

**BEFORE INDEPENDENT HEARING COMMISSIONERS  
APPOINTED BY THE WAIKATO DISTRICT COUNCIL**

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

**AND**

**IN THE MATTER** of the Proposed Waikato District Plan

**BETWEEN** **RANGITAHİ LIMITED**

Submitter [No. 343]

**AND** **WAIKATO DISTRICT COUNCIL**

Local Authority

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**STATEMENT OF EVIDENCE OF  
BEN MAXWELL INGER FOR RANGITAHİ LIMITED**

**16 November 2020**

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## SUMMARY OF EVIDENCE

1. My name is Ben Maxwell Inger and I am a Senior Planner and Operations Manager – Waikato at Harrison Grierson. I summarise my evidence, according to the key headings in this statement, as follows:

### ***Background***

- (a) The Rangitahi Peninsula is subject to a comprehensive structure plan. The structure plan and related provisions were introduced into the Operative Waikato District Plan (**OWDP**) through a private plan change (Plan Change 12) which was made operative in 2015. The plan change involved rezoning the land from Rural Zone to Rangitahi Living Zone.
- (b) Resource consents have been granted to date for Precincts A, B and D, totalling 271 residential lots, which is approximately half the number of lots envisaged in the Rangitahi Structure Plan. Titles for the first stages of development within Precincts A and B were issued in June 2020 and the first houses are currently being built. Construction of civil works for Precinct D is underway.
- (c) There are some key changes in the Proposed Waikato District Plan (**PWDP**) compared to the OWDP. They include a more self-contained framework for the Rangitahi Peninsula Zone in the PWDP, that the Comprehensive Development Plan (**CDP**) land use approach from the OWDP has not carried through into the PWDP, an elevation of the activity status for general subdivision which meets standards from Controlled to Restricted Discretionary Activity, removal of rules limiting affected parties for certain development to Tainui Hapuu only, and the introduction of Significant Natural Areas (**SNAs**).

### ***Policy Context***

- (d) I have identified provisions of the NZ Coastal Policy Statement (NZCPS), Waikato Regional Policy Statement (WRPS) and National Policy Statement on Urban Development (NPS-UD) which are relevant to Rangitahi's submission points. Section 75(3) of the Resource

Management Act 1991 (**RMA**) requires that the district plan must give effect to the provisions of those policy statements.

- (e) I have also identified key policy provisions for the Natural Environment in Chapter 3 of the notified PWDP. These provisions are relevant to Rangitahi's submission points relating to SNAs.
- (f) It is important that the PWDP provisions seek to avoid significant adverse effects on indigenous biodiversity and natural character. Although avoidance of non-significant adverse effects on indigenous biodiversity and natural character is promoted over remediation, mitigation and offsetting, the complete avoidance of effects at all costs is not required or practical.

### ***Rangitahi Submission Points***

- (g) My evidence is structured based on 12 submission topics. I consider the topics of Significant Natural Areas, Secondary Access and Subdivision Variance in Relation to the Structure Plan to be key matters. I characterise the matters dealt with under the other topic headings as 'tidy up' changes.
- (h) I recommend changes to the Rangitahi specific PWDP provisions relating to ecological and habitat values and SNAs, including amendments to Policy 9.3.3.7 and to Rules 28.2.4.1, 28.2.8 and 28.4.5. The changes recognise that short term, minor and localised impacts associated with specific activities are unlikely to have significant adverse effects and that mitigation or offset is appropriate for these activities if avoidance cannot be achieved. I also recommend changes to a mapped SNA in Precinct A to better reflect the existing land uses.
- (i) The PWDP provisions requiring a Secondary Access are confusing and differ in some significant respects to the provisions in the OWDP. Based on Mr Clark's traffic evidence, I consider that there is no need for a Secondary Access to the Rangitahi Peninsula. Mr Clark's conclusion is that the Primary Access via Oporu Road and the new bridge has capacity for the development envisaged by the Rangitahi Structure Plan and the resilience benefits of a Secondary Access are

minor. Accordingly, I recommend that Policy 9.3.5.4 and subdivision Rules 28.4.1 RD1(a)(v) and 28.4.2 C1(a)(vi) be deleted.

- (j) Now that general subdivision is a Restricted Discretionary Activity in the PWDP, I consider that variance from the Rangitahi Structure Plan should be assessed through assessment criteria and policies, rather than through prescriptive variance standards. As an exception, I recommend that the number of dwellings illustrated for each Precinct on the Neighbourhood Outcomes Plan should be a specific subdivision standard, with retention of the current approach of a 10% allowable increase. Tight control through variation standards for the road locations and the development precinct areas and boundaries is less critical in my view and these matters can be considered in a less prescriptive way. I recommend changes to Rules 28.4.1 and 28.4.2 accordingly.

#### ***Issues Raised in Other Submissions***

- (k) Rangitahi made a further submission in support of a submission by the Ministry of Education seeking for education facilities to be a Restricted Discretionary Activity in the Rangitahi Peninsula Zone. However, I agree with the recommendation made in the Section 42A Report to reject the requested relief. This is because child care facilities are already listed in Rule 28.1.2 as a Controlled Activity and the Ministry of Education would generally designate land for the purposes of schools.

#### ***Issues Raised in Section 42A Report***

- (l) I have addressed issues raised in the Section 42A Report throughout my evidence. In summary, I support a number of the changes that the Section 42A Report recommends in response to the Rangitahi submission.

#### ***Conclusion***

- (m) I generally support the changes and the provisions for the Rangitahi Peninsula Zone in the PWDP, with some exceptions which I have addressed in my evidence.

- (n) The changes that I recommend to the PWDP are set out in **Attachment 3**. They relate to the key matters of Significant Natural Areas, Secondary Access and Subdivision Variance in Relation to the Structure Plan, as well as other topics.

## INTRODUCTION

2. My name is Ben Maxwell Inger.
3. I am Operations Manager – Waikato at Harrison Grierson, in Hamilton. I hold the qualifications of Bachelor of Planning (Honours) from the University of Auckland. I am a Full Member of the New Zealand Planning Institute.
4. I am a Senior Planner with 14 years' experience. Over this time, I have been employed in private consultancies working for both private and public sector clients, including developers and local authorities in the Waikato region. My experience includes preparation of plan changes and submissions and planning evidence related to proposed district plans as well as preparation and processing of resource consent applications for residential, commercial and infrastructure projects. I am a current member of Hamilton City Council's Urban Design Panel.
5. I led the preparation of the applications for the Rangitahi Precinct B and D resource consents in 2017. The land use and subdivision consents were granted in April 2018 for a total of 175 residential lots, as well as recreation reserves, walking and cycle connections, roads to vest and farm lot ecological enhancement.
6. I have been retained by Rangitahi Limited to prepare a statement of evidence on its submission on the Proposed Waikato District Plan (**PWDP**) for the Rangitahi Peninsula Zone hearing.
7. I visit Raglan regularly and I am familiar with the township and with the Rangitahi Peninsula and surrounding environment. I have visited the Rangitahi site on numerous occasions over the past 2-3 years.
8. In preparing this evidence I have read the following documents:
  - (a) Rangitahi's submission and further submission on the pWDP (my colleague Michael Briggs prepared the submissions);
  - (b) Mr Ian Clark's statement of traffic evidence on behalf of Rangitahi;
  - (c) The Section 32 report; and
  - (d) The Section 42A report.

### **CODE OF CONDUCT**

3. I have read the Environment Court Code of Conduct for expert witnesses and agree to comply with it.
4. I confirm that the topics and opinions addressed in this statement are within my area of expertise except where I state that I have relied on the evidence of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

### **SCOPE OF EVIDENCE**

9. My evidence is structured by topic and covers the following:
  - (a) Background to the submission, including a brief background to the Rangitahi Peninsula Zone and an overview of the current status of the development;
  - (b) A summary of key higher order policy relevant to Rangitahi's submission;
  - (c) Changes that I recommend to the PWDP provisions to address the matters raised in Rangitahi's submission. This section is structured by topic matter;
  - (d) Comments on issues raised in other submissions;
  - (e) Comments on issues raised in the Section 42A Report;
  - (f) My overall conclusions in relation to the submission points.
10. Rangitahi worked collaboratively with Waikato District Council on draft provisions prior to notification of the PWDP. I assisted with some of this input. More recently, I have had several discussions regarding the Rangitahi Peninsula Zone provisions with the Council's Section 42A Report author, Ms Chloe Trenouth, prior to and following the completion of the Section 42A Report for this hearing. These discussions have resulted in Ms Trenouth and I agreeing on a large number of matters. I have noted throughout my evidence where I agree with the recommendations contained in the Section 42A Report.

11. There are three submission points which my evidence does not address on the basis that Rangitahi has decided not to pursue the changes that were requested in the submission. They are:
  - (a) Submission point 343.3 – Flexibility in terms of Rangitahi Structure Plan due to physical characteristics.
  - (b) Submission point 343.6 – Policy addressing net environmental gain.
  - (c) Submission point 343.18 - Title boundaries for subdivision containing contaminated land.

## **BACKGROUND**

### ***Rangitahi Structure Plan***

12. Rangitahi is a predominantly residential community which is being developed on the Rangitahi Peninsula in the south-western area of Raglan. Rangitahi Ltd has recently completed significant upgrades to Oporuru Road and the construction of a new bridge over an inlet of the Whaingaroa Harbour to provide access to the peninsula. Titles for the first stages of development within Precincts A and B were issued in June 2020 and the first houses are currently being built. Construction of civil works for Precinct D is underway.
13. The Rangitahi Peninsula is subject to a comprehensive structure plan. The structure plan and related provisions were introduced into the Operative Waikato District Plan (**OWDP**) through a private plan change (Plan Change 12) which was made operative in 2015. The plan change involved rezoning the land from Rural Zone to Rangitahi Living Zone.
14. The Rangitahi Structure Plan enables an environmentally sensitive approach to development in accordance with landscape management, urban design and structure planning best practice. It responds to the site's setting, the environment and Raglan's special character. The Structure Plan includes seven development precincts (Precincts A-G), rural balance lots for farming and an extensive network of reserves and walkways. Of the total 97.38 hectare Structure Plan area, the total development area within the seven precincts is approximately 31.34 hectares.

15. Resource consents have been granted to date for Precincts A, B and D, totalling 271 residential lots. I have been advised by the Submitter's Development Manager, Mr Tony McLauchlan, that demand for the residential lots has been strong and he expects that subdivision of the Structure Plan area will be fully completed (to issue of titles) within approximately 5-10 years.

***Differences in approach between the Operative and Proposed District Plans***

*Operative Waikato District Plan*

16. The Rangitahi provisions in the OWDP are predominantly in Chapter 15B Rangitahi Peninsula Structure Plan (Part 1 Issues, Objectives and Policies) and Chapter 21 Living Zone (Part 2 Rules). The specific rules for Rangitahi are contained in Schedule 21C Rangitahi Living Zone Rules, Structure Plan and Comprehensive Development Plan. The Rangitahi provisions are not entirely self-contained under the OWDP because some of the general Living Zone rules apply.
17. The general approach in the OWDP requires that a Comprehensive Development Plan (**CDP**) must be approved through a land use consent prior to subdivision and development of each of the precincts occurring. The approach which was taken for Precincts A, B and D involved applying for the CDP land use consents concurrently with the subdivision consents for each precinct.
18. CDPs are Controlled Activities under the OWDP<sup>1</sup>, provided specific standards are met, including that development must be closely similar to the Rangitahi Structure Plan. The rules include variance standards which assist in determining activity status based on the variance between the Structure Plan and the CDP layout. The variance standards relate to development precinct areas, development precinct boundaries, development precinct densities, collector road locations and the secondary access location. Applications which exceed any of the variance thresholds become either Discretionary<sup>2</sup> or Non-Complying<sup>3</sup> Activities depending on the extent of the variance.

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<sup>1</sup> OWDP Rule 21C.10.1

<sup>2</sup> OWDP Rule 21C.10.3

<sup>3</sup> OWDP Rule 21C.10.4

19. Prior to approval of a CDP, any activity that is not listed as an exception in Rule 21C.10.1 is a Non-Complying Activity. The exceptions are relatively limited in scope and they do not include, for instance, residential development and use or subdivision.
20. Applications for approval of a CDP as a Controlled Activity must expressly be considered without public or limited notification, except that Tainui Hapuu are specifically identified in the OWDP as an affected party. If Tainui Hapuu's approval is not obtained then notice of a CDP application must be served on them on a limited notified basis<sup>4</sup>.
21. Subdivision is a Controlled Activity under the OWDP<sup>5</sup> where it is in accordance with the Rangitahi Structure Plan and where it is on a site for which a CDP has been approved. Non-compliance with any of the subdivision standards results in a Discretionary Activity status<sup>6</sup>.

*Proposed Waikato District Plan*

22. The Rangitahi provisions in the PWDP are predominantly contained in Chapter 9 Specific Zones (Section B Objectives and Policies), Chapter 28 Rangitahi Peninsula Zone (Section C Rules) and Chapter 29, Appendix 8 Rangitahi Structure Plan (Section D Appendices and Schedules).
23. I summarise key changes between the PWDP and the OWDP as follows:
  - a) The rules in the PWDP are entirely separate from the Residential Zone rules. This results in a greater degree of independence for the Rangitahi Peninsula Zone than the approach in the OWDP.
  - b) The CDP land use approach from the OWDP has not carried through into the PWDP. The Section 32 Report explains that this is because the CDP provisions are *ultra vires*. As a result, there is greater reliance in the PWDP on the subdivision consent establishing the final layout of the precincts.
  - c) Subdivision which complies with the relevant standards, including detailed standards controlling variance between the Rangitahi Structure Plan and the subdivision, is a Restricted Discretionary

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<sup>4</sup> OWDP Rule 21C.10.2

<sup>5</sup> OWDP Rule 21C.20.1

<sup>6</sup> OWDP Rule 21C.20.2

Activity (rather than a Controlled Activity as it is in the OWDP). General subdivision that does not comply is a Discretionary Activity. The only subdivision which is a Controlled Activity under the PWDP is boundary adjustments.

- d) There is no rule in the PWDP which limits affected parties to Tainui Hapuu as there is in the OWDP for CDPs. However, Tainui Hapuu is identified as an affected party for subdivision consent from whom written approval must be obtained, otherwise notice must be served on a limited notified basis.
  - e) Six Significant Natural Areas (**SNAs**) are identified within the Rangitahi Structure Plan area in the PWDP planning maps, whereas the OWDP did not identify any SNAs at Rangitahi. The SNAs conflict in some areas with the layout of roads and lots and with walkways and cycleways which are identified in the Rangitahi Structure Plan.
24. I generally support the changes and the provisions for the Rangitahi Peninsula Zone in the PWDP, with some exceptions which are addressed in the following sections of my evidence.

## **POLICY CONTEXT**

### ***NZ Coastal Policy Statement (NZCPS)***

25. Section 75(3)(b) requires the district plan to give effect to the New Zealand Coastal Policy Statement. In this section of my evidence, I discuss relevant provisions of the NZCPS as they are relevant to Rangitahi's submission points relating to SNAs that I discuss later.
26. I consider that the policies of the NZCPS which are of greatest relevance to the matters in consideration are Policy 6 (Activities in the coastal environment), Policy 7 (Strategic planning), Policy 11 (Indigenous biological diversity (biodiversity)), Policy 13 (Preservation of natural character), Policy 14 (Restoration of natural character), Policy 18 (Public open space) and Policy 19 (Walking access).
27. Policy 6 recognises that infrastructure is important to wellbeing of communities. The policy requires consideration of the rate at which built development and associated public infrastructure should be enabled to

provide for population growth without compromising the other values of the coastal environment.

28. Policy 7 sets out that policy statements and plans must consider where, how and when to provide for urban development in the coastal environment and where areas of the coastal environment are inappropriate for development or may be inappropriate without consideration of effects through a resource consent application or Schedule 1 process. Where practicable, plans may specify applicable limits to change.
29. Policy 11 sets out the approach required to protect indigenous biological diversity in the coastal environment. The policy is divided into two parts. Policy 11(a) sets out biodiversity attributes in relation to which adverse effects of activities must be avoided. Policy 11(b) sets out biodiversity attributes in relation to which significant adverse effects of activities must be avoided (my emphasis). The matters in Policy 11(a) include threatened indigenous taxa, ecosystems and vegetation types, habitats of indigenous species where the species are at the limit of their natural range or are nationally rare, areas containing significant examples of indigenous community types and areas set aside for protection under other legislation.
30. Policy 13 seeks to preserve the natural character of the coastal environment and protect it from inappropriate subdivision, use and development. The policy sets out that adverse effects must be avoided in areas of the coastal environment with outstanding natural character and that significant adverse effects must be avoided in all other areas of the coastal environment (my emphasis). Policy 14 seeks to restore the natural character of the coastal environment, including by identifying areas and opportunities for restoration or rehabilitation.
31. Policy 18 seeks to provide public open space including esplanade reserves and strips and their important role in meeting public open space needs. Policy 19 establishes the importance of public walking access to and along the coast, with public walking access only to be restricted where it is necessary to do so, including to protect threatened indigenous species.

***Waikato Regional Policy Statement (WRPS)***

32. Section 75(3)(c) requires the district plan to give effect to the Regional Policy Statement. In this section of my evidence, I discuss relevant provisions of the WRPS as they are relevant to Rangitahi's submission points relating to SNAs that I discuss later.
33. I consider that the provisions of the WRPS which are of greatest relevance to the matters in consideration are the provisions for Indigenous biodiversity in Policy 11 and the provisions for Landscape (including seascape), natural character and amenity in Policy 12.
34. Policy 11.1 in the WRPS is to maintain or enhance indigenous biodiversity. The policy seeks to promote positive indigenous biodiversity outcomes and to maintain or enhance their spatial extent.
35. Policy 11.2 in the WRPS is to protect significant indigenous vegetation and significant habitats of indigenous fauna by ensuring the characteristics that contribute to their significance are not adversely affected to the extent that the significance of the vegetation or habitat is reduced. Method 11.2.2 sets out that district plans shall require that activities avoid the loss or degradation of areas of significant indigenous vegetation and significant habitats or indigenous fauna in preference to remediation or mitigation. Where adverse effects are unavoidable they must be remedied or mitigated. Where adverse effects are unable to be avoided, remedied or mitigated, more than minor effects must be offset to achieve no net loss. The Method recognises that remediation, mitigation and offsetting may not be appropriate where the indigenous biodiversity is rare, at risk, threatened or irreplaceable.
36. Policy 11.4 in the WRPS is to safeguard coastal/marine ecosystems by avoiding adverse effects on the specific matters listed in Policy 11.4(a), which are similar to the matters listed in Policy 11(a) of the NZCPS. Other indigenous biodiversity in the coastal environment is required to be maintained or enhanced, including indigenous habitats and ecosystems that are unique to the coastal environment and areas of predominantly indigenous vegetation.
37. Policy 12.2 in the WRPS is to preserve natural character. It requires that activities within the coastal environment must be appropriate in relation to the

level of natural character. Activities should avoid adverse effects on natural character where it is pristine or outstanding. Where natural elements/influences are dominant, activities should avoid significant adverse effects and avoid, remedy or mitigate other adverse effects on natural character. The restoration of the coastal environment is to be promoted.

38. Policies 12.4 and 12.5 in the WRPS seek to enhance public access to and along the coastal marine area, other than in limited circumstances included where necessary to protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna.

***National Policy Statement on Urban Development***

39. Section 75(3)(a) requires the district plan to give effect to any national policy statement. I consider the National Policy Statement on Urban Development (**NPS-UD**) to be relevant. In this section of my evidence, I discuss relevant provisions of the NPS-UD as they are relevant to Rangitahi's submission points that I discuss later. The NPS-UD came into force on 20 August 2020.
40. The NPS-UD must be considered by local authorities that have an urban environment within their district or region when making planning decisions which affect an urban environment. An urban environment under the NPS-UD is any area of land that is, or is intended to be, predominantly urban in character and is, or is intended to be, part of a housing and labour market of at least 10,000 people. Raglan meets this definition because the Waikato 2070 Growth and Economic Development Strategy identifies a possible future population of 12,500 people in Raglan in 2070.
41. I consider that key provisions in the NPS-UD relevant to the matters in consideration are Objective 1, Objective 4, Policy 1 and Policy 6.
42. Objective 1 is that *"New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future"*. Policy 1 explains the meaning of well-functioning urban environment. As a minimum, they must have or enable a variety of homes, have or enable a variety of sites that are suitable for different business sectors, have good accessibility between housing, jobs, community services, natural spaces, and open spaces, support the competitive operation of land and development

markets, support reductions in greenhouse gas emissions and be resilient to likely current and future effects of climate change.

43. Objective 4 is that *“New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations”*.
44. Policy 6 sets out the matters that decision-makers must have particular regard to when making planning decisions that affect urban environments. They include the planned urban built form anticipated by RMA planning documents that have given effect to the NPS-UD, that the planned urban built form may involve significant changes to an area, the benefits of urban development that are consistent with well-functioning urban environments, any relevant contribution that will be made to meeting the NPS-UD to provide or realise development capacity and the likely current and future effects of climate change.

### ***Proposed Waikato District Plan – Chapter 3 Natural Environment***

45. Chapter 3 of the PWDP contains the objectives and policies for the Natural Environment. Objective 3.1.1 relates to biodiversity and ecosystems. It seeks to maintain or enhance indigenous biodiversity values and the life-supporting capacity of indigenous ecosystems. Objective 3.2.1 seeks to protect and enhance Significant Natural Areas.
46. Policy 3.2.3, which relates to SNAs, establishes a management hierarchy for protection of SNAs. It prioritises avoidance but recognises that some activities may need to be enabled and establishes remediation, mitigation and offsetting as options when effects cannot be avoided.
47. Policy 3.2.5 deals specifically with biodiversity in the coastal environment. It seeks avoidance of the adverse effects of subdivision, use and development within SNAs of the coastal environment on a range of matters which are listed in (i) to (v) in the policy. Those matters are derived from Policy 11(a) of the NZCPS.

### **RANGITAHU SUBMISSION POINTS**

48. A tracked change version of PWDP Chapter 9 (Objectives and Policies for Specific Zones), Chapter 13 (Definitions) and Chapter 28 (Rules for the

Rangitahi Peninsula Zone) is included in **Attachment 3** of my evidence which sets out the changes that I am recommending<sup>7</sup>.

***Objectives and Policies – Non-Residential Activities (submission point 343.4, 343.5 and 343.20)***

49. Objective 9.3.2 relates to non-residential activities. Rangitahi’s submission seeks for the objective to be amended to require that non-residential activities must not have ‘significant adverse’ traffic effects. This wording is contained in the equivalent objective in the OWDP. There is no apparent reason for setting a higher threshold for traffic effects in the PWDP. Without the words ‘significant adverse’ the objective would require non-residential activities to have no adverse effects on traffic which is not a practical or reasonable expectation.
50. The amendment that I recommend is as follows:
- “9.3.2 Objective – Non-residential activities*
- (a) Non-residential activities contribute to village character without significant adverse effects on the role, amenity, commercial and social function of the Raglan town centre or significant adverse effects on traffic.”*
51. The Section 42A Report recommends acceptance of this change.
52. Policy 9.3.2.1, which relates to Objective 9.3.2, deals with commercial activities. Rangitahi’s submission identifies a formatting error and seeks to ensure that the policy anticipates residential activities at ground floor as well as above ground floor in mixed-use developments.
53. The Section 42A Report agrees there is a formatting error and that the policy should be corrected in this respect. Regarding residential activities at ground floor, the Section 42A Report identifies that there are no rules preventing ground floor residential activities in mixed-use developments and it concludes that the requested amendment is not required.
54. I agree with the Section 42A Report conclusion that the policy does not mean that residential activities cannot be located at ground floor level within mixed-

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<sup>7</sup> The base document for the tracked changes is the versions attached to the s42A Report.

use developments. The aspect of the policy that addresses residential activities above ground floor, which is “*provide residential activities that are above ground floor with adequate amenity*”, is concerned with providing adequate amenity for residents of those above ground floor units. I am satisfied that this wording can remain unchanged.

***Significant Natural Areas (submission points 343.7, 343.23 and 343.27)***

*Introduction*

55. The Rangitahi submission seeks an amendment to Policy 9.3.3.7 to adopt the same approach taken in Policy 15B.3.23 of the OWDP by enabling mitigation of short term, minor or localised degradation effects on ecological and habitat values where they cannot be practically avoided. The submission also seeks amendments to the Rangitahi Peninsula Zone rules for earthworks and indigenous vegetation clearance within SNAs, particularly for the construction of roads.
56. There are some roads, as well as walkways and cycleways, shown in the Rangitahi Structure Plan which pass through areas of ecological values identified on the Structure Plan and SNAs identified in the planning maps. There are also some lots within the Structure Plan development precincts which overlap SNA boundaries. Refer to the map in **Attachment 1**.

*Proposed Waikato District Plan – Rangitahi Specific Provisions*

57. Objective 9.3.3 establishes an overarching approach of maintenance and enhancement of natural features of the Rangitahi Peninsula, including ecology, habitat and the coastal environment. The associated policies identify the provision of green spaces (including along the coast), planting with locally appropriate indigenous coastal species, planting of gully systems and stream margins to achieve net environmental gain and planting of steep slopes.
58. Policy 9.3.3.7 relates to significant ecological and habitat values, which must be maintained and enhanced, with loss of significant indigenous vegetation and loss of significant habitat of indigenous fauna avoided. It is this policy that the Rangitahi submission seeks amendments to.
59. Policy 9.3.5.5 relates to open space and coastal access. It seeks to provide public access to the coastal environment within the Rangitahi Structure Plan

area in a way that (amongst other things) avoids significant adverse effects on ecological values and on the natural environmental character of the coastal environment.

60. Earthworks within SNAs are either Permitted, Restricted Discretionary or Discretionary Activities under Rule 28.2.4.3 in the notified PWDP. Permitted activities are limited to earthworks for maintenance of existing tracks, fences or drains and are also subject to conditions regarding area, volume and fill importation.
61. Indigenous vegetation clearance within SNAs is either a Permitted or Discretionary Activity under Rule 28.2.8 in the notified PWDP. The Permitted activities cover a range of scenarios, including removing vegetation that endangers human life, maintaining tracks and fences, and clearance for building, access, parking and manoeuvring areas in a SNA where there is no alternative development area outside the SNA and where the total area cleared does not exceed 250m<sup>2</sup>.
62. Rule 28.4.5 in the notified PWDP requires that title boundaries of every proposed lot must not divide SNAs or a Maaori Site of Significance. There are no Maaori Sites of Significance mapped within the Rangitahi Peninsula Zone but there are six SNAs. The SNAs are linear in shape and they conflict with the location of some lot boundaries shown on the Rangitahi Structure Plan (refer to **Attachment 1**). A Non-Complying Activity status applies where compliance is not achieved.

#### *Analysis*

63. The higher order policy in the NZCPS and WRPS, which the PWDP must give effect to, requires that significant adverse effects on indigenous biodiversity within the coastal environment must be avoided. It also requires that significant adverse effects on the natural character of the coastal environment should be avoided in areas where natural character is not outstanding.
64. For indigenous biodiversity, a higher threshold of avoidance of all effects is only required if the site contains any of the biodiversity values listed in Policy 11(a) of the NZCPS and Policy 11.4(a) of the WRPS. For natural character, a higher threshold of avoidance of all effects is only required where the site is identified as having outstanding natural character. The Rangitahi Peninsula

Zone is not within the areas mapped in the PWDP as Natural Character, Outstanding Natural Feature or Outstanding Natural Landscape.

65. It is therefore important that the PWDP provisions seek to avoid significant adverse effects. Although avoidance of non-significant adverse effects on indigenous biodiversity and natural character is promoted over remediation, mitigation and offsetting, the complete avoidance of effects at all costs is not required or practical.
66. Development of the Rangitahi Peninsula has already been determined to be an appropriate use of the site, provided it is undertaken in a manner that is consistent with the objectives and policies for the Rangitahi Peninsula Zone and with the Rangitahi Structure Plan. Those provisions anticipate that maintenance and enhancement of the natural environment will be achieved, particularly through indigenous planting restoration of the site as part of the development approach.
67. Earthworks and indigenous vegetation clearance are likely to be required within SNAs on the Rangitahi Peninsula to construct some of the roads which are identified on the Rangitahi Structure Plan. There are two locations in Precinct E where SNAs conflict with future roads identified in the Structure Plan. Earthworks and indigenous vegetation clearance also may be required within SNAs for the purposes of constructing and maintaining of tracks and fences and for ensuring people's safety. Some of the SNAs within the Rangitahi Peninsula Zone are in areas where public access is anticipated through coastal reserves and walking and cycling networks identified on the Rangitahi Structure Plan. The SNAs are also located in areas where stormwater infrastructure is likely to be required to manage discharges to the coast.
68. The relief sought in Rangitahi's submission is to amend the SNA rules rather than amend or remove the six mapped SNAs. Given the relatively extensive area of coverage of the SNAs and their location within the Coastal Environment, it is important that the PWDP rules set appropriate thresholds for resource consents to be required in order to avoid significant adverse effects, and that the rules enable further consideration of ecological values and appropriate responses at resource consent stage for activities which do require resource consents. The subdivision consent applications approved to

date for Precincts A, B and D have all been accompanied by ecological assessments and ecological responses are evident through planting which has already occurred.

*Policy 9.3.3.7*

69. I recommend the following changes to Policy 9.3.3.7 in the PWDP:

*“9.3.3.7 Policy – Ecological and habitat values*

*(a) The significant ecological and habitat values of the Rangitahi Peninsula are maintained and enhanced.*

*(b) The loss of significant indigenous vegetation and significant habitat of indigenous fauna should be avoided.*

*(c) Short term, minor or localised degradation effects for the construction and maintenance of roads, infrastructure, walkways and cycleways in accordance with the Rangitahi Structure Plan should be mitigated or offset if they cannot practicably be avoided.*”

70. The changes recognise that short term, minor and localised impacts associated with specific activities are unlikely to have significant adverse effects and that mitigation or offset is appropriate for these activities if avoidance cannot be achieved.

71. My recommended wording is similar to the changes which are recommended in the Section 42A Report. It is also similar to the wording contained in the OWDP. The differences are that my suggested changes refer to construction and maintenance and include reference to infrastructure, walkways and cycleways, as well as roads. My changes also refer to offsetting, which recognises that ecological restoration is a key part of the approach to development at Rangitahi.

*Earthworks Rules*

72. The rules for earthworks and indigenous vegetation clearance have previously been considered through the Section 42A Report for the SNA hearing. The Section 42A Report for the Rangitahi hearing adopts the same changes in its recommendations.

73. I support the earthworks rules which are recommended in the Section 42A Reports because they provide a suitable threshold for Permitted Activities and a suitable approach for activities requiring resource consent. The rules can be summarised as:
- (a) Earthworks for the maintenance of existing tracks, fences or drains within a SNA are recommended to be a Permitted Activity (Rangitahi Section 42A Report, Rule 28.2.4.1 P3); and
  - (b) Earthworks in a SNA for purposes other than the maintenance of existing tracks, fences or drains are recommended to be a Restricted Discretionary Activity (Rangitahi Section 42A Report, Rule 28.2.4.1 RD2).
74. In my opinion, the Permitted Activity rules suitably cover earthworks activities which are low risk and likely to be low scale. These activities are unlikely to have significant adverse effects. The Restricted Discretionary Activity status for other earthworks allows a specific assessment to be undertaken through a resource consent process, with assessment criteria which allow for effects on the SNA to be considered.

*Indigenous Vegetation Clearance Rules*

75. The Section 42A Report recommendations for indigenous vegetation clearance are more restrictive than the notified PWDP provisions because all indigenous vegetation clearance within the SNAs would be a Discretionary Activity under Rule 28.2.8 D3, irrespective of the scale or purpose of the vegetation clearance. That is due to the entire Rangitahi Peninsula Zone being within the Coastal Environment. This means that, for example, the removal of a tree presenting an immediate and significant public risk would require resource consent as a Discretionary Activity. The removal of a tree to maintain tracks or fences would also require resource consent as a Discretionary Activity.
76. With reference to the Section 42A Report recommendations, I consider that:
- (a) Rule 28.2.8 P1 should be retained to enable indigenous vegetation clearance for specific purposes as a Permitted Activity and that it should apply to all SNAs within the Rangitahi Peninsula Zone (which is entirely located within the Coastal Environment). The

recommended wording of Rule 28.2.8 P1 in the Section 42A Report, which I support, is as follows:

*“(a) Indigenous vegetation clearance in a Significant Natural Area for the following purposes:*

*(i) Removing vegetation that endangers human life or existing buildings or structures; or*

*(ii) Conservation fencing to exclude stock or pests; or*

*(iii) Maintaining existing farm drains; or*

*(iv) Maintaining existing tracks and fences; or*

*(v) Gathering plants in accordance with Maaori customs and values; or”*

- (b) Rule 28.2.8 P7, which relates to trimming or pruning of indigenous vegetation in a SNA, should be retained as a Permitted Activity for all SNAs within the Rangitahi Peninsula Zone. It states:

*“The trimming or pruning of indigenous vegetation in a Significant Natural Area which will not directly result in the death, destruction, or irreparable damage of the vegetation”.*

- (c) Rule 28.2.8 D3, which is *“Indigenous vegetation clearance within a Significant Natural Area within the Coastal Environment”*, should be deleted. I recommend a single rule making all indigenous vegetation clearance in SNAs within the Rangitahi Peninsula Zone a Discretionary Activity, except for the activities in Rules 28.2.8 P1 and P7 which are outlined above.

#### *Subdivision Lot Boundary Rules*

77. In terms of Rule 28.4.5, it is likely that the boundaries of some lots will divide SNAs unless there are relatively substantial departures from the Rangitahi Structure Plan in some locations. The purpose of this rule is likely to be to enable better management of the SNAs and to reduce the likelihood of their fragmentation. The indigenous vegetation clearance rules will largely manage this.
78. Given there is a structure plan in place, I consider a Discretionary Activity status is more appropriate than Non-Complying for subdivision which divides

SNAs between lots. I agree with the change recommended to Rule 28.4.5 in the Section 42A Report.

*Summary*

79. I consider that the changes which I am recommending to Policy 9.3.3.7 and to Rules 28.2.4.1, 28.2.8 and 28.4.5 are consistent with the higher order policy direction because they will not result in significant adverse effects on indigenous biodiversity and natural character. They will also assist in maintaining public access to the coast. The wider ecological approach required to be taken to development in the Rangitahi Peninsula Zone will ensure that the Natural Environment will be maintained and enhanced overall.

*Mapped SNA – Precinct A*

80. Paragraph 220 in the Section 42A Report refers to a matter that I have discussed with Ms Trenouth regarding conflicts between development which has recently been completed within Precinct A and one of the mapped SNAs, including overlap between the SNA and vested road. The Section 42A Report invites further information on this matter to be provided in evidence.
81. The diagrams in **Attachment 2** shows the lot boundaries and the SNA overlaid onto a recent (January 2020) aerial photograph. The diagrams demonstrate that some boundaries of the SNA do not align with the current land uses on the site following earthworks and construction works for the completed Precinct A development. I support amending the SNA boundary in this location to better reflect the current situation and to avoid overlap between the SNA and the road and parts of the residential lots. The changes that I recommend to the mapped SNA are shown on the plan in **Attachment 3**.

***Secondary Access (submission points 343.8 and 3.4.21)***

82. The Rangitahi Peninsula Zone provisions in the PWDP require the provision of a 'Secondary Access' to/from the Rangitahi Peninsula as an alternative to the 'Primary Access' which is via Oporuru Road and the new bridge. The Secondary Access is also addressed in the OWDP but the provisions in the PWDP differ in some significant respects. In considering the PWDP provisions, I have reviewed how the Secondary Access is addressed in the

OWDP and in the resource consents approved to date. I have also considered the traffic evidence of Mr Ian Clark for Rangitahi.

*Operative Waikato District Plan*

83. The OWDP contains a subdivision standard (Rule 21C.20.1(e)) which requires that *“provision is made for a secondary legal access for all road users when the Oporu Road connection is not available for any reason. A metalled access route protected by easement is sufficient for this purpose”*. Policy 15B.3.34 in the OWDP states:

*“15B.3.34*

*Provision shall be made for secondary public access to be constructed:*

- (a) From the beginning of development of the Rangitahi Peninsula Structure Plan Area up to completion of the permanent secondary access, an interim alternative access shall be provided to a usable standard for use at any time the primary access may be closed.*
- (b) The permanent secondary access shall be constructed to an engineering standard suitable for its secondary function; and*
- (c) The permanent secondary access shall be constructed either:*
  - (i) At an appropriate time to more fully complement and provide access choices for the full development enabled within the Structure Plan Area; or*
  - (ii) At any time additional access is considered necessary to ensure safe and efficient operation of the primary access and surrounding road network.”*

84. Although Rule 21C.20.1(e) only refers to the secondary access being required for use when Oporu Road is not available, Policy 15B.3.34 distinguishes between an *“interim alternative access”* required when Oporu Road is not available and a *“permanent secondary access”* to complement and provide access choices for the Rangitahi Structure Plan area at an ‘appropriate’ (but unspecified) time or alternatively to ensure the safe and efficient operation of the primary access and surrounding roads. While Rule 21C.20.1(e) clarifies that a metalled farm track protected by easements is sufficient for *“a secondary legal access for all road users when the Oporu Road connection is not available for any reason”* (the interim alternative access), Policy

15B.3.34 explains that the permanent secondary access must be constructed to a standard suitable for its secondary function.

85. I have also reviewed the joint decision which relates to PC12 (**the decision**) and the variation and extension of lapse date for land use consent LUC 0249/06 for the construction of the new bridge/causeway and Oporuru Road. Paragraphs 28 and 98 of the decision refer to secondary access to the PC12 area being proposed via Hill Road and Te Hutewai Road. They state that all traffic associated with civil works on the Rangitahi Peninsula will use the secondary access except construction traffic involved in final construction of the northern causeway extension to Oporuru Road and the upgrade of Oporuru Road. Paragraph 98 refers to a condition being included on the land use consent which requires this to be the case.
86. The OWDP does not contain any objectives, policies or rules which refer to construction traffic. Nevertheless, all traffic associated with civil works to date (including those which are currently being undertaken) has used the interim access to Benseman Road (which in turn connects to Te Hutewai Road). I understand that Construction Management Plans have been approved on this basis. No changes in this respect are envisaged in future.

*Existing Resource Consents*

87. The OWDP framework has resulted in the CDP land use consent for Precinct A (LUC0211/17) being subject to the following consent conditions and advisory notes:

*“Provision of Interim Secondary Access*

- 4 *The consent holder shall allow and facilitate public access to either Benseman Road or Te Hutewai Road in the event that access to and from the Rangitahi peninsula is temporarily not available via Oporuru Road for any reason. This situation will be deemed to have occurred if a request for access is made by either Waikato District Council or any emergency service providers.*

*Advisory Note:*

*This is an interim secondary access, until the permanent secondary access is established.*

- 5 *Prior to the issue of the s224(c) certificates of SUB0108/17, the interim secondary access shall be constructed and maintained to a suitable standard to provide safe secondary access to and from Rangitahi peninsula to the satisfaction of Waikato District Council.*

*Advisory Note:*

*If a statement from a suitably qualified professional confirming the suitability of the existing metalled farm track is provided, this shall be deemed sufficient to meet this condition of consent.”*

88. Condition 4 and the related advisory note are clear that the current farm track (linking to Benseman Road) is an interim access rather than the permanent secondary access and that it is only required for use in situations where access via Oporuru Road is temporarily not available. The advisory note indicates that something further will need to be done to establish a permanent secondary access. The existing access has been constructed in accordance with condition 5 to a standard which provides safe secondary access if the primary access is not available. Any further upgrades that might be required would therefore presumably be to ensure that the standard is suitable for access choice or mitigation of traffic effects on the primary access and road network, rather than for emergencies.

*Proposed Waikato District Plan*

89. Policy 9.3.5.4 in the PWDP specifically deals with the Secondary Access. It states<sup>8</sup>:

*“9.3.5.4 Policy – Secondary Access*

*(a) From the beginning of development of the Rangitahi Peninsula Structure Plan Area up to completion of the permanent secondary access, an interim alternative access shall be provided to a usable standard for use at any time where the primary access may be closed.*

*(i) A permanent secondary access must be constructed:*

*(ii) Prior to development of any of the Precincts E, F or G; and*

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<sup>8</sup> Note that the policy contains a number list error.

(iii) *In accordance with access and road performance standards suitable for its secondary function.*”

90. Like the OWDP and the CDP land use consent for Precinct A, Policy 9.3.5.4 distinguishes between an interim access and a permanent secondary access.
91. The requirement of the policy that the permanent secondary access must be constructed prior to development of Precincts E, F or G is not carried over from the OWDP and is newly introduced. It is clear from the Section 32 Report for the Rangitahi Peninsula Zone that the intention of introducing a trigger was to make the plan provisions clearer. However, there is no analysis in the Section 32 Report of why the secondary access is required prior to development of Precincts E, F or G.
92. The PWDP policy is also unclear what the difference between the interim alternative access and the secondary access is intended to be. Unlike the policy in the OWDP the policy in the PWDP does not refer to the secondary access being required for “choice” for residents or for the “safe and efficient operation” of the primary access and surrounding roads. The wording of Policy 9.3.5.4 suggests that the only reason for the secondary access is for use at any time when the primary access may be closed, in which case the existing access protected by easement would suffice.
93. The PWDP contains a boundary adjustment subdivision standard for the Secondary Access which requires that *“provision is made for a secondary legal access for all road users when the Oporuru Road connection is not available for any reason. A metalled access route protected by easement is sufficient for this purpose”* (Rule 28.4.2 C1(a)(vi)). There is a separate rule which sets out the standards for general subdivision. In relation to the Secondary Access it requires that *“there must be a secondary legal access for all road users when the Oporuru Road connection is not available for any reason”* (Rule 28.4.1 RD1(a)(v)). A key difference is that the general subdivision standard omits the reference to a metalled access route protected by easement being sufficient. It is likely that the difference between the general subdivision rule and the boundary adjustment rule is a drafting error.

*Traffic Evidence – Ian Clark*

94. The Section 42A Report invites traffic evidence on the necessity of the Secondary Access to consider whether further amendments are appropriate, or to remove the requirement completely<sup>9</sup>.
95. Mr Clark’s traffic evidence considers the concept of a Secondary Access in terms of residential communities elsewhere in New Zealand. He cites other examples of residential communities where there is only one access and concludes that the Secondary Access at Rangitahi is not fully justified now that the new bridge and the Oporuru Road upgrades have been constructed. This is because the Secondary Access is unlikely to be required for capacity or safety reasons and the resilience benefits are likely to be modest.
96. In terms of potential resilience benefits, Mr Clark has considered possible scenarios which might require full closure of the Primary Access, including a vehicle crash, roadworks and natural disaster. He concludes that all scenarios are likely to be “*very infrequent*”. He has also considered an “*ultimate event*”, where full closure of the Primary Access coincides with an emergency on the Rangitahi Peninsula. His conclusion is that this would be “*extremely rare*”.
97. Mr Clark recognises the potential for future growth of Raglan West and that Waikato 2070 identifies future residential activity areas connected by roads through Rangitahi. He concludes that processes associated with giving effect to Waikato 2070 may be the more appropriate means to secure those future road links.

*Recommended Changes*

98. Based on Mr Clark’s evidence, I consider that there is no need for a Secondary Access to the Rangitahi Peninsula. Mr Clark’s conclusion is that the Primary Access via Oporuru Road and the new bridge has capacity for the development envisaged by the Rangitahi Structure Plan and the resilience benefits of a Secondary Access are minor.

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<sup>9</sup> Section 42A Report, paragraph 108.

99. An alternative interim access to the peninsula has already been constructed and its use by civil construction traffic is established and ongoing. This is a requirement of existing consent conditions.
100. While there may be rationale in future for a public road to be constructed and vested to connect Rangitahi with Raglan West, that is not able to be determined now and it is entirely dependent on the outcomes of planning processes which will be required to be undertaken to fully consider the development outcomes identified in Waikato 2070. A public road would involve considerable costs (financial and potentially environmental). The policy in the OWDP recognises that a further (future) assessment would be required to evaluate the need for a Secondary Access. Decisions on the need for a road and how it would be funded should be left to a future process, at which point the purpose and the costs and benefits of a road can be appropriately assessed.
101. In that regard, Rangitahi has made a submission to the PWDP supporting a medium to long term growth area in Raglan West. While Rangitahi's evidence for the PWDP Zone Extents hearing is still currently being prepared, it will be supportive of the structure planning approach that is anticipated in Section 5.2 of Waikato 2070 for identified growth cells. Structure planning would provide the best approach for consideration of roading and infrastructure requirements, in conjunction with other land uses.
102. Accordingly, I recommend that Policy 9.3.5.4 and subdivision Rules 28.4.1 RD1(a)(v) and 28.4.2 C1(a)(vi) be deleted.

***Location of Activities (submission points 343.13 and 343.22)***

103. The PWDP land use activity and building rules in Rules 28.1 and 28.2 contain numerous standards which require that activities must be in accordance with the Rangitahi Structure Plan. These include permitted activity rules in Rule 28.1.1 P1 which also require that activities must be located within Plan 1 Structure Plan Area – Development Precincts.
104. It is possible that subdivision consents may be granted which approve departures from the Rangitahi Structure Plan. This creates the potential for land use consents to be required for activities and buildings at Rangitahi due to the location of lots not being in accordance with Plan 1 Structure Plan Area

– Development Precincts, despite the activities and buildings being in accordance with an approved subdivision. Requiring land use consents to be obtained in that situation would be inefficient, because the variations from the structure plan would have already been considered and approved as part of the subdivision consent.

105. I support the changes recommended in the s42A Report which amend the conditions/standards to require activities to be located in accordance with Plan 1 Structure Plan Area Development Precincts or any approved subdivision.

***Subdivision Variance in Relation to Rangitahi Structure Plan (submission points 343.16 and 343.17)***

106. Rule 28.4.1 in the notified PWDP elevates the activity status of general subdivision from the Controlled Activity status that applies in the OWDP to Restricted Discretionary Activity status if it is in accordance with the Rangitahi Structure Plan.
107. Boundary adjustment subdivision is separately provided for as a Controlled Activity under Rule 28.4.2 of the notified PWDP. The term 'boundary adjustment' is not defined in the notified PWDP but the Section 42A Report for the Definitions hearing recommends that the definition from the National Planning Standards should be adopted. That definition is "*a subdivision that alters existing boundaries between adjoining allotments, without altering the number of allotments*".
108. The Rangitahi Structure Plan is comprehensive and provides strong guidance on density, development form and location. However, it is important that there is sufficient flexibility for changes to be made at resource consent stage because the information on which the development is based will be more detailed at that time and the provisions should enable a responsive approach. Examples of possible changes are to road locations or development precinct areas in response to geotechnical investigation outcomes or potentially to reduce conflicts with SNAs if the values of those areas warrant avoidance. In many cases, the reason for changes from the Structure Plan may be driven by achieving better environmental outcomes. Changes may also be driven by the diverse and changing needs of people.

109. Rules 28.4.1 and 28.4.2 both contain a standard requiring that development must be in accordance with the Rangitahi Structure Plan. Variance standards are set out which must be met for subdivision to be determined to be 'in accordance'. The variances relate to development precinct areas, boundaries, densities, collector road locations and the secondary access location. General subdivision and boundary adjustment subdivision which does not comply with the variance standards (or any of the other standards listed in the rules) is a Discretionary Activity.
110. In my experience preparing the resource consent applications for Precincts B and D, the standards for Development Precinct areas, Development Precinct boundaries, Collector Road locations and the Secondary access location are difficult to assess compliance with and are unclear. In that regard:
- (a) Assessment of compliance with the density range variance for each Precinct depends on the Neighbourhood Area (in hectares) which itself is subject to a variance standard. I note that each Neighbourhood Outcomes plan specifies the number of dwellings illustrated for each Precinct, which provides a less complicated basis for a variance assessment;
  - (b) The Neighbourhood Outcomes Plans for each Precinct specify a Neighbourhood Area in hectares. To determine compliance with the Development Precinct Area standard, a judgement is required to be made as to where the boundaries of the proposed Neighbourhood Area are. The rules and the Structure Plan are unclear as to whether this is required to include roads and reserves or only developable land. The same issue arises with respect to Development Precinct boundaries;
  - (c) Collector Road locations are not clearly identified in the Structure Plan. Plan 4 – Indicative Movement Network identifies a 'Primary Route: Spine Road' and 'Secondary Routes: Neighbourhood Collector Road'. It is unclear which roads on the Structure Plan are subject to the 50m movement variance standard;
  - (d) The Structure Plan does not identify a Secondary access location at all. It is unclear how the 30% variance in length standard would be measured, or what the reasons would be for controlling that outcome so tightly.

111. I consider that there is an opportunity to simplify the standards, particularly now that resource consents have been approved for approximately half of the total lots anticipated by the Rangitahi Structure Plan. The consented and built location of the key infrastructure and the development precincts closely reflects the Rangitahi Structure Plan and the development is achieving a high-quality outcome.
112. In my opinion, the number of dwellings illustrated for each Precinct on the Neighbourhood Outcomes Plan should be a specific standard for subdivision with retention of the current approach of a 10% allowable increase. Infringement of this standard would appropriately trigger Discretionary Activity status under Rule 28.4.1 D1. Tight control through variation standards for the road locations and the development precinct areas and boundaries is less critical in my view and these matters can be considered in a less prescriptive way.
113. The matters of discretion listed in Rule 28.4.1 RD1(b) for general subdivision are comprehensive and already include the extent to which subdivision is consistent with the Rangitahi Structure Plan. The activity status for general subdivision has already been elevated from Controlled Activity in the OWDP to Restricted Discretionary Activity in the notified PWDP. A Restricted Discretionary Activity status provides scope for discretion to be exercised in considering the reasons for any departure from the Structure Plan (other than the number of dwellings which would become full Discretionary if the 10% allowable increase were to be exceeded) and to impose suitable conditions or potentially decline the consent. Any such assessment would be undertaken in conjunction with the objectives and policies, which also refer to consistency with the Rangitahi Structure Plan<sup>10</sup>.
114. The matters of control in Rule 28.4.2 C1(c) do not include the extent to which subdivision is consistent with the Rangitahi Structure Plan. I recommend that this should be added to ensure that the Structure Plan remains a consideration for boundary adjustments.
115. The Section 42A Report recommends that the variance standards should be shifted to assessment criteria. It recommends that the requirement for

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<sup>10</sup> Including Policy 9.3.1.1 – Development, Policy 9.3.2.1 – Commercial activities, Policy 9.3.3.2 – Coastal margins and Policy 9.3.5.2 – Transport network design.

subdivision to be consistent with the Structure Plan should remain as a standard and that any general subdivision or boundary adjustment that does not meet the standard should default to being a Discretionary Activity. This means that the activity status would be determined by consideration of the standards in conjunction with the assessment criteria. In my opinion, that does not assist in addressing the issues that I have identified with the interpretation of the variance standards, nor is it necessary for the reasons I have explained.

***Maaori Sites of Significance and Heritage Items (submission points 343.19, 343.26, 343.28 and 343.29)***

116. Rangitahi's submission seeks that references to Maaori Sites of Significance and Heritage Items should be deleted because there are no such sites identified within the Rangitahi Peninsula Zone on the planning maps. The Section 42A Report supports this change as being appropriate.

***Definitions – Child Care Facility, Rangitahi Commercial Activity, Community Activity and Rangitahi Integrated Development (submission points 343.9, 343.10, 343.11 and 343.12)***

117. Rangitahi's submission addresses the PWDP definitions for child care facility, Rangitahi Commercial Activity, Community Activity and Rangitahi Integrated Development.
118. The submission supports the definition for child care facility. The Section 42A Report for the Definitions hearing recommended retention of the definition with the addition of the words "or daycare". Rangitahi filed a statement dated 19 November 2019 for the Definitions hearing which supported that change. Rangitahi's statement dated 19 November also supported the wording recommended in the Section 42A Report for the Definitions hearing for Community Facility.
119. Rangitahi's submissions on the definitions for Rangitahi Commercial Activity and Rangitahi Integrated Development were not considered as part of the Definitions hearing. They have been considered in the Section 42A Report for the Rangitahi hearing.

120. The submission seeks specific exclusion of child care facilities from the definition of Rangitahi Commercial Activity to ensure there is no confusion that the maximum floor area limits do not apply to child care facilities. Child care facilities are listed as a separate activity in Rule 28.1.2 C1 with no limitations on gross floor area. I agree with the Section 42A Report conclusion that it is clear that there are no restrictions on the floor area of child care centres and that amendment to the definition of Rangitahi Commercial Activity is not required in this regard.
121. The Section 42A Report does, however, recommend replacing references to Rangitahi Commercial Activity with the Commercial Activity definition from the National Planning Standards. It notes that the key difference is that the Rangitahi Commercial Activity definition includes healthcare facilities whereas the Commercial Activity definition does not. I support using the term Commercial Activity in place of Rangitahi Commercial Activity, subject to the changes which are also recommended in the Section 42A Report to Rule 28.1.1 P6, Rule 28.1.3 RD1(ii) and Rule 28.1.3 RD3 to also refer to Health Facilities.
122. Rangitahi's submission supports the definition of Rangitahi Integrated Development but seeks flexibility to allow for changes to the locations where development is to be located in case subdivision results in the exact locations identified on Development Outcomes Plan 5 changing. It seeks that the definition should refer to the locations identified on Development Outcomes Plan 5 or any approved subdivision consent.
123. In reviewing this matter, I have noted that there is no reference within the provisions in either Chapter 9 or Chapter 28 of the PWDP to the term Rangitahi Integrated Development. There are specific rules for Comprehensive Residential Development (Rule 28.1.3 RD2 and RD3). That term is not defined in the PWDP but it is used on the Rangitahi Structure Plan Development Outcomes Plan 5 within Appendix 8.
124. The Section 42A Report also recognises the disconnect between these provisions. It recommends changing the definition to Rangitahi Comprehensive Residential Development within Rule 28.1.3 RD1 and the definitions in Chapter 13. I support that change because it achieves alignment between the rules and the definition. However, it does not address the issue

raised in the submission of development needing to be in the locations shown on Development Outcomes Plan 5 in order to meet the definition.

125. Rule 28.1.3 RD2 includes a standard for Rangitahi Comprehensive Residential Development which requires that *“the site is located within the Comprehensive Residential Development locations shown in Plan 5 of the Rangitahi Peninsula Structure Plan (Appendix 8) or approved subdivision consent”* (Rule 28.1.3 RD2(a)(iii)). Activities which do not comply are a Discretionary Activity under Rule 28.1.4 D3.
126. Because the matter is dealt with in the standard, the reference to Development Outcomes Plan 5 in the definition of Rangitahi Comprehensive Residential Development is not required. It also results in inconsistency because the Section 42A Report recommends that the standard should be amended to include *“or any approved subdivision”* whereas the definition does not state this. I recommend that the definition be changed as follows (changes shown in strikethrough and underlined text):

*“Rangitahi ~~Integrated~~ Comprehensive Residential Development*

*Means development ~~in the locations shown on Development Outcomes Plan 5 of the Rangitahi Peninsula Structure Plan~~, comprising multiple residential units which are planned and designed in an integrated and comprehensive manner and achieve compatibility between all buildings on a single site or multiple sites. A Rangitahi ~~Integrated~~ Comprehensive Residential Development may also include a Rangitahi commercial activity. Residential activities within a Rangitahi ~~Integrated~~ Comprehensive Residential Development may include duplexes and apartments.”*

***Number of Dwellings on Lots (submission point 343.14)***

127. The Rangitahi submission seeks that Rule 28.3.1 P1, which limits the number of dwellings to one per lot, be amended to exclude Comprehensive Development Lots from being subject to this requirement. This is because the Rangitahi Structure Plan and the Comprehensive Development Plan provisions in Rule 28.1.3 RD2 otherwise anticipate those lots containing multiple dwellings. Comprehensive Residential Development is a Restricted Discretionary Activity under Rule 28.1.3 RD2 but non-compliance with Rule 28.3.1 P1 would result in a Discretionary Activity status.

128. The changes that I recommend to Rule 28.3.1 P1 are as follows (changes shown in underlined text):

*“One dwelling within a lot, excluding Rangitahi Comprehensive Development in locations shown in Plan 5 of the Rangitahi Peninsula Structure Plan (Appendix 8) or an approved subdivision consent”.*

129. The Section 42A Report agrees that Rule 28.3.1 should be amended to exclude Comprehensive Residential Development lots. The wording that I have recommended differs slightly from the Section 42A Report. I have based my recommended wording on the Section 42A Report’s recommended wording for Rule 28.1.3 RD2(a)(iii) which deals with the same matter.

***Gross Floor Area of Accessory Buildings (submission point 343.15)***

130. The Rangitahi submission seeks an amendment to Rule 28.3.6 P1(b) to make it clear that the maximum gross floor area standards for accessory buildings outside the Development Precincts identified on the Rangitahi Structure Plan apply to individual accessory buildings rather than being the total area of all accessory buildings.
131. The equivalent rule in the OWDP is Rule 21C.18.1 which relates to non-residential buildings. It states:

*“21C.18.1*

*Construction or alteration of a non-residential building is a permitted activity if it is on a site for which a CDP has been approved, and:*

- (a) It is in accordance with the Rangitahi Peninsula Structure Plan in 21C.3, and*
- (b) The gross floor areas of all non-residential building on a residential site do not exceed 70m<sup>2</sup>; or*
- (c) The building is located outside the Development Precincts defined in the Rangitahi Peninsula Structure Plan and the building is a permitted activity in the Rural Zone and the gross floor area does not exceed:*
  - (i) 400m<sup>2</sup> on a site having an area of at least 2ha,*
  - (i) Or does not exceed 250m<sup>2</sup> on a site smaller than 2ha.”*

132. My interpretation of this rule is that individual non-residential buildings outside the Development Precincts are subject to the gross floor area limits in (c)(i) and (ii) and that buildings must also comply with the permitted activity standards for the Rural Zone. The permitted activity standards in the OWDP include a building coverage standard (Rule 25.51.1) requiring that total building coverage must not exceed 2% of the site area, or 500m<sup>2</sup>, whichever is the larger.
133. Rule 28.3.6 P1 in the PWDP relates to Permitted Activity standards for accessory buildings. It states:
- (a) The gross floor areas of all accessory buildings on a residential site must not exceed 70m<sup>2</sup>; or*
  - (b) Where the accessory building is located outside the Development Precincts defined in the Rangitahi Peninsula Structure Plan (Appendix 8) the gross floor area must not exceed either:*
    - (i) 400m<sup>2</sup> on a site having an area of at least 2ha; or*
    - (i) 250m<sup>2</sup> on a site less than 2ha.*
134. I am not aware of any reason for needing to change the approach between the OWDP and the PWDP for accessory buildings outside of the Development Precincts, in which case the intention of Rule 28.3.6 P1(b) would presumably be that it applies to individual accessory buildings rather than being a total cap for all accessory buildings on a site. I consider that minor amendments to the wording of Rule 28.3.6 P1(b) should be made to make this clear. The changes that I recommend to Rule 28.3.6 P1(b) are as follows (changes shown in underlined text):
- “(b) Where the accessory building is located outside the Development Precincts defined in the Rangitahi Peninsula Structure Plan (Appendix 8) the gross floor area of the accessory building must not exceed either:*
- (i) 400m<sup>2</sup> on a site having an area of at least 2ha; or*
  - (ii) 250m<sup>2</sup> on a site less than 2ha.”*
135. The Section 42A Report concludes that there is no evidence that the drafting of the rule is an error and that the rule limits the total gross floor area of all accessory buildings on a site outside the Development Precincts to 250m<sup>2</sup> on

a site less than 2ha, and 400m<sup>2</sup> on a site 2ha or greater<sup>11</sup>. This is a different interpretation to mine.

136. The Section 42A Report goes on to identify that if the requested relief was granted, the only control limiting the number of total floor area of buildings would be the building coverage Rule 28.3.5 which limits building coverage to 40% of the site. I disagree because Rule 28.1.1 P7 requires that agricultural or horticultural activities must comply with the Land Use – Effects rules for the Rural Zone (Rule 22.2) and the Land Use – Building rules for the Rural Zone (Rule 22.3). The building coverage standard for the Rural Zone in the PWDP is contained in Rule 22.3.6 P1. It requires that total building coverage must not exceed 2% of the site area, or 500m<sup>2</sup>, whichever is the larger. This is the same requirement as the OWDP.
137. To reduce the risk of confusion, I recommend that Rule 28.3.5 P1 should be amended as follows (changes shown in underlined text):

“(a) The total building coverage must not exceed 40% of the site within the Development Precincts defined in the Rangitahi Peninsula Structure Plan (Appendix 8); or

“(b) The total building coverage outside the Development Precincts defined in the Rangitahi Peninsula Structure Plan (Appendix 8) must not exceed the larger of:

(i) 2% of the site area; or

(ii) 500m<sup>2</sup>.”

**Rule 28.1.3 RD1 Formatting (submission point 343.25)**

138. The Rangitahi submission identifies a list level error in Rule 28.1.3 RD1. I am satisfied that the recommended amendment in the Section 42A Report is a suitable correction.

**Rule 28.4.9 RD1 – Mapped Off Road Walkways (Drafting Clarification)**

139. Although Rangitahi’s submission does not specifically address Rule 28.4.9, in preparing my evidence I have identified a change that I consider is required

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<sup>11</sup> Section 42A Report, paragraph 229

to Rule 28.4.9 RD1 to provide better clarity and certainty. The rule relates to a requirement for walkways shown on the Rangitahi Structure Plan to be designed, constructed and vested.

140. Walking and cycle paths are identified within the Rangitahi Structure Plan on Plan 2 Indicative Land-use Plan, Plan 3 Indicative Open-space Framework and Plan 4 Indicative Movement Network. The total network of walking and cycle paths is extensive, however, only a limited number of the walking and cycle paths outside of the coastal marginal strip are intended to be vested with Waikato District Council. The walking and cycle paths which are to be vested are shown as 'Reserve – Pedestrian Way' on Plan 2 Indicative Land-use Plan.
141. Because Rule 28.4.9 RD1 refers to the Rangitahi Structure Plan in a general sense, it is possible that the distinction about which walking and cycle paths are to be vested might not be understood. I recommend that Rule 28.4.9 should be amended to specifically refer to walkways shown as Reserve – Pedestrian Way on Plan 2 Indicative Land-use Plan of the Rangitahi Structure Plan.

***Rule 28.1.4 Activity Status (Correction of Errors)***

142. The Section 42A Report has recommended changes to Rule 28.1.4 to correct referencing errors in the notified provisions.
143. I consider that Rule 28.1.4 D1 should also refer to Rule 28.1.1 P7 (as well as Rule 28.1.1 P1-P4) otherwise agricultural or horticultural activities not meeting the Permitted Activity standards would default to Non-Complying Activity status under Rule 28.1.5.
144. Rule 28.1.4 D3 refers to any activity not complying with Rule 28.1.3 RD2 (which relates to Rangitahi Comprehensive Developments) being a Discretionary Activity. It does not refer to community facilities or commercial activities which do not comply with Rule 28.1.3 RD1 so they would default to Non-Complying Activities under Rule 28.1.5. Similarly, Rule 28.1.4 D3 does not refer to mixed-use activities which do not comply with Rule 28.1.3 RD1 so they would also default to Non-Complying Activities under Rule 28.1.5.
145. Under the OWDP, commercial activities, community activities and mixed-use developments not meeting the required standards for Restricted Discretionary

Activities require resource consent as a Discretionary Activity (Rule 21C.11.3). I have reviewed the Section 32 Report for the Rangitahi Peninsula Zone and I cannot find any reference or analysis for elevating the activity status from Discretionary to Non-Complying for these activities. As such, it may be that reference to Rule 28.1.3 RD1 and Rule 28.1.3 RD3 was unintentionally omitted from Rule 28.1.4 D3 in the conversion of the provisions from the OWDP into the new PWDP structure.

### **ISSUES RAISED IN SUBMISSIONS**

146. The Ministry of Education made a submission seeking the addition of education facilities in Rule 28.1.3 as a Restricted Discretionary Activity. Rangitahi's further submission supported this change.
147. The Section 42A Report recommends rejecting this submission point because child care facilities are already listed in Rule 28.1.2 as a Controlled Activity and the Ministry of Education would generally designate land for the purposes of schools. I have discussed this matter with Mr McLauchlan and he has advised me that there have been no discussions held with the Ministry of Education about a new school, nor is there any current intention on Rangitahi's part for a school to be located on the Rangitahi Peninsula.
148. Waikato 2070 clearly anticipates significant future growth in Raglan West, an outcome of which might be the need for an additional school (or schools) in Raglan in future. However, that matter should be considered as part of the future structure planning exercise which Section 5.2 in Waikato 2070 anticipates will occur for identified future growth areas.
149. I agree with the Section 42A Report recommendation on this matter.

### **ISSUES RAISED IN SECTION 42A REPORT**

150. I have addressed issues raised in the Section 42A Report throughout my evidence. In summary, I support a number of the changes that the Section 42A Report recommends in response to the Rangitahi submission. The versions of Chapter 9, Chapter 13 and Chapter 28 which are contained in **Attachment 3** identify the additional changes to the PWDP which I recommend, using the Section 42A Report versions of those chapters as the base documents.

## CONCLUSION

151. In summary, I conclude that:

- (a) I generally support the changes and the provisions for the Rangitahi Peninsula Zone in the PWDP, with some exceptions which I have addressed in my evidence.
- (b) I consider the topics of Significant Natural Areas, Secondary Access and Subdivision Variance in Relation to the Structure Plan to be key matters.
- (c) In relation to ecological and habitat values and SNAs, the changes that I recommend recognise that short term, minor and localised impacts associated with specific activities are unlikely to have significant adverse effects and that mitigation or offset is appropriate for these activities if avoidance cannot be achieved.
- (d) I consider that there is no need for a Secondary Access to the Rangitahi Peninsula.
- (e) I consider that variance from the Rangitahi Structure Plan should be assessed through assessment criteria and policies, rather than through prescriptive variance standards, except for the number of dwellings in each precinct.
- (f) I characterise the matters dealt with under the other topic headings as 'tidy up' changes. The changes that I recommend will improve the clarity and implementation of the PWDP provisions.
- (g) I do not consider that the addition of education facilities in Rule 28.1.3 as a Restricted Discretionary Activity in the Rangitahi Peninsula Zone, as requested in the submission by the Ministry of Education, is necessary.

- (h) The changes that I recommend to the PWDP are set out in **Attachment 3.**

**Dated this 16<sup>th</sup> day of November 2020**

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

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**Ben Inger**