

9 July 2025

Matt Muspratt
Email: muspratt.consulting@outlook.com

Dear Mr Muspratt

**RE: Response to Request for Further Information – Planning Matters: Private Plan Change at
100/110 Te Moana Road**

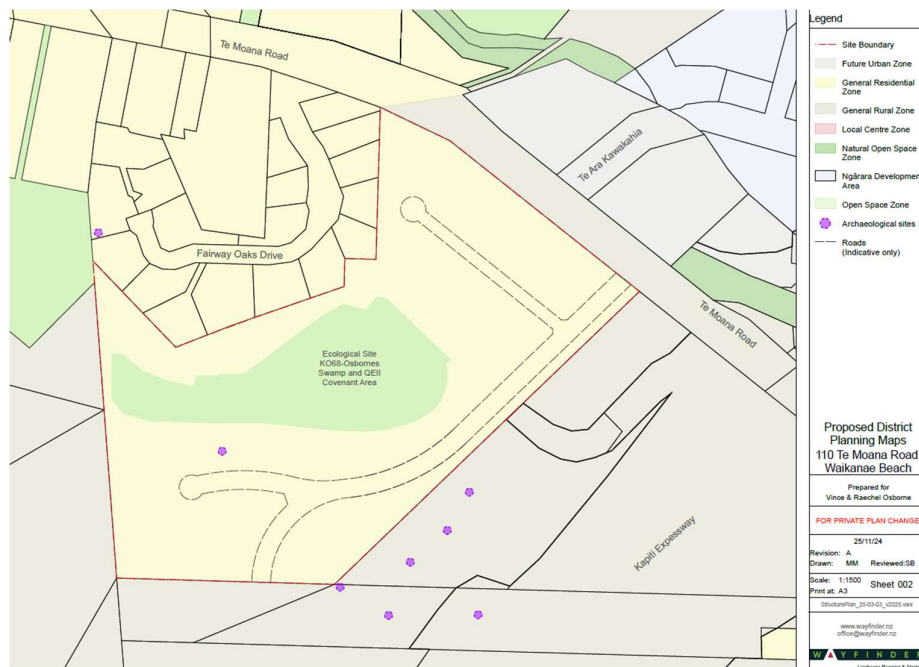
1. Please confirm the extent of the changes requested to the District Plan via requesting a single plan change proposal and update the plan change request documentation accordingly.

Reason

The plan change request is technically two plan change requests. It is not possible to change the District Plan to achieve the preferred option to rezone the site from General Rural Zone to General Residential Zone ('the preferred option'), while also changing the District Plan to achieve the less preferred 'deferred rezoning with concept plan' option.

Answer: The Applicant isn't requesting two plan changes. The Plan Change Request is to rezone the site in its entirety (i.e. Stage 1 and Stage 2) from General Rural Zone to General Residential Zone.

The preferred option does not require any changes to the District Plan, other than a change to zoning maps as illustrated below. Please also note the additional consideration of the preferred option in terms of clause 3.10 of the NPS-HPL (as set out in Q5 below).



However, if Council are leaning toward rejecting or rejecting in part the preferred option for any reason, the Applicant would like the ability (under Schedule 1, Clause 24) to discuss a potential modification and the likelihood of this being accepted.

This modification may be to the less preferred option (where Stage 1 and 2 are rezoned from General Rural Zone to General Residential Zone, but with Stage 2 having a 'deferred residential precinct' placed over it temporarily (with rural zone provisions applying to that land) until the land is no longer deemed 'highly productive land' under the National Policy Statement on Highly Productive Land – the details of which are provided in section 10 of the s32 report). The less preferred option would require a new policy and the addition of rules relating to the deferred residential precinct as well as a change to zoning maps.

2. Regarding the requested 'Deferred Residential Precinct', with a requested underlying General Residential Zoning, please confirm the planning mechanism that would enable the General Rural Zone provisions for subdivision, use and development to continue to apply despite the site no longer being a rural zone.

Reason

The requested new policy GRZ-Policy XXX – Deferred Residential Precinct appears to set out the requested approach for the rural zone provisions to continue to apply to Stage 2 despite the site no longer being zoned rural. As a policy, it would only apply during the consideration of a resource consent application. Policies are not rules and accordingly cannot specify what

rules apply to a specific site. On this basis, it is unclear how the requested 'deferred rezoning with concept plan' option would function as intended.

Answer:

I suggest that if the less preferred option was pursued for the plan change (rather than the preferred option) as discussed in Q1, then we would need one additional Rule to clarify the point you have raised.

This could read as follows:

"GRZ Rule XXX – Deferred Residential Precinct – 100 & 110 Te Moana Road
The General Rural Zone provisions apply to the Deferred Residential Precinct – 100 & 110 Te Moana Road until such a time as the Deferred Residential Precinct is lifted and the General Residential Zone provisions begin to apply".

NB: We have offered another rule in section 10.2.2 of the s32 Report regarding when and how the precinct would be lifted.

3. Please update the reverse sensitivity effects assessment to include the noise setback distances specified within the encumbrances registered on the titles for the site under instruments 11513765.1 and 11702654.2.

Reason

The reverse sensitivity effects assessment in section 4.12 of the section 32 evaluation specifies how future transportation noise effects would be managed but does not include the existing noise mitigation restrictions registered on both allotments. It appears the encumbrances contain different setbacks than those specified within the District Plan.

Answer: For land transport network operators, including NZTA, there is a risk that new activities (such as houses) that choose to locate near to established roads may object to the effects of the land transport network (such as noise and vibration) and take action against the operator. The encumbrances on the titles would continue to apply (unless legally removed) and as such, further reduces the likelihood of reverse sensitivity effects arising from any future development on this site. The encumbrances are attached to this response and would require specific design requirements based on the building proximity to the Edeline of the state highway, i.e.:

3 The Encumbrancer covenants with the Encumbrancee that the Encumbrancer will ensure that:

- 3.1 (a) any new buildings or alterations to existing buildings containing noise sensitive activities, in or partly within 40 metres from the state highway edgeline must be designed, constructed and maintained to achieve road-traffic vibration levels complying with class C of NS 8176E:2005;
- (b) any new buildings or alterations to existing buildings containing noise sensitive activities, in or partly within 100 metres from the state highway edgeline must be designed, constructed and maintained to achieve the indoor design noise levels from road-traffic set out in the table contained in the Schedule to this Encumbrance Instrument;

4. Regarding the possible alternative options considered and to ensure the section 32 evaluation has evaluated all reasonably practicable alternatives to the private plan change request, please confirm what, if any mitigation measures have been considered to address potential adverse effects on persons occupying numbers 2-10 Fairway Oaks regarding permitted activity residential development (as per the MDRS) that could occur on residential allotments adjoining the boundary of these sites.

Reason

Additional reasonably practicable alternatives need to be identified and evaluated within the section 32 evaluation to enable the consideration of any possible alternatives to the request. This information will also enable the consideration of the ways in which any adverse effects on persons occupying these sites may be mitigated. Examples of alternatives that could be explored within the section 32 evaluation include the application of a qualifying matter, and alternative zoning options and uses adjacent to these adjoining sites.

Answer: The possible and realistic alternative options for the site are considered complete in the s32 report.

The General Residential Zone and other district wide provisions already contain provisions which avoid adverse effects on adjoining sites (i.e. set back of buildings from boundaries, height to boundary restrictions etc.). The resource consent process for any development on this site would consider compliance with these rules and assess any potential adverse effect on adjoining neighbours as part of the standard planning process.

It is further noted in the Landscape and Visual Report provided an assessment of the visual effects from Fairway Oaks relating to this plan change, with visual effects considered to be low.

5. Regarding the proposed rezoning of the portion of the site that is identified on the New Zealand Land Resource Inventory as Land Use Capability Class 2 (LUC2), please clarify how the Government's signalled intended amendment to the NPS-HPL to remove LUC3 land would overcome the 'avoidance' direction of NPS-UD Clause 3.6, and the timing and

transitional provisions of clauses 4.1(1) and 3.5(7) of the NPS-HPL. It is noted that the timing and transitional provisions of the NPS-HPL mean that, as currently worded, a change to the class of the productive capacity of the portion of the site from LUC2 to LUC3 cannot be achieved via a site-specific assessment until Greater Wellington Regional Council's future mandatory change to the Regional Policy Statement is made operative.

Reason

It is unclear how the NPS-HPL policy and timing constraint regarding the Regional Council's future Regional Policy Statement change becoming operative could be overcome within the timeframes for the processing of this private plan change request, or by October 2025 as anticipated within the request. Confirmation of this matter is relevant to the evaluation of the private plan change request against the criteria set out in clause 25(4) of Schedule 1 of the RMA.

Answer:

Proposed Provisions - Amendments to the NPS-HPL 2022

Consultation has opened on the potential changes to the NPS-HPL, with submissions closing in late July 2025.

This consultation document¹ states the reasons for proposed amendments, one of these being: *"Removal of LUC 3 is intended to enable more urban greenfield development with immediate effect."* The acceptance of the preferred option for this proposed plan change aligns directly with this reasoning.

The amendments to the NPS-HPL consider changes to timeframes for Council to notify HPL maps in regional policy statements. Delaying the remapping of land again works against the reasons for the proposed amendments to the NPS-HPL.

It stated in the consultation document that (and subject to the outcomes of consultation) additional amendments may be made to how HPL is defined before any HPL mapping is notified in a RPS and may include:

- Limiting LUC 3 removal to urban rezoning decisions only (either just council-led urban rezoning or for private urban rezoning proposals and retaining restrictions on rural lifestyle on LUC 3);
- Allowing HPL to be defined via consideration of LUC units and limitations within the LUC classification system.

¹ <https://environment.govt.nz/assets/publications/RMA/attachment-2.4-national-policy-statement-highly-productive-land.pdf>

To achieve the reason for the amendments as outlined above, it would be imperative to include both council-led and private urban rezoning proposals. This plan change provides a key case-study as to the validity of doing so.

From discussion with soil experts, it is highly unlikely that the LUC units relevant to this land (being LUC3w3, as determined by the site-specific assessment of the soils provided with this plan change) would be retained within the definition of HPL.

Applicability of Clause 3.10 of the NPS-HPL

After discussions with soil experts, the application of clause 3.10 of the NPS-HPL is considered directly relevant to the consideration of the preferred option for this plan change. Regardless of the timing and scope of the Government's proposed amendments to the NPS-HPL, it is considered that the applicant's preferred option of rezoning the site in its entirety is available (and not precluded by) the NPS-HPL *as it stands* including for the reasons set out at section 5.2.2 of the plan change request.

In addition to those points, it is noted that Policy 5 is to avoid urban rezoning *except as provided in this national policy statement*.

As lodged, the assessment in relation to the NPS-HPL is confined to discussion of Policy 5 alongside clause 3.6. However, the policy statement must be interpreted and applied as a whole.

In addition to the provision for rezoning of highly productive land under clause 3.6, clause 3.10 provides an exemption for highly productive land subject to permanent or long-term constraints.

For the reasons set out in the Soil Resources Report included with the plan change application (Appendix 10), it is considered that the part of the site currently identified as LUC 2:

- Has permanent/long term constraints, meaning the use of that part of the site for land-based primary production is not able to be economically viable for at least 30 years; and
- Subdivision use and development of this part of the site (following the plan change) would:
 - avoid any significant loss (individually or cumulatively) of productive capacity of highly productive land in the district; and

- avoid the fragmentation of any large and geographically cohesive areas of productive land; and
- avoid any potential reverse sensitivity effects on surrounding production land particularly having regard to the location of the site between existing transportation infrastructure and residential development, and the discrete and isolated nature of the “highly productive land”.

As also indicated in the Soil Resources Report, the constraints on any economically viable productive use of the land could not be addressed through any reasonably practicable options of the kind listed at Policy 3.10(2).

Finally, the social and economic benefits of additional housing through enabling a more efficient subdivision staging under the proposed option would significantly outweigh any longer-term costs associated with loss of what has been assessed to be 0.8ha of LUC 3 land, with significant long-term constraints on any future productive use of that small area of land. On that basis, accepting and approving the plan change request (preferred option) would not be inconsistent with (or contrary to) the NPS-HPL as it stands, i.e. regardless of the nature and timing implications of the proposed NPS-HPL amendments (being of principal relevance to the alternative less preferred option (Option 3) as included with the plan change request). Further to this approving the plan change would not be inconsistent with the sole objective of the NPS-HPL. The deemed “highly productive land” within the site is not used for land-based production and nor is it ever likely to be, at least in any economic form, due to its isolated nature and urban surroundings.

6. Please update section 6.7.7 of the section 32 evaluation setting out the planning conclusions on the content of the document Nga Korero Kaupapa o Te Taiao regarding the plan change request.

Reason

The evaluation of this document appears to be missing. Confirmation of this matter is relevant to the evaluation of the private plan change request against the criteria set out in clause 25(4) of Schedule 1 of the RMA.

Answer:

Nga Korero Kaupapa mo Te Taiao: Policy Statement Manual for Kapakapanui: Te Runanga O Ati Awa ki Whakarongotai Inc (2001)

This document outlines the vision, intent and objectives for compliance with tikanga standards for protection and management of the environment as determined by Te Runanga O Ati Awa ki Whakarongotai Inc with respect to disposal and treatment of effluent, stormwater runoff, heritage protection and management, and representation. The following policies within the document are relevant to this PPC for the following reasons:

- > The policy statement on disposal and treatment of effluent seeks to avoid, remedy or mitigate the impacts of effluent disposal on the surrounding environment. Several wastewater disposal options are outlined in the infrastructure report submitted with the PPC, prepared by Cuttriss. All potential options for disposal of wastewater will be undertaken in a manner that avoids, remedies or mitigates adverse effects on the environment and maintains public health and safety. Wastewater disposal is managed through existing District Plan provisions, the PNRP and the Building Code. The PPC does not propose to change any provisions related to wastewater.
- > The policy statement on stormwater and runoff seeks to avoid, remedy or mitigate the impacts of stormwater runoff on the surrounding environment. Several stormwater management disposal options are outlined in the infrastructure report submitted with the PPC, prepared by Cuttriss. The design of the proposed stormwater solution shall mimic the natural hydrology by returning water to ground as close as possible to the source, or by providing attenuation where this is not possible. The design shall also consider treatment options to ensure the health of the aquatic ecosystems are maintained and ideally enhanced. The management of stormwater is already addressed through a range of District Plan provisions, the Council's Land Development Minimum Requirements, April 2022, and the provisions of the PNRP. The PPC does not propose to amend any existing District Plan provisions for stormwater.
- > The policy statement on heritage protection and management seeks appropriate respect and recognition of heritage in Te Ātiawa's rohe. This policy is relevant to this PPC because development in urban environments enabled by the PPC could impact on heritage values, including sites and areas of significance to Te Ātiawa. Engagement has been undertaken with Iwi and a letter in support of the PPC has been provided with the application. Archaeological authority will be sought as recommended by the Archaeological Report prepared with the PPC.

Overall, the PPC is considered consistent with the vision, intent and objectives of this document.

7. Please advise the legal mechanism anticipated that Council would use to enable the 'lifting' of the Deferred Residential Precinct from the District Plan Maps in the future, as referred to

within section 10.2.2 of the section 32 evaluation. For example, is it envisioned that this would be an additional Schedule 1 RMA plan change process or another process under the RMA?

Reason

Should the private plan change request be approved and made operative, the anticipated legal mechanism that would enable Council to change the District Plan Maps to uplift the requested Deferred Residential Precinct at a future unspecified date is unclear.

Answer:

Refer to Q1 for context around when the 'deferred residential precinct' option would be considered.

The proposed rule as set out in Section 10.2.2 of the s32 Report (and quoted below) would allow the lifting of the precinct and changing of the maps to General Residential Zone. No other process would be required.

"GRZ Rule XXX – Uplifting of Deferred Residential Precinct – 100 & 110 Te Moana Road"

The Deferred Residential Precinct will be uplifted, and the General Residential Zone provisions will take effect when the land within it is no longer defined as 'highly productive' under the National Policy Statement for Highly Productive Land."

Yours sincerely,



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