in terms of preserving and protecting the natural character of the coastal environment, and that this is given effect to through policies and rules in the Coastal Environment chapter of the operative District Plan for 'areas of outstanding natural character' and 'areas of high natural character' in the coastal environment. I address this under section 4.11.2, where I discuss matters associated with section 6(a) of the RMA.
[206] Refer to section 6.1.1 of the Section 32 Evaluation Report for further explanation. Refer also to sections 0 and 4.10.2 of this report for further discussion on the approach to flood hazards and liquefaction hazards.

for managing risks associated with more intensive urban development in relation to coastal erosion hazard"[207]. On the other hand, in relation to coastal inundation hazard, the Section 32 Evaluation Report notes that there is a reasonable spatial correlation between the areas identified in the Jacobs Assessment as being potentially susceptible to coastal inundation and the mapped flood hazard category areas in the operative District Plan, and that "on this basis, for the purposes of PC2 this hazard is considered to be appropriately managed by existing District Plan provisions"[208]. I note however that in response to specific submissions on the matter of coastal inundation at Waikanae Beach and Peka Peka Beach, I do not consider this to be the case at Peka Peka Beach. I address this separately in response to these submissions at section 4.11.2 of this report (refer specifically to the "Assessment of Matter E" at paras. (536) to (544) of this report).

(492) In relation to policies 6, 7 and 14 of the NZCPS I consider that none of these policies are directive in the clear terms that Policy 25 is, such that a new qualifying matter would be justified to reduce the level of development otherwise required by the MDRS or Policy 3 of the NPS-UD in order to give effect to these policies. As discussed above, policy 25 directs district plans to "avoid" a particular outcome in relation to coastal hazards, and the Coastal Qualifying Matter Precinct is designed to give effect to this. Policies 6, 7 and 14 are not directive to the same extent, instead using terms such as "recognise", "consider", "encourage", "take into account" and so on. I further note that the Section 32 Evaluation Report identifies how PC(N) gives effect to the relevant aspects of policy 6.

(493) I therefore disagree that the Coastal Qualifying Matter Precinct represents an inconsistent approach, because, in relation to incorporating the MDRS and giving effect to Policy 3 of the NPS-UD:

(a) Coastal erosion is a hazard that is otherwise not appropriately addressed by the natural hazard provisions of the operative District Plan;

(b) Unlike Policies 6, 7 and 14, Policy 25 of the NZCPS provides clear direction to avoid a particular outcome in relation to coastal hazards.

*Are 'adaptation areas' an appropriate method of determining the Coastal Qualifying Matter Precinct?*

(494) I now address the specific relief requested by the submissions. Firstly, I address the request to delete the Coastal Qualifying Matter Precinct proposed in PC(N) and replace with an area that includes land identified as the 'Adaptation Area' in the Takutai Kāpiti GIS Map Viewer

[207] Section 32 Evaluation Report, p.223.
[208] Section 32 Evaluation Report, p.156.

maps (identified as submission point SXXX.01 for each of the relevant submissions in Appendix B, where XXX is the relevant submission number).

(495) As I understand it, the 'adaptation areas' referred to by the submitters are those identified in the report: *Takutai Kāpiti: Coastal hazards adaptation decision-making framework*[209]. This report "set[s] out the tasks and process that CAP [the Takutai Kāpiti 'Coastal Advisory Panel'] will follow in order to produce their coastal hazard adaptation recommendations"[210]. The report defines the 'adaptation areas' as being "areas within the Kāpiti District where adaptation pathways for coastal hazards will be developed by the CAP"[211]. The report identifies that the areas were created based on the following factors[212]:

- Similarities in the susceptibility and vulnerability to coastal hazards
- Similarities in local processes occurring (e.g., sediment supply, sediment transport)
- Density of population and infrastructure
- Present day coastal management practices (e.g., structured/non-structured)
- Limit of coastal influence on flooding and groundwater levels
- Common catchments.

(496) I consider that the 'adaptation areas' are a less appropriate means of defining the spatial extent of the Coastal Qualifying Matter Precinct for two reasons. Firstly, the areas have been created for the purposes of identifying general areas of consideration for the Takutai Kāpiti planning process. Their spatial extent has been determined based on the consideration of a wide range of factors, as described above. While some of these factors (for example, susceptibility to coastal hazards) could be considered as qualifying matters in the terms set out under sections 77I and 77O of the RMA, I consider that other factors related to environmental or planning processes more broadly do not clearly relate to the qualifying matters listed under either of these sections. Further, the purpose of the 'adaptation areas' is to define general administrative boundaries for the Takutai Kāpiti planning process, not to identify qualifying matters. As a result, it is not clear that all land within the 'adaptation areas' is subject to a qualifying matter.

(497) Secondly, the 'adaptation areas' are considerably larger than the Coastal Qualifying Matter Precinct provided for under PC(N) (see Figure 12). I note that the Coastal Qualifying Matter Precinct in PC(N) covers approximately 6.1% of the total area of General Residential Zone, whereas the 'adaptation areas' cover 52% of the General Residential Zone.

[209] Jacobs. (6 July 2022). *Takutai Kāpiti: Coastal hazards adaptation decision-making framework*. See: https://takutaikapiti.nz/wp-content/uploads/2020/01/IS355300-NC-RPT-0005-0-Kapiti-Coast-Coastal-Adaptation-Decision-Making-Framework.pdf
[210] Jacobs. (6 July 2022). *Takutai Kāpiti: Coastal hazards adaptation decision-making framework,* p.2.
[211] Jacobs. (6 July 2022). *Takutai Kāpiti: Coastal hazards adaptation decision-making framework,* p.iii.
[212] Jacobs. (6 July 2022). *Takutai Kāpiti: Coastal hazards adaptation decision-making framework,* p.22.

*Figure 12: map showing the notified Coastal Qualifying Matter Precinct (in red) overlaid on the Takutai Kāpiti adaptation areas (shown in blue).*

(498) The effect of extending the Coastal Qualifying Matter Precinct to be based on the Takutai Kāpiti 'adaptation areas' would be to avoid incorporating the MDRS and giving effect to Policy 3 in more than half of the relevant areas of the District. While such an approach is not precluded outright, I do consider this would stretch the purpose of an IPI and would at the very least need to be supported by clear evidence that demonstrated why it was necessary to avoid incorporating the MDRS and giving effect to Policy 3 of the NPS-UD in such an extensive area to provide for a qualifying matter. However, based on the information contained in the submissions, I do not consider that a request of this scale or significance is justified as necessary to accommodate a qualifying matter in the terms required by sections 77J(3) or 77P(3) of the RMA. Specifically:

(a) In terms of sections 77J(3)(a) or 77P(3)(a), as outlined above I do not consider that it is demonstrated that all land within the 'adaptation areas' is subject to a qualifying matter, and I therefore do not consider that the level of development permitted by the MDRS or enabled by Policy 3 of the NPS-UD is not demonstrated to be "incompatible" (to use the term outlined in the RMA) with a qualifying matter in that area;

(b) In terms of sections 77J(3)(b) or 77P(3)(b), I consider that the extent of the area over which the MDRS and Policy 3 of the NPS-UD would not be applied is so great in proportion to the total extent of the General Residential Zone that it would be likely to have a significantly adverse impact on the provision of plan-enabled development capacity compared to PC(N); and

(c) In terms of sections 77J(3)(c) or 77P(3)(c), while the scale of costs associated with a loss of plan-enabled development capacity are likely to be greater compared to PC(N), it is not clear that there would be any further benefits in relation to giving effect to the natural hazard policies of the NZCPS (which is the purpose of the precinct).

(499) In summary, it has not been established that avoiding the application of the MDRS and Policy 3 of the NPS-UD within the Takutai Kāpiti 'adaptation areas' is necessary to accommodate a qualifying matter. I therefore consider that it would be inconsistent with the purpose of PC2, and of an IPI more generally, to amend the boundary of the Coastal Qualifying Matter Precinct to include the land located within the Takutai Kāpiti 'adaptation areas'.

*Are the 'no build' and 'relocatable building' lines an appropriate method of determining the Coastal Qualifying Matter Precinct?*

(500) As an alternative to a Coastal Qualifying Matter Precinct based on 'adaptation areas', the submitters request that if the Precinct is to be based on coastal hazards that this should include only the land and properties identified as being within the 'no build' and 'relocatable building' lines in the operative District Plan (identified as submission point SXXX.02 for each of the relevant submissions in Appendix B, where XXX is the relevant submission number).

(501) As outlined at para (461), this approach was considered as part of preparing PC(N). This option involves retaining the existing 1999 District Plan coastal yards outlined under rule D.1.2.1 in the Coastal Environment chapter of the operative District Plan as an existing qualifying matter. This approach includes:

(a) Construction of buildings within a yard set back 20m from the coastal edge as identified on the District Plan maps is a discretionary activity. This requirement applies at Paekākāriki, Raumati Beach, and a small sliver of the General Residential Zone to the north of Paraparaumu Beach;

(b) Buildings constructed between 20m and 50m from the coastal edge as identified on the District Plan maps must be relocatable. This requirement applies at Paekākāriki and Raumati Beach.

(502) This approach would apply to fewer parts of the District than the Coastal Qualifying Matter Precinct contained in PC(N) (the 1999 District Plan coastal yards only apply to parts of the district south of the Waikanae River estuary). Further, where the existing 1999 District Plan coastal yards do apply, their spatial extent is generally considerably less than that of the Coastal Qualifying Matter Precinct included in PC(N) (see Figure 13 as an example at Raumati South). This difference is reflected in the statement made in the Section 32 Evaluation Report that the provisions associated with the existing 1999 District Plan coastal yards "do not align with the evidence about the potential nature and scale of coastal erosion hazard in the district"[213].


*Figure 13: map showing the difference between the Coastal Qualifying Matter Precinct (red outline) and the 1999 District Plan coastal yards (dark blue lines). The solid blue line is the 20m yard setback, and the dashed blue line is the 50m relocatable building line. The General Residential Zone is shown in yellow.*

(503) As discussed at para (482), this approach was evaluated in section 8.3.2 of the Section 32 Evaluation Report (specifically option 2 on pages 221-223), which identified that it was not an appropriate method of achieving the objectives of the Plan Change, compared to the Coastal Qualifying Matter Precinct. Specifically, in light of the level of additional development that would be enabled, the evaluation identified that this approach would be contrary to Policy 25

[213] Section 32 Evaluation Report, p.221

of the NZCPS. I do not consider that the submissions provide any new information that would alter this conclusion.

*Summary*

(504) To summarise my assessment, in relation to the reasons given within the submissions for opposing the notified Coastal Qualifying Matter Precinct:

(a) I do not consider that it is "speculative or premature" to use the information contained in the Jacobs Assessment to inform the spatial extent of the Coastal Qualifying Matter Precinct. The report has been used for its intended purpose as "base hazard data" for a plan change process, and its use has been subject to evaluation under section 32 of the RMA.

(b) I disagree with the position stated in the submissions that "the Council's approach does not implement policy 24 and is premature in terms of policy 25" of the NZCPS. Policy 24 does not preclude the identification of an area potentially affected by coastal erosion hazard just because it is unlikely to occur, and in relation to PC2, this approach has been justified through analysis and evaluation contained in the Section 32 Evaluation Report, which concluded that, because the management of coastal erosion risks is being actively considered through a separate planning process, maintaining the status quo level of development in this area as part of PC2 is necessary as part of the overall process of giving effect to policy 25 of the NZCPS. This approach is also consistent with the recommendations of the National Adaptation Plan.

(c) Whether or not the Coastal Qualifying Matter Precinct is necessary as part of giving effect to section 6 of the RMA is moot because the Precinct is identified as being necessary as part of giving effect to policy 25 of the NZCPS, which is a qualifying matter under sections 77I(b) and 77O(b) of the RMA.

(d) I do not consider that the Coastal Qualifying Matter Precinct is an inconsistent approach, because it responds to a directive policy within the NZCPS (Policy 25) by addressing a coastal hazard (coastal erosion) that is otherwise not appropriately addressed by the natural hazard provisions in the Operative District Plan.

(505) In relation to the alternative approaches to the Precinct requested by the submissions:

(a) I do not consider it appropriate to amend the boundary of the Coastal Qualifying Matter Precinct to include all land within the Takutai Kāpiti 'adaptation areas', because it has not been established that avoiding the application of the MDRS and Policy 3 of the

NPS-UD within the Takutai Kāpiti 'adaptation areas' is necessary to accommodate a qualifying matter.

(b) The approach of relying on the existing 1999 District Plan coastal yard provisions as an existing qualifying matter is evaluated in the Section 32 Evaluation Report, which concluded that it would not be appropriate because it would be contrary to Policy 25 of the NZCPS.

**Recommendations**

(506) For the reasons outlined in my assessment, I recommend that:

(a) Submission points (identified as submission point SXXX.01 for each of the relevant submissions in Appendix B) that request that the Coastal Qualifying Matter Precinct is deleted and replaced with a new enlarged area based on further advancing NZCPS objectives and policies already addressed in the District Plan, which at a minimum would include all land identified as the "Adaptation Area" in the Takutai Kāpiti GIS Map Viewer are **not accepted.**

(b) Submission points (identified as submission point SXXX.02 for each of the relevant submissions in Appendix B) that request that the Coastal Qualifying Matter Precinct is deleted and replaced with an area that only includes land that is currently identified in the District Plan as within the 'no build' and 'relocatable' coastal hazard zones are **not accepted**.

### *4.11.2 Matters raised by Beach Residential submissions*

(507) The following section evaluates a group of submissions that I have referred to as the 'Beach Residential' submissions. I refer to these submissions as 'Beach Residential' submissions because the submissions generally refer to the Beach Residential Precincts provided for under the operative District Plan (and amended by PC(N)). I have considered the submissions as a group because they raise a range of similar matters and request similar decisions.

**Matters raised by submitters**

(508) The following section outlines the range of decisions requested by submitters across the 'Beach Residential' submissions. These are arranged into three themes, being: the Coastal Qualifying Matter Precinct; the Beach Residential Precincts; and the Local Centre Zone. I have described in general terms the decision requested under an alphabetical 'matter' heading, and then used a table to reconcile the submission points in each individual submission that relate to each of these identified matters.

(509) Submitters request several decisions in relation to the Coastal Qualifying Matter Precinct, including:

(a) **Matter A**: that the landward boundary of the Coastal Qualifying Matter Precinct be adjusted to be the landward boundary of the area identified as the Coastal Environment in the District Plan;

(b) **Matter B**: that the landward boundary of the Coastal Qualifying Matter Precinct be adjusted to be the landward boundary of the area identified as 'Adaptation Zones' in the Takutai Kāpiti Coastal Hazard Assessment maps;

(c) **Matter C**: that the Coastal Qualifying Matter Precinct is replaced with a precinct based on section 6(a) of the RMA, and which has a landward boundary being either the landward boundary of the Coastal Environment of the area identified as 'Adaptation Zones' in the Takutai Kāpiti Coastal Hazard Assessment maps;

(d) **Matter D**: that qualifying matter precincts are introduced to address flood hazards;

(e) **Matter E**: that the Coastal Qualifying Matter Precinct is amended to include areas at Waikanae Beach and Peka Peka Beach that are identified as being subject to inundation under various sea level rise scenarios identified in the KCDC Coastal Inundation Susceptibility Mapping Tool;

(510) Submitters request several decisions in relation to the Beach Residential Precincts, including:

(a) **Matter F**: that Beach Residential Precincts become 'Beach Residential Qualifying Matter Precincts', and that

(i) the operative District Plan provisions associated with the Beach Residential Precincts continue to apply; and

(ii) Residential Intensification Precinct B is removed from all Beach Residential Qualifying Matter Precincts.

(b) **Matter G**: that larger 'Beach Residential Qualifying Matter Precincts' are adopted based on a full landscape assessment of the coastal environment, particularly as it relates to Waikanae Beach.

(511) Submitters request several decisions in relation to the Local Centre Zone, including:

(a) **Matter H**: that the provisions of the Local Centre Zone are amended to give effect to a larger Coastal Qualifying Matter Precinct or Beach Residential Precinct;

(b) **Matter I**: that the District Plan maps are amended to identify a Local Centre Zone at Ngarara, and apply Residential Intensification Precinct B to a relevant walkable catchment at that centre;

(c) **Matter J**: that the Local Centre Zone at Te Moana Road (in Waikanae Beach) is rezoned to General Residential Zone, or alternatively that Residential Intensification Precinct B at Te Moana Road is limited to the Local Centre Zone itself, or a smaller zone to the east of the Waikanae Beach Residential Precinct.

(512) The following table outlines which of the matters outlined above relate to each individual submission point within the group:

| | **Submission point number** | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Matter** | **A** | **B** | **C** | **D** | **E** | **F** | **G** | **H** | **I** | **J** |
| **Manhire, William** [S015] | 01 | 02 | | | | 03 | | 04 | | |
| **Shroff, Gordon** [S017] | | 01 | | | | 02 | | | | |
| **Moxon, Christopher** [S019] | 01 | 02 | | | | 03 | | 04 | | |
| **Treadwell, Mical** [S020] | 01 | 02 | | | | 03 | | 07 | 04 | 05, 06 |
| **Cunningham, Stephen** [S021] | 01 | 02 | | | | 03 | | 07 | 04 | 05, 06 |
| **Cole, Pauline** [S029] | 01 | 02 | | | | 03 | | 07 | 04 | 05, 06 |
| **Whiteley, Timothy** [S038] | 01 | 02 | | | | 03 | | 07 | 04 | 05, 06 |
| **Poole, Joanna** [S040] | 01 | 02 | | | | 03 | | | | |
| **Poole, Quentin** [S050] | 01 | 02 | | | | 03 | | | | |
| **Dickson, Stuart and Fiona** [S061] | | | 01 | 02 | | 03 | 04 | 08 | 05 | 06, 07 |
| **Milne, Philip** [S064] | | | 01, 02 | 04 | | | | | | |
| **Manly Flats Limited** [S067] | | | 01, 02 | 04 | | | | | | |
| **Hazleton, Andrew** [S074] | | | 01 | 02 | | 03 | 04 | 08 | 05 | 06, 07 |

| | Submission point number | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Matter** | **A** | **B** | **C** | **D** | **E** | **F** | **G** | **H** | **I** | **J** |
| **Lynch, Winifred and Bruce** [S078] | 01 | 02 | | | | 03 | | 04 | | |
| **Houston, David** [S086] | 01 | 02 | | | | 03, 05 | | 04 | | |
| **Wiggs, Glen** [S098] | 01 | 02 | | | 03 | 04 | | | | |
| **Hollett, Stephen** [S102] | 01 | 02 | | | | 03 | | 04 | | |
| **Waikanae Beach Residents Society Inc** [S105] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Munro Duignan Trust** [S106] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Yager, Graeme** [S108] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Yager, Elizabeth** [S109] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Patterson, Andrena and Bruce** [S124] | | | 01 | 02 | | 03 | 04 | 08 | 05 | 06, 07 |
| **Rys, Susan** [S126] | 01 | 02 | | | | 03 | | 04 | | |
| **Cochrane, Andrew and Merus** [S127] | 01 | 02 | | | | 03 | | 04 | | |
| **Quentin Poole – Trustee** [S159] | 01 | 02 | | | | 03 | | | | |
| **Lee, Angela** [S162] | 01 | 02 | | | 03 | 04 | | | | |
| **Cooper, Dianne** [S163] | 01 | 02 | | | 03 | 04 | | | | |
| **Abernethy, Evan** [S174] | 01 | 02 | | | | 03 | | 04 | | |
| **Abernethy, Sally** [S175] | 01 | 02 | | | | 03 | | 04 | | |
| **Cathie, Richard** [S177] | 01 | 02 | | | | 03 | | 04 | | |

| | Submission point number | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Matter** | **A** | **B** | **C** | **D** | **E** | **F** | **G** | **H** | **I** | **J** |
| **O'Regan, John and Margaret** [S178] | 01 | 02 | | | | 03 | | 04 | | |
| **Nicholls, Gregory** [S181] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Tselentis, Evangelia** [S190] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Lambert, Nicholas** [S191] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Godwin, Laurian** [S199] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **George, Christopher** [S200] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **George, Andrew** [S201] | 01 | 01 | | | | 02 | 03 | 04 | | |
| **Landlink** [S206] | | | | | | | | | 03 | 03* |
| **Easterbrook-Smith, Sonja** [S211] | 01 | 02 | | | 03 | 04 | | | | |
| **Poole, Sally** [S219] | 01 | 02 | | | | 03 | | | | |
| * Note: requests only that Residential Intensification Precinct B is deleted around the Waikanae Beach Local Centre Zone. | | | | | | | | | | |

**Assessment of Matter A: Using the mapped extent of the Coastal Environment to define the Coastal Qualifying Matter Precinct**

(513) Several submissions request that the landward boundary of the Coastal Qualifying Matter Precinct be adjusted to be the landward boundary of the area identified as the Coastal Environment in the District Plan. Across the range of submissions, several reasons are given for this, including:

(a) The notified extent of the Coastal Qualifying Matter Precinct does not satisfy a range of NZCPS policies, but the Coastal Environment as defined in the operative District Plan would (several submissions cite policies 1, 6, 7, 13, 14, 19, 24 and 25 of the NZCPS)[214];

[214] See for example S040, pp.1-2.

(b) That the Coastal Environment is the best available delineation of areas potentially affected by coastal hazards over at least the next 100 years (in this regard, several submissions cite policies 25, 24 and 3 of the NZCPS)[215].

(514) The Coastal Environment is defined in the District Plan maps (see Figure 14). The identification of the Coastal Environment in the operative District Plan gives effect to Policy 1 of the NZCPS and Policy 4 of the RPS[216]. The District Plan does not include any rules associated with the spatial extent of the Coastal Environment, however, district objective DO-O4 and the policies of the CE – Coastal Environment chapter relate to the area mapped as the Coastal Environment.

(515) The spatial extent of the Coastal Environment is extensive, such that were its landward boundary used to delineate the Coastal Qualifying Matter Precinct, 83% of the district's General Residential Zone would be located within the Coastal Qualifying Matter Precinct, along with the full extent of the Metropolitan Centre Zone, the majority of the Town Centre Zone (except for the Town Centre Zones located at Ōtaki, and the portion of portion of the Town Centre Zone located to the east of the railway line in Waikanae), the full extent of the Local Centre Zone and the majority of the Mixed Use Zone (except for a small portion located on Nikau Palm Road in Paraparaumu).

[215] See for example S105, paras 7 & 20.
[216] Refer to the introduction to the CE – Coastal Environment chapter of the operative District Plan.

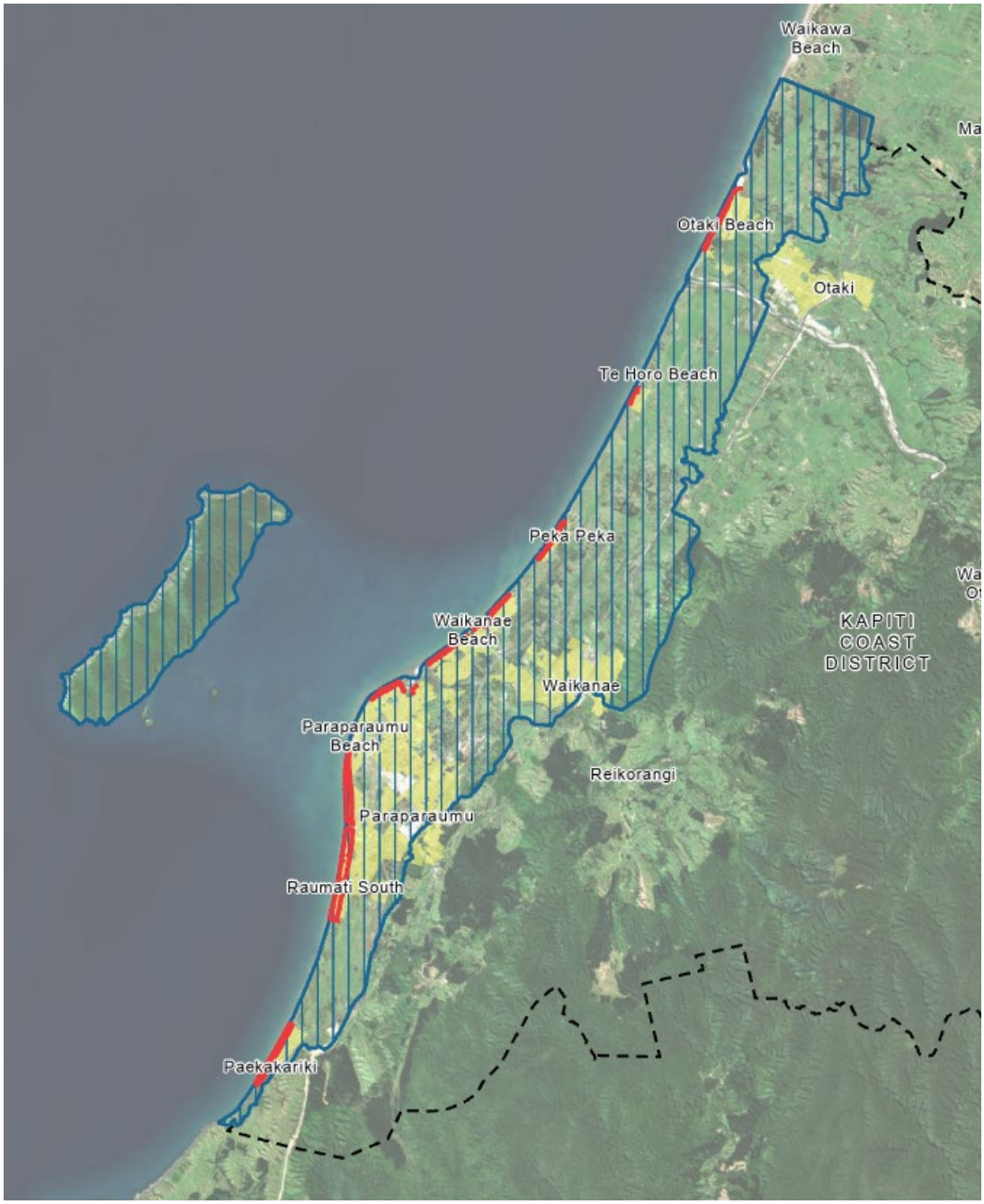


*Figure 14: map showing the extent of the Coastal Environment defined in the operative District Plan (dark blue vertical hatch), in relation to the General Residential Zone (shown in yellow) and the notified Coastal Qualifying Matter Precinct (shown in red).*

(516) On the basis that the Coastal Qualifying Matter Precinct maintains the status quo level of development enabled by the provisions of the operative District Plan, I consider extending the landward boundary of the precinct to match that of the Coastal Environment could not, at face value, be justified as part of incorporating the MDRS of giving effect to Policy 3 of the NPS-UD. In my opinion, creating a qualifying matter where the result is that the MDRS and Policy 3 of the NPS-UD are not applied to at least 83% of the relevant areas of the district would be contrary to the Council's obligation to incorporate the MDRS and give effect to Policy 3 of the NPS-UD under sections 77G and 77N of the RMA.

(517) Notwithstanding this, I agree that there may be policies in the NZCPS that are sufficiently directive about matters within the Coastal Environment such that it may be necessary to provide for them as a qualifying matter. I provide an evaluation of this based on the relevant policies identified by submitters:

(a) **Policy 1 of the NZCPS.** Policy 1 relates to the recognition of the extent and characteristics of the coastal environment. I note that this policy focusses on recognising characteristics but does not direct any particular action in relation to them. I do not consider that this policy provides direction that would make it necessary to either avoid or reduce the application of the MDRS or Policy 3 of the NPS-UD in the mapped Coastal Environment.

(b) **Policy 6 of the NZCPS.** Policy 6(1) relates to activities in the coastal environment, and policy 6(2) (which I do not consider to be relevant) relates to activities in the coastal marine area. Policies 6(1) requires various matters to be "recognised", "considered", "encouraged", "taken into account", "set back where practicable and reasonable" or "buffered where appropriate". I observe that the Section 32 Evaluation Report identifies several aspects of Policy 6 as being relevant to PC2, including a description of how PC(N) is consistent with the relevant aspects of Policy 6[217]. I do not consider that this policy includes direction that would make it necessary to either avoid or reduce the application of the MDRS or Policy 3 of the NPS-UD. In fact, I consider that policy 1(c) supports the intensification of existing urban areas within the coastal environment.

(c) **Policy 7 of the NZCPS.** Policy 7 relates to the strategic planning of the coastal environment broadly and provides for consideration and identification of certain matters (including areas of the coastal environment where particular activities and forms of subdivision, use and development are or may be inappropriate). I consider this to be a broad policy related to the strategic planning of the coastal environment, and in relation to PC2 I do not consider that this policy includes direction that would make it necessary to either avoid or reduce the application of the MDRS or Policy 3 of the NPS-UD.

(d) **Policies 13 and 14 of the NZCPS.** Policies 13 and 14 relate to the preservation and restoration of natural character in the coastal environment. I note that Policies 13 and 14 are given effect to in the operative District Plan through the mapping of areas of high and outstanding natural character in the coastal environment (which are identified in the District Plan maps), and that the District Plan includes rules that restrict development in these areas. I consider that there are matters outlined under these policies (in particular, under Policy 13(1)) that could be provided for as a qualifying matter, and I address this further in my assessment of Matter C below.

[217] Section 32 Evaluation Report, pp.27-29.

(e) **Policy 19 of the NZCPS.** Policy 19 relates to the provision of walking access to and along the coast. I observe that the provision of walking access to and along the coast is generally achieved either through walking access on public roads, or through walking access provided by way of pedestrian pathways located within the Open Space or Natural Open Space Zones. I do not consider that PC(N) alters either of these matters, and therefore do not consider that PC(N) has any impact on the degree to which the District Plan gives effect to Policy 19.

(f) **Policies 24, 25 and 3 of the NZCPS.** Policies 24, and 25 (and 3 to the extent that it is relevant) relate to areas in the coastal environment that are potentially affected by costal hazards. Based on the provisions of the NH – Natural Hazards chapter of the Operative District Plan, the information contained in the Section 32 Evaluation Report for PC2, and information contained in submissions, I consider that the following hazards are relevant to these policies:

(i) **Coastal erosion.** I describe how this matter is addressed by the provisions associated with the Coastal Qualifying Precinct included in PC(N) in section 0 of this report.

(ii) **Coastal inundation.** The Section 32 Evaluation Report states that in the context of PC2, coastal inundation is "managed by proxy through the existing flood hazard provisions of the District Plan"[218]. The flood hazard provisions contained in the Operative District Plan, which restrict development in a range of different flood hazard areas, continue to apply under PC(N) as an existing qualifying matter (this is discussed further under Matter D below, as well as section 4.10.1 of this evidence). However, in response to matters raised by some submitters, I consider that coastal inundation is not managed by proxy through existing flood hazard provisions at Peka Peka Beach, and I discuss this further under Matter E below.

(iii) **Tsunami.** The operative District Plan states that "the District is considered to have a very low level risk from a damaging or catastrophic tsunami" and that "the method considered most appropriate for reducing the impact of this hazard is an early warning system and the civil defence plans for emergency response procedures"[219]. This approach is reflected through policy NH-EQ-P18, which states that "residents will be warned to evacuate high risk areas prior to an anticipated distant source tsunami event and recommended to self evacuate in the event of a local earthquake. There will be no regulatory controls placed on

[218] Section 32 Evaluation Report, p.155.
[219] See the introduction to the NH-EQ Earthquake Hazards section of the NH – Natural Hazards chapter in the Operative District Plan.

development in high-risk areas for tsunami in this Plan"[220]. PC(N) does not change this approach.

(iv) **Earthquake hazards.** The operative District Plan manages development within identified fault avoidance areas through a range of existing rules that provide for certain building types as a restricted discretionary activity, subject to standards. These rules continue to apply in areas subject to the MDRS and Policy 3 of the NPS-UD as an existing qualifying matter[221]. In relation to liquefaction hazard, I note that the management of liquefaction hazard in relation to the construction of buildings was removed from the District Plan by Plan Change 1B, on the basis that this matter is regulated under the Building Act 2004 and the New Zealand Building Code[222]. This matter is discussed in further detail in section 4.10.2 of this report.

(518) On this basis I consider that the range of policies in the NZCPS identified by the submitters either do not result in a qualifying matter or result in a qualifying matter that is already provided for either by the Coastal Qualifying Matter Precinct, or through operative District Plan provisions that are retained by PC(N) as existing qualifying matters and will continue to apply to development within the Coastal Environment. I acknowledge that there are two exceptions to this (in relation to areas of high or outstanding natural character in the coastal environment, and coastal inundation in Peka Peka), however, I address these separately under Matters C and E below.

(519) While the mapped extent of the Coastal Environment may contain qualifying matters, I do not consider that it has been demonstrated that all land within the Coastal Environment is subject to a qualifying matter in the terms set out under sections 77I and 77O of the RMA. In addition to this, because of mapped extent of the Coastal Environment covers most of the district's urban environments (including 83% of the General Residential Zone), adjusting the boundary of the Coastal Qualifying Matter Precinct to include all land within the Coastal Environment would, in my opinion, be contrary to the Council's obligation to incorporate the MDRS and give effect to Policy 3 of the NPS-UD.

(520) I therefore consider that it would be inappropriate to adjust the boundary of the Coastal Qualifying Matter Precinct to be the landward boundary of the area identified as the Coastal Environment in the District Plan.

[220] See policy NH-EQ-P18 in the Operative District Plan.
[221] See section 6.1.1 of the Section 32 Evaluation Report, and Appendix D to the Section 32 Evaluation Report, pp.9-10.
[222] Plan Change 1B became operative on 31 October 2022. Refer to the Section 32 Evaluation Report for Plan Changes PC1a, PC1B and PC1C, p.3, https://www.kapiticoast.govt.nz/media/cctfotkt/section-32-evaluation-report-on-proposed-plan-changes-1a-1b-1c.pdf

**Assessment of Matter B: Using 'adaptation areas' to define the Coastal Qualifying Matter Precinct**

(521) In relation to the requests by submitter that the landward boundary of the Coastal Qualifying Matter Precinct be adjusted to be the landward boundary of the area identified as 'Adaptation Zones' in the Takutai Kāpiti Coastal Hazard Susceptibility Assessment maps, I have presumed that the term 'adaptation zones' is a reference to the 'adaptation areas' identified in those same maps[223]. These are the same as the 'adaptation areas' discussed in section 0 of this report.

(522) I have already assessed the appropriateness of using the 'adaptation areas' to define the spatial extent of the Coastal Qualifying Matter Precinct in section 0 of this report (at paras (494) to (498)), and I consider that this assessment applies in relation to the 'Beach Residential' submissions. In summary:

(a) The 'adaptation areas' are significantly larger than the Coastal Qualifying Matter Precinct provided for under PC(N) (covering 52% of the General Residential Zone, compared to 6.1% for the notified Coastal Qualifying Matter Precinct), and this would lead to a considerably greater impact on the provision of plan-enabled residential development capacity;

(b) Because of the purpose of the adaptation areas and the method by which they were created, it is not clear that all land within them is subject to a qualifying matter.

(523) I therefore consider that it would be inappropriate to adjust the boundary of the Coastal Qualifying Matter Precinct to be the landward boundary of the area identified as 'adaptation areas' in the Takutai Kāpiti Coastal Hazard Assessment maps.

**Assessment of Matter C: Section 6(a) of the RMA**

(524) Several submissions request that the Coastal Qualifying Matter Precinct is replaced with a precinct based on section 6(a) of the RMA, with the extent of the precinct being determined by either the landward boundary of the Coastal Environment or the landward boundary of the 'adaptation areas' outlined in the Takutai Kāpiti Coastal Hazard Assessment maps.

(525) Section 6(a) of the RMA provides that the following matters are recognised and provided for:

> *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development*

[223] Refer https://maps.kapiticoast.govt.nz/portal/apps/storymaps/stories/dbc000c7263f4d63b8978047ed0e826b

(526) Based on the matters raised in submissions and the relief sought (which relates specifically to the coastal environment), I consider that the focus of the submissions in relation to section 6(a) is the preservation of the natural character of the coastal environment, and its protection from inappropriate subdivision, use and development.

(527) In my assessments related to Matters A and B above, I already consider that it would be inappropriate to extend the Coastal Qualifying Matter Precinct to include all land within the mapped extent of the Coastal Environment or the Takutai Kāpiti 'adaptation areas', because I do not consider that it has been demonstrated that all land within these areas is subject to a qualifying matter. I consider that this assessment applies also in relation to section 6(a) of the RMA. Specifically, it is not clear that to recognise and provide for section 6(a), it is necessary to restrict development across either of these areas to less than that otherwise required by the MDRS or Policy 3 of the NPS-UD.

(528) However, I observe that the CE – Coastal Environment chapter in the operative District Plan includes provisions that restrict development in identified areas of outstanding natural character and areas of high natural character in the coastal environment. The District Plan states that these provisions give effect to section 6(a) of the RMA and Policies 13 and 14 of the NZCPS[224]. These areas are mapped as 'Areas of Outstanding Natural Character' and 'Areas of High Natural Character' in the District Plan maps. In relation to restrictions on development in these areas, rule CE-R1 provides permitted activity standards for certain types of development, where buildings or earthworks in these areas that do not comply with permitted activity standards are a discretionary activity under rule CE-R2.

(529) For the most part, 'Areas of Outstanding Natural Character' and 'Areas of High Natural Character' are only located in the Open Space or Natural Open Space Zones that run along the coastal margin and land around river mouths. However, there are limited areas where there is an overlap between the General Residential Zone (where the MDRS must be incorporated) and the mapped areas of outstanding or high natural character. These areas are:

(a) Areas of the General Residential Zone that are in an 'Area of Outstanding Natural Character' along the southern edge of the Waikanae River estuary (see Figure 15);

(b) Areas of the General Residential Zone that are in an ''Area of High Natural Character' along the coastal margin at Raumati Beach (see Figure 16 and Figure 17); and

(c) Areas of the General Residential Zone that are in an ''Area of High Natural Character' along the coastal margin at Paekākāriki (see Figure 18).

[224] See the introduction to the CE – Coastal Environment chapter in the Operative District Plan.


*Figure 15: map showing the overlap between 'Areas of Outstanding Natural Character" (shown in the dark blue hatch) and the General Residential Zone (shown in yellow) at the southern edge of the Waikanae River estuary.*

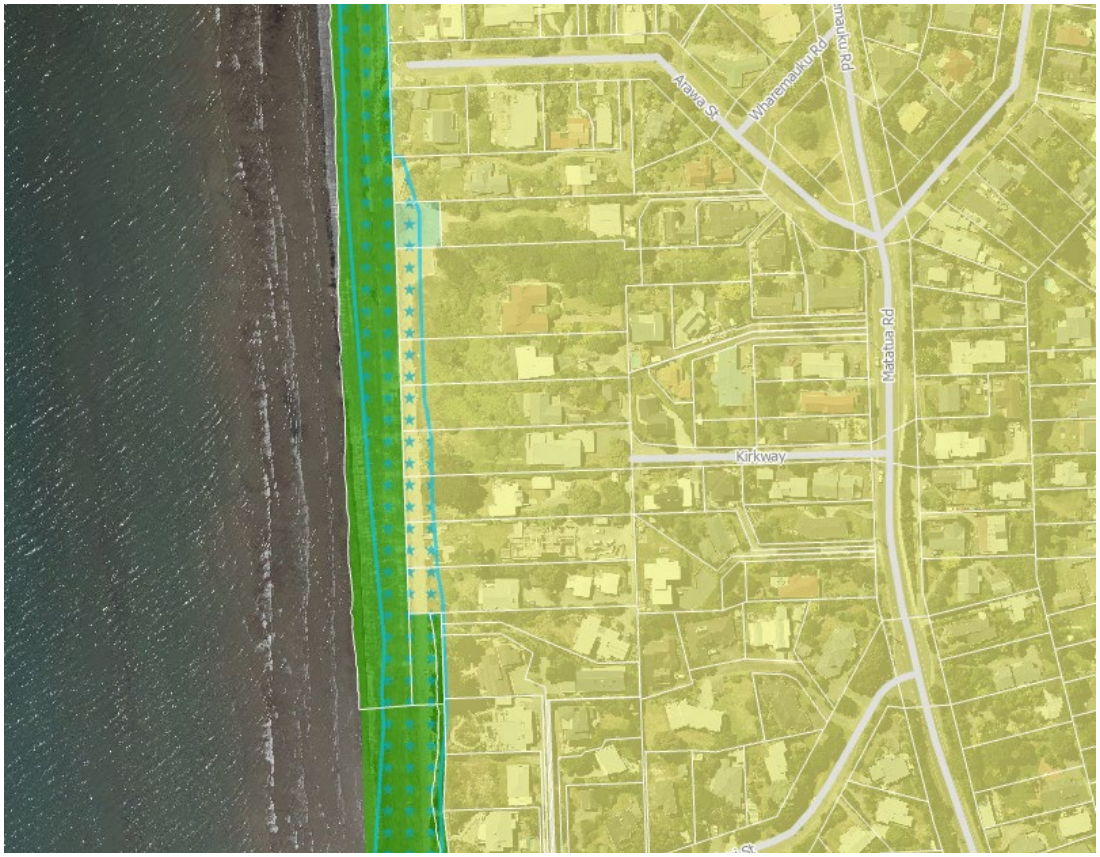


*Figure 16: map showing the overlap between 'Areas of High Natural Character" (shown in the light blue hatch) and the General Residential Zone (shown in yellow) at Raumati Beach to the south of Arawa Street.*

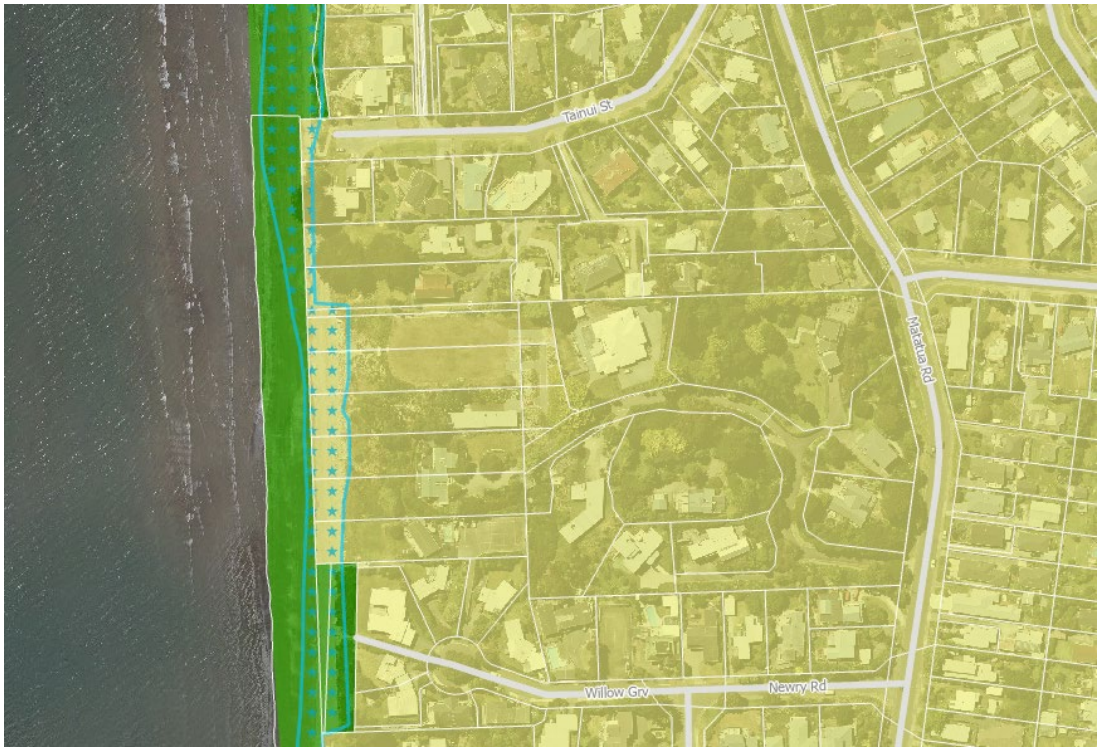


*Figure 17: map showing the overlap between 'Areas of High Natural Character" (shown in the light blue hatch) and the General Residential Zone (shown in yellow) at Raumati Beach between Tainui Street and Willow Grove.*

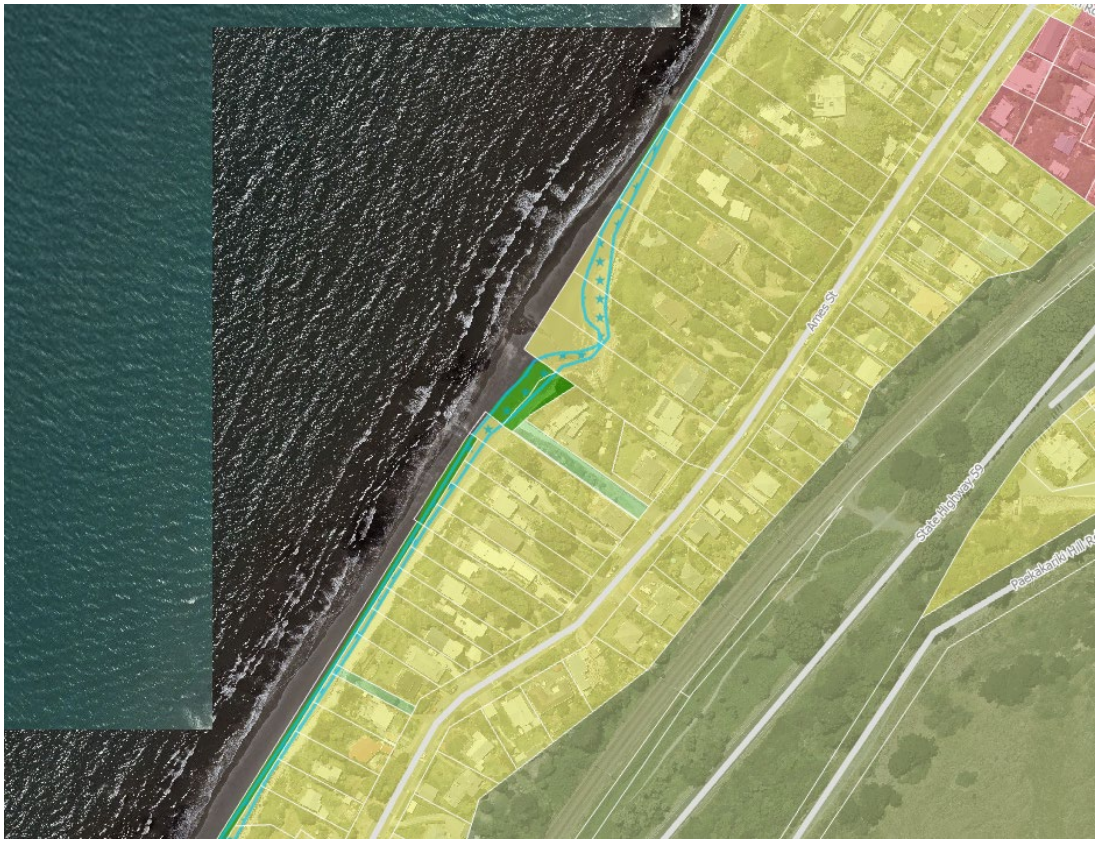


*Figure 18: map showing the overlap between 'Areas of High Natural Character" (shown in the light blue hatch) and the General Residential Zone (shown in yellow) at Paekākāriki to the south of Beach Road.*

(530) Therefore, on the basis that the provisions associated with 'Areas of Outstanding Natural Character' or 'Areas of High Natural Character' in the coastal environment seek to restrict development in these areas as part of giving effect to section 6(a) of the RMA and Policies 13 and 14 of the NZCPS, I consider that where there is an overlap between these areas and the General Residential Zone, these areas would constitute a qualifying matter under sections 77I(a) and 77I(b) of the RMA. I consider that an appropriate level of restriction in these areas would be that already provided for under rules CE-R1 and CE-R2, which is that buildings and earthworks are a discretionary activity in these areas. This would be achieved by amending rules CE-R1 and CE-R2 so that they apply to buildings and earthworks in the General Residential Zone (in fact, I consider it unusual that the rule does not already apply to these areas, given that they are already mapped as such). I consider this to be appropriate in the context of the decision requested, because the decision requests that an area based on section 6(a) of the RMA is provided for.

(531) I note that this recommendation would place restrictions on development and, due to the expedited timing of this planning process, that the Council has not consulted with effected landowners on this recommendation. However, I consider this appropriate in the circumstances for several reasons, including:

(a) The areas are already mapped in the operative District Plan as being 'Areas of Outstanding Natural Character' or 'Areas of High Natural Character' in the coastal environment;

(b) The areas are already subject to restrictions on development in relation to other matters:

(i) In relation to the areas around the Waikanae River estuary, these areas are already subject to development, earthworks and subdivision restrictions under rules for outstanding natural features and landscapes (rules NFL-R2, NFL-R3, EW-R4 and SUB-DW-R6);

(ii) In relation to the areas at (and to the south of) Raumati Beach, these areas are located within the coastal building line restriction area in the operative District Plan, and as such, the development of new buildings is already a discretionary activity under rule D1.1.3 of the CE – Coastal Environment chapter.

(532) On the basis that development restrictions already apply within these areas, it is relevant to consider the value of applying further restrictions in relation to natural character in the coastal environment. However, given that these areas are mapped within the District Plan, I consider it appropriate to do so as it ensures that the objectives and policies relevant to natural character in the coastal environment would be applied to new residential development in these

areas (in addition to the objectives and policies relevant to the development restrictions that already apply).

(533) Because this matter is a qualifying matter, I include the necessary information required by section 77J(3) of the RMA in my section 32AA evaluation below.

**Assessment of Matter D: Flood hazards as a qualifying matter**

(534) Several submissions request that 'qualifying matter precincts' are introduced to address flood hazards. Where the submissions request that qualifying matter precincts are introduced in areas subject to flood hazards, I understand this to mean that a precinct would be applied to retain the status-quo level of development provided for by the operative District Plan in these areas (similar to the approach provided for by the Coastal Qualifying Matter Precinct).

(535) I have outlined in section 4.10.1 of this report how the operative District Plan provisions already act to restrict development in areas subject to flood hazards. In my opinion, applying further restrictions on development in the form of a 'qualifying matter precinct' would result in unnecessary double management of the issue. I consider that this would be contrary to the direction under sections 77I and 77O of the RMA that the level of development enabled by the MDRS or Policy 3 of the NPS-UD is restricted "only to the extent necessary" to accommodate the qualifying matter. On the basis that the flood hazard provisions in the operative District Plan already restrict development in flood hazard areas in a manner that is specific to managing flood hazards, and PC(N) provides that these restrictions continue to apply as an existing qualifying matter, I do not consider that the use a precinct to provide additional restrictions on development in areas subject to flood hazards is justified.

**Assessment of Matter E: Coastal inundation at Waikanae Beach and Peka Peka Beach**

(536) Several submissions request that the Coastal Qualifying Matter Precinct is amended to include areas at Waikanae Beach and Peka Peka Beach that are identified as being subject to inundation under various sea level rise scenarios identified in the KCDC Coastal Inundation Susceptibility Mapping Tool.

(537) I note that the submission of **Glen Wiggs** [S098] provides observations on the historical development of these areas and descriptions of recent flood events. The submission also includes an estimate of the impact of inundation on roads and properties based on the KCDC Coastal Inundation Mapping Tool[225] using various sea level rise scenarios. I note that the data source for the Coastal Inundation Mapping Tool referred to in submissions is the *Kāpiti Coast*

[225] This is part of the Takutai Kāpiti Coastal Hazard Susceptibility Assessment maps referred to in other submissions. Refer https://maps.kapiticoast.govt.nz/portal/apps/storymaps/stories/dbc000c7263f4d63b8978047ed0e826b

*Coastal Hazards Susceptibility and Vulnerability Assessment Volume 2: Results* (Jacobs, 2022) report[226].

(538) The Coastal Inundation Mapping Tool describes coastal inundation as flooding that occurs when large tides combine with storm surge and large waves. The tool shows areas which have been modelled as being below the 1% annual exceedance probability (AEP) storm tide level under a range of different relative sea level rise ('RSLR') scenarios, with the worst-case scenario being a 1.65m RSLR (which is approximately the upper projection of rise by 2120)[227]. I note that this is the same RSLR scenario on which the spatial extent of the notified Coastal Qualifying Matter Precinct is based in relation to coastal erosion.

(539) I note that the Section 32 Evaluation Report states that for the purposes of PC2, coastal inundation is considered to be appropriately managed by existing District Plan flood hazard provisions, on the basis that there is a reasonable correlation between areas identified as being potentially susceptible to coastal inundation under the 1.65m RSLR scenario identified in the Jacobs Assessment, and the areas mapped as being within a flood hazard area in the District Plan (and which are therefore subject to the District Plan's flood hazard rules discussed in the previous section)[228]. In light of the matters raised particularly in the submission of Mr Wiggs [S098], I have considered the degree to which this is the case at Waikanae Beach and Peka Peka Beach.

(540) I have overlaid the 1.65m RSLR coastal inundation scenario from the Coastal Inundation Mapping Tool on top of the flood hazard category areas identified in the District Plan maps to identify the degree to which there is a reasonable correlation between the two at Waikanae Beach and Peka Peka Beach. In relation to Waikanae Beach (see Figure 19), I observe that almost all areas identified as being within the 1.65m RSLR coastal inundation scenario are already located within flood hazard category areas identified in the District Plan maps, and I therefore consider the conclusion that there is a reasonable correlation between the two at Waikanae Beach holds. However, in relation to Peka Peka Beach (see Figure 20), I observe that none of the area identified as being within the 1.65m RSLR coastal inundation scenario is located within the flood hazard category areas identified in the District Plan maps (there are no flood hazard areas identified in the District Plan maps at Peka Peka Beach). On this basis I consider that in relation to Peka Peka Beach, it cannot be said that coastal inundation hazard (to the extent that it has been identified by the Jacobs Assessment) is appropriately managed for the purposes of PC2 through existing District Plan flood hazard provisions.

[226] Refer https://www.kapiticoast.govt.nz/media/pwynpxj1/coastal-hazard-technical-assessment-technical-report-volume-2-report.pdf
[227] Jacobs. (2022). *Kāpiti Coast Coastal Hazards Susceptibility and Vulnerability Assessment Volume 2: Results*, p.31.
[228] Section 32 Evaluation Report, p.156.

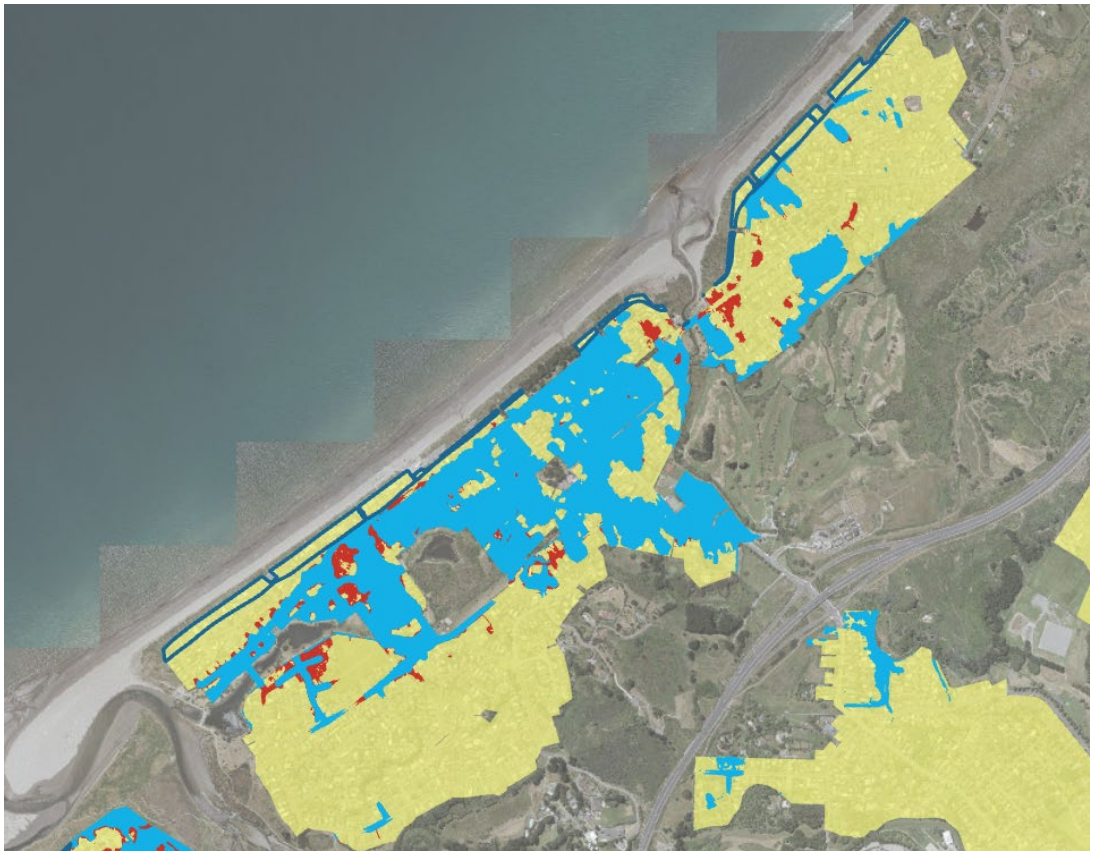

*Figure 19: map showing the General Residential Zone at Waikanae Beach (in yellow). The extent of the 1.65m RSLR coastal inundation scenario that is already located within a District Plan flood hazard category area is identified in blue. The extent of the 1.65m RSLR coastal inundation scenario that is not located within a District Plan flood hazard category area is identified in red. The notified Coastal Qualifying Matter Precinct is shown in dark blue.*

*Figure 20: map showing the General Residential Zone at Peka Peka Beach (in yellow). The extent of the 1.65m RSLR coastal inundation scenario that is not located within a District Plan flood hazard category area is identified in red. The notified Coastal Qualifying Matter Precinct is shown in dark blue.*

(541) I have considered two potential ways in which this could be addressed in relation to PC2. While it may be possible to extend the flood hazard mapping in the District Plan to cover the

areas within the 1.65m RSLR coastal inundation scenario at Peka Peka Beach, I do not consider this to be an appropriate approach for several reasons, including:

(a) The Jacobs Assessment describes the modelling of coastal inundation as an initial assessment of coastal flood hazard only, and is intended to inform further modelling by the Council that considers combined flood hazards from a range of sources[229];

(b) The Council is in the process of updating its flood hazard model in preparation for a future flood risk/stormwater management Plan Change[230], and I consider it would be more appropriate for any updates to flood hazard maps and associated provisions to be undertaken in that context.

(542) In relation to PC2, I consider that a more appropriate approach would be to extend the Coastal Qualifying Matter Precinct to include the area identified as being within the 1.65m RSLR coastal inundation scenario at Peka Peka Beach. I consider that this would be consistent with the purpose of the precinct because:

(a) Coastal inundation is a coastal hazard that is otherwise not managed through existing District Plan provisions in the General Residential Zone at Peka Peka Beach;

(b) The purpose of the precinct is to maintain the status quo level of development enabled by the provisions of the operative District Plan in the relevant area to ensure that the management of coastal hazards can be appropriately addressed through a future plan change process, and the Council has identified that it intends to do this[231].

(543) I am mindful that in the meantime this will add complexity to the planning regime in the General Residential Zone at Peka Peka (by introducing a greater degree of what is essentially split zoning along relatively detailed inundation boundaries), however I consider that this is appropriate in the context of the limited spatial extent of the extension.

(544) Because this matter is a qualifying matter, I include the necessary information required by section 77J(3) of the RMA in my section 32AA evaluation below.

**Assessment of Matter F: Beach Residential Qualifying Matter Precincts**

(545) Several submissions request that Beach Residential Precincts become 'Beach Residential Qualifying Matter Precincts', and that the status-quo level of development provided by the operative District Plan continue to apply within these precincts.

[229] Jacobs. (2022). *Kāpiti Coast Coastal Hazards Susceptibility and Vulnerability Assessment Volume 2: Results*, p.30.
[230] Section 32 Evaluation Report, p.156.
[231] Section 32 Evaluation Report, p.153.

(546) To achieve this outcome, it must be demonstrated that the Beach Residential Precincts themselves constitute a qualifying matter under sections 77I or 77O of the RMA. The Beach Residential Precincts are identified as 'special character areas' under policy GRZ-P3 of the operative District Plan, and I note that the Section 32 Evaluation Report includes an assessment of whether special character areas (including the Beach Residential Precincts) meet the definition of an 'other' qualifying matter under section 77I(j) of the RMA[232]. In summary, the assessment identifies that[233]:

(a) In the context of special character areas, change in character is provided for by the objectives and policies of the NPS-UD which seek that urban environments, including their amenity values, develop and change over time (Objective 4 and Policy 6(b) are specifically referred to);

(b) Providing for special character areas that seek to maintain existing character and amenity values through low density development would be inconsistent with the objectives and policies of the NPS-UD;

(c) In light of the national significance of urban development and the objectives of the NPS-UD, special character areas do not meet the definition of an 'other' qualifying matter under s77I(j) of the RMA, because the justification required by section 77L(b) of the RMA is not met.

(547) I do not consider that the submissions contain any new information that would justify the Beach Residential Precincts as a qualifying matter in the terms required by section 77L of the RMA, and on this basis I consider that they do not meet the definition of a qualifying matter under section 77I(j) of the RMA.

**Assessment of Matter G: Enlarged Beach Residential Qualifying Matter Precincts based on a full landscape assessment**

(548) In addition to the request to provide for 'Beach Residential Qualifying Matter Precincts' outlined under Matter F above, submissions also request that enlarged 'Beach Residential Qualifying Matter Precincts' are provided for based on a "full landscape assessment of the coastal environment"[234].

(549) I am unclear as to whether a 'full landscape assessment of the coastal environment' would be helpful in justifying a larger 'Beach Residential Qualifying Matter Precinct' as a qualifying matter. I consider that 'landscape' in and of itself is not a qualifying matter, although in relation to the coastal environment, I consider that areas of natural character in the coastal

[232] Section 32 Evaluation Report, pp.170-172.
[233] Section 32 Evaluation Report, p.172.
[234] See for example S105.03.

environment (as provided for under section 6(a) of the RMA) and areas of outstanding or high natural character in the coastal environment (as provided for under Policy 13 of the NZCPS) may be considered as a qualifying matters. I note that both of these matters are raised in the submissions, and I make recommendations on this under Matter C above.

(550) Notwithstanding that (for the reasons discussed in the previous section) I do not consider that the Beach Residential Precincts are justified as a qualifying matter, in the absence of a 'full landscape assessment of the coastal environment', I do not consider that enlarged Beach Residential Qualifying Matter Precincts are justified as a qualifying matter in the terms required by sections 77J(3) and 77L either.

**Assessment of Matter H: amending the Local Centre Zone to give effect to a larger Coastal Qualifying Matter Precinct of Beach Residential Precinct**

(551) Several submissions request that the provisions of the Local Centre Zone are amended to give effect to a larger Coastal Qualifying Matter Precinct or Beach Residential Precinct.

(552) I note that:

(a) In relation to Matters A, B, C or D, I do not recommend a larger Coastal Qualifying Matter Precinct;

(b) In relation to Matter E, while I recommend an enlarged Coastal Qualifying Matter Precinct in the General Residential Zone at Peka Peka Beach, I note that this does not overlap any Local Centre Zone;

(c) In relation to Matters F and G, I do not recommend that Beach Residential Precincts (or enlarged Beach Residential Precincts) are a qualifying matter.

(553) I therefore consider it unnecessary to amend the provisions of the Local Centre Zone in the manner sought by the submitters.

**Assessment of Matter I: Local Centre at Ngarara**

(554) Several submissions request that the District Plan maps are amended to identify a Local Centre Zone at Ngarara and apply Residential Intensification Precinct B to a relevant walkable catchment at that centre.

(555) I understand the reference to Ngarara in submissions to be a reference to the Ngarara Development Area in the District Plan. The Ngarara Development Area is a Development

Area[235] located between Waikanae Beach and Waikanae (see Figure 21). Development within the area us subject to a structure plan contained in Appendix 7 to the District Plan.

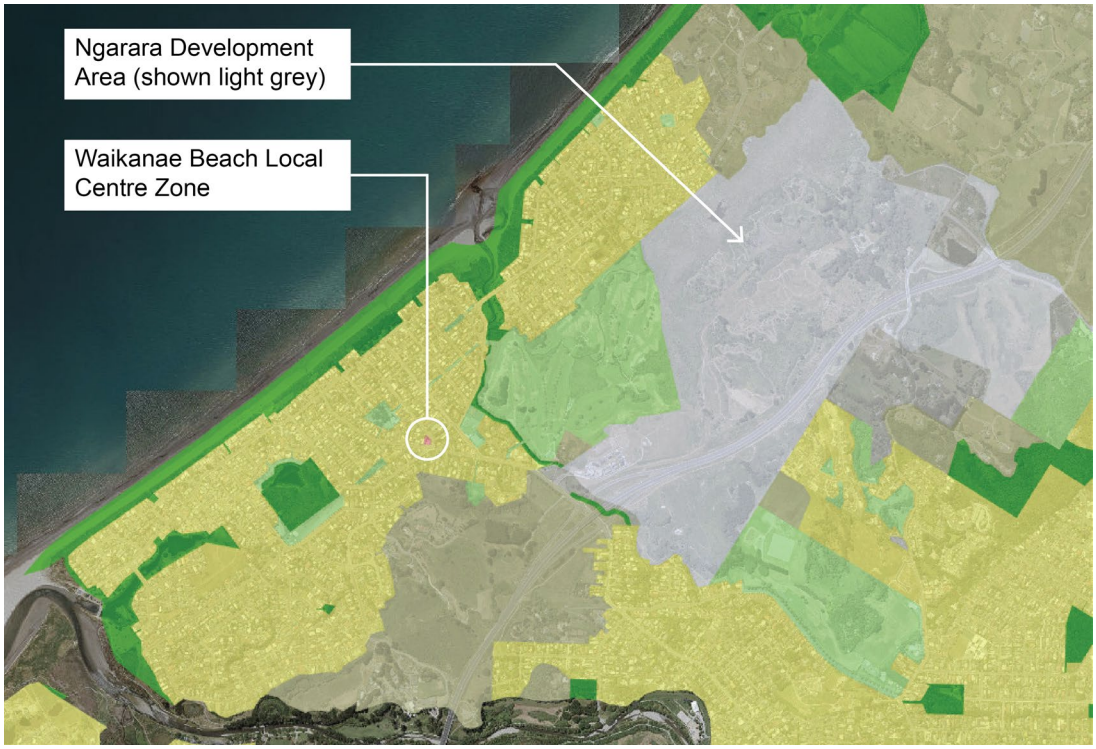


*Figure 21: the Ngarara Development Area in relation to the Waikanae Beach Local Centre Zone.*

(556) There is no Local Centre Zone (as described in Standard 8 of the National Planning Standards) in the Ngarara Development Area. Rather, policies LCZ-P1 and LCZ-P3 provide for a "local centre" in the "Ngarara Development Area – Waimeha Neighbourhood Development Area". This area is not identified on the District Plan maps, however the structure plan in Appendix 7 identifies a 'Waimeha Neighbourhood', which is generally located in the south-western extent of the Ngarara Development Area (see Figure 22). The structure plan does not provide for a single 'Waimeha Neighbourhood Development Area' but rather a 'Waimeha North Neighbourhood Development Area' and a 'Waimeha South Neighbourhood Development Area'. The spatial extent of these areas is not clearly defined, but the structure plan includes what are described as indicative concept plans outlining the general intent for the future development of these areas. Consistent with the description that they are indicative, I observe that these concept plans do not identify cadastral boundaries, nor do I consider that they clearly identify the boundary of the area to which they relate.

[235] Standard 12 (District Spatial Layers Standard) of the National Planning Standards defines Development Areas as follows: "A development area spatially identifies and manages areas where plans such as concept plans, structure plans, outline development plans, master plans or growth area plans apply to determine future land use or development. When the associated development is complete, the development areas spatial layer is generally removed from the plan either through a trigger in the development area provisions or at a later plan change."

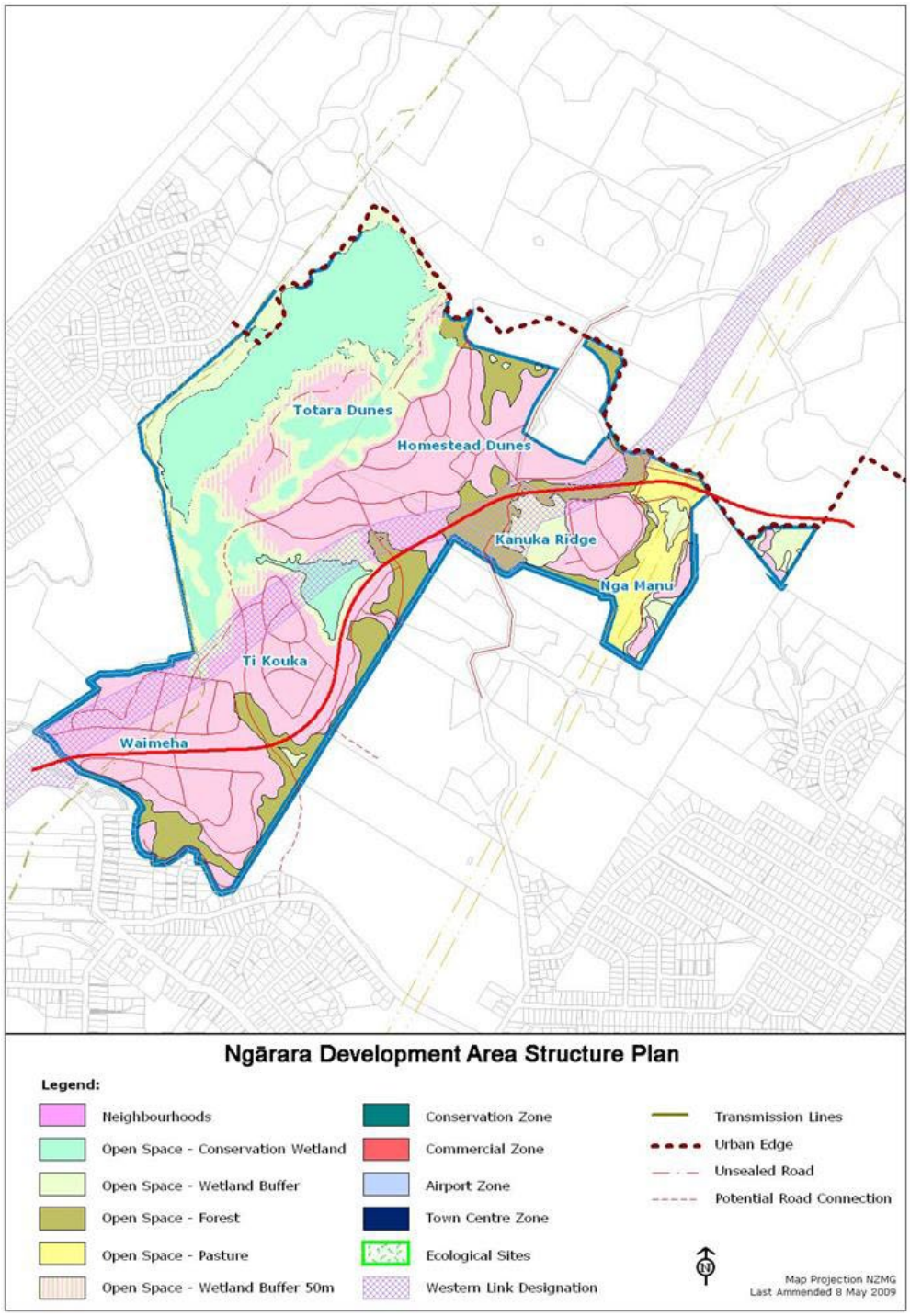


*Figure 22: Ngarara Development Area structure plan, from Appendix 7 to the District Plan.*


*Figure 23: indicative concept plan for the Waimeha North Neighbourhood Development Area, from Appendix 7 to the District Plan.*

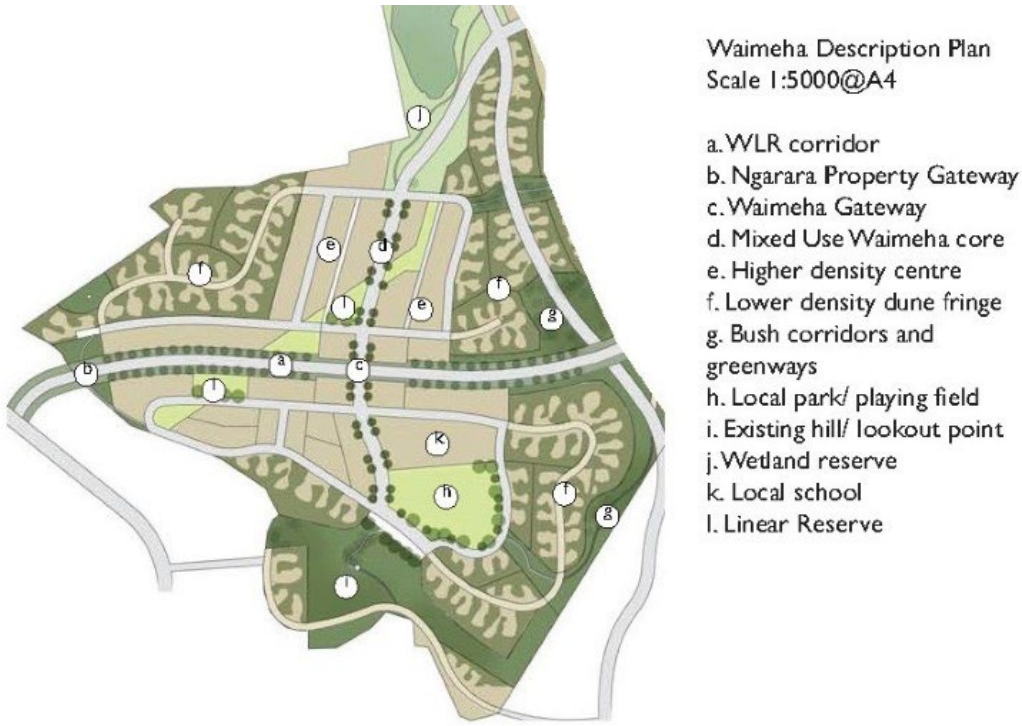


*Figure 24: indicative concept plan for the Waimeha South Neighbourhood Development Area, from Appendix 7 to the District Plan.*

(557) I do not consider that the structure plan, or the indicative concept plans within it, are sufficiently clear about where a Local Centre Zone would be appropriately located for me to recommend the rezoning of any particular part of the Ngarara Development Area as part of PC2. Nor do I consider this necessary to give effect to Policy 3 of the NPS-UD. Policy 3(d) applies to local centre zones as described in Standard 8 of the National Planning Standards, and as outlined above, there is no such zone located in the Ngarara Development Area. Rather, I consider a more appropriate approach is that described in the National Planning Standards in relation to Development Areas, specifically that "when the associated development is complete, the development areas spatial layer is generally removed from the plan… at a later plan change", at which stage I consider there will be greater certainty about the location of a Local Centre Zone.

(558) In regard to the related request to apply Residential Intensification Precinct B in the Ngarara Development Area, I consider this to be inappropriate for similar reasons, specifically:

(a) Because it is unclear where a Local Centre Zone would be located, it is also unclear where Residential Intensification Precinct B would be located; and

(b) It is not necessary to give effect to Policy 3 of the NPS-UD because policy 3(d) only applies to areas adjacent to local centre zones as described in Standard 8 of the National Planning Standards, and as outlined above, there is no such zone located in the Ngarara Development Area.

**Assessment of Matter J: Te Moana Local Centre Zone**

(559) Several submissions request that the Local Centre Zone at Te Moana Road (in Waikanae Beach) is rezoned to General Residential Zone, or alternatively that Residential Intensification Precinct B at Te Moana Road is limited to the Local Centre Zone itself, or a smaller zone to the east of the Waikanae Beach Residential Precinct.

(560) In relation to rezoning the Local Centre Zone at Te Moana Road (which is referred to in the centres hierarchy as the Te Moana Local Centre Zone) as General Residential Zone, I note that this zone is provided for in the operative District Plan, and PC(N) did not propose to change its zoning. Therefore, I consider that it would be necessary for there to be evidence to justify rezoning the area to General Residential Zone as part of PC2, and I do not consider that the information contained in submissions provides sufficient evidence to justify such a rezoning.

(561) In the absence of evidence to the contrary, I consider that it would be inappropriate to rezone the Te Moana Local Centre Zone to General Residential Zone because:

(a) It would be inconsistent with the position of the zone within the District's centres hierarchy (outlined under policy LCZ-P3);

(b) It would result in there being no centre zone located in Waikanae Beach, and as a result the district plan would not provide for the development of local commercial activities and community services to serve the current and future population of the Waikanae Beach community. I consider that this would be inconsistent with district-wide objective DO-O16, which promotes local centres to serve the local convenience, community and commercial needs of the surrounding community. I also consider that this would reduce the degree to which the district plan gives effect to Policy 1(b) and (c) of the NPS-UD, which provide for urban environments that enable a variety of sites suitable for different business sectors, and that have good accessibility between housing, jobs and community services.

(562) In relation to the application of Residential Intensification Precinct B, I consider that it has been applied at the Te Moana Local Centre Zone in the same manner that it has been applied to other local centre zones in the District's centres hierarchy[236]. I consider that removal of the precinct would only be justified on the basis of a qualifying matter, and I do not consider there to be a qualifying matter to justify its removal in this case.

**Recommendations**

(563) For the reasons stated in the assessment above, I recommend that:

(a) In relation to **Matter A**, submission points that request that the landward boundary of the Coastal Qualifying Matter Precinct be adjusted to be the landward boundary of the area identified as the Coastal Environment in the District Plan are **not accepted**.

(b) In relation to **Matter B**, submission points that request that the landward boundary of the Coastal Qualifying Matter Precinct be adjusted to be the landward boundary of the area identified as 'Adaptation Zones' (referred to as 'adaptation areas') in the Takutai Kāpiti Coastal Hazard Assessment maps are **not accepted**.

(c) In relation to **Matter C**, submission points that request that the Coastal Qualifying Matter Precinct is replaced with a precinct based on section 6(a) of the RMA are **accepted in part**. While I do not recommend that the Coastal Qualifying Matter Precinct is deleted and replaced with an area based on either the Coastal Environment or the Takutai Kāpiti 'adaptation areas', I recommend that rules CE-R1 and CE-R2, which restrict development in 'Areas of Outstanding Natural Character' and 'Areas of High Natural Character' in the coastal environment, are amended to apply to land in the

[236] Section 32 Evaluation Report, pp.141-143.

General Residential Zone. For the avoidance of doubt, this means that rules CE-R1 and CE-R2 would apply in addition to the notified Coastal Qualifying Matter Precinct. I consider this recommendation appropriate in the context of the decision requested, because the decision requests that an area based on section 6(a) of the RMA is provided for. Refer to section 16.12 of PC(R1) for the amendments to PC(N) associated with this recommendation.

(d) In relation to **Matter D**, submission points that request that qualifying matter precincts are introduced to address flood hazards are **not accepted**.

(e) In relation to **Matter E**, submission points that request that the Coastal Qualifying Matter Precinct is amended to include areas at Waikanae Beach and Peka Peka Beach that are identified as being subject to inundation under various sea level rise scenarios identified in the KCDC Coastal Inundation Susceptibility Mapping Tool are **accepted in part**. I recommend that:

(i) The spatial extent of PRECx3 – Coastal Qualifying Matter Precinct is amended to include land in the General Residential Zone at Peka Peka Beach identified as being within the 1.65m RSLR coastal inundation scenario from the Coastal Inundation Mapping Tool. Refer to section 19.8 and Appendix F of PC(R1) for this amendment.

(ii) The description of the Coastal Qualifying Matter Precinct in the introduction to the General Residential Zone chapter is amended to reflect that it also relates to coastal inundation hazard at Peka Peka Beach. Refer to section 4.1 of PC(R1) for this amendment.

(f) In relation to **Matter F**, submission points that request that that Beach Residential Precincts become 'Beach Residential Qualifying Matter Precincts' are **not accepted**;

(g) In relation to **Matter G**, submission points that request that that larger 'Beach Residential Qualifying Matter Precincts' are adopted based on a full landscape assessment of the coastal environment are **not accepted**;

(h) In relation to **Matter H**, submission points that request that the provisions of the Local Centre Zone are amended to give effect to a larger Coastal Qualifying Matter Precinct or Beach Residential Precinct are **not accepted**;

(i) In relation to **Matter I**, submission points that request that the District Plan maps are amended to identify a Local Centre Zone at Ngarara, and apply Residential Intensification Precinct B to a relevant walkable catchment at that centre, are **not accepted**;.

(j) In relation to **Matter J**, submission points that request that the Local Centre Zone at Te Moana Road (in Waikanae Beach) is rezoned to General Residential Zone, or alternatively that Residential Intensification Precinct B at Te Moana Road is limited to the Local Centre Zone itself, or a smaller zone to the east of the Waikanae Beach Residential Precinct, are **not accepted**.

**Section 32AA evaluation**

*Matter C: amendment of rules associated with areas of outstanding or high natural character in the coastal environment*

(564) In relation to the recommended amendments to rules CE-R1 and CE-R2, I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because in relation to the areas mapped as outstanding or high natural character in the District Plan maps, the amendments enable the District Plan to continue to recognise and provide for matters outlined under section 6(a) of the RMA, and continue to give effect to Policy 13 of the NZCPS.

(565) In relation to the information required for qualifying matters under section 77J(3) of the RMA:

(a) Section 77J(3)(a): I consider that the adjustments are a qualifying matter under sections 77I(a) and 77I(b) of the RMA because I consider that they are necessary to accommodate a matter of national importance under section 6(a) of the RMA, and necessary to provide that the District Plan continues to give effect to Policy 13 of the NZCPS in relation to the areas mapped as outstanding or high natural character in the District Plan maps;

(b) Section 77J(3)(b): The total area of General Residential Zone affected by these amendments is 3.15ha. This represents 0.12% of the total area of the General Residential Zone. I consider that the discretionary activity status for new buildings in these areas means that residential development capacity will not be enabled in these areas. Using the methodology outlined elsewhere in the Section 32 Evaluation Report[237], the amendments would result in a foregone plan-enabled residential development capacity of 225 dwellings, although I consider this to be a high estimate as many of these areas are also located within the Coastal Qualifying Matter Precinct. On this basis that PC(N) is estimated to provide for an additional plan-enabled residential development capacity of 46,813 – 164,020 dwellings[238], I consider that the

[237] The methodology used to consider the impact of a non-complying activity status on development capacity assumed a density of one dwelling per 140m$^2$ site area under the MDRS. See Section 32 Evaluation Report, p.163.
[238] Section 32 Evaluation Report, p.84.

amendments will result in a minimal impact on the overall provision of development capacity.

(c) Section 77J(3)(c): In relation to the assessment of the costs and broader impacts of the amendments, based on their minimal impact on the provision of development capacity, I consider that the costs associated with limiting development capacity to also be minimal, and I consider this to be appropriate in the context of the broader positive impacts associated with restricting inappropriate subdivision, use and development within the areas mapped as outstanding or high natural character in the District Plan maps.

*Matter E: extension of the Coastal Qualifying Matter Precinct at Peka Peka Beach*

(566) In relation to the recommended extension of the Coastal Qualifying Matter Precinct at Peka Peka Beach, I consider that the proposed amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because it better supports the District Plan to give effect to policy 25 of the NZCPS in relation to coastal inundation hazard at Peka Peka Beach.

(567) In relation to the information required for qualifying matters under section 77J(3) of the RMA:

(a) Section 77J(3)(a): I consider that the extension of the Coastal Qualifying Matter Precinct at Peka Peka Beach is a qualifying matter under section 77I(b) of the RMA because I consider that it is a matter required to give effect to Policy 25 of the NZCPS;

(b) Section 77J(3)(b): The total area of General Residential Zone affected by the extension is 12.80ha. This represents an expansion of the Coastal Qualifying Matter Precinct by 7.8%. I note that the Coastal Qualifying Matter Precinct does not preclude development, but rather retains the existing level of plan enabled residential development capacity. Applying the estimate of foregone plan-enabled residential development capacity associated with the notified Coastal Qualifying Matter Precinct on a pro-rata basis[239], the extension would result in a foregone plan-enabled residential development capacity in the range of 267 to 957 dwellings. On this basis that PC(N) is estimated to provide for an additional plan-enabled residential development capacity of 46,813 – 164,020 dwellings[240], I consider that the amendments will result in a minimal to low impact on the overall provision of development capacity.

(c) Section 77J(3)(c): In relation to the assessment of the costs and broader impacts of the amendments, based on their minimal to low impact on the provision of development capacity, I consider that the costs associated with limiting development capacity to also

[239] Section 32 Evaluation Report, p.156.
[240] Section 32 Evaluation Report, p.84.

be minimal to low, and I consider this to be appropriate in the context of the broader impacts associated with retaining the status quo level of development in the Coastal Qualifying Matter Precinct, to ensure that the management of coastal hazards can be appropriately addressed through a future plan change process.

**Other matters raised by submitters**

(568) In addition to those matters discussed above, the following matters have also been raised through those submissions identified above:

(a) Some submitters request that the Section 32 Evaluation Report is amended in relation to the use of the Jacobs Assessment, the provisions of the NZCPS, and Ministry for the Environment guidance on coastal hazards and climate change [S040.04, S040.05, S050.04, S050.05, S159.04, S159.05, S219.04, S219.05];

(b) The spatial extent of the Coastal Qualifying Matter Precinct is adjusted to remove land at 127 Manly Street from the precinct [S064.03, S067.03];

(c) That GRZ-P5 is amended to require the consideration of the protection of natural character in the Waikanae Beach Residential Precinct as part of the policy [S097.36];

(d) That various factors are acknowledged in relation to Waikanae Beach [S118].

(569) My recommendations on these matters are addressed directly in the table in Appendix B.

### *4.11.3 Other Matters related to the Coastal Qualifying Matter Precinct*

(570) In addition to those matters outlined in sections 0 and 4.11.2 above, several submitters raise a range of other matters in relation to the Coastal Qualifying Matter Precinct. These include:

- **Maclean Street Apartments** [S018.01];
- **Infill Tapui Limited** [S028.54];
- **Greater Wellington Regional Council** [S097.46, S097.47, S097.48, S097.49, S097.50, S097.51, S097.52, S097.53, S097.54];
- **Mitchell, Chris and Smith, Sue** [S110.02];
- **Kāinga Ora Homes and Communities** [S122.16, S122.113, S122.131];
- **Davey, Frederick** [S152.01, S152.02, S152.03, S152.08, S152.09];
- **Gunn, Ian and Jean** [S186.05];
- **Leith Consulting Ltd** [S202.03, S020.17, S202.18].

(571) My recommendations on these matters are addressed directly in the table in Appendix B.

## 4.12 Qualifying Matters – Marae Takiwā Precinct

*Author: Andrew Banks*

**Matters raised by submitters**

(572) There are several submissions points that register general support for the Marae Takiwā Precinct. These include:

- **Malu, Jonas** [S054.04];
- **Greater Wellington Regional Council** [S097.17];
- **Ātiawa ki Whakarongotai** [S100.51, S100.52, S100.54, S100.55, S100.58, S100.60, S100.61];
- **Kāinga Ora** [S122.132, S122.141].

(573) Several submission points requested that the Marae Takiwā Precinct be amended or extended. These include:

(a) **Ātiawa ki Whakarongotai** [S100.53, S100.56] request greater restrictions for development on land owned by the Council around Whakarongotai Marae;

(b) **Ridley, Helen** [S198.02] and **Ngā Hapū o Ōtak**i [S203.37] (supported by **Ātiawa ki Whakarongotai** [S100.62]) request that the precinct is extended in Ōtaki;

(c) **A.R.T** [S210.07] generally requests that the provisions associated with the precinct are amended to be more robust and further reaching.

**Assessment and recommendations**

(574) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

## 4.13 Qualifying Matters – Kārewarewa Urupā

*Author: Andrew Banks*

**Matters raised by submitters**

(575) **Waikanae Land Company** [S104] request that either:

(a) The proposed amendments to Schedule 9 (to incorporate Kārewarewa Urupā) are deleted [S104.01]; or alternatively (or in combination)

(b) Amend PC(N) so that the District Plan provides some combination of objectives, policies, rules and/or other methods that provide for residential development of the land in accordance with Medium Density Residential Standards [S104.02].

(576) **Ātiawa ki Whakarongotai** [S100.50] support amending Schedule 9 of the District Plan to recognise and provide for Kārewarewa Urupā[241]. Notwithstanding this Ātiawa ki Whakarongotai [S100.50] also request that the south-western boundary of the WTSx1 – Kārewarewa Urupā (Wāhanga Tahi is adjusted to be consistent with the boundary shown Figure 3 of their submission, stating that this is required to reflect the original surveyed boundaries of the urupā[242].

**Assessment**

*Waikanae Land Company submission*

(577) The Waikanae Land Company submission opposes incorporating Kārewarewa Urupā into Schedule 9 of the District Plan, stating that the land is not the Kārewarewa Urupā, and that on this basis the listing is not justified (or justifiable)[243]. In particular the submission raises the following matters:

(a) The submission challenges (in various terms) the Section 32 Evaluation Report as it relates to the Kārewarewa Urupā[244];

(b) The submission states that land zoned for residential use ought to be the subject of District Plan provisions that enable and encourage residential structures and activity on the land[245];

[241] Refer S100, pp.19-21 for a description of the reasons.
[242] S100, p.20.
[243] S104, paras 5.2 and 5.3.
[244] S104, paras 5.4 and 5.5.
[245] S104, para 5.8.

(c) The submission states that it is inefficient and inappropriate to include the listing in the District Plan, prior to the outcome of proceedings in the Environment Court related to the Kārewarewa Urupā[246];

(d) The submission states that the listing is an improper use of an IPI and is *ultra vires*[247].

(578) In relation to the challenges by the submitter to the section 32 evaluation, I note that the Section 32 Evaluation Report identifies several matters taken into account as part of the evaluation, including (but not limited to and in no particular order):

(a) The Waitangi Tribunal (2020) *Kārewarewa Urupā Report*[248];

(b) Engagement with iwi authorities (including Ātiawa ki Whakarongotai)[249];

(c) Feedback from landowners (including the Waikanae Land Company) and others on draft Plan Change 2 in relation to the proposal to add Kārewarewa Urupā to Schedule 9 of the District Plan[250];

(d) The matters required to be considered in relation to qualifying matters under section 77J(3) of the RMA, including the justification of the qualifying matter, the impact on the provision of development capacity and an assessment of the costs and broader impacts of providing for the qualifying matter[251].

(579) I do not consider that the Waikanae Land Company submission contains any new information that would justify a reconsideration of the section 32 evaluation in relation to the Kārewarewa Urupā. In response to the submitter's view (expressed in their feedback on draft PC2) that the Section 32 Evaluation Report does not accurately acknowledge the basis for their opposition to the listing, I consider that the basis for the submitter's opposition has been acknowledged in the Summary of Submissions on Draft PC2 contained in Appendix B to the Section 32 Evaluation Report (outlined on pages 94 and 95).

(580) In relation to the submitter's position that land zoned for residential use ought to be the subject of District Plan provisions that enable and encourage residential structures and activity on the land, I disagree in this case. Land within the district is not only subject to the provisions associated with its zone, but also the District-Wide Matters provisions in Part 2 of the District Plan. Under these provisions, land within the General Residential Zone may also be subject to a range of district-wide overlays, including overlays associated with flood hazards,

[246] S104, para 5.9.
[247] S104, para 5.10.
[248] Waitangi Tribunal. (2020). *The Kārewarewa Urupā Report*.
See: https://www.kapiticoast.govt.nz/media/jctfmwss/pc2_s32_appendixr_karewarewauruparepor t.pdf
[249] Section 32 Evaluation Report, p.112. See also the letter from Ātiawa ki Whakarongotai dated May 25 2022 in Appendix A to the Section 32 Evaluation Report: https://www.kapiticoast.govt.nz/media/qslplfno/pc2_s32_appendixa_iwifeedback.pdf
[250] Section 32 Evaluation Report, p.121. See also pages 91 to 95 of the Summary of Submissions on Draft PC2 in Appendix B to the Section 32 Evaluation Report: https://www.kapiticoast.govt.nz/media/04bbdt13/pc2_s32_appendixb_draftpc2feedback.pdf
[251] See section 6.1.4 of the Section 32 Evaluation Report, pp.159-164.

earthquake hazards, nationally significant infrastructure, ecological sites, outstanding natural features and landscapes, historic heritage, and (relevant to this case) sites and areas of significance to Māori. This is consistent with the National Planning Standards, which provide for district plans to include overlays that spatially identify "distinctive values, risks or other factors which require management in a different manner from underlying zone provisions"[252].

(581) There are several examples in the District Plan of instances where residential buildings are not enabled or encouraged despite the land being in the General Residential Zone, because of the presence of an overlay. This includes (but is not limited to) land located within flood hazard areas such as overflow paths, residual overflow paths or stream corridors, and land located within the National Grid yard. There are also instances of wāhi tapu sites contained in Schedule 9 of the operative District Plan that are in the *wāhanga tahi* category (the same category proposed by PC(N) for the Kārewarewa Urupā) and that are located in the General Residential Zone[253].

(582) I therefore do not consider the listing of a wāhi tapu site in Schedule 9 of the District Plan in the General Residential Zone, such that it would result in residential buildings and activities not being enabled or encouraged on the land, to be unusual or inappropriate.

(583) In relation to the proceedings before the Environment Court, as I understand it, these relate to:

(a) An appeal against a decision by Heritage New Zealand Pouhere Taonga to decline an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014; and

(b) Direct referral of a six residential and one access lot subdivision consent and land use consent for earthworks to create building platforms.

(584) I consider that the proceedings referred to in the submission (which are decisions on a subdivision and land use consent application, and an appeal against an archaeological authority) are likely to have a narrower (or at least different) focus to that of PC2. I do not consider that it would be more efficient to wait for the outcome of the Environment Court proceedings, because the Court is not making a decision on whether to incorporate Kārewarewa Urupā into Schedule 9 of the District Plan as part of PC2. Rather, waiting for the Court to make a decision on these matters would result in the urupā being unprotected from inappropriate subdivision, use and development otherwise enabled by the MDRS, which I

[252] Ministry for the Environment. (2019). *National Planning Standards,* p.50.
See: https://environment.govt.nz/publications/national-planning-standards/
[253] See section 4.2.3 for discussion on wāhi tapu sites contained in Schedule 9 of the District Plan that are also located in the General Residential Zone.

consider would be contrary to the Council's obligations under sections 6(e) and 6(f) of the RMA.

(585) In relation to whether incorporating Kārewarewa Urupā into Schedule 9 of the District Plan is an improper use of an IPI, I note that the Council has sought legal advice on this matter (which was made available to submitters during the original submission period)[254]. The Council also sought further legal advice on this matter following the receipt of submissions on PC(N), and this is contained in Appendix D to this evidence. I rely on this advice, and in doing so consider that provisions related to a qualifying matter may be included in an IPI under section 80E(1)(b)(iii) and (2)(e) of the RMA, subject to it being demonstrated that those provisions support or are consequential to incorporating the MDRS into the District Plan[255]. I consider that incorporating Kārewarewa Urupā into Schedule 9 of the District Plan is consequential to incorporating the MDRS into the District Plan, and that this is demonstrated by the assessment contained in section 6.1.4 of the Section 32 Evaluation Report.

(586) However, for the avoidance of doubt, I summarise my reasons for considering it to be consequential as follows:

(a) Kārewarewa Urupā is located within the General Residential Zone, where the Council is required to apply the MDRS. The existence of the urupā and its significance to tangata whenua is substantiated in the Waitangi Tribunal (2020) *Kārewarewa Urupā Report* and by the submissions of iwi[256].

(b) The urupā is a qualifying matter under section 77I(a) of the RMA, because it is a matter that the Council must recognise and provide for under sections 6(e) and 6(f) of the RMA. This is substantiated in section 6.1.4 of the Section 32 Evaluation Report[257].

(c) Because it is a qualifying matter, as part of incorporating the MDRS to the General Residential Zone the Council must consider an appropriate level of development to enable specifically in relation to the urupā. Section 8.3.3 of the Section 32 Evaluation Report evaluated three options for different levels of development that could be enabled (which included enabling the MDRS and enabling development at a lower density to the MDRS). The Report identified that of the options evaluated, the most appropriate level of development at the urupā is that provided by incorporating Kārewarewa urupā into Schedule 9 of the District Plan. This approach applies a range of operative District Plan provisions that restrict development on scheduled wāhi tapu sites. The evaluation identified that this approach would enable the Council to fulfil its obligations under

[254] Simpson Grierson. (21 February 2022). *What does the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 enable? (Legal advice)*.
See: https://www.kapiticoast.govt.nz/media/5ecevqnl/21-02-22-advice-letter-implementing-the-enabling-housing-amendment-act.pdf
[255] Simpson Grierson. (21 February 2022). *What does the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 enable? (Legal advice),* paras 47-55.
[256] Section 32 Evaluation Report, p.161.
[257] Section 32 Evaluation Report, pp.159-164.

sections 6(e) and 6(f) of the RMA, while the other levels of development considered would not.[258]

(d) Therefore, incorporating Kārewarewa Urupā into Schedule 9 of the District Plan is consequential to applying the MDRS to the General Residential Zone, because the urupā is a qualifying matter and incorporating it into Schedule 9 of the District Plan was found, after evaluation under section 32 of the RMA, to be more appropriate than enabling the level of development otherwise required by the MDRS.

(587) Regarding the decisions requested by the submitter, I consider that both requests are similar to the alternative approaches evaluated in the Section 32 Evaluation Report. As stated already, these alternatives are identified in the Report as being less appropriate than incorporating Kārewarewa Urupā into Schedule 9 of the District Plan[259]. I do not consider that the submission includes any new information that would alter this conclusion.

(588) I also consider that the outcome of both decisions requested would (should either be accepted) be contrary to sections 6(e) and 6(f) of the RMA and Policy 9(b) of the NPS-UD.

*Ātiawa ki Whakarongotai submission*

(589) Atiawa ki Whakarongotai support incorporating Kārewarewa Urupā into Schedule 9 of the District Plan, stating several reasons (which I do not paraphrase here)[260]. However, Ātiawa ki Whakarongotai consider that the south-western boundary of the Urupā as identified in Appendix E of PC(N) does not reflect their understanding of the location of the boundary, and they include a figure in their submission showing what they consider to be the south-western boundary (see Figure 25 below, identified as Figure 3 in their original submission).

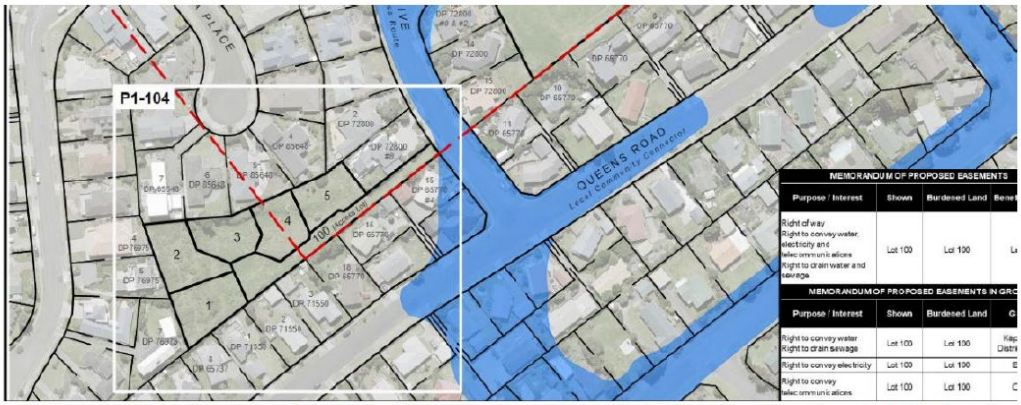


**Figure 3: The scheme plan from the application with the red dashed lines showing the area previously known as Ngarara West A14B1, the location of Kārewarewa urupā**

*Figure 25: figure 3 from the submission of Ātiawa ki Whakarongotai [S100].*

[258] Section 32 Evaluation Report, pp.225-232.
[259] See section 8.3.2 of the Section 32 Evaluation Report (in particular options 2 and 3), pp.225-232.
[260] S100, pp.19-21.

(590) I have no reason to disagree with the position of Ātiawa ki Whakarongotai (as kaitiaki) on this matter. I note that the spatial extent of the listing proposed by PC(N) is based on map 1 identified in *The Kārewarewa Urupā Report*[261], however I also note that figure identifying the boundary in the Ātiawa ki Whakarongotai submission is consistent with the boundary shown in map 3 of *The Kārewarewa Urupā Report*[262] (which shows the location of existing property boundaries at a greater level of detail). I consider that the adjusted boundary sought by Ātiawa ki Whakarongotai is more appropriate than the boundary included in PC(N).

(591) I observe that the figure included in the submission of Ātiawa ki Whakarongotai also shows the same line continuing through WTSx2 (which is the *wāhanga rua* component of Kārewarewa Urupā). However, because the submission of Ātiawa ki Whakarongotai relates only to adjustment of the boundary of WTSx1, I have limited my recommendation to WTSx1. I observe that the adjustment to the boundary would add approximately 515m$^2$ to the area identified as WTSx1.

**Recommendations**

(592) In relation to both decisions requested by the Waikanae Land Company [S104.01 and S104.02], for the reasons outlined above I recommend that both requests are **not accepted**.

(593) In relation to the decision requested by Ātiawa ki Whakarongotai that the Kārewarewa Urupā be incorporated into Schedule 9 of the District Plan, subject to the south-western boundary of WTSx1 be adjusted [S100.50], I recommend that this request be **accepted**. I recommend that the boundary of WTSx1 is adjusted as outlined in Figure 26 below.

[261] Waitangi Tribunal. (2020). *The Kārewarewa Urupā Report*, p.2.
[262] Waitangi Tribunal. (2020). *The Kārewarewa Urupā Report*, p.42.


*Figure 26: recommended adjustment (identified in red) of the south-western boundary of WTSx1 (identified in blue).*

**Section 32AA evaluation**

(594) In relation to the recommended amendment to adjust the south-western boundary of WTSx1 in response to the submission of Ātiawa ki Whakarongotai [S100.50], I consider that the proposed amendment is a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because it recognises and provides for an area Ātiawa ki Whakarongotai (as kaitiaki) have identified as being part of the Kārewarewa Urupā but which would otherwise be unmanaged in the absence of being recognised as such. I consider that this more appropriately gives effect to policy 49 of the Regional Policy Statement and Objective 5 and policy 9(b) of the NPS-UD, and more appropriately recognises and provides for the relationship between Te Ātiawa ki Whakarongotai and their ancestral land and wāhi tapu under section 6(e) of the RMA.

(595) As outlined in section 6.1.4 of the Section 32 Evaluation Report, incorporating Kārewarewa Urupā into Schedule 9 of the District Plan is a qualifying matter under section 77I(a) of the RMA[263]. I therefore consider that amending the south-western boundary of WTSx1 is also qualifying matter. In relation to the information required for qualifying matters under section 77J(3) of the RMA:

(a) Section 77J(3)(a): I consider that the adjustment to the boundary is a qualifying matter under section 77I(a) of the RMA because it is necessary to accommodate a matter of

[263] Section 32 Evaluation Report, pp.159-164.

national importance that decision makers are required to recognise and provide for under section 6(e) of the RMA;

(b) Section 77J(3)(b): Using the methodology outlined in the Section 32 Evaluation Report, the adjustment to the boundary would result in a foregone plan-enabled residential development capacity of 4 dwellings[264]. I therefore consider that the adjustment will have a negligible impact on the provision of development capacity.

(c) Section 77J(3)(c): In relation to the assessment of the costs and broader impacts of the adjustment to the boundary, I consider that due to the scale of additional area provided for by the adjustment, the evaluation of costs and broader impacts outlined in section 8.3.3 of the Section 32 Evaluation Report continues to apply.

**Other matters raised by submitters**

(596) In addition to those matters discussed above, the following submissions requested a range of decisions related to Kārewarewa Urupā. My recommendations on these submissions are addressed directly in the table in Appendix B.

- **Petherick, Laurence** [S116];
- **Turver, Chris** [S130];
- **Te Rūnanga o Toa Rangatira on behalf of Ngāti Toa Rangatira** [S161];
- **Ngā Hapū o Ōtaki** [S203];
- **A.R.T** [S210].

[264] Section 32 Evaluation Report, p.163.

## 4.14 Rezoning – Scope

*Author: Katie Maxwell*

### *4.14.1 Introduction*

(597) The Council has received submissions on PC(N), some of which relate to the rezoning of sites which were not proposed to be rezoned as part of PC(N). In assessing these submissions, consideration must first be made as to whether these submissions are 'on' the plan change and in-scope, or otherwise out of scope and cannot be considered as part of this plan change process. This process is outlined in subsequent sections below. We have sought legal advice on this matter, and it is contained in Appendix D. We have relied on this advice in assessing whether submissions are "on" the plan change.

### *4.14.2 Legal Principles*

(598) As outlined in paragraph 21 and 22 of Appendix D, the tests for whether a submission is "on" a proposed plan change has been established through case law. The principal case in scope of submissions is *Clearwater Resort Limited v Christchurch City Council*. That case concerned whether a submission was "on" a variation to the noise contour provisions of the then proposed Christchurch District Plan. The High Court identified the following two-step approach, which is fundamentally concerned with observing the principles of natural justice:

1. *A submission can only fairly be regarded as "on" a variation if it is addressed to the extent to which the variation changes the pre-existing status quo.*

2. *But if the effect of regarding a submission as "on" a variation would be to permit a planning instrument to be appreciably amended without a real opportunity for participation by those potentially affected, this is a powerful consideration against any argument that the submissions is truly "on" the variation.*

(599) Paragraph 23 of Appendix D outlines that more recently, these tests were followed by the High Court in *Motor Machinists Limited v Palmerston North City Council*. In that case, the Court determined that the first requirement above would be unlikely to be met if:

1. *A submission raises matters that should have been addressed in the section 32 evaluation and report; or*

2. *A submission seeks a new management regime for a particular resource (such as a particular lot) when the plan change did not propose to alter the management regime in the operative plan.*

(600) Therefore, to determine that a submission is "on" a plan change there are two key legal tests to be followed. We have applied these tests in our assessment below.

**The first test**

(601) In the context of PC2, the first test asks if the proposed plan change is altering the status quo in the District Plan in relation to an issue raised by a submission. If not, the issue is unlikely to have been addressed in the section 32 evaluation and report, and the submission is unlikely to be "on" the plan change. However, if the change was analysed in the section 32 report, or the change is "incidental or consequential", in that no substantial further section 32 analysis would be required, then the submission may be "on" the plan change.[265]

(602) Therefore, the scope of PC2 is outlined in the section 32 report.

*Evaluation of sites to be included in the Section 32 Report for PC2*

(603) Sites proposed to be rezoned as part of PC(N), were identified using a set of criteria, which are outlined in section 5.2.3 of the Section 32 report[266]. The criteria are:

- The site is located next to an urban area that is connected to infrastructure services;
- The site has a relatively low degree of constraints (and any existing constraints can be managed through existing District Plan rules);
- The site is not sufficiently large or complex enough to require a "structure planned" approach;
- The site would provide a notable contribution to plan-enabled housing supply, or where this is not the case, re-zoning is appropriate to regularise the area into the surrounding zoning pattern.

(604) These criteria were designed based on the Council's understanding (informed by legal advice) about the type of rezoning that could be included within an IPI. Principally, section 77G(4) of the RMA authorised the Council to create new residential zones as part of incorporating the MDRS into the District Plan. The criteria were therefore designed to identify sites that would be appropriate to simply rezone as General Residential Zone, without any further amendments to the District Plan. This ensured that the rezonings proposed by PC(N) would not go beyond incorporating the MDRS into the District Plan. Additionally, the Council was giving consideration to preparing a separate plan change (outside the IPI) focussed on future urban development, where it would be more appropriate to address large or complex rezonings that went beyond simply incorporating the MDRS.

[265] Refer to the legal advice contained in Appendix D (see page 1 and 2)
[266] Refer specifically to the first three paragraphs on page 139 of the Section 32 Evaluation Report.

(605) The evaluation of sites proposed to be rezoned as part of PC(N) is contained in Appendix V of the Section 32 Evaluation Report, which, depending on the site, refers to several further sources of information to support the evaluation. Appendix V identifies how each site meets the criteria set out in the Section 32 Evaluation Report.

(606) Appendix B to the Section 32 evaluation report outlines the consideration given by Council to all submissions on draft PC2. This identifies whether draft PC2 was amended in responses to each submission and states reasons given. Appendix B includes a section on submissions that sought to include particular sites for rezoning as part of PC(N). These are generally located at pages 63 - 81 of Appendix B.

(607) Appendix N to the Section 32 Evaluation report assesses the general constraints and opportunities for future urban development in a range of areas across the district but makes no recommendations on zoning. It was commissioned in 2021 to inform KCDCs earlier process to develop the scope for a future greenfield plan change and was undertaken prior to the Council being required to develop an IPI. Its use is limited to being referred to by Appendix V as a source of information for the areas proposed to be rezoned as General Residential Zone as part of PC(N). Therefore, I consider that Appendix N should only be given very limited weighting in its consideration for sites not proposed to be rezoned by PC(N) because it makes no recommendations on these sites. Therefore, it would not have been clear to submitters on PC2 that these sites were being considered.

**Interpretation in the context of PC2 – the second test**

(608) The second test is whether affected persons have had a real opportunity to participate in the process.

*Consultation undertaken as part of PC2 – opportunity for participation by those affected*

(609) In determining whether a submission is "on" the plan change, regarding the second test, it is important to outline the opportunity available to the public to participate in the process of PC2.

(610) The first opportunity for the public to participate was on the draft PC2 which was notified on 4th April 2022 and open for submissions for a month, until 2nd May 2022. All submissions made on the draft PC2 were considered and addressed in Appendix B of the Section 32 report. This includes submissions on parcels of land not originally included in the draft, some of which were then included in the PC(N).

(611) Following this, the PC(N) was open for submissions under Schedule 1 of the RMA from August 18th 2022 until September 27th 2022.

(612) Following the close of the submission period for the PC(N), a summary of decisions requested by submitters report (SoDR) was produced and notified for further submissions on 10th

November 2022 until 24th November 2022. As set out under Clause 8(1) of Schedule 1 to the RMA, further submissions were open to parties directly affected by decisions requested, and those representing a relevant aspect of the public interest.

*(613)* There needs to be careful consideration of a submission that seeks rezoning though, as it would not have gone through the level of consultation outlined above. An affected person related to a proposed rezoning by submission only has one opportunity to participate in the process, at the time of further submissions. Had the site been included in PC(N), they would have had multiple opportunities to have input in the process as outline above. Careful consideration under this test is particularly important as this plan change cannot be appealed, so the further submission process is the only opportunity for participation given there are no appeal rights. While some submitters requesting rezoning did submit on the draft PC2, and were therefore considered in the Section 32 Report, those affected by the draft rezoning requests were unlikely to submit on this in the PC(N) given most of these requests were discounted due to various reasons and resulted in no changes made.

### *4.14.3 Scope analysis for each rezoning request*

(614) Below, I address each submission point seeking rezoning and whether I consider it to be "on" the plan change under the application of each test.

(615) Regarding the second test, several submissions were determined to be out of scope because they failed to demonstrate that affected persons had ready opportunity to participate in the process, even when there were considered in Appendix B of the Section 32 Report. This is because the bulk of submissions were on the same sites requested for rezoning as requested in Appendix B, and when these submissions on the PC(N) were open for further submissions, only 18 further submitters on these sites were not primary submitters on PC(N). This demonstrates only a limited number of potentially affected persons were likely aware of the requested changes.

| **Submission point and decision requested** | **Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo?** | **Test 2 – Would affected persons have real opportunity to participate in the process?** | **Conclusion** |
|---|---|---|---|
| **Submissions on sites proposed to be rezoned by PC(N)** | | | |
| S004.01, S006.01, S010.01 – Supports the proposal to rezone 106 -186 | • PC(N) proposes to alter the status quo on the site | • Affected persons would have had multiple opportunities to | **In scope.**<br><br>As the submission is on a change to |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| Milne Drive from Rural Lifestyle Zone to General Residential Zone | because it is amending the operative zoning, which is then addressed in the submission. | participate as the change to the status quo was proposed in both the draft and notified PC2. | the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S013.01 – Supports proposed rezoning of 160-222 Main Road from General Rural Zone to General Residential Zone | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S026.01 – Supports the proposed rezoning of 18 Huiawa Street from Open Space Zone to General Residential Zone (Residential Intensification Precinct B) | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S028.62 – Oppose the rezoning of 1-3 Karu Crescent Waikanae from Open Space Zone to General Residential Zone | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | in the submission. | the draft and notified PC2. | submission to be in scope. |
| S028.63 – Oppose the rezoning of 17 Jean Hing Place from Open Space Zone to General Residential Zone | As above. | | **In scope.**<br><br>As the submission is requesting a consequential amendment to a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S032.01 – Request to include 2 Stetson Rise from Ngarara Development Area in the rezoning to General Residential Zone | • While PC(N) does not propose to alter the status quo for the underlying site addressed in the submission, it requests a consequential amendment to the boundary of an area proposed to be rezoned in PC(N). | • The scale and significance of the requested change is low because the requested change is a consequential amendment to an area proposed to be rezoned as part of PC2, and the extent sought to be incorporated is small in comparison to the overall area.<br><br>• While the only opportunity for affected persons to participate in the amendment requested through this submission was at the further | **In scope.**<br><br>As the submission is requesting a consequential amendment, and there has been sufficient opportunity to submit on the proposed rezoning of the area, I consider this submission to be in scope. |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | | submission stage, those generally affected by the proposed rezoning of the area had the opportunity to submit on the draft and notified PC2.<br><br>• Taking the above into account, I consider that there has been sufficient opportunity for those potentially affected by the change to participate. | |
| S053.16 – Oppose the rezoning of 269-289 Ngarara Road from Future Urban Zone to General Residential Zone (request further justification) | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in the notified PC2 and open to further submissions. | **In scope.**<br><br>As the submission is on a change to the status quo, and multiple opportunities were available to participate in the process, I consider this submission to be in scope. |
| S053.17 - Oppose the rezoning of 174-211 Ngarara Road, Waikanae | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in the notified PC2 and | **In scope.**<br><br>As the submission is on a change to the status quo, and multiple opportunities were available to participate in the process, I consider |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | in the submission. | open to further submissions. | this submission to be in scope. |
| S053.18 – Oppose the rezoning of 160-220 Main Road and 39 Rongomau Lane from General Rural Zone to General Residential Zone | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S076.18 – Oppose the rezoning of 112 Ngarara Road and 211 Ngarara Road from Future Urban to General Residential Zone where it intersects with the National Grid Yard | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S077.01 – Support the rezoning of 58 Ruahine Street from Rural Production Zone to General Residential Zone | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S077.02 – Request the adjacent land parcel to 58 Ruahine | • While PC(N) does not propose to alter | • The scale and significance of the requested | **In scope.** |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| Street (76 Ruahine Street) be included in the proposed rezoning to General Residential Zone | the status quo for the underlying site addressed in the submission, it requests a consequential amendment (extension of the boundary of an area proposed to be rezoned in PC(N)). | change is low because the requested change is a consequential amendment to an area proposed to be rezoned as part of PC2, and the extent sought to be incorporated is small in comparison to the overall area.<br><br>• While the only opportunity for affected persons to participate in the amendment requested through this submission was at the further submission stage, those generally affected by the proposed rezoning of the area had the opportunity to submit on the draft and notified PC2.<br><br>• Taking the above into account, I consider that there has been sufficient opportunity for those potentially affected by the change to participate. | As the submission is requesting a consequential amendment, and there has been sufficient opportunity to submit on the proposed rezoning of the area, I consider this submission to be in scope. |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| S122.107 – Seeks further evidence to demonstrate rezoning requirements (well-functioning urban environments) and seeks that MRZ is proposed for these sites if evidence demonstrates rezoning is appropriate | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S125.01 – Request the rezoning of 39 Rongomau Lane is amended to include 47 Rongomau Lane | While PC(N) does not propose to alter the status quo for the underlying site addressed in the submission, it requests a consequential amendment (extension of the boundary of an area proposed to be rezoned in PC(N)). | • The scale and significance of the requested change is low because the requested change is a consequential amendment to an area proposed to be rezoned as part of PC2, and the extent sought to be incorporated is small in comparison to the overall area.<br><br>• While the only opportunity for affected persons to participate in the amendment requested through this submission was at the further submission stage, those generally affected by the proposed rezoning of the area had the | **In scope.**<br><br>As the submission is requesting a consequential amendment, and there has been sufficient opportunity to submit on the proposed rezoning of the area, I consider this submission to be in scope |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | | opportunity to submit on the draft and notified PC2.<br><br>• Taking the above into account, I consider that there has been sufficient opportunity for those potentially affected by the change to participate. | |
| S128.01 – Support the proposed rezoning of 160-222 Main Road. | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S155.01 – Amend the proposed rezoning of 234 and 254 Rangiruru Road to include PR Lot 1 DP 42874 CT 19C/953 to be included in the Residential Intensification Precinct B | • While PC(N) does not propose to alter the status quo for the underlying site addressed in the submission, it requests a consequential amendment (extension of the boundary of an area proposed to be rezoned in PC(N)). | • The scale and significance of the requested change is low because the requested change is a consequential amendment to an area proposed to be rezoned as part of PC2, and the extent sought to be incorporated is small in comparison to the overall area. | **In scope.**<br><br>As the submission is requesting a consequential amendment, and there has been sufficient opportunity to submit on the proposed rezoning of the area, I consider this submission to be in scope. |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | | • While the only opportunity for affected persons to participate in the amendment requested through this submission was at the further submission stage, those generally affected by the proposed rezoning of the area had the opportunity to submit on the draft and notified PC2.<br><br>• Taking the above into account, I consider that there has been sufficient opportunity for those potentially affected by the change to participate. | |
| S157.01 – Support the rezoning in PC(N) for 160-222 Main South Road | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S158.01 – Oppose the rezoning of 18 Huiawa Street from | • PC(N) proposes to alter the status | • Affected persons would have had multiple | **In scope.** |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| Open Space Private Recreation and Leisure Zone to General Residential Zone | quo on the site because it is amending the operative zoning, which is then addressed in the submission. | opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S183.01 – Support the proposed rezoning of 298 Ngarara Road and land within 269-289 Ngarara Road from Future Urban Zone to General Residential Zone | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S184.01 – Support the proposed rezoning of 269-298 Ngarara Road from Future Urban Zone to General Residential Zone | • PC(N) proposes to alter the status quo on the site because it is amending the operative zoning, which is then addressed in the submission. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S205.01 – Amend the proposed rezoning of 39 Rongomau Lane and 99-105 Poplar Avenue to include additional sites on | • While PC(N) does not propose to alter the status quo for the underlying site addressed in the submission, it requests a | • The scale and significance of the requested change is low because the requested change is a consequential amendment to | **In scope.**<br><br>As the submission is requesting a consequential amendment, and there has been sufficient opportunity to |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| Matai Road and 29 Harry Shaw Way. | consequential amendment (extension of the boundary of an area proposed to be rezoned in PC(N)). | an area proposed to be rezoned as part of PC2, and the extent sought to be incorporated is small in comparison to the overall area.<br><br>• While the only opportunity for affected persons to participate in the amendment requested through this submission was at the further submission stage, those generally affected by the proposed rezoning of the area had the opportunity to submit on the draft and notified PC2.<br><br>• Taking the above into account, I consider that there has been sufficient opportunity for those potentially affected by the change to participate. | submit on the proposed rezoning of the area, I consider this submission to be in scope |
| S206.01 – Amend the plan change to include additional areas for rezoning to General Residential Zone | • The submission doesn't specify what additional sites are to be rezoned. It's not clear to me that the submission | • Because the submission doesn't specify what sites are requested to be rezoned, it is not clear to what | **Out of scope.**<br><br>I do not consider either test to be met in regard to this submission, and therefore I |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | addresses and alteration to the status quo in relation to any specific site. | extent people might be affected by the submission. | consider it to be out of scope. |
| **Submissions seeking rezoning that was not proposed by PC(N)** | | | |
| S003.01 – Request to rezone land to the north of Rahui Road and West of Freemans Road in Ōtaki from Rural Production Zone to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | • The scale and significance of the requested change is high because the site is larger in size than those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | **Out of scope.**<br>Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does not meet the first test. Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, the second test is not met either.<br>Therefore, I consider this submission to be out of scope. |
| S008.01 – Request to rezone 12 Waitohu Valley Road from Rural Production Zone (Rural Plains Precinct) to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential | • The scale and significance of the requested change is moderate because the site is similar in size to those proposed to be | **Out of scope.**<br>Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | amendment to adjacent rezoning.<br><br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | rezoned by PC(N).<br><br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | not meet the first test.<br><br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br><br>Therefore, I consider this submission to be out of scope. |
| S012.01, S043.04 – Request to rezone 99 and 103 State Highway 1, Waikanae from General Rural Zone (Waikanae North Eco Hamlet Precinct to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br><br>• The submission does not request a consequential amendment to adjacent rezoning.<br><br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br><br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly | **Out of scope.**<br><br>Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does not meet the first test.<br><br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br><br>Therefore, I consider this |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | | indicate that this site was considered for rezoning. | submission to be out of scope. |
| S018.02, S064.05 – Request to Rezone Paraparaumu Beach as a Local Centre Zone. | • PC(N) proposes to alter the status quo on the site because it increases building height and density as part of giving effect to Policy 3 of NPS-UD. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC(N). | **In scope.**<br><br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S023.01 – Request to rezone property from Rural Lifestyle Zone to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br><br>• The submission does not request a consequential amendment to adjacent rezoning.<br><br>• The site is not considered within the body of the Section 32 Report, specific consideration was given to rezoning of the site in Appendix B.[267] | • The scale and significance of the requested change is moderate because the site is similar in size to those proposed to be rezoned by PC(N).<br><br>• Affected persons could have submitted in support or opposition to the recommendation in Appendix B, although they would have had to be aware of that particular recommendation. Following this, they also had an opportunity to participate at the | **In scope.**<br><br>I consider the submission meets both tests, and therefore it is in scope.<br><br>However, I consider that this submission only marginally passes the second test, because the site is of such a size that it is uncertain how many people are affected by the change and whether they have had sufficient opportunity to participate. |

[267] Refer specifically to point 154 (page 70) of Appendix B of the Section 32 Evaluation Report

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | | further submissions stage. | |
| S024.01, S068.01, S068.02 – Request to rezone 38.1ha of land off Waipunahau Road, Waikanae from Waikanae North Development Area to General Residential Zone, with the parts currently identified as Precincts 45 and 46 (Multi Unit Residential and Mixed Use Precincts) rezoned as Residential Intensification Precinct. | • PC(N) does not propose to alter the status quo on the site.<br><br>• The submission does not request a consequential amendment to adjacent rezoning.<br><br>• The site is not considered within the body of the Section 32 Report, specific consideration was given to rezoning of the site in Appendix B.[268] | • The scale of the requested change is high because the site is much larger in size than those proposed to be rezoned by PC(N). The significance is moderate though, given the underlying land uses for a large portion of the site are urban and the fact the land is subject to a development area and is zoned future urban in parts.<br><br>• Affected persons could have submitted in support or opposition to the recommendation in Appendix B, although they would have had to be aware of that particular recommendation. Following this, they also had an opportunity to participate at the further submissions stage. | **In scope.**<br><br>I consider the submission to technically meet both tests, and therefore it is in scope.<br><br>However, I consider that this submission only marginally passes the second test, because the site is of such a size that it is uncertain how many people are affected by the change and whether they have had sufficient opportunity to participate. |

[268] Refer specifically to point 171 and 172 (page 76 and 77) of Appendix B of the Section 32 Evaluation Report

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| S031.01 – Request to rezone 47 Te Roto Road, Ōtaki from Rural Production Zone (Rural Plains Precinct) to General Residential Zone or Mixed Use Zone. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning | **Out of scope.**<br><br>Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does not meet the first test.<br><br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br><br>Therefore, I consider this submission to be out of scope. |
| S043.03, S052.01, S091.01, S093.01 – Request to rezone the land bounded by Ratanui Road and Otaihanga Road from Rural Lifestyle Zone to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br>• Affected persons could have submitted in support or opposition to the recommendation in Appendix B, | **In scope.**<br><br>I consider the submission meets both tests, and therefore it is in scope.<br><br>However, I consider that this submission only marginally passes the second test, because the site is of such a size that it is uncertain how many people are affected by the |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
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| | general consideration was given to rezoning of the site in Appendix B.[269] | although they would have had to be aware of that particular recommendation (which was vague). Following this, they also had an opportunity to participate at the further submissions stage. | change and whether they have had sufficient opportunity to participate. |
| S047.01, S087.01 – Request to rezone 108 Elizabeth Street, Waikanae from Rural Production Zone (Rural Plains Precinct) to General Residential Zone (Residential Intensification Precinct A). | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | **Out of scope.**<br>Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does not meet the first test.<br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br>Therefore, I consider this submission to be out of scope. |

[269] Refer specifically to point 38 (page 20) of Appendix B of the Section 32 Evaluation Report

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
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| S071.01 – Request their property remain its current rural zoning (as other submitters requested it be rezoned General Residential Zone). It is not proposed to be rezoned under PC(N). | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | **Out of scope.**<br><br>Not on scope because it does not meet the first test. |
| S088.01 – Request to rezone the land within and near to the Ōtaki Future Urban Zone (as identified in figure 1 of the submission) from Future Urban Zone and General Rural Zone to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was | **Out of scope.**<br><br>The submission does not meet the first test as it is not related to an alteration to the status quo on the site or a consequential amendment. It is not addressed in the Section Report either.<br><br>Given the scale and significance of the change |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
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| | 32 Report, or its appendices. | at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br><br>Therefore, I consider this submission to be out of scope. |
| S088.02 – Rezone the balance of land within the Ōtaki Future Urban Zone to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br><br>• The submission does not request a consequential amendment to adjacent rezoning.<br><br>• The site is not considered within the body of the Section 32 Report, or its appendices. | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br><br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | **Out of scope.**<br><br>The submission does not meet the first test as it is not related to an alteration to the status quo on the site or a consequential amendment. It is not addressed in the Section Report either.<br><br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br><br>Therefore, I consider this submission to be out of scope. |
| S099.01 – Retain the existing of 155 to 205 Paetawa Road, | • PC(N) does not propose to alter | • No persons are affected, because the | **Out of scope.** |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| Peka Peka. It is not proposed to be changed under PC(N) but opposes any submission requesting rezoning of these sites. | the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, or its appendices. | submission does not seek a change to the status quo. | Not on scope because it does not meet the first test. |
| S122.10 – Request to rezone the site on the corner of Mazengarb Road and the Drive to General Residential Zone. | • PC(N) proposes to alter the status quo on the site because it increases building height and density as part of giving effect to Policy 3 of NPS-UD. | • Affected persons would have had multiple opportunities to participate as the change to the status quo was proposed in both the draft and notified PC2. | **In scope.**<br>As the submission is on a change to the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S136.01 – Request to rezone 293 State Highway 1, Paekākāriki, from General Rural Zone to a zone that allows subdivision. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body | • The scale and significance of the requested change is low because the site is much smaller in size than those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of | **Out of scope.**<br>As the submission does not meet the first test it is out of scope. |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | of the Section 32 Report, or its appendices. | rezoning for this submission was at the further submission stage. Given the scale and significance, I consider this to be sufficient opportunity for affected persons to participate. | |
| S142.01 – Request to rezone 173 to 191 Main Road North, Waikanae from General Rural Zone to a form of large lot residential, settlement, or lifestyle zoning. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | • The scale and significance of the requested change is high because the site is much larger in size to those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | **Out of scope.**<br>Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does not meet the first test.<br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br>Therefore, I consider this submission to be out of scope. |
| S143.01, S164.01 – Request to rezone 155-205 Paetawa | • PC(N) does not propose to alter | • The scale and significance of the requested | **Out of scope.** |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| Road (and any other properties with similar characteristics). | the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | change is moderate because the site is similar in size to those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does not meet the first test.<br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br>Therefore, I consider this submission to be out of scope. |
| S156.01 – Request to rezone 11 and 15 Te Rauparaha Street (up to Bennetts Road) to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that | • The scale and significance of the requested change is moderate because the site is similar in size to those proposed to be rezoned by PC(N).<br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further | **Out of scope.**<br>Although the site is part of an area addressed in Appendix N, this assessment is not specific to the site and therefore does not meet the first test.<br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | has been assessed in Appendix N. | submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | participation, this test is not met either.<br><br>Therefore, I consider this submission to be out of scope. |
| S168.01 – Request to rezone the part of 157 Field Way that abuts Field Way (currently Rural Zone and in the Rural Dunes Precinct) as urban land to allow residential subdivision. | • PC(N) does not propose to alter the status quo on the site.<br><br>• The submission does not request a consequential amendment to adjacent rezoning.<br><br>• The site is not considered within the body of the Section 32 Report, specific consideration was given to rezoning of the site in Appendix B.[270] | • The scale and significance of the requested change is low because the site is much smaller in size than those proposed to be rezoned by PC(N).<br><br>• Affected persons could have submitted in support or opposition to the recommendation in Appendix B, although they would have had to be aware of that particular recommendation. Following this, they also had an opportunity to participate at the further submissions stage. | **In scope.**<br><br>The first test is met as the site was addressed in the Section 32 report, with a specific recommendation made in Appendix B.<br><br>Given the low scale and significance of the requested change, I consider the opportunity for affected persons to participate to be proportionate.<br><br>Therefore, I consider this submission to be in scope. |
| S187.01 – request to rezone the properties adjacent to Main Highway/Mill Road | • PC(N) proposes to alter the status quo on the site | • Affected persons would have had multiple opportunities to | **In scope.**<br><br>As the submission is on a change to |

[270] Refer specifically to point 148 (page 68) of Appendix B of the Section 32 Evaluation Report

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| (identified on the map) to MUZ (or equivalent) or TCZ. | because it increases building height and density as part of giving effect to Policy 3 of NPS-UD. | participate as the change to the status quo was proposed in both the draft and notified PC2. | the status quo, and the change was considered in both the draft and notified PC2, I consider this submission to be in scope. |
| S189.01 – Request to rezone 14 Greenway Road, Waikanae from General Rural Zone to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site.<br>• The submission does not request a consequential amendment to adjacent rezoning.<br>• The site is not considered within the body of the Section 32 Report, specific consideration was given to rezoning of the site in Appendix B.[271] | • The scale and significance of the requested change is low because the site is much smaller in size than those proposed to be rezoned by PC(N).<br>• Affected persons could have submitted in support or opposition to the recommendation in Appendix B, although they would have had to be aware of that particular recommendation. Following this, they also had an opportunity to participate at the further submissions stage. | **In scope.**<br>The first test is met as the site was addressed in the Section 32 report, with a specific recommendation made in Appendix B.<br>Given the low scale and significance of the requested change, I consider the opportunity for affected persons to participate to be proportionate.<br>Therefore, I consider this submission to be in scope. |
| S208.01 – Request to rezone the sites located to the west and east of the Te Moana interchange (identified in figure 1 | • PC(N) does not propose to alter the status quo on the site. | • The scale and significance of the requested change is moderate because the site | **Out of scope.**<br>Although the site is part of an area addressed in Appendix N, this |

[271] Refer specifically to point 137 (page 64) of Appendix B of the Section 32 Evaluation Report.

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| of the submission) from General Rural Zone to General Residential Zone. | • The submission does not request a consequential amendment to adjacent rezoning.<br><br>• The site is not considered within the body of the Section 32 Report, but it is located within an area that has been assessed in Appendix N. | is similar in size to those proposed to be rezoned by PC(N).<br><br>• The only opportunity for affected persons to participate in the process of rezoning for this submission was at the further submission stage. I do not consider this to be sufficient given the Section 32 Report does not clearly indicate that this site was considered for rezoning. | assessment is not specific to the site and therefore does not meet the first test.<br><br>Given the scale and significance of the change requested and that the further submissions process was the only opportunity for participation, this test is not met either.<br><br>Therefore, I consider this submission to be out of scope. |
| S209.01 – Request to rezone 100 and 110 Te Moana Road from General Rural Zone to General Residential Zone. | • PC(N) does not propose to alter the status quo on the site<br><br>• The submission does not request a consequential amendment to adjacent rezoning<br><br>• The site is not considered within the body of the Section 32 Report, specific consideration was given to rezoning of the | • The scale and significance of the requested change is moderate because the site is similar in size to those proposed to be rezoned by PC(N).<br><br>• Affected persons could have submitted in support or opposition to the recommendation in Appendix B, although they would have had to be aware of that particular | **In scope.**<br><br>I consider the submission meets both tests, and therefore it is in scope.<br><br>However, I consider that this submission only marginally passes the second test, because the site is of such a size that it is uncertain how many people are affected by the change and whether they have had sufficient |

| Submission point and decision requested | Test 1 – Does PC(N) propose to alter the status quo under the operative plan and does the submission point address the alteration to the status quo? | Test 2 – Would affected persons have real opportunity to participate in the process? | Conclusion |
|---|---|---|---|
| | site in Appendix B.[272] | recommendation. Following this, they also had an opportunity to participate at the further submissions stage. | opportunity to participate. |

## 4.15 Rezoning – Submissions on rezonings proposed by PC(N)

*Author: Katie Maxwell*

### *4.15.1 General Requests*

(616) I make recommendations on the following submissions I consider to be in scope: S004.01, S006.01, S010.10, S013.01, S026.01, S028.62, S028.63, S032.01, S053.16, S053.17, S076.18, S077.01, S077.02, S077.03, S122.107, S123.01, S125.01, S128.01, S155.01, S157.01, S158.01, S183.01, S184.01 and S205.01.

(617) Generally, I address matters raised by each submission, their assessment, any relevant S32AA and their recommendation in the recommendations table attached in Appendix B. Where I consider matters raised to be more complex, I address the submission below.

### *4.15.2 Kainga Ora submission on rezoning of (269-289 Ngarara Road, 174-211 Ngarara Road, 160-222 Main Road, 39 Rongamau Lane and 99-105 Poplar Avenue)*

(618) I address the Kainga Ora submission (S122.107) below due to the range of information and sites to be addressed, and the size of the response being too large for the recommendation table.

[272] Refer specifically to point 138 (page 65) of Appendix B of the Section 32 Evaluation Report

**Matters raised by submitter**

(619) The key matters raised included:

- Appropriateness of rezoning open space land to General Residential Zone
- Accessibility to active and public transport
- Site constraints, particularly with regards to hazards
- Infrastructure requirements
- Proximity to centres and employment opportunities.

**Assessment**

(620) The submitter opposes the rezoning proposed by PC2 for several reasons. I address each point below. The information for these sites is summarised in Appendix V of the Section 32 Report, which references more detailed information contained in Appendix O and N. I address the matters raised by the submitter below.

(621) The three areas proposed for rezoning are estimated to enable 850 dwellings under the MDRS. The HBA identifies that there is insufficient plan-enable residential development capacity in the district. While the intensification provision of PC(N) will enable a significant amount of development to occur the areas proposed to be rezoned as General Residential as part of PC(N) also contribute to this.

(622) Regarding active transport, these sites have good access to the multi-modal walking, cycling and bridal way along the Kapiti Expressway. Regarding public transport, 160-222 Main Road and 39 Rongamau Lane may not be within a walkable catchment of the Paraparaumu Train Station, they are between 1.5-2km from the station and there is access to the train station and metropolitan network via active networks along the Kapiti Expressway and old state highway 1. Mode shift is enabled through connection to active transport networks which have reasonable access to public transport networks.

(623) The principal hazards relating to these sites is flood hazard. Appendix P of the Section 32 Report provides information on the flood hazards in relation to all sites proposed to be rezoned. In relation to these sites flood hazards are managed through the provisions of the operative district plan. The flood hazard provisions are described in further detail as Section 4.10.1 of this report.

(624) However, 99-105 Poplar Ave is not identified in the Operative District Plan maps as being subject to flood hazard, however the modelling in Appendix P identifies that there is flood hazard on the site. While the Section 32 Report identifies that flood hazard on the site is

intended to be addressed through a future flood hazard plan change[273], I do not consider it appropriate to rezone this site until that has occurred.

(625) Regarding the provision of infrastructure for development, this matter is explained in detail at Section 4.2.5 of this report. In relation to these sites, there are no known infrastructure constraints that would prevent development of the sites and in any case, there are a range of district plan provision that require the provision of adequate infrastructure including water supply, wastewater, stormwater and transport infrastructure as part of undertaking subdivision and development. I consider that the provision of infrastructure for these sites to be appropriately manged under the provisions of the district plan.

(626) All areas are located in reasonable proximity of town centres at Waikanae and Paraparaumu.

**Recommendation**

(627) I accept the decision request in part, as I recommend the removal of 99-105 Poplar Ave from the rezoning to General Residential Zone proposed as part of PC(N). I reject the remainder of the request.

**Section 32AA**

(628) Regarding the removal of 99-105 Poplar Avenue from PC(N), due to its size it does not contribute significantly to residential development capacity. The removal of this site is also consistent with objective DO-O5, for Natural Hazards. I consider the proposed amendments are a more appropriate way to achieve the objectives of PC2.

## 4.16 Rezoning – Other Rezoning Requests

*Author: Katie Maxwell*

(629) The submissions addressed in this section met both legal scope tests, and therefore further assessment and a recommendation will be made for each.

(630) I make recommendations on the following submissions I consider to be in scope: S023.01, S024.01, S068.01, S068.02, S043.03, S052.01, S091.01, S093.01, S168.01, S189.01 and S209.01.

(631) As outlined in paragraph 604, Council used four criteria to determine the sites appropriate for rezoning in PC(N). This criteria has been used to assess submissions requesting further

[273] Refer specifically to point 177 (page 81) of Appendix B of the Section 32 Evaluation Report

rezoning outside of that proposed by PC(N), and whether rezoning them is consistent with rezoning proposed in PC(N).

(632) Below I assess each submission point and provide a recommendation.

| Submission requests | Evaluation against each criteria |
|---|---|
| S023.01 – Otaihanga (western side of Tieko Street) | • The site is not next to an urban area that is connected to infrastructure services. |
| | • The site has a relatively low degree of constraints, and any constraints on-site can be addressed by the existing District Plan rules. |
| | • The site is sufficiently large and complex enough to require a structure planned approach. |
| | • The site would potentially provide a notable contribution to plan-enabled housing supply. |
| | **Recommendation:**<br><br>While I note that a resource consent has recently been granted for the site, this is based on its own merits and at a scale that is not comparable with the requirements PC2 is seeking to achieve – implementing the NPS-UD and MDRS.<br><br>When assessed against the criteria for rezoning as defined above for PC2, the site does not meet two requirements – it is sufficiently large to require a structure planned approach and is not next to an urban area that is connected to infrastructure services. Therefore, I do not find it appropriate to be rezoned as part of PC2.<br><br>It should also be noted that this submission refers to a site which has recently had a subdivision consent granted, for a range of development ranging from low density urban to rural lifestyle. |
| S024.01, S068.01, S068.02 – Land off Waipunahau Road, Waikanae (Waikanae Development Area) | • The site is next to an urban area that is connected to infrastructure services. |
| | • The site is relatively unconstrained, and the constraints on-site can be managed by the existing District Plan rules. |
| | • The site is currently within a structure plan, which features a detailed and integrated set of bespoke provisions (including design guides) to carefully manage development in the area. Rezoning of all or parts of the Waikanae North Development Area would require careful consideration in order to ensure the integrated management approach for the Development Area is maintained in a manner that is consistent with the requirements of the MDRS. |

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| | • The National Planning Standards also set out when development areas should be removed from the plan – specifying that when the associated development is complete, the development areas spatial layer is generally removed from the plan either through a trigger in the development area provisions or at a later plan change. Removing the development area provisions in the manner requested by the submitter would not be consistent as the development of the area is not complete. |
| | • The site would provide a notable contribution to plan-enabled housing supply, given the size of the area. |
| | **Recommendation:**<br><br>Given the site does not meet criteria 3 because it is subject to an existing structure plan it is not appropriate to rezone it as part of PC2. |
| S043.03, S052.01, S091.01, S093.01 – Ratanui Road and Otaihanga Road, Otaihanga | • The site is next to an urban area that is connected to infrastructure services. |
| | • The site has a relatively low degree of constraints, except for the fact that the northern portion of the site contains Class III soils under the NZLRI, which are not managed under the District Plan at present, but rather through the NPS-HPL which says to avoid subdivision and development on Class I, II and III soils. |
| | • The site is of a sufficient size and complexity to require a structure planned approach in order to enable cohesive future urban development, rather than ad-hoc rezoning. |
| | • The site would provide a notable contribution to plan-enabled housing supply. |
| | **Recommendation:**<br><br>As the site does not meet two of the criteria, it is not appropriate to rezone it as part of PC2. |
| S168.01 – 157 Field Way, Waikanae Beach | • The site is adjacent to an urban area that is connected to infrastructure services. |
| | • The site has a relatively low degree of constraints, and any constraints on-site could be managed by the existing District Plan rules. |
| | • The site is not sufficiently large or complex enough to require a structure planned approach. |
| | • No, the site would not provide a notable contribution to plan-enabled housing. It would not regularise the area into a surrounding zoning pattern as the site is outside of the Waikanae North Urban Edge and while the site is bordered by residential properties on two sides, it is in the rural environment. |

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| | **Recommendation:**<br><br>As the site does not meet one of the criteria (to provide a notable contribution to plan-enabled housing or regularise with surrounding zoning) and the site is outside of the Waikanae North Urban Edge, there is insufficient basis to justify altering the location of the line, or rezoning land located outside of the line as part of PC2.<br><br>Therefore, it would be inappropriate to rezone this land as part of PC2. |
| S189.01 – 14 Greenaway Road, Waikanae | • The site is next to an urban area that is connected to infrastructure services. |
| | • The site is subject to a range of constraints, the key constraint being flooding (WA-03) although these could be managed by the existing District Plan provisions. |
| | • Given the constraints on-site, the site is considered complex enough to require a more comprehensive planning approach prior to rezoning. |
| | • The site would not provide a notable contribution to plan-enabled housing supply or regularise the area into a surrounding zoning pattern – rather it would be extending the adjacent sites General Residential zoning. |
| | **Recommendation:**<br><br>The site was considered for rezoning as part of the preparation for PC2. This site includes LUC II soils, and therefore meets the definition of highly productive land under clause 3.5(7) of the National Policy Statement on Highly Productive Land (NPS-HPL). This is because the site itself was not subject to notified PC(N) at the commencement date of the NPS-HPL. I therefore consider it is inconsistent with Policy 5 of the NPS-HPL to include this site within the general residential zone.<br><br>Given the constraints on-site, the need for further investigation and the fact that rezoning the land would result in an unusual and fragmented zoning pattern, I consider it is not appropriate to rezone this land as part of PC2. |
| S209.01 – 100 and 110 Te Moana Road, Waikanae | • The site is next to an urban area that is connected to infrastructure services. |
| | • The site has a range of constraints, it is subject in part to the expressway designation, adjacent to a wāhi tapu site (which the extent of is yet to be determined), includes ecological sites such as wetlands and waterbodies and is prone to flooding. |
| | • The site is sufficiently complex enough to require a comprehensive planning approach to manage on-site constraints. |

| | |
|---|---|
| | • The site would not provide a notable contribution to plan-enabled housing supply (given it is 5.5ha and subject to a number of constraining factors) and would not regularise the area into surrounding zoning. |
| | **Recommendation:**<br><br>The site is in an area that was considered for rezoning as part of the preparation for PC2. The site is subject to several constraints on-site, including partial overlap by the expressway designation, ecological sites, is prone to flooding and is adjacent to a wāhi tapu site. As noted in the further submission by Atiawa ki Whakarongotai, the site sits in the Takamore urupa and wāhi tapu precinct, with rezoning deemed inappropriate prior to further in-depth investigation with mana whenua.<br><br>This site also includes LUC II soils, and therefore meets the definition of highly productive land under clause 3.5(7) of the National Policy Statement on Highly Productive Land (NPS-HPL). This is because the site itself was not subject to notified PC(N) at the commencement date of the NPS-HPL. I therefore consider it is inconsistent with Policy 5 of the NPS-HPL to include this site within the general residential zone.<br><br>For these reasons, I consider it inappropriate to rezone this land as part of PC2. |

(633) Further to the table above are four 'in-scope' submissions considered to be 'Other Zoning Requests' that are focused on the urban environment, which the underlying status quo for is changing as part of PC(N) (S018.02, S064.05, S122.10 and S187.01). As these requests are not seeking rezoning outside of the urban area, they do not need to be assessed against the same rezoning criteria as those in the table above. I have considered these submissions directly in the recommendations table, based on the appropriateness of each request.

## 4.17 Financial Contributions

*Author: Andrew Banks*

**Matters raised by submitters**

(634) Several submitters supported the use of financial contributions, but sought they be extended or amended for certain matters. This includes:

(a) **Waka Kotahi** [S053.14, S053.15], who support financial contributions for the purpose of ensuring positive effects, and request the provisions related to transportation infrastructure are amended to provide for multiple modes of transport;

(b) **Greater Wellington Regional Council** [S097.20] who seek amendments to clarify that financial contributions can be collected to address both stormwater quality and quantity;

(c) **Kāinga Ora** [S122.89], who seek amendments to policy FC-P3 related to offsetting.

(635) **Templeton Kāpiti Limited** [S115.08] request amendments to table FC-Table x2 to clarify are to be determined based on consideration of the additional generated demand associated with development.

(636) The **RVA** [S197.24] generally oppose a dual regime of development contributions and financial contributions, and seek a range of amendments.

(637) **Landlink** [S204.23, S203.24] request amendments related to the timing of payment and matters related to credits.

(638) **Grant, John** [S025.01] seeks clarification that developers will pay for any upgrade to any component of Council facilities required to service the development.

(639) I also note that there were several submission points related to the financial contributions provisions in the submissions of tangata whenua. I address these submission points separately in section 4.2.8 of this report.

**Assessment and recommendations**

(640) My assessment and recommendations on these submission points are addressed directly in the table in Appendix B.

## 5.0 Correction of minor errors

*Author: Andrew Banks*

(641) Clause 16(2) of Schedule 1 to the RMA enables the Council to correct minor errors in a proposed plan change. Some minor errors have been identified in the course of preparing recommendations on submissions. The following table summarises the minor errors identified, and it is recommended that these errors are corrected under clause 16(2) of Schedule 1 to the RMA. The corrections are shown as tracked changes in the "Council Officer Recommendations Version" (PC(R1)) of the IPI contained in Appendix A, and identified with sidebar annotation that states "Cl16(2)".

| Provision reference | Relevant section of PC(R1) | Description of minor error | Description of correction (correction shown in red tracked changes). |
|---|---|---|---|
| SUB-DW-Rx1 | 10.1 | Matter of control 1 incorrectly refers to rule SUB-RES-R26. Because SUB-DW-Rx1 | Amend matter of control 1 as follows:<br><br>1. Those matters listed under rule ~~SUB-RES-R26~~ SUB-RES-Rx1 in the Subdivision in Residential Zones chapter; |
| GRZ-Rx5 | 4.28 | The reference to standard 1 under rule GRZ-Rx1 at the head of the rule uses syntax that is not consistent with the method for referencing standards under other rules used throughout the plan. | Amend the head text of rule GRZ-Rx5 as follows:<br><br>… except for standard 1 under rule GRZ-Rx1~~.1~~. |
| GRZ-Rx5, GRZ Rx6, GRZ-Rx8 | 4.28, 4.29, 4.31 | GRZ-Rx1, Rx2 and Rx3 exclude papakāinga (which are covered under separate permitted and restricted discretionary activity rules.<br><br>Rules GRZ-Rx5, Rx6 and Rx8 are part of the same rule cascade as GRZ-Rx1, Rx2 and Rx3, and therefore should also include the exclusion for papakāinga that is included in the head text for rules GRZ-Rx1, Rx2 and Rx3. | Add the following text to the head text of rules GRZ-Rx5, Rx6 and Rx8:<br><br>The following are excluded from this rule:<br>• *Papakāinga* |

## 6.0 Conclusion

*Author: Andrew Banks*

(642) Submissions have been received from tangata whenua and the public in support of, opposition to, or seeking amendment to, the provisions of PC(N).

(643) The decisions requested through submissions on PC(N) have been assessed as part of this planning evidence, and recommendations have been made to accept, accept in part or not accept the range of decisions requested. Recommendations in relation to further submissions reflect the recommendations on the relevant primary submission.

(644) As a result of the consideration of submissions, several amendments are recommended to PC(N). These are set out in PC(R1), which is contained in Appendix A to this evidence.

(645) The recommended amendments to the provisions contained in PC(R1) are a more appropriate means of achieving the purpose of the RMA, giving effect to higher-order planning documents, and achieving the objectives of PC2 than the provisions proposed by PC(N).

(646) To conclude, it is recommended that:

(a) The Independent Hearings Panel accept, accept in part, or do not accept the decisions requested in submissions (and associated further submissions) as set out in Appendix B to this evidence; and

(b) That PC(N) is amended to incorporate the changes set out in PC(R1) contained in Appendix A to this evidence.

# Appendix A. Officer recommended amendments to the Intensification Planning Instrument (PC(R1))

# Appendix B. Recommendations on decisions requested in submissions (by topic)

# Appendix C. Recommendations on decisions requested in submissions (by primary submitter)

# Appendix D. Legal advice on scope of submissions for PC2 (Simpson Grierson, 2023)

# Appendix E. Analysis of Proposed Change 1 to the Wellington Regional Policy Statement

# Appendix F. Maps identifying the location of submissions that seek rezoning

# Appendix G. 2022 Population Forecast for the Kāpiti Coast District by SA2 (Kāpiti Coast District Council, 2022)