

BEFORE an Independent Hearing Panel

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

AND

IN THE MATTER submissions and further submissions in
respect of Chapter 10 (Residential Zone) of
the Proposed Waikato District Plan
("PWDP")

STATEMENT OF PLANNING EVIDENCE OF STEPHEN JESSE MARC GASCOIGNE
FOR SUBMITTER [368]: IAN MCALLEY

INTRODUCTION

1. My full name is Stephen Jesse Marc Gascoigne.
2. I am a planner at Bloxam Burnett & Olliver Ltd (“BBO”), a firm of consulting engineers, planners and surveyors, based in Hamilton.
3. I have been employed in a resource management and planning related position in the private sector for the last four years, all of which have been at BBO.
4. I hold a Bachelor of Resource and Environmental Planning from the University of Waikato. I am also an intermediate member of the New Zealand Planning Institute.
5. My planning experience has included the preparation and processing of consent applications for both local District Councils and private clients. I have also been involved in the preparation of private Plan Changes and made submissions on Plan Changes and on District Plan reviews.
6. In relation to this hearing I am authorised to give planning evidence on behalf of Ian McAlley. Mr McAlley is the sole author of the submission prepared in relation to the Proposed Waikato District Plan (“PWDP”) Residential Zone provisions¹.
7. Te Kauwhata Land Ltd (“TKL”) is the owner of a substantial section of residential land within the Te Kauwhata West Living Zone (“TKWLZ”) in the Operative Waikato District Plan (Waikato Section) (OWDP). The TKWLZ is within the Te Kauwhata Structure Plan area (“Structure Plan”). Mr McAlley is a Director of TKL. I have been providing planning services to TKL for the last three years as part of the subdivision of the block known as the TKL site on Wayside Road. I consequently have a working knowledge of the site, the planning provisions that currently apply, and the challenges associated with meeting those provisions. Statements I have made within this evidence rely on that knowledge.
8. I have read the Environment Court’s ‘Code of Conduct for Expert Witnesses’ as contained in the Environment Court’s Consolidated Practice Note 2014 and agree to comply with the code. I have also complied with it when preparing my written statement of evidence.

EVIDENCE STRUCTURE

9. This evidence provides a planning assessment of the provisions of the PWDP which Mr McAlley has submitted on and are addressed in the s42A report prepared by Waikato District Council (“WDC”) in relation to Chapter 16 – Residential Zone and the strategic objectives of relevance to the Residential Zone in Chapter 4 – Urban Environment², in particular as they relate to the TKWLZ, the Structure Plan, the Te Kauwhata West Residential Area (as included in the PWDP) and the TKL site.

¹ Chapter 16 of the notified PWDP – Stage 1

² Specifically, Section 4.2 – Residential Zone

10. Topics covered in this evidence include:

- Background to the planning provisions relating to Te Kauwhata West;
- A summary of the issues relevant to TKL's consented subdivision;
- Council's amended approach for land within the Structure Plan and the associated rules in Section 16 – Residential Zone of the PWDP;
- Commentary on the following specific objectives and policies as provided for in Sections 4 – Urban Environment and 16 – Residential Zone:
 - Objective 4.2.14 – Earthworks;
 - Policy 4.2.15(a)(iv) – Earthworks;
 - Policy 4.2.15(d) – Earthworks;
 - Policy 4.2.2 – Character; and
- Commentary on the following specific rules provided for within Section 16 – Residential Zone:
 - Rule 16.1.3 – Restricted Discretionary Activities;
 - Rule 16.2.4.1 – Earthworks;
 - Rule 16.3.5 – Daylight Admission;
 - Rule 16.3.6 – Building Coverage;
 - Rule 16.4.3 – Subdivision (Te Kauwhata West Residential Area); and
 - Rule 16.4.3 – Subdivision creating reserves.

11. It is acknowledged that Submission Points [368.24] and [368.28] are recommended by the s42A report authors as amendments to the PWDP. No evidence in relation to these matters will be covered within this statement of evidence.

BACKGROUND TO THE TE KAUWHATA STRUCTURE PLAN

12. TKL owns a significant portion of the land located within the former Structure Plan area, that is located directly north-east of Wayside Road and to the south-west of Travers Road, Te Kauwhata³. The location of the TKL site in relation to the extent of the Structure Plan area is shown, with the TKL site shown in red, in **Figure 1** from the OWDP.

13. The TKWLZ and associated rule framework, including Urban Design Guide, was established following a Council led Structure Planning process and the resolution of two appeals to the former Proposed Waikato District Plan⁴. In May 2012, the Environment Court granted the rezoning of the majority of the Structure Plan area, incorporating a new Te Kauwhata West Living Zone into the framework of the OWDP, Living Zone and Te Kauwhata West Ecological Zone.

14. The relevant provisions for the Structure Plan are currently provided for in Chapter 21, Schedule 21B and Appendix A (Traffic) of the OWDP.

³ 16.52ha of residential land comprised within Record of Title 729040 (Lot 306 DP 495940)

⁴ *Te Kauwhata Action Group Incorporated v Waikato District Council* [2012] NZEnvC 83, *Te Kauwhata Action Group Incorporated v Waikato District Council* [2012] NZEnvC 192



Figure 1: Te Kauwhata West Living Zone Area

15. At the time of rezoning, the settled objectives and policies recognised the need to provide for 7,800 people by 2061, and to do so on a basis that managed that growth while avoiding adverse effects of such growth⁵. In its decision, the Court concluded that:

[64] Although we acknowledge that there will be an adverse effect on the views of those living in the Country Living Zone, it is clear that the Plan contemplates that those in the Country Living Zone will be proximate to towns and villages. We have concluded that this means they will have visual impact as well as impact in terms of noise, light and the like, from the village which they surround. Although inefficient, [the] Country Living Zones are provided for because they provide a transition between the general rural area and its impacts, and the impacts of its rural activities, and the residential area with its high level of urban amenity.

16. And:

[65] Clearly, the Living Zone of Te Kauwhata West is more effective and efficient in delivering the objectives for housing future population.

SUBDIVISION CONSENTS APPLYING TO THE TKL BLOCK

17. The TKL site has historically been the subject of several applications for resource consent.

⁵ *Te Kauwhata Action Group Inc. v Waikato District Council* [2012] NZEnvC 83, at [47]

18. The owners of the subject site prior to TKL, being Silverspur Developments Ltd, were granted a resource consent by WDC in September 2015 to subdivide the site into 130 residential lots, plus roading and reserves⁶.
19. In December 2016 a revised proposal was submitted by TKL⁷. The application was subsequently further amended to a 163-lot layout.
20. The TKL amended subdivision consent was declined in 2018 and subsequently appealed to the Environment Court.
21. Resource consent was eventually granted in October 2019, following mediation and negotiation between the applicant/appellant and WDC for a revised subdivision proposal consisting of the following⁸:
 - 148 residential lots (within seven stages), two local purpose drainage reserves, one local purpose recreation reserve, seven lots to vest as road and five access lots;
 - For earthworks exceeding permitted activity limits in the Reserves Zone;
 - For construction of four show homes; and
 - To vary impervious surfaces and building coverage rules in relation to the TKL site.

MATTERS OF CONFLICT IDENTIFIED IN CONSENTING THE TKL BLOCK

22. Relevant to the relief sought in Mr McAlley's submission are the primary matters of disagreement in the TKL appeal. These were:
 - Whether the landform shown as the Hilltop Reserve held any significance and therefore whether views both to and from that landform should be retained;
 - Whether the variations to the building coverage and impervious surfaces rules would result in a perception of increased density; and
 - Whether the environmental effects of earthworks on the wider landform of the site are minor or more than minor, in consideration of those effects enabled by the Silverspur consent.
23. It is common practice in subdivision applications that a concept design is prepared based on a reasonable level of information including preliminary geotechnical information, site topography and preliminary design of roading and other infrastructure. This was the extent of information provided as part of the original Silverspur consent.
24. When TKL began detailed engineering design to support the Silverspur consent, it encountered challenges in giving effect to the intent and rules in the TKWLZ provisions and Urban Design Guide, whilst meeting the requirements of the relevant engineering standards. In particular:

⁶ SUB0163/14

⁷ SUB0009/17

⁸ SUB0009/17 and LUC0369/18

- Significant earthworks proposed adjacent to the site boundaries would result in ground levels that were incongruent with neighbouring properties;
- The reserve area would be disconnected from the subdivision it was intended to serve due to retaining walls in excess of 4m high on all boundaries within the site;
- It was apparent that road gradients would be steeper than permitted by Appendix B of the OWDP in a number of areas with potential for significant grade changes in the areas where side roads joined the main collector road. This incongruence particularly caused challenges with respect to the provision of services to lots located downslope of the roads due to gradient limitations of the service and the depth of services within the road corridor; and
- Retaining walls located between allotments on the site would be up to 8m in height in order to remedy accessibility matters encountered between the consented road layout in Silverspur and servicing requirements.

PWDP PROVISIONS APPLYING TO TE KAUWHATA WEST

25. The PWDP as notified does not include the Te Kauwhata Structure Plan. Within the OWDP, the Te Kauwhata Structure Plan and the subsequent Te Kauwhata West Living Zone were included as a schedule to the Living Zone rules.
26. The majority of provisions applying to the Structure Plan area have been removed in the notified version of the PWDP (along with the Structure Plan itself), however specific reference to Te Kauwhata West is retained within the Residential Zone Rules as the Te Kauwhata West Residential Area. That reference is also in the planning maps although the Legend refers to “Residential West Te Kauwhata”.
27. I note that there are differences in the references within Rules 16.1.2 P10, 16.3.6 P2 and 16.4.3 (for example) which are unhelpful. Rule 16.1.2.P10 refers to “Residential West Te Kauwhata Area” while Rule 16.3.6.P2 refers to “Te Kauwhata Residential West Area”. Rule 16.4.3 Subdivision gives specific provisions that apply to “Te Kauwhata West Residential Area”.
28. In general, I consider that there is limited incorporation of the former TKWLZ provisions into the PWDP signalling (in my opinion) a change in expectation as to the final form of development within the TKW area. The lack of a Structure Plan within the PWDP signals an intention to treat Te Kauwhata West in the same way as the rest of the Residential Zone in Te Kauwhata. Such an intention would align with the direction for the Te Kauwhata West area to provide for 450m² sections in the Waikato 2070 Draft Growth and Economic Development Strategy. Likewise, the PWDP has not retained any specific Urban Design Guide for TKW.
29. It is therefore inappropriate to reference the Te Kauwhata West Residential Area (or any variety of description) within special rules where there is no policy support for that separation and no formal Structure Plan indicates any difference for the TKL site.

ANALYSIS OF THE SECTION 42A REPORT RECOMMENDATIONS

30. The following evidence addresses the recommendations of the s42A report authors in the order of topics contained within that report.

Topic 1: Section 4, Sub-Section 4.1

31. Submission Point [368.11] sought that Policy 4.2.2 was deleted from the PWDP in its entirety or that the policy be amended to identify the specific '*views and vistas from public spaces*' that are to be promoted in relation to the '*hinterland beyond*'.
32. WDC has rejected Submission Point [368.11] for reasons related to Raglan and not Te Kauwhata. The explanation refers to Raglan provisions and the Prohibited activity status that applies for all buildings, structures, objects or vegetation located within the Raglan Navigation Beacons height restriction plane under Rule 16.3.3(5)⁹. The Raglan Navigation Beacon is the only viewshaft specifically included in the notified PWDP.
33. In my opinion, this response does not correctly address the relief sought by the submission. I note that the s42A report authors have failed to assess Submission Point [368.11] within the discussion related to Topic 37 – Defined Viewshafts in that report.
34. The submission point is that views and vistas should be protected only where there is an identified landscape value associated with the land. This policy shouldn't apply to all high points irrespective of their landscape value and that is inconsistent with the zoning for residential forms of development where land has specifically been zoned for development purposes.
35. In my opinion, a strong emphasis on the retention of natural contours within the PWDP is not necessarily helpful or even acceptable for ensuring that effective and efficient design outcomes can be achieved at the time of subdivision. In particular, lots should be created on sites with a contour that encourages the usability of outdoor space which is assisted by the ability to platform lots. That is particularly important where the local reserve does not create useable recreation space, as was the case in the TKL developments (because of the contour of the land specified in the Structure Plan for reserve). In this case, the Hilltop Reserve as indicated in the Structure Plan had no special landscape protection or significance in the OWDP.
36. The creation of sections with a significant slope will create large portions of unusable land within lots resulting in poor onsite amenity and uncoordinated retaining and fencing. Potentially unintended effects resulting from the retention of natural landform contours outside of specified areas are evident in the development of residential sections in Pokeno; examples of which are provided below:

⁹ Note this is incorrectly referenced in Section 37.1 paragraph 722 as Rule 16.3.32.



Figure 2: Poor quality outdoor space arising from retention of natural contours – Example 1



Figure 3: Poor quality outdoor space arising from retention of natural contours – Example 2

37. In my opinion, there is a conflict between the provisions in the Urban Design Guide in relation to natural contours and the outcomes sought by the Engineering Guidelines in the District Plan. The eventual Consent Order granting consent for the TKL land retained the Hilltop Reserve on a steep hill with limited potential for active recreation. That outcome preferred the retention of 'natural contours'. The roading and lot layout allows the terracing that will reduce overall retaining wall heights and provide for largely level building sites and yards.
38. In my opinion, the present wording of Policy 4.2.2 (ii) is not clearly defined and allows Council to be subjective in determining which viewshafts or vistas are to be protected and the extent of those which are to be retained. In other words, the present wording is inappropriate in that the policy does not discriminate between natural landscape features of significance and prominent features from a site-specific context. This results in views to both having equal weight during the assessment of landscape effects of subdivision and development and constrains the ability for land to be developed in an efficient and effective manner. Such ambiguity causes uncertainty in the preparation of and giving effect to of a consent application, because the Plan does not clearly define what the specific matters are that need to be considered. Uncertainty causes

inefficiency, which is undesirable given the land in question has been set aside for residential development.

39. To address the relief sought by Mr McAlley within [368.11] the following amendments to Policy 4.2.2 of the PWDP are proposed:

4.2.2 Policy – Character

(a) Ensure residential development in the Residential Zone:

- (i) Provides road patterns that follow the natural contour of the landform;
- (ii) ~~Retains defined viewshafts from public spaces Promotes views and vistas from public spaces of the hinterland beyond~~; and
- (iii) Is an appropriate scale and intensity, and setback from the road frontages to provide sufficient open space for the planting of trees and private gardens.

40. In the event that agreement to the relief sought requires specific landscape investigations, it is recommended that the Independent Hearing Panel allows leave to Council to complete those investigations and to notify the identified views and vistas to be promoted within the PWDP for any submissions and further submissions (i.e. in accordance with the Schedule 1 process).

Topic 3: Section 6, Sub-Section 6.3

41. Submission Point [368.26] sought an amendment to Rule 16.3.6 P2 (Building Coverage) enabling building coverage on a site within the Te Kauwhata West Residential Area to increase from 35% to 40% of the net site area.
42. WDC has rejected Submission Point [368.26] on the basis of the s32 analysis that was prepared as part of introducing the Structure Plan into the OWDP; stating a reduced building coverage in the Structure Plan area “*reflects the importance of retaining natural hydrology and landscape values*”¹⁰. This position is not supported by current geotechnical, stormwater engineering or landscape assessments, nor is it current in terms of policies in the RPS. There was no landscape assessment that specifically considered the Hilltop Reserve at the time the Structure Plan was developed or that TKWLZ was introduced into the OWDP. In my opinion, the statements referenced within that s32 report are more applicable for the reasons that the independent Te Kauwhata West Ecological zone was created.
43. I consider that a 40% building coverage standard will maintain amenity within the residential area while providing flexibility to accommodate variable development forms including single-level dwellings and multi-unit development. This rule will continue to work in conjunction with the PWDP rules related to building setbacks, lot sizes and frontage widths (at the road boundary, if applicable) to maintain the spaciousness of sites within the Zone and to enable landscape treatments to be incorporated within respective lots.

¹⁰ Section 6.3, Paragraph 108.

44. As a Residential Zone, it is important that urban areas are consistent in terms of both their amenity and design. An outcome of the proposed minimum and average lot size requirements is an overall (net) reduction in the number of buildings that would otherwise result in a finer grain of development and reduce site coverage. In my opinion, this is contrary to the outcomes that were sought at the time of development of the Structure Plan. I note that the Structure Plan was developed within the period following the 2009 FutureProof Growth Strategy and prior to the density targets set by the 2016 Regional Policy Statement. Therefore, it is my opinion that the destiny of the TKLWZ is not aligned with the RPS directions. With the introduction of the National Policy Statement on Urban Development Capacity and the Hamilton to Auckland Corridor Plan there is now a clear direction to achieve affordability and additional capacity in the housing market through density which can be addressed by lowering lot size requirements and development controls within the PWDP for clearly defined urban areas/ Zones.
45. As discussed within Paragraphs [54], [56] and [64] of the Environment Court's decision in *Te Kauwhata Action Group Inc. v Waikato District Council*¹¹ (**attached as Appendix 1**) the TKLWZ itself was not a transitional zone between the urban and rural areas of Te Kauwhata, rather this role is filled by the Country Living Zone. The level of control of the interface between the two was limited to the imposition of minimum lot sizes and lot widths at the boundary between the two zones. Therefore, it would be inappropriate to have a different site coverage control from that applying to the general Residential Zone where the amenity of the Zone was not the principal issue that was addressed by the Structure Plan.
46. In my view, the ability of a development to address the onsite requirements of stormwater management is a matter to be addressed at a land use or building consent stage and is not a matter that should be solely relied upon to determine the appropriateness of the site coverage achieved on or within a Zone. Rather, each site needs to demonstrate that the residential density applied for can be supported by the onsite stormwater management design.
47. In terms of the TKL subdivision a discharge consent has been granted by the Waikato Regional Council which enables stormwater discharges to occur from the site. Within the professional assessment that supported the granted discharge consent, the expected runoff has been calculated, which is determined by the area of impermeable surfaces expected to be developed on the site. Within the discharge consent, there is no limitation identified as to the extent of discharge except that the design requirements of the relevant stormwater pond/ wetland must be sufficient to ensure that the post-development flows meet the identified thresholds as determined by the existing/ pre-development flows. With respect to the retention (or not) of landscape values, as previously mentioned, the site is not identified in any planning document for its landscape values. Therefore, in my opinion, there is no identified reason from a landscape perspective as to why the TKL site should have its development potential limited when compared to a standard residential site.
48. To address the relief sought by Mr McAlley within [368.26], the following amendments to Rule 16.3.6 Building Coverage of the PWDP are proposed:

¹¹ *Te Kauwhata Action Group Inc. v Waikato District Council* [2012] NZEnvC 83, at [47]

16.3.6 Building Coverage

P1	The total building coverage must not exceed 40%.
P2	Within the Te Kauwhata West Residential Area or the Te Kauwhata Ecological Residential Area as identified on the planning maps, the total building coverage must not exceed 35%.
P3	Within the Bankart Street and Wainui Road Business Overlay Area as identified on the planning maps, total building coverage must not exceed 50%.
<u>P4</u>	<u>Within the Te Kauwhata West Residential Area, total building coverage shall not exceed 40%.</u>
RD1	(a) Total building coverage that does not comply with Rule 16.3.6 P1, P2, P3 or P4. (b) <u>Council's discretion shall be restricted to the following matters:</u> <u>(i) Whether the balance of open space and buildings will maintain the character and amenity values anticipated for the Zone;</u> <u>(ii) Visual dominance of the street resulting from building scale;</u> <u>(iii) Management of stormwater flooding, nuisance or damage to within the site.</u>

49. This relief includes all other consequential amendments to the Rule recommended by the s42A report authors in Section 6.5 but is the less preferred alternative set out in the submission. The preferred outcome is that all references to the Te Kauwhata West Residential Area are deleted altogether as being unnecessary and not supported.

Topic 5: Section 8 (Daylight and Outlook)

50. Submission Point [368.25] seeks to amend Rule 16.3.5 - Daylight Admission to enable the height control plane to be measured from the top of the retaining wall where that retaining wall was included in the design of the subdivision and constructed as part of the subdivision (i.e. prior to obtaining s224 certification) prior to a dwelling being constructed within the retained lot.
51. WDC has rejected this submission point on the basis that the definition of *Ground Level* within the National Planning Standards is as follows:

Ground level means:

- (a) The actual finished surface level of the ground after the most recent subdivision that created at least one additional allotment was completed (when the record of title is created);*
- (b) If the ground level cannot be identified under paragraph (a), the existing surface level of the ground;*
- (c) If, in any case under paragraph (a) or (b), a retaining wall or retaining structure is located on the boundary, the level on the exterior surface of the retaining wall or retaining structure where it intersects the boundary.*

52. While it is acknowledged that the definition of *Ground Level* is useful in determining the point at which the height control plane commences at the boundary of a site and where a retaining wall is “located on the boundary”, it does not appropriately address situations where a retaining wall is fully located within a lot (particularly, the ‘upper lot’) that is retained by the retaining

wall. Examples of this situation is where a private lot adjoins a road or reserve to vest and generally Council may require that retaining walls are located wholly within the boundaries of a private lot to ensure that they have no liability for the maintenance of the wall following subdivision. This creates an issue where a future building is sited above a retaining wall, but the actual ground level is located at the base of the retaining wall at the site boundary; restricting the development envelope and requiring resource consent.

53. In order to address this issue, it is proposed that where a retaining wall is consented as part of an application for the subdivision of a site, and where that retaining wall is located within 1.5m of the site boundary; the measurement of the daylight plane shall be taken from the highpoint of the retaining wall within the site. I disagree with the s42A authors that the measurement of the daylighting plane from this location will result in adverse effects on neighbouring properties as the effects of the retaining wall will have been considered as part of the subdivision. Furthermore, because this additional provision would only apply to “retaining walls... constructed... prior to the issue of a s224 certificate” future lot owners are able to see the wall and assess the potential effects from a dwelling located on the upper lot prior to purchase.
54. To address the relief sought by Mr McAlley in Submission Point [368.25], Rule 16.3.5 – Daylight Admission is recommended to be amended as follows:

P1	Buildings must not protrude through a height control plane rising at an angle of 37 45 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.
P2	<u>Where retaining walls are constructed within 1.5m of a site boundary prior to the issue of a s224 certificate, the height control plane in Rule 16.3.5 P1 shall be measured at an elevation of 2.5m above the crest of the retaining wall at every point.</u>
RD1	(a) A building that does not comply with Rule 16.3.5 P1 or P2 . (b) Council’s discretion shall be restricted to the following matters: (i) Height of the building; (ii) Design and location of the building; (iii) Extent of shading on adjacent any other sites; (iv) Privacy on another any other sites; and (v) Effects on amenity values and residential character.

55. In my view, it is recommended that Chapter 13 – Definitions of the PWDP should amended to use the National Planning Standards definition of *Ground Level*.

Topic 8: Section 11

56. The following submission points are addressed within this section of my evidence:

Submission Point	Summary of Submission
[368.7]	Amend Objective 4.2.14 – Earthworks, to read as follows: <i>Earthworks facilitate <u>efficient</u> subdivision, use and development.</i>
[368.8]	Amend Policy 14.2.15(a)(iv) – Earthworks, to read as follows:

	<i>The importation and exportation of cleanfill is avoided in the Residential Zone.</i>
[368.9]	Delete Policy 4.2.15(d) – Earthworks.
[368.21]	Amend Rule 16.2.4.1 Earthworks, to enable the assessment of bulk earthworks as part of a subdivision to be assessed as a Permitted Activity where consent has been received from the Waikato Regional Council for those earthworks.
[368.22]	Delete Rule 16.2.4.1 NC1 – Earthworks – General, the assessment of the importation of cleanfill to a site as a Non-Complying Activity.
[368.23]	Amend Rule 16.2.4.1 Earthworks, to only require assessment of amenity and landscape effects related to earthworks where the earthworks are occurring in an area clearly defined in the Plan as being protected for its landscape and/or natural character values.

57. The s42A report states that the inclusion of the word *‘efficient’* to Objective 4.2.14 of the PWDP does not assist with the outcome of the objective, and considers that efficient subdivision, use and development is more adequately addressed by Objectives 4.1.2, 4.1.7 and 4.7.1, including their supporting policies. I disagree with this position.
58. Earthworks are a critical element in the subdivision process. The ability to undertake sufficient earthworks in an efficient manner determines the overall ability to develop a site in a manner that supports future development and avoids unnecessary post subdivision consenting and compliance issues and secondary earthworks. I do not consider that restrictions on the ability of residential zoned land to be earthworked are the most appropriate method for achieving the objectives, and in particular, Objective 4.7.1 and Policy 4.7.3. I also disagree that a rule framework that seeks to retain natural contours within an area zoned for development will enable WDC to achieve the required density in the Waikato Regional Policy Statement (“RPS”) of 12-15 dwellings per hectare. In my opinion, this will result in subdivision with building platforms that are not flat or suitable for building without additional earthworks requirements. Such instances will result in inefficient sections, unusable areas and overall a lower density of development contrary to what is required by the RPS.
59. This is not efficient or effective.
60. Accordingly, I recommend that Objective 4.2.14 – Earthworks be amended to read as follows to address the relief sought by Mr McAlley in Submission Point [368.7]:

4.2.14 Objective – Earthworks

(a) Earthworks facilitate efficient subdivision, use and development.

61. The s42A report recommends that the deletion of Policy 4.2.15(d) as sought by Submission Point [368.9] be rejected. I disagree with the authors of the report that the present wording of clause (d) does not direct subdivision and development to be undertaken without alteration of the natural contours, elevations and characteristics of the land. In my opinion, the use of the word *‘fundamental’* identifies that the modification of natural contours is to avoid as far as practicable earthworks within the Residential Zone. This inappropriately limits the ability of sites to be efficiently developed at the time of land use or subdivision consent. That is irrespective of

whether or not shape, landscape or topographical contours have been identified as characteristics that deserve or need to be protected.

62. I note the *Residential Design Guidelines* contained within Appendix 3.1 of the PWDP only direct subdivision and development to integrate with the general landform of a site. Therefore, the guidelines and the policy direction are at odds with one another. Reference to the retention of the “general” shape, contour and landscape characteristics whilst under the objective of “facilitating efficient subdivision, use and development” is more appropriate and balanced. This hierarchy establishes an obligation to ensure that one development block integrates appropriately with adjoining blocks, roads and infrastructure, taking into account the “landscape characteristics”, whereby in my expectation such landscape characteristics would be identified and defined separately in the District Plan.
63. In consideration of s42A reports analysis of Submission Point [368.8] it has been acknowledged that the following recommended changes to terminology adopted within the notified PWDP are made¹²:
- a) Replace the term ‘*fill material*’ with the National Planning Standards definition of ‘*cleanfill material*’; and
 - b) Replace the term ‘*cleanfill*’ with the definition of ‘*controlled fill material*’ from the *Technical Guidelines for Disposal to Land, WasteMINZ* (August 2018).
64. I agree with the recommended changes.
65. To address the relief sought by Submission Points [368.8] and [368.9] I recommend Policy 4.2.15 - Earthworks be amended as follows:

4.2.15 Policy – Earthworks

- (a) Manage the effects of earthworks to ensure that:
- (i) Erosion and sediment loss is avoided or mitigated;
 - (ii) Changes to natural water flows and established drainage paths are mitigated;
 - (iii) Adjoining properties and public services are protected; ~~and~~
 - (iv) The importation of controlled fill material ~~cleanfill~~ is avoided in the Residential Zone; ~~and~~
 - (v) Adverse effects on historic heritage.
- (b) Earthworks are designed and undertaken in a manner that ensures that stability and safety of surrounding land, buildings, infrastructure and structures.
- (c) Manage the amount of land being disturbed at any one time to avoid, remedy or mitigate adverse construction noise, vibration, dust, lighting and traffic effects.
- (d) Subdivision and development occurs in a manner that maintains the general ~~fundamental~~ shape, contour and landscape characteristics.
- (e) Manage the geotechnical risks to ensure the ground remains sound, safe and stable for the intended land use.

¹² Section 11.3.2, Paragraph 165.

66. Submission Points [368.21], [368.22] and [368.23] sought to add a new clause to Rule 16.2.4.1 Earthworks – General precluding consent requirements for earthworks having been granted a resource consent by the Waikato Regional Council ('WRC'), to change the activity status of Rule 16.2.4.1 NC1 to a Restricted Discretionary Activity and to amend Rule 16.2.4.1 RD1(b)(i) to only apply to identified natural landscapes and features.
67. I agree with comments made by the s42A report authors in respect of Submission Point [368.21] addressing actual and potential effects of earthworks that are sought to be managed by Policy 4.2.15 of the PWDP. However, I disagree with the conclusion that the displacement of sediment offsite is a consideration for WDC. The actual and potential effects of sediments and the suitability of erosion and sediment controls is a matter to be evaluated by the Waikato Regional Council in accordance with its regulatory role.
68. I consider that clarification as to the definitions of 'cleanfill material' and 'controlled fill material' by incorporating those definitions into Chapter 13 – Definitions of the PWDP and the adoption of the recommended amendments to Rule 16.4.2.1 made in the s42A report¹³ by the Hearings Panel will also adequately address the relief sought by Mr McAlley in Submission Point [368.22].
69. In consideration of Submission Point [368.23], it is accepted that amenity effects are a relevant consideration when assessing the actual and potential effects of earthworks activities. However I disagree that any site subject to earthworks should be evaluated at the time of subdivision or land use consent in terms of its wider landscape effects. The zoning of a property for residential development inherently contemplates changes in landscape values and visual outlook both to and from adjoining sites and sets a baseline as to the character that is expected within that location. That landscape assessment and consideration of the landscape effects from a change of land use must occur at the time that the land was zoned.
70. To address the relief sought within Submission Point [368.23] it is recommended Rule 16.4.2.1 be amended as follows:

16.4.2.1 Earthworks – General

RD1	<p>(a) Earthworks that do not comply with <u>any one or more of the conditions of</u> Rule 16.4.2.1 P1, P2 or P3.</p> <p>(b) The Council's discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> <u>(i)</u> Amenity values and landscape effects <u>on identified natural landscapes;</u> <u>(ii)</u> Volume, extent and depth of earthworks; <u>(iii)</u> Nature of fill material; <u>(iv)</u> Contamination of fill material; <u>(v)</u> Location of the earthworks in relation to waterways, significant indigenous vegetation and habitat; <u>(vi)</u> Compaction of the fill material; <u>(vii)</u> Volume and depth of fill material; <u>(viii)</u> Protection of the Hauraki Gulf Catchment Area; <u>(ix)</u> Geotechnical stability;
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¹³ Subject to any other consequential changes that will not materially differ from those sought by this evidence.

	<p>(x) Flood risk, including natural water flows and established drainage paths; and</p> <p>(xi) Land instability, erosion and sedimentation.</p>
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Topic 9: Section 12

71. Submission Point [368.10] sought the retention of Objective 4.2.16 (Housing Options) and those supporting policies 4.2.17 (Housing Types) and 4.2.18 (Multi-Unit Development) as notified and for consequential amendments to the Rules in Chapter 16 – Residential Zone of the PWDP as necessary to achieve the directions of those objectives and supporting policies.
72. The analysis in the following two sections of this evidence identifies minor amendments to the provisions for housing options, housing types and multi-unit development align with Objective 4.2.16 and Policies 4.2.17 and 4.2.18.

Topic 10: Section 13, Sub-Section 13.3.3

73. Submission Point [368.20] sought to retain 16.1.3 as notified and to add Rule 16.4.3 (including any consequential numbering to suit the specified chapter of the PDWP) to Village and Country Living Zones. This is on the provision that reticulated services are shown to be available within those zones to service multi-unit development outside of the Residential Zone. The s42A rejects this submission point on the basis that no reticulation is provided to service Village and Country Living Zones. There is no evidence provided to support this point.
74. In my opinion, it is appropriate to provide for all types of housing options irrespective of which Residential Zone the development may occur within. Therefore, in circumstances where there is determined to be adequate reticulated services available, or an extension is proposed based on demonstrated service capacity, there is no reason as to why multi-unit development would be inappropriate. I note that Council retains its direction to specified matters within Rule 16.4.3 which would form a basis of proof for the acceptability of a development and the proposal is not precluded from testing against the objective and policy framework of the respective zone.

Topic 10: Section 13, Sub-Section 13.3.4

75. Submission Point [368.31] sought an amendment to Matter of Discretion (viii) to reference that only Structure Plans incorporated into the notified PWDP are applicable for assessment. Point [368.30] sought to retain Rule 16.4.4 and provide for multi-unit development in all Residential Zones of the District where infrastructure was provided.
76. The WDC s42A author disagrees with Submission Point [368.31]. This statement conflicts with their adoption of [368.28], seeking clarification to Rule 16.4.1, that any structure plan or master plan can only be considered as a Matter of Discretion if made Operative by its incorporation into the District Plan. I support the conclusion of the latter assessment and recommend that Rule 16.4.4 RD1 (b)(viii) is amended.

77. I have provided my opinion in respect of the ability to undertake multi-unit development within other Residential Zones of the District above and will not repeat this here. However, I disagree with the s42A authors in respect of Submission Point [368.30] for the same reasons.
78. To address the relief sought within Submission Points [368.30] and [368.31], the recommended amendments to Rule 16.4.4 Subdivision – Multi-unit development are provided below:

RD1	<p>16.4.4 Subdivision – Multi-unit development</p> <p>(a) Multi-Unit development must comply with all of the following conditions:</p> <ul style="list-style-type: none"> (i) An application for land use consent under Rule 16.1.3 (Multi-Unit Development) must accompany the subdivision or have been granted land use consent by Council; (ii) The Multi-Unit development is able to be connected to public wastewater and water reticulation; (iii) The minimum existing lot size where a new freehold (fee simple) lot is <u>exclusive area for each residential unit</u> being created must be 300m² net site area. (iv) Where a residential unit is being created in accordance with the Unit Titles Act 2010 it must meet the following minimum residential unit size: <table border="1" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: left;">Unit of Multi-Unit</th> <th style="text-align: center;">Minimum Unit Area</th> </tr> </thead> <tbody> <tr> <td>Studio unit or 1 bedroom unit</td> <td style="text-align: center;">60m²</td> </tr> <tr> <td>2 bedroom unit</td> <td style="text-align: center;">80m²</td> </tr> <tr> <td>3 or more bedroom unit</td> <td style="text-align: center;">100m²</td> </tr> </tbody> </table> <p>(b) Council’s discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Subdivision layout including common boundary and party walls for the Multi-unit development; (ii) Provision of common areas for shared spaces, access and services; (iii) Provision of infrastructure <u>(including for firefighting purposes)</u> to individual residential units; (iv) Avoidance or mitigation of natural hazards; (v) Geotechnical suitability of site for buildings; (vi) Amenity values and streetscape; (vii) Consistency with the matters contained, and outcomes sought, in Appendix 3.4 (Multi-Unit Development Guideline) (viii) Consistency with any relevant structure plan or master plan <u>included in the plan</u>, including the provision of neighbourhood parks, reserves and neighbourhood centres; (ix) Vehicle, pedestrian and cycle networks; (x) Safety, function and efficiency of road network and any internal roads or accessways. 	Unit of Multi-Unit	Minimum Unit Area	Studio unit or 1 bedroom unit	60m ²	2 bedroom unit	80m ²	3 or more bedroom unit	100m ²
Unit of Multi-Unit	Minimum Unit Area								
Studio unit or 1 bedroom unit	60m ²								
2 bedroom unit	80m ²								
3 or more bedroom unit	100m ²								
D1	Subdivision that does not comply with Rule 16.4.4 RD1.								

79. I consider that all references to the Te Kauwhata West Residential Area should be removed and the general provisions of the Residential Zone should apply to the Te Kauwhata West Residential Area as currently shown on the Planning Maps. For completeness, in my view the planning maps should also be amended to delete reference to the Te Kauwhata West Residential Area.

Topic 19: Section 22

80. Submission Point [368.19] sought to include show homes (including associated signage) to Rule 6.1.2 as a Permitted Activity. This has been rejected by the s42A authors on the basis that show homes, in their opinion, are no different to an office establishing in a Residential Zone and they should be managed on a case-by-case basis.
81. In my opinion, the actual and potential effects of show home activities are best managed by the setting of specific provisions to manage the effects of parking, signage and hours of operation. Dwellings are often sold between periods of 12 months before and two years after practical completion therefore the actual effects and commercial activity associated with a show home is short term and as the show homes are residential dwellings their physical form integrates with their residential surrounds. The inclusion of show homes within a subdivision assists in the efficient development of the land, enabling sales to happen onsite, avoiding unnecessary trips to and from another location where a housing company is located. Whilst the show home will have an office/ administrative use associated with it, in part, the primary purpose of a show home is to demonstrate the type of product that the housing company is offering and the use of the show home for no-residential purposes is closely controlled via the specific definition of the activity and its limited timeframe in terms of selling product within the specific development. Therefore, it is my preference that show homes are provided for as a Permitted Activity within Rule 16.1.2 with a series of activity specific controls. Based on the relief sought, I recommend the following inclusion to Rule 16.1.2:

16.1.2 Permitted Activities

- 1) The following activities are permitted activities if they meet all the following:
 - (a) Activity specific conditions;
 - (b) Land Use – Effects rules in Rule 16.2 (unless the activity rule and/ or activity-specific conditions identify a condition(s) that does not apply);
 - (c) Land Use – Building rules in Rule 16.3 (unless the activity rule and/ or activity-specific conditions identify a condition(s) that does not apply).

Activity	Activity-specific Conditions
<p>P14</p> <p>Show homes</p>	<p>(a) <u>The establishment and use of a dwelling as a show home shall only be for the prescribed purposes of the sale of sections and/ or houses and land packages by the respective property owner, their representatives and authorised Contractors. Once the prescribed use of the dwelling as a show home has ceased, the dwelling shall then be used for residential purposes unless a resource consent is granted by the Waikato District Council for any other activity.</u></p> <p>(b) <u>The hours of operation for each show home shall be limited to between 9.00am to 5.00pm Monday to Friday and 10.00am and 4.00pm Saturday and Sunday.</u></p> <p>(c) <u>One permanent sign specifically related to the show home must not exceed 1m² and no more than 2m in height.</u></p>

		<p>(d) <u>One freestanding sign specifically related to the show home activity located within the site and only on display during the hours of operation.</u></p> <p>(e) <u>Parking spaces shall be provided in accordance with Rule 14.12.1 P2.</u></p>
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82. In my opinion, neither Objective 4.2.20 nor Policy 4.2.23 of the PWDP restricts non-residential activities from establishing within residential blocks. Rather, they simply seek effects of such activities to be managed and residential activities to remain dominant.

Topic 30: Section 33, Sub-Section 33.8

83. Submission Point [386.27] sought an amendment to Rule 16.4.1 RD1 (a)(iv) enabling an increase in the percentage of rear lots permitted within subdivisions exceeding four allotments from 15% to 25%. I note that the s42A authors have removed the restriction on the number of rear lots in Rule 16.4.1(a)(iv) and instead defer to an assessment under the Matters of Discretion to decide whether the number of rear lots created by a subdivision is appropriate. I support the authors recommendation and confirm this addresses the relief sought by the submission.

Topic 30: Section 33, Sub-Section 33.15

84. Submission Point [368.32] seeks an amendment to Rule 16.4.13 RD1 (b)(ix) Subdivision creating Reserves to restrict Council’s discretion to only those relevant structure plans and master plans contained within the PWDP.

85. To address the relief sought within Submission Point [368.32] the following amendment to Rule 16.4.13 RD1 (b)(ix) of the PWDP is sought:

RD1	<p>16.4.13 Subdivision creating reserves</p> <p>(a) Every reserve, including where a reserve is identified within a structure plan or master plan (other than an esplanade reserve), proposed for vesting as part of the subdivision, must be bordered by roads along at least 50% of its boundaries.</p> <p>(b) Council’s discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> (i) The extent to which the proposed reserve aligns with the principles of Council's Parks Strategy, Playground Strategy, Public Toilets Strategy and Trails Strategy; (ii) Consistency with any relevant structure plan or master plan <u>included in the plan</u>; (iii) Reserve size and location; (iv) Proximity to other reserves; (v) The existing reserve supply in the surrounding area; (vi) Whether the reserve is of suitable topography for future use and development; (vii) Measures required to bring the reserve up to Council standard prior to vesting; and (viii) The type and standard of boundary fencing.
D1	Subdivision that does not comply with Rule 16.4.13 RD1.

86. The WDC s42A author has accepted submission point [368.32], however, has not amended the relevant matter of discretion. Accordingly, the requested amendment to Rule 16.4.13(b)(ii) is shown above. The reasoning behind the recommendation is that the intent of the change to the rule can be deferred to any later incorporation of a structure plan or plan change. I support this conclusion and recommend that Rule 16.4.13 RD1 (b)(ix) is amended.

Topic 31: Section 34, Sub-Section 34.3.3

87. Submission Point [368.29] has sought a deletion of Rule 16.4.3 Subdivision – Te Kauwhata West Residential Area in favour of the general subdivision provisions of Rule 16.4.1 applying. I agree with this approach. There is no reason for the Te Kauwhata West Residential Area being treated differently from the Residential Zone elsewhere in Te Kauwhata. In particular, the requirement for a differing set of subdivision and land use standards that apply to the Te Kauwhata West area is unsupported given that the Structure Plan is not included in the notified PWDP and the requirement of the RPS to achieve a density of 12-15 lots per hectare is not given effect to. I have not identified any policy support within the PWDP for the separation of the Te Kauwhata West area with the general Residential Zone provisions. The lack of a Structure Plan within the PWDP signals (in my opinion) an intention to treat Te Kauwhata West in the same way as the rest of the Residential Zone in Te Kauwhata. Such an intention would align with the direction for the Te Kauwhata West area to provide for 450m² sections in the Waikato 2070 Draft Growth and Economic Development Strategy.

Topic 36: Section 39, Sub-Section 39.3

88. Submission Point [368.38] seeks a broad amendment to the objectives and policies applying to the Residential Zone in Sections 4 – Urban Environment and 16 – Residential Zone of the PWDP to promote the efficient development of residential zoned land. The principal purpose of the relief sought by the Submitter is to avoid urban activities establishing within areas that are not already zoned for urban development.
89. In my opinion, all amendments to the PWDP to address the relief sought by the Submitter with regard to Chapters 4.2 – Urban Environment and 16 – Residential Zone of the PWDP will achieve the efficient and effective management of residential land during subdivision and development. These matters will ensure the use of zoned land is not inappropriately constrained through the subjective protection of landscapes, vistas and viewshafts. There is no landscape assessment in support of the PWDP provisions for the Residential Zone that justify a subjective assessment and such matters have to be dealt with at the time of zoning. I also consider that restrictions on the ability of developers to alter the natural contours of residential land inappropriately affects the ability of flat or near flat sections to be provided to the market, and, in particular, the achievement of the density target of 12-15 dwellings per hectare as sought by the RPS to be achieved. Such restrictions are not an efficient or effective means of managing residential land and are not, in my opinion, giving effect to the PWDP's strategic objectives in Chapter 4 of the PWDP.

CONCLUSION

90. In principle, I support the inclusion of a specific chapter in the PWDP for the Residential Zone. However, I consider there is no evidential support for a separate set of provisions applying to Te Kauwhata West and nor is there any need for the Te Kauwhata West Residential Area overlay to be identified in the planning maps. In my opinion, the use of the general Residential Zone provisions is a more appropriate method of managing residential subdivision and development in the Te Kauwhata West area and will be a more efficient and effective way of giving effect to the strategic objectives and policies of the PWDP.

4.2.2 Policy – Character

- (a) Ensure residential development in the Residential Zone:
- (i) Provides road patterns that follow the natural contour of the landform;
 - (ii) ~~Retains defined viewshafts from public spaces Promotes views and vistas from public spaces of the hinterland beyond~~; and
 - (iii) Is an appropriate scale and intensity, and setback from the road frontages to provide sufficient open space for the planting of trees and private gardens.

16.3.6 Building Coverage

P1	The total building coverage must not exceed 40%.
P2	Within the Te Kauwhata West Residential Area or the Te Kauwhata Ecological Residential Area as identified on the planning maps, the total building coverage must not exceed 35%.
P3	Within the Bankart Street and Wainui Road Business Overlay Area as identified on the planning maps, total building coverage must not exceed 50%.
<u>P4</u>	<u>Within the Te Kauwhata West Residential Area, total building coverage shall not exceed 40%.</u>
RD1	(a) Total building coverage that does not comply with Rule 16.3.6 P1, P2, P3 or P4. (b) <u>Council's discretion shall be restricted to the following matters:</u> (i) <u>Whether the balance of open space and buildings will maintain the character and amenity values anticipated for the Zone;</u> (ii) <u>Visual dominance of the street resulting from building scale;</u> (iii) <u>Management of stormwater flooding, nuisance or damage to within the site.</u>

Rule 16.3.5 Daylight Admission

P1	Buildings must not protrude through a height control plane rising at an angle of 37 <u>45</u> degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.
<u>P2</u>	<u>Where retaining walls are constructed within 1.5m of a site boundary prior to the issue of a s224 certificate, the height control plane in Rule 16.3.5 P1 shall be measured at an elevation of 2.5m above the crest of the retaining wall at every point.</u>
RD1	(a) A building that does not comply with Rule 16.3.5 P1 <u>or P2</u> . (b) Council's discretion shall be restricted to the following matters: (i) Height of the building;

	<ul style="list-style-type: none"> (ii) Design and location of the building; (iii) Extent of shading on adjacent <u>any other</u> sites; (iv) Privacy on another <u>any other</u> sites; and (v) Effects on amenity values and residential character.
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4.2.14 Objective – Earthworks

- (a) Earthworks facilitate efficient subdivision, use and development.

4.2.15 Policy – Earthworks

- (a) Manage the effects of earthworks to ensure that:
- (i) Erosion and sediment loss is avoided or mitigated;
 - (ii) Changes to natural water flows and established drainage paths are mitigated;
 - (iii) Adjoining properties and public services are protected; ~~and~~
 - (iv) The importation of controlled fill material ~~cleanfill~~ is avoided in the Residential Zone; and
 - (v) Adverse effects on historic heritage.
- (b) Earthworks are designed and undertaken in a manner that ensures that stability and safety of surrounding land, buildings, infrastructure and structures.
- (c) Manage the amount of land being disturbed at any one time to avoid, remedy or mitigate adverse construction noise, vibration, dust, lighting and traffic effects.
- (d) Subdivision and development occurs in a manner that maintains the general fundamental shape, contour and landscape characteristics.
- (e) Manage the geotechnical risks to ensure the ground remains sound, safe and stable for the intended land use.

Rule 16.4.2.1 Earthworks – General

RD1	<p>(a) Earthworks that do not comply with <u>any one or more of the conditions of</u> Rule 16.4.2.1 P1, P2 or P3.</p> <p>(b) The Council’s discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Amenity values and landscape effects <u>on identified natural landscapes</u>; (ii) Volume, extent and depth of earthworks; (iii) Nature of fill material; (iv) Contamination of fill material; (v) Location of the earthworks in relation to waterways, significant indigenous vegetation and habitat; (vi) Compaction of the fill material; (vii) Volume and depth of fill material; (viii) Protection of the Hauraki Gulf Catchment Area; (ix) Geotechnical stability; (x) Flood risk, including natural water flows and established drainage paths; and (xi) Land instability, erosion and sedimentation.
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RD1	<p>16.4.4 Subdivision – Multi-unit development</p> <p>(a) Multi-Unit development must comply with all of the following conditions:</p> <ul style="list-style-type: none"> (i) An application for land use consent under Rule 16.1.3 (Multi-Unit Development) must accompany the subdivision or have been granted land use consent by Council;
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	<p>(ii) The Multi-Unit development is able to be connected to public wastewater and water reticulation;</p> <p>(iii) The minimum <u>existing lot size where a new freehold (fee simple) lot is exclusive area for each residential unit</u> being created must be 300m² net site area.</p> <p>(iv) Where a residential unit is being created in accordance with the Unit Titles Act 2010 it must meet the following minimum residential unit size:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Unit of Multi-Unit</th> <th style="text-align: center;">Minimum Unit Area</th> </tr> </thead> <tbody> <tr> <td>Studio unit or 1 bedroom unit</td> <td style="text-align: center;">60m²</td> </tr> <tr> <td>2 bedroom unit</td> <td style="text-align: center;">80m²</td> </tr> <tr> <td>3 or more bedroom unit</td> <td style="text-align: center;">100m²</td> </tr> </tbody> </table> <p>(b) Council's discretion shall be restricted to the following matters:</p> <p>(i) Subdivision layout including common boundary and party walls for the Multi-unit development;</p> <p>(ii) Provision of common areas for shared spaces, access and services;</p> <p>(iii) Provision of infrastructure <u>(including for firefighting purposes)</u> to individual residential units;</p> <p>(iv) Avoidance or mitigation of natural hazards;</p> <p>(v) Geotechnical suitability of site for buildings;</p> <p>(vi) Amenity values and streetscape;</p> <p>(vii) Consistency with the matters contained, and outcomes sought, in Appendix 3.4 (Multi-Unit Development Guideline)</p> <p>(viii) Consistency with any relevant structure plan or master plan <u>included in the plan</u>, including the provision of neighbourhood parks, reserves and neighbourhood centres;</p> <p>(ix) Vehicle, pedestrian and cycle networks;</p> <p>(x) Safety, function and efficiency of road network and any internal roads or accessways.</p>	Unit of Multi-Unit	Minimum Unit Area	Studio unit or 1 bedroom unit	60m ²	2 bedroom unit	80m ²	3 or more bedroom unit	100m ²
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D1	Subdivision that does not comply with Rule 16.4.4 RD1.								

Activity	Activity-specific Conditions
<p><u>P14</u> <u>Show homes</u></p>	<p>(a) <u>The establishment and use of a dwelling as a show home shall only be for the prescribed purposes of the sale of sections and/ or houses and land packages by the respective property owner, their representatives and authorised Contractors. Once the prescribed use of the dwelling as a show home has ceased, the dwelling shall then be used for residential purposes unless a resource consent is granted by the Waikato District Council for any other activity.</u></p> <p>(b) <u>The hours of operation for each show home shall be limited to between 9.00am to 5.00pm Monday to Friday and 10.00am and 4.00pm Saturday and Sunday.</u></p> <p>(c) <u>One permanent sign specifically related to the show home must not exceed 1m² and no more than 2m in height.</u></p> <p>(d) <u>One freestanding sign specifically related to the show home activity located within the site and only on display during the hours of operation.</u></p> <p>(e) <u>Parking spaces shall be provided in accordance with Rule 14.12.1 P2.</u></p>

RD1	<p>16.4.13 Subdivision creating reserves</p> <p>(a) Every reserve, including where a reserve is identified within a structure plan or master plan (other than an esplanade reserve), proposed for vesting as part of the subdivision, must be bordered by roads along at least 50% of its boundaries.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> (i) The extent to which the proposed reserve aligns with the principles of Council's Parks Strategy, Playground Strategy, Public Toilets Strategy and Trails Strategy; (ii) Consistency with any relevant structure plan or master plan <u>included in the plan</u>; (iii) Reserve size and location; (iv) Proximity to other reserves; (v) The existing reserve supply in the surrounding area; (vi) Whether the reserve is of suitable topography for future use and development; (vii) Measures required to bring the reserve up to Council standard prior to vesting; and (viii) The type and standard of boundary fencing.
D1	Subdivision that does not comply with Rule 16.4.13 RD1.

Dated: 31 January 2020



Stephen Gascoigne
Planner
Bloxam Burnett & Olliver Ltd

Te Kauwhata Action Group Inc. v Waikato District
Council [2012] NZEnvC 83

BEFORE THE ENVIRONMENT COURT

Decision No. [2012] NZEnvC 83

IN THE MATTER of appeals under Clause 14 of the First
Schedule to the Resource Management
Act 1991 (**the Act**)

BETWEEN TE KAUWHATA ACTION GROUP
INCORPORATED
(ENV-2010-AKL-000024)

Appellant

AND WAIKATO DISTRICT COUNCIL

Respondent

Heard at: Hamilton, 14 - 15, 19 - 20 March 2012

Site Visit: 16 March 2012

Court: Environment Judge J A Smith
Commissioner C E Manning
Commissioner A J Sutherland

Appearances: Ms A J Davidson for Te Kauwhata Action Group Incorporated (**the
Action Group**)

Mr L F Muldowney and Mr B A Parhan for the Waikato District
Council (**the Council**)

Mr C C Potter for Jetco Waikato Limited - Section 274 Party (**Jetco**)

Mr M Randhawa for Silverstone Developments & Ors (Section 274
Party)

No appearance for Surveying Company Pukekohe Limited (struck-
out)

DECISION OF THE ENVIRONMENT COURT



- A. The zoning of Areas K1, D & M, as shown in Annexure A (attached), are confirmed as Te Kauwhata West Living as set out in Variation Statutes P6 in Variation 13.

The zoning of Area L, as shown in Annexure A, is deleted as Te Kauwhata West Living. This reverts to that in the Partly Operative District Plan as Country Living.

- B. The provisions of Variation 13 as a result of decisions are otherwise subject to finalisation, as follows:

1. The Council are to consult with the parties to see if this matter can be resolved by consent. We would require an updated Structure Plan and provisions, showing roading, stormwater and reserves, and the concessions made by the Council at hearing:

- a. This should be undertaken by the Council and circulated to the other parties within 30 working days;
- b. The parties then have 20 working days to see if the provisions can be agreed;
- c. If they cannot, then the Council is to file its provisions stating its preference, together with the position and comments of the other parties within a further 10 working days.

2. For clarity, we do not require a Subdivision Plan at this stage.

- C. Any application for costs is to be filed within 30 working days from the date of this decision, with a response in a further 20 working days, and final response for the appellant 10 working days thereafter.



REASONS FOR THE DECISION

Introduction

[1] Is it more appropriate that a block of land on the outskirts of Te Kauwhata in the Waikato District, be Country Living Zone or Te Kauwhata West Living Zone? The land is bounded by Travers Road, Wayside Road and Te Kauwhata Road at Te Kauwhata, and is adjacent to State Highway 1 between that highway and Te Kauwhata Village, which has the North Island Main Trunk Railway along its eastern edge.

[2] Immediately north of the subject site and within the bounds of the roads we have mentioned is a portion of Country Living zone which is complemented by a larger area to the north of Travers Road. Annexed hereto and marked **A** is a Planning Map showing the area of land, including the site the subject of this appeal as it was zoned as a result of decisions on the Structure Plan.

[3] The Te Kauwhata West Living Zone is the result of decisions of the Waikato District Council hearing this Variation. Also annexed as **B** is an aerial map of the area showing the various areas the subject of hearing before this Court.

ISSUES

[4] From the perspective of the Council and the appellant, agreement had been reached that Area K1 should be included in Te Kauwhata West Living zoning, and that Area L should be removed. We should point out that the appeal did not relate to another area of Te Kauwhata West Living zoning to the south of Te Kauwhata Road, and that zoning and the provisions relating to it are now operative.

[5] The appeal is filed by owners of Country Living zoned land to the north of the area for which rezoning is sought. They seek the same zoning as the land they are living on, and issues of urban versus rural amenity are at the fore in their evidence.

[6] The relationship of visual effects to amenity and rural character drives much of the evidence in this case. Underlying this evidence there are assumptions as to how people wish to live at Te Kauwhata. Restated, the issue in this case could be seen as



whether or not the land in question should be part of the village of Te Kauwhata (being an extension to the west) or should remain on the periphery of Te Kauwhata.

[7] Behind this issue lie differing population expectations as to the demand for housing in Te Kauwhata in the next 20 - 50 years. The Council, for example, produced evidence which predicted the population would increase to 6,000 - 8,000. The appellant's expectation seems to be significantly lower. Essentially its argument is that either the land currently zoned Living Zone (new residential) or potentially able to be zoned as residential to the east is sufficient for future population growth. We acknowledge that there is a wide range of views, even between witnesses in this case, as to what constitutes a pleasant environment in which to live. There are also significant differences and expectations as to the population of Te Kauwhata into the future. The District Plan is an opportunity for each community to find a balance which works for that particular district. Fortunately the Court does gain clear guidance from the settled District Plan zoning provisions, including those settled in Variation 13, and these dictate the conclusion in this case which we will discuss later.

Settled Areas

[8] Before moving on to the substantive dispute, we consider that we are able to reach an early conclusion on the question of the land in K1 and L. The land at K1 was previously zoned Living, and has Living zones on its eastern and southern boundaries. It is flat land, already serviced with good positioning for roading access through the site. In short, save for the zoning issue, it appears to be ready for and is likely to be developed as residential land in the very near future. No other constraints were pointed out to the Court, and we have concluded that the best zoning for this land is Living, given that:

- [a] it fits the existing pattern of residential development;
- [b] there is no dispute as to its inclusion; and
- [c] services are already accessible to this site.

[9] Turning now to Area L, this area is to the east of Travers Road, and to the south of Moorfield Road. It essentially covers part of an area between the wetland to the South, and the higher land on Moorfield Road. Part of it is intended to remain Country Living, with the inclusion of a residential section within it. All the parties



agree that this is not an appropriate area to rezone as Living and we agree for the following reasons:

- [a] there is likely to be potential impact on the drainage ability of the area, given that some of the land close to Travers Road appears to be zoned Living rather than reserve;
- [b] the higher land towards Moorfield Road relates to the Country Living areas to the north, east and west; the lower land is close to the wetland;
- [c] no particular provisions are suggested in either the Te Kauwhata West Living or Country Living zones to protect the margins of the wetland; and
- [d] given that there is an area of Country Living on Travers Road to the south of this area, a zoning of Living would be disconnected from any other residential area of similar density. The area to the south of the wetland, which is residential, does not assist as it is separated by the low-lying drainage land.

[10] Although we will examine these matters under Section 32 of the Act again, later in this decision, having undertaken the fuller tests under Section 32 we have concluded that the parties have correctly agreed that this area should be excluded from potential development, at least at this stage.

The Approach to Zoning

[11] The Court does not start with any presumption as to one zoning being more appropriate than the other. Its task is essentially to evaluate the provisions of the Plan which are settled, to try to ascertain the intent and context of the two zones, and then to achieve the best fit in terms of the Plan provisions for this land. We then move to consider the various aspects of Section 32 as they bear upon this evaluation before reaching a conclusion under Part 2 of the Act.



Plan Sequence

[12] As is becoming increasingly common, councils often undertake various tasks under different legislation, which may have implications for RMA, but have no statutory force in this Court until they are incorporated into an RMA document.

THE OPERATIVE DISTRICT PLAN

[13] In this particular case, the Council was proceeding with the proposed Waikato District Plan in 2007, and the provisions relating to Te Kauwhata were largely operative. It subsequently resolved in July 2011 to make that Plan partly operative on 16 July 2011.

[14] However, in the meantime, it was clear by 2009 that the partly operative provisions of the Waikato District Plan did not reflect the Council's emerging long-term growth strategy. This was encapsulated in both future-proof strategy and district-growth strategy. Accordingly, the zoning that had been adopted in the District Plan essentially saw the containment of the existing village with some modest growth, and with the area to the west of the railway line a small amount of existing residential, a modest extension area K1, with the balance Country Living. The land zoned for further residential which was not at that stage developed included an area demonstrated on Plan annexed here as C, being the zoning prior to the Te Kauwhata Structure Plan.

[15] Accordingly, Variation 13 was introduced to address new expectations as to future population growth, and to make zoning alterations to the partly operative WDP.

[16] Nevertheless, the underpinning philosophy of the District Plan (use of zones) is now set out in the partly operative Plan, and Variation 13 as we examine in due course merely makes minor alterations to the provisions.

THE WAIKATO DISTRICT PLAN

[17] The partly-operative Waikato District Plan (**WDP**) refers to *Land Use Pressures*, including:

1.4 Land Use Pressures

Urban expansion, land subdivision, rural lifestyle demands and soil erosions can compromise access to versatile soil and mineral



resources that are of economic importance to the district and the region, as well as contributing to the loss of cultural and heritage values. Rural residential uses can be sensitive to the effects of mining, farming, intensive farming, and horticulture operations and there is potential for conflict.

[18] In *Rural Land*, it is noted:

1.5 Rural Land

... There is potential for conflict between rural activities and other land uses including residential activities on lifestyle blocks ... Clustering of residential activities around villages will be favoured to minimise cross-boundary conflicts, including those caused by reverse sensitivity.

[19] In *Towns and Villages*:

1.6 Towns and Villages

The vision for the future of the towns and villages of the district is that:

- (a) the amenity, quality of life, and wellbeing of the residents and their community will be maintained and improved
- (b) the environment will be safeguarded as development proceeds
- (c) existing towns and villages will be consolidated in preference to new towns being created
- (d) services will be provided for new residential development
- (e) a sense of place will be fostered, with urban design that complements both human scale and physical setting

[20] Later at *Te Kauwhata*:

1.6.4 Te Kauwhata

Te Kauwhata will grow in response to demand for housing within commuting and day trip distance of Auckland, while retaining its rural village atmosphere. Population growth is also expected to arise from growth in the wine industry, tourist industry, and arts and crafts. Business activity may expand to service the surrounding population. Residential development will offer a variety of allotment sizes while retaining rural views, trees and open space. Low-density residential development will be favoured over infill.



[21] When we come to Issues, Objectives and Policies, two chapters that are of particular interest for this case are *Chapter 6: Built Environment*, and *Chapter 13: Amenity Values*.

Chapter 6: Built Environment

[22] Objective 6.2.1 refers to *development that is connected or grouped around infrastructure*. This is supported by policies including:

6.2.2

Subdivision or development should be located, and have a density, scale and intensity, to ensure efficient use of land, public facilities and utilities.

6.2.3

Residential and business development should occur in current towns and villages in preference to isolated rural locations.

[23] Policy 6.3.1 reads in part:

6.3.1 Disconnected and Scattered Development

This objective encourages urban consolidation to safeguard the environment, promote community wellbeing, and ensure public infrastructure and utilities are used as efficiently as possible. In smaller villages that are not fully serviced, a compact urban form is desirable to achieve the economies of scale necessary to provide new services. The objective also contributes to other objectives of the plan relating to preserving agricultural land, rural character, and natural features and landscapes.

[24] Policy 6.3.2 addresses *Efficiency and Effects*:

6.3.2 Efficiency and Effects

While the first policy encourages efficiency through urban consolidation, it also recognises that there are limits to density, scale and intensity of development. The adverse effects of over development include loss of character of the locality, environment effects and conflicts between activities that are too close in proximity.

[25] Policy 6.3.3 deals with *Residential and Business Development*:

6.3.3 Residential and Business Development

This policy ensures that residential, business and industrial development is consolidated into current towns and villages. This promotes the vitality of existing towns and villages, and the efficient use of infrastructure. The policy is also aimed at preventing new



residential clusters being created in rural areas by cumulative rural subdivisions ...

[26] When it comes to *Chapter 6.6*, an issue is identified with land use intensification (including subdivision), and its environmental effects. Objective 6.6.1 provides:

6.6.1

Adverse effects of use and development are avoided by provision of wastewater and stormwater disposal, supply of water, energy and communications.

[27] Policy 6.6.2 provides:

6.6.2

Where land is subdivided or its use intensified, then adequate water supply, wastewater treatment, and land and stormwater drainage must be provided to each allotment, by connection to available reticulated services, or by on-site facilities where reticulated services are not available.

[28] From this it is clear to us that the WDP Objectives and Policies have a definite preference for reticulated services over on-site facilities. Importantly, in the *Reasons and Explanation 6.7* and *On-site Management 6.7.1*, it is identified that:

... Water supply, wastewater treatment, drainage, and electricity and telephone connections make important contributions to amenity, as well as to health and safety and the environment generally.

[29] When we turn to look at the *Anticipated Environmental Results 6.12*, we can see under *Issues 6.12.1 – Scattered development* that *intensification of development where appropriate* is seen as one of the outcomes.

Chapter 13: Amenity Values

[30] The *Chapter 13.1 Introduction* identifies green and open spaces among other matters that contribute to amenity values. It is clear, however, that other matters such as infrastructure and utilities also contribute to amenity values as is explained in Chapter 6. It is recognised that residential amenity in rural areas will be affected by existing rural activities, explicitly that:

... The towns of Raglan, Ngaruawahia, Huntly and Te Kauwhata, and the rural villages and localities, all have different amenity values that add to the diversity of the district.



[31] This theme of containing similar activities with similar effects and maintaining compatibility with the amenity and character of localities is carried through in Objectives 13.2.1 and 13.2.2. Zoning is seen as an appropriate response, *Zones 13.3.4*, and the fact that amenity values occur in different localities, *Localities 13.3.3*.

[32] It is also noted that economic and community wellbeing is enhanced by providing a degree of certainty about the effects likely to be encountered in a locality. *Chapter 13.4 Issue – Subdivision, Building and Development* recognises that subdivision can have adverse effects on amenity values, and Objective 13.4.1 identifies that:

13.4.1

Amenity values of sites and localities [should be] maintained or enhanced by subdivision, building and development.

[33] Importantly, although Policy 13.5.5 refers to view sharing, the Policy does not set out to preserve views from private land.

Is the Country Living Zone a Rural Zone, demonstrating Rural Character?

[34] One of the core issues that arises in this case is the assertion that the Country Living Zone is in fact a Rural Zone, and thus the zone exhibits a rural character. Many plans in New Zealand have a dichotomy between rural and urban zoning. This Plan does not include Country Living Zone as a Rural Zone. Rural Zones are provided under Chapter 25. Instead, some Special Zones are provided for in Chapter 26 with *Coastal Zones*, and Chapter 27 with *Country Living Zones*. Chapter 27.2 states:

27.2 The Country Living Zone provides for low density living at specific locations in rural areas. Rules seek to manage activities to maintain a high standard of amenity.

[35] This compares with Chapter 25.2, which states:

25.2 ... It is anticipated that the amenity values experienced by residents of the Rural Zone will be lower than those enjoyed in the Living Zone.

[36] Although no explicit discussion of the Country Living Zone is given, one would assume a level of amenity affected by the lower amenities of the Rural Zone, but still to a high standard. The Country Living Zone allows subdivision down to 5,000m² and on-site sewage disposal can be provided as an alternative to connection



to a reticulated system. It appears that many of the properties are receiving some form of reticulated water by trickle delivery, but we noted that many had tanks on site. It also appears that power is supplied, largely by overhead line. A number of properties are accessed from a single long entry from the road, e.g. the Peach property on Wayside Road, and there have been several Country Living subdivisions which have sections around the 5,000m². However, most of the sections within the Country Living areas to the north of Areas M, and D are larger than 5,000m². There is also an area of business zoned land on Wayside Road near the corner with Travers Road. This is subdivided to smaller sizes again, and seems to be largely utilised for housing.

[37] Mr C C Potter, a property developer and shareholder in Jetco told us that Jetco undertook the development of the Country Living area to the north of Area M on Travers Road, and found that there were groundwater springs creating some difficulties for the design of septic tank fields. The low-lying wet area between Area M and this Countryside Living area is such that we would consider there are likely to be groundwater issues in the area, and other springs. Certainly there is catchment drainage running through this area, and exiting eventually to the wetland which is the reason that proposed developments of this area and the area to the east of Travers Road all demonstrate water catchment areas.

[38] The land in Areas M and C exhibit rural characteristics, being an orchard, a grape vineyard, and other crops and open pastureland. Given its proximity to State Highway 1 and the town, it cannot be said to have a truly rural character, but nevertheless is clearly currently being used as rural land. The area to the north of D and M, to Travers Road, has a more residential quality. We would describe it, even as it stands, as large lot residential, and perhaps as residential land-in-waiting. We so conclude because the land on the corner of Travers Road and Wayside Road conditions our expectations as to the type of development, given that the sections in that case appear to be in the order of 800m² - 1,000m². There are also houses relatively close to the side of the road along Wayside Road, and Travers Road, most of which give the impression of being residential lots. On many occasions the house and curtilage occupies around 1,000m², and the rest appears to be either in pasture or just mown lawn. The larger sites, towards the interior of the block, are not so easily seen from the road but do give a more open, although still mixed, view. If the sections were developed to 5,000m² this area would clearly appear as a large lot residential area associated with Te Kauwhata.



[39] The land to the north of Travers Road has a more transitional nature currently, and has the appearance of more rural land beyond the immediate environs of Travers and Moorfield Roads. Overall it gives an impression of rural farmlets rather than large scale residential lots. If this area was developed to 5,000m² per lot, it would be difficult to know how it would provide a transition into Te Kauwhata village.

[40] Certainly one would anticipate a higher level of development south of Travers/Moorfield Roads, which is more immediately associated with the village. There is no doubt that the village is unable to expand significantly to the north or south east of the railway line, bounded as it is by the Whangamarino wetland and Lake Waikare. The designation of a bypass road shown on Annexure A, in our view marks the practical demarcation of the village to the south, at least for residential purposes. There is the potential for further residential development between State Highway 1 and the bypass south of Te Kauwhata Road, but again the potential for that is particularly limited – probably again to some form of Country Living similar to that north of Travers/Moorfield Roads.

Town Limits

[41] We agree that the State Highway 1 constitutes a clear and defensible boundary for the town to the west, and that Wayside Road in practical terms constitutes the limit of the town to the west. Currently Swan Road constitutes the limit to the town to the east. Although there is the potential for further expansion at least to the east of Swan Road and north of Waerenga Road, topography would limit expansion in this area. For our part, we have concluded that the potential rezoning of the land D and M is an appropriate extension to Te Kauwhata for the following reasons:

- [a] There is already residential development on the western side of the railway line;
- [b] The railway line does not divide the town in any cultural sense, it simply limits access points;
- [c] The area will always be seen as part of Te Kauwhata because it sits between State Highway 1 and the centre of the town;



[d] The main access road to Te Kauwhata is Te Kauwhata Road. Although an alternative might be to use Travers Road, this would travel around the boundary of the subject site.

[42] Accordingly, we have concluded that the WDP anticipates residential development around Te Kauwhata and that Areas D and M are appropriate for it. Clearly both the Country Living Zone or other Living zones would be appropriate zonings on this site. To ascertain the justification for the Te Kauwhata West Living Zone, we must turn to the Variation 13.

VARIATION 13

[43] Variation 13 appears to have developed as a result of further work by the Council in estimating populations, and involves a number of changes to the Plan to recognise and provide for such population increases. We have already cited the previous *1.6.4 Te Kauwhata* of the WDP. Variation 13 now deletes the existing text and inserts:

1.6.4 Te Kauwhata

Significant growth is expected at Te Kauwhata. This is managed under the Te Kauwhata Structure Plan, see Chapter 15A.

[44] It can be seen from this change that, in fact, the change is not an acknowledgement of growth in the area, but rather the use of the Structure Plan method to address such growth.

Variation 13 - Chapter 15A: Te Kauwhata Structure Plan

[45] The introduction to Chapter 15A gives far more detail as to the growth anticipated, formerly under the provisions of the WDP now replaced. It *anticipates a population* in Te Kauwhata *of 7,800 by 2061*, and states that:

... This chapter presents plan provisions that are specific to the Te Kauwhata Structure Plan area, as shown in the planning maps, which are designed to ensure growth is properly managed ...

[46] Overall, it is clear from the introduction compared with the WDP, that both provisions recognise Te Kauwhata as an area for growth. Chapter 15A, however, is more specific about the population anticipated (7,800 from the growth strategy) and the method by which this is to be achieved. For current purposes we can assume that



the majority of the provisions of this amendment are operative, given that the only outstanding appeal relates to the actual zoning of these pieces of land. Although there was a great deal of dispute about the population calculations, these were agreed by the parties in a joint statement, and the provisions of the plan itself, including the statement of population at *Chapter 15A.1 Introduction*, is not the subject of appeal.

[47] We therefore proceed on the basis that the settled objectives and policies subject to the Variation now recognise the need to provide for 7,800 people by 2061, and to do so on a basis which manages that growth while avoiding the adverse effects identified in *15A.2 Issue – Te Kauwhata effects of growth*. The chapter explains that poorly managed urban expansion in Te Kauwhata has the potential to produce:

15A.2 Issue – Te Kauwhata effects of growth

... a loss of village character; a lack of community or neighbourhood identity; a loss of landscape values; low residential amenity; conflicts with heavy and through traffic; poor connectivity and lack of transport options; inefficient development of infrastructure; conflicts between land uses; degraded water quality and loss of natural habitat and ecosystems; and a lack of quality open space and amenity, including streetscapes.

[48] For the purposes of this appeal, the Court has no ability to change the content of the Country Living Zone, but does have a wide discretion to change the content of the Te Kauwhata West Living Zone if it concludes that this is appropriate, so long as the provisions provide for development broadly within the densities envisaged for each zone. Fundamentally, it is difficult to see how the particular adverse effects described in the issue statement can be addressed by Country Living Zone, which does not contemplate or address population growth generally, or the adverse effects thereof. Though quite clearly it addresses the question of open space and amenity, it is difficult to see how Country Living can address the other aspects in a detailed way.

Chapter 15A: Te Kauwhata Structure Plan

[49] Objective 15A 2.1 indicates the Te Kauwhata Village characteristics should be maintained and enhanced. We do not consider that the Country Living Zone is currently part of the village, mainly because the developed area is currently disconnected from Te Kauwhata Road and the village entry. Essentially the Country Living area has been concentrated into the Travers Road/Wayside Road area, particularly to the north. Areas D and M are currently Rural land, with a vineyard operated over part, and other pastoral activities over the balance. Although we would



have described the area of K as part of the residential containment of the village, even though undeveloped, the same could not be said of the Country Living residences further north of Travers Road, Moorfield Road or Wayside Road.

[50] Policy 15A 2.2 indicates that:

15A.2.2

Development should contribute to the Te Kauwhata village character, including:

- (a) a predominance of residential lots that contain significant open space
- (b) retaining amenity trees
- (c) public open space which is conveniently accessed and highly visible
- (d) retaining views to natural landscape and features
- (e) a strong association with rural amenity values
- (f) compact form that does not sprawl into the countryside
- (g) integrated development that reinforces the town centre as a community focal point
- (h) convenient access to light industries
- (i) locating light industry predominantly along heavy traffic routes
- (j) recognising cultural and historical values and land uses including horticulture, viticulture and traditional Māori values
- (k) the integration of buildings, private open space and public open space
- (l) a general consistency of building scale that integrate into the natural landscape
- (m) compliance with the Te Kauwhata Structure Plan and Urban Design guide.

...

[51] There follows Objectives 15A2.3, 15A2.7, 15A2.10, 15A2.15, 15A2.18, 15A2.22, 15A2.23, 15A2.26, 15A2.28, and 15A2.31. This is followed by discussion of the town centre, open space, and amenity values, living and working environments, infrastructure developments, hydrological characteristics, ecological values, public access, flooding and drainage, land transport.

[52] Fundamentally, we consider that the appellants have misunderstood the purpose of the Variation. This is to provide for expansion of the Te Kauwhata Village



in a managed way, particularly to provide for the population anticipated. Given the agreement of all the experts, including those for the appellants, as to population estimates likely to be achieved, albeit more slowly than originally anticipated, the question is where that population should be provided for in the village. Given that the current village footprint is not of sufficient size, it must be extended. Given the very limited ability to extend to the north and south, due to the wetland and lake, it is clear and accepted by witnesses that expansion must occur to the east and west. In relation to the west, the residential area of the village has already crossed the railway line, and is therefore only limited by State Highway 1. All witnesses accepted that SH1 was an appropriate boundary for the village.

[53] To the east, the demarcation point is not so clear. What is clear, however, is that it is moving into clear rural land where issues as to competition between rural land use and urban use become of some importance. There are limitations in relation to Swan Road, given it is used as access to a major quarry. Although we do not see this as a final boundary line, it is clear that at the time of examination the Council considered Swan Road to be an appropriate demarcation point to the east, given that they had designated a bypass route (around Te Kauwhata village) with Swan Road as its eastern route.

Role of the Country Living Zone

[54] Fundamentally therefore, the Variation requiring provision for greater extension of the village requires land that is zoned for Country Living as opposed to that for rural purposes. We cannot see how Country Living zoning is appropriate, being, as it is intended to be, in rural areas. We agree with Mr Raeburn that a Country Living Zone can be a legitimate transitional zone between rural and urban town/village areas. The most significant problem with such a zoning is that the form of development to which it gives rise cannot be adapted to provide for more conventional urban densities when population pressure requires denser occupation of land on the periphery of towns and villages.

[55] As Mr Raeburn accepted, there are major difficulties with rehabilitating Country Living areas for residential use, not the least of which are the difficult ownership patterns involving often multiple homes off long accessways, difficulties of installing infrastructure including sewer and stormwater, major difficulties with upgrading public space with footpaths, underground power, street lighting and the like, and the difficulty of maintaining appropriate urban design with street frontages to



houses. We agree with Mr Raeburn that in the case of this land, those areas already developed as Country Living are going to prove very difficult, if not impossible, to incorporate into residential zones in due course.

[56] We also agree with Mr Raeburn, that Country Living zones have a legitimate role on a permanent basis to provide a buffer between rural areas and residential areas. Unfortunately, no plans that we are aware of properly provide for this as a method of development. On a permanent basis one would imagine that this would involve covenants against further subdivision, and a notation on the title. The District Council is in a very fortunate position, in that the land closest to the village boundary that was previously zoned Countryside Living is still undeveloped. There is, in our view, a rare opportunity to provide for a consolidation of the village to the west by rezoning this land as residential and thereby providing for a significant population increase without utilising the important rural land resources producing an uncoordinated form of development lacking appropriate connectivity.

[57] An application of all of the provisions of Chapter 15A that we have discussed leads to the inevitable consequence that the Council sees a section size similar to that of the existing village (around 800m² from our observation) with good quality street amenities, trees and recreation areas, and provision of advanced infrastructure (sewer, underground electricity and the like) as being an appropriate development for Te Kauwhata.

[58] Although the Country Living Zone does provide a form of consolidated residential dwelling, it does not provide for an integration of infrastructure requirements. Nor does it reduce the impact upon the rural land resource. Put in simple terms, 8,000 more people within the Country Living Zone around Te Kauwhata would involve (at 2.3 persons per household) 3,000 homes or 1,500 ha. Mr Raeburn agreed that this would be unacceptable as a demand and we consider that this would be contrary to the objectives and policies of the Plan as a whole.

[59] In respect of providing further residential Living Zones in Te Kauwhata, it is clear that the Council considered that the various elements of village character would be recognised by development of the type now broadly envisaged. We can indicate that the provisions now sought to be included allow for larger average lot sizes, and involve some significant improvements in terms of amenity over that originally proposed in the notified Plan.



Village Characteristics

[60] Nevertheless, it is the Te Kauwhata Village character that is seeking to be repeated, not that of the surrounding Rural or Country Living Zones. Amenity in this context is more to do with public open space, recreation reserves, infrastructure. The Explanation and Reasons for the policies at 15A3.3 discusses *Landscape, open space and amenity values*, and describes a *backdrop with views towards Whangamarino Wetland, Lake Waikare and beyond to the Hapuakohe Range*. Vegetation, landforms and waterways are also mentioned, with the Plan noting that it:

... is envisaged that subdivisions will be designed to take advantage of features within a site to create identity and to reflect increasing community interest in environmental issues ...

[61] In this regard the waterway through the site and the retention area appear to be envisaged by the developers as being developed in this way. In short, the appellant's contentions that private open space is intended to provide amenity for the Te Kauwhata Village are not reinforced by reference to either the general plan provisions, or those under Chapter 15A (Section 32 of the Act tests).

[62] The purpose of the Court's examination is to discuss which zone is most appropriate or better for this site. Given the matrix of objectives and policies supporting the Te Kauwhata West Living Zone, it is difficult to see how the Court would be able to reach any other conclusion than that the specialised zoning designed for these areas is the more appropriate zone. It is clearly more efficient in terms of both land use and enabling the utilisation of infrastructure, including waste water treatment.

[63] It offers higher levels of amenity to the village in terms of roading networks, recreational areas, street lighting, footpaths; the cost of this is borne by the developer and is able to be realised through section sales by virtue of the density being achieved. Nevertheless, it appears that the densities that the developer has in mind are within the frame of those considered by the Plan to maintain the character of the Te Kauwhata Village. We are confident that from within this area there will still be clear views towards wetland and waterways, and with further views into the countryside beyond.

[64] Although we acknowledge that there will be an adverse effect on the views of those living in the Country Living Zone, it is clear that the Plan contemplates that those in the Country Living Zone will be proximate to villages and town. We have



concluded that this means they will have visual impact as well as impact in terms of noise, light and the like, from the village which they surround. Although inefficient, Country Living Zones are provided for because they provide a transition between the general rural area and its impacts, and the impacts of its rural activities, and the residential area with its high level of urban amenity.

[65] Clearly, the Living Zone of Te Kauwhata West is more effective and efficient in delivering the objectives for housing future population. Given the statements in relation to amenity contained within the Plan, and the activities that require consent, we are confident that the planners in examining subdivisions will be seeking to ensure that the village character is maintained. We cannot have the same faith that the village character would be maintained through Country Living. Such a zoning would essentially remove it from the Structure Plan, given that only changes to the Planning Maps were shown and accordingly Structure Plan Planning Map 25A Zone does not show any Country Living. Removal of these areas of land from that would simply revert them to their previous zoning, unaffected by Variation 13. As such, none of the provisions of that variation would apply, meaning that such a zoning could not, by its very operation, seek to achieve or implement the objectives and policies of Variation 13.

[66] When we come to consider the question of costs and benefits, these would have to be broadly evaluated in terms of achieving the objectives and policies of Variation 13. While Country Living Zone might achieve and implement the policies and objectives relating to general growth in the original Plan, the provisions of 1.6.4 *Te Kauwhata* at least have now been changed, and the Structure Plan has become central to achieving the growth envisaged by the Plan. Given that Countryside Living is outside the Structure Plan, by definition Countryside Living is not designed to achieve the purpose of Variation 13, or the general provision as now altered to seek growth in Te Kauwhata.

[67] In terms of cost, therefore, a major purpose of the Variation would not be achieved. This would require a further variation to be introduced to identify how the Structure Plan could achieve the population growth envisaged. It seems to be tacitly acknowledged that the current growth figures, with the removal of the land in L and certain other areas, means that the total target cannot be achieved in any event.

[68] Overall we have concluded that only the adoption of this land as Te Kauwhata West Living achieves and implements the objectives and policies of Variation 13.



PART 2 OF THE ACT

[69] In the end, all the powers, including those under Section 32 of the Act, are to achieve the purpose of the Act. This is to provide for managed use and protection of natural and physical resources in a way or at a rate that enables people and communities to provide for their social, economic and cultural wellbeing, and health and safety while meeting Section 32(2)(a),(b) and (c). In the end the only way in which we can see that Variation 13 can be achieved is by the adoption of the Te Kauwhata West Living Zone.

[70] Putting the matter more broadly, it is our view that the village of Te Kauwhata is enhanced by the development of further areas at similar densities, and with at least the same if not higher standards of construction, footpaths, lighting. All areas would be connected to sewer, and linked into a single community structure. This enhances the facilities provided by the village, by reinforcing the schools and other community facilities with ongoing population into the future years. This also gives a spread of section sizes and style of housing for people who wish to live in the area.

[71] Overall we conclude that the appropriate zoning of this area is Te Kauwhata West Living Zone. This will achieve the purposes of the Act and the objectives and policies of the Plan.

The Contents of the Zone

[72] By the time of the hearings, the arguments between the parties as to the contents of the zone had narrowed considerably. Most of the issues were resolved, and in the event the Court felt that it was appropriate to zone the land as Te Kauwhata West Living. The Council's draft provisions for the zone are annexed hereto.

[73] There was some discussion by witnesses for the appellants as to whether or not there should be some form of large lot along the common boundary with the residential zone. We acknowledge that the area on D will be visible to people such as Mr Peach living in the dip off Wayside Road. For the most part, after planting and growth of trees, there will be partial views of houses, it will be clear that there will be a greater concentration of houses in the Te Kauwhata West Living Zone, than within the Country Living Zone, but this will be most obvious to those with boundaries adjacent.



[74] Overall there is a buffer area on M relating to the low-lying wetlands, which provides an adequate buffer between sites. In respect of the boundary on D, which abuts the Country Living Zone, there was some discussion about whether the Court should provide larger sections, say 1,200m² – 1,800m² or 40m common boundaries for each lot, or some other mechanism for control. We recognise that the hillside will be visible, and even larger sites immediately adjacent to the boundary will not prevent views of other buildings further into the subdivision.

[75] A reduced density on the new zone boundary could reduce the impacts on privacy, and lessens the impact on spaciousness that is an important element of living in some *countryside living* areas. We consider sections 30m wide with a 6m setback from the zone boundary could achieve this. We do not think such a section on the zone boundary provision is necessary where a road separates the two zonings, but only where properties from each zone abut each other.

[76] We recognise that houses in close proximity to the site boundary between Country Living and Te Kauwhata West Living Zones creates clear contrast in housing density.

CONCLUSION

[77] For the reasons we have set out, we have concluded that areas M and D are most properly zoned as Te Kauwhata West Living, as demonstrated in the Plans. We do understand that the balance of the area owned by Jetco adjacent to M, shown in some maps as C, was to be utilised and an area further into the site was to be utilised for residential activity. It would be our preference that the balance of Area C is shown as reserve if that is the intention of the Reserve/Recreation Zone, along with the hilltop area. We also consider that a more detailed Structure Plan needs to be provided, showing in broad terms the subdivision of the site, including:

- [a] areas of waterway which are to be retained as Recreation or other reserve zoning;
- [b] areas for water ponding at the bottom of the site, including any areas of M and C; and
- [c] the roading plan through the site.



[78] On this basis we would accept that there could be an indication of section sizes subject to modification in due course to achieve the overall average and balance anticipated in terms of the Plan provisions. We would also consider that such a Structure Plan should show in relatively precise terms the stormwater runoff catchment and ponding system, and the wastewater, power and telephone reticulation. In addition to street treatments, in this regard we understand that the main arterial running through the site would be a double boulevard with trees in the centre island. We also understood that the area would have at least one footpath and street lighting.

[79] We wish to give an opportunity for the Council to consult with the parties to see if this matter can be resolved by consent. We would require an updated Structure Plan and provisions, showing roading, stormwater and reserves, and the concessions made by the Council at hearing:

- [a] This should be undertaken by the Council and circulated to the other parties within 30 working days;
- [b] The parties then have 20 working days to see if the provisions can be agreed;
- [c] If they cannot, then the Council is to file its provisions stating its preference, together with the position and comments of the other parties within a further 10 working days.

For clarity, we do not require a Subdivision Plan at this stage.

[80] The Court would then proceed to finalise the Plan provisions.

[81] This does not appear to be appropriate occasion for costs. However, if notwithstanding an application for costs is made:

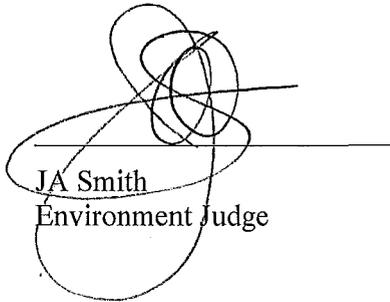
- [a] It is to be filed within 30 working days from the date of this decision;
- [b] Response to be filed within 20 working days; and
- [c] Final response for the appellant 10 working days thereafter.



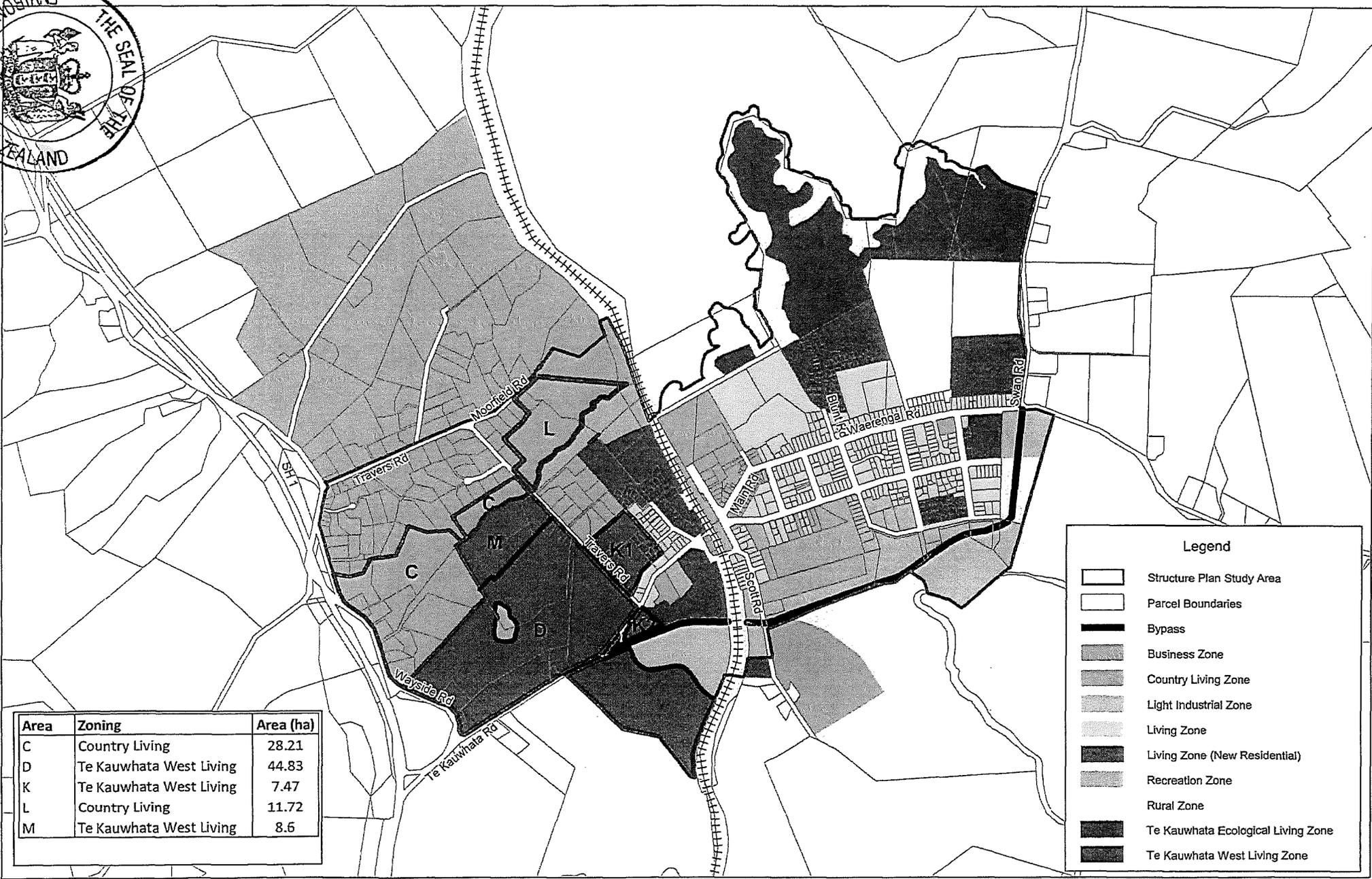
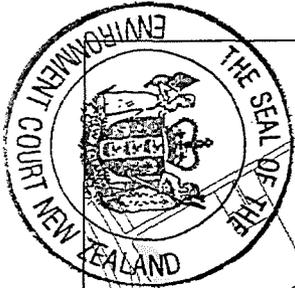
[82] The intention is that questions of costs will reach the Court simultaneously with those relating to final provisions.

DATED at CHRISTCHURCH this 1ST day of May 2012

For the *Court*


JA Smith
Environment Judge





Area	Zoning	Area (ha)
C	Country Living	28.21
D	Te Kauwhata West Living	44.83
K	Te Kauwhata West Living	7.47
L	Country Living	11.72
M	Te Kauwhata West Living	8.6

Legend

- Structure Plan Study Area
- Parcel Boundaries
- Bypass
- Business Zone
- Country Living Zone
- Light Industrial Zone
- Living Zone
- Living Zone (New Residential)
- Recreation Zone
- Rural Zone
- Te Kauwhata Ecological Living Zone
- Te Kauwhata West Living Zone



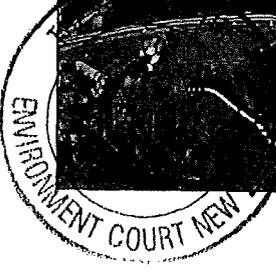
Te Kauwhata Structure Plan Zonings at Council's Position March 2012 with Identifiers

Scale: 1:15000
 0 100 200 300
 Meters

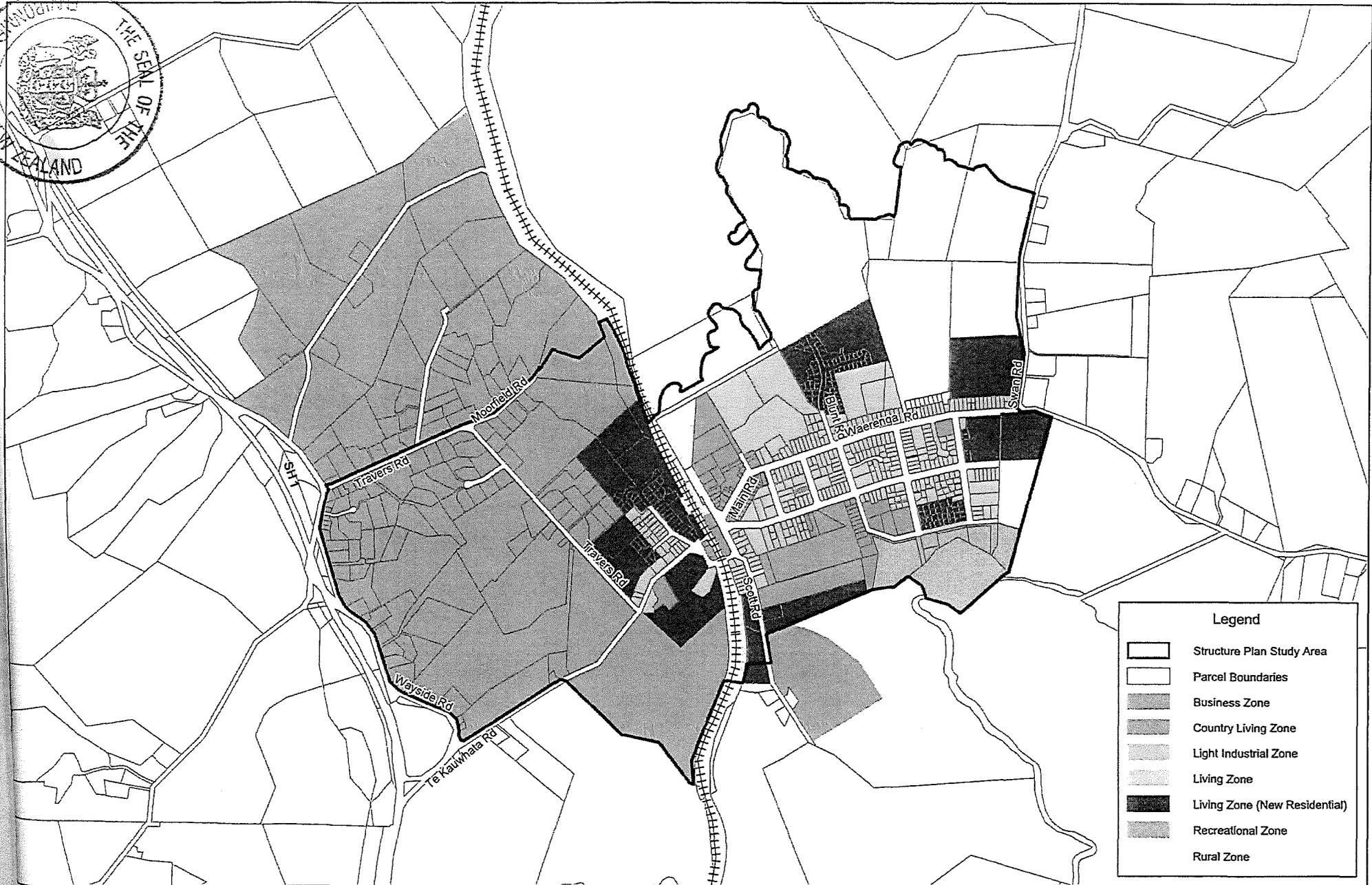
GIS DEPARTMENT
 Created By: AKB
 Created For: IMC
 Date Created: 13/03/2012
 Projection: NZTM
 Datum: 2000
 Revision No: HB3373

NORTH
 A3

Annexure B



Legend
Appeal Area



Legend

- Structure Plan Study Area
- Parcel Boundaries
- Business Zone
- Country Living Zone
- Light Industrial Zone
- Living Zone
- Living Zone (New Residential)
- Recreational Zone
- Rural Zone



Operative Zoning prior to Te Kauwhata Structure Plan

Scale: 1:15000
 0 100 200 300
 Meters

26/1/10

GIS DEPARTMENT
 Created By: EJK
 Created For: OMC
 Date Created: 28/02/2012
 Projection: NZTM
 Datum: 2000
 Revision No: HD4373 V2

NORTH
 A3

Te Kauwhata Action Group Inc. v Waikato District
Council [2012] NZEnvC 192

BEFORE THE ENVIRONMENT COURT

Decision No. [2012] NZEnvC 192

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

BETWEEN TE KAUWHATA ACTION GROUP
INCORPORATED
(ENV-2010-AKL-000204)

Appellant

AND WAIKATO DISTRICT COUNCIL

Respondent

Heard at: Hamilton, 14, 15, and 19 and 20 March 2012

Site Visit: 16 March 2012

Court: Environment Judge J A Smith
Environment Commissioner C E Manning
Environment Commissioner A J Sutherland

Parties: Ms A J Davidson for the Te Kauwhata Action Group Incorporated (**the
Action Group**)

Mr L F Muldownie and Mr B A Parhan for the Waikato District
Council (**the Council**)

Mr C C Potter for Jetco Waikato Limited, Section 274 Party (**Jetco**)
Mr M Randhawa for Silverstone Developments & Ors, Section 274
party

FINAL DECISION OF THE ENVIRONMENT COURT



A. That Variation 13 as amended in Annexure 1 attached hereto is confirmed. This includes changes to be incorporated into Variation 13 as soon as practicable. These are as follows:

1. At Amendment 13.5.3, Schedule 21A: Te Kauwhata Structure Plan Living Zone Rules is to be replaced with a new Schedule 21A as set out in Appendix 1 attached to this order.
2. That after Schedule 21A: Te Kauwhata Structure Plan Living Zone Rules, insert new Schedule 21B: Te Kauwhata West Living Zone Rules, as set out in Appendix 2 attached to this order.
3. That in the Schedule of Amendments to the District Plan at 13.12 Appendix P: Meaning of Words, after 13.12.4 add a new definition for “Neighbourhood block” at P53d as set out in Appendix 3 attached.
4. At Amendment 13.9.1 - Amendments to Appendix A: Traffic Rules, A21 and A23 are to be amended as set out in Appendix 4 attached to this order.
5. At Amendments 13.11.1, Appendix Of: Urban Design Guide:
 - a. Immediately before Appendix Of, insert Appendix Og, Urban Design Guide Te Kauwhata West Living Zone as set out in Appendix 5 attached to this order;
 - b. At Appendix Of: Urban Design Guide, amend the title to read “Appendix Oga: Urban Design Guide Living Zone, Living Zone (New Residential), and Living Zone (Ecological)”; and
 - c. As a consequential change, re-label the rules throughout Appendix Oga to refer to Oga.
6. In the separate planning map volume for the District Plan, existing Maps 4 Lake Waikare Policy, 4 Lake Waikare Zones, 25A Te Kauwhata West Policy, 25A Te Kauwhata West Zones, 26 Te Kauwhata Policy and 26 Te Kauwhata Zones are to be replaced



with the relevant maps set out in Appendix 6 attached to this order.

B. The other amendments sought by the appellants are rejected. There is no order as to costs.



REASONS FOR DECISION

Introduction

[1] The Court's Decision of May 2012 was subject to directions to finalise and circulate Structure Plans and provisions showing roading, stormwater and reserves and other concessions made at the time.

[2] The changes that have now been agreed include the following:

[a] The boundary adjoining the Country Living Zone:

[i] A 30m wide boundary width adjoining the Country Living Zone has been imposed, illustrated on the Subdivision Plan.

[b] Six metre (6m) front and rear setbacks are required as follows:

[i] Six metres from the road boundary for lots between 600m² and 800m², and those 800m² or greater;

[ii] The allotments abutting the Living Zone are required to be at least 800m² in size to achieve the required width. Allotments greater than 800m² must have a 6m setback from the rear boundary.

[3] There has been a consequential need to increase the number of rear lots to achieve the extra width required, and *Rule 21B.20.1A* has been amended to allow an increase from 5% to 10% rear lots. This achieves a greater degree of flexibility and better design outcomes. To avoid potential conflict with traffic on the bypass route, Te Kauwhata Road, the Council is to reduce the number of roads with access from three to two. This is shown on *Structure Plan Rule 21B.30*. There has also been an amendment to the Subdivision Plan so that, where practicable, lots adjoining Te Kauwhata Road are accessed from slip-lanes, leaving the potential for only 15 lots to have direct access onto Te Kauwhata Road.



[4] A new Condition G has been added to *Rule A21.1* that all entrances onto district arterial routes adjacent to the Te Kauwhata West Living Zone be from slip-lanes. There is also an associated landscaping requirement.

[5] The Council submits that this represents a good urban design outcome, and this is agreed by the Court. This includes a restriction on high boarded fences along Te Kauwhata Road addressed in new Condition *C21B.9*.

[6] Street treatments are now addressed through things such as *Figure 4B2*, *Figure 4B3*, underground lighting and power is already provided for under *Utility Rule 21.14.1(c)(i)* in Chapter 1. However, service corridors are now shown in respect of the figures.

[7] Staging of the subdivision is now shown in the *Staged Subdivision Rule 21B.31*, as part of the Te Kauwhata West Living Provisions. There is an allowance for earthworks and installation of utility services to provide for efficiencies of scale (see *Rule 21B.28.1*). The Structure Plan now shows reserves, including the waterway area Roding Plan. There is a general view that the new Roding Plan will reduce potentials for rat-runs or race tracks, and limits access to Te Kauwhata Road and utilises slip-lanes.

[8] Stormwater and ponding are already addressed under Variation 13, but changes to *Rule B5.4* and the inclusion of the Te Kauwhata Catchment Management Plan in Appendix 13 do assist in clarifying this issue. The Structure Plan also shows wastewater and developments for power and telephone.

[9] *Rule 21B.27* is removed as there is no longer a need for a visual barrier between the road and the Country Living area. There have been some consequential changes to the Urban Design Guide, and particularly Appendix Oga.

[10] The Subdivision Plan has now been amended, with changes to the roads and slip-lanes. New lots are now provided around the central reserve to balance the larger lots on the boundary. There has been a consequential change to the Zone Policy Maps and the 4 Lake Waikare Policy Zone, 25A Te Kauwhata West Policy Zone, and 26 Te Kauwhata Policy Zone maps are to be replaced.



ISSUES NOT AGREED

[11] The appellants seek five significant changes. All are opposed by the Council, and the Section 274 parties. In addition, the Section 274 parties do not agree to any additional recreational areas, and state they are disappointed the matter was raised so late in the process.

30m wide lots on Travis Road

[12] This is not a matter that was raised at the hearing, but the appellants contend that larger sections and setbacks would provide a more balanced appearance, with similar setbacks applying on both sides of the narrow Travis Road. The Court refers to paragraph [75] of its Decision, where it notes:

[75] ... We do not think such a section on the zone boundary provision is necessary where a road separates the two zonings, but only where properties from each zone abut each other.

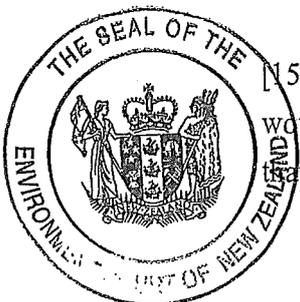
[13] As a result, we clearly conclude that the decision was conclusive on this point, namely that 30m wide sections were not required on Travis Road, or any other road. Furthermore, we note that the Court does discuss the low-lying wetlands which provide an adequate buffer between the sites in that area. Accordingly, we reject the appellant's contention in this regard.

Planting strip along the Country Living Te Kauwhata West boundary

[14] The potential for a 2m wide planting strip was raised by Mr Mansergh in his report and is now being sought by the appellants. The Court in fact adopted a different approach in this regard in requiring larger sections. It is explicit in such a conclusion that it intended that these sections could be seen from the Countryside Living area, and that it was not the Court's intention that they be screened. This was clearly adopted by the Court as an alternative to planting or other screening attempts. Accordingly, this amendment is also rejected.

Stormwater Runoff

[15] There was a real concern by residents that silt transported by peak flow events would carry over into the Whangamarino Wetland and have a detrimental impact on that wetland. In this regard it is the intention that all applications for consent be



notified. This significant change in status would undermine the entire purpose of the appeal and zoning. It was clear that developers of this land currently had power to subdivide into rural residential lots, and were concerned that too much constraint would mean the more efficient higher density development cannot be adopted. It is clearly the intention of the applicant and as explicit in their Appendix B Engineering Standards, that the system be able to deal with surface water in the catchment in which it falls, and avoid an increase in the peak flow rate off the land of the residential areas. Furthermore, our inspection would indicate that if there was some development of the low-lying and stormwater areas on the subject property (which is intended), this would have a significant effect in moderating the impact of flood levels on the adjacent wetland.

[16] The Court's view is that the question of how this issue should be addressed is already dealt with by the Plan provisions, and that the argument is not a substantive ground to re-establish the activity as a discretionary or notifiable application. Accordingly, this concern is rejected also.

Protection of Historical Roses

[17] This is an issue that was not raised in any way at the appeal stage. The roses are planted on private property, and there is limited control that the Council or other parties have in respect of them. This is a matter, however, that can be considered by the developer and/or landowner in due course, and may benefit from useful discussion and liaison between the residents group and the landowners in due course. The Court accepts that it is not an issue within the jurisdiction of this appeal and was not the subject of any evidence or determination by this Court.

Recreational Areas

[18] This is not an issue that was raised during the hearing, but the Court did indicate that it considered that there should be adequate connections so that the subdivision was walkable. The re-design of the subdivision appears to have addressed this issue in part. The Council argues that the issue about further reserves was raised on 5 July. The Court's perspective was that there was no evidence addressing the issue of recreational reserves. On the face of the evidence before the Court, i.e. the subdivision plans, reserves appeared to be relatively generous when waterways and other passive recreation areas were taken into account. This Court is certainly not



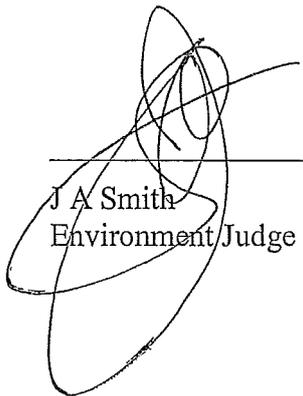
prepared to re-open the appeal at this point in time, having heard all the evidence. Accordingly, this ground is rejected also.

CONCLUSION

[19] The provisions now proposed and contained within the various documents annexed hereto are appropriate, and should be incorporated within the Variation in Plan forthwith. We note that no party has sought costs in this matter, and accordingly there is no order for costs.

SIGNED at AUCKLAND this 7th day of September 2012

For the Court



J A Smith
Environment Judge



Appendix 1

Variation 13 – Attachment 2

Amendment 13.5.3 – Add New Schedule 21A: Te Kauwhata Structure Plan Living Zone Rules

(Living Zone Living Zone (New Residential) Living Zone (Te
Kauwhata Ecological)

NOTE: Refer to Schedule 21B for rules for Te Kauwhata West Living

21A.1 Application of the Schedule

The rules in this schedule apply to the residential zones of the Te Kauwhata Structure Plan Area as shown on the Planning Maps and marked as Living, Living (New Residential) and Te Kauwhata Ecological Living. All rules in Chapter 21: Living Zone apply in the Te Kauwhata Structure Plan Area unless otherwise specified below.

21A.2 Rules applying in the Te Kauwhata Structure Plan Area

In addition to the following rules, all rules in Chapter 21: Living Zone also apply to the structure plan area except for rules 21.24, 21.26, 21.28, 21.43, 21.46, 21.50, 21.63, 21.67, 21.68, 21.69(b), 21.70, and 21.71A.

Rules 21.29 and 21.30 do not apply in the Remediation Policy Area.



Land Use – Activities

ITEM	RESTRICTED DISCRETIONARY	
21A.3 Remediation Policy Area	21A.3.1 Subdivision, use and development (including remediation) in the Remediation Policy Area is a restricted discretionary activity. Discretion restricted to <ul style="list-style-type: none"> ▪ the nature and extent of contamination of the land ▪ risk posed by contaminants and by remediation to public health and safety ▪ the effects of contamination on buildings, ecological and amenity values, public health and safety, soil quality, surface and groundwater quality and the wider environment ▪ the proposed methodology for the remediation of the land, including the provision and contents of a Remediation Plan prepared by a suitably qualified person ▪ standards to be achieved by remediation to make the site suitable for residential and other sensitive activities. ▪ the onsite and offsite risks during and after remediation works ▪ on-going management of the contaminated land and the mitigation measures (including monitoring) proposed to avoid adverse effects on public health, safety and the environment Despite the above, the following are permitted activities: <ul style="list-style-type: none"> (a) alterations to existing buildings that do not extend the footprint, and (b) subsurface investigations to determine the presence, extent and nature of any contamination, provided that a subsurface sampling report prepared by a suitably qualified person is provided to the Council, and (c) subdivision, use and development if the land has been confirmed as not being contaminated following investigations, and <ul style="list-style-type: none"> (i) an investigation report prepared by a suitably qualified person has been provided to Council, and (ii) the Council has approved the investigation report; and (d) subdivision, use and development if the land has been remediated to a standard that is suitable for the intended use in 	



	accordance with a Remediation Plan, including a site validation report, that has been approved by Council.	
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Land Use – Effects

ITEM	PERMITTED	RESOURCE CONSENT
21A.4 Earthworks (including filling using imported fill) - general	21A.4.1 Any activity is a permitted activity if: (a) earthworks are not in a Flood Risk Area except for filling in accordance with rule 21A.6 and, (b) earthworks comply with Appendix B (Engineering Standards), and (c) all exposed earth is revegetated to achieve 80% ground cover within 12 months of the earthworks being commenced, and (d) earthworks retain sediment on the site through implementation and maintenance of sediment controls, and (e) earthworks do not adversely affect other land through changes in natural water flows or established drainage paths, and (f) earthworks that disturb contaminated land include full remediation works (g) earthworks do not disturb archaeological sites or items.	21A.4.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.
21A.5 Earthworks (including filling using imported fill) – location and scale	21A.5.1 Any activity is a permitted activity if: (a) retaining walls are at least 3m apart and 3m from any existing building, structure or any other fill or cut batter, and (b) retaining walls that are not part of a building foundation (i) do not exceed 0.5m in height within 3m of a road boundary, and (ii) do not exceed 1.5m in height elsewhere on the allotment and are at least 1.5m from the boundary and (c) retaining walls that are part of a building foundation do not exceed 2.4m in height, and (d) earthworks are not in an Environmental Protection Policy Area, and (e) earthworks do not disturb or move more than 100m ³ within a site in a single calendar year, and (f) earthworks do not cause the height of any batter to exceed 1.5m, and (g) earthworks do not exceed 400m ² . Despite the above, this rule does not apply to earthworks that are	21A.5.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.



ITEM	PERMITTED	RESOURCE CONSENT
	<p>(h) consented as part of an approved subdivision, or</p> <p>(i) a backfill trench for network utilities, and original ground levels are reinstated, or</p> <p>(j) for maintenance of existing public roads, or</p> <p>(k) the removal of soft or unsuitable material and replacement with the equivalent volume of engineering hardfill below and up to 1m beyond a building foundation line for building works authorised by a building consent.</p>	
<p>21A.6 Filling Flood Risk Area</p>	<p>21A.6.1 Any activity in a Flood Risk Area is a permitted activity if filling:</p> <p>(a) is no more than is necessary to enable minor upgrading of existing electricity lines and does not exceed 50m³, and</p> <p>(b) complies with Appendix B (Engineering Standards).</p>	<p>21A.6.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>
<p>21A.7 Impervious surfaces</p>	<p>21A.7.1 Any activity is a permitted activity if:</p> <p>(a) it does not result in more than 50% of the site having an impervious surface, and</p> <p>(b) stormwater is managed in accordance with Appendix B (Engineering Standards).</p> <p>Note: The impervious surfaces covered in this rule include building coverage as defined in rule 21A.10</p> <p>Note: Vehicle access and manoeuvring areas shall be assessed as impervious, irrespective of surface.</p>	<p>21A.7.2 Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ stormwater runoff effects ▪ mitigation including on-site water storage ▪ matters referred to in Appendix B (Engineering Standards).
<p>21A.8 Fences</p>	<p>21A.8.1 Any activity is a permitted activity if:</p> <p>(a) fences along a road frontage, public open space and side boundaries within 3m of the road:</p> <p>(i) do not exceed 1m in height, and</p> <p>(ii) do not exceed 1m in height where a retaining wall and a fence is combined, or</p> <p>(iii) do not exceed 1.8m in height and are of transparent construction.</p>	<p>21A.8.2 Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ building materials and design ▪ height ▪ effects on amenity ▪ public space visibility.



Land Use – Building

ITEM	PERMITTED	RESOURCE CONSENT
21A.9 Connection to onsite services	21A.9.1 Construction or alteration of a building is a permitted activity if (a) for a building containing sanitary facilities it is connected to reticulated water supply, stormwater and wastewater disposal networks that comply with Appendix B (Engineering Standards), and (b) for a building exceeding 10sqm stormwater is managed using low impact design features that comply with the requirements of Appendix B: Engineering Standards prior to connecting to the Council network.	21A.9.2 Any activity that does not comply with a condition for a permitted activity is a non-complying activity.
21A.10 Building coverage	21A.10.1 Construction or alteration of a building is a permitted activity if: (a) the total building does not exceed 35%.	21A.10.2 Any activity that does not comply with a condition for a permitted activity is a non-complying activity.
21A.11 Living court - position	21A.11.1 Construction or alteration of a dwelling is a permitted activity if: (a) an outdoor living court is provided that is located between 45 degrees north east through north to 90 degrees west of the dwelling measured from the southern-most part of the dwelling.	21A.11.1 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.
21A.12 Garage set back - road boundary	21A.12.1 Construction or alteration of a building on a lot with a road frontage exceeding 14m is a permitted activity if the garage is set back at least: (a) 6m from the road boundary and set back further than another part of the building if the garage door faces the road.	21A.12.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.



ITEM	PERMITTED	RESOURCE CONSENT
21A.13 Building setbacks – other boundaries	21A.13.1 Construction or alteration of a building is a permitted activity if: <ul style="list-style-type: none"> (a) on allotments less than 600m² it is set back at least <ul style="list-style-type: none"> (i) 6m from a rear boundary, and (ii) 1.5m from any other boundary not a road boundary, and (iii) 1.5m from every vehicle access to another site, and (b) on allotments greater than 600m² and it is set back at least <ul style="list-style-type: none"> (i) 6m from a rear boundary, and (ii) 1.5m from one side boundary other than a road boundary, and (iii) 3m from any other boundary that is not a road boundary, and (iv) 1.5m from every vehicle access to another site, and (c) it is set back less than 1.5m from a boundary and <ul style="list-style-type: none"> (i) it is a non-habitable building, and (ii) the total length of all buildings within 1.5m of the boundary does not exceed 6m, and (iii) it does not have any windows or doors on the side of the building facing the boundary. 	21A.13.2 Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity. Discretion restricted to: <ul style="list-style-type: none"> ▪ length of building along any boundary ▪ daylight admission to adjoining properties ▪ privacy ▪ building orientation ▪ Appendix Of (Urban Design Guide) .
21A.14 Building near an Environmental Protection Policy Area	21A.14.1 Construction or alteration of a building or building platform is a permitted activity if: <ul style="list-style-type: none"> (a) it is set back at least 3m from an Environmental Protection Policy Area. 	21A.14.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.
21A.15 Building involving earthworks	21A.15.1 Construction or alteration of a building and associated site works are a permitted activity if: <ul style="list-style-type: none"> (a) earthwork requirements for the building are quantified and disclosed to Council when application is made for building consent, and (b) earthworks comply with the earthworks rules in the land use effects rules section and a method of compliance is provided with the building consent documentation. 	21A.15.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

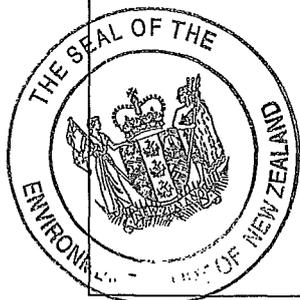


Subdivision

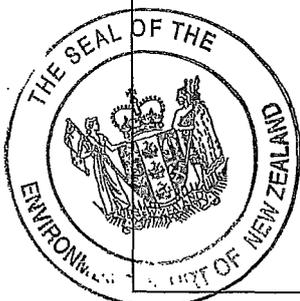
ITEM	CONTROLLED	RESOURCE CONSENT
<p>21A.16 Subdivision of land containing Environmental Protection Policy Area</p>	<p>21A.16.1 Subdivision of land containing an Environmental Protection Policy Area is a controlled activity if:</p> <ul style="list-style-type: none"> (a) the subdivision application includes a planting plan prepared by a suitably qualified person for the area in the Environmental Protection Policy Area, and (b) the planting plan is in accordance with 15A.4.4 – Plant species for Environmental Protection Policy Area, and (c) landscaping is undertaken prior to any development being undertaken. <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ planting plan ▪ vesting of reserve land in Council if appropriate. 	<p>21A.16.2 Subdivision that does not comply with a condition for a controlled activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> ▪ matters that control is reserved over ▪ effects on amenity values ▪ effects on ecological values.
<p>21A.17 Allotment size Living Zone</p>	<p>21A.17.1 Subdivision is a controlled activity if:</p> <ul style="list-style-type: none"> (a) every allotment, other than a utility allotment or access allotment, has a net site area of at least 450m², and (b) where the land to be subdivided is greater than 3,000m² in size there is a combination of allotments of which 25% of total allotments are at least 550m², and (c) a utility allotment does not exceed 50m². <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ compliance with Appendix Of (Urban Design Guide) including shape, location, orientation and topography ▪ integration and connectivity with the natural surrounding area ▪ amenity and streetscape ▪ variation in allotment sizes ▪ matters referred to in Appendix B (Engineering Standards) ▪ vehicle and pedestrian networks ▪ location and extent of off road walkways ▪ effects on Environmental Protection Policy Area ▪ Te Kauwhata village character. 	<p>21A.17.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>



<p>21A.18 Allotment size Living (New Residential)</p> <p>1</p>	<p>21A.18.1 Subdivision is a controlled activity if:</p> <p>(a) every allotment, other than a utility allotment or access allotment, has a net site area of at least</p> <p>(i) 450m², and</p> <p>(ii) the average net site area of all allotments is at least 600m², and</p> <p>(iii) there is combination of allotments of which:</p> <ul style="list-style-type: none"> ▪ 50% of total allotments are at least 550m², and ▪ 25% of total allotments are at least 650m², and <p>(d) a utility allotment does not exceed 50m².</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ compliance with Appendix Of (Urban Design Guide) including shape, location, orientation and topography ▪ integration and connectivity with the natural surrounding area ▪ amenity and streetscape ▪ variation in allotment sizes ▪ matters referred to in Appendix B (Engineering Standards) ▪ vehicle and pedestrian networks ▪ location and extent of off road walkways ▪ effects on Environmental Protection Policy Area ▪ Te Kauwhata village character. 	<p>21A.18.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>
<p>21A.19 Allotment size Living Zone (Te Kauwhata Ecological)</p>	<p>21A.19.1 Subdivision is a controlled activity if:</p> <p>(a) every allotment, other than a utility allotment or access allotment, has a net site area of</p> <p>(i) at least 750m², and</p> <p>(ii) the average net site area of all allotments is at least 875m² and</p> <p>(b) a utility allotment does not exceed 50m².</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ compliance with Appendix Of (Urban Design Guide) including shape, location, orientation and topography ▪ integration and connectivity with the natural surrounding area ▪ amenity and streetscape ▪ variation in allotment sizes ▪ matters referred to in Appendix B (Engineering Standards) ▪ vehicle and pedestrian networks 	<p>21A.19.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>



	<ul style="list-style-type: none"> ▪ location and extent of off road walkways ▪ geotechnical stability ▪ effects on Environmental Protection Policy Area including ecological values ▪ Te Kauwhata village character. 	
21A.20 Rear allotments	<p>21A.20.1 Subdivision is a controlled activity if:</p> <p>(a) no more than 5% of allotments created by the subdivision are rear allotments, and</p> <p>(b) accesses to rear allotments do not abut more than one side boundary of a front allotment, and</p> <p>(c) all rear allotments are provided with a separate vehicle access to a public road.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ road efficiency and safety ▪ amenity and streetscape ▪ allotment shape ▪ adequacy of access ▪ Te Kauwhata village character ▪ compliance with Appendix Of (Urban Design Guide). 	21A.20.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.
21A.21 Building platform	<p>21A.21.1 Subdivision is a controlled activity if every allotment, other than a utility or access allotment, is capable of containing a building platform:</p> <p>(a) upon which a dwelling and living court could be sited as a permitted activity, and</p> <p>(b) that is:</p> <p>(i) a rectangle of at least 250m² with a minimum dimension of 12m exclusive of yards, or</p> <p>(ii) a footprint for a standard single-level dwelling design with a minimum floor area of at least 200m², and</p> <p>(c) that can be created within the following limits:</p> <p>(i) earthworks do not exceed 100m³, and</p> <p>(ii) the height of any cut or fill batter does not exceed 1.5m, and</p> <p>(iii) retaining walls are</p> <ul style="list-style-type: none"> ▪ at least 3m apart and ▪ 3m from any existing building, structure or any other fill or cut batter, and <p>(iv) retaining walls that are not part of</p>	<p>21A.21.2 Subdivision that does not comply with a condition for a controlled activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ size and shape of building platform ▪ volume, height and location of earthworks ▪ height and location of retaining walls ▪ natural hazard management ▪ matters over which control is reserved ▪ effects on Environmental Protection Policy Area ▪ revegetation.



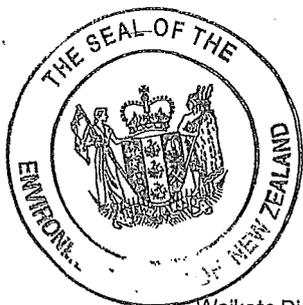
	<p>a building foundation:</p> <ul style="list-style-type: none"> ▪ do not exceed 0.5m in height within 3m of a road boundary, and ▪ do not exceed 1.5m in height elsewhere on the allotment and are at least 1.5m from the boundary, and <p>(v) retaining walls that are part of a building foundation do not exceed 2.4m in height, and</p> <p>(d) that is not subject to natural hazards, and</p> <p>(e) that is not in an Environmental Protection Policy Area.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ compliance with matters contained in Appendix Of (Urban Design Guide) ▪ subdivision layout ▪ the size, shape and orientation of allotments to accommodate a practical building platform and living court ▪ likely location of future buildings and their potential effects on the environment ▪ avoidance or mitigation of natural hazards ▪ geotechnical suitability for building ▪ location, length, design and appearance of retaining walls. 	
21A.22 Earthworks	<p>21A.22.1</p> <p>Subdivision is a controlled activity if:</p> <p>(a) earthworks comply with Appendix B (Engineering Standards), and</p> <p>(b) earthworks and filling are not undertaken on the route of any permanent water flow path,</p> <p>(c) all exposed earth is revegetated to achieve 80% ground cover within 12 months of the earthworks being commenced, and</p> <p>(d) earthworks do not alter the pre-existing contours by more than 1.5m, and</p> <p>(e) earthworks and filling do not occur within an Environmental Protection Policy Area, and</p> <p>(f) contaminated land is managed in accordance with an approved remediation plan</p> <p>(g) retaining walls associated with earthworks are</p> <ul style="list-style-type: none"> (i) at least 3m apart and (ii) 3m from any existing building, structure or any other fill or cut batter, and 	<p>21A.22.2</p> <p>Subdivision that does not comply with a condition for a controlled activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ extent of change to the pre-existing landform ▪ location of roads in relation to contours ▪ effects on hydrology and natural hazards ▪ management of contaminated land ▪ matters over which control is reserved ▪ effects on Environmental Protection Policy Area ▪ revegetation ▪ location, height, length, design and appearance of retaining walls.



	<p>(h) retaining walls that are not part of a building foundation</p> <ul style="list-style-type: none"> (i) do not exceed 0.5m in height within 3m of a proposed road boundary, and (ii) do not exceed 1.5m in height elsewhere on a proposed allotment and are at least 1.5m from a proposed boundary, and <p>(i) retaining walls that are part of a building foundation do not exceed 2.4m in height.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ matters referred to in Appendix B (Engineering Standards) ▪ amenity and streetscape ▪ compliance with Appendix Of (Urban Design Guide) ▪ nature and source of fill ▪ location of earthworks and fill ▪ compaction of fill ▪ volume and depth of earthworks and fill ▪ effects on water quality ▪ location, length, design and appearance of retaining walls ▪ final contour ▪ effects on archaeological sites or items. 	
<p>21A.23 On-site services – piped networks</p>	<p>21A.23.1 Subdivision is a controlled activity if, for every allotment other than a utility or access allotment:</p> <ul style="list-style-type: none"> (a) provision is made to connect to reticulated water supply, stormwater and wastewater disposal networks that comply with Appendix B (Engineering Standards), and (b) stormwater is managed using low impact design features that comply with the requirements of Appendix B: Engineering Standards prior to connecting to the Council network. <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ amenity values ▪ matters referred to in Appendix B (Engineering Standards) ▪ easements to facilitate development beyond the site. ▪ services capacity to form part of a total network. 	<p>21A.23.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>



<p>21A.24 Hazard risks Policy areas</p>	<p>21A.24.1 Subdivision is a controlled activity if:</p> <p>(a) no proposed building platforms are in</p> <p>(i) a Flood Risk Area, or</p> <p>(ii) any unmapped area where ponding may occur, or</p> <p>(iii) a flow path.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ size and area of allotments ▪ mitigation of hazards ▪ location of building platforms. 	<p>21A.24.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>
<p>21A.25 Off road walkways</p>	<p>21A.25.1 Subdivision is a controlled activity if any walkway:</p> <p>(a) is 8 metres wide, and</p> <p>(b) is designed for shared pedestrian and cycle use, and</p> <p>(c) for connections between roads, unimpeded visibility along the entire length, and</p> <p>(d) is generally in accordance with, but not limited to, the walkway route shown in the structure plan map, and</p> <p>(e) shown on the plan of subdivision and vested in the Council.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ alignment ▪ visibility along the route ▪ drainage ▪ connection to reserves ▪ amenity. 	<p>21A.25.2 Any activity that does not comply with a condition for a controlled activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ alignment of walkway ▪ costs and benefits of acquiring the land ▪ matters over which control is reserved.



Appendix 2

Schedule 21B: Te Kauwhata West Living Zone Rules

21B.1 Application of the Schedule

The rules in this schedule apply to the Te Kauwhata West Living Zone as shown on the Planning Maps.

21B.2 Rules applying in the Te Kauwhata West Living Zone

In addition to the following rules, all rules in Chapter 21: Living Zone also apply to the Te Kauwhata West Living Zone except for rules 21.24, 21.26, 21.28, 21.43, 21.46, 21.49, 21.50, 21.63, 21.67, 21.68, 21.69(b), 21.70, and 21.71A.

Rules 21.29 and 21.30 do not apply in the Remediation Policy Area.



Land Use – Activities

ITEM	PERMITTED	RESOURCE CONSENT
21B.3 Interim landuse	21B.3.1 Any activity that complies with all the effects and building rules is a permitted activity if it is: (a) an agricultural, horticultural or viticultural activity in the Te Kauwhata West Living Zone.	21B.3.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

ITEM	RESTRICTED DISCRETIONARY	
21B.4 Remediation Policy Area	<p>21B.4.1 Subdivision, use and development (including remediation) in the Remediation Policy Area is a restricted discretionary activity.</p> <p>Discretion restricted to</p> <ul style="list-style-type: none"> ▪ the nature and extent of contamination of the land ▪ risk posed by contaminants and by remediation to public health and safety ▪ the effects of contamination on buildings, ecological and amenity values, public health and safety, soil quality, surface and groundwater quality and the wider environment ▪ the proposed methodology for the remediation of the land, including the provision and contents of a Remediation Plan prepared by a suitably qualified person ▪ standards to be achieved by remediation to make the site suitable for residential and other sensitive activities. ▪ the onsite and offsite risks during and after remediation works ▪ on-going management of the contaminated land and the mitigation measures (including monitoring) proposed to avoid adverse effects on public health, safety and the environment <p>Despite the above, the following are permitted activities:</p> <ul style="list-style-type: none"> (a) alterations to existing buildings that do not extend the footprint, and (b) subsurface investigations to determine the presence, extent and nature of any contamination, provided that a subsurface sampling report prepared by a suitably qualified person is provided to the Council, and (c) subdivision, use and development if the land has been confirmed as not being contaminated following investigations, 	



	<p>and</p> <p>(i) an investigation report prepared by a suitably qualified person has been provided to Council, and</p> <p>(ii) the Council has approved the investigation report; and</p> <p>(d) subdivision, use and development if the land has been remediated to a standard that is suitable for the intended use in accordance with a Remediation Plan, including a site validation report, that has been approved by Council.</p>	
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Land Use – Effects

ITEM	PERMITTED	RESOURCE CONSENT
<p>21B.5</p> <p>Earthworks (including filling using imported fill) - general</p>	<p>21B.5.1</p> <p>Any activity is a permitted activity if:</p> <p>(a) earthworks are not in a Flood Risk Area except for filling in accordance with rule 21B.6 and,</p> <p>(b) earthworks comply with Appendix B (Engineering Standards), and</p> <p>(c) all exposed earth is revegetated to achieve 80% ground cover within 12 months of the earthworks being commenced, and</p> <p>(d) earthworks retain sediment on the site through implementation and maintenance of sediment controls, and</p> <p>(e) earthworks do not adversely affect other land through changes in natural water flows or established drainage paths, and</p> <p>(f) earthworks that disturb contaminated land include full remediation works</p> <p>(g) earthworks do not disturb archaeological sites or items.</p>	<p>21B.5.2</p> <p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>
<p>21B.6</p> <p>Earthworks (including filling using imported fill) – location and scale</p>	<p>21B.6.1</p> <p>Any activity is a permitted activity if:</p> <p>(a) retaining walls are at least 3m apart and 3m from any existing building, structure or any other fill or cut batter, and</p> <p>(b) retaining walls that are not part of a building foundation</p> <p>(i) do not exceed 0.5m in height within 3m of a road boundary, and</p> <p>(ii) do not exceed 1.5m in height elsewhere on the allotment and are at least 1.5m from the boundary and</p> <p>(c) retaining walls that are part of a building foundation do not exceed 2.4m in height, and</p> <p>(d) earthworks are not in an Environmental Protection Policy Area, and</p>	<p>21B.6.2</p> <p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>



ITEM	PERMITTED	RESOURCE CONSENT
	<p>(e) earthworks do not disturb or move more than 100m³ within a site in a single calendar year, and</p> <p>(f) earthworks do not cause the height of any batter to exceed 1.5m, and</p> <p>(g) earthworks do not exceed 400m².</p> <p>Despite the above, this rule does not apply to earthworks that are</p> <p>(h) consented as part of an approved subdivision, or</p> <p>(i) a backfill trench for network utilities, and original ground levels are reinstated, or</p> <p>(j) for maintenance of existing public roads, or</p> <p>(k) the removal of soft or unsuitable material and replacement with the equivalent volume of engineering hardfill below and up to 1m beyond a building foundation line for building works authorised by a building consent.</p>	
<p>21B.7 Filling Flood Risk Area</p>	<p>21B.7.1 Any activity in a Flood Risk Area is a permitted activity if filling:</p> <p>(a) is no more than is necessary to enable minor upgrading of existing electricity lines and does not exceed 50m³, and</p> <p>(b) complies with Appendix B (Engineering Standards).</p>	<p>21B.7.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>
<p>21B.8 Impervious surfaces</p>	<p>21B.8.1 Any activity is a permitted activity if:</p> <p>(a) on lots with a net site area of 650m² and less than 700m² it does not result in more than 35% of the site being an impervious surface, or</p> <p>(b) on lots with a net site area of 700m² and greater it does not result in more than 40% of the site being an impervious surface, and</p> <p>(a) stormwater is managed in accordance with Appendix B (Engineering Standards).</p> <p>Note: The impervious surfaces covered in this rule include building coverage as defined in rule 21B.12</p> <p>Note: Vehicle access and manoeuvring areas shall be assessed as impervious, irrespective of surface.</p>	<p>21B.8.2 Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ stormwater runoff effects ▪ mitigation including on-site water storage ▪ matters referred to in Appendix B (Engineering Standards).



ITEM	PERMITTED	RESOURCE CONSENT
21B.9 Fences	21B.9.1 Any activity is a permitted activity if: (a) fences along a road frontage, public open space and side boundaries within 3m of the road: (i) do not exceed 1m in height, and (ii) do not exceed 1m in height where a retaining wall and a fence is combined, or (iii) do not exceed 1.8m in height and are of transparent construction, and (b) fences along the northern boundary of the Te Kauwhata West Living Zone adjacent to the Country Living Zone are of rural post and wire construction, and (c) for lots with frontage to two public roads, the fence fronting the road with the greater traffic volume: (i) does not exceed 1 m in height at the corner of the lot, and (ii) does not exceed 0.5m height increments at 5m intervals, and (iii) is of transparent construction.	21B.9.2 Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity. Discretion restricted to: <ul style="list-style-type: none"> ▪ building materials and design ▪ height ▪ effects on amenity ▪ public space visibility.
21B.10 Landscaping <ul style="list-style-type: none"> • Te Kauwhata Road 	21B.10.1 Any activity is a permitted activity if: (a) land in the road reserve, between the formed road and the slip lane on Te Kauwhata Road, is planted with species that will achieve an average height of 2m and be of sufficient density to provide visual enhancement.	21B.10.2 Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity. Discretion restricted to: <ul style="list-style-type: none"> ▪ plant species ▪ width of planting



Land Use – Building

ITEM	PERMITTED	RESOURCE CONSENT
21B.11 Connection to onsite services	21B.11.1 Construction or alteration of a building is a permitted activity if (a) for a building containing sanitary facilities it is connected to reticulated water supply, stormwater and wastewater disposal networks that comply with Appendix B (Engineering Standards), and (b) for a building exceeding 10sqm stormwater is managed using low impact design features that comply with the requirements of Appendix B: Engineering Standards prior to connecting to the Council network.	21B.11.2 Any activity that does not comply with a condition for a permitted activity is a non-complying activity.
21B.12 Building coverage	21B.12.1 Construction or alteration of a building is a permitted activity if: (a) the total building coverage on lots with a net site area of 650m ² and less than 700m ² does not exceed 25%, or (b) the total building coverage on lots with a net site area of 700m ² or greater does not exceed 35%.	21B.12.2 Any activity that does not comply with a condition for a permitted activity is a non-complying activity.
21B.13 Living court - position	21B.13.1 Construction or alteration of a dwelling is a permitted activity if: (a) an outdoor living court is provided that is located between 45 degrees north east through north to 90 degrees west of the dwelling measured from the southern-most part of the dwelling.	21B.13.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.
21B.14 Garage set back - road boundary	21B.14.1 Construction or alteration of a building on a lot with a road frontage exceeding 14m is a permitted activity if the garage is set back at least: (a) 6m from the road boundary and set back further than another part of the building if the garage door faces the road.	21B.14.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.



ITEM	PERMITTED	RESOURCE CONSENT
21B.15 Building setbacks	21B.15.1 Construction or alteration of a building is a permitted activity if: <ul style="list-style-type: none"> (a) on allotments less than 600m² it is set back at least <ul style="list-style-type: none"> (i) 6m from a rear boundary, and (ii) 3 m from a road boundary, and (iii) 1.5m from any other boundary not a road boundary, and (iv) 1.5m from every vehicle access to another site, and (b) on allotments 600m² or greater and less than 800m² it is set back at least <ul style="list-style-type: none"> (i) 6m from a rear boundary, and (ii) 6 m from a road boundary (iii) 1.5m from one side boundary other than a road boundary, and (iv) 3m from any other boundary that is not a road boundary, and (v) 1.5m from every vehicle access to another site, and (c) on allotments 800m² or greater it is set back at least <ul style="list-style-type: none"> (i) 6m from a rear boundary, and (ii) 6 m from a road boundary, and (iii) 3m from any other boundary other than a road boundary or a side boundary adjoining the Country Living Zone, and (iv) 6m from a side boundary adjoining the Country Living Zone, and (v) 1.5m from every vehicle access to another site, and (b) it is set back less than 1.5m from a boundary and <ul style="list-style-type: none"> (i) it is a non-habitable building, and (ii) the total length of all buildings within 1.5m of the boundary does not exceed 6m, and (iii) it does not have any windows or doors on the side of the building facing the boundary. 	21B.15.2 Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity. Discretion restricted to: <ul style="list-style-type: none"> ▪ length of building along any boundary ▪ daylight admission to adjoining properties ▪ privacy ▪ building orientation ▪ Appendix Og (Urban Design Guide) .
21B.16 Building near an Environmental Protection Policy Area	21B.16.1 Construction or alteration of a building or building platform is a permitted activity if: <ul style="list-style-type: none"> (a) it is set back at least 3m from an Environmental Protection Policy Area. 	21B.16.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.



ITEM	PERMITTED	RESOURCE CONSENT
21B.17 Building involving earthworks	21B.17.1 Construction or alteration of a building and associated site works are a permitted activity if: (a) earthwork requirements for the building are quantified and disclosed to Council when application is made for building consent, and (b) earthworks comply with the earthworks rules in the land use effects rules section and a method of compliance is provided with the building consent documentation.	21B.17.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

Subdivision

ITEM	CONTROLLED	RESOURCE CONSENT
21B.18 Subdivision of land containing Environmental Protection Policy Area	21B.18.1 Subdivision of land containing an Environmental Protection Policy Area is a controlled activity if: (a) the subdivision application includes a planting plan prepared by a suitably qualified person for the area in the Environmental Protection Policy Area, and (b) the planting plan is in accordance with 15A.4.4 – Plant species for Environmental Protection Policy Area, and (c) landscaping is undertaken prior to any development being undertaken. Control reserved over: <ul style="list-style-type: none"> ▪ planting plan ▪ vesting of reserve land in Council if appropriate. 	21B.18.2 Subdivision that does not comply with a condition for a controlled activity is a restricted discretionary activity. Discretion is restricted to: <ul style="list-style-type: none"> ▪ matters that control is reserved over ▪ effects on amenity values ▪ effects on ecological values.
21B.19 Allotment size	21B.19.1 Subdivision is a controlled activity if: (a) every allotment, other than a utility allotment or access allotment, has a net site area of (i) at least 650m ² , and (ii) the average net site area of all allotments is at least 875m ² and (iii) there is combination of allotments within each neighbourhood block of which: <ul style="list-style-type: none"> ▪ at least 50% are 800m² or greater, and ▪ at least 25% are 900m² or greater, and 	21B.19.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.



	<p>80% of allotments bordering the Country Living Zone have an area of at least 900 m², and</p> <p>(b) a utility allotment does not exceed 50m².</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ compliance with Appendix Og (Urban Design Guide) including shape, location, orientation and topography ▪ integration and connectivity with the natural surrounding area ▪ amenity and streetscape ▪ variation in allotment sizes ▪ matters referred to in Appendix B (Engineering Standards) ▪ vehicle and pedestrian networks ▪ location and extent of off road walkways ▪ geotechnical stability ▪ effects on Environmental Protection Policy Area including ecological values ▪ Te Kauwhata village character. 	
<p>21B.20 Rear allotments</p>	<p>21B.20.1 Subdivision is a controlled activity if:</p> <p>(a) no more than 10% of allotments per neighbourhood block are rear allotments, and</p> <p>(b) accesses to rear allotments do not abut more than one side boundary of a front allotment, and</p> <p>(c) all rear allotments are provided with a separate vehicle access to a public road, and</p> <p>(d) no more than two adjoining allotments can share a vehicle entranceway.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ road efficiency and safety ▪ amenity and streetscape ▪ allotment shape ▪ adequacy of access ▪ Te Kauwhata village character ▪ compliance with Appendix Og (Urban Design Guide). <p>Note: Vehicle access means from the property boundary into the site. Vehicle entranceway means from the road formation to the site boundary.</p>	<p>21B.20.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>



<p>21B.21 Boundary Country Living Zone</p>	<p>21B.21.1 Subdivision is a controlled activity if:</p> <p>(a) every allotment with a Country Living Zone boundary, other than an access allotment, access leg or utility allotment, has a minimum width along the Country Living Zone boundary of at least 30 metres.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ amenity on adjoining Country Living Zone 	<p>21B.21.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>
<p>21B.22 Building platform</p>	<p>21B.22.1 Subdivision is a controlled activity if every allotment, other than a utility or access allotment, is capable of containing a building platform:</p> <p>(a) upon which a dwelling and living court could be sited as a permitted activity, and</p> <p>(b) that is:</p> <p>(i) a rectangle of at least 250m² with a minimum dimension of 12m exclusive of yards, or</p> <p>(ii) a footprint for a standard single-level dwelling design with a minimum floor area of at least 200m², and</p> <p>(c) that can be created within the following limits:</p> <p>(i) earthworks do not exceed 100m³, and</p> <p>(ii) the height of any cut or fill batter does not exceed 1.5m, and</p> <p>(iii) retaining walls are</p> <ul style="list-style-type: none"> ▪ at least 3m apart and ▪ 3m from any existing building, structure or ▪ any other fill or cut batter, and <p>(iv) retaining walls that are not part of a building foundation:</p> <ul style="list-style-type: none"> ▪ do not exceed 0.5m in height within 3m of a road boundary, and ▪ do not exceed 1.5m in height elsewhere on the allotment and are at least 1.5m from the boundary, and <p>(v) retaining walls that are part of a building foundation do not exceed 2.4m in height, and</p> <p>(d) that is not subject to natural hazards, and</p> <p>(e) that is not in an Environmental Protection Policy Area.</p>	<p>21B.22.2 Subdivision that does not comply with a condition for a controlled activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ size and shape of building platform ▪ volume, height and location of earthworks ▪ height and location of retaining walls ▪ natural hazard management ▪ matters over which control is reserved ▪ effects on Environmental Protection Policy Area ▪ revegetation.



	<p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ compliance with matters contained in Appendix Og (Urban Design Guide) ▪ subdivision layout ▪ the size, shape and orientation of allotments to accommodate a practical building platform and living court ▪ likely location of future buildings and their potential effects on the environment ▪ avoidance or mitigation of natural hazards ▪ geotechnical suitability for building ▪ location, length, design and appearance of retaining walls. 	
<p>21B.23 Earthworks</p>	<p>21B.23.1 Subdivision is a controlled activity if:</p> <ul style="list-style-type: none"> (a) earthworks comply with Appendix B (Engineering Standards), and (b) earthworks and filling are not undertaken on the route of any permanent water flow path, (c) all exposed earth is revegetated to achieve 80% ground cover within 12 months of the earthworks being commenced, and (d) earthworks do not alter the pre-existing contours by more than 1.5m, and (e) earthworks and filling do not occur within an Environmental Protection Policy Area, and (f) contaminated land is managed in accordance with an approved remediation plan (g) retaining walls associated with earthworks are <ul style="list-style-type: none"> (i) at least 3m apart and (ii) 3m from any existing building, structure or any other fill or cut batter, and (h) retaining walls that are not part of a building foundation <ul style="list-style-type: none"> (i) do not exceed 0.5m in height within 3m of a proposed road boundary, and (ii) do not exceed 1.5m in height elsewhere on a proposed allotment and are at least 1.5m from a proposed boundary, and (i) retaining walls that are part of a building foundation do not exceed 2.4m in height. <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ matters referred to in Appendix B 	<p>21B.23.2 Subdivision that does not comply with a condition for a controlled activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ extent of change to the pre-existing landform ▪ location of roads in relation to contours ▪ effects on hydrology and natural hazards ▪ management of contaminated land ▪ matters over which control is reserved ▪ effects on Environmental Protection Policy Area ▪ revegetation ▪ location, height, length, design and appearance of retaining walls.

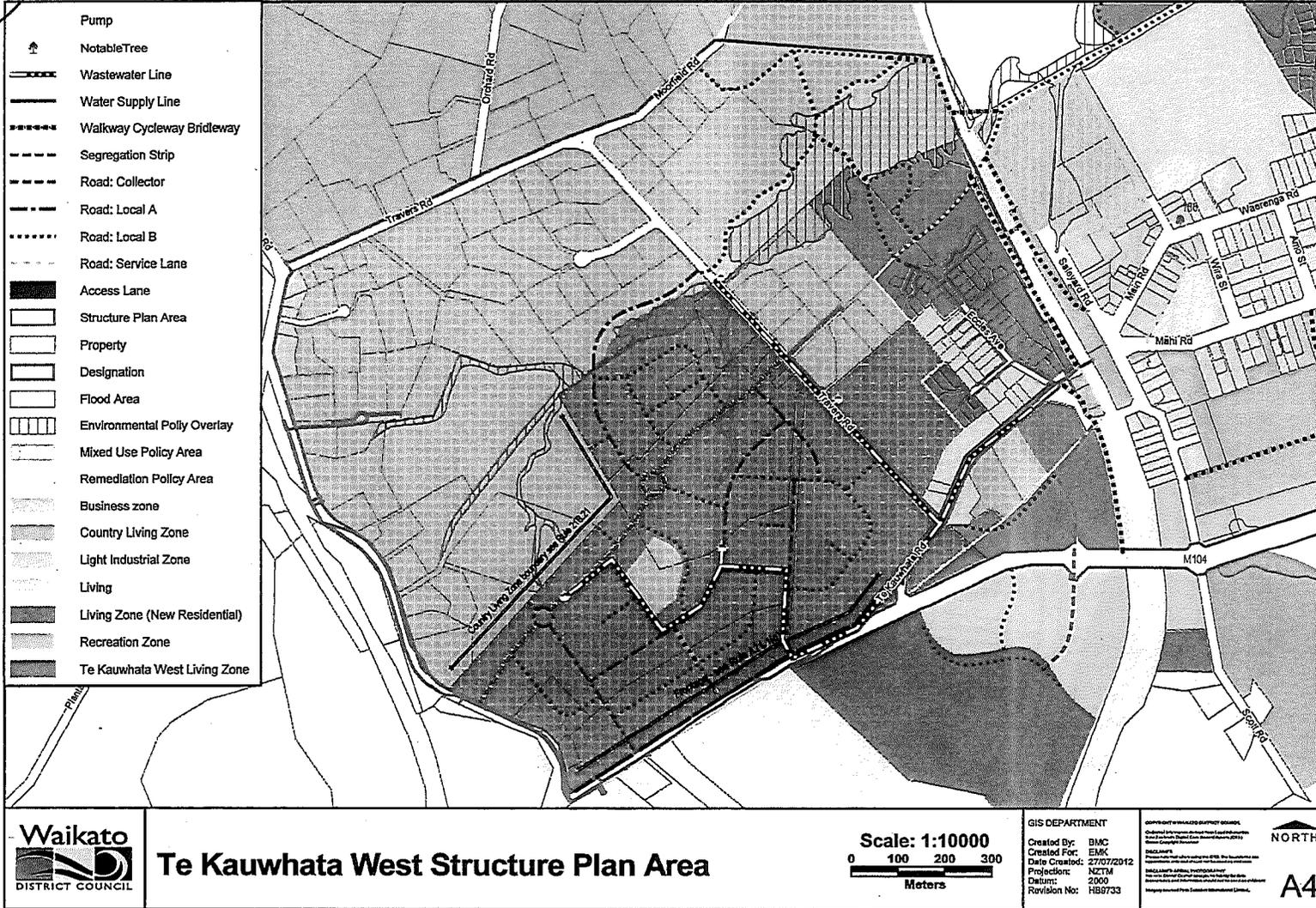


	<p>(Engineering Standards)</p> <ul style="list-style-type: none"> ▪ amenity and streetscape ▪ compliance with Appendix Og (Urban Design Guide) ▪ nature and source of fill ▪ location of earthworks and fill ▪ compaction of fill ▪ volume and depth of earthworks and fill ▪ effects on water quality ▪ location, length, design and appearance of retaining walls ▪ final contour ▪ effects on archaeological sites or items. 	
<p>21B.24 On-site services – piped networks</p>	<p>21B.24.1 Subdivision is a controlled activity if, for every allotment other than a utility or access allotment:</p> <p>(a) provision is made to connect to reticulated water supply, stormwater and wastewater disposal networks that comply with Appendix B (Engineering Standards), and</p> <p>(b) stormwater is managed using low impact design features that comply with the requirements of Appendix B: Engineering Standards prior to connecting to the Council network.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ amenity values ▪ matters referred to in Appendix B (Engineering Standards) ▪ easements to facilitate development beyond the site. ▪ services capacity to form part of a total network. 	<p>21B.24.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>
<p>21B.25 Hazard risks Policy areas</p>	<p>21B.25.1 Subdivision is a controlled activity if:</p> <p>(a) no proposed building platforms are in</p> <p>(i) a Flood Risk Area, or</p> <p>(ii) any unmapped area where ponding may occur, or</p> <p>(iii) a flow path.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ size and area of allotments ▪ mitigation of hazards ▪ location of building platforms. 	<p>21B.25.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>



<p>21B.26 Off road walkways</p>	<p>21B.26.1 Subdivision is a controlled activity if any walkway:</p> <ul style="list-style-type: none"> (a) is 8 metres wide, and (b) is designed for shared pedestrian and cycle use, and (c) for connections between roads, unimpeded visibility along the entire length, and (d) is generally in accordance with, but not limited to, the walkway route shown in the structure plan map, and (e) shown on the plan of subdivision and vested in the Council. <p>Control reserved over:</p> <ul style="list-style-type: none"> ▫ alignment ▫ visibility along the route ▫ drainage ▫ connection to reserves ▫ amenity. 	<p>21B.26.2 Any activity that does not comply with a condition for a controlled activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▫ alignment of walkway ▫ costs and benefits of acquiring the land ▫ matters over which control is reserved.
<p>21B.27 Landscaping</p>	<p>21B.27.1 Subdivision is a controlled activity if:</p> <ul style="list-style-type: none"> (a) land within the Te Kauwhata South West Concept Plan 21B.29 identified as a 10m indicative planting strip as shown in the concept plan is planted to achieve an average height of 3m after 5 years and of sufficient density to visually screen the site, <p>Control reserved over:</p> <ul style="list-style-type: none"> ▫ planting plan 	<p>21B.27.2 Any activity that does not comply with a condition for a controlled activity is a discretionary activity.</p>
<p>21B.28 Staged Subdivision</p>	<p>21B.28.1 Subdivision is a controlled activity if:</p> <ul style="list-style-type: none"> (a) for any stage other than sub-stage (a) within Stage One, a minimum of 80% of the section 224 certificates have been issued for the lots within the preceding sub-stage as shown on the Te Kauwhata West Living Zone Stage One Staging Plan; and (b) a minimum of 80% of the section 224 certificates have been issued for sub-stage (d) within Stage One before development proceeds within Stage Two as shown on the Te Kauwhata West Living Zone Full Staging Plan, <p>Despite the above, construction of roads and the installation of utility services between the Stages is exempt.</p>	<p>21B.28.2 Any activity that does not comply with a condition for a controlled activity is a non-complying activity.</p>





21B.31 Te Kauwhata West Living Zone subdivision staging plan

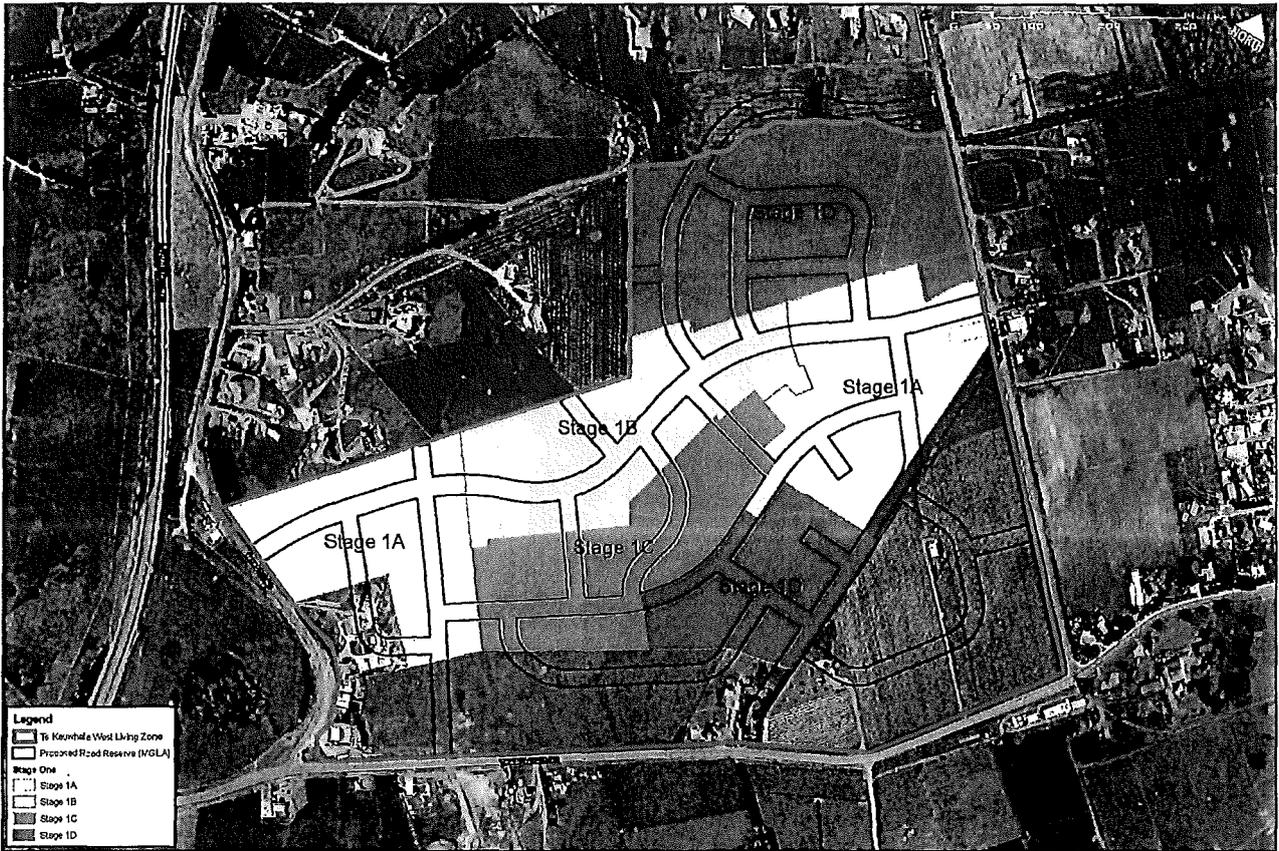


Figure 1: Te Kauwhata West Living Zone Stage One Staging Plan

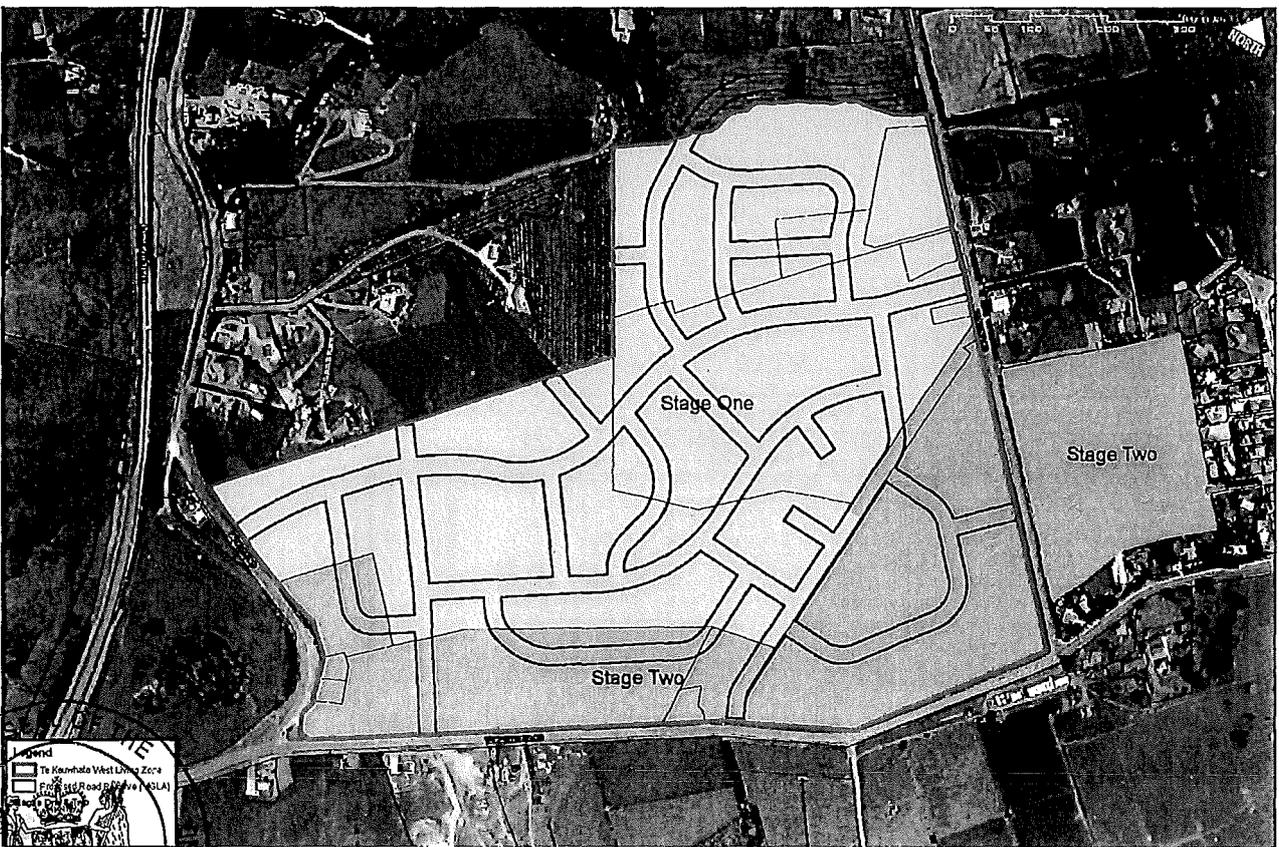
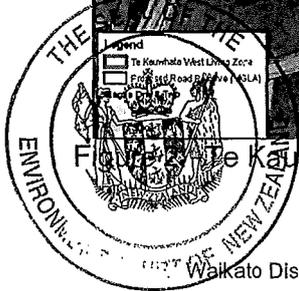


Figure 2: Te Kauwhata West Living Zone Full Staging Plan



Appendix 3

Add new P53d Neighbourhood block by adding new text as follows:

P53d	Neighbourhood block	Means contiguous residential development bounded on all sides by an alternative land use such as a road, reserve or a zone boundary.
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Appendix 4

<p>A21 Access and entrances</p>	<p>A21.1 Subdivision is a controlled activity if:</p> <ul style="list-style-type: none"> (a) every allotment has vehicle access to a road, and (b) no more than 4 allotments share a private access, and (c) no access, access leg or right of way runs parallel to any road within 30m of the road, and (d) every access and road entrance is laid out and constructed to comply with the standards in <ul style="list-style-type: none"> (i) Tables 4, 5 and 6, and (ii) Figures 4 to 12 inclusive provided that figures that refer to a named area apply only in that area and over-ride any inconsistent district wide controls, and (iii) Appendix B (Engineering Standards). (e) no new entrance is created from a limited access road, and (f) where the land being subdivided has legal access to 2 roads, no more than one allotment accesses the road with the higher classification in the road hierarchy in Table 8 Road Hierarchy, and (fa) no new entrance is created from a state highway, and (g) entrances on a district arterial route adjacent to Te Kauwhata West Living Zone are from sliplanes. <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ matters referred to in Appendix B (Engineering Standards) ▪ adequacy of the access for its intended use ▪ space for utilities ▪ traffic safety and efficiency ▪ amenity values ▪ length and width of access leg or access standards, including to retain potential future use of allotments, and ▪ vehicle entrance design and dimensions ▪ separation distances between vehicle entrances and intersections ▪ sight distances ▪ need for forming or upgrading roads in the vicinity due to increased traffic from the subdivision ▪ compliance with Appendix Og (Urban Design Guide Te Kauwhata West Living) and Oga(Urban Design Guide) . <p>Despite (b), every allotment in a Living Zone in the Te Kauwhata Structure Plan area shall have a separate access.</p>	<p>A21.2 Subdivision that does not comply with a condition for a controlled activity is a restricted discretionary activity if:</p> <ul style="list-style-type: none"> (a) every allotment has vehicle access to a road, and (b) no more than 8 allotments share a private access, and (c) private access to 5 or more allotments is provided by an access allotment 20m wide, containing a carriageway that complies with Table 4, and (d) in the Te Kauwhata West Living Zone there is no direct access to allotments off Te Kauwhata road. <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▪ the matters over which control is reserved ▪ matters referred to in conditions for controlled activities ▪ the number of allotments ▪ number of entrances ▪ the potential of the site or adjoining land for future development ▪ traffic generation by activities to be served by the access ▪ safety and efficiency of roads, state highways, entrances and accesses. <p>A21.3 Subdivision that does not comply with a condition for a restricted discretionary activity is a discretionary activity.</p> <p>Note that a shared access serving more than 8 allotments is prohibited, see rule A1. For these subdivisions a road must be constructed and vested in the Council.</p>
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<p>A23</p>	<p>A23.1 Subdivision is a controlled activity if all roads in the subdivision are constructed to:</p> <ul style="list-style-type: none"> (a) to comply with this appendix, and (b) to link and be compatible with the existing road network, and (c) to provide for the safe movement of both vehicular and non-vehicular traffic, and (d) to provide access for emergency vehicles, and (e) so that in the Te Kauwhata Structure Plan area no cul-de-sac exceeds 100m in length, and (f) so that in the Te Kauwhata Structure Plan area, public transport is provided for except where the road is a cul-de-sac less than 100m long. <p>Control reserved over:</p> <ul style="list-style-type: none"> ▪ matters in Appendix B (Engineering Standards) ▪ the function of affected roads in Table 8 ▪ traffic efficiency and safety ▪ alignment, length and width of road, to service the allotments and adjoining land ▪ amenity values, including effects of noise and dust, and of increased traffic ▪ construction design, and materials ▪ sight distances ▪ screening for headlight glare ▪ gradient and skew angle ▪ need for forming or upgrading roads in the vicinity due to increased traffic from the subdivision ▪ compliance with the Te Kauwhata Structure Plan ▪ compliance with Appendix Og (Urban Design Guide, Te Kauwhata West Living) and Oga (Urban Design Guide) ▪ numbers of culs-de-sac and linkages 	<p>A23.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>
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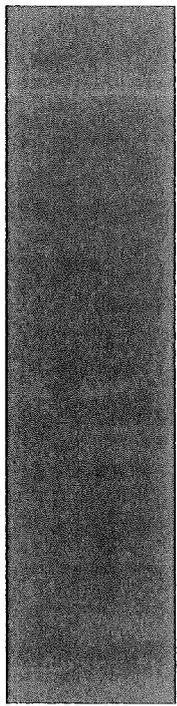
Waikato District Plan

**Variation 13: Te Kauwhata Structure Plan
Attachment 8**

Appendix Og: Urban Design Guide

Te Kauwhata West Living Zone





URBAN DESIGN GUIDE

TE KAUWHATA WEST LIVING ZONE



Te Kauwhata Urban Design Guide (Decisions Version)

prepared by

Kevin Brewer of Brewer Davidson and Gary Marshall of DJ Scott Associates Limited

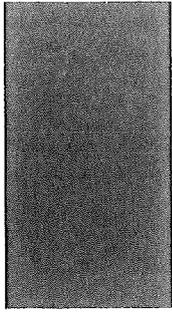
Te Kauwhata Urban Design Guide (Appeals Version)

revised by

Dave Mansergh, Luke McKinlay and Amber Roling of Mansergh Graham Landscape Architects

CURRENT VERSION R2 | 31st July 2012





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These guidelines identify a number of important urban design concepts that should to be considered during subdivision design and the resource consent process.

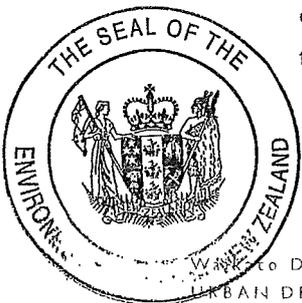
Council is seeking to foster a collaborative approach with developers to encourage high quality outcomes that maximise benefits to the Te Kauwhata community, future residents and the developer. This can be achieved through the application of good urban design principles rather than simply adhering to minimum technical standards.

The guideline's primarily focus is on subdivision design because of its fundamental importance to achieving a high quality urban environment. It is intended that the guidelines will help to achieve the desired Objectives of the *Te Kauwhata Structure Plan* by promoting the following outcomes:

- *a highly permeable transport network*
- *subdivisions that integrate with the natural environment, and cultural and heritage features*
- *attractive, tree lined streetscapes*
- *section shapes and sizes that create sufficient space for private outdoor living courts, preferably on the sunny side of a house*
- *open spaces and community facilities that have street frontage for surveillance and amenity reasons and*
- *low impact stormwater management integrated with streetscapes and open space.*

The design guide is presented in a hierarchical format, which reflects the relative importance of the urban design recommendations contained within, and the influence that various design decisions will have on overall urban form and amenity. When considering the extent to which a development meets the intent of these guidelines, greater consideration should be given to the higher level guidelines, i.e those that influence large scale and initial site planning matters. By default these affect the overall patterns of urban form, which in turn affect the success or failure of the more detailed design elements relevant at more intimate scales.

The hierarchy is intended to provide clarity and guidance to both developers and council and is reinforced by the assessment criteria of the guide, which give weight to those design issues with the greatest influence on amenity.



For ease of use the guide is divided into sections that overview the urban design philosophy behind the guidelines, provide examples of appropriate and inappropriate design solutions and identify the criteria against which a design will be assessed to determine if it is compliant with the guidelines.





URBAN DESIGN AND RESPONSIVE ENVIRONMENTS

A responsive environment is one that caters to the needs of its users. The application of appropriate urban design techniques and considerations can be used to ensure that a subdivision provides for both the functional and amenity needs of its users.

The following table identifies five key factors that should be considered when designing and assessing the appropriateness of a subdivision application.

The decisions made during the initial stages of the subdivision design process, such as the design of the road layout, pedestrian links and block size, will influence future urban amenity issues at both a large scale (i.e. how a development integrates with the wider surrounding context) and a small scale (i.e. the provision of adequate private outdoor space).

In order to clearly identify the design issues with the greatest potential affect on urban amenity, this design guide is presented in a hierarchical format. Four of the five identified factors need particular consideration, with greater importance being placed on those factors further up the hierarchy. The fifth factor (robustness) is less important as the relevant objectives, policies and rules do not currently allow for alternate uses within the zone. However, consideration of robustness is included as there is some scope for its enhancement at the lot level and, in the event that there is greater provision for mixed use development in the future, it can be given more weight accordingly.



Table 1

KEY URBAN DESIGN FACTORS FOR SUBDIVISION DESIGN

Hierarchy	Factor	Definition	Code
1	Permeability	<i>The number of alternative ways through an environment.</i> The ability to pass through an environment with greatest number of options. A distinction is made between public and private routes, and between vehicle and pedestrian routes.	P
2	Spatial Variety	<i>The number of different experiences in an environment.</i> The different uses provided by a development, the different spaces they provide.	S
3	Legibility	<i>The ease of understanding of the layout of a place.</i> The extent to which routes and their junctions are differentiated from one another and how easily people can understand the opportunities they offer.	L
4	Robustness	<i>The number of different purposes an environment can be used for.</i> The ability to use an environment for the widest possible range of likely activities. Note: This factor is more applicable when considering multiple uses within a zone (i.e. mixed retail/residential) and is included for the sake of completeness. The evaluation of robustness is likely to be of limited use within the Te Kauwhata West Living Zone.	R
5	Visual Appropriateness	<i>The extent to which the appearance of the development reflects the choices offered by the development.</i> How the detailed appearance of the place makes people aware of the choices. This is distinct from, but related to, the visual appearance of the development. It considers what information is being conveyed by the development rather than how much of the development is seen from particular locations.	V

These factors should be considered within the context of the surrounding environment and relevant objectives, policies and rules contained within the district plan.

The following section identifies key design considerations for each of the above factors.



Og2.1 | PERMEABILITY

The following urban design considerations influence the extent to which *permeability* is achieved within a subdivision, and between adjacent developments and the wider environment.

The concept of *permeability* in urban design is based around achieving a balance between maximising alternate routes to the same destination, achieving a hierarchy and efficiency in the linkages (road/pedestrian network) and creating appropriately sized residential blocks.

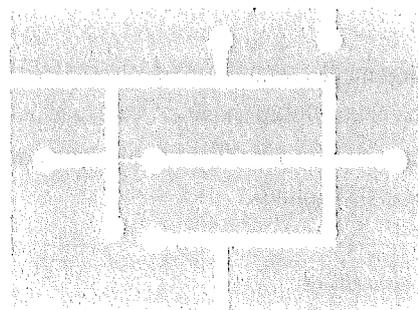
In practicable terms this might mean that neighbours across the back fence have a choice between using a walkway to visit each other, or walking around the block (in either direction). Key to this concept is achieving both visual and physical connections so that people are not only able to see how to get to their destination, but are also able to travel towards it relatively unencumbered and as efficiently as possible.

In general, subdivisions based on a regular or irregular “gridded” roading pattern with small to medium sized residential blocks provide greater *permeability* than large block subdivisions with a high proportion of rear lots, or subdivisions that contain a lot of cul-de-sacs (fewer connections). *Permeability* can be further enhanced through the creation of pedestrian only linkages. However, as addressed later within this guide, these linkages must be carefully designed to provide a safe environment, which is clearly legible as a public space.

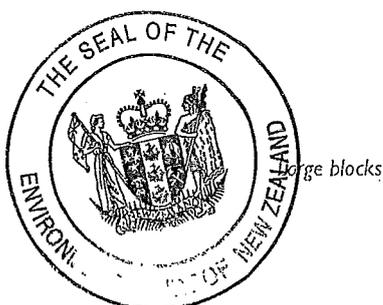
Figure 1 shows the difference in *permeability* options between two different types of subdivision.

FIGURE 1
A subdivision with small blocks gives more choice of routes than one with large blocks.

a

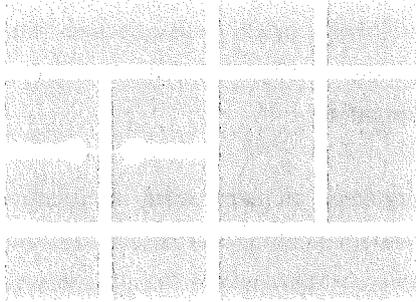


b



X

a



Small blocks

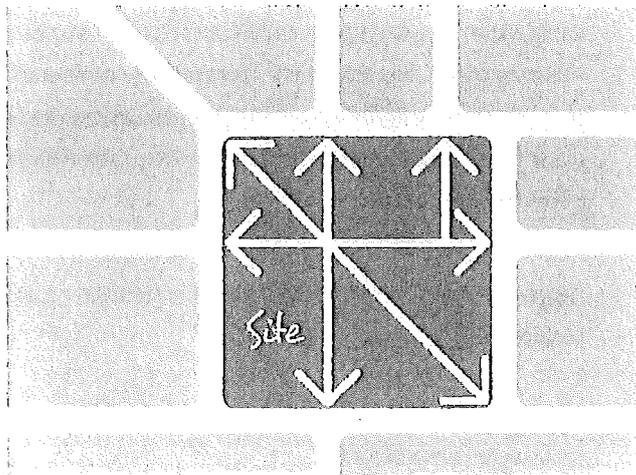


b

The starting point for the creation of a permeable road network is the surrounding system of links to and through the site. As such, it is important to analyse the streets and blocks of the surrounding area to establish the relative importance of all access points to the site. Consideration must be given to the requirements of pedestrians, cyclists and motorists.

FIGURE 2

Join the access points across the site, taking account of any existing routes through it.



Fundamental to achieving an appropriate level of permeability is the careful consideration of the relationship between the road and pedestrian network and the size and shape of residential blocks. These functions and forms are inherently interlinked. Key aspects to consider include:



- connectivity
- block size
- block shape
- pedestrian linkages.

Og2.2 | KEY DESIGN POINTS TO CONSIDER TO ENHANCE PERMEABILITY

- Maximise the number of linkages between different destinations.
- Allow choice in the route and mode of transport (walking/driving/cycling).
- Ensure alternative routes exist.
- Try to make linkages visually obvious.
- Avoid large residential blocks with a lot of rear lots.
- Minimise the use of cul-de-sacs.
- Blocks comprising between 10 to 20 lots are preferred. Larger blocks require greater consideration of pedestrian linkages.
- Crime Prevention through environmental design considerations should be taken into account when creating permeable networks.

Og2.3 | SPATIAL VARIETY

The following urban design considerations influence the extent to which *spatial variety* can be achieved within a subdivision in the context of the wider environment.

Spatial variety is a term used to describe variation in terms of size, form, use and meaning. In practical terms this means trying to vary the size of blocks of development and the types of use (recreational, housing, community service, etc). While the types of use are governed by the Objectives, Policies and Rules of the district plan, opportunities still exist to enhance spatial variety in terms of lot size, orientation, and shape; with consequent effects on the variety of building locations, style and size.

At the subdivision level, *spatial variation*, in conjunction with *permeability* considerations, can contribute to enhanced amenity values for residents and visitors by offering experiential choice rather than bland "sameness". It also helps in way-finding through otherwise similar appearing developments.

Fundamental to achieving an appropriate level of *spatial variety* is the careful consideration of the relationship between the block use (residential or recreational) and the size of lots within. Key aspects to consider include:

- block use
- lot size, ration, frontage, & shape.



Og2.4 | KEY DESIGN POINTS TO CONSIDER TO ENHANCE SPATIAL VARIATION

- Consider the block structure as the starting point for developing variety.
- Ensure that the transition between different land uses is carefully designed. For example, avoid abrupt boundaries such as close boarded fences between reserves and private properties (this is discussed further with regards to legibility below).
- Consider the widest appropriate range of uses for a development.
- Ensure lots are of sufficient size and shape to enable a range of different uses (See also Robustness).

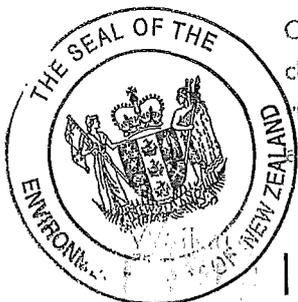
Og2.5 | LEGIBILITY

The following urban design considerations influence the extent to which legibility can be achieved within a subdivision, and between adjacent developments and the wider environment.

Legibility is important at two levels. These are the physical forms of development, and what that development is used for. In order to be legible the modernist adage "form follows function" is a good descriptor. People recognise the function and use of a place by the way it looks and what they perceive is likely to occur there. This occurs at many levels. People will go to the door of a house that looks like it should be the main entrance. They will also look for amenities and services in areas that look like they are shopping streets. While this might appear rather obvious, legibility is the quality that makes a place easy to understand and enables users to take advantage of the choices offered by enhancing permeability and variety.

It is particularly important that consideration is given to how a new urban development integrates with the wider environment, particularly if it borders an area with a different use or level of development. For example, if a new urban development neighbours land with a more rural character, it is important that the edge between urban and rural is managed sensitively so that there is a legible transect from one to the other. Abrupt, man-made boundaries between urban and rural environments, which do not relate to natural features or topography, should be avoided.

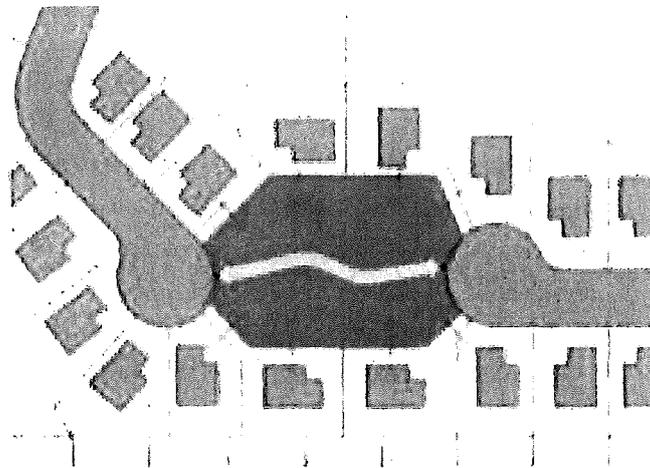
One way in which the legibility of subdivisions can be enhanced is by establishing a clear road hierarchy. By giving different types of road (local, collector, arterial) a strong visual character, their use and relative importance can be easily distinguished by users, enhancing way finding (Refer to Streetscape Design Section).



When designing a subdivision road network, consideration may be given to the alignment of roads to make the most of existing landmarks. This can involve orienting roads to focus on prominent landmarks, be they buildings or natural features.

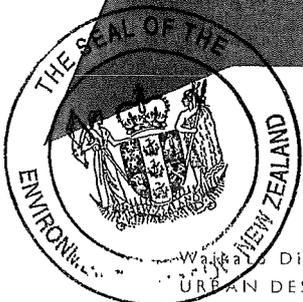
Where pedestrian pathways are required between private lots it is important that they are designed to clearly "read" as public thoroughfares. Close boarded fences and dense privacy planting can make these places hard to interpret and potentially dangerous. In general, to enhance legibility and safety, these paths should be straight, relatively short and in view of neighbouring houses.

FIGURE 3
Access drives and houses overlook walkway/park that links two streets. Courtesy Kapiti Coast District Council.



Og2.6 | KEY DESIGN POINTS TO CONSIDER TO ENHANCE LEGIBILITY

- *Ensure the boundaries of new urban developments are designed so that they do not detract from the legibility of the existing wider environment.*
- *Differentiate the design of routes and their junctions so that their functions and relative importance are clearly discernible.*
- *Design the road network of the development to make best use of the legibility potential of existing elements on and around the site.*
- *Establish a design language, which clearly communicates the road hierarchy within a development.*
- *Carefully design pedestrian routes which are bordered by the private backs of residential properties so that they are safe and clearly legible as public spaces.*



Og2.7 | ROBUSTNESS

The following urban design considerations influence the extent to which *robustness* can be enhanced within a subdivision.

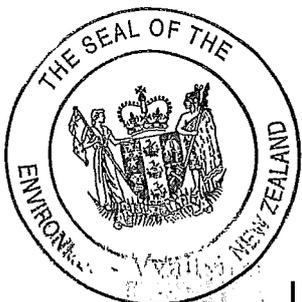
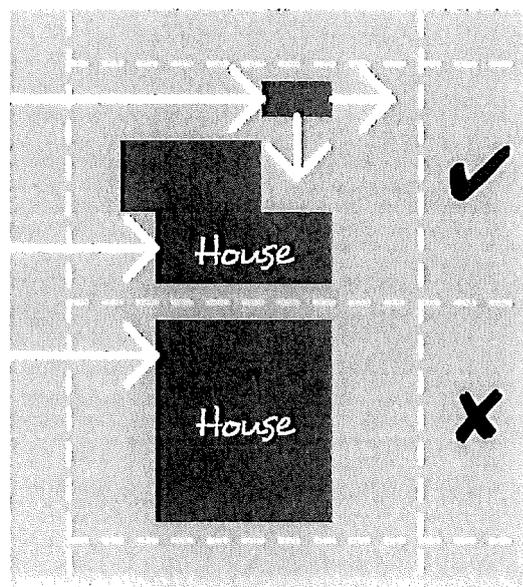
Robust places can be used for many different purposes and offer their users a high degree of choice.

As addressed in the introduction to this section, robustness is largely dictated by the Objectives, Policies and Rules of the district plan, which determine the range of uses within a zone. However, at the lot level there remains some scope for enhancing this value.

The robustness of private outdoor space is affected by broader design issues, such as block size and type, which in turn affect individual lot size, shape and orientation. Lot size significantly affects the range of uses private outdoor space can be put to. While relatively small outdoor areas (50-100 m²) can only be used for passive activity, children's play and/or a small garden, larger areas (150 m²) can allow a greater range of activities and potentially enable a family to become self sufficient in vegetables (Responsive Environments Design Sheet 4.6).

In addition, lot orientation and dwelling height affect the range of uses a private outdoor area can be put to, based on the amount of sunlight it receives. In general, south facing outdoor areas will need to be longer to receive adequate sunlight.

FIGURE 4
Outdoor space which is private, within the perimeter block, greatly increases housing robustness. Rear access - or side access increases the garden's potential for a range of activities.



Og2.8 | KEY DESIGN POINTS TO CONSIDER TO ENHANCE ROBUSTNESS (AT THE LOT LEVEL)

- Consider effects of block size and shape on the configuration of individual lots at the initial site planning stage of a subdivision.
- Ensure private open spaces are of sufficient size to accommodate a variety of uses.
- Ensure that the majority of private outdoor space is not potentially overlooked from neighbouring dwellings.
- Ensure that easy access is provided to private outdoor areas from dwellings.
- Ensure lot orientation and dwelling heights and setbacks allow private outdoor areas to receive sufficient sunlight.

Og2.9 | VISUAL APPROPRIATENESS

The following urban design considerations influence the extent to which *visual appropriateness* can be achieved within a subdivision, in the context of the wider environment.

Visual appropriateness concerns the interpretations people put on a place based on its appearance. For a development to have visual appropriateness it must reinforce the legibility of a place and make people aware of the choices available by the qualities addressed above.

In general, this means that the detailed design of developments should be contextually appropriate to the surrounding environment and communicate the levels of choice designed into a place. For example, this may involve the use of different locally appropriate street trees to demarcate the various road types within a development or the use of locally sourced materials, such as local stone for use within the street furniture.



Og2.10| KEY DESIGN POINTS TO CONSIDER TO ENHANCE VISUAL APPROPRIATENESS

- *Identify the visual character of the existing wider environment.*
- *Identify what cues can be used to reinforce or contrast with this existing character.*
- *Establish how detailed design will reinforce a developments responsiveness in terms of legibility, variety, and robustness.*



The following section provides guidance for the design of subdivisions. Each guidance point is coded (as per table 1) to indicate the relative level of importance within the hierarchy of urban design factors and the degree of crossover between each factor.

Consideration is given to initial site planning matters, which will establish the framework for a responsive environment by enhancing permeability, spatial variation, legibility and robustness. In addition, the importance of integrating natural features into a permeable subdivision design is addressed in terms of enhancing amenity and ecological values. Lastly, the importance of streetscape design is addressed in terms of enhancing character and amenity values and is accompanied by examples of street types, designed to contribute to a legible environment.

Og3.1 | SITE PLANNING

Og3.1.1 | CONNECTIVITY [P] [L]

A significant aspect of the structure plan is the requirement for a connected street network. The price of too many culs-de-sac is that all traffic is concentrated on the collector roads the culs-de-sac run off (Figure 5). As traffic flows increase the collector roads have to be widened (at rate-payer's expense) and become harder for pedestrians/cyclists to use. A lack of connectivity also discourages walking and cycling because of the greater travel distances and results in disconnected neighbourhoods. Example of disconnected (Figure 6A) and connected street networks (Figure 6B) are found on the following page.

The road configuration identified in the structure plan demonstrates that a highly permeable network is achievable, whilst working with topographic constraints and the retention of natural features.



FIGURE 5
 Collector Road links subdivisions
 but cul-de-sac local roads
 still leave a disconnected
 neighbourhood.

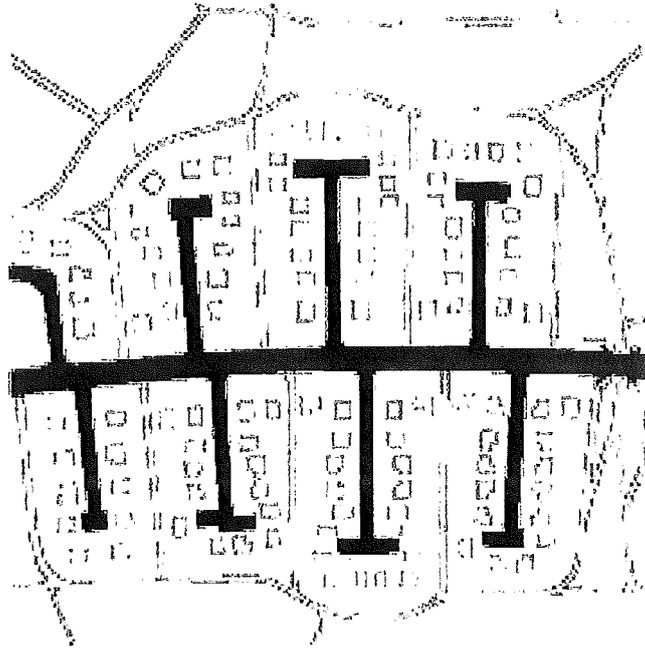
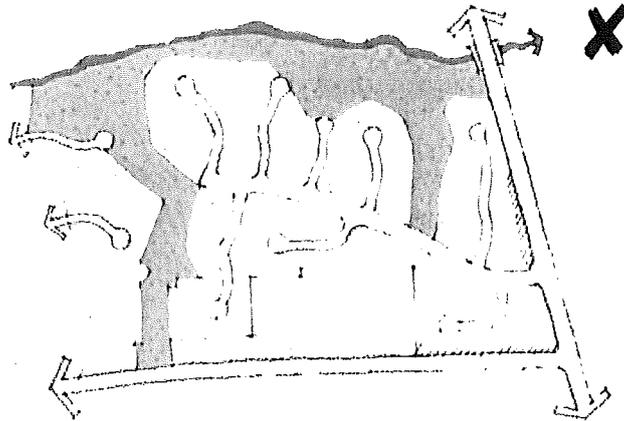
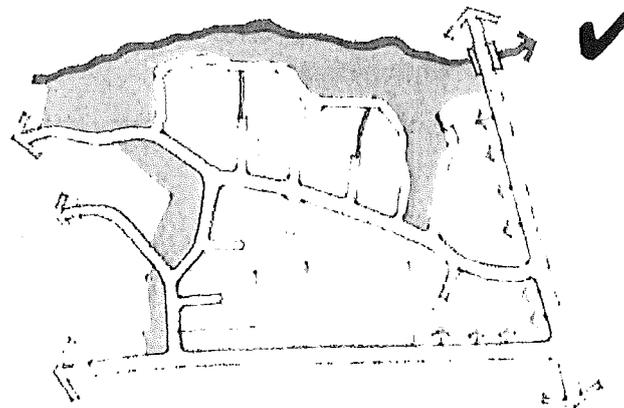


FIGURE 6A
 Comparison showing how a
 connected street network provides
 shorter routes and integrates
 natural feature. Courtesy of Kapiti
 Coast District Council.



Non-permeable layout, as shown above, do not provide users with a choice of alternatives routes. Offering alternative routes as illustrated below can encourage walking and cycling as well as reducing vehicle kilometres travelled.

FIGURE 6B



Og3.1.2 | BLOCK SIZES [P] [S] [L] [R]

The residential block is the middle scale of urban design between town layout and individual site design. The block size should be the result of a connected street network and individual sites that create private outdoor space. Block sizes (allied with street connectivity) should be kept to a reasonable size to encourage walking and cycling in a neighbourhood. In the past, some developers have sought to minimise costs by reducing the number of public streets and increasing the number of rear lots and associated rights of way. In response, the *Te Kauwhata Structure Plan* limits the allowable level of rear lots to 10% per neighbourhood block and stipulates that driveways to rear lots shall be shared by a maximum of two adjoining lots.

It is acknowledged that while the number of rear lots should be minimised, they are unavoidable in some locations due to irregular land parcel shapes and steep topography. In these circumstances, short culs-de-sac with good streetscape amenity are considered a better solution (*Figure 7*).

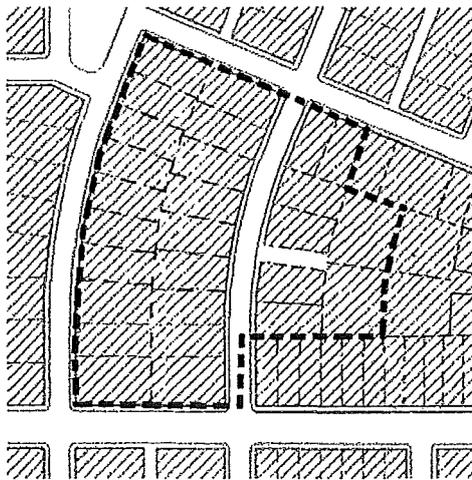


FIGURE 7
Short cul-de-sac for awkward shaped land parcels.

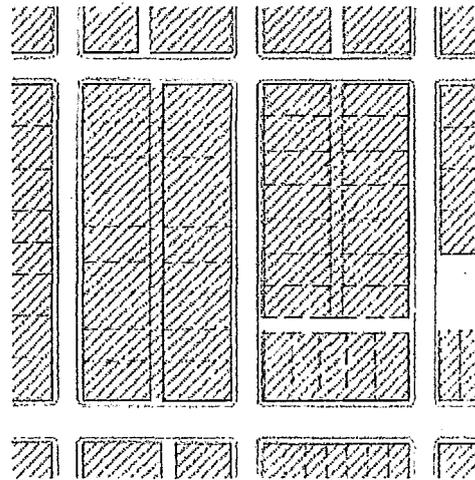


FIGURE 8
Rectangular block.

Og3.1.3 | BLOCK SHAPE [P] [S] [L] [R]

Lot shapes and topography combine to make three main block shapes: square, rectangular and irregular. The block shapes frame vistas down roads and across intersections and affect the open or contained nature of a neighbourhood.

The rectangular block shape with two lots in depth creates a walkable neighbourhood and reduces the number of right-of way driveways (*Figure 8*). The short end of the block should be placed against collector or arterial roads so more houses are on quieter local



roads. Neighbourhood shops can be placed on the end block with a rear service lane as a buffer to houses. Rear lanes (dashed) can be added for medium density housing if garage doors are likely to dominate the streetscape.

This grid pattern creates an open character for the neighbourhood with a long vista down every street, which can become monotonous.

Offsetting local roads or central village green parks maintains a walkable street pattern but closes the view to create a more contained character (Figure 9). Medium density housing can be located between the neighbourhood shops and village green. The convenience to shops and outlook across the park offset smaller gardens that suit young childless couples or retired people for example.

Irregular blocks (Figure 10) are useful to adapt to rolling ground so earthworks are minimised and the streets generally follow existing contours. The curving streets also close long views that are usually balanced by the views available from the sloping ground across lots.

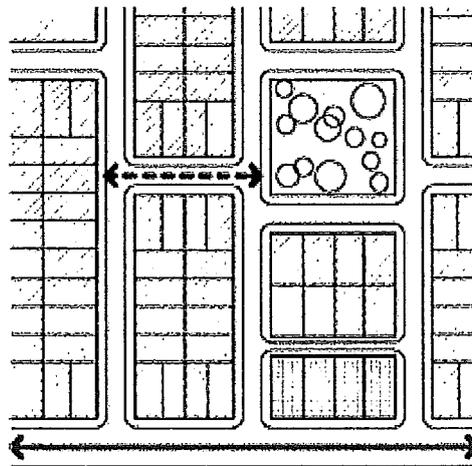


FIGURE 9
Closed views with offset.



FIGURE 10
Irregular shaped block.



Square blocks (Figure 11) were commonly used in the 19th century for low-density allotment housing with vegetable gardens or small paddocks. Examples of this block shape can be seen in Ngaruawahia (Figure 12). For today's urban zones square blocks are generally too big or create lots that are too irregular in size. A hollowed out square block is a useful type for medium density housing with a shared private or public open space to offset smaller gardens.

Predominance of one block type creates areas without different character. It is preferable to use the different block types to suit the topography, arterial roads and open/closed neighbourhood character.

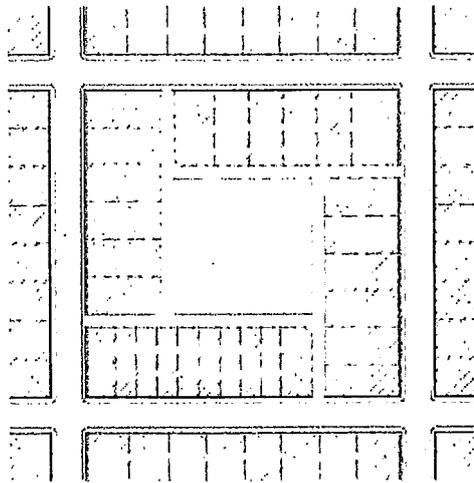


FIGURE 11
Square block.

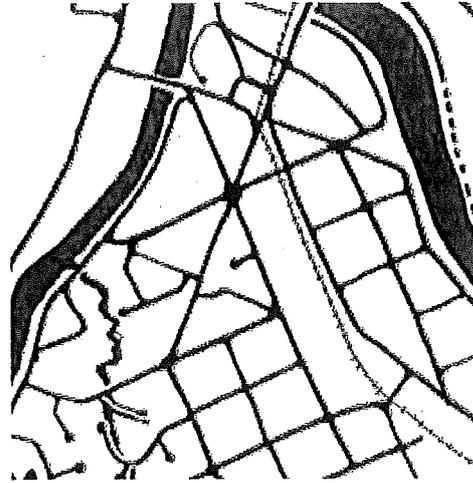


FIGURE 12
Square blocks in Ngaruawahia.

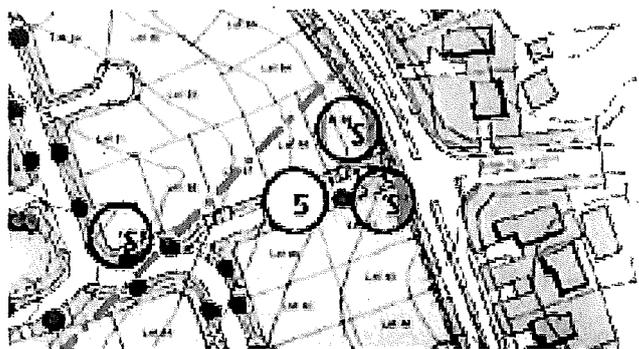


Og3.1.4 | PEDESTRIAN LINKAGES [P] [L]

Pedestrian-only walkways and linkages used to connect culs-de-sac or streets are discouraged as they have surveillance and graffiti problems. Walkways will only be accepted where topography or natural features make a street connection difficult. In these situations the walkway should be 8 metres minimum width. Use of access drives to overlook the walkway (Figure 3) avoids close-boarded fences that make the walkway unsafe to use. Walkways should be straight and reasonably short so that people can see along the entire route.

Public lanes can be used in locations where streets cannot be connected due to arterial road regulations. A driveway, house frontages and a footpath create a 'public lane' along a pedestrian desire line from the arterial road (Figure 13).

FIGURE 13
Where an intersection cannot be formed on an arterial road a shared lane with properly formed footpath creates a better pedestrian/cyclist link. Courtesy Kapiti Coast District Council.



Og3.2 | SITE PLANNING KEY POINTS

- Provide a connected street layout, including cycleways and walkways.
- Avoid culs-de-sac as much as possible. Where they do occur, limit their length and keep in a straight alignment.
- Keep blocks to a reasonable (easily walked) size.
- Mix block types to suit topography, views and avoid repetitive neighbourhoods.
- Minimise the number of rear lots.
- Maximise the number of north-south streets and sections with north, east or west facing rear yards. Ensure off-road routes are attractive and highly visible.

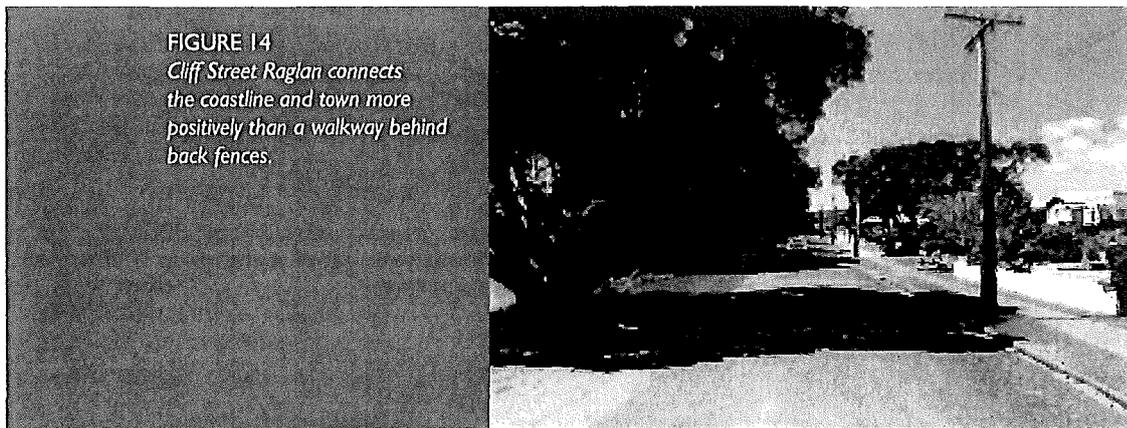


Og3.3 | INTEGRATING NATURAL FEATURES

Og3.3.1 | INTEGRATING TOWNS INTO THE NATURAL ENVIRONMENT

[P] [S] [L]

Urban design should integrate the natural environment into the public realm as a feature in the town's layout to reinforce and enhance character. A key approach to the successful integration of the natural environment with towns and villages is to ensure that these areas have high quality public access that forms part of a wider walkway network with high levels of street interface. Lakes, streams, wetlands and parks should have as much perimeter street frontage as possible so that they function as town landmarks and are over looked and therefore safer to use. Successful examples in the district are the Waikato Esplanade in Ngaruawahia and Cliff Street in Raglan (Figure 14).



Linking natural character areas/open spaces with good cycling/walking streets creates 'green corridors' that highlight a town's natural character. Over time the mature trees in these green corridors will create urban 'shelter belts' that will keep natural character in new residential areas.

Og3.3.2 | WATERWAYS AND OPEN SPACE [P] [S] [L]

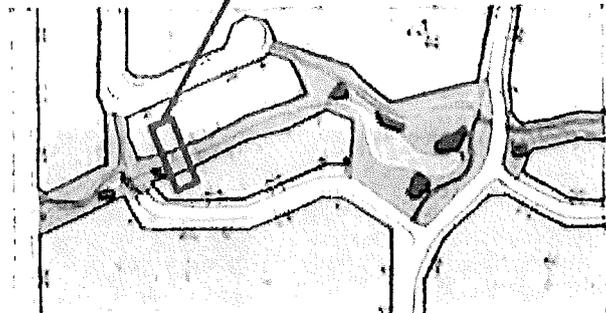
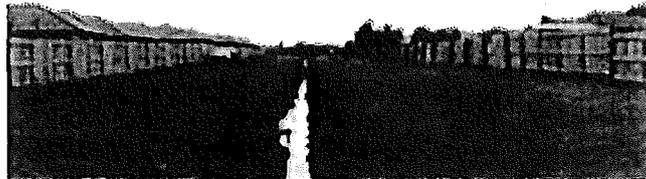
Fragmented and disconnected habitats are an important resource management issue for the ongoing survival of wildlife living near urban areas. In many circumstances there are opportunities to integrate ecological corridors and stands of vegetation into the layout of a town in order to create contiguous areas of habitat particularly along waterways.

Blue and green corridors are a name for natural and constructed waterways and landscaped areas of a certain area. Ideally, the linking of blue and green corridors forms

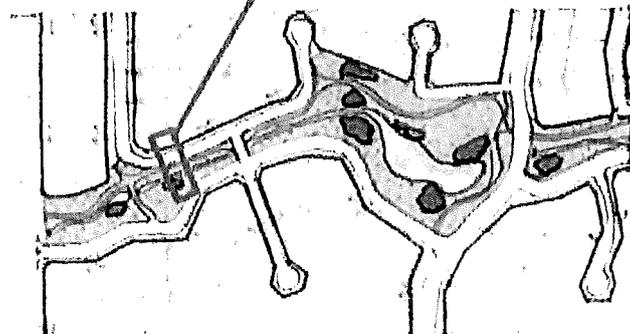


one basis for the design of the street and pedestrian network for a town. Blue and green corridors also help to create interconnected areas of high amenity value and recreation for a community (Figure 15).

FIGURE 15
 Good and bad examples of
 integrating stormwater ponds into
 open spaces. Courtesy of Kapiti
 Coast District Council.



Existing streams and vegetation are often poorly treated by new developments if they are not integrated into the scheme. In this example much of the development backs onto the existing stream.



With careful integration streams and vegetation can become a valuable natural asset to the amenity of the new development. The site now offers improved pedestrian access (shown in brown) with road frontage to open space for passive surveillance.



The blue and green corridors create a framework for other low impact stormwater devices to feed into. These may include constructed wetlands, ponds, rain gardens and swales. Stormwater detention ponds should be located along waterways to reinforce green or blue corridors. If it is not possible to locate a detention pond beside a stream or lake then the detention pond must be located beside a neighbourhood reserve or a collector road to help form public open space with street frontage. Constructed wetlands, stormwater detention ponds (and neighbourhood reserves) located behind houses will not be accepted.

Og3.3.3 | EARTHWORKS [L]

Earthworks for subdivision and dwelling development can have significant effects on landscape and village character. Developments should be designed to minimize the need for earthworks. This can be achieved through careful selection of road alignment and building platform location. Where retaining walls are needed for building platforms, these should remain low and generally be located at the rear of a property to minimize their visibility from the road.

Og3.4 | KEY DESIGN POINTS TO CONSIDER WHEN INTEGRATING NATURAL FEATURES

- *Identify natural features and consider how they can be used to enhance the development.*
- *Incorporate natural features and corridors into public open space.*
- *Ensure public open spaces are easily accessible, highly visible and connect to provide recreational as well as conservation objectives.*
- *Enhance the ecological values of natural features.*
- *Use low impact stormwater designs, and retain and restore open stream networks.*
- *Design subdivisions and buildings to minimise the need for earthworks.*

Og3.5 | STREETSCAPE DESIGN

Og3.5.1 | IMPORTANCE OF STREETSCAPES

The character of streetscapes contributes significantly to the character and amenity of neighbourhood areas. Engineering standards are a common feature in District Plans and by necessity they focus on vehicle capacity and safety for pedestrians, cyclists and motorists. This Urban Design Guide focuses on streetscape design issues and how adjacent buildings or open space also influence street types.



Trees are often the most important element in improving streetscape character (*Figure 16*). Utility berms to allow service free areas for tree planting are proposed in the street types. Narrowing the perceived width whilst maintaining safe carriageway width is also proposed. Visual narrowing of the street improves character, slows speeds and makes pedestrian crossing easier. Different paving for parking bays, channels between parking/carriageway and street trees on kerb extensions in the parking bay depth are methods to achieve this.

FIGURE 16
Trees improve streetscape amenity.



A range of typical street type cross-sections has been included in Appendix A: Traffic.

Og3.5.2 | STREET TYPES

Og3.5.2.1 COLLECTOR ROAD (Figure 17)

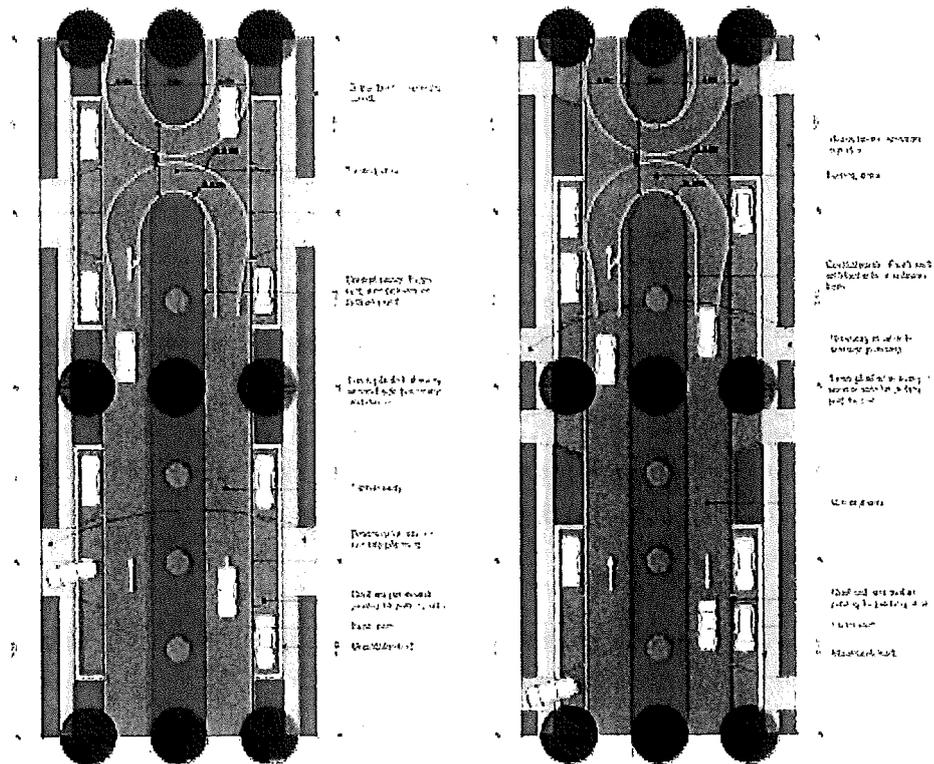


FIGURE 17
Indicative Collector Road Design.

Refer to Appendix A: Traffic (Figure 4B2) Collector Road Cross Section for more detail.

- Central swale for low impact stormwater management. Flush kerb to allow water to pass into swale.
- Planting in centre swale.
- Permeable carpark paving that contrasts with asphalt to narrow road visually. Flush kerb at carriageway/parking edge and mountable kerb to footpath edge.
- Tree planting at every second property side boundary in carparking bay depth to narrow road visually.
- Root guard to tree pit.
- Driveway crossing anywhere between trees over mountable kerb. One parking bay for every site. Refer plans above for possible combinations of street trees, driveways, parking



and grassed berm. The plans are based on 15 metre wide sections as these are the narrowest allowed and are suggestions. Other layouts that provide the driveways and carparking will be considered.

- 1.5 metre footpath.
- 1.35 metre planted side berm for services. Services **MUST** be located in this berm to allow tree planting in parking bay depth.

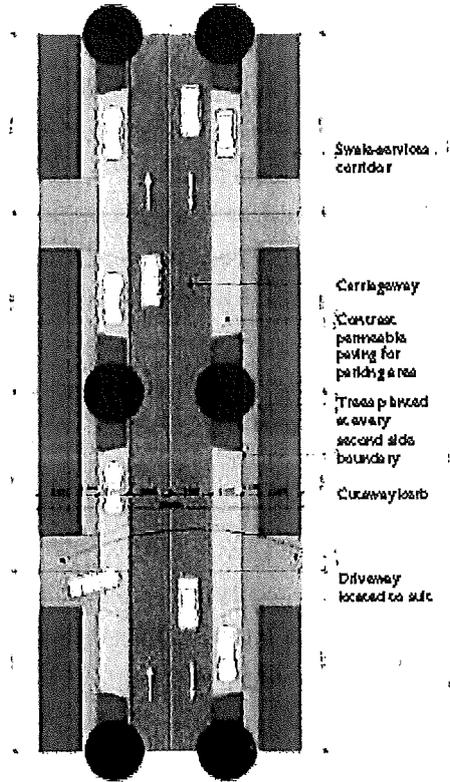
Og3.5.2.2 LOCAL ROAD (Figure 18)

There are two options for carriageway width depending on projected traffic volume. Refer to the Appendix A: Traffic (Figure 4B3) for more detail.

- Permeable carpark paving that contrasts with asphalt to narrow road visually. Flush kerb at carriageway/parking edge and cut-away kerb to footpath edge.
- Tree planting at every second property side boundary in carparking bay depth to narrow road visually.
- Root guard to tree pit.
- Driveway crossing anywhere between trees over mountable kerb. One parking bay for every site. Refer attached plan for possible combinations of street trees, driveways, parking and grassed berm.
- 1.5 metre footpath.
- 3.5 or 4.0 metre wide side swale. Refer to Traffic details for driveway/footpaths crossing the swale. Services **MUST** be located in this berm to allow tree planting in parking bay depth.

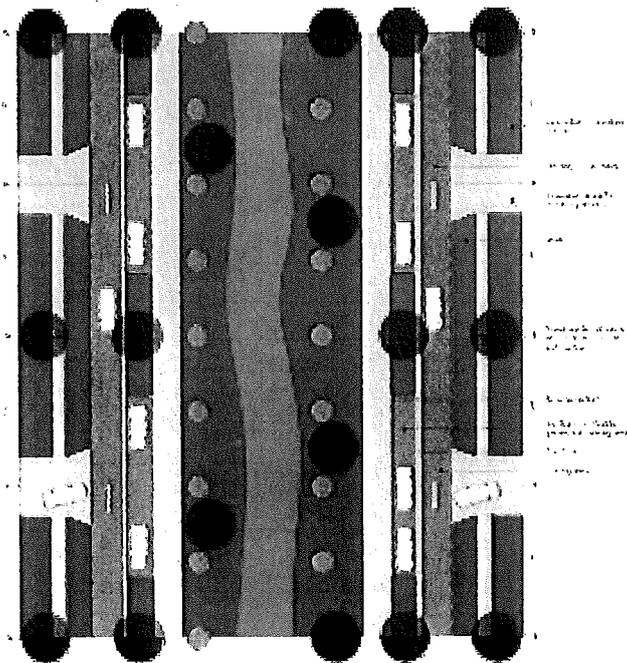


FIGURE 18
Indicative Local Road Design.



Og3.5.2.3 STREAM MARGIN LOCAL ROAD (Figure 19)

FIGURE 19
Indicative Stream Margin Local Road Design.



Refer to Appendix A: Traffic (Figure 4B4) Greenway Corridor for more detail.

- Local road along stream margins.
- One way carriageway pair split on each side of stream or two-way if street if only possible on one side of stream.
- Permeable carpark paving that contrasts with asphalt to narrow road visually. Flush kerb at carriageway/parking edge and mountable kerb at footpath edge to reduce driveway level transition on house side. Standard kerb on stream margin side.
- Tree planting at 20m intervals, with allowance made for lot driveways, in carparking bay depth to narrow road visually.
- Root guard to tree pit.
- Driveway crossing anywhere between trees over mountable kerb. One parking bay for every site. Refer attached plan for possible combinations of street trees, driveways, parking and grassed berm.
- 1.5 metre footpath on house side of street and 3 metre shared path in stream margin. Path location in stream margin to be confirmed as part of subdivision consent.
- 1.35 metre planted side berm for services on house boundary. Services *MUST* be located in this berm to allow tree planting in parking bay depth.
- Integrate stormwater ponds into central open space (outside flood plain).

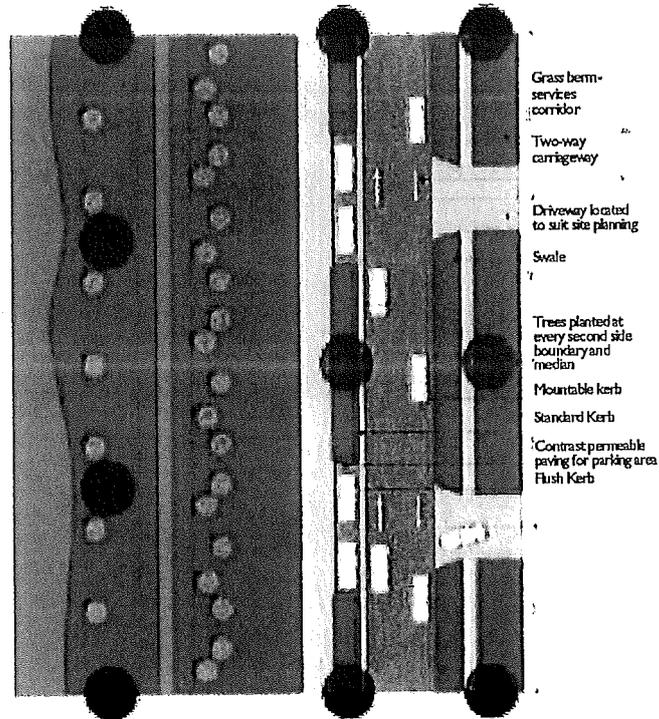
FIGURE 20

Possible outcome as an urban park solution. Alternative if more undergrowth required for ecological reasons.



Og3.5.2.4 WETLAND EDGE LOCAL ROAD (Figure 21)

FIGURE 21
Indicative Wetland Edge Road
Design.



Refer to Appendix A: Traffic (Figure 4B4) Whangamarino Margin for more detail.

- a Two way local road carriageway.
- b One way lane as option (refer overall examples in residential subdivision section).
- c Permeable carpark paving that contrasts with asphalt to narrow road visually. Flush kerb at carriageway/parking edge and mountable kerb at footpath edge to reduce driveway level transition. Standard kerb on wetland side.
- d Tree planting at every second property side boundary in carparking bay depth to narrow road visually.
- e Root guard to tree pit.
- f Driveway crossing anywhere between trees over mountable kerb. One parking bay for every site. Refer attached plan for possible combinations of street trees, driveways, parking and grassed berm.
- g 1.5 metre footpath on house side of street and 3 metre shared path in wetland margin. Path location in wetland margin to be confirmed as part of subdivision consent.
- h 1.35 metre planted side berm for services on house boundary. Services **MUST** be located in this berm to allow tree planting in parking bay depth.
- i Integrate stormwater ponds into wetland margin open space (outside flood plain).
- j Tree planting to suit wetland edge landscape context.



- ” 3 metre shared path around wetland side of street. 1.5 metre footpath on residential side of street.
- ” Wetland margin to specific design.

Og3.6 | STREETScape DESIGN KEY POINTS

- *Recognise that streets play a large part in determining the character of a town, and aim to create an attractive streetscape.*
- *Ensure streets comply with the applicable cross-section type and engineering standards.*



Og4 SITE DESIGN FACTORS

As addressed in the subdivision section above, there is scope to enhance spatial variety and robustness at the lot level, with regards to lot size, shape and orientation and this is addressed below in greater detail. In addition, the following factors (Richness and Personalisation) apply to the most detailed level of design and relate to the selection of materials and construction techniques to enhance the sensory experience and unique character of a place. These factors not only affect private amenity, but also wider neighbourhood amenity values.

Table 1

KEY URBAN DESIGN FACTORS FOR SITE DESIGN

Hierarchy	Factor	Definition	Code
6	Richness	<i>The level of sensory experience provided by an environment.</i> A rich environment has a high level of sensory experiences which users can enjoy.	R2
7	Personalisation	<i>The degree to which people have put their own stamp on the environment.</i> Designed places should leave room for the people who live in the places to put their own mark on their environment.	P2

Richness and personalisation may be considered with regards to conditions of consent for subdivisions, which under some circumstances restrict the type and colour of exterior cladding materials. In this situation, it is worth considering how a balance may be achieved between protecting broader amenity values versus their potential to limit the ability of users to personalise their environment.



Og5.1 | LOT ORIENTATION [L] [R]

Maintaining a village and/or natural character relies on landscaping of private outdoor space. Therefore it is important that lots within the block types are shaped to create sunny outdoor spaces that relate directly to living, dining and kitchen areas. Lot shapes will be assessed at subdivision consent stage against the following guidelines.

Sites with north, east or west facing rear yards should be rectangular rather than square to maximise the private rear yard.

Sites with east or west facing rear yards can be wider and shallower to allow for north sun into the house itself. Subdivision plans should minimize sites with north facing front yards as the sunny side of the house is open to the street. North/South streets are better than East/West streets as they reduce the number of houses with a north facing front yard (Figure 22). The sites with north facing front yards can be designed out as shown in Figure 23.

FIGURE 22
*East-West street and difficult
South rear yards.*

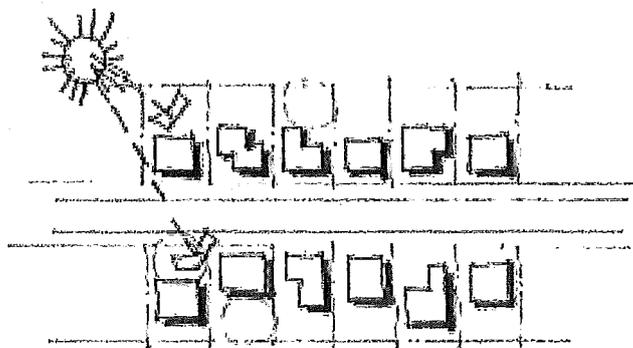


FIGURE 23
North-South street and East or
West rear yards.

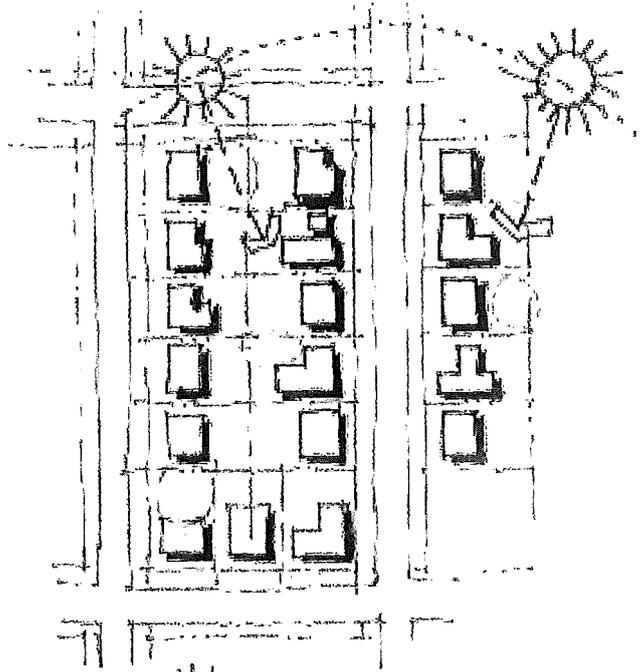


Figure 24 shows 450m² sites with a 15 metre frontage as these are the minimum dimensions in the District Plan. They also assume a typical single level 156m² house. Two storey houses can ease private open space concerns but they are more expensive.

Figure 24 (top left) shows that, for east/west orientated streets, a good size north facing rear yard is possible even on a 450m² site. Figure 24 (top right) is the minimum 600m² new residential zone site. This site can be wider for better sunlight at the sides and space between houses, but generally deeper sites are better with north facing rear yards.

Similarly, for north/south orientated streets, private rear yards are possible with east or west facing rear yards. Figure 24 (middle) is a 450m² site, and Figure 24 (lower) is the wider 600m² site that allows more north sun into the house itself.

A square section loses many of the benefits of the north facing rear yard (Figure 25, top) as the house and driveway occupy the full depth of the site. The outdoor living space is on the side of the section and so is not private from the road.

The square section is a better solution with a north facing front yard (Figure 25, bottom). The open space is on the side of the section and receives sunlight but fencing will be required for privacy. A north-facing site that relies on sunlight passing over the house to an outdoor living area in the rear yard has to be deeper so a larger section is required.

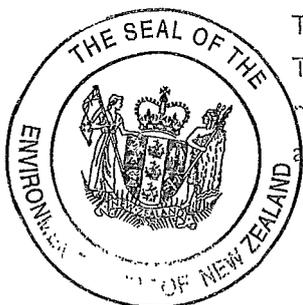


FIGURE 24
 Lot orientation north, east and
 west rear yards.

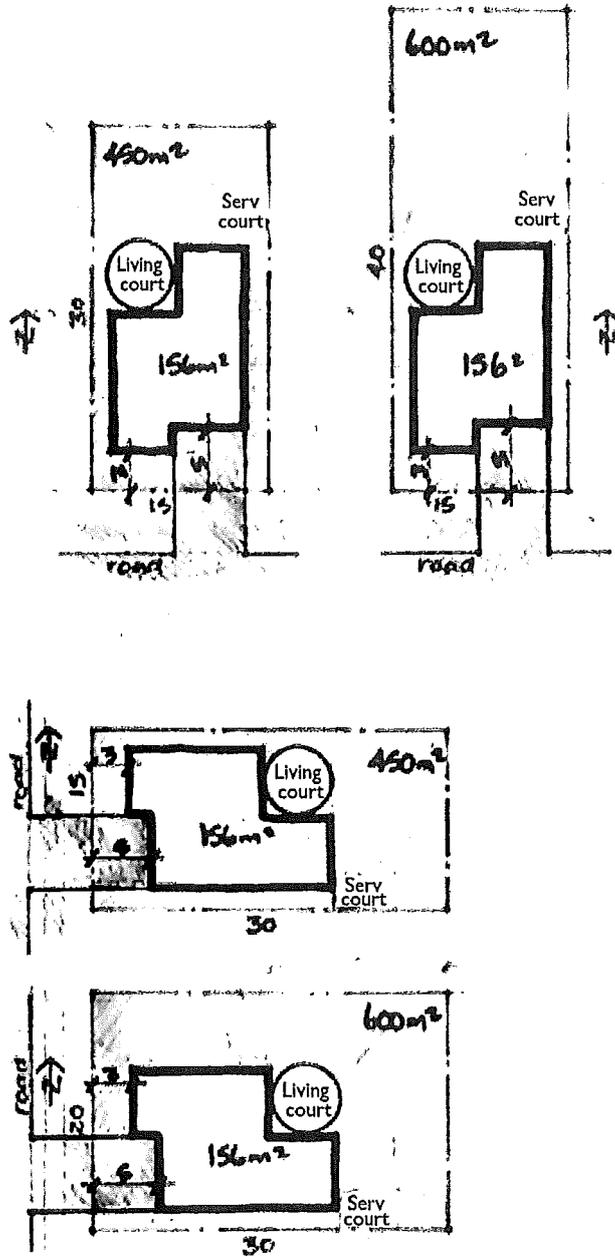
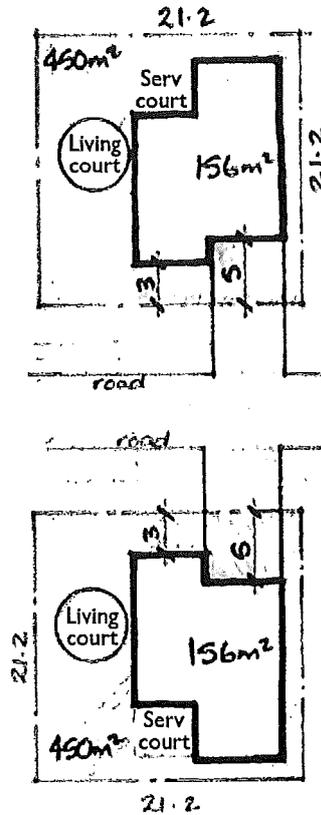


FIGURE 25
Square shaped 450 m² lots.



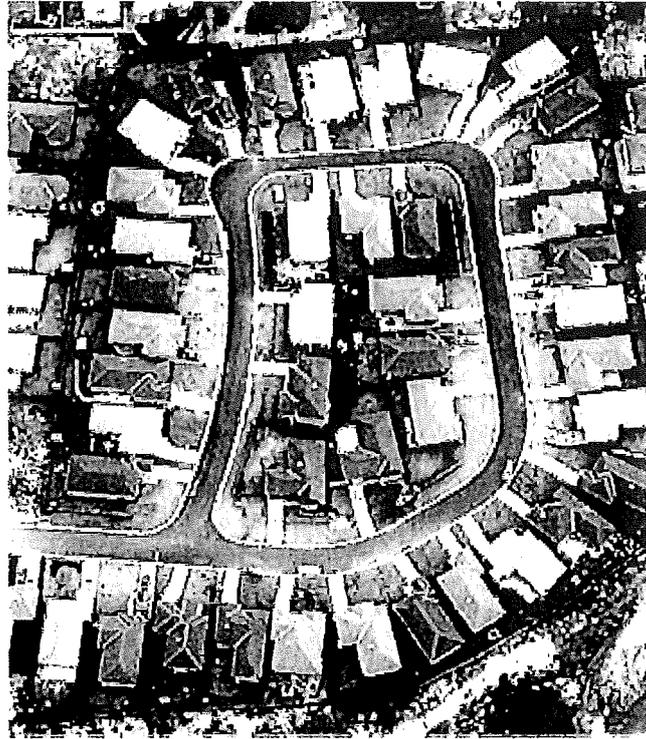
Og5.2 | SITE PLANNING [L] [R]

Good site planning of detached houses achieves a balance between quality public domains and private backyards in which to live.

Figure 26 shows how 6 metre front yard set-backs derived from low-density rules are frequently misapplied to smaller lots, severely compromising space in the backyards and privacy. Large setbacks and sweeping front lawns can create the illusion of a grander house, but at the expense of a decent sized backyard if the lot size is too small. Street presentation is important to development, but should not be the determining factor in site layout. The size of the front yard should not compromise a liveable backyard size.



FIGURE 26
6 metre front yards and no rear yard.



Og5.3 | BUILDING FRONTS AND FRONT YARDS [S] [L] [R2] [P2]

Houses should have a public front with windows and entries so that they contribute to interesting streets that encourage walking and cycling. 'Eyes on the street' also encourages walking and cycling by creating streets with public surveillance.

Onsite vehicle manoeuvring has been a standard requirement for residential sites. Even though the front yard requirement is only 3 metres, standard house plans are generally rectangular in shape so the whole house is pushed back. This can mean a large front yard, with the consequence being the rear yard is reduced in size. Unless the section is large, the private open space is severely reduced for traffic safety reasons (Figure 27). High quality outdoor living space is an important part of creating attractive urban amenity, and this typically means having a substantial part of the outdoor space on the side or rear of the section. Therefore onsite manoeuvring is not required for lots on residential roads where low traffic volumes and speeds mean that traffic safety will not be compromised by traffic reversing onto a street.

Garage doors can become visually dominating and adversely affect streetscape amenity (Figure 28). If the garage door has to face the street it should be placed 6 metres into the site allowing for on-site parking. The main section of the house can project forward with the minimum front yard of 3 metres and reduce the visual effect of the garage.

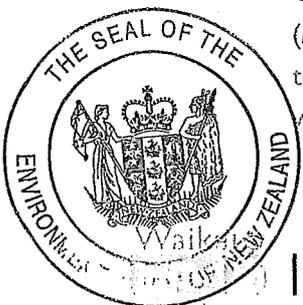


FIGURE 27
Effect of vehicle manoeuvring on small sites.

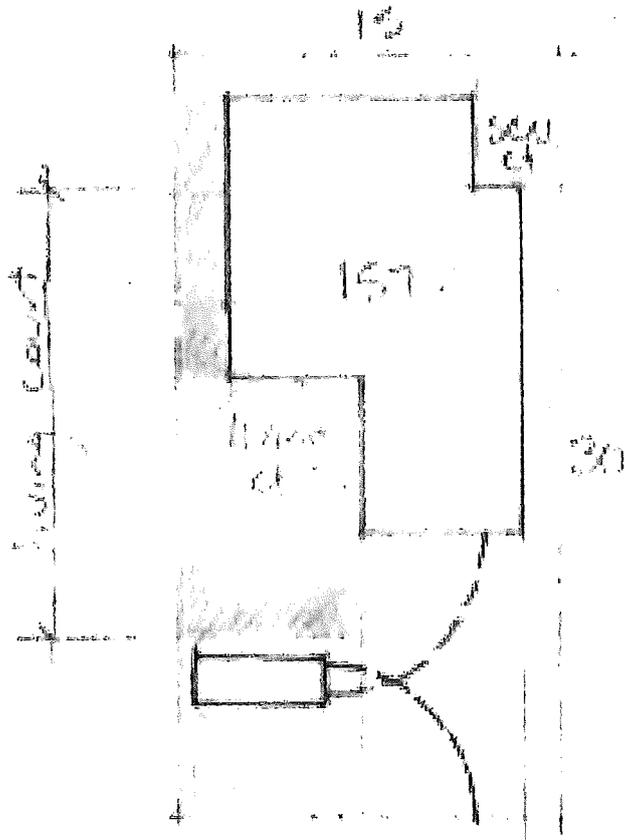
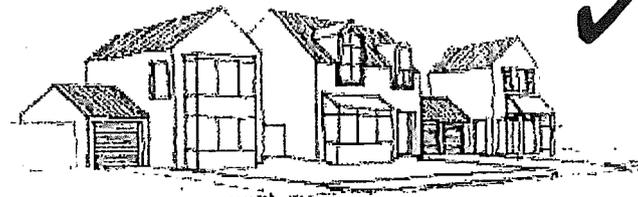


FIGURE 28
Recessed garage doors (bottom).



If streets run along the contours on sloping sites then retaining walls should be located on rear boundaries.



Minimizing retaining walls in the front yard improves the streetscape. Berms or sloping landscaped areas are preferable in front yards (Figure 29 & 30).

FIGURE 29
Retaining walls detract from streetscape.

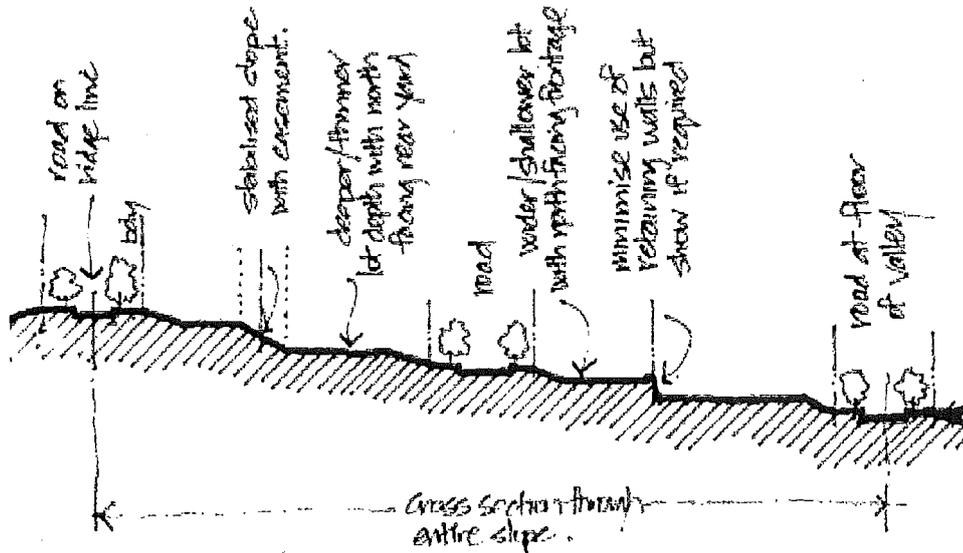
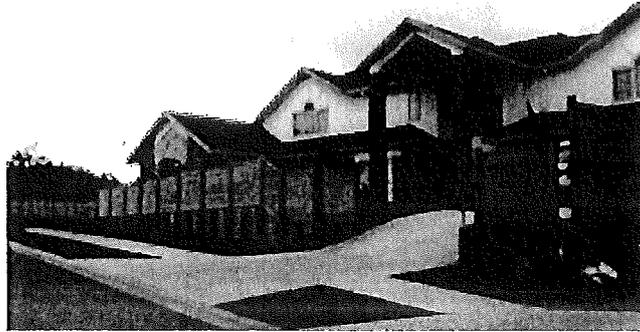


FIGURE 30
Berms in front yards and retaining walls in rear yards.

On steeper slopes cutting building platforms to most of the section area results in very high retaining walls. Reduced building platforms and two storey housing is encouraged to limit the size of retaining walls (Figure 31). Earthworks designed to provide area of usable quality on dwelling sites while retaining much of the original slope profile can be relatively cost effective to achieve, and still create attractive lots.



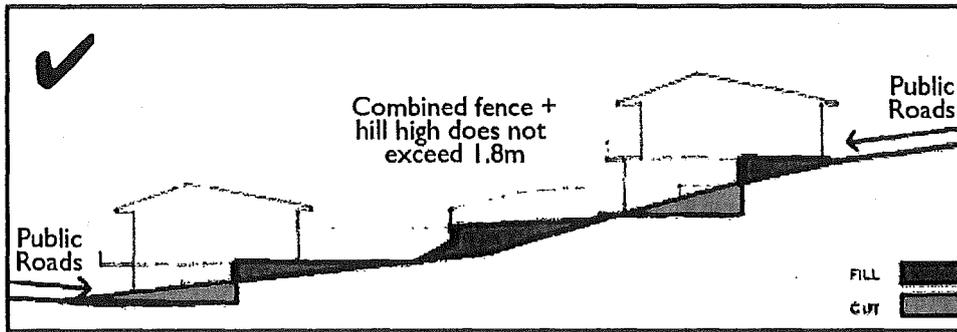


FIGURE 31
Cutting and filling sites to
minimise earthworks on steeper
slopes.

Og5.4 | DESIGN VARIETY [S] [R2]

Housing companies frequently buy a number of sites in subdivisions and use standard designs. A repetitive design creates a monotonous streetscape. No more than three houses in a row having the same plan and finishes avoids this problem.

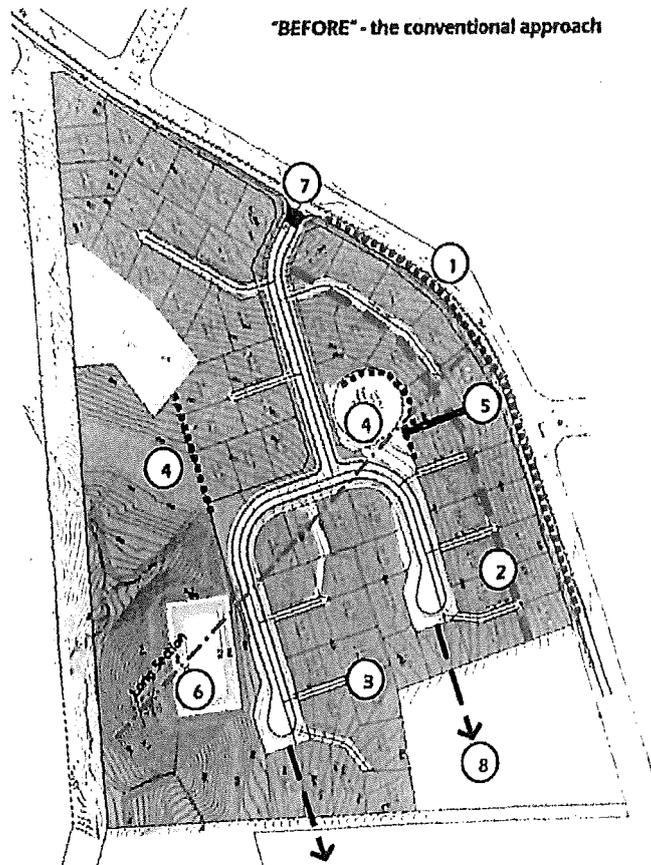
Og5.5 | KEY DESIGN POINTS TO CONSIDER DURING SITE DESIGN

- Consider lot orientation, size and shape to ensure each house has a sunny outdoor living area in the rear yard associated with living areas.
- Design houses to have 'eyes on the street.'
- Avoid garages dominating the streetscape.
- Avoid repetition of standard house plans next to each other.



The following two sketches illustrate all the above design issues combined into a single subdivision. *Figure 32* shows common solutions that do not comply with the Guideline. *Figure 33* shows an alternative design including guideline recommendations. These examples are reproduced with permission from Kapiti Coast District Council.

FIGURE 32
Subdivision design options for same site using principles from Guideline. Courtesy of Kapiti Coast District Council.



Key design elements

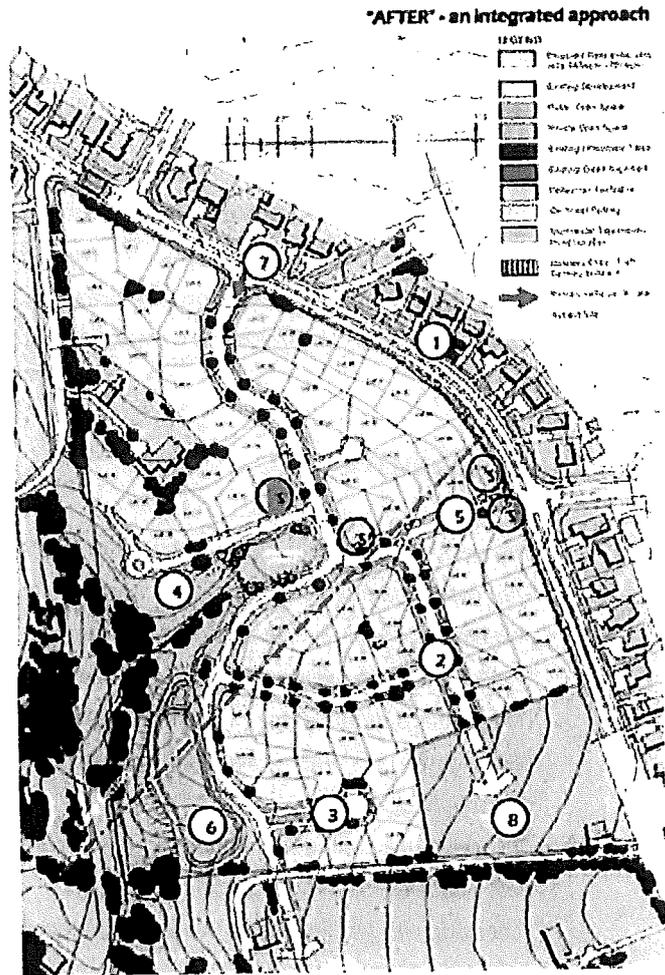
Average lot of size – 600m²

1. Existing roading condition precludes direct vehicle access to individual lots, internal access from Right of Ways results in properties 'backing' onto the main road, which will likely result in solid fencing creating a poor interface.
2. Lack of any sense of 'street' or frontage for many lots.
3. Many lots accessed solely by minimum width ROW – no pedestrian connections to street for residents or visitors.
4. Lots 'back' onto reserves, which will likely result in solid fencing creating a poor interface.
5. Poorly integrated open space to main road, solid fencing likely.
6. Heavily engineered stormwater pond.
7. Entrance point from Main Road located poorly in relation to road curve and sightlines.
8. Lack of future connections for adjacent sites.

No measures beyond Council-imposed conditions put forward to lock in future quality.



FIGURE 33
 Subdivision design options for
 same site using principles from
 Guideline. Courtesy of Kapiti
 Coast District Council.



Key design elements.

Average lot of size – 550m²;
 does not materially affect the
 600m² average size target
 market for this 'product'.

1. Worked with the Council to improve road interface and allow access to the Main Road. Good frontage now possible at this critical interface.
2. Clear demarcation of fronts and backs for all lots providing a sense of 'street frontage'.
3. Limited use of right of ways and cul-de-sacs to maximise site penetration for lots.
4. Reserves have a clear sense of frontage and surveillance.
5. Open space is integrated with main road through shared use of public lane giving width and surveillance for pedestrians.
6. Stormwater pond designed around existing contours to reduce earthworks.
7. Entrance point from main Road moved away from road curve to improve sightlines.
8. Future connections for adjacent sites provided to boundary.

Measures put forward to lock in future quality:

Covenants over fence height and dwelling interface (garage recessed behind dwelling; glazing from a living room fronting the street; clearly legible front doors) to maximise sense of frontage and public realm interface.

'Spot' covenants on key sites ensuring main glazing provides surveillance over potential conflict areas (S).



The following assessment criteria are presented in a hierarchical format, which reflects the scale of their application and their influence on overall urban form and amenity. Priority should be given to those criteria at the top of the hierarchy (permeability, spatial variety and integration of the natural environment, and legibility) that have the greatest influence on large scale, initial site planning matters.

1) PERMEABILITY

- “ The road network generally conforms to the configuration shown in the structure plan.
- “ The road network allows multiple routes for pedestrians, cyclists and motorists to destinations within the site and surrounding area.
- “ The road network allows for future expansion if staging is to occur by providing logical connections to future stages, which will maintain permeability.
- “ Block shapes and street alignments respond to natural topography rather than imposing a geometric grid.
- “ Cul-de-sacs are limited to a maximum length of 100 metres and comprise no more than 20% of streets in each subdivision consent.
- “ Pedestrian-only walkways that connect streets are minimized. In general they will only be accepted where topography or natural features make a street connection difficult.
- “ The street environment encourages walking with separation between footpaths and vehicle carriageways and the provision of street trees.
- “ Rear lots make up less than 10% of lots per neighbourhood block with driveways to rear lots shared by a maximum of two adjoining lots.
- “ 20 metre wide street reserve included where adjacent land is capable of being divided into 4 or more allotments or where another road can be connected.
- “ The subdivision plan and section shapes maximise north-south streets and sections with north, east or west facing rear yards.

2) SPATIAL VARIETY AND INTEGRATION OF THE NATURAL ENVIRONMENT

- “ Blue and green corridors are linked to create natural habitat for wildlife species.
- “ Permanent streams have a riparian margin with public streets included along the perimeter.
- “ Constructed wetlands or detention ponds are integrated with existing green corridors and/or public open space with ecologically appropriate landscape treatment.



- At least 75% of constructed wetland or stormwater detention ponds are bounded by a waterway or public open space.
- Reserves and open space areas are bounded with a public street around at least 50% of the perimeter. Natural landmarks such as ridges, valleys or knolls are used to maintain character and differentiate one neighbourhood from another.
- Retaining walls are located along the rear and side boundaries and minimized in height with berms.

3) LEGIBILITY

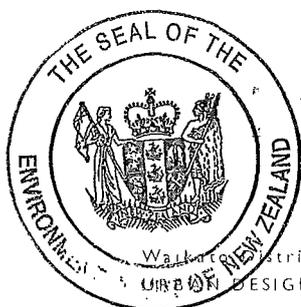
- There is a clear visual distinction between the different street types (local, collector, arterial) within the subdivision, which clearly communicates the street hierarchy.
- Site planning avoids the requirement for back fences facing collector or arterial roads.
- Pedestrian only pathways between private lots are designed to clearly “read” as public thoroughfares, are overlooked by neighbouring properties, and are straight and short.
- To enhance safety, visually impermeable close boarded fences and/or dense privacy planting are not used to define the boundary of public pathways and private properties.
- Roads are aligned to highlight existing landmarks (this may involve orienting roads to focus on prominent landmarks, be they buildings or natural features).
- Streets are visually narrowed by the use of different paving for parking bays.

4) ROBUSTNESS (at the lot level)

- The effects of block size and shape on the configuration of individual lots has been considered at the initial site planning stage of a subdivision.
- Private open spaces are of sufficient size to accommodate a variety of uses (primarily addressed by maximum building coverage rules).
- Private outdoor living courts are located on the northern side of the building platform in the rear or side yard where possible.
- Lot orientation, dwelling heights and setbacks allow private outdoor areas to receive sufficient sunlight.
- Each section is deep or wide enough, and the building platform is positioned, to allow sunlight penetration into the private open space in the rear yard or side yard for a section with a north facing front yard.

5) VISUAL APPROPRIATENESS, RICHNESS AND PERSONALISATION

- Detailed design is contextually appropriate to the surrounding environment (i.e there is a suggested colour palette for building cladding, which reflects the colours of the surrounding landscape or a list of locally appropriate species for reserve and street tree planting).
- Garages are recessed from the street frontage of the house.
- No more than three houses in a row have the same plan or proposed finish.



The overall urban design objective for the Structure Plan is to ensure Te Kauwhata grows in a manner that retains and enhances its village character, and thereby creates an enjoyable living environment. Urban design should integrate the natural environment into the public realm as a feature in the town's layout to reinforce and enhance character. In Te Kauwhata this includes the gently rolling landform, Lake Waikare, the Whangamarino Wetland and the streams that flow into them. This approach is being used to improve Te Kauwhata's connections with Lake Waikare and Whangamarino Wetlands and to provide good walking/ cycling streets between these areas.

All subdivisions in the Te Kauwhata Structure Plan area must take account of the Te Kauwhata Natural Character Plan (Figure 34) to ensure that key natural features are preserved and integrated into the town layout.

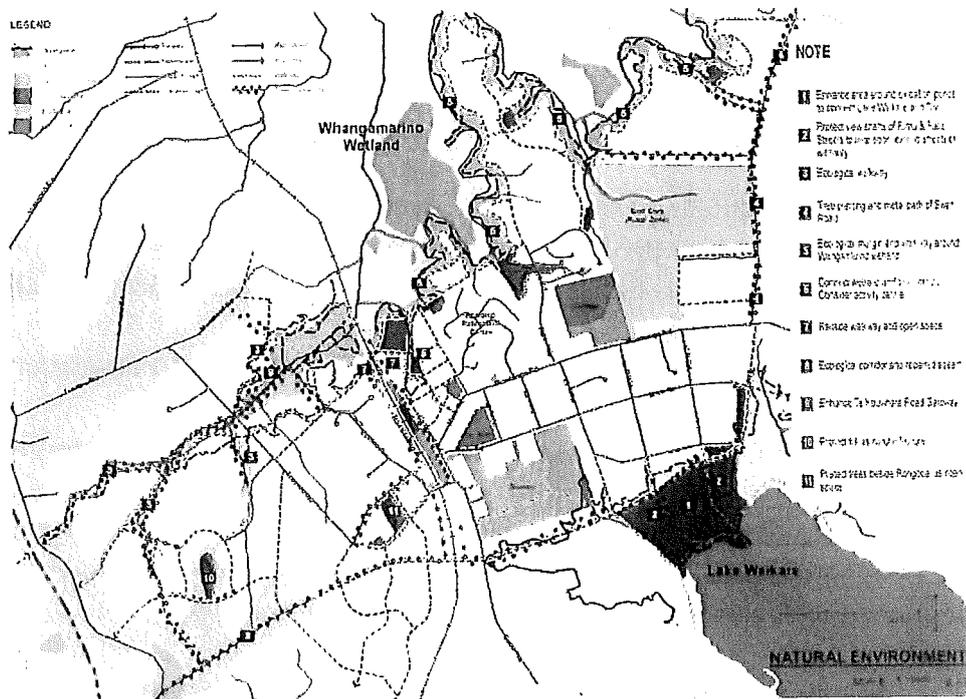


FIGURE 34
Natural Character Plan.



Og8.1 | LAKE WAIKARE

Access to Lake Waikare should be enhanced by walkway or road extensions from existing streets and through the bypass development. This sets the framework for intersection design and landscape elements in the bypass design, lake foreshore enhancement and landscaping projects to be included in Council's LTCCP.

Og8.2 | WHANGAMARINO WETLAND

The Environmental Protection Policy Area applies to the wetland margin. It requires ecological enhancement works to be undertaken and a walkway / cycleway to be developed within the policy area when the property is subdivided. Stormwater management may be integrated into these enhancement works. The Structure Plan requires an edge street along the Whangamarino Wetland margin adjacent to the policy area. An indicative street design, including the shared walkway / cycleway in the policy area are provided in the street types. The street may have to move back from the wetland edge where topography or overland flow paths dictate. This layout will ensure houses look over the walkway / cycleway, which will enhance safety.

On the eastern side of the Blunt Road peninsula an indicative open space reserve is included within the policy area. The exact location is to be determined through the subdivision process. Public open space should also be provided in the new residential area to the north of the golf course.

Og8.3 | TRAVERS ROAD

The Structure Plan proposes ecologically enhancing the existing stream and creating an associated public reserve from upstream of Travers Road to the Whangamarino Wetland. The stream and the reserve will provide significant open space amenity between the Living and Country Living Zones, as well as providing for recreation, stormwater management and ecology. Upstream of Travers Road, the reserve boundary will correspond with the main flood plain ponding area, and roads will be located on both the northern and southern reserve boundaries to make the reserve highly visible and highly accessible. Downstream of Travers Road, a road is to be built on the northern boundary of the reserve, which also corresponds with the flood plain boundary. The southern parts of the flood plain will remain in private ownership.



Og8.4 | TE KAUWHATA ROAD GATEWAY

Tree planting and a shared path improve the main entry route visually and form part of the ecological walkway.

Og8.5 | HILLTOP RESERVE

This proposed reserve keeps the highest point of the Travers/Wayside block as a green feature and preserves natural character in what will become an urbanised area. The reserve is envisaged as a neighbourhood passive open space approximately 1.8 hectares in area with views of the wetland, town centre and Lake Waikare.

Og8.6 | ECOLOGICAL WALKWAY

The red dashed line shows the street and walkway network that creates a recreational circuit around the town. It links Lake Waikare, Swan Road lookout, Whangamarino Wetland, Town Centre, Moorfield Pond, Travers Road Stream, proposed Hilltop Reserve, Rongopai and Te Kauwhata Domain. The street types include a 'Greenway Street' for this route which includes a requirement for 3 metre shared cycleway/walkway and substantial tree planting.

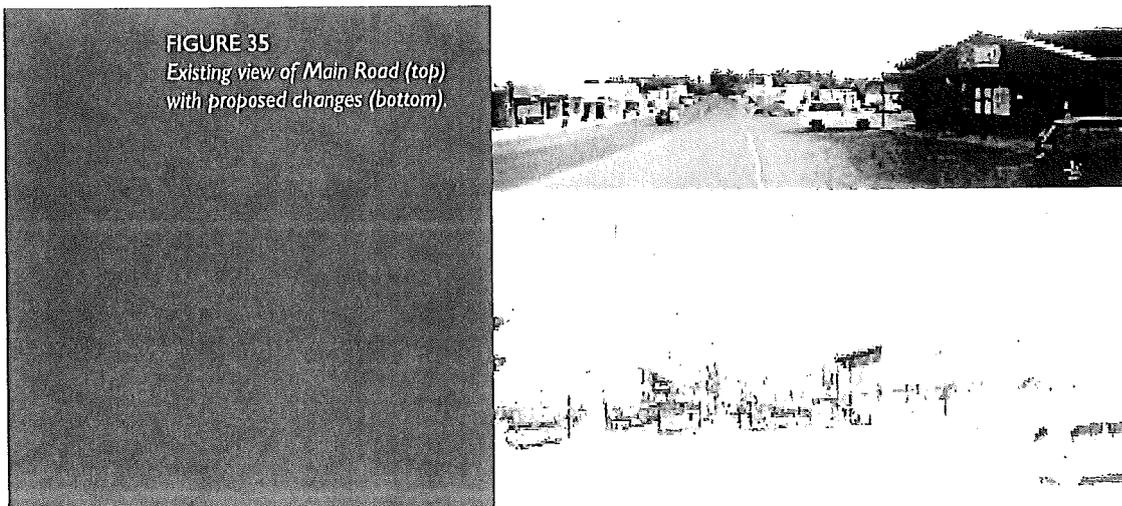
Og8.7 | TOWN CENTRE

The main street of Te Kauwhata slopes gently to the southwest, terminating at the Village Green and railway line. Most of the older buildings are built to the street boundary but some of the newer buildings are set back with landscaped and parking areas located in front. The main street is very wide, does not have any large trees and some sites are vacant. The culmination of all these factors is a main street with very little spatial definition and a loss of character. A planted centre median similar to Bow Street in Raglan is proposed to improve pedestrian safety, slow traffic, add character and serve to contain the street space (*Figure 3*). Some development will involve 'filling' the empty main street sites.

The relationship of the town centre, railway and Waikato Expressway to each other is fortunate to support future growth. The railway and potential station lie at one end of the main street so future rail passenger services can support the town centre. The Waikato Expressway passes along the western edge of Te Kauwhata so provides good vehicle accessibility but does not sever the town centre. In the future walking and cycling to the town centre and rail station will become more important for Te Kauwhata. Walkway connections to the town centre and railway station are an important design component.



FIGURE 35
Existing view of Main Road (top)
with proposed changes (bottom).



Development will also occur in the Mixed Use Policy Area, which provides for both commercial and residential development between the Main Road and Whangamarino Wetland. Refer to Section 23A of the district plan for a concept plan. An indicative road structure is proposed to link the new area and Main Road. Council will also endeavour to formalize service lanes behind businesses on both sides of Main Road.

Commercial and work/live businesses are to be located immediately beside the town centre and railway. The future park and ride is assumed to be located in the land alongside the railway station site. Medium density (terraced) housing is to be located away from the noise of the railway on higher ground with views.

Active street frontages are promoted within the Business Zone. These typically include shops built up to the road edge with 75% window frontage and with service vehicle access from the rear, continuous building facades, numerous building entries, retail and commercial uses predominating on the ground floor, and commercial and residential uses on the upper floors overlooking the street. Developments that involve blank walls along the street, on-street service doors, multiple driveways across the footpath, or high fences along the street do not create active street frontages. Long frontages should be broken into shorter sections to reflect neighbouring lot widths using changes in materials; negative vertical joins or steps in the building line at upper levels.

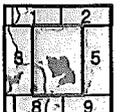
Council is interested in locating some open space and recreational facilities at the northern end of the Mixed Use Policy Area. The Whangamarino flood plain passes through the middle of the policy area. It is to be developed and enhanced as a landscaped open space area that incorporates stormwater management and public access.





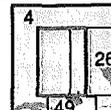
Waikato District Plan

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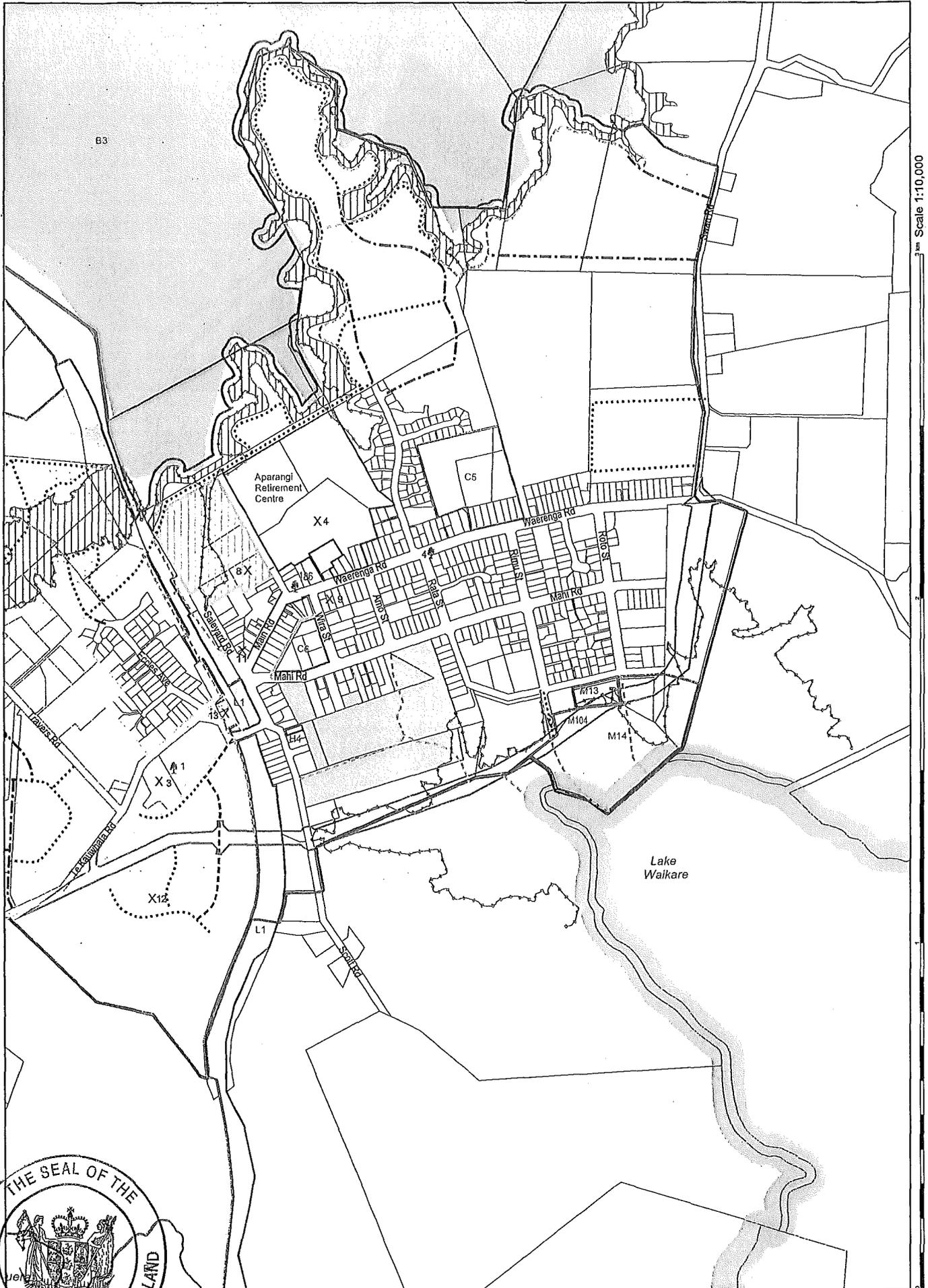


25A Te Kauwhata West

POLICY AREAS



Scale 1:10,000



Scale 1:10,000



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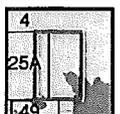
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