

# SECTION 42A REPORT

Report on submissions and further submissions – Variation 3  
to the Proposed Waikato District Plan

## Enabling Housing Supply

Report prepared by: Fiona Hill, Karin Lepoutre and Bessie  
Clarke

Date: 15 June 2023

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## List of submitters and further submitters addressed in this report

Submitter Names	Submission Number	Submission Type
Aaron Holland	104	Original
Adrian Paul Van Weerden	95	Original
Allen Frabric Ltd	51	Original
Anita Jacobsen	36	Original
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44	Original
Anna Wilson	92	Original
Ara Poutama Aotearoa	30	Original
Blue Wallace Surveyors Ltd*	89	Original
Brenda Roberts	88	Original
Brent & Kym Cooper	2	Original
Brett Titchmarsh	21	Original
Brian Hopkins	52	Original
Bronwyn Heath	110	Original
Bruce Knobbs	84	Original
Chris Annadale	38	Original
Chris Parker	73	Original
Christopher Els	67	Original
Classic Group Holdings	62	Original
CSL Trust*	82	Original
Daniel Randall	3	Original
Dave Honiss	7	Original
David Jones	45	Original
Dominion Developments Ltd	66	Original
Donald Matheson	12	Original
Douglas W Rowe	17	Original
Eden Lapwood	77	Original
Elizabeth Anne Nicholas	79	Original
Estate of Te Paea Herangi	72	Original
Fire and Emergency NZ	53	Original
First Gas Limited	117	Original

<b>Submitter Names</b>	<b>Submission Number</b>	<b>Submission Type</b>
Gaylene and Wayne Rogers	78	Original
GDP Developments	100	Original
Graciela Edith Eidelman Di Denia	15	Original
Greg Wiechern	96	Original
Greig Developments	20	Original
Gurjeet Singh Sainy	40	Original
Halm Fan Kong	13	Original
Harkness Henry Lawyers	99	Original
Havelock Villages Limited*	105	Original
Hayley and Jarrod Taylor	39	Original
Hemokai Kani	56	Original
Heritage New Zealand	28	Original
Hiria Hetet	1	Original
Horotiu Farms Limited	49	Original
Howard Lovell	27	Original
J and A Whetu	70	Original
Jan Sedgwick	11	Original
Jenny Kelly	23	Original
Jeremy Duncan	24	Original
Jim Ivens	97	Original
Jim Livett	101	Original
Jodie Bell	71	Original
John and Priscilla Boyson	22	Original
John Moeke	91	Original
Joss Annandale	65	Original
Kāinga Ora	106	Original
Kenneth Whyte	102	Original
Kiwi Rail*	54	Original
Lana Tapu	111	Original
Laura Kellaway and Bryan Windeatt	75	Original
Lisa and Michael Garth	33	Original
Lucia Daniels	26	Original

<b>Submitter Names</b>	<b>Submission Number</b>	<b>Submission Type</b>
Marae Tukere	87	Original
Marlana Maru	81	Original
Max Robitzsch	5	Original
Megan Martin	48	Original
Megan Ryder	64	Original
Michael Allington	109	Original
Michelle and Jonathan Locke	80	Original
Ministry of Education	60	Original
Ministry of Housing and Urban Development (HUD)	50	Original
Mirika Paul	85	Original
Mr and Mrs. Lex Deaby	94	Original
Mrs S Paul	113	Original
Nathan Harvey	34	Original
Ngāti Naho Trust	83	Original
Patricia (Trish) Savage	74	Original
Patricia Burns	90	Original
Paulia Amoroa	10	Original
Perjuli Developments Limited	103	Original
Peter Nicholas and Ann Nicholas	37	Original
Pokeno Community Committee	41	Original
Pokeno West and Pokeno West Limited*	116	Original
Pookeno Village Holdings Ltd	47	Original
Queen's Redoubt Trust	115	Original
Retirement Villages Association	107	Original
Richard Piechazak	112	Original
Roberto Denia	16	Original
Ruth Williams	9	Original
Ryman Healthcare Limited	108	Original
S Upton and B Miller*	32	Original
Sarath & Damayanthi Jayasinghe	25	Original
Sharlene Kani	57	Original
Simone Bylsma	69	Original

<b>Submitter Names</b>	<b>Submission Number</b>	<b>Submission Type</b>
Stanley JoanEdward	8	Original
Stephen Banks	68	Original
Storme Baird	63	Original
Summerset Group Holdings Limited	4	Original
Synlait Milk Ltd	46	Original
Tania Nepe	6	Original
Tara Kingi-Christiston	31	Original
Teresa Wine	61	Original
Tineka Wymer	43	Original
Transpower NZ Ltd*	18	Original
Tupeka Kani	55	Original
Turia Kani	58	Original
Tuurangawaewae Marae	35	Original
Tuurangawaewae Rugby League Sports and Cultural Club	98	Original
Wai Kani	59	Original
Waikato Community Lands Trust & Others	93	Original
Waikato District Council	76	Original
Waikato Regional Council*	42	Original
Waikato Tainui	114	Original
Waka Kotahi*	29	Original
Wayne Bishop and Cameron Smith	14	Original
WEL Networks Limited*	19	Original
Wendy & Shane Harrod	86	Original
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	200	Further Submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	227	Further Submission
Brett Titchmarsh	210	Further Submission
Craig Merritt	212	Further Submission
CSL Trust*	223	Further Submission
First Gas Limited*	230	Further submission
Havelock Vilages Limited*	218	Further Submission
Horitiu Farms Limited	229	Further Submission

<b>Submitter Names</b>	<b>Submission Number</b>	<b>Submission Type</b>
Hugh Green Limited	204	Further Submission
Hynds Pipe Systems Ltd*	221	Further Submission
Kāinga Ora	217	Further Submission
Kiwi Rail	215	Further Submission
Korris Limited	201	Further submission
Mark de Lautour and Dee Kiernan	202	Further submission
Ngāti Te Ata	228	Further Submission
Pareoranga Te Kata	225	Further Submission
Pokeno Village Holdings Limited	206	Further Submission
Pokeno West* and West Pokeno Limited	224	Further Submission
Ports of Auckland	214	Further Submission
Queens Redoubt Trust	226	Further Submission
Queen's Redoubt Trust	211	Further Submission
Rangitahi	208	Further Submission
Retirement Villages Association	220	Further Submission
Ryman Healthcare Limited	219	Further Submission
Te Whakakitenga o Waikato Incorporated	213	Further Submission
Top End Properties*	222	Further Submission
Transpower NZ Ltd*	209	Further Submission
Waikato Regional Council*	205	Further Submission
Waka Kotahi*	216	Further Submission
Warren and Heather Parker	207	Further Submission
Wel Networks	203	Further Submission

\* Submitters who have appealed the PDP decision to the Environment Court.

***Please refer to Appendix I for recommendations on each individual submission point.***



# I Introduction

## I.1 Qualifications and experience

### *Report Preparation*

1. This report is a combined report that has been written by Fiona Hill and Karin Lepoutre and Bessie Clarke.

### *Fiona Hill*

2. My name is Fiona Hill, I am a Principal Policy Planner and have recently been employed by Waikato District Council. I have 29 years' experience, with six of those working in the greater Hamilton area (Waipa District Council and Waikato District Council). While at Waipa District Council I worked on the original Waipa 2050 Growth Strategy and managed the development of the now operative Waipa District Plan.
3. I hold a Master of Social Science (Resources and Environmental Planning, University of Waikato). I am a full member of the New Zealand Planning Institute.
4. I became involved with Variation 3 following the close of submissions in October 2022.

### *Karin Lepoutre*

5. My name is Karin Lepoutre. I am a self-employed planning consultant with fifteen years of experience. Prior to starting my own company in November 2022, I was employed at Beca as an Associate. I started as a planner at Beca in 2008 and before re-joining also held planning positions at Aurecon as a Manager – Planning and Urbis (Melbourne) as a senior planning consultant. I have worked on a range of land development, resource consenting and policy projects.
6. I hold a Master of Planning and a Bachelor of Arts (Economics and Geography) both from the University of Otago. I am a full member of the New Zealand Planning Institute.
7. I became involved with Variation 3 in August 2022 while I was at Beca when I assisted WDC in completing the Variation 3 documentation for lodgement. I was subsequently engaged by WDC independently to continue supporting the variation process.

### *Bessie Clarke*

8. My name is Bessie Clarke. I am employed by Waikato District Council as a Policy Planner within the Resource Management Policy Team. I have been employed in local government for the past 5 years. I initially joined the Resource Management Policy Team as a Policy Planner in 2018, before rejoining in at the beginning of 2023.
9. In between my time in the Resource Management Policy Team, I was a Corporate Planner in the Corporate Planning team, where the focus was the development of Council's Long-Term Plan and Bylaw and Policy review and development.
10. I hold a Bachelor of Environmental Sustainability (Science and the Environment Stream) from the University of Waikato. I am currently enrolled in and nearing completion of a Masters of

Sustainable Development Goals (specialising in Environmental Sustainability) at Massey University.

11. I became involved with Variation 3 in April 2023 to assist with the drafting of the s42A report.

## **1.2 Code of Conduct**

12. We confirm that we have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that we have complied with it when preparing this report. Other than where we state that we are relying on the advice of another person, this evidence is within our area of expertise. We have not omitted to consider material facts known to us that might alter or detract from the opinions that we express.
13. We are authorised to give this evidence on the Council's behalf to the hearings commissioners.

## **1.3 Conflict of Interest**

*Karin Lepoutre*

14. While I was employed at Beca I was a lead planning advisor to the Ministry of Education (MoE) on a range of resource management matters, including IPI processes generally. I have recently been engaged independently by MoE to provide ongoing planning assistance. While my services to MoE do not involve any matters within the Waikato District, I consider that my assessment of MoE's submission would be a conflict of interest. For that reason, Fiona Hill will address the MoE submission.

## **1.4 Preparation of this report**

15. While this report has been prepared collaboratively between the authors (except for the conflicts of interest outlined above), each author has taken a lead on different sections. Specifically:

**Fiona Hill** authored the following sections:

- Topic 1, themes:
  - What towns do the MDRS apply to
  - Requests for rezoning
- Topic 3, themes:
  - Issues of Significance to Maaori
  - Historic Heritage
  - Te Ture Whaimana
  - Natural Hazard:
  - Flooding risks
- Topic 4, themes

- Application of Policy 3(d)
- Infrastructure capacity

**Karin Lepoutre** authored the following sections:

- Topic 2. Themes:
  - District plan objectives and policies
  - Purpose statement of the MRZ2
  - District plan definitions
  - Amendments to the MDRS
  - Subdivision provisions
  - Enabling provisions for other services
- Topic 3, themes:
  - Nationally significant infrastructure
  - Natural hazards:
    - Slope residential area within the Havelock Precinct
    - Mine subsidence risk area in Huntly
  - Urban Fringe
  - Reverse Sensitivity
  - Other qualifying matters identified by submitters
- Topic 5, themes:
  - Urban design outcomes

**Bessie Clarke** authored the following sections:

- Statutory requirements (section 2.3)
- Topic 5, themes:
  - Covenants in Pookeno
  - General support and/or opposition to Variation 3

16. In preparing this report we have relied on expert advice sought from:

- Susan Fairgray in relation to population forecasts and property economic issues
- Doug Johnson in relation to the Huntly mine subsidence risk area
- Ann McEwan in relation to heritage matters
- Dave Mansergh in relation to viewshafts from Turangawaewae Marae
- Andrew Boldero and Katja Huls in relation to stormwater matters
- Keith Martin, Mathew Telfer and Katja Huls in relation to water and wastewater

17. Where our views have been informed by the expert advice from others this is explicitly stated.

## **1.5 Amendments to plan text**

18. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in red underlined, and deleted text in ~~red struck through~~. All recommended amendments are brought together in Appendix 2.

## **1.6 Procedural matters**

### *Relevant Independent Hearing Panel Directions*

- The following directions have been made to date by the IHP in relation to Variation 3:
- The amendments sought by Waikato Community Lands Trust relating to inclusionary zoning and financial contributions are not in scope of Variation 3 and are struck out under s41D(1)(b) of the RMA<sup>1</sup>
- The rezoning submissions by Halm Kong and Howard Lovell were not within scope of Variation 3 and accordingly struck out under Section 410(1)(c) RMA<sup>2</sup>
- Interim Guidance #1 on the urban fringe Qualifying Matter (discussed below)
- The Panel agreed with the Joint Memorandum of Counsel for the Submitters dated 22 December 2022 that:
  - the Councils were required to notify an IPI (s.80F of the Act) and do not have power to withdraw the Waikato IPIs (s.80G(1)(c) of the Act);
  - the Panel does not have power to amend the Medium Density Residential Standards in Schedule 3A of the Act, except where a qualifying matter applies to a site (ss.77I and 77O of the Act);
  - the Panel, cannot take into account the effects of the Medium Density Residential Standards in Schedule 3A of the Act in respect of amenity, visual effects, shading and privacy, except where a qualifying matter applies to a site (the Medium Density Residential Standards are required by s.77G of the Act); and
  - the Panel is unable to include in the district plans which require on-site car parking, except in limited circumstances such as accessible parking (clause 3.38 of the National Policy Statement for Urban Development 2020) and will limit any submitters presentations which seek to argue for outcomes not available at law and directed submitters to review their relief<sup>3</sup>

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<sup>1</sup> IHP Direction #11, 11 April 2023

<sup>2</sup> IHP Direction #12, 11 April 2023

<sup>3</sup> IHP Directions #5, 23 December 2022, para [7]. [8] and [9].

### *Urban Fringe*

19. Variation 3 included an urban fringe qualifying matter which limited the geographic application of the MDRS to within the walkable catchments of Pookeno, Tuakau, Huntly and Ngaaruawaahia. Submissions were received both in support of, and against, the urban fringe qualifying matter. In addition, some submitters also questioned its legality as a qualifying matter under the Resource Management Act 1991 (RMA).
20. On 3 March 2023, the IHP directed any submitters with an interest in the urban fringe qualifying matter to provide evidence and legal submissions to support their position for the IHP's consideration. On 14 March 2023 the IHP issued Interim Guidance #1 on the urban fringe and concluded at paragraph 4 that "the urban fringe is not a qualifying matter under s771(j) as it does not appear to satisfy the requirements of s77L of the RMA."
21. The removal of the urban fringe qualifying matter would extend the application of the MDRS to all land zoned General residential or Medium density residential within Pookeno, Tuakau, Huntly and Ngaaruawaahia. The removal of the urban fringe qualifying matter therefore requires that the MDRS be applied to all the land zoned Medium density residential and General residential within the four towns, subject to any additional qualifying matters.
22. Additional qualifying matters were subsequently identified by WDC and circulated to submitters and include:
  - The protection of culturally significant landscapes with the Havelock Precinct.
  - The protection of culturally significant viewshafts from Tuurangawaewae Marea to the Hakarimata and Taupiri.
  - The management of significant risks from natural hazards within the slope residential area of the Havelock Precinct.
  - The management of significant risks from natural hazards within the mine subsidence risk area in Huntly.
  - The management of significant risks from stormwater and flooding effects (related to natural hazards and giving effect to Te Ture Whaimana).
  - Minimising reverse sensitivity effects of residential activities on industrial operations within the Havelock Precinct.

### *Expert Conferencing*

23. Expert conferencing have been held in relation to the following topics:
  - Havelock Precinct
  - Water and wastewater
  - Tuurangawaewae Marae and cultural viewshafts
24. The Joint Witness Statements arising from these expert conferencing sessions are attached at Appendix 3 to this report and will be referenced as relevant through the report.

### *Additional meetings and consultation*

25. Numerous meetings have been held with submitters in relation to Variation 3 and their submissions. Relevant outcomes and clarifications of these meetings are referenced throughout this report.

## **1.7 Structure of this report**

26. This report is structured into five key sections and topics as follows:

- Section 2 – Scope of the report, overview of the variation and submissions
- Section 3 – Statutory requirements
- Section 4 - Topic 1: Geographic extents of provisions and rezoning
- Section 5 - Topic 2: District plan provisions
- Section 6- Topic 3: Qualifying matters
- Section 7 – Topic 4: Accommodating Growth
- Section 8 – Topic 5: Implementation of the MDRS

27. This report is supported by the following appendices:

- Appendix 1: Table of submission points
- Appendix 2: Recommended amendments
- Appendix 3: Expert conferencing joint witness statements
- Appendix 4: Level of commercial activity and community services
- Appendix 5: Havelock Precinct- Draft qualifying matters and controls
- Appendix 6: Waikato District Council Variation 3 Other qualifying matters
- Appendix 7: Waikato District Council – servicing and stormwater documents
- Appendix 8: Future Proof Map
- Appendix 9: Economics Report
- Appendix 10: Advice in relation to the Huntly mine subsidence risk area

## 2 Scope of Report

### 2.1 Matters addressed by this report

29. This report considers submissions received by Waikato District Council (Council) in relation to Variation 3 to the Proposed Waikato District Plan Decisions Version (PDP). The report outlines recommendations in response to the issues that have emerged from these submissions. The following provisions of the PDP raised by submissions are covered in this report:

- Part 1: (Introduction and General Provisions)
  - Chapter 5 – Definitions (relevant to Variation 3)
- Part 2: (District-wide matters)
  - Chapter 1 – Strategic directions
  - Chapter 12 – Water, wastewater and stormwater
  - Chapter 15 – Natural hazards and climate change
  - Chapter 20 – Te Ture Whaimana – Vision and Strategy
  - Chapter 25 – Subdivision
  - Chapter 29 – Earthworks
- Part 3:
  - Chapter 2 – General residential zone
  - Chapter 3A – Medium density residential zone 2
- Planning Maps: Area-specific matters
  - Ngaaruawaahia
  - Tuakau
  - Pookeno
  - Huntly

### 2.2 Overview of the Variation

30. Variation 3 is Council's Intensification Planning Instrument (IPI) under s80E of the RMA (Variation 3). Variation 3 seeks to vary the PDP to implement the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Amendment Act) by:

- Applying the MDRS to relevant residential zones; and
- Giving effect to Policy 3(d) of the NPS-UD.

31. Specifically, Variation 3:

- Introduces a new zone (MRZ2) to the relevant residential zones within the Waikato. The relevant residential zones are located within Ngaaruawaahia, Pookeno, Tuakau and Huntly. MRZ2 is based on the MRZ zone of the decision version of the PDP with necessary amendments to incorporate the MDRS and associated objectives and policies.
- Amends the relevant planning maps to show the rezoning of the relevant residential zones to MRZ2.
- Amends the name of the MRZ to MRZI for the towns outside Variation 3.
- Amends the strategic direction objectives and policies to incorporate a mandatory objective and policy relating to residential development.
- Amends the policies of the Subdivision chapter to provide for residential subdivision in accordance with the MDRS and incorporates the MDRS and consequential changes.

## 2.3 Overview of submissions

32. Submissions from 117 separate parties were received to Variation 3. The submissions cover a wide range of issues which can broadly be summarised into the following themes:

- Fundamental opposition or support for the variation
- Specific amendments to the MDRS provisions
- Specific amendments to other PDP provisions
- The geographic extent of where the MDRS applies within the district
- The application of Policy 3(d) of the NPS-UD
- Requests for rezoning of land
- Implications of private covenants in Pookeno
- Capacity of the infrastructure network to accommodate growth
- Financial contributions/inclusionary zoning
- Issues of significance to Maaori
- Historic Heritage
- Te Ture Whaimana
- Natural hazards and climate change
- National significant infrastructure
- The urban fringe qualifying matter
- Reverse sensitivity
- Enabling provisions for other uses



## **2.4 Further submissions**

33. A total of 31 further submissions were received. These are addressed together with the primary submissions they relate to.

### 3 Statutory Requirements

34. This section of the report provides an outline of the relevant statutory requirements.

#### 3.1 Resource Management Act (RMA)

35. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (RMA) was enacted on 21 December 2021 in an effort to address the national housing shortage. The s32 Evaluation Report, a supporting document to Variation 3, provided a detailed summary of the RMA and its key requirements in Section 2.2 which is relied on here.
36. The RMA requires “specified territorial authorities,” capturing all tier 1 territorial authorities, to amend their district/regional plans via a mandatory plan change known as an ‘Intensification Planning Instrument’ (IPI) under Section 80E of the RMA to enable the intended level of housing intensification to occur. Such authorities are also required to follow the Intensification Streamlined Planning Process (ISPP) under Clause 95 of Schedule 1 of the RMA.
37. Under Definitions Section 2(1) of the RMA, Waikato District Council is defined as a tier 1 territorial authority.
38. Under s80E, the scope of Waikato District Council’s IPI is limited to incorporating the MDRS and giving effect to policies 3 and 4 of the NPS-UD. This approach is confirmed by Minute #2 issued by the Independent Hearings Panel dated 12 June 2023.
39. Variation 3 was prepared and notified on 19 September 2022 in accordance with the requirements set out by the RMA. Variation 3 is an IPI that incorporates the MDRS into the Proposed Waikato District Plan. Variation 3 applies to the relevant residential zones in Ngaaruawaahia, Huntly, Tuakau and Pookeno.
40. Section 2.1 of the s32 Evaluation Report provides an overview and analysis of Section 6 (Matters of national importance); Section 7 (Other Matters); and Section 8 (Treaty of Waitangi (Te Tiriti o Waitangi)) in relation to Variation 3.
41. Sections 72-77 of the RMA outline the operational framework for district plans. Under Section 72, the purpose of a District Plan is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Resource Management Act 1991 (RMA). The functions of district councils are detailed in Section 31 of the RMA and include:
- Integrated management of the effects of the use, development and protection of land and associated natural and physical resources of the district.
  - Ensuring sufficient development capacity in respect of housing and business land to meet the expected demands of the district.
  - The control of any actual or potential effects of the use, development, or protection of land.
42. A District Plan, and any changes to one, must give effect to higher order planning documents. These include National Policy Statements (and Te Ture Whaimana) and the Waikato Regional Policy Statement. The s32 Evaluation report discusses in detail the number of relevant higher order planning documents which have informed and provided direction in the preparation of Variation 3.

### 3.2 National Policy Statement on Urban Development 2020 (NPS-UD)

43. The NPS-UD came into effect on 20 August 2020 and sets out the objectives and policies for planning for well-functioning urban environments. The objectives of the NPS-UD seek to achieve the following:
- Well-functioning urban environment that enable people to provide for their social, economic and cultural well-being, and for their health and safety, now and into the future;
  - Planning decisions that improve housing affordability;
  - Enable more people to live in areas of an urban environment that are near centres, employment, well served by public transport or there is a high demand for housing;
  - Recognition that urban environments and amenity values change overtime;
  - Planning decisions take into the principles of the Treaty of Waitangi;
  - Decisions on urban development that are integrated with infrastructure and planning decisions, strategic over the medium and long term, and responsive;
  - Local authorities have robust and up to date information about their urban environments and use it to inform planning decisions and;
  - Urban environments which support reductions in greenhouse gases and are resilient to the effects of climate change.
44. These objectives are supported by a range of policies to direct local authorities with the implementation of the NPS-UD. Section 80E of the RMA requires tier 1 territorial authorities to give effect to Policies 3 and 4 (listed below) through an IPI. While the scope of Variation 3 is limited by Section 80E, the provisions of the Variation need to give effect to the NPS-UD as a whole.

*Policy 3: In relation to tier 1 urban environments, regional policy statements and district plans enable:*

- (a) *in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and*
- (b) *in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and*
- (c) *building heights of at least 6 storeys within at least a walkable catchment of the following: (i) existing and planned rapid transit stops (ii) the edge of city centre zones (iii) the edge of metropolitan centre zones; and*
- (d) *within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.*

*Policy 4: Regional policy statements and district plans applying to tier 1 urban environments modify the relevant building height or density requirements under Policy 3 only to the extent necessary (as specified in subpart 6) to accommodate a qualifying matter in that area.*

45. Variation 3 gives effect to the NPS-UD as a whole. In particular, it will enable the development of a variety of homes in terms of type, price and location and assist with providing development capacity to meet expected housing demand.

### **3.3 National Planning Standards 2019**

46. The National Planning Standards were introduced in 2019 with the purpose of improving the efficiency and effectiveness of the planning system by providing nationally consistent structure, format, definitions, noise and vibration metrics and electronic functionality and accessibility. Additionally, Section 75(3) of the RMA requires a district plan to give effect to a national planning standard. As mentioned, a number of submissions were seeking to implement the National Planning Standards through the district plan review process and the Hearings Panel agreed to implement these. Subsequently, the panels decisions have been structured in accordance with the National Planning Standards.
47. Variation 3 has been developed in such a way to continue to be in line with the Proposed District Plan and remain compliant with the National Planning Standards to the extent possible.

### **3.4 Waikato Regional Policy Statement (including Proposed Plan Change I)**

48. Section 75(3)(c) of the RMA requires any change to a district plan must give effect to any regional policy statement (WRPS), and under section 74(2) regard must be had to any proposed regional policy statements (Proposed Change I). The WRPS promotes the sustainable management of the Waikato region's natural and physical resources and identifies the resource management issues facing the region and the methods to achieve the integrated management of these resources across the region.

#### **Proposed Change I to the Waikato Regional Policy Statement (PCI)**

49. PCI was notified on 18 October 2022 seeking to incorporate the requirements of the NPS-UD 2020 and to align with recent changes to the Future Proof Strategy. These changes include:
- A revised urban form and development chapter to ensure that the WRPS is giving effect to the NPS-UD.
50. Deleting the specific provisions relating to growth strategies prepared by territorial authorities outside of the Future Proof subregion (Policies UFD-P7 and UFD-P8). These have been replaced with generic provisions to guide preparation of, and give weight to, growth strategies.
- Updating the provisions in the WRPS that relate to the Future Proof subregion to reflect the updated Future Proof Strategy. This includes the outcomes of the Hamilton to Auckland Corridor Plan, the Hamilton-Waikato Metro Spatial Plan (MSP), the MSP Transport Programme Business Case, and the Three Waters Sub-Regional Study.
51. In relation to Waikato District and Variation 3, the following minimum net target densities from the Future Proof Strategy have been included for the following urban enablement areas:

Location	Net target densities (dwellings per hectare) to be achieved in defined locations
Ngaaruawaahia	30-50 in defined intensification areas 20-25 in greenfield locations
Huntly	25-35 in defined intensification areas 20-25 in greenfield locations
Tuakau	25-35 in defined intensification areas 20-25 in greenfield locations
Pookeno	25-35 in defined intensification areas 20-25 in greenfield locations

52. The following objectives (and associated policies) of the RPS are relevant to Variation 3:

- IM-O1 – Integrated management
- IM-O2 – Resource use and development
- IM-O4 – Health and wellbeing of the Waikato River
- IM-O5 – Climate change
- IM-O7 – Relationship of tangata whenua with the environment
- IM-O9 – Amenity
- LF-O1 – Mauri and values of fresh water bodies
- LF-O3 – Riparian areas and wetlands
- ECO-O1 – Ecological integrity and indigenous biodiversity
- UFD-O1 – Built environment
- HAZ-O1 – Natural hazards
- HCV-O1 – Historic and cultural heritage
- NATC-O1 – Natural character
- UFD-O1 – Built environment
- UFD-PI – Planned and co-ordinated subdivision, use and development
- UFD-P2 – Co-ordinating growth and infrastructure

- UFD-PI1 – Adopting Future Proof land use pattern
- UFD-PI2 – Density targets for Future Proof area

53. Having considered submissions relating to the relevant topics and proposed amendments, I consider that Variation 3 generally gives effect to the WRPS (and proposed Change 1). This includes through the inclusion of policies enabling medium density residential outcomes in SUB-P3, modification of the rules regarding setbacks to rivers. I also consider that Variation 3 seeks to enable growth in a manner that ensures sustainable infrastructure provision. PCI remains relevant as its purpose is to also give effect to the NPS-UD.

### 3.5 Te Ture Whaimana o Te Awa of Waikato

54. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (Settlement Act) gives effect to the Deed of Settlement entered into by the Crown and Waikato-Tainui in relation to Treaty of Waitangi claims pertaining to the Waikato River on 17 December 2009. The Settlement Act's overarching purpose relates to the restoration and protection of the health and well-being of the Waikato River for future generations. As well as being deemed part of the Waikato Regional Policy Statement (RPS) in its entirety pursuant to section 11(1), the Settlement Act prevails over any inconsistent provision in a national policy statement. Clause 2.5.1 of the WRPS also captures the overall vision for the Waikato River, stating:

*Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and well-being of the Waikato river, and all it embraces, for generations to come.*

55. The overarching purpose and intent of Te Ture Whaimana is the restoration and protecting of the health and wellbeing of the Waikato River, as well as the enhancement of sites, fisheries, flora and fauna. In addition to the restoration of the Waikato River itself, and its associated catchments, Te Ture Whaimana also seeks to restore and protect iwi's relationship with the river, the application of maatauranga Maaori, access to the river and adoption of a precautionary decision-making approach to avoid serious or irreversible damage. In their submission, Waikato Tainui stated the inclusion of Te Ture Whaimana in any planning documents is not an optional addition but a key component of any plan review within the Waikato Catchment.
56. Waikato District Council and Waikato-Tainui signed a Joint Management Agreement in 2010 with the purpose of providing for an enduring relationship to achieve the overarching purpose of the settlement (the restoration and protection of the health and wellbeing of the Waikato River). Waikato Tainui's submission highlighted the Joint Management Agreement between Waikato District Council and Waikato-Tainui and Council's has a duty to uphold Te Ture Whaimana and ensure its achievement.
57. S771(c) of the RMA identifies as a Qualifying Matter (QM), a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River. Volume 2 of the S32 Evaluation report identified 12 QMs, in accordance with s771 of the RMA and identified, including Te Ture Whaimana (Section 9). The significance of Te Ture Whaimana to the Waikato District is recognised in the decisions version of the Proposed District Plan in Part 2: District-wide matters- TETW – Te Ture Whaimana – Vision and Strategy, which will continue to apply to Variation 3.

58. Given the status of Te Ture Whaimana, the assessment carried out for Variation 3 has been done with the protection and restoration of the Waikato River in mind, including specifically providing for a matter or matters required to give effect to Te Ture Whaimana as a qualifying matter (s77(c) of the RMA).
59. The provisions amended by this QM concentrate on three main areas in the Medium density residential zone 2 and General residential zone:
- Setback of buildings from waterbodies;
  - Impervious surface standard; and
  - Ensuring subdivisions can be appropriately serviced for water, wastewater and stormwater
60. Section 9.2 in Volume Two of the S32 Evaluation Report elaborates further on these provisions. In terms of three waters servicing and impervious surfaces, these standards apply to both Medium density residential zone 2 as well as General residential zone within the four towns. Ensuring the potential adverse effects of housing on the Waikato River are managed, and applying building setbacks from waterbodies and controlling impervious surfaces assists in Variation 3 giving effect to Te Ture Whaimana. Specific submission points in relation to Te Ture Whaimana are addressed in more detail by Ms Fiona Hill in Section 6.4 of this report.

### **3.6 Future Proof 2022**

61. The Future Proof 2022 Strategy is a 30-year growth plan for the Hamilton, Waipa and Waikato sub-region, and provides a framework to collaboratively manage growth. The Strategy identifies seven transformational moves for change:
- 1 Iwi aspirations: enhancing the health and wellbeing of the Waikato River in accordance with Te Ture Whaimana, the Vision and Strategy, and iwi place-based aspirations;
  - 2 Putting the Waikato River at the heart of planning;
  - 3 A radical transport shift to a multi-modal transport network shaped around where and how communities will grow;
  - 4 A vibrant metro core and lively metropolitan centres;
  - 5 A strong and productive economic corridor at the heart of the metro area;
  - 6 Thriving communities and neighbourhoods including quality, denser housing options that allow natural and built environments to co-exist, and increased housing affordability and choice;
  - 7 Growing and fostering water-wise communities through a radical shift in urban water planning, ensuring urban water management is sensitive to natural hydrological and ecological processes.
62. In June 2022, an updated strategy was adopted by the Future Proof Implementation Committee following a public consultation period. The updated strategy incorporated the Hamilton to Auckland (H2A) Corridor Plan and the Hamilton-Waikato Metropolitan Spatial Plan, as well as factoring in key national documents and initiatives including the NPS-UD and the Government's Urban Growth Agenda. In particular, the Strategy goes some way in meeting Subpart 4 of the NPS-UD regarding the preparation of a Future Development Strategy (FDS) and the achievement of well-functioning urban environments in existing and future urban areas and provision of sufficient development capacity to meet expected demand.

63. The Strategy contains growth targets that promote a compact and concentrated development approach. For the Waikato District, approximately 90% of growth will be in identified urban areas which include Ngaaruawaahia, Huntly, Tuakau and Pookeno. The settlement patterns continue to support a more compact urban land use pattern, however the updated strategy these patterns now reflect the latest development demand and supply information (from the Housing and Business Assessment reports).

### **3.7 Waikato 2070- Growth & Economic Development Strategy**

64. The purpose of Waikato 2070 is to guide Waikato District Council on how, where and when growth should occur in the district, in both rural and urban communities, over the next 50-years in order to achieve Council's vision of creating liveable, thriving and connected communities. The Strategy was adopted in June 2020 and drew on the initiatives and ambitions that are identified in the Waikato District Blueprint to inform future planning, investment, and decision-making. Waikato 2070 also provides the indicative extent and timing for future growth cells identified on each of the development plans.
65. At a sub-regional level, the strategy assists on the delivery of the Future Proof Strategy. Structure plans and town centre plans provide the basis for amendments to the District Plan (via either Plan Changes and/or Plan Variations) to enable the development of identified growth areas. The location and timing of the growth cells as set out in Waikato 2070 will inform the Long-Term Plan (LTP) in respect of the necessary funding of infrastructure and services in these areas. Variation 3 is confined to the key urban centres of the district and is generally aligned with the intended growth set out in Waikato 2070. It is worth highlighting Section 3.1 Grow our Communities which outlines the direction '*Deliver well-planned and people-friendly communities.*' Implementation of this direction requires Waikato District Council to '*Enable that higher density development (up to four storeys) in town centres*' and '*Ensure our towns offer employment and housing choice.*'

### **3.8 National Policy Statement on High Productive Land 2022**

66. The purpose of the NPS-HPL is to ensure the protection and availability of highly productive land for food and fibre production by preventing inappropriate subdivision, use and development. The NPS-HPL also provides advice to Council's on identifying and mapping highly productive land.
67. Councils are still able to undertake urban rezoning of highly productive land if it is needed to meet the expected demand for housing or there are no other reasonably practicable and feasible options. However, Councils must take measures to ensure the spatial extent of any urban zoning on highly productive land is the minimum necessary to provide the required development capacity.
68. All the objectives, policies, and implementation have immediate legal effect, and Councils are required to consider them when assessing resource consent applications and plan changes. Regional Councils are required to identify highly productive land within three years, with district plans required to updated in the following two years.
69. I consider Variation 3 aligns with the purpose of the NPS-HPL as the application of the variation only applies to existing urban areas and the relevant residential zones of the district.



### **3.9 Iwi Agreements/Documents**

70. Waikato District Council works in partnership with Maaori ensure their input on environmental considerations wherever possible across our planning and activities.

#### **Joint Management Agreements**

71. Council has Joint Management Agreements in place with two iwi who both have rohe across the district, Waikato-Tainui and Ngaati Maniapoto. As a result of the Waikato-Tainui Raupatu Claims (Waikato River) Act 2010, a Joint Management Agreement (JMA) between Waikato-Tainui and Waikato District Council was signed in March 2010. The JMA affirms commitment between Waikato-Tainui and Waikato District Council to co-manage the Waikato River, to restore and protect the health and wellbeing of the river and to provide an enhanced relationship between the parties on areas of common interest.
72. The Nga Wai o Maniapoto (Waipa River) Act 2012 came into effect on 5 April 2012. Under this Act there is a requirement for Waikato District Council to enter into a Joint Management agreement with Ngaati Maniapoto. The purpose of the Act is to "...restore and maintain the quality and integrity of the waters that flow into and form part of the Waipa River for present and future generations..."
73. I note that whilst not being a formal Joint Management Agreement, in April 2013 Council signed a Memorandum of Understanding with Ngaa Uri aa Mahanga. This document outlines how Council will work with Ngaati Maahanga on matters of mutual interest and principles for engagement.

#### **Iwi Environmental Plans**

74. I note that section 2.12 of the S32 Evaluation Report assessed Variation 3 against the relevant Iwi Environmental Plans. I rely on that explanation here confirming that Variation 3 has taken account of/given effect to Te Ture Whaimana.

### **3.10 National Policy Statement on Electricity Transmission 2008**

75. The National Policy Statement for Electricity Transmission (NPSET) identifies the need to operate, maintain, develop, and upgrade the electricity transmission network as a matter of national significance. The NPS-ET guides Council's on effective operation, maintenance, upgrading, and development of the electricity transmission network when drafting plan rules and in the determination of resource consent applications.
76. I note that Volume Two of the S32 Evaluation Report (Section 8) identified the NPS-ET has been included in Variation 3 as a Qualifying Matter. To give effect to this Qualifying Matter, Variation 3 seeks to continue to manage development in close proximity to the National Grid through the National Grid Yard and National Grid Subdivision Corridor and their associated provisions. This is to reflect the approach that residential development is not appropriate within the National Grid Yard. Further details regarding the national grid include the response to submission received are addressed by Ms Karin Lepoutre in section 6.5 of this report.

### 3.11 National Policy Statement for Freshwater Management 2020

77. The NPS-FM provides local authorities with updated direction on how freshwater should be managed under the RMA.
78. Despite being largely aimed at Regional Councils, clause 3.5(4) requires every territorial authority to 'include objectives, policies and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects of urban development on the health well-being of water bodies, freshwater ecosystems and receiving environments'.
79. The updated direction introduces a fundamental concept – Te Mana o te Wai, referring to the fundamental importance of water and recognising that protecting the health and well-being of the wider environment. The framework also encompasses the following 6 principles relating to the roles tangata whenua hold in relation the management of freshwater:
- 1 Mana whakahaere
  - 2 Kaitiakitanga
  - 3 Manaakitanga
  - 4 Governance
  - 5 Stewardship
  - 6 Care and respect
80. The inclusion of Te Mana o te Wai in the updated NPS-FM highlights the intrinsic links between this document and the overall purpose of Te Ture Whaimana, restoration and the prioritisation of the health and wellbeing of waterbodies first and foremost. Te Mana o te Wai outlines the following hierarchy of obligations:
- First, the health and well-being of waterbodies and freshwater ecosystems
  - Second, the health needs of people (such as drinking water)
  - Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

### 3.12 National Adaptation Plan 2022

81. In August 2022, the National Adaptation Plan 2022 (NAP) came into force and outlines the government's strategies, policies, and proposals to enable New Zealand to adequately prepare for and adapt to the impacts of climate change.

The goals of the NAP are to:

- Reduce vulnerability to the impacts of climate change
  - Enhance adaptive capacity and consider climate change in decisions at all levels
  - Strengthen resilience to climate change
82. Variation 3 aligns with the NAP by incorporating climate change risks, prioritising the concentration of growth in already established urban areas and applying the appropriate qualifying matters to areas with increased natural hazard risk. Section 7.3 in Volume 2 of the S32 Evaluation Report highlights they key natural hazards are sites near the Waikato River in

Huntly and Ngaaruawaahia (High Risk Flood Areas, Flood Plain Management Areas, and Flood Ponding Areas) and the mine subsidence area in Huntly.

### **3.13 National Emissions Reduction Plan 2022**

83. The National Emissions Reduction Plan (NERP) contains strategies, policies, and actions to achieve the emissions budget and to limit global warming to 1.5°C above pre-industrial levels. The strategy, and this plan to execute it, is based on five principles:
- 1 Playing our part
  - 2 Empowering Māori
  - 3 Equitable transition
  - 4 Working with nature
  - 5 A productive, sustainable, and inclusive economy
84. I consider this plan to be relevant to Variation 3 as the promotion of developments in residential environments containing a variety of mixed-use, medium, and high-density housing with good connections to urban centres and public transport routes can assist in reductions in greenhouse gas emissions due to the lower constructional and operational emissions of such developments as well as reduced reliance on private vehicles. Application of the MDRS can assist in achieving emission reduction across a range of sectors beyond only housing, including transport, construction, energy, and waste. Its careful application is vital in enabling growth in close proximity to important transport routes.

## 4 Topic I: Geographic Extents of Provisions and Zones

85. This topic includes the following themes:

- What towns do the MDRS apply to?
- Requests for rezoning

### 4.1 What towns do the MDRS apply to?

#### Introduction

86. The Council has a duty under S77G(1) of the Act to incorporate the MDRS into every relevant residential zone in the district. Variation 3 as notified identifies Huntly, Ngaaruawaahia, Tuakau and Pookeno as containing relevant residential zones.

87. The term “relevant residential zone” is defined in Section 2 of the Amendment Act and means all residential zones except for:

- *a large lot residential zone,*
- *an offshore island, a settlement zone; and*
- *an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment.*

#### Submissions

88. Submissions have been received which:

- Support the towns of Huntly, Ngaaruawaahia, Tuakau and Pookeno as containing the relevant residential zones;
- Oppose the application of the MDRS to specific towns;
- Support the rezoning pattern in Te Kauwhata and Raglan whilst another submitter seeks to rezone areas in Te Kauwhata and Raglan; and
- Seek to have 1 medium density zone.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Jan Sedgwick	11.2		Support the Variation applying to the 4 larger communities.
Ministry of Housing and Urban Development (HUD)	50.2		No specific decision requested, but submission considers that Variation 3 correctly identified the residential zones in Huntly, Ngaaruwaahia, Tuakau, and Pokeno as relevant residential zones.
Rangitahi	50.2	208.1	Accept submission point.
Top End Properties*	50.2	222.24	Allow the submission
CSL Trust*	50.2	223.24	Allow the submission
Pokeno West* and West Pokeno Limited	50.2	224.24	Allow the submission
Megan Ryder	64.1		Delete Huntly from Variation 3
Simone Bylsma	69.1		Remove Variation as applied in Tuakau
Eden Lapwood	77.1		Amend Variation 3 to exclude Tuakau.
Gaylene and Wayne Rogers	78.1		Delete Variation 3. The submission refers particularly to Pokeno.
Elizabeth Anne Nicholas	79.1		Remove MRZ2 from Pokeno and oppose proposals that have been imposed by central government.
Michelle and Jonathan Locke	80.1		Delete the renaming of Medium density residential zone Tuakau to Medium Density Zone 2

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Marlana Maru	81.1		Delete medium density zoning in Ngaaruawaahia.
Ngāti Naho Trust	83.13		Retain the provisions and zoning pattern for Te Kauwhata and Raglan
Te Whakakitenga o Waikato Incorporated	83.13	213.34	The submitter seeks that the whole of the submission be allowed
Brenda Roberts	88.1		Amend the proposal to make existing General residential zone to Medium density residential zone 2. The submission opposes the proposal and refers in particular to Pookeno.
Pokeno Village Holdings Limited	88.1	206.14	Reject submission point.
Patricia Burns	90.1		Delete Variation 3 from Pookeno.
Greg Wiechern	96.1		Delete Medium density residential zone 2. Submission expresses particular concern about Ngaaruawahia.
Kāinga Ora	106.2		Amend Variation 3 to have only one Medium density residential zone in the PDP applied across the Waikato District, with: <ul style="list-style-type: none"> <li>· The Proposed MRZ2 is selected as the preferred set of Medium density residential zone provisions in the PDP and renamed as the 'Medium density residential zone' (MRZ)</li> <li>· Medium density residential zone 1 (MDZ1) is deleted from Variation 3; and</li> <li>· The spatial application of the MDZ1 and MRZ2 are combined in the PDP as one zone, renamed as MRZ and colour-coded the same legend in the planning maps. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.</li> </ul>

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Brett Titchmarsh	106.2	210.1	Accept submission point.
Kāinga Ora	106.2		Amend SUB-P3 Lot sizes as follows: (1) Except for residential subdivision within the MRZ2 – Medium density residential zone 2, Minimum lot size and dimension of lots enable the achievement of the character and density outcomes of each zone; and AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.2	200.31	Reject submission point.
Hugh Green Limited	106.2	204.1	Allow submission to the extent that there is only one MDRZ (thereby resulting in Te Kauwhata and Raglan having MDRS applied); AND Amend zoning of 46 to 50 Te Kauwhata Road and at 26D to 40 Blunt Road, Te Kauwhata from General residential zone to Medium density residential zone.
Ryman Healthcare Limited	106.2	219.24	Allow submission point, subject to the relief sought in Ryman's primary submission
Retirement Villages Association	106.2	220.24	Allow submission point, subject to the relief sought in Ryman's primary submission
Hynds Pipe Systems Ltd*	106.2	221.31	Reject submission point.
Kāinga Ora	106.4		Retain the outlook space per unit figure associated with MRZ2-S3 AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
			necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.5		Amend the planning maps to extend the MRZ in Raglan to a 400m walkable catchment of the Raglan Town Centre and include land that has previously been retained as General residential zone [see submission for identification of sites]. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Rangitahi	106.5	208.3	Reject submission point.
Te Whakakitenga o Waikato Incorporated	106.5	213.64	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.14		Amend the zoning of 46-50 Te Kauwhata Road and at 26D -40 Blunt Road, Te Kauwhata from General residential zone to Medium density residential zone. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Hugh Green Limited	106.14	204.2	Allow submission to the extent that there is only one MDRZ (thereby resulting in Te Kauwhata and Raglan having MDRS applied); AND Amend zoning of 46 to 50 Te Kauwhata Road and at 26D to 40 Blunt Road, Te Kauwhata from General residential zone to Medium density residential zone.
Te Whakakitenga o Waikato Incorporated	106.14	213.71	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.15		Amend the zoning of 32 Main Road and at 1-7 Baird Ave, Te Kauwhata from Commercial zone to Town centre zone. AND Any such further, alternative or



Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
	WITHDR AWN		consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.15	213.72	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.21		Amend the following rules to remove all references to the MRZ1 zone and replace it with MRZ: <ul style="list-style-type: none"> <li>· · · · · SUB-R30 Subdivision – general</li> <li>· · · · · SUB-R32 Subdivision – general</li> <li>· · · · · SUB-R33 Subdivision – boundary adjustments</li> <li>· · · · · SUB-R34 Subdivision – amendments and updates to Cross Lease Flats Plans and Conversion to Freehold</li> <li>· · · · · SUB-R35 Subdivision – amendments and updates to Cross Lease Flats Plans and Conversion to Freehold</li> <li>· · · · · SUB-R36 Title Boundaries – contaminated land</li> <li>· · · · · SUB-R37 Subdivision – road frontage</li> <li>· · · · · SUB-R38 Subdivision creating reserves</li> <li>· · · · · SUB-R39 Subdivision creating reserves</li> </ul> AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.21	200.37	Reject submission point.
Te Whakakitenga o Waikato Incorporated	106.21	213.76	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.31		Amend MRZ2-S1 Land use – Building as follows: Residential unit – including papakaainga AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Te Whakakitenga o Waikato Incorporated	106.31	213.81	The submitter seeks that part of the submission be allowed in part insofar as it does not have unintended consequences or undermine other aspects of the district plan including the enabling papakaainga provisions of the Maaori Land Chapter.
Kāinga Ora	106.32		Add MRZ-S2 Minimum residential unit size AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.32	213.82	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.33		Retain MRZ2-S10 Impervious surfaces AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.33	200.40	Allow submission in relation to the retention of impervious surface standards to managed the adverse effects of stormwater runoff from urban development. Reject submission in relation to single MRZ zone.
Kāinga Ora	106.34		Retain MRZ2-S11 Ground floor internal habitable space AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.35		Retain MRZ2-S12 Fences or walls AND Delete reference to the MRZ2 chapter, to reflect a single

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
			'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.38		Retain the building height figure associated with MRZ2-S2 AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.39		Retain the height in relation to boundary figure associated with MRZ2-S7 AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.41		Retain the proposed amendments to the Town Centre Zone provisions, which largely seek to cross-reference the proposed MRZ2 Chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Retirement Villages Association	107.3		Review the application of the MDRS to Huntly Tuakau, Ngaaruaawhaia and Pokeno, and in particular the urban fringe qualifying matter AND Review the application of MRZ1 in Raglan and Te Kauwhata.
Pokeno Village Holdings Limited	107.3	206.23	Reject submission point.
Rangitahi	107.3	208.5	Disallow the submission to the extent that it relates to Raglan.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Hynds Pipe Systems Ltd*	107.3	221.39	Reject submission point.
Top End Properties*	107.3	222.51	Allow the first part of the submission
CSL Trust*	107.3	223.42	Allow the first part of the submission
Pokeno West* and West Pokeno Limited	107.3	224.52	Allow the first part of the submission
Retirement Villages Association	107.73		Reconsider the aerial extent of the Medium Density Residential 2 Zone; AND Remove the urban fringe qualifying matter so those areas are rezoned from General Residential to Medium density residential zone 2; AND The Medium Density 1 Zone is rezoned to Medium density residential zone 2 (Raglan and Te Kauwhata).
Hugh Green Limited	107.73	204.3	Allow submission to the extent that there is only one MDRZ (thereby resulting in Te Kauwhata and Raglan having MDRS applied); AND Amend zoning of 46 to 50 Te Kauwhata Road and at 26D to 40 Blunt Road, Te Kauwhata from General residential zone to Medium density residential zone.
Pokeno Village Holdings Limited	107.73	206.24	Reject submission point.
Rangitahi	107.73	208.6	Disallow the submission to the extent that it relates to Raglan.
Bronwyn Heath	110.1		Amend Variation 3 so that MRZ2 is not located on the main road of Pookeno, and instead is applied out of the town area. Submission opposes the rezoning of Pookeno from MRZ to MRZ2.

## Analysis

### *Four towns subject to Variation 3*

89. Submissions have been received which oppose the MDRS being applied to each of the 4 towns. In my opinion the towns of Huntly, Ngaaruawahia, Tuakau and Pokeno clearly contain relevant residential zones and have been correctly identified. I say this for the following key reasons.
90. At the time of the 2018 census, Huntly had a population of 8,342 people, Ngaaruawaahia had a population of 6,261, and Tuakau had a population of 5,016 people<sup>14</sup>. These towns must contain relevant residential zones as they each exceed the 2018 census population threshold.
91. At the 2018 census, Pookeno had a population of 2,517 people less than the 5,000 threshold. It is therefore necessary to consider whether Pookeno is intended by Council to become part of an urban environment. The definition of urban environment is contained in s77F of the Act and means:
- any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:*
- (a) is, or is intended to be, predominantly urban in character; and*
- (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people*
92. In respect of (a) I consider the following factors to be of importance. I consider Pookeno to already be urban in character (as opposed to “intended” to be) as it contains a significant level of residential housing, significant industries, and a concentrated commercial area inclusive of a supermarket. Its urban character is also distinctive from the surrounding rural area. I do not consider it is necessary to have all these factors to be considered urban, rather it is my opinion that these are the factors that make Pookeno urban in character. If the Panel disagrees, I consider the following information is important in respect of the ‘intended to be’ part of the definition.
93. Since the 2018 census Pookeno has experienced significant levels of growth. Using the 2021 July Stats New Zealand figures Pookeno has grown to a population of 5,541. This equates to a population increase of 341% from 2014 to 2021, and higher than the University of Waikato population projections contained in the Council’s s32 assessment (Volume 1, page 25, and included below). I also note additional land has been rezoned to residential through the recent PDP process, indicating the opportunities to grow Pookeno will continue. Furthermore I note Pookeno is identified in Future Proof 2022 as a Tier 1 urban environment (Future Proof Strategy, Figure 9, page 29). For all of these reasons I consider Pookeno to be urban in character (and at least predominantly urban in character).
94. Turning to (b) I consider Pookeno to already be part of a housing and labour market of 10,000 people (as opposed to “intended” to be). Of relevance is Pookeno’s proximity to the Auckland housing and labour market, the largest city in the country. This is reflected in the Statistics New Zealand Functional Urban Area classification (refer to Figure 1 below) which identifies Pookeno as a satellite urban area and part of the hinterland of Auckland.

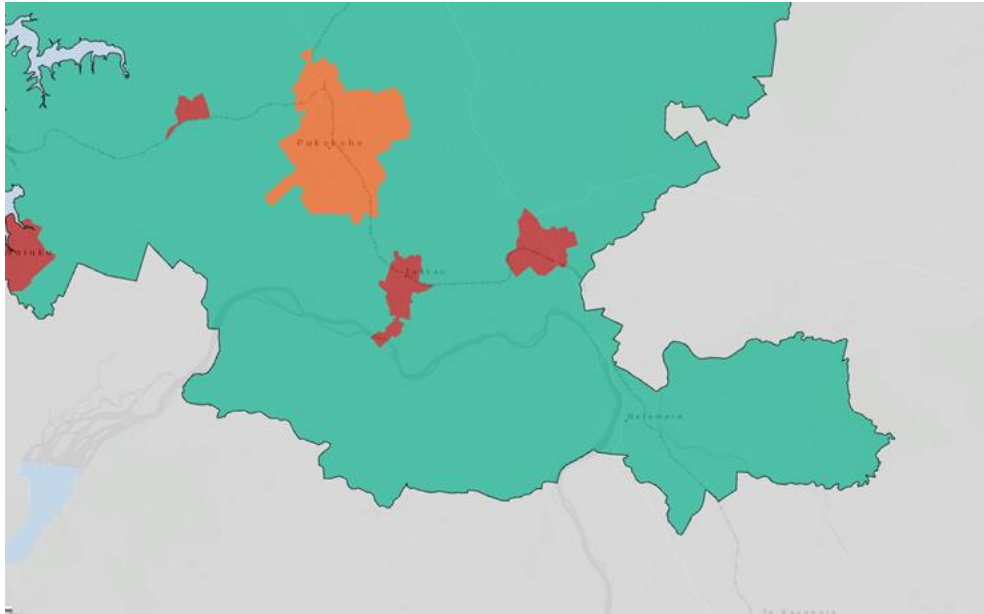


Figure 1: Pokeno within the context of Auckland's urban area

95. In addition, work undertaken by Waikato District Council for the Pokeno Public Realm Concept Strategy (March 2022) mapped commuting patterns. The findings from this work are illustrated in the diagram below. The diagram in Figure 2 shows the clear relationship between Auckland and Pokeno. For these reasons it is considered Pokeno is part of a housing and labour market of at least 10,000 people.

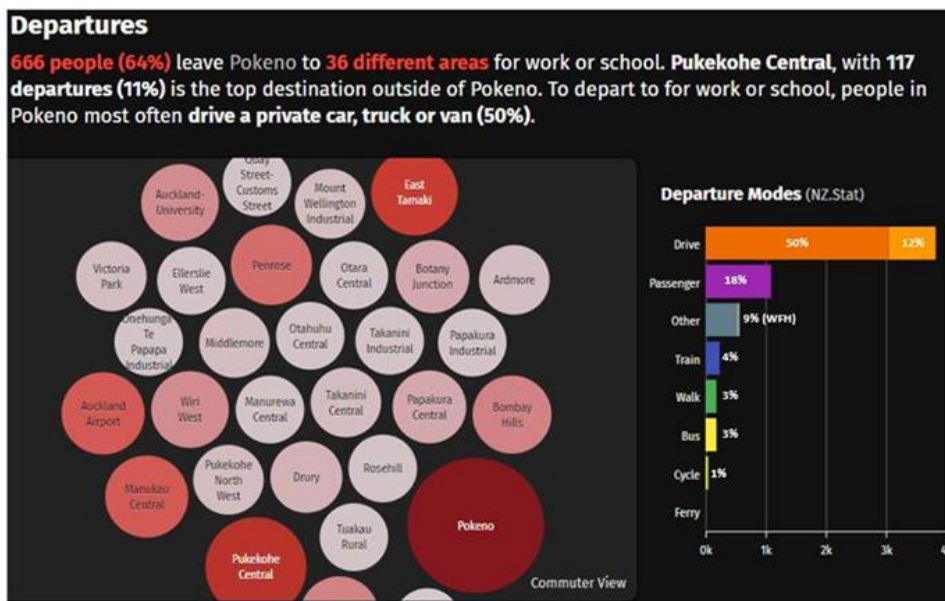


Figure 2: Auckland/Pokeno relationship (from Pokeno Public Realm Concept Strategy, March 2022)

96. For these reasons I consider Pokeno is an urban environment and as such contains relevant residential zones.

*Do Raglan and Te Kauwhata have relevant residential zones?*

97. Kāinga Ora and the Retirement Village Association for have requested to amend the existing medium density zoning in both Raglan and Te Kauwhata and for there to be only one medium density zone in the PDP. Other submitters such as Ngati Ngaho Trust have sought to oppose the application of the MDRS to Raglan and Te Kauwhata. The key matter to consider is whether Raglan and Te Kauwhata contain relevant residential zones, in which case they, are required to have the MDRS applied to them.

98. I consider it is important to begin by outlining the development of the medium density zone in the PDP. In January 2022 the decisions on the submissions lodged to the PDP were released. In response to a submission by Kāinga Ora it was decided to introduce a new medium density zone into the PDP in 6 towns of the district (Ngaaruwaahia, Huntly, Pookeno, Tuakau, Te Kauwhata and Raglan). The reasons for this decision are contained in Decision 15. I would like to draw the Panel's attention to a couple of key statements from the decision on pages 11 and 12 (paragraphs 6.1 and 6.6) where it states: ...

*"we consider there is a clear need to enable an increase in residential density adjacent to the Waikato District's larger town centres in order to meet the NPS-UD directions...."*

*"The proposed spatial extent of the MDRZ is confined to those residential growth nodes and 'major commercial centres' identified on the Maps 1 and 2 of Future Proof."*

99. Refer to Appendix 8 for a copy of these maps.

100. These maps identified Raglan and Te Kauwhata as Future Proof growth areas along with other locations in the District. This decision was based on the Future Proof strategy at that time. The Council's decision on the PDP were released prior to the updated Future Proof Strategy (June 2022) which was developed in full knowledge of the Enabling Housing Act. I consider this timing is important, as in my opinion, it should not automatically be assumed that an area of existing medium density zoning in the PDP should have the MDRS applying to it.

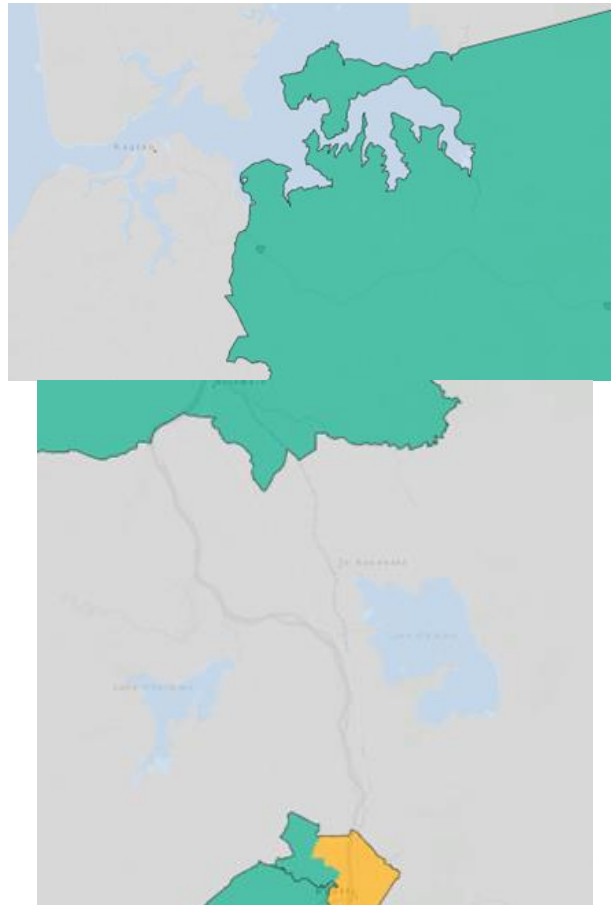
101. Variation 3 created two medium density zones:

- MDRZ2 which applies to Ngaaruwaahia, Huntly, Tuakau and Pookeno; and
- MDRZI which applies to Raglan and Te Kauwhata

102. The primary reason for the two zones is to distinguish the application of the MDRS because Raglan and Te Kauwhata were not considered to contain relevant residential zones. I agree with this conclusion for the following reasons:

- In 2018 Raglan's population was 3,279 people and Te Kauwhata's population was 1,617 people, less than the 5,000 threshold (University of Waikato projections).
- As a consequence, in order for the MDRS to apply to Raglan and Te Kauwhata, the towns would need to meet the definition of "urban environment". The first part of the definition requires consideration as to whether Raglan and Te Kauwhata are / or are intended to be predominantly urban in character. I consider both Raglan and Te Kauwhata meet this criterion. Both towns have defined commercial areas and provide living options at typical residential densities. Both towns are also distinctly urban from the surrounding rural area. In terms of the second part of the definition the issue is whether Raglan and Te Kauwhata are or are intended to be part of a housing and labour market of 10,000 people. (Noting

both parts of the definition are required to be met to be considered an urban environment). When considering this issue, I believe the following information is relevant. Under the Statistics New Zealand functional urban area system, urban cores and rural hinterlands are identified. The hinterlands are based on where 40% of workers commute to an urban core. I consider this methodology provides a way of identifying where places are part of larger housing and labour markets (with both Hamilton and Auckland exceeding the 10,000 threshold). The maps below (Figure 3) identify Raglan outside of the hinterland of Hamilton and Te Kauwhata being located between the hinterlands of Auckland and Hamilton (taken from <https://www.stats.govt.nz/methods/functional-urban-areas-methodology-and-classification>).



*Figure 3: Maps showing Raglan and Te Kauwhata in context of Hamilton and Auckland respectively*

103. It is also relevant to consider the growth projections for both towns. I have relied on the University of Waikato projections contained in the s32 report (replicated in table 1 below) and note that over the short, medium and long term timeframes contained in the NPS UD neither town will reach a population of 10,000. I note the closest to this is Te Kauwhata which is projected to reach 10,429 people by 2060 (7 years longer than the long term (30 years) timeframe in the NPS-UD).



Town/ Village	2018 census	2020	2021	2022	2030	2040	2041	2050	2060
Huntly	8,342	8,867	9,086	9,307	10,909	12,183	12,252	13,101	13,706
Huntly Rural		1,952	1,966	1,979	2,337	3,250	3,364	4,215	5,164
Ngaaruawahia	6,261	8,439	8,602	8,760	9,468	9,829	9,858	10,179	10,512
Pookeno Urban	2,517	3,959	4,254	4,550	6,704	8,404	8,489	9,056	9,522
Pookeno Rural		865	879	894	986	1,243	1,288	1,777	2,427
Raglan	3,279	4,095	4,240	4,376	5,218	5,879	5,931	6,377	6,621
Te Kauwhata	1,617	2,848	2,994	3,145	4,698	6,994	7,236	9,003	10,429
Tuakau	5,016	6,137	6,302	6,478	7,184	7,498	7,521	7,638	7,672

Table 1: University of Waikato population projections

104. I also note the Future Proof Strategy 2022 classifies Raglan and Te Kauwhata as locations where urban development should be enabled but not as urban environments under the NPS-UD. The urban environments under the NPS-UD are identified in Figure 9 of Future Proof and for the Waikato District are:

- Tier 1 Pookeno, Tuakau and Ngaaruawahia
- Tier 3 Huntly

105. I am not sure why Future Proof have applied a Tier 3 classification to Huntly but I consider this is not a material issue as the 2018 population of Huntly clearly exceeded the 5,000 population threshold to meet the definition of “relevant residential zone”.

106. The relationship between these areas and classification system is explained in Figure 13 of the Future Proof Strategy 2022 which I have included below for the Panel’s reference (Figure 4).

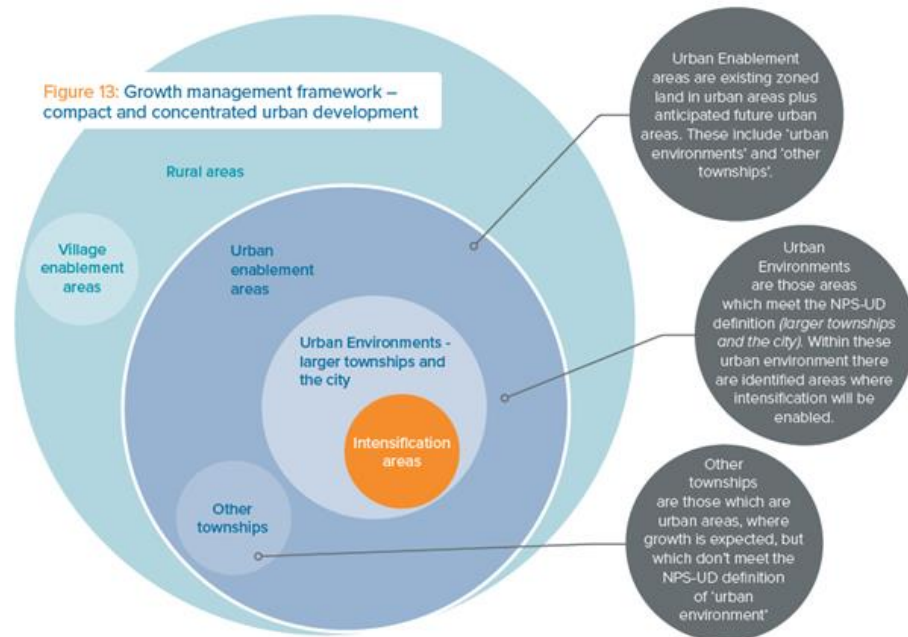


Figure 4: Future Proof Strategy Figure 13

107. Accordingly I do not consider Raglan and Te Kauwhata contain relevant residential zones and therefore am not recommending that the MDRS apply in these locations.

*One or two medium density zones?*

108. I consider there is difficulties with the one zone approach. I note the notified variation did not include Raglan and Te Kauwhata in the MRZ2 zone because these towns do not contain relevant residential zones. A possible way forward to recognise the two sets of medium density standards in the district is by having separate tables within a single zone. This would require considerable amendment throughout the PDP. If the Panel consider there is merit in this approach then it can be considered further during the hearing and the necessary drafting can occur.

*Should the areas affected by the 'urban fringe' qualifying matter be rezoned to MRZ2?*

109. I accept that the MDRS needs to be incorporated into the urban fringe area subject to qualifying matters, however aside from the MDRS the IPI needs to give effect to Policy 3(d) of the NPS-UD and there is discretion for the Council to include some matters, such as a minimum vacant lot size on.

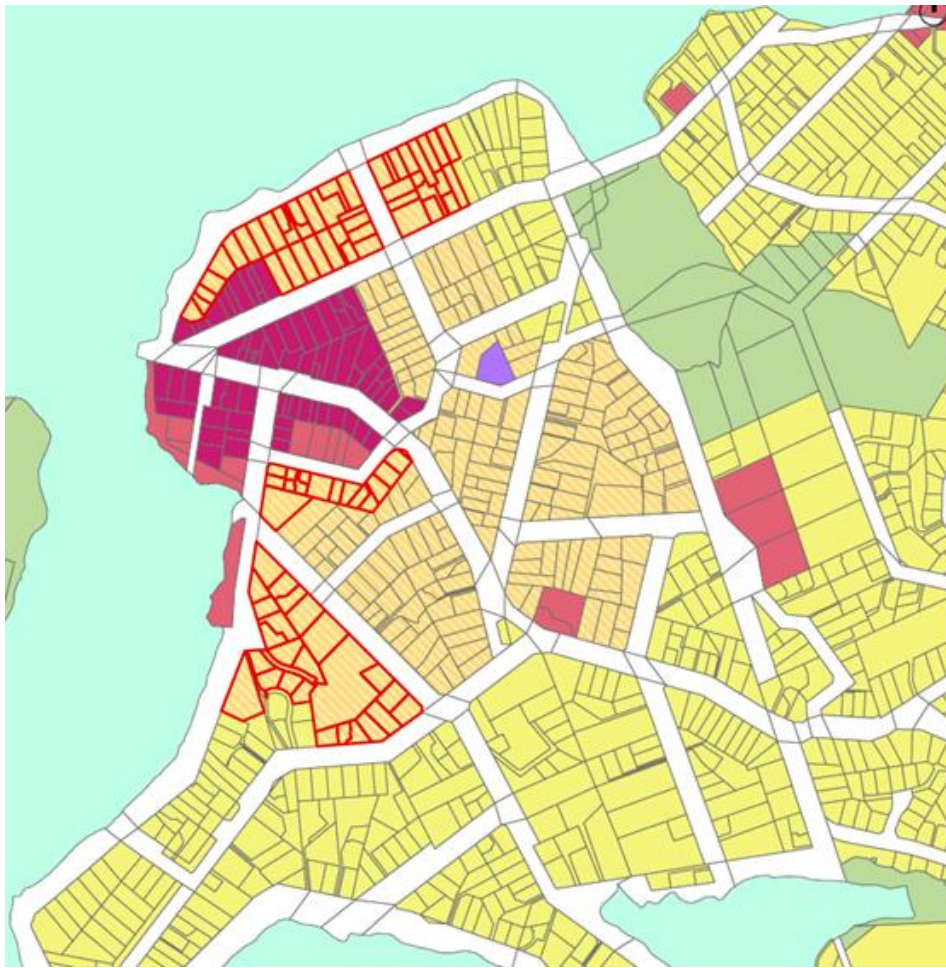
110. In respect of the MDRS, the standards do not contain a minimum vacant lot size requirement. Consequently, there is no duty under S77G in applying the MDRS to amend the current vacant lot size requirement in the PDP zones. Whilst preparing the IPI it was therefore open to consider whether there should be a minimum vacant lot size requirement, and if there is what that should be. In its notified variation the Council decided there should be a vacant minimum lot size requirement and applied 200m<sup>2</sup> in the existing medium density zone and 450m<sup>2</sup> in the urban fringe qualifying matter area.

111. Policy 3 is discussed in more detail in section 7. The discussion in that section is also relevant here. For ease of reading, I have summarised the main points below:
- Policy 3(d) is relevant
  - There is significant capacity well above projected demand in all modelled scenarios
  - There is limited demand in the 4 towns for apartment living
112. In addition to these reasons, it is my view that applying a 200m<sup>2</sup> vacant lot size throughout the residential zone in the small towns in the Waikato District does not promote a well-functioning urban environment. It will disperse development and not focus it on areas closer to the town centre. In this regard I am relying on the evidence of Ms Susan Fairgray. For these reasons, I recommend retaining the 450m<sup>2</sup> minimum lot size requirement in the previous urban fringe area. In order to achieve this I have recommended an overlay entitled 'vacant lot minimum restriction area'. I consider this is not a QM, as it does not amend a MDRS. I consider this approach provides for 3 residential units per lot and is a significant change from the notified variation. And as explained in the evidence of Ms. Fairgray Variation 3 does provide for a range of housing options.
113. I note this approach on minimum vacant lots sizes is different than what was indicated in the Havelock Provisions conferencing information circulated to submitters. I consider this information was draft and was focused on the Havelock Precinct. Having had the opportunity to consider Policy 3(d) for the four towns, my view is not as set out above. Additionally, submitters will have the opportunity to present evidence on this matter at the hearing.

#### *Rezoning requests within Raglan and Te Kauwhata*

114. Requests for rezoning that are located outside of the 4 towns notified in Variation 3 have been included in this section of the report.
115. Turning to the specific requests to rezone parcels within Raglan. In Raglan Kāinga Ora have requested the MRZ (MDRS) zoning be amended so that it applies to a 400m walkable catchment from the Raglan town centre. In the reasons for the submission, it is stated the submitter is seeking to extend the application of the MRZ (MDRS) to respond to the requirements of Policy 1 of the NPS-UD. I consider this rezoning request is problematic for the following reasons:
- Raglan did not form part of Variation 3 and is not considered to contain relevant residential zones
  - People would not have been aware that the zoning of this town could change as part of Variation 3. Furthermore it is not clear whether any consultation has occurred with the owners of these properties
  - No evidence has been provided as part of the Variation that supports the rezoning of these properties
116. I note the S42A rezoning report prepared at the time of the PDP hearings for Raglan notes the area south of Bank Street (which is within the 400m walkable catchments?) was not recommended to be rezoned to medium density, as it has been identified as an area for town centre expansion in Waikato 2070. It was also recommended in the S42A report that the medium density zone be pulled back from the coastal edge in order to protect the special coastal character of Raglan. No further evidence has been provided. The map below (Figure 5) is taken

from the Kāinga Ora submission and identifies in red outline the land parcels that are sought to be rezoned.



*Figure 5: Kāinga Ora rezoning requests within Raglan*

117. Kāinga Ora have also sought for specific parcels of land to be rezoned in Te Kauwhata (106.14). The parcels of land concerned are 46-50 Te Kauwhata Road and 26D-40 Blunt Road (Refer Figure 6 and 7 below). The reasons for the submission state that there are a range of parcels that retain their rezoning under the PDP while other areas have been upzoned. In response to this submission I note Section 7.6 of the s32 Report for Variation 3 (page 60) identifies the parcels of land that have been rezoned as part of Variation 3. No parcels within Te Kauwhata have been identified as Te Kauwhata is not considered to contain any relevant residential zones. For the same reasons identified in respect of Raglan I do not consider there is scope under this IPI process to consider rezoning requests within Te Kauwhata.

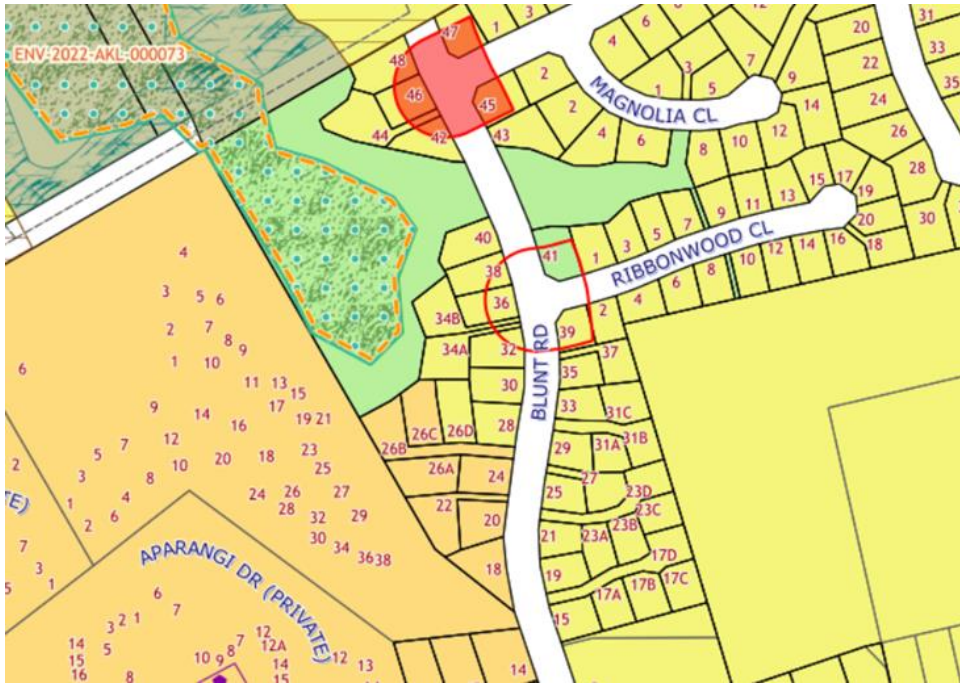


Figure 6: Kāinga Ora rezoning requests



Figure 7: Kāinga Ora rezoning requests

118. I also note options for medium density housing are already provided for within Raglan and Te Kauwhata.

## Recommendations

119. I recommend that:

- The MDRS is not applied to Raglan and Te Kauwhata as neither town contain urban environments are defined in the RMA and NPS-UD
- The existing zoning pattern is retained in Raglan and Te Kauwhata
- A minimum lot size restriction area be introduced into 4 towns in what was the area defined as the 'urban fringe'

## Recommended amendments

120. The following amendments are recommended:

- An overlay is identified on the Planning maps entitled 'minimum lot size restriction area'
- The vacant lot minimum subdivision rule is retained in this location.

## S32AA Evaluation

121. No 32AA is considered necessary as there is no change from the notified variation

## 4.2 Requests for Rezoning in four towns

122. This section of the report has been separated into the rezoning requests as they affect the 4 towns subject to Variation 3. In addition to these requests there have been requests for rezoning that are located outside the 4 towns. These are requests to rezone land at Horotiu and Taupiri.

123. For clarity it is recorded the following submissions have been struck out by the Panel:

- The submission by Halm Fan Kong to rezone land at 145 Park Road, Horotiu;
- The submission by Howard Lovell to rezone land to MRZ1 at Taupiri.

124. It is also noted the submission by Horotiu Farms Limited to rezone a parcel of land at Horotiu<sup>4</sup> will be heard at a later date.

*Pookeno*

## Submissions

125. Kāinga Ora have requested the rezoning of 3 properties in Pookeno.

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<sup>4</sup> Directions #16, 1 June 2023.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Kāinga Ora	106.12		Amend the zoning of the site at 24 Great South Road and at 7 Walter Rodgers Road, Pookeno from Medium density residential zone 2 to Commercial zone. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Queen's Redoubt Trust	106.12	211.1	Decline the original submission of Kainga Ora. Re-evaluate the zoning of 24 Great South Road, to the most appropriate zoning given its historic heritage status, and in light of the Queen's Redoubt site (including its full extent).
Te Whakakitenga o Waikato Incorporated	106.12	213.70	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.13		Amend the zoning of 56 Huia Road, Pookeno from General Rural Zone to Medium density residential zone. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.13	213.70	The submitter seeks that the whole of the submission be disallowed

### Analysis of Pookeno rezoning requests

126. Kāinga Ora have requested the rezoning of 24 Great South Road and 7 Walter Rodgers Road from MRZ2 to Commercial Zone. The properties are shown in the map below in colour (Figure 8). The reasons for the submission state there appear to be a range of individual or groups of sites that appear to retain the zoning under PDP whilst others are upzoned. Kāinga Ora states they are seeking a consistent zoning pattern in order to achieve the objectives of the NPS-UD.



Figure 8: Kāinga Ora rezoning requests

127. The rezoning request is not supported for the following reasons. First, Variation 3 did not rezone any land to Commercial zone. Secondly, the land surrounding the sites has not been amended by Variation 3 in a significantly material way (refer the maps above). While Pookeno is considered to contain relevant residential zones, the properties were already zoned MRZ. At the time of notification of Variation 3 they were therefore rezoned MRZ2. It is therefore not clear whether any consultation has occurred with the owners of the property. 24 Great South Road contains a listed heritage building 'Queen Redoubt House' and it borders on the Queens Redoubt site. The submission has been opposed by the Queen's Redoubt Trust (211). It is noted the Queen's Redoubt Trust has lodged a separate submission questioning the zoning in and around the Queen's Redoubt site (Refer Topic 3 Heritage).
128. Kāinga Ora have also requested the rezoning of 56 Huia Road from General Rural to Medium Density Zone. The reasons for the submission state there appear to be a range of individual or groups of sites that appear to retain the zoning under PDP whilst others are upzoned. Kāinga Ora states they are seeking a consistent zoning pattern in order to achieve the objectives of the NPS-UD.
129. The rezoning request is not supported. The wider area adjoining Helenslee, Munro and Huia Road was rezoned to General Residential when the decisions on the Proposed District Plan were released. Some blocks of land, such as 56 Huia Road, were not included as there was no scope within the PDP submissions to do so. While Pookeno is considered to contain relevant residential zones, the property was also not rezoned at the time of notification of Variation 3. It is therefore not clear whether any consultation has occurred with the owners of the property. Natural fairness considerations arise from the rezoning of other landowners' property without their knowledge. Furthermore, at the time of writing the S42A report no additional evidence has been provided to support the rezoning.



Tuakau

**Submissions**

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Greig Developments	20		Amend the maps to include 23A Harrisville Road and a property on Johnson/Oak Street, Tuakau as Medium density residential zone 2 (see submission for map of sites).
Brett Titchmarsh	21.1		Amend Variation 3 to include all areas identified to accommodate residential growth in the Structure Plan (refer to submission) and Waikato 2070 (refer to sub).
Waikato Regional Council*	21.1	205.5	Reject submission point (rezoning request).
Nathan Harvey	34.3		Amend the zoning of the sites at 40 and 45 Harrisville Road, Barnaby Road, Percy Graham Road and Gordon Paul Place, Tuakau from MRZ2 to GRZ.
GDP Developments	100.1		Amend the zoning of the site at 111 Harrisville Road, Tuakau from General Rural Zone to Medium Residential Zone 2 OR Amend the zoning of the site at 111 Harrisville Road, Tuakau from General Rural to General Residential (which is the less preferred option) AND Amend the zoning of the existing sites accessed off Percy Graham Drive and Gordon Paul Place from General residential zone to Medium density residential zone 2 AND Any consequential amendments to the text of the PWDP – Decisions Version that are required to give effect to the submission
Waikato Regional Council*	100.1	205.7	Reject submission point (rezoning request).

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Kāinga Ora	106.11		Amend the zoning of the Large Lot Residential Zone to Medium density residential zone in Tuakau [see submission for maps and identification of sites] AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.11	213.69	The submitter seeks that the whole of the submission be disallowed

### Location of Tuakau Rezonings

130. The map (Figure 9) below identifies in red outline all the rezoning request within Tuakau

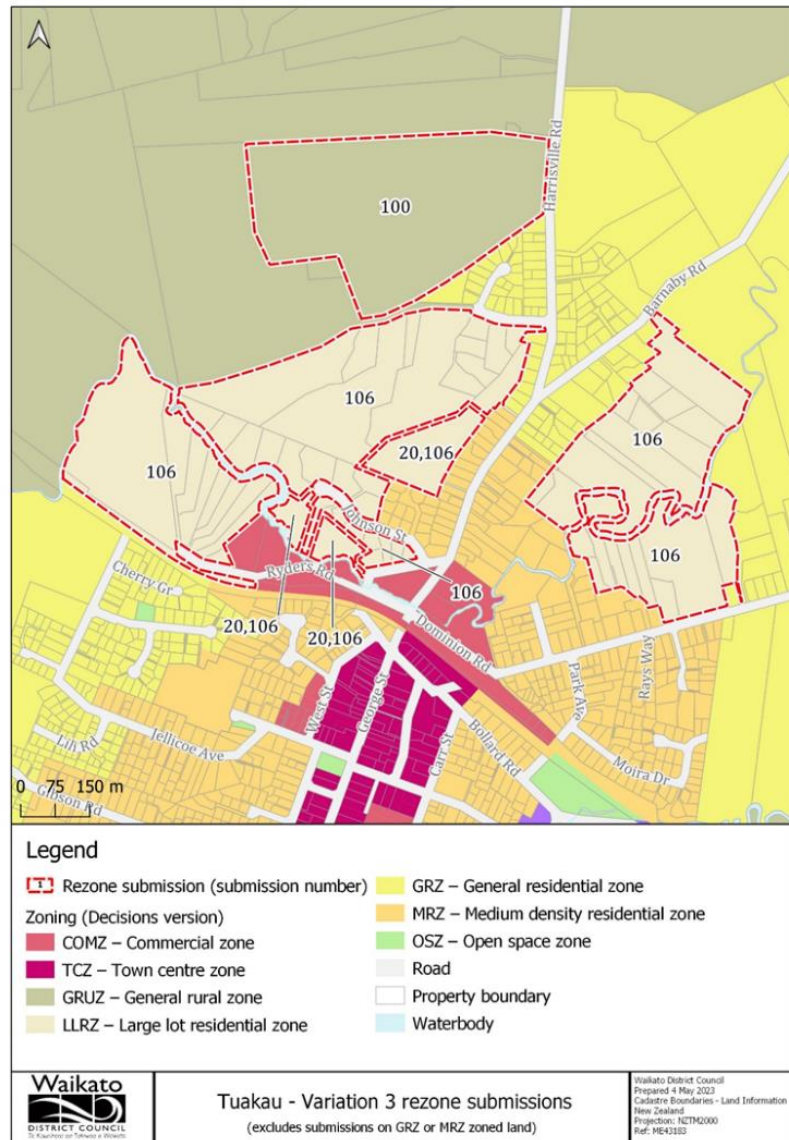


Figure 9: Tuakau rezoning requests

### Analysis of Tuakau rezoning requests

- 131. Grieg Development Ltd (20.106) has requested the rezoning of 23A Harrisville Road and a property located on the corner of Johnson and Oak Street to Medium Density Zone. The reasons for the submission state the sites are zoned Large lot residential and they consider the sites to be a relevant residential zone and would contribute to a well functioning urban environment. The submitter notes it would also make an efficient use of infrastructure as the sites are serviced by water and wastewater. Kāinga Ora (106.11) has also requested that land zoned as Large Lot Residential in Tuakau be rezoned to Medium Density Zone.
- 132. In my opinion the rezoning requests should not be supported for the following reasons. Tuakau has been identified as meeting the criteria for relevant residential zones. However, these sites are not identified as relevant residential zones. The sites concerned are zoned Large lot

residential. The interpretation section of the RMA expressly excludes Large lot Residential Zones, from the definition of “relevant residential zone”.

133. For this reason, the only way the medium density standards can be applied to these locations is through rezoning. Rezoning is discretionary under the IPA process. Waikato 2070 identifies additional residential land in this location and the sites are located close to the town centre. Regardless of this it is my opinion detailed evidence would need to be forthcoming in order to support the rezoning. At the time of writing the S42A report I am not aware of this evidence. Furthermore, these rezonings were not included in Variation 3 as notified, people may not be aware of these requests and as a consequence have not made a submission or further submission and are denied an opportunity to participate.
134. Brett Titchmarsh (21.1) has requested that Variation 3 be amended to include all areas identified in Waikato 2070. The reasons for the submission state both Waikato 2070 and Tuakau Structure Plan has been informed by discussions with iwi and the wider public. The submitter also states the structure plan has been informed by detailed technical reports. The submission has been opposed by Waikato Regional Council. The Waikato 2070 map for Tuakau has been included below (Figure 10):



Figure 10: Waikato 2070 (Tuakau)

135. The Waikato 2070 map identifies areas for both industrial (purple) and residential development (orange). Some of these locations have already been rezoned for these purposes, including the industrial and residential area to the south. The areas to the north, east and west and have not been rezoned in the PDP. Although I note the area to the east has been identified as a future urban zone. The area to the north has not been rezoned but is subject to appeal, whilst part of the area to the west has been rezoned with the balance area being

subject to an appeal. I have included the PDP appeals map below (Figure 11) which will assist in this explanation:

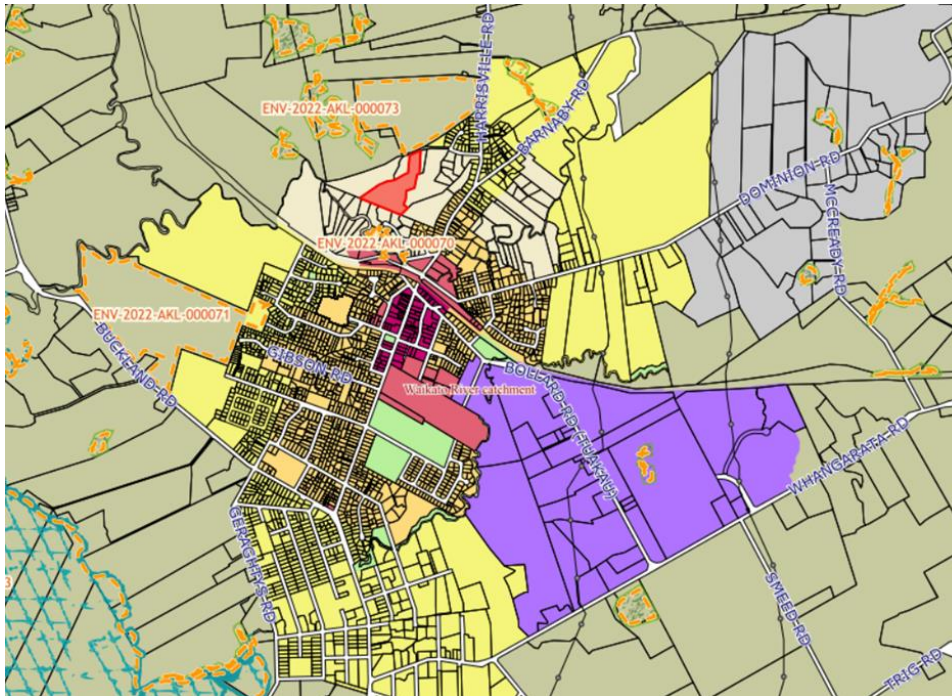


Figure 11: PDP Appeals map - Tuakau

136. In my opinion it is beyond the scope of Variation 3 to rezone further land as requested by the submitter. I note the land subject to appeals is zoned General Rural Zone, and as such does not fall within the definition of a relevant residential zone, where the MDRS is required to be applied. Even if there were no scope issues, I note no detailed technical evidence has been submitted as part of this submission. Regardless of this I do note if the land is rezoned to GRZ through the appeals process then the medium density residential standards will apply. For the land zoned Future urban zone a detailed structure plan is required specific to the development aspirations and site constraints for this area. I also note a Future Urban Zone is not a relevant residential zone.
137. It is therefore inappropriate for the medium density residential standards to apply to this area prior to this work being carried out. I also note that when work was carried out on the earlier structure plan this did not consider the medium density residential standards. In addition to this, these areas of land were not included in Variation 3 as notified and as a consequence there are likely to be natural justice considerations.
138. GDP Developments (100.1) have requested 111 Harrisville Road be rezoned from General Rural Zone to MDRZ2 or General residential zone. The submitter has also requested that the sites accessed off Percy Graham Drive and Gordon Paul Place be rezoned from General Residential to Medium Density Zone. In the reasons for the submission the submitter states 111 Harrisville Road is 21ha in size and is located to the north of the existing township.
139. The submitter notes the site is identified to meet housing demand in Future Proof Strategy and Waikato 2070. The submission also notes the land was zoned General residential zone in the PDP as notified but the decision was made to rezone the land back to General Rural Zone as

part of the PDP decisions because the land contained high class soils. The submission notes: *This decision was not particular to the subject site, but was rather a 'first principles', blanket decision that all land containing Class 1 and 2 soils should not be rezoned for residential development, and is currently the subject of an appeal with the Environment Court. A subdivision layout is included with the submission which identifies the potential for 220 lots. Though it appears they are now seeking additional lots through the appeal.*

140. I consider whether the land is zoned residential is a matter for the Environment Court to determine through the appeal and it would be inappropriate for that matter to be considered as part of the IPI process. If the land is rezoned to residential as part of the Court process then it would be considered to be a relevant residential zone and the medium density residential standards would apply, subject to any qualifying matters and district wide rules.
141. In respect of the sites located off Percy Graham Drive and Gordon Paul Place I note these sites are already zoned General residential zone in the PDP Decisions version a map (Figure 12) of this area is included below:

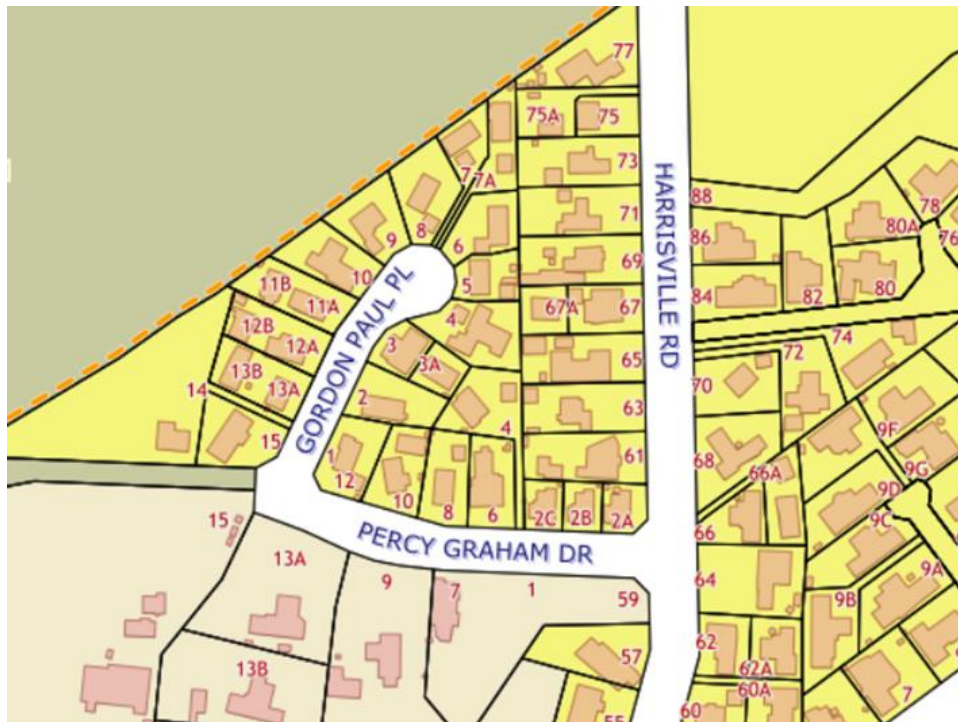


Figure 12: Rezoning request Tuakau

142. In my opinion this rezoning request relates to the urban fringe qualifying matter. If the Panel removes the urban fringe qualifying matter the properties will have the medium density residential standards applying to these sites along with other properties that were located within the urban fringe. Notwithstanding this the ability to build 3 houses on this site or any other site will also be affected by other qualifying matters and district wide rules for earthworks and other activities.

143. Nathan Harvey (34.3) has requested to rezone the sites at 40 and 45 Harrisville Road, Barnaby Road, Percy Graham Road and Gordon Paul Place, Tuakau from MRZ2 to GRZ. A map of the properties is included below in the PDP decision and Variation 3 (Figure 13 & 14):

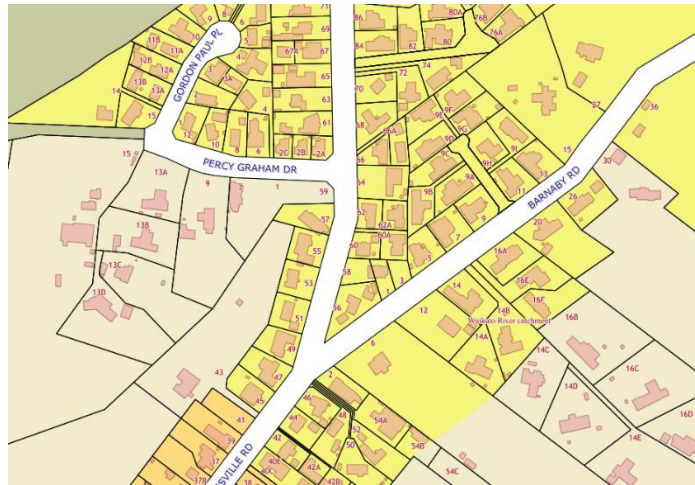


Figure 13: PDP Decision Version

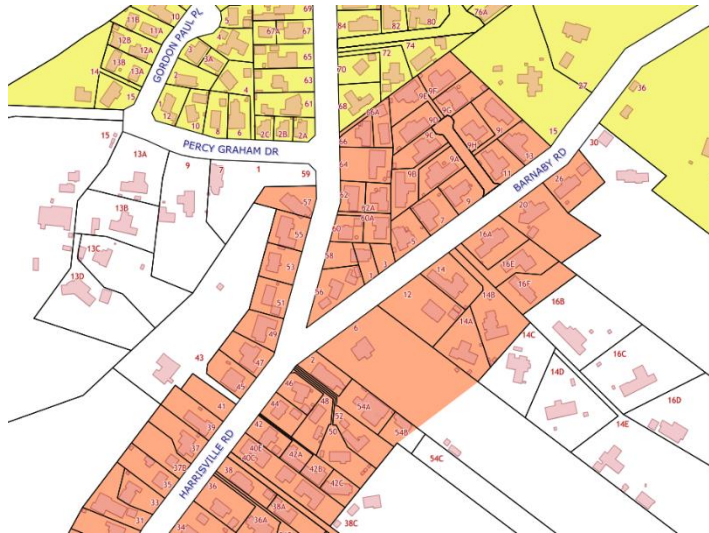


Figure 14: Variation 3 Zoning Map

144. It can be seen from the above map that the properties referred to have been rezoned to MRZ2 through Variation 3. The rezoning at the time was based on an 800m walkable catchment from the town centre. The submitter has requested that the rezoning in this location be reverted to the GRZ. In my opinion this submission cannot be accepted given the mandatory directive in S77G to incorporate the MDRS into every relevant residential zone. For this reason this rezoning request is not supported.

*Huntly*

### **Submissions**

145. Two Submissions have been received from Kāinga Ora and Hiria Hetet respectively.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Hiria Hetet	1.1		Amend MRZ2 to include: 5 McDiarmid Crescent, Huntly; AND Amend MRZ2 to include: 19 Blundell Place, Huntly.
Kāinga Ora	106.16		Amend the zoning of 34 Harris Street, Huntly from Rural Zone to Medium density residential zone. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.16	213.73	The submitter seeks that the whole of the submission be disallowed

### Analysis of Huntly rezoning requests

146. Hiria Hetet has requested the rezoning of 5 McDiarmid Crescent and 19 Blundell Place Huntly (Figure 15 and 16 respectively). Both properties are located within the General residential zone and within the urban fringe qualifying matter as notified. The reasons for the submission state they have requested the rezoning to have their whanau close and to build and house their children in the future.



Figure 15: Rezoning request (5 McDiarmid Crescent)





Figure 16: Rezoning requests (19 Blundell Place)

- 147. In my opinion this rezoning request relates to the urban fringe qualifying matter. If the Panel removes the urban fringe qualifying matter the properties will have the medium density residential standards applying to these sites along with other properties that were located within the urban fringe. Notwithstanding this the ability to build 3 houses on this site or any other site will also be affected by other qualifying matters and district wide rules for earthworks and other activities.
- 148. Kāinga Ora have requested the rezoning of 34 Harris Street Huntly from General Rural Zone to Medium density residential zone. The property is shown below (Figure 17) and is the site of Huntly College.

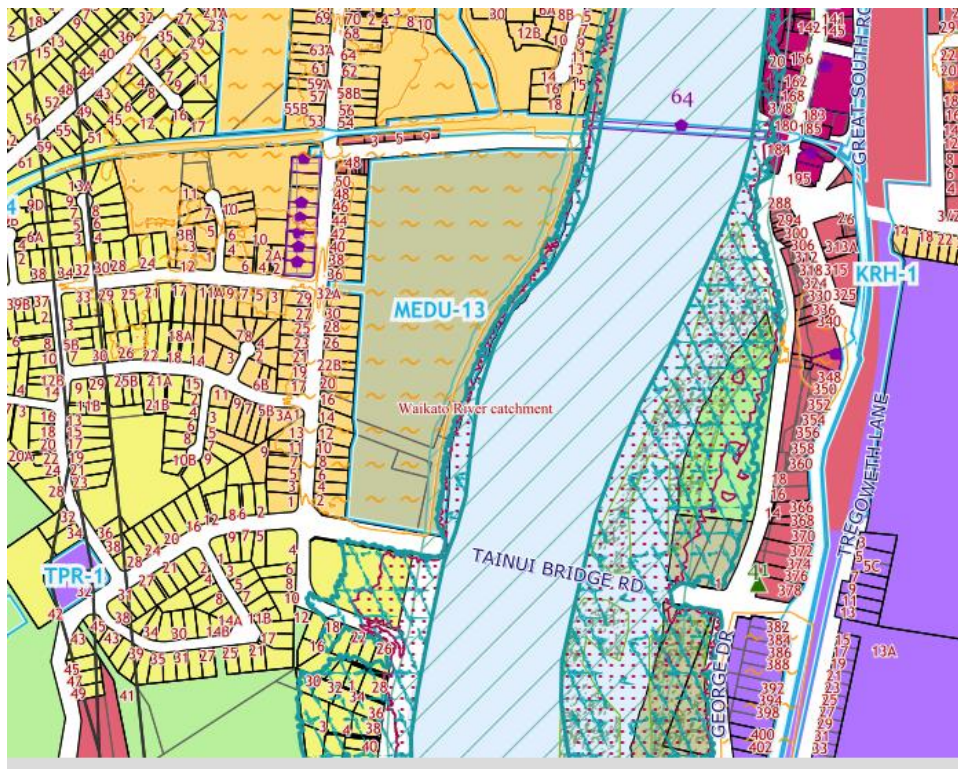


Figure 17: 34 Harris Street, Huntly

149. The reasons for the submission state there appear to be a range of individual or groups of sites that appear to retain the zoning under PDP whilst others are upzoned. Kāinga Ora states that they are seeking a consistent zoning patterns in order to achieve the objectives of the NPS-UD.
150. This rezoning request is not supported for the following reasons. The GRUZ is not a relevant residential zone. Rezoning is discretionary under the RMA. Variation 3 did not rezone any GRUZ land in Huntly. The zoning of the surrounding properties around the site have not changed from Proposed District Plan decision version to Variation 3. As such, the rezoning of the site cannot be said to be a logical extension of Variation 3. Furthermore it is not clear whether consultation with the property owner being the Ministry of Education and or the board of Huntly College has occurred. The Ministry of Education has not lodged a further submission. There is a real risk that affected persons have been denied an opportunity to participate in the process. I also note the property is located within the High Risk Flood Zone, a Flood Plain Management Area, and directly adjoins the Waikato River. It is not clear whether consultation with Waikato Tainui has occurred. In any event it is noted Waikato Tainui have lodged a further submission in opposition.

#### *Ngaaruawaahia*

#### **Submissions**

151. Seven submissions for rezoning requests have been lodged from Jeremy Duncan, Tara Kingi Christianson, S Upton and B Millar, Dominion Development Ltd, Perjuli Developments Limited and Aaron Holland. Appeals to the Environment Court are also outstanding in respect of the S Upton and B Millar and the land associated with the rezoning request by Perjuli Developments

<b>Submitter Names</b>	<b>Point Number</b>	<b>FS Point No.</b>	<b>Summary of Decision Requested:</b>
Jeremy Duncan	24.1		Amend the zoning of the property at 14 Herschel Street, Ngaaruawaahia to Medium density residential zone 2 AND Consider amending the zoning of 16 Herschel Street, Ngaaruawaahia to Medium density residential zone 2.
Tara Kingi-Christiston	31.1		Amend MDRZ zoning to include 12 Lower Waikato Esplanade, Ngaaruawaahia
Pareoranga Te Kata	31.1	225.1	Allow the submission
S Upton and B Miller*	32.1		No specific decision requested, but submission supports the application of MRZ2 zone to the extent proposed in Ngaaruawaahia as shown on the planning maps of the decision version of the PWDP. AND Review the extent of greenfields

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
			residential zoning at the existing urban / rural boundary of Ngaaruawaahia (as per the Decisions Version of the Proposed Waikato District Plan)
Mark de Lautour and Dee Kiernan	32.1	202.1	Reject submission and seek that the map land use identified in the Variation 3 be approved - specifically 46 Jackson Street, Ngaaruawaahia.
Storme Baird	63.1		Amend zoning 35 Old Taupiri Road from General residential zone to MRZ2
Dominion Developments Ltd	66.1		Amend the zoning of the property at 26 King Street, Ngaaruawaahia (legal description Part Section 151 Suburbs of Newcastle North) and along all the properties of King Street from General residential zone to Medium density residential zone 2 OR Add a bespoke controlled activity process in the General residential zone to allow medium density residential development with amendments to the following provisions [see submission for detailed amendments]: <ul style="list-style-type: none"> <li>· SUB-P3 Lot sizes</li> <li>· SUB-P23 Medium density residential subdivision</li> <li>· SUB-R11 Subdivision – general</li> <li>· New rule SUB-R11A Medium density residential</li> <li>· GRZ-O1 Residential character</li> <li>· GRZ-P3 Setback side boundaries</li> </ul> AND Any consequential amendments required across the Proposed Waikato District Plan.
Ports of Auckland	66.1	214.4	Disallow the submission sought in respect of a bespoke controlled activity process in the General residential zone to the extent that it would allow medium density residential development in areas outside of the “urban environment”, such as Horotiu.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Dominion Developments Ltd	66.2		Amend the zoning of the property at 24 and 32A Saalbrey Road, Ngaaruawaahia (legal description Sections 158 and 159 Suburbs of Newcastle South) from General residential zone to Medium density residential zone 2 OR Add a bespoke controlled activity process in the General residential zone to allow medium density residential development with amendments to the following provisions [see submission for detailed amendments]: · SUB-P3 Lot sizes · SUB-P23 Medium density residential subdivision · SUB-R11 Subdivision – general · New rule SUB-R11A Medium density residential · GRZ-O1 Residential character · GRZ-P3 Setback side boundaries AND Any consequential amendments required across the Proposed Waikato District Plan.
Ports of Auckland	66.2	214.5	Disallow the submission sought in respect of a bespoke controlled activity process in the General residential zone to the extent that it would allow medium density residential development in areas outside of the “urban environment”, such as Horotiu.
Perjuli Developments Limited	103.1		Rezone 5837 Great South Road to Medium Density Residential 1 Zone
Te Whakakitenga o Waikato Incorporated	103.1	213.62	The submitter seeks that the whole of the submission be disallowed
Aaron Holland	104.1		Amend the zoning of the property at 2D Ellery Street Ngaaruawahia (legally described as Lot 4 DP 498598) from a split zoning of Medium density residential zone / Industrial zone to be Medium density residential zone 2 in its entirety.

## Analysis of Ngaaruawaahia rezoning requests

152. Jeremy Duncan (submitter #14.1) has requested that 14 and 16 Herschel Steet, Ngaaruawaahia are rezoned from commercial zone to Medium Density Residential 2. The reasons for the submission state the properties are in very close proximity to town, both properties have access to infrastructure and have well established dwellings located within them with space for more dwellings to be located. The submitter also refers to other properties in the locality that have been zoned medium density residential despite being located around other light industrial properties. The location of the properties is shown below (Figure 18) along with the Proposed District Plan decisions version zoning:

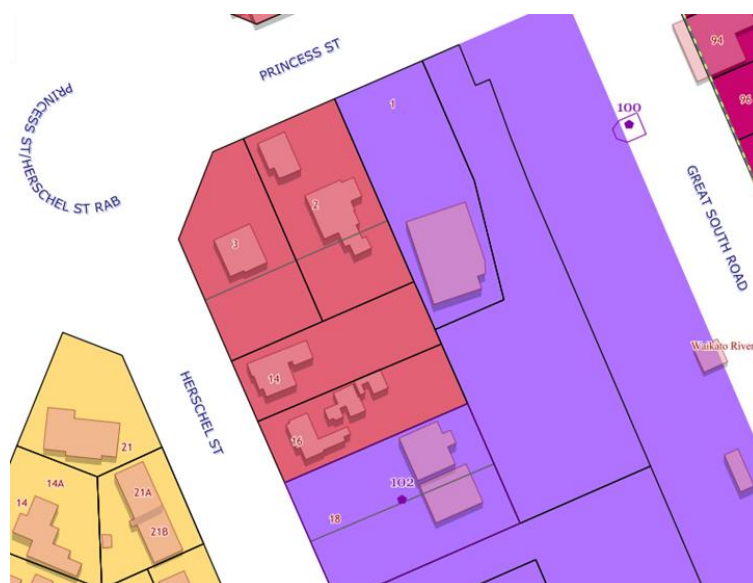


Figure 18: 15: 14 and 16 Herschel Place, Ngaaruawaahia

153. The properties concerned are zoned Light industrial in the Operative District Plan and have been zoned Commercial Zone in the Proposed District Plan. Under the provisions of the Commercial Zone additional residential units are provided for as long as they are located above ground floor. If Mr Duncan did want to add residential units then a resource consent for a restricted discretionary activity would be required.
154. I do not believe the submission is within scope. Variation 3 did not rezone any properties from Commercial Zone to MDR2. Adjacent properties were not rezoned in Variation 3. As such the rezoning cannot be said to be a logical extension. Further I believe the adjacent owner, or the industrial zoned place could be denied the opportunity to participate as the change in zoning was not signalled in the Variation as notified.
155. Regardless of scope, while I appreciate the rezoning issue raised in Mr Duncan's submission, it is my opinion that the present zoning should remain. I say this for the following reasons. The submitter is the owner of one of the properties being 14 Herschel Street and to my knowledge the owner of 16 Herschel Street has not been consulted. If 14 Herschel Steet was to be rezoned it would apply a medium density zone to an isolated property effectively a spot zone. This would result in the application of different district wide rules that currently do not apply. The adjoining industrial zoned properties would be affected by this (reverse sensitivity) and would

need to be consulted. Furthermore, I note the other properties referred to by Mr Duncan in his submission while located adjoining an industrial zone, are located at the end of a block and would not be located between a Commercial Zone and an Industrial Zone. While I do acknowledge there are costs, time and uncertainty with the resource consent process a restricted discretionary consent is not insurmountable and does provide a consenting pathway for additional residential units. I also note if a multi-unit development is undertaken the Commercial Zone does not limit the number of units that can be built on the property.

156. Tara Christiansen (submitter #31.1) has requested that the MDRZ zoning applies to 12 Lower Waikato Esplanade. The location of the property is shown below in Figure 19 (highlighted in orange)



Figure 19: 12 Waikato Lower Esplanade in the PDP Decision and Variation 3

157. The property concerned was zoned General residential zone in the PDP Decisions Version and was rezoned to Medium Density as part of Variation 3. The issue raised by the submitter is addressed by the zoning of Variation 3. I also note this block has qualifying matters that apply to it as it is located within the High Risk Flood Zone and the Flood Plain management area. Notwithstanding the zoning there may be other restrictions on the site which inhibit the ability to construct 3 houses.
158. S Upton and B Millar (submitter #32.1) support the zoning in Ngaaruawahia to the extent shown in Variation 3 and have requested that the greenfields zoning is reviewed as the existing Urban rural boundary of Ngaaruawahia. The reasons for the submission set out that in the submitters' opinion greenfield land is not required for residential development because of the increased level of development enabled by Variation 3. The submitter considers that this approach is consistent with the National Policy Statement on Highly Productive Land. The submitter has requested that if this cannot be achieved through Variation 3 then the Council should progress a further variation to rezone greenfield land identified as General residential zone through the Proposed District Plan.
159. In my opinion the request is to review greenfield zoning beyond the scope of Variation 3. The purpose of Variation 3 is set out in S77G of the Act and is to apply the MDRS to relevant residential zones and to give effect to Policy 3 or 5 as required. In doing so land can be rezoned and the Council did rezone some properties as part of Variation 3. When Variation 3 was

notified those property owners were notified and had the opportunity to make a submission. The property owners affected by this submission are wide ranging and have not been consulted. Furthermore, I think it is relevant, that the decisions on the PDP were released and notification of Variation 3 occurred, prior to the NPS-HPL being approved. It is my understanding the NPS-HPL applies to Rural zone properties with class 1, 2 or 3 soils at the commencement of the NPS-HPL.

160. Storme Baird (submitter #63.1) has requested the rezoning of 35 Old Taupiri Road from GRZ to medium density zone. The location of the property is shown below (Figure 20). In the reasons for the submission the submitter states in putting forward this submission they realise they are contesting the urban fringe qualifying matter. The submitter states they consider there are more appropriate locations to implement Variation 3 that would not detract from the character of the township.

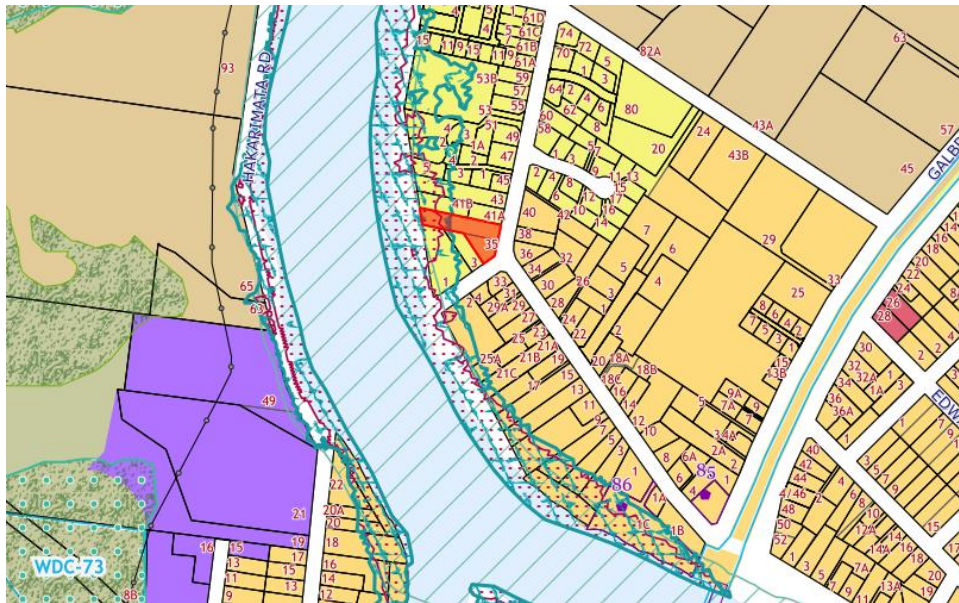


Figure 20: Location of 35 Old Taupiri Road (highlighted in orange)

161. In my opinion this rezoning request relates to the urban fringe qualifying matter. If the Panel removes the urban fringe qualifying matter the properties will have the medium density residential standards applying to these sites along with other properties that were located within the urban fringe. Notwithstanding this the ability to build 3 houses on this site or any other site will also be affected by other qualifying matters and district wide rules for earthworks and other activities. In this regard I note this property has the High Risk Flood Area and Flood Plain Management Area qualifying matters that apply to it.
162. Dominion Developments (submitter #66.1 and #66.2) have requested that 26 King Street and properties along King Street are rezoned from GRZ to medium density zone along with 24 and 32A Saubrey Street. The general location of the properties is shown below in Figure 21. In the alternative the submitter has sought to add a bespoke controlled activity process in the General residential zone to allow medium density residential developments. The alternative relief is opposed by Ports of Auckland for the reason that could apply to other locations within the General residential zone such as Horotiu.



Figure 21: 18: 26 King Street and along King Street 24 and 32A Saalbrey Street

163. In my opinion these rezoning requests relate to the urban fringe qualifying matter. If the Panel removes the urban fringe qualifying matter the properties will have the medium density residential standards applying to these sites along with other properties that were located within the urban fringe. Notwithstanding this the ability to build 3 houses on this site or any other site will also be affected by other qualifying matters and district wide rules for earthworks and other activities. It is considered the alternative relief is not on Variation 3, for the reason set out by the further submitter in opposition.
164. Perjuli Developments Limited (submitter #103.1) have requested to rezone 5851 Great South Road from GRZ to Medium Density Zone 1. I have referred to the site as 5851 Great South Road to remain consistent with the submission but note subsequent to the submission being lodged that the site may/has have been subdivided and the correct proeprty reference may be 5837. In the reasons for the submission, it is stated the property is only 1.1 km to the south of the MRZ2 area and is accessible to the Town Centre. The submitter also states infrastructure is available to the site and that enabling a higher degree of development represents an efficient use of infrastructure. The submission is opposed by Waikato Tainui who consider the rezoning of the site to be inappropriate because the site contains a site or area of significance to Maori. The location of the property is shown below (Figure 22) (highlighted in orange):





Figure 22: Location of 5851 Great South Road

165. In decisions version of the PDP a site or area of significance to Maaori (SASM) was identified on this property and is shown on the map below (Figure 23). The SASM is within an area of the property located within the red dotted line (at least half the property). The Environment Court decision ENV-2021-AKL-000025 concluded that the area is of cultural significance. I note an appeal to the PDP decision has been lodged by Blue Wallace Limited seeking to remove the SASM. The property is also subject the outstanding natural landscape overlay, flood risk overlay and high-risk flood area.
166. In my opinion if the Panel removes the urban fringe qualifying matter the property will have the medium density residential standards applying to this site along with other properties that were located within the urban fringe. The determination of whether the SASM applies to the site will be made by the Environment Court. Notwithstanding the medium density standards applying the ability to build 3 houses on this site, or any other site, will also be affected by qualifying matters and district wide rules for earthworks, subdivision and other activities. In respect of the SASM it is noted rules SASM-R4 Earthworks and SASM-R5 Title boundaries have already been applied as qualifying matters and would apply to this property. SASM-R5 would apply when the first subdivision happens on the site as the title boundaries of a site containing a SASM would be affected. In my opinion, an additional QM under s771(a) is justified for this site because it is culturally significant. That QM would limit the number of residential units from that which could be achieved through the GRZ.



Figure 23: Location of SASM on 5851 Great South Road

167. Aaron Holland (submitter #104.1) has requested that all of 2D Ellery Street be rezoned from the current split MRZ / Industrial Zone to Medium density residential zone 2 in its entirety. In the reasons for the submission the submitter states the portion of the land zoned industrial would meet the same criteria used to identify the balance of the property as medium density residential. The submitter considers the rezoning of the property in total would meet legislative requirements and meet the Council's objectives. The location of the property is shown below in Figure 24.



Figure 24: 21 - 2D Ellery Street

168. The property has had a split zoning in the Operative Plan and the same zoning pattern has been rolled over to the PDP. The property also adjoins the rail corridor for the North Island Main Trunk Line. The request to rezone the Industrial land is outside the scope of Variation 3 as it is not a relevant residential zone and the variation did not rezone any industrial land. Natural fairness considerations arise for the adjoining property owners. Putting aside scope, it is recommended to retain the existing zoning pattern. While the request of the submitter is understood it is considered the rezoning of that portion of the property currently zoned industrial (pink) would result in an isolated pocket of medium density zone surrounded by industrial zoned properties. This has the potential to result in reverse sensitivity effects for both the rail and existing industrial activities.

**Recommendations:**

- Add a new qualifying matter that limits the number of residential units on the SASM on 585 I Great South Road to 1 residential unit per site

**Recommended amendments**

- Amend MRZ2-S3 to provide for one residential unit per site within the 585 I Great South Road QM
- Add a new assessment criteria to MRZ2-S1 as follows: [Within QM 585 I Great South Road effects on the values associated with the SASM](#)

**Section 32AA**

169. As changes are recommended to incorporate a new QM over 585 I Great South Road an evaluation must be undertaken at a level of detail that corresponds to the significance of the

changes. In my opinion these changes are of significance, but the level of significance is reduced given the presence of the SASM on the site. I say this for the following reasons:

- The site has a SASM located on it, the significance of the site has been recognised by the Environment Court
- It is important the values of the SASM site are protected. The application of the MDRS standards to the site will enable more residential units to be erected, subject to compliance with other plan standards, including earthworks
- This is the only SASM site that is located within a relevant residential zone within the four towns addicted by Variation 3.

170. In my opinion the addition of the new QM and associated assessment criteria is the most appropriate way to achieve the purpose of the Act. I say this because this QM is directly relevant to S6(e), 7(a), 8 and S771(a). If the changes were not made then the MDRS standards would apply to the SASM.

171. I note the benefits associated with the QM are to not increase the number of residential units that can be built on a SASM. In my opinion it is inappropriate to apply the MDRS to a recognised site of significance to Maaori. I note there is an appeal on this matter by Blue Wallace Surveyors Ltd. If the appeal is successful and the SASM is removed then the QM will also be removed.

172. I do not consider there will be additional costs given the values associated with the site, I note it is only recommended to apply this qualifying matter to the area of the SASM on the suite and not the entire site.

## 5 Topic 2: District Plan Provisions

173. This topic includes the following themes:

- District Plan Objectives and Policies
- Purpose Statement of the MRZ2
- District Plan Definitions
- Amendments to the MDRS
- Subdivision provisions
- Enabling provisions for other services (related provisions)

### 5.1 District Plan Objectives and Policies

#### Introduction

174. The following new and amended objectives and policies are proposed through Variation 3:

- New mandatory objective SD-O14 in relation to well-functioning urban environments
- New mandatory policy SD-P2 in relation to medium density residential standards
- Amended policy SUB-P3(1) to exclude the MRZ2 from minimum lot sizes
- New policy SUB-P3(3) in relation to minimum lot sizes in the MRZ2
- New mandatory objective MRZ2-O1 in relation to housing typology
- Amended objective MRZ2-O3 in relation to residential amenity
- New objective MRZ2-O5 in relation to qualifying matters
- New objective MRZ2-O6 in relation to reverse sensitivity
- New mandatory policy MRZ2-P1 in relation to housing typology
- New mandatory policy MRZ2-P2 in relation to residential amenity
- New mandatory policy MRZ2-P3 in relation to housing design
- New mandatory policy MRZ2-P4 in relation to enabling housing development
- New policy MRZ2-P6 in relation to qualifying matters

175. This section of the report addresses the submissions that were received in relation to new, amended and existing objectives and policies in PDP. The submission points received in relation to the new and amended subdivision policies are addressed within the subdivision provisions section of this report (section 5.5).

## Submissions

Submitter Names	Type (Original/FS)	Point Number	Summary of Decision Requested:
Transpower NZ Ltd*	18.15		Retain MRZ2-O6 Reverse sensitivity.
Transpower NZ Ltd*	18.18		Retain MRZ2-P1 I Reverse sensitivity.
Waikato Regional Council*	42.2		Amend provisions to make consequential amendments that have not been included in Variation 3 in order to support the creation of well-functioning urban environments. The submission draws particular attention to provisions relating to transport and considers they have not been updated to reflect the likely outcomes of implementing the National Policy Statement on Urban Development 2020 (NPS-UD) and the Medium Density Residential Standards (MDRS).
Kāinga Ora	42.2	217.21	Accept submission point.
Waikato Regional Council*	42.4		Amend to strengthen objectives and policies to address the following: (a) Enabling and prioritising walking, cycling, micro-mobility, and public transport over private vehicles (with pedestrian-oriented town centres). (b) Integration with land use to reduce the need to travel and vehicle kilometres travelled. (c) Prioritisation of climate change adaptation and reduction of greenhouse gas emissions. (d) Multi-modal connections. (e) End-of-journey facilities. (f) Cycle and micro-mobility parking and electric charging facilities. (g) Growing public transport patronage and supporting the transition to a rapid and frequent public transport network (also consistent with the Regional Public Transport Plan (RPTP)). (h) Providing for travel choices. (i) Reconfiguring transport corridor space and requiring public transport provision for new transport corridors (including in this instance needing to consult with WRC). (j) Enhancing public and personal

Submitter Names	Type (Original/FS)	Point Number	Summary of Decision Requested:
			safety throughout the towns through the use of Crime Prevention through Environmental Design (CPTED) principles. These principles, when implemented provide actual and perceived safety outcomes, and therefore encourage walking and cycling. (k) Ensuring Land Transport Management Act and Government Policy Statement on Land Transport concepts are embedded – efficient, safe, accessible, sustainable and affordable.
Kāinga Ora	42.4	217.22	Accept submission point.
Ryman Healthcare Limited	42.4	219.1	Accept submission point, subject to excluding retirement villages from the application of any new provisions
Retirement Villages Association	42.4	220.1	Accept submission point, subject to excluding retirement villages from the application of any new provisions
Waikato Regional Council*	42.14		Amend the objectives and policies to ensure that structures and other features are located and designed to avoid conflicts between road users.
Kāinga Ora	42.14	217.31	Reject submission point in part.
Havelock Vilages Limited*	46.2	218.10	Reject submission point.
Hynds Pipe Systems Ltd*	46.2	221.9	Accept submission point.
Synlait Milk Ltd	46.3		Retain MRZ-P6 Qualifying matters as notified.
Havelock Vilages Limited*	46.3	218.11	Reject submission point.

Submitter Names	Type (Original/FS)	Point Number	Summary of Decision Requested:
Hynds Pipe Systems Ltd*	46.3	221.10	Accept submission point.
Havelock Vilages Limited*	46.4	218.12	Reject submission point in part.
Hynds Pipe Systems Ltd*	46.4	221.11	Accept submission point.
KiwiRail*	54.10		Amend MRZ2-P11 Reverse sensitivity as follows: Maintain appropriate setback distances between new sensitive (and altered) land uses and existing lawfully established activities and require buildings to be designed with acoustic insulation and vibration measures to minimise the potential that may result in for reverse sensitivity effects and risks to public health and safety. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Kāinga Ora	54.10	217.42	Reject submission point.
KiwiRail*	54.8		Amend MRZ2-O6 Reverse sensitivity as follows: (1) Avoid or minimise the potential for reverse sensitivity and risks to public health and safety by managing the location and design of sensitive activities through: (a) The use of building setbacks; and (b) The design of subdivisions and development. ; and (c) The design of buildings, including use of acoustic insulation, ventilation and vibration measures. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Waka Kotahi*	54.8	216.2	Accept submission point.
Kāinga Ora	54.8	217.44	Reject submission point.



Submitter Names	Type (Original/FS)	Point Number	Summary of Decision Requested:
Ryman Healthcare Limited	54.8	219.3	Disallow submission point
Retirement Villages Association	54.8	220.3	Disallow submission point
KiwiRail*	54.9		Amend MRZ2-P6 Qualifying matters as follows: Restrict residential development to an appropriate level to provide for and protect any relevant qualifying matters AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Kāinga Ora	54.9	217.45	Reject submission point.
KiwiRail*	54.10		Amend MRZ2-P11 Reverse sensitivity as follows: Maintain appropriate setback distances between new sensitive (and altered) land uses and existing lawfully established activities and require buildings to be designed with acoustic insulation and vibration measures to minimise the potential <del>that may result in</del> for reverse sensitivity effects and risks to public health and safety. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Transpower NZ Ltd*	54.10	209.24	If the submission is allowed, amend the wording as follows: Maintain appropriate setback distances between new (and altered) land uses and existing lawfully established activities that may result in reverse sensitivity effects and or, where appropriate, require buildings to be designed with acoustic insulation and vibration measures to minimise the potential for reverse sensitivity effects and risks to public health and safety.
Kāinga Ora	54.10	217.46	Reject submission point.

Submitter Names	Type (Original/FS)	Point Number	Summary of Decision Requested:
Ryman Healthcare Limited	54.10	219.4	Disallow submission point
Retirement Villages Association	54.10	220.4	Disallow submission point
Blue Wallace Surveyors Ltd*	89.3		Retain MRZ2-P1 I Reverse Sensitivity.
Te Whakakitenga o Waikato Incorporated	106.17	213.74	The submitter seeks that part of the submission be allowed in so far that it does not have unintended consequences for other aspects of the district plan enabling papakaainga provisions of the Maaori Land Chapter and Hopuhopu Special Purpose Zone
Kāinga Ora	106.28		Amend MRZ2-O6 Reverse sensitivity as follows: Avoid where practical or otherwise minimise the potential for reverse sensitivity by managing the location and design of sensitive activities through: (a) The use of building setbacks; and (b) The design of subdivisions and development AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Transpower NZ Ltd*	106.28	209.23	Disallow the submission point
KiwiRail	106.28	215.3	Reject submission point.
Hynds Pipe Systems Ltd*	106.28	221.38	Reject submission point.

Submitter Names	Type (Original/FS)	Point Number	Summary of Decision Requested:
Retirement Villages Association	107.21		Delete MRZ2-O6. (Reverse sensitivity)
Retirement Villages Association	107.35		Delete MRZ2-P11 (Reverse sensitivity)
Transpower NZ Ltd*	107.35	209.22	Reject submission point.

## Analysis

### Mandatory Objectives and Policies

176. Seventeen submission points were made in support of one or more of the mandatory objectives and policies, with no further submission points received. Section 80E(1)(a) of the RMA states that a proposed district plan must incorporate the MDRS. The MDRS are outlined in Schedule 3A of the RMA and contains two objectives and five policies. These objectives and policies are included as SD-O14, SD-P2, MRZ2-O1, MRZ2-P1, MRZ2-P2 MRZ2-P3 and MRZ2-P4. Given that these objectives and policies are required by the RMA, I recommend that the submission points be accepted and that the above objectives and policies are included in the PDP (#18.7, #18.16 #18.12, #29.2, #53.7, #54.5, #54.6, #107.13, #107.15, #107.17, #107.27, #107.28, #107.29, and #107.30).
177. One submission point was made in relation to mandatory policy SD-P2 by Transpower who seeks the following amendment:
- Apply the MDRS across all relevant residential zones in the district plan except in circumstances where ~~the~~ a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga).*
178. The requested amendment is consistent with the wording of the RMA. It is likely that the notified policy wording was a drafting error and I recommend that the submission point be accepted (#18.8) and that the wording of SD-P2 is corrected.

### Non-Mandatory Objectives

179. Three submission points were received in support of MRZ2-O3 in relation to residential amenity. I agree with the submitters that this objective should be included within the PDP as it sets an expectation for the level of residential amenity that can be achieved within a medium density environment. I therefore recommend that the submission points in relation to MRZ2-O3 are accepted (#18.13, #29.2 and #42.9).

180. Four submission points were received to MRZ2-05 in relation to qualifying matters and no further submissions were received. Transpower NZ Ltd (submitter #18) is in support of the objective. Heritage New Zealand (submitter #28) seeks to amend the objective to include references to the retention of important values contained in qualifying matters at the time of new buildings. The Retirement Villages Association (submitter #107) seeks to delete the objective on the basis that qualifying matters are covered by proposed policy SD-P2. Waikato Tainui (submitter #114) seeks to remove 'or' from the objective to reduce ambiguity and provide consistency with the wording of Policy MRZ2-P6.
181. In response to the Heritage New Zealand submission point, I disagree that additional references to the retention of important values contained in qualifying matters at the time of new builds needs to be incorporated. The purpose of MRZ2-O5 is to acknowledge that MDRS outcomes might not be achievable due to the presence of a qualifying matter. The purpose of the objective is not to acknowledge the specific value of particular qualifying matters. There are other objectives and policies within the PDP that recognise the importance of specific qualifying matters for example HH-O1 and HH-P1 – HH-P4 in relation to historic heritage. For these reasons I recommend that the submission point from Heritage New Zealand is rejected (#28.7).
182. In response to the Retirement Villages Association submission point, I disagree that MRZ2-O5 should be deleted and do not consider there to be an overlap with SD-P2. Proposed policy SD-P2 is a mandatory policy that relates to the application of MDRS more broadly. While SD-P2 makes reference to qualifying matters, it is not specific to its application and its effect within the Waikato District. I further note that there is an underlying policy (MRZ-P6) and numerous proposed rules within the MRZ2 which all give effect to MRZ-O5. For these reasons, I recommend that MRZ2-O5 be retained and that the Retirement Villages Association submission point be rejected (#107.20) and that the Transpower NZ submission point be accepted (#18.14).
183. Waikato Tainui seeks the following amendments to MRZ-O5:
- The capacity to accommodate medium density residential development may be limited to recognise and/or protect one or more qualifying matters.*
184. I agree that the wording of MRZ2-O5 should be consistent with the wording of MRZ2-P6 which both relate to qualifying matters. I do not agree that the 'or' should be removed as that could result in some confusion around how certain qualifying matters (such as natural hazards) could be protected. I therefore accept the Waikato Tainui submission point in part (#114.8) and recommend that the wording be amended to align more closely with the wording of MRZ2-P6 as outlined follows:
- The capacity to accommodate medium density residential development may be limited to provide for recognise and/or protect one or more qualifying matters.*
185. Five submission points was received to MRZ2-O6 in relation to reverse sensitivity from Marae Tukere (submitter #87), Transpower NZ (submitter #18), KiwiRail (submitter #54), Kāinga Ora (submitter #106) and the Retirement Villages Association (submitter #107).
186. Marae Tukere seeks to amend MRZ2-O6 to add provisions relating to “Enabling properties/sites that do not develop to medium density residential to protect its privacy and amenity “and “Restricting the development of sections immediately adjacent to the awa and to Tuarangawaewae Marae”.

187. In response to the submission point from Marae Tukere, I am of the view that the amendments to MRZ2-O6 relating to privacy and amenity are not appropriate to include within this objective. The objective relates to an identified qualifying matter within the Waikato District (reverse sensitivity) and I do not consider privacy and amenity issues to be relevant considerations within that context. I further note that an objective relating to residential amenity (which encompasses privacy) is already included as MRZ2-O3.
188. Similarly, I do not consider that the additional provisions relating to the sections immediately adjacent to the awa and to Tuurangawaewae Marae are appropriate to be included within the reverse sensitivity context. I acknowledge however that additional provisions relating to the protection of Tuurangawaewae Marae as a qualifying matter have been considered and are addressed within section 6.1 of this report. For the above reasons I recommend that the submission point from Marae Tukere (#87.6) be rejected and MRZ2-O6 be retained as notified.
189. KiwiRail seeks to amend MRZ2-O6 as follows:
- (1) *Avoid or minimise the potential for reverse sensitivity and risks to public health and safety by managing the location and design of sensitive activities through:*
    - i. *The use of building setbacks; ~~and~~*
    - ii. *The design of subdivisions and development.; and*
    - iii. *The design of buildings, including use of acoustic insulation, ventilation and vibration measures.*
190. I disagree with the suggested amendments in that they would change the intent of the objective which specifically relates to reverse sensitivity (not risks to public health and safety). For this reason I recommend that the submission point from KiwiRail is rejected (#54.8).
191. Kāinga Ora seek the following amendment to MRZ2-O6:
- (1) *Avoid where practical or otherwise minimise the potential for reverse sensitivity by managing the location and design of activities through:*
    - i. *The use of building setbacks; and*
    - ii. *The design of subdivision and development*
192. Kāinga Ora generally supports the need to manage the potential for reverse sensitivity effects however, considers the term avoid to be contrary to the directive of the King Salmon decision<sup>5</sup>. Kāinga Ora states that the use of the word 'avoid' means that there cannot be any exceptions to what is tantamount to a prohibited activity and that the objective is unclear as to what would be appropriate mitigation.
193. I agree with the submission point raised by Kāinga Ora in relation to the use of the word 'avoid' within this context. I note that the objective can be linked to the reverse sensitivity effects associated with industrial and infrastructure operations and poultry farming. The proposed

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<sup>5</sup> Environmental Defence Society Inc v New Zealand King Salmon Company Ltd [2014] NZSC38

methods for addressing potential reverse sensitivity effects of these activities are primarily through building setbacks for sensitive land uses<sup>6</sup>.

194. In my view, the proposed setback provisions are not likely to 'avoid' reverse sensitivity effects completely and are more likely to 'minimise' the potential for reverse sensitivity effects. I further consider that it is not possible to entirely 'avoid' reverse sensitivity effects in areas where residential properties interface with industrial, infrastructure or intensive farming activities. For these reasons, I agree that the objective should be amended and that the word 'avoid' should be removed from the objective entirely. On that basis, I agree with Kāinga Ora (submission point #54.8) in part and recommend the following amendment to MRZ2-O6:

~~Avoid or m~~ *Minimise the potential for reverse sensitivity by managing the location and design of activities through:*

- i. *The use of building setbacks; and*
- ii. *The design of subdivision and development*

195. The Retirement Villages Association seek to delete MRZ2-O6. Given that reverse sensitivity is identified as a qualifying matter, and is supported by a policy (MRZ2-P11) and rules and standards, I am of the view that it is appropriate to retain a relevant objective. On that basis I recommend that the submission point (#107.21) is rejected.

#### *Non-Mandatory Policies*

196. Six submission points were made to MRZ2-P6 in relation to qualifying matters. Transpower NZ limited (submitter #18), Synlait Milk (submitter #46) and Waikato Tainui (submitter #114) are in support of the policy. Heritage New Zealand (submitter #28) seeks to amend the policy to include references to the retention of important values contained in qualifying matters at the time of new buildings. The Retirement Villages Association (submitter #107) seeks to amend the policy as they do not consider that the policy clearly identifies the way potential development outcomes need to be restricted and which qualifying matters are relevant. The Retirement Villages Association further considers that it should be clear that restrictions beyond those provided for through zoning/rules are not necessary.

197. The Retirement Villages Association seeks the following amendments to MRZ2-P6:

*Restrict residential development to an appropriate level to provide for ~~and protect~~ any relevant qualifying matters through amendments to the MDRS rules and standards.*

198. I do not agree that there need to be directives within the policy relating to how qualifying matters are provided for and protected. Furthermore, I note that there are other mechanisms proposed within the PDP that seek to protect and provide for qualifying matters such as overlays and the scheduling of heritage buildings, not just amendments to the rules and standards. Therefore, I am of the view that the requested amendment by the Retirement Villages Association could be misleading. For these reasons I recommend that the Retirement Villages Association submission point (#107.32) be rejected and that MRZ2-P6 be retained as notified.

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<sup>6</sup> Refer to MRZ2-S14, GRZ-S21, PREC4-S2

199. The Heritage New Zealand submission point seeks the same relief to MRZ2-P6 as to MRZ2-O5 (#28.7). In response to the submission point to MRZ2-P6 I adopt the same reasoning as above. Specifically, I disagree that additional references to the retention of important values contained in qualifying matters at the time of new builds needs to be incorporated. The purpose of MRZ2-P6 is to acknowledge that MDRS outcomes might not be achievable due to the presence of a qualifying matter. The purpose of the objective is not to acknowledge the specific value of particular qualifying matters. There are other objectives and policies within the PDP that recognise the importance of specific qualifying matters for example HH-O1 and HH-P1 – HH-P4 in relation to historic heritage. For these reasons I recommend that the submission point from Heritage New Zealand is rejected (#28.8).

200. KiwiRail seek the following amendment MRZ2-P6:

*Restrict residential development to an appropriate level to provide for and protect any relevant qualifying matters.*

201. In my view, this policy is intentionally limited to residential development. I note that Policy MRZ2-P10 (non-residential activities) provides clear directives for non-residential development. For that reason, I do not agree with the suggested amendment and recommend that submission point #54.9 be rejected.

202. The Retirement Villages Association (submitter #107) submitted that MRZ-P7 should be amended as follows:

*MRZ2-P7 – Efficient use of land and infrastructure*

*(1) Enable land to be used for higher intensity residential living, including where such land is:*

- (a) In close proximity Adjacent to the TCZ – Town centre zone, LCZ – Local centre zone, COMZ – Commercial zone and within a walkable catchment of transport networks; or*
- (b) Integrated into master-planned growth areas in close proximity to neighbourhood centres or publicly accessible open space.*

...

203. The policy as drafted provides for two scenarios whereby higher intensity residential development should be enabled and thereby provides a clear directive. In my view, the word 'including' dilutes the directive of this policy and would effectively be a policy that enables higher intensity residential living generally. Similarly, amending the policy to state "in close proximity" rather than "adjacent" changes the intent of the policy and provides uncertainty regarding the meaning of "in close proximity". In my view, the requested amendments are not consistent with the intended policy outcome and I therefore recommend that the submission point be rejected (#107.33).

204. The Retirement Villages Association (submitter #107) submitted that MRZ-P8 should be amended as follows:

*MRZ2-P8 – Changes to amenity values*

*Recognise that the planned urban built form may result in changes to the amenity values and characteristics of the urban character over time and those changes are not, of themselves, an adverse effect.*

205. I agree with the Retirement Villages Association that MRZ2-P8 is consistent with Objective 5 of the NPS-UD in relation to changes to amenity values over time. Regardless, I am of the view that the requested amendment could be misleading. In my view there may be circumstances where a change in amenity values could be (and is likely to be) an adverse effect. I acknowledge that Council will be required to view such an adverse effect within the context of a wider changing environment and may be of the view that the adverse effect is acceptable within that context. For these reasons I do not consider the requested policy amendment to be appropriate and I recommend that the submission point be rejected (#107.35)
206. Four submission points were made to MRZ2-P11 in relation to reverse sensitivity. Transpower NZ (submitter #18) and Blue Wallace Surveyors (submitter #89) seek to retain the proposed policy on the basis that it gives effect to Policy 10 of the NPS-ET and that it provides a useful degree of environmental balance respectively.
207. The Retirement Villages Association seek to delete MRZ2-P11. Given that reverse sensitivity is identified as a qualifying matter (under section 77L), gives effect to MRZ2-O6 and is supported by underlying rules and standards, I am of the view that it is appropriate to retain a relevant policy. On that basis I recommend that the submission point (#107.35) is rejected.
208. KiwiRail seeks to amend MRZ2-P11 to apply to any new (or altered) land uses, not just sensitive land uses and require that buildings be designed with acoustic insulation and vibration measures. They also seek to broaden the directive of the policy to relate both to reverse sensitivity and risks to public health and safety.
209. I disagree with the suggested amendments by KiwiRail in that they would change the intent of the policy directive which specifically relates to reverse sensitivity (not risks to public health and safety). I further note that not all buildings will be required to be designed with acoustic insulation and vibration measures and therefore consider that the requested amendment would be misleading. For these reasons I recommend that the submission point from KiwiRail be rejected (#54.10). Notwithstanding this recommendation, I will reconsider any required amendments to MRZ2-P11 as part of the deferred hearing date for the Waka Kotahi and KiwiRail submission points relating to setbacks, acoustics and vibration.

#### *Commercial and Town Centre Zone Submissions*

210. Eight submission points were made to the provisions contained within the Town centre zone. David Jones (submitter #45) seeks to delete TCZ-O3 and the Retirement Villages Association seeks for a suite of amendments that recognise and provide for residential activities within these zones and with built form standards that are no more restrictive than the MDRS.
211. In response to David Jones' submission point, I am of the view that TCZ-O3 (Town centre zone amenity) provides useful guidance in relation to protecting potential adverse effects of development on adjoining residential activities. I recommend that the submission point (#45.3) be rejected and TCZ-O3 be retained.
212. The Retirement Villages Association seeks the following in relation to the Town centre zone:
- Amendment to the purpose, objectives and policies to recognise that residential activities are appropriate within the zone.



- Include two new policies relating to the provision of housing for an ageing population in the Commercial Zone (it is assumed here that the Retirement Villages Association means the Town centre zone).

213. In response, I note the following:

- The purpose of the Town centre zone is consistent with the National Planning Standards zone description which specifically includes residential activities and I therefore do not consider that an amendment to the purpose of the zone is appropriate or required.
- Residential activities are provided for by Objective TCZ-O3 (in relation to amenity values) and TCZ-P5 (providing for residential activities on upper floors) and supported by a permitted activity status for residential activity above ground floor levels. In my view, residential activities are already provided for and anticipated by these provisions and no amendments are needed further to recognise that residential activities are appropriate within the zone.
- In relation to the proposed policies relating to the provision of housing for an ageing population, I am of the view that the inclusion of specific provisions / policies for retirement villages do not support or are consequential on the MDRS or Policies 3,4 and 5 of the NPS-UD. Therefore, they are not 'related provisions' under section 80E of the RMA. For this reason, I do not consider the IPI process to be an appropriate mechanism for these requested amendments. I understand that this is approach consistent with the interim guidance provide by the IHP for the IPI to the Auckland Unitary Plan<sup>7</sup>.

214. For the above reasons I recommend that no amendments are made to the Town centre zone provisions and the Retirement Villages Association submission point be rejected (#107.58).

215. In relation to the Commercial zone, the Retirement Villages Association seeks to amend the purpose, objectives and policies of the Commercial zone to recognise that residential activities are appropriate. In relation to the purpose of the zone I note that this is consistent (identical) to the zone description provided within the National Planning Standards and therefore do not consider it necessary or appropriate to amend the purpose.

216. In relation to the Commercial zone objectives and policies I note that objective COMZ-O3 specifically provides for the amenity values of residential activities both within and outside the Commercial zone. I further note that Policy COMZ-P6 specifically provides for residential activities on upper floors (so as to avoid ground floor residential activities that could undermine commercial viability within a centre). In my view, there is adequate provision within the objectives and policies of the Commercial zone and no amendments are required. For these reasons I recommend that the Retirement Villages Association submission point regarding the above be rejected (#107.57).

217. The Retirement Villages Association seek to amend the following standards of the Commercial zone so that they are no more restrictive than the equivalent MDRS provisions:

- COMZ-S5 (height in relation to boundary)

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<sup>7</sup> Refer to paragraph 71 of the Interim Guidance on matters of statutory interpretation and issues relating to the scope of the relief sought by some submissions dated 12 June 2023.

- COMZ-S6 (yards for residential activities)
- COMZ-S10 (outdoor living space)

218. The proposed height in relation to boundary standard in the Commercial zone (COMZ-S5) is as follows:

- (a) *Any building or structure must not protrude through a height control plane rising at an angle of 45 degrees commencing at an elevation of 2.5m above ground level at the site boundary where it adjoins the:*
1. ...
  2. *vii Medium density residential zone 2*

The proposed building setbacks in the Commercial zone (COMZ-S6) is as follows:

- (a) *A building must be set back a minimum of at least:*
- (i) *3m from rear and side boundaries adjoining any:*
  - ...
  - (7) *Medium density residential zone 2*

219. While both these standards are more restrictive than the MDRS, I am of the view that the standards enable an appropriate interface to the MRZ2 (and other zones) for the following reasons:

- The overall building height permitted within the Commercial zone is 12m (i.e. higher than the MRZ2) and therefore a greater height in relation to boundary requirement than the MRZ2 would better provide for appropriate amenity outcomes on adjoining residential properties.
- A wide range of non-residential activities are permitted within the Commercial zone than within the MRZ2, therefore a greater height in relation to boundary requirement than the MRZ2 can better provide for appropriate amenity outcomes on adjoining residential properties.

220. In addition to the above, I note that the Commercial zone is not a relevant residential zone and therefore is not required to have MDRS incorporated. For the above reasons I recommend that no change be made to COMZ-S5 and COMZ-S6 and that the Retirement Villages Association submission point be rejected (#107.62, #107.63)

221. No change is proposed to the outdoor living space standard (COMZ-S10) which requires a minimum balcony of 15 square metres and a circle with a diameter of at least 2.4 metres. I am of the view that a minimum outdoor living space requirement that is greater than the MDRS is appropriate within the Commercial zone context. I note that no building setbacks are required within the Commercial zone (to adjoining Commercial zone properties) and that the quality of potential outdoor living spaces could be compromised as a result– especially in relation to access to sunlight and visual mass of adjoining properties. In my view, a larger minimum outdoor living space requirement would contribute to reducing those potential adverse effects. For this reason I recommend that no change be made to COMZ-S10 and that the Retirement Villages Association submission point be rejected (#107.64).

*Other (Existing) Objectives and Policies*

222. David Jones (submitter #45) made two submission points that sought amendments to GRZ-O5 (Maintain residential purpose) and GRZ-O6 (Adverse effects of land use and development) and requested Council to re-evaluate GRZ-PI1 (Housing types). I note that Variation 3 does not propose any amendments to the GRZ and I do not consider that the requested amendments are 'related provisions' under section 80E of the RMA that are retained as GRZ within the Waikato are not identified as relevant residential zones. The above provisions do not support and are not consequential on the MDRS and do not relate to any of the matters specified in section 80E(2) I therefore do not consider the IPI process to be an appropriate mechanism for the requested amendments and I recommend that the David Jones' submission points in relation to the provisions of the GRZ be rejected (#45.1 and #45.2).
223. The Retirement Villages Association (submitter #107) requested that SD-PI should be deleted or amended to enable residential development. The Retirement Villages Association considers the policy to be inconsistent with the Enabling Housing Act and the NPS-UD on the basis that it could limit housing development within Hamilton's Urban Expansion Area. Policy SD-PI relates to activities within Hamilton's urban expansion area and states:
224. Avoid subdivision, use and development within Hamilton's urban expansion area to ensure that future urban development is not compromised.
225. There are three identified urban expansion areas within the Waikato which immediately adjoin the Hamilton City boundary. These areas are protected from urban development to avoid compromising future development. I note that these areas are predominantly zoned General rural with some small parts of Rural lifestyle and do not affect any areas that are identified as relevant residential zones. I therefore do not consider that an amendment is required to this policy to give effect to the NPS-UD or to meet the requirements of the RMA. I further note that the policy is under appeal and may change as a result of the Environment Court proceedings. For these reasons I am of the view that no amendment is needed to Policy SD-PI and I recommend that the submission point from the Retirement Villages Association be rejected (#107.14).

*Other (New) Objectives and Policies*

226. The Retirement Villages Association (submitter #107) requested that a new policy be included within the MRZ2 that recognises the intensification opportunities provided for by larger sites as follows:

*MRZ2-PX Larger sites*

*Recognise the intensification opportunities provided by larger sites within the Residential Zone by providing for more efficient use of those sites.*

227. The Retirement Villages Association does not provide details regarding what would qualify as a 'larger site' and how the intensification opportunities for these sites would or should differ to smaller sites. Regardless, I am of the view that the MDRS provides sufficient opportunity for intensification across all MRZ2 sites, regardless of the site size and that no new policy is required in relation to larger sites. I therefore recommend that the submission point from the Retirement Villages Association is rejected (#107.24).

228. The Retirement Villages Association (submitter #107) requested that a new policy be included within the MRZ2 regarding the role of density standards as follows:

MRZ2-PX Role of density standards

Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.

229. I am of the view that the PDP, case law and the RMA adequately set out the assessment requirements for resource consent applications and that no further policy guidance is required. For this reason, I recommend that the submission point from the Retirement Villages Association is rejected (#107.26).

230. Waikato Regional Council (submitter #42) requested additional and/or amended provisions that:

- Support the creation of well-functioning urban environments (in particular in relation to transport). Waikato Regional Council considers that these have not been updated to reflect the likely outcomes of implementing the MDRS and the NPS-UD.
- Amend the objectives and policies relating to: transportation, public transport, travel choice, land use integration, climate change adaptation and greenhouse gasses and a number of other directives.
- Ensure that structures and other features are located and designed to avoid conflicts between road users.

231. In response to the above submission points from the Waikato Regional Council, I note the scope of the IPI is relatively limited. In the absence of specific amendments to the provisions it is not possible to determine whether any of the requested amendments can be considered as related provisions under 80E of the RMA. For these reasons I recommend that the submission points from the Waikato Regional Council be rejected (#42.2, #42.4 and #42.14). I will reconsider my recommendation after seeing the evidence from WRC.

## **Recommendations**

232. I recommend that:

- New provisions SD-O14, SD-P2, MRZ2-O1, MRZ2-O6, MRZ2-PI, MRZ2-P2, MRZ2-P3, MRZ2-P4 and MRZ2-P6 be retained as notified.
- New provisions MRZ2-O5 and MRZ2-O6 be amended as per the recommendations below.
- No other new or amended objectives or policies are required to implement the requirements of s77G of the RMA (with the exception of the new and amended objectives and policies recommended within other sections of this report).

## **Recommended amendments**

233. Amend MRZ2-O5 as follows:

The capacity to accommodate medium density residential development may be limited to ~~provide for recognise~~ and/or protect one or more qualifying matters.

234. Amend MRZ2-O6 as follows:

(2) ~~Avoid or m~~Minimise the potential for reverse sensitivity by managing the location and design of activities through:

- i. The use of building setbacks; and
- ii. The design of subdivision and development

235. Amend SD-P2 as follows:

Apply the MDRS across all relevant residential zones in the district plan except in circumstances where ~~the a~~ qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga).

### **S32AA evaluation**

236. The recommended amendments for MRZ2-O5 and SD-P2 are effectively grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

237. In relation to MRZ2-O6, s32(1) requires an evaluation that examines the extent to which the objective of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA. As is described above, I do not consider that it is possible to ‘avoid’ the potential for reverse sensitivity entirely. The proposed provisions that give effect to this objective (namely setbacks and acoustic attenuation measures) will contribute to minimising the potential for reverse sensitivity but will not guarantee their avoidance.

238. I further note that the s32 Report that was prepared in support of Variation 3 assesses an objective that “minimises” the risk of reverse sensitivity, rather than “avoiding” it. On that basis, I am of the view that the S32 evaluation of adequately covers and justifies the amendment that is now proposed.

## **5.2 Purpose Statement of the MRZ2**

### **Introduction**

239. Variation 3 introduces the MRZ2 to the PDP. The MRZ2 is largely based on the provisions of the MRZ1 (MRZ in the decision version of the PDP) with amendments made to provide for the MDRS. MRZ2 is proposed to be included as its own chapter within the PDP and includes its own purpose statement. The purpose statement describes the purpose of the zone and where the zone applies. The purpose statement is considered as a clarification or explanation to the provisions contained within the chapter, rather than a provision per se. This section of the report addresses the submissions that were received in relation to the purpose statement of the MRZ2.

## Submissions

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Transpower NZ Ltd*	18.11		Retain table outlining qualifying matters, by adding it to the 'Purpose' section of the MRZ2 chapter, with the following (or similar) introductory wording: ... Co-ordinate delivery of infrastructure and services. The following qualifying matters also apply within the zone, which limit development within the areas to which a qualifying matter applies: [Insert table as outlined in the submission, but without references to GRZ-R14 and SUB-R26, and noting that MRZ2-R10 and SUB-R162 are also matters required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure.]
Kāinga Ora	18.11	217.2	Reject submission point.
WEL Networks Limited*	19.2		Retain the purpose included in the MRZ2 - Medium density residential zone 2 as notified.
Heritage New Zealand	28.6		Retain the purpose of MRZ2 AND Add the following words to the purpose of MRZ2: Except in the instances of a qualifying matter on the site.
Kāinga Ora	28.6	217.8	Reject submission point.
Hynds Pipe Systems Ltd*	28.6	221.2	Accept submission point.
Waikato Regional Council*	42.7		Add a new section that identifies and discusses the qualifying matters that have resulted in the modification of the MDRS. This could be added under the 'Purpose' section or the objectives and policies of the MRZ2 chapter.
Te Whakakitenga o Waikato Incorporated	42.7	213.15	Accept submission point.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Kāinga Ora	42.7	217.25	Reject submission point.
Kāinga Ora	106.27		Amend the Purpose of the Medium density residential zone 2 chapter. See submission for amendments sought. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.27	200.39	Reject submission point.
Hynds Pipe Systems Ltd*	106.27	221.37	Reject submission point.
Waikato Tainui	114.6		Retain the following cross reference in the MRZ2 chapter located above the MRZ2 purpose statement: 'The relevant district-wide chapter provision apply in addition to this chapter'.
Waikato Tainui	114.7		Amend the purpose statement in the MRZ2 chapter as follows: Provide greater diversity / choice of housing. ; and - Recognise and account for qualifying matters including Te Ture Whaimana o Te Awa o Waikato.

## Analysis

240. Four submission points and five further submission points was received in relation to the inclusion of a reference to qualifying matters within the purpose statement. Transpower NZ Limited (submitter #18), Heritage New Zealand (submitter #28), Waikato Regional Council (submitter #42) and Waikato Tainui (submitter #114) submitted that the qualifying matters should be listed and/or an acknowledgement of what the effect of qualifying matters might be with respect to achieving the purpose of the zone.
241. The general reasons provided by the above submitters relate to providing greater clarity for plan users and assisting in understanding what qualifying matters might apply and how these might impact on development outcomes. Qualifying matters are a relatively new term,

introduced as part of the Enabling Housing Supply and Other Matters Amendment Act of 2021. I agree that some guidance in terms of how qualifying matters can affect density and what qualifying matters are relevant within the context of the Waikato District will be beneficial to plan users. I therefore recommend that the submission points in relation to this matter are accepted (#18.11, #28.6, #42.7 and #114.7). Recommended amendments to the purpose statement are outlined below.

242. Kāinga Ora (submitter #106) sought consequential amendments to the purpose statement that would align with the relief sought within their wider submission including:
- The removal of references to the MRZ2 (preferring that the MDRS is incorporated into a single zone).
  - The removal of reference to the urban fringe
  - The application of the MRZ2 provisions to the walkable catchments of Raglan and Te Kauwhata
243. Two further submissions points were received sate who they were from to the Kāinga Ora submission point, both opposing the original submission point.
244. Given that Council is no longer pursuing the urban fringe qualifying matter, I agree that reference to both 'walkable catchments' and 'urban fringe' should be removed from the purpose statement as it has the potential to be misleading. I therefore recommend that the aspects of the Kāinga Ora submission point relating to the urban fringe be accepted (#106.27). I recommend that the submission point in relation to the removal of references to MRZ2 and the application of the provisions to the walkable catchments of Raglan and Te Kauwhata be rejected. Both these aspects of the Kāinga Ora submission are assessed in more detail in section 4.1 of this report.
245. Waikato Tainui (submitter#114) sought to amend the purpose of the zone to include: *Provide greater diversity/choice of housing*. I agree that one of the overarching objective of the MRZ2 is to provide greater diversity and housing choice. I note that the purpose already includes "variety of housing types" and "diversity and choice of housing". For this reason I am of the view that housing diversity and choice are already encapsulated within the proposed purpose statement. For the above reasons I recommend that submission point relating to diversity/choice of housing be rejected (#114.7).

## Recommendations

246. That amendments are made to the purpose statement of the MRZ2 (as set out below).

## Recommended amendments

247. That the purpose statement be amended as follows:

*The purpose of the MRZ2 – Medium density residential zone 2 is to enable the most efficient use of residentially zoned land and infrastructure within the suite of Waikato District Plan residential zones. The MRZ2 – Medium density residential zone 2 provides for this form of development within ~~a walkable catchment of the town centres of~~ Huntly, Ngaaruawaahia, Pokeno and Tuakau. The zone will:*



- Provide housing at increased densities with three residential units per lot and buildings up to three storeys in height being permitted;
- Provide for the development of more than three residential units per lot, albeit subject to a more intensive design assessment process with matters of discretion to provide for appropriate design outcomes;
- Encourage a variety of housing types and sizes that respond to housing needs and demands of the district and its planned urban built character;
- Accommodate the highest level of residential growth within the district;
- ~~— Reduce pressure for residential development on the urban fringe and beyond;~~
- ~~— Relieve anticipated pressures on the road transport network (which are exacerbated by adopting sprawl to accommodate urban growth) by enabling greater development capacity in town centres where the use of both public and active modes of transport to access places of employment, retail and entertainment is readily achievable and/or viable;~~
- Provide the highest capacity, diversity and choice of housing; and
- Coordinate delivery of infrastructure and services.

The capacity to accommodate medium density residential development may be limited to provide for and/or protect one or more of the following qualifying matters:

1. Matter of national importance under s6 (s771(a)) of the RMA
2. Matter required to give effect to a national policy statement (s771(b))
3. Matter required to give effect to Te Ture Whaimana (s771(c))
4. Matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (s771(e))
5. Reverse sensitivity

Provisions to provide for and/or protect the above qualifying matter are incorporated into the district wide matters and the rules and standards of this zone.

### **Section 32AA evaluation**

248. The purpose statement is not considered to be a 'provision' and therefore does not require an evaluation under s32AA of the RMA. Despite this, it is considered that the recommended amendments will enhance the usability of the PDP and provide clear direction to plan users.

## **5.3 District Plan Definitions**

### **Introduction**

249. New definitions for the following terms are proposed through Variation 3:
- Active Transport (has the same meaning as the NPS-UD)
  - Landscaped area
  - MDRS (has the same meaning as Section 2 of the RMA)
  - Qualifying matters (has the same meaning as Section 2 of the RMA)
  - Servicing area

## Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Transpower NZ Ltd*	18.6		<p>Amend definition of “Qualifying Matters” as follows: Has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below). Means a matter referred to in section 771 or 770 of the Resource Management Act.</p> <p><u>Qualifying matters include:</u></p> <p><u>(a)The National Grid Yard</u></p> <p><u>(b)The National Grid Subdivision Corridor</u></p> <p><u>(c)..... (other qualifying matters to be listed)</u></p>
Kāinga Ora	18.6	217.1	Reject submission point.
Ara Poutama Aotearoa	30.3		<p>Add a definition for “Household” as follows: Means a person or group of people who live together as a unit whether or not: (a) any or all of them are members of the same family; or (b) one or more members of the group (whether or not they are paid) provides day-to-day care, support and supervision to any other member(s) of the group.</p>
Kāinga Ora	30.3	217.16	Reject submission point.
Pareoranga Te Kata	30.3	225.8	Allow the submission in part
KiwiRail*	54.4		Retain the definition of “Qualifying Matters”.
Classic Group Holdings	62.1		<p>Amend the definition of “landscaped area” as follows: Means any part of the site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.</p>

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ryman Healthcare Limited	62.1	219.7	Allow submission point
Retirement Villages Association	62.1	220.7	Allow submission point
Kāinga Ora	106.17		Delete the definition for “Papakaainga” AND Delete the definition for “Papakaainga housing development” AND Add the following definition for “Papakaainga”: A development by tangata whenua established to be occupied by tangata whenua for residential activities and ancillary social, cultural, economic, conservation and/or recreation activities to support the cultural, environmental and economic wellbeing of tangata whenua. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.17	213.74	The submitter seeks that part of the submission be allowed insofar that it does not have unintended consequences for other aspects of the district plan enabling papakaainga provisions of the Maaori Land Chapter and Hopuhopu Special Purpose Zone

250. In summary, submissions were received in relation to the following definitions:

- Retaining the definition for qualifying matters
- Amending the definition for qualifying matters
- Amending the definition for landscaped area
- Amending the definition for papakaainga
- Deleting the definition for papakaainga housing development
- Seeking an additional definition for household
- Seeking an additional definition for character

251. No submissions were received in relation to the proposed definitions to active transport, MDRS and servicing area.

## Analysis

### Qualifying Matters

252. KiwiRail (submitter #54) seeks to retain the definition of qualifying matters. KiwiRail considers it appropriate to use the statutory definition set out in the RMA. Transpower (submitter #18) seek to amend the definition of qualifying matter to list the qualifying matters that apply within the context of the Waikato district (noting that not all qualifying matters listed in the RMA are relevant to the Waikato). I agree that the definition for qualifying matter as defined in the RMA should be included within the PDP given that specific reference to the term is made within Objectives and Policies of the PDP proposed through Variation 3. On that basis I recommend that the KiwiRail submission point be accepted (#54.4). I do not consider it necessary or beneficial to clarify an RMA defined term within the definitions and therefore recommend that the Transpower submission point be rejected (#18.6).

### Landscaped Area

253. The definition for landscaped area proposed through Variation 3 is:

*Means any part of the site that is grassed and/or planted in trees, shrubs, or ground cover and may include ancillary water, rocks, paved areas or amenity features.*

254. Classic Group Holdings (submitter #62) seek to amend the definition for landscaped area on the basis that the definition is not consistent with the MDRS landscaped area requirements. This submission point is supported by Ryman Healthcare Limited (further submitter #219 and the Retirement Villages Association (further submitter #220).

255. The requirements for landscaped areas are provided in Section 18 of Schedule 3A of the RMA which states that (1):

*A residential unit at ground floor level must have a landscaped area of a minimum of 20% of a developed site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.*

256. In my view, this requirement is clear in relation to the expectation for landscaped areas which includes grass or plants and can include the canopy of trees regardless of the ground treatment below them. I agree with Classic Group Holdings's submission point that the proposed definition for landscaped area is not consistent with the requirements of the MDRS (as set out in Schedule 3A of the RMA) and should be amended. I further note that Schedule 3A does not refer to ancillary water, rocks, paved areas or amenity features and that these should be removed from the proposed definition to be consistent with RMA.

### Papakaainga and Papakaainga Housing Development

257. Kāinga Ora (submitter #106) seeks to amend the definition for papakaainga and seeks to delete the definition for papakaainga housing development. These submission point are addressed as part of their wider submission seeking amended provisions for papakaainga in section 5.6 of this report. For the reasons set out in that section, I recommend the submission be rejected.

### Household

258. Ara Poutama Aotearoa (submitter #30) seeks to include a definition for 'household' within the PDP. This submission point is addressed as part of their wider submission seeking enabling provisions for community corrections facilities in section 5.6 of this report. For reasons set out in that section, I recommend that submission point #30.3 be rejected.

#### *Character*

259. Laura Kellaway and Bryan Wendeatt (submitter #75) seek to include a definition for 'character' within the PDP. No reason for the request is provided. I have reviewed the occurrence and context of the word 'character' within the MRZ2 and note that it occurs within the purpose of the zone, within one (mandatory) objective, two policies and three matters of discretion. In all circumstances, I am of the view that there is no ambiguity in relation to the meaning of the word character. For this reason, I do not consider it necessary to clarify the meaning of 'character' by including a definition. I therefore recommend that submission point #75.6 be rejected.

#### *Other definitions*

260. No submissions were received in relation to the proposed definitions to active transport, MDRS and servicing area. I do not consider that any additional definitions or amendments are required to implement the requirements under s77G of the RMA.

### **Recommendations**

261. I recommend that:

- No definition for household is included in the PDP<sup>8</sup>.
- The following definitions are retained without change:
  - Qualifying matter
  - Papakaainga<sup>9</sup>
  - Active transport
  - MDRS
  - Servicing area
- The definition of landscaped area is amended.
- No definition for character is included

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<sup>8</sup> Refer to section 5.6 of this report for further details.

<sup>9</sup> Refer to section 5.6 of this report for further details.

## Recommended amendments

262. Amend the definition for landscaped area as follows:

*Means any part of the site that ~~has is-grassed and/or planted~~ and can include the canopy of trees regardless of the ground treatment below them, shrubs, or ground cover and may include ancillary water, rocks, paved areas or amenity features.*

## Section 32AA evaluation

263. The recommended amendment of the definition for landscaped area is effectively a clarification rather than a change to the provisions to be more consistent with Section 18 of the Schedule 3A. Therefore it is not considered that a s32AA evaluation is required.

## 5.4 Amendments to the MDRS and other standards

### Introduction

264. Variation 3 introduces the mandatory MDRS. A total of 33 submission points were received that sought to amend the MDRS or related standards within the PDP with a further 45 further submission points in support or in opposition. It is useful to refer to the INHP's directions #5 dated 23 December 2022 which directed submitters to review relief that seeks an outcome that is not available at law (paragraph 7, 8 and 9).

### Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Brent & Kym Cooper	2.1		Amend Variation 3 to include public notification.
WEL Networks Limited*	19.3		Amend Rule 4.2.5.6a as follows: Front – 1.5m, provided the building or structure can achieve compliance with the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).
Kāinga Ora	19.3	217.5	Reject submission point.
David Jones	45.4		Delete MRZI-S1.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
David Jones	45.5		Retain MRZI-S7
J and A Whetu	70.1		<p>Amend Variation 3 to protect the privacy and amenity of properties located in the proposed new Medium density residential zone 2 but choose not to develop their properties by way of amendments to the following provisions:</p> <ul style="list-style-type: none"> <li>· MRZ2-O6 Reverse sensitivity: (b) Enabling properties/sites that do not develop to medium density residential to protect its privacy and amenity</li> <li>· MRZ2-PI 1 Reverse Sensitivity: (2) Allow structures, and/or screen planting, that protect privacy and amenity on properties/sites that adjoin medium density residential development</li> <li>· New rule MRZ2-S9A Screening on Non-Medium Density Residential developed properties: (1) Activity status: PER A property/site that adjoins a property/site(s) where any land use and building under standards MRZ2-S2 to MRZ2-S7 (excluding MRSZ2-S4A) is carried out, the following is permitted: (a) The construction of privacy structures of 4m high within 1m of the adjoining boundary or (b) The planting of trees of up to 11m in height, along the shared boundary (2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Shading AND Amend Variation 3 to protect the privacy and other interests of properties located in the proposed General residential zone that also adjoin Medium density residential zone 2 properties, in a similar way to the amendments outlined above. AND Any consequential amendments in other areas of Variation 3 or the Proposed District Plan as needed.</li> </ul>
Te Whakakitenga o Waikato Incorporated	70.1	213.17	The submitter seeks that the whole of the submission be allowed
Ryman Healthcare Limited	70.1	219.8	Disallow submission point

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Retirement Villages Association	70.1	220.8	Disallow submission point
Jodie Bell	71.2		Amend MRZ2-S3 height in relation to boundary as follows): (iii) site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed. AND Add a new rule as: Common walls are not permitted in MDRZ2 unless the common wall adjoins non-habitable garaging at ground level.
Ryman Healthcare Limited	71.2	219.9	Disallow submission point
Retirement Villages Association	71.2	220.9	Disallow submission point
Jodie Bell	71.3		Amend MRZ2-S4 setbacks to read as follows: as: (b) This standard does not apply to site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed. AND Add a new rule as follows: Common walls are not permitted in MDRZ2 unless the common wall adjoins non-habitable garaging at ground level.
Ryman Healthcare Limited	71.3	219.10	Disallow submission point
Retirement Villages Association	71.3	220.10	Disallow submission point
Top Properties* End	71.3	222.28	Disallow the submission
CSL Trust*	71.3	223.28	Disallow the submission



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West* and West Pokeno Limited	71.3	224.28	Disallow the submission
Laura Kellaway and Bryan Windeatt	75.7		Amend rules for residential chapter for amenity and specifically terms of proposed MRZ2. Submitter requests to add the following rules (however does not provide specifics in relation to the rule): <ul style="list-style-type: none"> <li>· Privacy.</li> <li>· North facing</li> <li>· Daylight</li> <li>· On-site overshadowing.</li> <li>· On-site parking.</li> <li>· Setbacks from the Waikato River and natural gullies.</li> <li>· Setback of developments adjacent to historic heritage.</li> <li>· Retaining established on-site trees and landscaping</li> <li>· Retaining existing buildings that are adaptable and can be repaired.</li> </ul>
Ryman Healthcare Limited	75.7	219.14	Disallow submission point
Retirement Villages Association	75.7	220.14	Disallow submission point
Laura Kellaway and Bryan Windeatt	75.14		Add a cumulative assessment rule when 3 X 3 proposals exceed 20% of street
Ryman Healthcare Limited	75.14	219.16	Disallow submission point
Retirement Villages Association	75.14	220.16	Disallow submission point
Laura Kellaway and Bryan Windeatt	75.15		Add rule for accessible units and developments with MD.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ngāti Naho Trust	83.12		Increase the requirement for green spaces on a property AND Increase the distance and buffer zone between neighbour's boundaries.
Te Whakakitenga o Waikato Incorporated	83.12	213.33	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.12	217.63	Reject submission point.
Ryman Healthcare Limited	83.12	219.19	Disallow submission point
Retirement Villages Association	83.12	220.19	Disallow submission point
Ngāti Naho Trust	83.14		Add that prevent multi storey dwellings being constructed close to boundaries. AND Add implementation of low impact design builds.
Te Whakakitenga o Waikato Incorporated	83.14	213.35	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.14	217.64	Reject submission point.
Ryman Healthcare Limited	83.14	219.20	Disallow submission point
Retirement Villages Association	83.14	220.20	Disallow submission point
Ngāti Naho Trust	83.17		Delete consultation not required from neighbours

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	83.17	200.21	That the submission be allowed.
Te Whakakitenga o Waikato Incorporated	83.17	213.38	The submitter seeks that the whole of the submission be allowed
Bruce Knobbs	84.1		Amend MRZ2-S2 Height – building general from 11m to 7m so that it permits only 2 floors
Bruce Knobbs	84.2		Amend MRZ2-S5 Building coverage so that it allows only two dwellings per 600sqm site (300sqm per dwelling) of which building covers only 35-40%. The submission seeks no site smaller than 300sqm.
Bruce Knobbs	84.3		Amend MRZ2-S4 at least 4m from nearest boundary (side)
Bruce Knobbs	84.4		Amend MRZ2-S12 Fences or walls to be at least 1.8m solid.
Bruce Knobbs	84.5		Amend MRZ2-S6 Outdoor living space (per unit) so that outdoor living space is at least 150sqm.
Marae Tukere	87.4		Consider whether the Variation should only apply to alternate sections
Te Whakakitenga o Waikato Incorporated	87.4	213.53	The submitter seeks that the whole of the submission be allowed
Marae Tukere	87.5		Add provisions that protect the privacy and amenity of properties. AND Any associated consequential amendments.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Te Whakakitenga o Waikato Incorporated	87.5	213.54	The submitter seeks that the whole of the submission be allowed
Marae Tukere	87.7		Amend the rule P11 by adding in a new (2) as follows: (2) Allow structures, and/or screen planting, that protect privacy and amenity on properties/sites that adjoin medium density residential development AND And any associated consequential amendments.
Te Whakakitenga o Waikato Incorporated	87.7	213.56	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	87.7	217.7	Reject submission point in part.
Marae Tukere	87.8		Amend the name of Standard 4 rule as follows Setbacks for Medium Density Residential Development AND any associated consequential amendments
Te Whakakitenga o Waikato Incorporated	87.8	213.57	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	87.8	217.71	Reject submission point.
Marae Tukere	87.9		Add a new rule MRZ2-S9A Screening on Non-Medium Density Residential developed properties that enables privacy structures of 4m high or trees of 11m high (refer to submission) with associated matters of discretion. AND Any associated consequential amendments
Te Whakakitenga o Waikato Incorporated	87.9	213.58	The submitter seeks that the whole of the submission be allowed

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Kāinga Ora	87.9	217.72	Reject submission point.
Te Whakakitenga o Waikato Incorporated	87.10	213.59	The submitter seeks that the whole of the submission be allowed
Brenda Roberts	88.2		Amend Medium density residential zone to be up to 3 houses and limited to 2 storeys.
Blue Wallace Surveyors Ltd*	89.4		Amend development standard and/or permitted activity criterion is provided under VAR 3 to the effect that the MDRS relating to internal rear and side-yard building setbacks with GRZ land are to be 1.5m as opposed to only 1.0m. OR in the alternate a buffer area could be applied on the planning maps
Kāinga Ora	89.4	217.73	Reject submission point.
John Moeke	91.1		Amend Variation 3 to include notification with neighbours adjoining properties
Kāinga Ora	106.3		Add MRZ-R13 which relates to buildings, structures, objects or vegetation that obscures the sight line of the Raglan navigation beacons. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Wel Networks	106.3	203.1	Reject submission point.
KiwiRail	106.3	215.2	Reject submission point.
Retirement Villages Association	107.39		Amend Rule MRZ2-S3 Height in Relation to Boundary by stating the rule does not apply to boundaries adjoining the Settlement Zone, Local

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			Centre Zone, Commercial Zone or Industrial Zone as shown in the submission.
Kāinga Ora	107.39	217.90	Accept submission point.
Retirement Villages Association	107.47		Delete Rule MRZ2-S11
Retirement Villages Association	107.48		Delete Rule MRZ2-S12 – Fences or walls
Waikato Tainui	114.1		Amend MRZ2-S1 – Residential Unit matters of discretion to include the following: - Effects on cultural values.
Waikato Tainui	114.11		Amend MRZ2-S2 – Building height matters of discretion to include the following: - Effects on cultural values.
Kāinga Ora	114.11	217.99	Reject submission point.
Ryman Healthcare Limited	114.11	219.28	Disallow submission point
Retirement Villages Association	114.11	220.28	Disallow submission point
Waikato Tainui	114.12		Amend MRZ2-S3 – Height in relation to boundary matters of discretion to include the following: - Effects on cultural values.
Kāinga Ora	114.12	217.1	Reject submission point.
Ryman Healthcare Limited	114.12	219.29	Disallow submission point

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Retirement Villages Association	114.12	220.29	Disallow submission point

## Analysis

### *Notification*

265. Brent and Kym Cooper (submitter #21), Ngaati Naho Trust (submitter #83) and John Moeke (submitter #91) all seek to amend the notification requirements, specifically requiring that public notification/consultation is required.
266. Section 5 of Schedule 3A to the RMA requires that certain notification requirements are precluded. Variation 3 incorporates these mandatory requirements within the MRZ2 and subdivision chapters of the PDP. In reliance on Direction #5, I reject the submission points seeking to amend the notification requirements as the required standards are mandatory and cannot be varied.

### *Accessibility*

267. Laura Kellaway and Bryan Windeatt (submitter #75) seek to include a rule for accessible units and developments to better reflect 20% of New Zealand's community in this category and make places more accessible for all.
268. I agree with Ms Kellaway and Mr Windeatt that accessible design is important. Despite this I do not consider that the requested provisions are related provisions that support or are consequential on the MDRS or Policies 3,4 and 5 of the NPS-UD, as applicable. For this reason I do not consider the IPI process to be an appropriate mechanism for the requested amendments and I recommend that the point (#75.15) in relation to accessible design be rejected.

### *Medium Density Residential Standards*

269. Part 2 of Schedule 3A to the RMA outlines the MDRS that must be incorporated in every relevant residential zones (except where a qualifying matter applies in accordance with s771). The density standards include:
- Number of residential units per site (proposed standard MRZ2-S1)
  - Building height (proposed standard MRZ-S2)
  - Height in relation to boundary (proposed standard (MRZS-S3)
  - Setbacks (proposed standard MRZS2-S4)
  - Building coverage (proposed standard MRZ2-S5)
  - Outdoor living space per unit (proposed standard MRZ2-S6)
  - Outlook space per unit (proposed standard MRZ2-S7)
  - Windows to street (proposed standard MRZ2-S8)

- Landscaped area (proposed standard MRZ2-S9)

### **Number of residential units per site**

270. Fire and Emergency NZ (submitter #53) requested the following amendment to the matter of discretion for MRZ2-S1:

*(2) Activity status where compliance not achieved: RDIS*

*Council's discretion is restricted to the following matters:*

- (a) Intensity of the development; and*
- (b) Design, scale and layout of buildings and outdoor living spaces in relation to the planned urban character of the zone the efficient movement of residents and the provision for the health and safety of residents in meeting their day to day needs*

...

271. Fire and Emergency NZ submitted that specific consideration should be given to the built form as it relates to the functionality of the site and the efficient movement of residents and emergency services and the provision for the health and safety of residents in meeting their day-to-day needs. In my view the requested amendment does not translate to a consideration relating to access for emergency services.

272. I note that PRPT-R1 and PRPT-R2 (Transportation) provides specific standards for vehicle access and on-site parking and loading respectively. Non compliance with these standards would require a restricted discretionary resource consent which includes the following matter of discretion for Council:

...

*(f) The foreseeable needs for access by emergency services and their vehicles.*

273. In my view these standards and matters of discretion adequately provide for access for emergency vehicles and no additional matter of discretion is required as part of MRZ2-S1. For this reason I recommend that the submission point from Fire and Emergency NZ be rejected (#53.8).

### **Building Height**

274. Three submission points and no further submissions were received in relation to MRZ2-S2 (building height). David Jones (submitter #45), Bruce Knobbs (submitter #84) and Brenda Roberts (submitter #88) all submitted that the proposed height limit of 11m should be reduced. David Jones did not specify a preferred height limit but considers 11m to be too high, especially within the context of the traditional built character. Bruce Knobbs and Brenda Roberts both submitted that building heights should be limited to 7m and two storeys respectively.

275. S77G of the RMA requires the MDRS to be incorporated into relevant residential zones. No reasons are provided by the above submitters that would meet the requirements under s77I of the RMA to be a qualifying matter. Therefore, there is no scope to provide the relief requested



by the submitters<sup>10</sup> and I recommend that the above submission points be rejected (#45.4, #84.1 and #88.2).

### **Height in relation to boundary**

276. Two submission points and three further submission points were received in relation to MRZ2-S3 (height in relation to boundary). Jodie Bell (submitter #71) seeks to amend the provisions to remove the ability to create new common walls between new housing. The Retirement Villages Association (#107) seeks to exclude the standard for boundaries that adjoin a Settlement zone, a Local centre zone, a Commercial zone or an Industrial zone to enable larger scale developments to occur adjacent to less sensitive zones where the effects of larger buildings will be appropriate.
277. s77G of the RMA requires the MDRS to be incorporated into relevant residential zones. No reasons are provided by Jodie Bell that would meet the requirements under s77I of the RMA to be a qualifying matter. Therefore there is no scope to provide the relief requested by the submitters.
278. In response to the Retirement Villages Association submission point, I am of the view that the height in relation to boundary standards are sufficiently enabling for substantial scale residential developments. I do not agree that the standard should be amended to exclude potentially less sensitive adjoining zones on the basis that zoning alone does not determine the potential sensitivity of an adjoining land user. I accept that there may be circumstances where a breach in the height in relation to boundary can have minimal or no effects on an adjoining property, however, in my view this should be assessed on an individual application basis as a restricted discretionary activity.
279. For the reasons outlined above I recommend that the submission points in relation to varying MRZ2-S3 be rejected (#71.2 and #107.39).

### **Setbacks**

280. Five submission points and 12 further submission points were received in relation to MRZ2-S4 (setbacks). Jodie Bell (submitter #71) seeks to amend the provisions to remove the ability to create new common walls between new housing. Ngaati Naho Trust (submitter #83) seeks to increase the space between neighbouring properties to provide increased green space opportunities, provide relief between buildings and reduce overshadowing, loss of outlook and claustrophobic conditions. Bruce Knobbs (submitter #84) seeks to increase the side setback requirements from 1m to 4m to reduce the risk of fires spreading. Marae Tukere (submitter #87) seeks to amend the change the name of the standard to 'setbacks for medium density residential development' and any consequential amendments.
281. s77G of the RMA requires the MDRS to be incorporated into relevant residential zones. No reasons are provided the above submitters that would meet the requirements under s77I of the RMA to be a qualifying matter. Therefore, there is no scope to provide the relief requested by the submitters.

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<sup>10</sup> I note that this is consistent with the IHP directions #5

282. In response to Marae Tukere's submission point, I am of the view that the requested amendment would be misleading. The setbacks outlined apply to any buildings within MRZ2 land, not just medium density residential developments.
283. For the reasons outlined above I recommend that the submission points in relation to varying MRZ2-S4 be rejected (#83.14 and #89.4).

#### **Building coverage**

284. One submission point was received in relation to MRZ2-S5. Bruce Knobbs (submitter #84) seeks to amend the standard to allow only two dwellings per 600sqm site, covering only 35-40% of the total site area. s77G of the RMA requires the MDRS to be incorporated into relevant residential zones. No reasons are provided by Bruce Knobbs that would meet the requirements under s77I of the RMA to be a qualifying matter. Therefore there is no scope to provide the relief requested by the submitters and I recommend that the submission point be rejected (#84.2).

#### **Outdoor living space per unit**

285. Two submission points and four further submission points were received in relation to MRZ2-S6. Ngaati Naho Trust (submitter #83) seeks to increase the requirement on greenspaces on properties. Bruce Knobbs (submitter #84) seeks to amend the standard to provide for a minimum outdoor living space of 150 square metres. Both submitters seek increased greenspace to provide more space for young families/children. Neither submitters provide any reasons that would meet the requirements under s77I of the RMA to be a qualifying matter. Therefore there is no scope to provide the requested relief and I recommend that the above submission points be rejected (#83.12 and #84.5).

#### *Effects on cultural values as a matter of discretion*

286. Three submission points were received from Waikato Tainui (submitter #114) seeking to amend the matters of discretion for MRZ2-S1, MRZ2-S2 and MRZ2-S3 to include 'effects on cultural values'. Waikato Tainui considers that Council should have discretion to address effects on cultural values given the scale and extent of development that is proposed to be provided for as a restricted discretionary activity.
287. I agree with Waikato Tainui that effects on cultural values can be important considerations for certain applications. Despite this I do not consider that the recommended blanket approach of including matters of discretion relating to cultural values will be appropriate. In my view it will be difficult for Council officers to make an assessment regarding cultural values for all applications and specialist input would be required. In my view this is unreasonably burdensome given that the majority of resource consent applications that breach MRZ2-S1, S2 and S3 will be located in established areas that have already been developed. I further note that the known and identified sites and areas of significance to Maaori are protected within the PDP from adverse effect of development or activities on those sites<sup>11</sup>. For these reasons I recommend that the submission points from Waikato Tainui be rejected (#114.1, #114.11 and #114.12).

#### *Fire and Emergency Provisions*

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<sup>11</sup> Refer to Part 2: District-wide matters – Sites and areas of significance to Maaori.

288. Fire and Emergency NZ (submitter #53) seeks to include an additional matter of discretion to both MRZ2-S4 (setbacks) and MRZ2-S6 (outdoor living space per unit) as follows:

4. The extent to which the non-compliance compromises the efficient movement of residents and emergency services and the provision for the health and safety of residents in meeting their day to-day needs.

289. Fire and Emergency NZ state that this matter of discretion will enable Council to address the potential adverse effects on the efficient movement of people in a fire or other emergency.

290. Fire and Emergency NZ seek for the inclusion of the following advice note as part of MRZ2-S4:

Advice note: Building setback requirements are further controlled by the Building Code. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered/granted.

291. I do not agree with Fire and Emergency NZ that an additional matter of discretion and/or an advice note are necessary to manage building setbacks. In relation to the proposed matter of discretion I am of the view that it is unclear what information would be required to demonstrate how the day to day needs of residents would be met. In relation to the advice note, I note that all new buildings are required to comply with the Building Code which covers a range of aspects including protection from fire and access. I do not consider it necessary to remind plan users of their obligations under the Buildings Act or any other legislation. The district plan should not duplicate other legislative requirements. Therefore, I recommend that the submission points are rejected (#53.9 and #53.10).

#### *Fences or walls and garages*

292. Although Variation 3 promises no change to MRZ2-S12 (fences or walls), two submissions were received to the provision. Bruce Knobbs (submitter #84) submitted that fences or walls should be at least 1.8m high and solid to be in line with existing boundary fences and walls in the community. The Retirement Villages Association seeks to delete the provision as it is not a requirement of the MDRS. The Retirement Villages Association similarly submitted that MRZ2-S11 in relation to garaging should be deleted on the basis that it is not a requirement of the MDRS.

293. In response to the submission from Bruce Knobbs, I am of the view that 1.8m high (minimum) solid fences to front/road boundaries would result in poor streetscape amenity outcomes and lack of visibility across the public realm. I support the existing provisions of MRZ2-S12 as they relate to front fences and road boundaries as they provide a balance between residential privacy and security while contributing positively to the streetscape.

294. Notwithstanding the above, I note that the proposed wording of MRZ2-S12 applies fencing requirements to common property boundaries (i.e. side fences between neighbouring properties). In my view this is not necessary to control and can unreasonably impacts privacy and amenity outcomes. For that reason, I recommend that MRZ2-S12 be amended to only apply to road boundaries or open space zone boundaries. This would be consistent with the application of fencing rules within the GRZ. I further note that the matters of discretion in MRZ2-S12(2) are limited to assessing streetscape impacts, and therefore consider it likely that this standard was not intended to control common property boundary fencing.

295. In response to the submission from the Retirement Villages Association I note that while fencing and garaging provisions are not a requirement of the MDRS, I consider them to be 'related provisions' under section 80E(2) of the RMA and that they therefore may be included. In addition, I do not consider that either MRZ2-S11 nor MRZ2-S12 limit the ability to achieve medium density residential outcomes.
296. For the reasons outlined above I recommend that the submission points in relation to MRZ2-12 and MRZ2-11 be rejected (#84.4, #107.47 and #107.48).

*Other provisions*

297. A number of submission points were made that were difficult to group and are addressed individually in the section below.
298. Marae Tukere (submitter #87) submitted that consideration should be given to apply the MDRS to alternate sections to prevent current residential streets from becoming urban. The submission was supported by one further submitter. s77G of the RMA requires every relevant residential zone to have the MDRS incorporated. Therefore, there is no scope to apply the MDRS to alternate sites. In reliance on Direction #5 I recommend that the submission point from Marae Tukere be rejected (#87.4).

*Additional privacy and/or amenity provisions*

299. Laura Kelleway and Bryan Windeatt (submitter #75), Marae Tukere (submitter #87.5) and J and A Whetu (#70.1) seek to amend the provisions within the MRZ2 to provide better privacy/amenity outcomes. None of the submitters identify any specific provisions or proposed changes. -lit is therefore difficult to assess the appropriateness of any amendments. Regardless, I am of the view that Variation 3 applies the MDRS as required by the RMA and that there is limited scope to provide additional provisions that control development outcomes in the absence of a qualifying matter. For that reason I recommend that the submission points be rejected (#70.1, #75.7, #87.5).
300. Marae Tukere (submitter #87) and J and A Whetu (#70.1) both seek amendments to the MRZ2 to better provide for privacy and screening. Specifically, both submitters seek:
- An amendment to MRZ2-P2 (Reverse sensitivity) that allows structures, and/or screen planting that protect privacy and amenity on properties/sites that adjoin medium density residential development.
  - A new rule MRZ2-S9A – Screening which enables privacy structures of 4m high or trees of 11m high with associated matters of discretion.
  - In my view, it is inappropriate to enable screening structures of 4m high if these encroach on the height in relation to boundary setback. I further note that there are no restrictions in relation to the height of trees and that these may be planted as a privacy measure.
301. For this reason I recommend that #87.5 and #70.1 be rejected.

## Recommendations

302. I recommend that:

- No changes are made to the Medium Density Residential Standards (MRZ2-S1 – MRZ2-S9).
- No changes are made to the provisions relation garages
- A change is made to the MRZ2-S12 (Fences or walls)
- No provisions are included in relation to privacy screening
- No provisions are included in relation to accessible design
- No matter of discretion is included in relation to cultural values

## Recommended amendments

303. I recommend that MRZ2-S12 be amended as follows:

<b>MRZ2-S12</b>	304. Fences or walls – road boundaries and OSZ – Open space zone boundaries	
	<p><b>(1) Activity status: PER</b>  <b>Where:</b>            (a) Boundary fences and walls <u>adjacent to <del>between properties and</del> any road boundaries or OSZ - open space zone</u>, must comply with all of the following standards:            (i) Be no higher than 1.5m if solid;            (ii) Be no higher than 1.8m if:                (1) Visually permeable for the full 1.8m height of the fence or wall;                or                (2) Solid up to 1.5m and visually permeable between 1.5 and 1.8m.</p>	<p><b>(2) Activity status where compliance not achieved: RDIS</b>  <b>Council's discretion is restricted to the following matters:</b>            (b) Building materials and design;            (c) Effects on streetscape amenity;                and            (d) Public space visibility.</p>

## Section 32AA Evaluation

305. There are three options to address the common property boundary wall fencing issue:

- **Option 1** - The status quo
- **Option 2** - Amending the provision to exclude common property boundary fences
- **Option 3** - Amending the provision to provide a standard in relation to common property boundary fences that is more appropriate for providing privacy

306. Option 1 (status quo) is unreasonable in relation to providing appropriate privacy and amenity outcomes given the restriction on fence height and permeability. The status quo (in relation to common property boundary fencing) does not contribute to achieving the objectives of the proposal. Similarly, I do not consider that Option 3 contributes to achieving the objectives of

the proposal and provides insufficient flexibility for property owners to control preferred fence types.

307. Option 2 (amending as per the recommendation) provides land owners with greater flexibility to choose fencing requirements along the common property boundary. There will be restrictions under the Building Act in relation to height and materials and I do not consider that this needs to be controlled by the district plan. On that basis, I consider this option to be the most effective and efficient and note that this approach is consistent with the fencing provisions within the General residential zone.
308. There are likely to be reduced costs to both Council and property owners if Option 2 is pursued as there would be less resource consent requirements for common property boundary fencing. Option 1 is likely to require resource consent for new fences and Option 3 could require resource consent if permitted standards were not met. On that basis consider that option 2 is the most cost appropriate option.
309. I do not consider there to be any risk of acting or not acting in relation to the above provisions. For the reasons outlined above, I consider Option 2 to be the most appropriate option for achieving the objectives of the proposal.

## 5.5 Subdivision

### Introduction

310. Variation 3 proposes the following amendments to the subdivision provisions of the PDP:
- Amendment to SUB-P3(1) to exclude the Medium density residential zone 2
  - New policy SUB-P3(3) relating to lot sizes in the Medium density residential zone 2
  - New policy SUB-P23 relating to subdivision in the Medium density residential zone 2
  - Amendment to rule SUB-R153 to exclude subdivision in the Medium density residential zone 2
  - New rule SUB-R154 relating to subdivision in the Medium density residential zone 2
  - New rule SUB-R162 relating to subdivision in the National Grid Corridor
311. Any submission relating to SUB-R162 are addressed within the National Grid Corridor section of this report (section 6.5).

### Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Heritage New Zealand	28.4		Retain SUB-P3 Lot sizes, except for the amendments sought below AND Amend SUB-P3(3) Lot sizes as follows: (3) Within the MZR2 Medium density residential

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			zone 2. subdivision enables medium density housing outcomes, <u>except in the instance of qualifying matters.</u>
Te Whakakitenga o Waikato Incorporated	28.4	213.1	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	28.4	217.6	Reject submission point.
Hynds Pipe Systems Ltd*	28.4	221.1	Accept submission point.
Heritage New Zealand	28.5		Retain SUB-P23.
Te Whakakitenga o Waikato Incorporated	28.5	213.2	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	28.5	217.7	Reject submission point.
Classic Group Holdings	62.2		Delete SUB-R152 (1a) must have a minimum net site area (excluding access legs) of 200m2 except where:
CSL Trust*	82.9		Add new subdivision rules for one to three units and four or more units based on the requirements of the MDRS and RM-EHA with the matters of discretion being equivalent to those in the MDRZ2 [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.9	200.20	Reject submission point.
Hynds Pipe Systems Ltd*	82.9	221.19	Reject submission point.
Top End Properties*	82.9	222.38	Not specified

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West* and West Pokeno Limited	82.9	224.38	Not specified
Transpower NZ Ltd*	82.8	209.8	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Transpower NZ Ltd*	82.9	209.9	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Havelock Villages Limited*	105.9		Add new subdivision rules for one to three units and four or more units based on the requirements of the MDRS and RM-EHA with the matters of discretion being equivalent to those in the MDRZ2 [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.9	200.30	Reject submission point.
Transpower NZ Ltd*	105.9	209.18	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	105.9	221.30	Reject submission point.
Top End Properties*	105.9	222.48	Allow the submission
CSL Trust*	105.9	223.39	Allow the submission
Pokeno West* and West Pokeno Limited	105.9	224.49	Allow the submission
Kāinga Ora	106.22		Delete SUB-R153(1)(a)(i) Subdivision – general relating to the minimum lot size for vacant lots as detailed in



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			submission. AND Amend SUB-153 Subdivision – general to remove all references to the MRZ2 zone and replace it with MRZ AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.22	213.77	The submitter seeks that the whole of the submission be disallowed
Hynds Pipe Systems Ltd*	106.22	221.34	Reject submission point.
Kāinga Ora	106.23		Delete SUB-R154(1)(b) Subdivision - residential relating to minimum net site area. AND Amend SUB-154 Subdivision – residential to remove all references to the MRZ2 zone and replace it with MRZ AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.23	213.78	The submitter seeks that the whole of the submission be disallowed
Hynds Pipe Systems Ltd*	106.23	221.35	Reject submission point.
Kāinga Ora	106.24		Amend SUB-156 Subdivision – boundary adjustments to remove all references to the MRZ2 zone and replace it with MRZ AND Amend SUB-156 Subdivision – boundary adjustments so that reference to SUB-R31 to R32 is replaced with the amended provisions of R50-51 and R52. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.24	213.79	The submitter seeks that the whole of the submission be disallowed

## Analysis

### Subdivision Objectives and Policies

312. One submission point and three further submission points were received in relation to SUB-P3. Heritage New Zealand (submitter #28) supports the amendment to SUB-P3(1) and seeks the following amendment to SUB-P3(3):

*Within the MRZ2 – Medium density residential zone 2, subdivision enables medium density residential outcomes except in the instance of qualifying matters.*

313. Heritage New Zealand submits that qualifying matters can influence subdivision design and layout. I agree with Heritage New Zealand that there may be instances where providing for certain qualifying matters can affect the outcome of lot design. I therefore recommend that the submission point is accepted and that a reference to qualifying matters is included within SUB-P3(3). In regard to the specific wording of the policy, I am of the view that this should be consistent with the SUB-P23 policy reference to qualifying matters, and I include specific policy wording in the recommended amendments section below.
314. Heritage New Zealand also submitted in support of SUB-P23 on the basis that it provides for matters of national importance. SUB-P23 recognises the importance of qualifying matters within the subdivision process and I agree with Heritage New Zealand that this directive should be retained within the PDP. On that basis I recommend that submission #28.5 be accepted.

### Subdivision Rules

315. Three submission points and four further submission points were received in relation to the subdivision rules. Classic Group Limited (submitter #62) and Kāinga Ora (submitter #106) seek the deletion of the minimum 200 square metres net site area from SUB-R154(a). Classic Group states that reliance should be placed on the land use rules to ensure suitable development outcomes. The proposed rule as notified does not impose a minimum net site area where compliance with the MDRS can be achieved and thereby supports the Classic Group's reasoning. Kāinga Ora also sought the deletion of SUB-R153 (1(a)) relating to minimum vacant lot sizes stating that they oppose the inclusion of minimum lot sizes associated with subdivision.
316. In the absence of a minimum vacant lot size, I am of the view that there is a risk of inefficient land use outcomes and the potential creation of allotments that cannot effectively be used for residential development. I support the inclusion of a minimum site size requirement to an area that is known to be able to accommodate the MDRS. I therefore recommend that the submission points regarding minimum net site areas and minimum vacant site sizes are rejected (#62.2, #106.22 and #106.23).
317. Note: I discussed submission point 62.2 with the Classic Group on 5 May 2023 and they confirmed that their submission point sought to ensure that there would be no minimum net site areas generally, rather than vacant lots.

318. Fire and Emergency NZ (submitter #53) seeks the following additional matter of control within SUB-R154 (Subdivision – residential):

*Council's control is reserved over the following matters:*

(d) Subdivision layout; and

(e) Provision of infrastructure.

(f) Vehicle and pedestrian networks.

319. I agree with Fire and Emergency NZ that the amendment will provide Council the ability to impose suitable conditions of consent to address any effects on the transportation network when issuing a controlled activity residential subdivision consent. In my view such a matter is important within an increasingly intensified environment and I therefore recommend that the submission point (#53.6) be accepted.

320. CSL Trust (submitter #82) and Havelock Villages Limited (submitter #105) seek the inclusion of a new subdivision rule that supports the MDRS within the General residential zone. In my view, these submission points are addressed by the removal of the urban fringe qualifying matter and the application of the MRZ2 to all General residential zones in Pookeno. I therefore recommend that the submission points regarding a new subdivision rule are rejected (#82.9 and #105.9).

## **Recommendations**

321. I recommend that:

- SUB-P3 and SUB-R153 are amended as per the recommended amendments below.
- SUB-P23 and SUB-R153 be retained as notified
- No additional rules are required to provide for subdivision

## **Recommended amendments**

322. Amend SUB-P3(3) as follows:

323. Within the MRZ2 – Medium density residential zone 2, subdivision enables medium density residential outcomes except where there is a relevant qualifying matter.

324. Amend SUB-154 as follows:

*Council's control is reserved over the following matters:*

(d) Subdivision layout; and

(e) Provision of infrastructure.

(f) Vehicle and pedestrian networks.

## **Section 32AA evaluation**

325. The recommended amendment to SUB-P3(3) is effectively a clarification rather than a change to the provisions and it is not considered that a s32AA evaluation is required.

326. There are two options to address the requested amendment to SUB-154:

- **Option 1** - The status quo (retain notified provisions)
  - **Option 2** - Amending the provision as per the recommendations above
327. Option 1 (status quo) has been identified as ineffective and inefficient for assessing the vehicle and pedestrian network associated with a proposed subdivision, given that the matters of control are relatively limited. There is a potential that the status quo could result in adverse vehicle and pedestrian network outcomes.
328. Option 2 (amending as per the recommendation) provides Council the ability to assess vehicle and pedestrian network effects as part of any proposed subdivision under SUB-154 and recommend any relevant conditions of consent in relation to these matters. In my view this is an effective and efficient option and can contribute to achieving more functional urban environments.
329. The costs are likely to be the same for both options however there are benefits to the health and safety of people, and the urban environment generally, with the added ability to Council to include conditions relating to vehicle and pedestrian networks.
330. The risk of not acting/amending the proposed matters of control are that Council will not have the ability to impose conditions of consent in relation to vehicle and pedestrian networks. This could result in potential adverse vehicle and pedestrian outcomes and ultimately adversely affect the urban environment and the health and safety of people.
331. For the above reasons, I recommend that Option 2 (amending the provisions as per the above recommendations) is the most appropriate way to achieve the objectives of the proposal.

## 5.6 Related provisions

### Introduction

332. Section 80E(i)(b)(iii) states that the IPI may amend or include related provisions including objectives, policies, rules, standards and zones, that support or are consequential on the MDRS or Policies 3,4 and 5 of the NPS-UD, as applicable. Section 80E(2) provides that related provisions includes provisions that relate to any of the matters set out in clauses (a) to (g). The decision in Waikanae held that the matter in Section 80E(2)(a) to (g) must support or be consequential to the MDRS or policy 3.4 and 5 of the NPS-UD as applicable.
333. Numerous submission points were made that sought to enable or protect particular services or land uses to support, or as a consequence of, the MDRS. The provisions sought relate to:
- Enabling provisions for retirement villages
  - Protective provisions relating to electricity distribution infrastructure
  - Enabling provisions for community corrections facilities
  - Enabling and protective provisions in relation to fire fighting and emergency services
  - Enabling provisions for educational facilities

- Climate change and greenhouse gas emissions

## Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Wayne Bishop and Cameron Smith	14.1		Amend Variation 3 to include retirement village/ elderly housing to occur in land where there is a connection with existing urban areas, where land supply is sufficient and the ability to provide suitable infrastructure and connectivity is achievable.
Waikato Regional Council*	14.1	205.2	Reject submission point (rezoning request).
Wayne Bishop and Cameron Smith	14.2		Council to look at the options of providing residential zoning contiguous with Gordonton area to enable a bespoke retirement village development. AND Amend to rezone land holding contiguous with Gordonton as a bespoke Settlement Zone that aligns with the description of the zone in the National Planning Standards.
Waikato Regional Council*	14.2	205.3	Reject submission point (rezoning request).
Wayne Bishop and Cameron Smith	14.3		Amend to meet / identify housing opportunities for the expected demand for housing among other areas. The submission considers this opportunity has been missed as part of Variation 3, and comments on the provision of enabling elderly person's housing such as retirement villages.
Waikato Regional Council*	14.3	205.4	Reject submission point (rezoning request).
WEL Networks Limited*	19.1		Add a new Rule SUB-R163 as follows: Subdivision Activities adjacent to Electricity Distribution Infrastructure Any subdivision in the vicinity of electricity infrastructure must demonstrate that building platforms can be in positions where a subsequent building can comply with the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			34:2001). Vegetation to be planted in the vicinity of electricity infrastructure should be selected and/or managed so that it does not breach the Electricity (Hazards from Trees) Regulations 2003.
Kāinga Ora	19.1	217.4	Reject submission point.
WEL Networks Limited*	Original	19.3	Amend Rule 4.2.5.6a as follows: Front – 1.5m, provided the building or structure can achieve compliance with the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).
Kāinga Ora	Further Submission	19.3	Reject submission point.
Waka Kotahi*	29.5		Amend the assessment criteria under TRPT-R4(2) to include a specific requirement for traffic assessments to demonstrate how the proposal mitigates operational greenhouse gas effects.
Te Whakakitenga o Waikato Incorporated	29.5	213.10	The submitter seeks that the whole of the submission be allowed
Top End Properties*	29.5	222.3	Disallow the submission
CSL Trust*	29.5	223.3	Disallow the submission
Pokeno West* and West Pokeno Limited	29.5	224.3	Disallow the submission
Pareoranga Te Kata	29.5	225.5	Allow the submission in part

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ara Poutama Aotearoa	30.1		Provide for community corrections facilities in appropriate locations, should they be required in the future. Ara Poutama currently operates one non-custodial community corrections site in the Waikato district, comprising 'Huntly Community Corrections' is located at 2 Glasgow Street, Huntly within the Commercial Zone.
Kāinga Ora	30.1	217.14	Accept submission point.
Pareoranga Te Kata	30.1	225.6	Allow the submission in part
Ara Poutama Aotearoa	30.2		Enable residential accommodation activities (with support) to establish and operate within appropriate areas, which is likely to include areas of housing intensification.
Kāinga Ora	30.2	217.15	Accept submission point.
Pareoranga Te Kata	30.2	225.7	Allow the submission in part
Ara Poutama Aotearoa	30.3		Add a definition for "Household" as follows: Means a person or group of people who live together as a unit whether or not: (a) any or all of them are members of the same family; or (b) one or more members of the group (whether or not they are paid) provides day-to-day care, support and supervision to any other member(s) of the group.
Kāinga Ora	30.3	217.16	Reject submission point.
Pareoranga Te Kata	30.3	225.8	Allow the submission in part
Waikato Regional Council*	42.3		No specific decision requested, but submission considers there is scope to strengthen policy wording around emissions in the Variation, especially in relation to transport provisions.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Top End Properties*	42.3	222.8	Disallow the submission
CSL Trust*	42.3	223.8	Disallow the submission
Pokeno West* and West Pokeno Limited	42.3	224.8	Disallow the submission
Waikato Regional Council*	42.10		Add new OR Amend objectives, policies, rules, and standards to address climate change and carbon emissions reduction goals in the context of housing intensification, including consequential amendments to Part 2: District-wide matters.
Te Whakakitenga o Waikato Incorporated	42.10	213.16	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	42.10	217.28	Accept submission point in part.
Top End Properties*	42.10	222.1	Disallow the submission
CSL Trust*	42.10	223.1	Disallow the submission
Pokeno West* and West Pokeno Limited	42.10	224.1	Disallow the submission
Waikato Regional Council*	42.11		Add new policies that seek to avoid, minimise, or reduce the adverse effects of the transport network on adjoining land uses and the wider environment, such as those caused by transport emissions.



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Kāinga Ora	42.11	217.29	Reject submission point.
Top End Properties*	42.11	222.11	Disallow the submission
CSL Trust*	42.11	223.11	Disallow the submission
Pokeno West* and West Pokeno Limited	42.11	224.11	Disallow the submission
Waikato Regional Council*	42.13		Amend objectives and policies to protect and promote the development of the regional rail network for the transportation of passengers, as well as freight.
KiwiRail	42.13	215.1	Accept submission point.
Kāinga Ora	42.13	217.30	Reject submission point in part.
Waikato Regional Council*	42.17		Amend objectives and policies to: · Require adverse effects from the construction of the transport network, including embodied and operational greenhouse gas emissions, to be avoided, remedied, or mitigated; and - · Minimise the need to travel and the total distance travelled.
Waikato Regional Council*	42.17	205.8	Amend objectives and policies so that adverse effects from the construction, maintenance, upgrading and operation of the transport network, including embodied and operational greenhouse gas emissions, are avoided, remedied, or mitigated.
Waka Kotahi*	42.17	216.1	Require further clarification on how the policy approach would be applied in practice by roading authorities.
Kāinga Ora	42.17	217.33	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Top End Properties*	42.17	222.12	Disallow the submission
CSL Trust*	42.17	223.12	Disallow the submission
Pokeno West* and West Pokeno Limited	42.17	224.12	Disallow the submission
Waikato Regional Council*	42.19		Amend OR Add objectives, policies, rules and/or matters of discretion which promote the retention of existing vegetation, particularly mature trees, wherever possible during development.
Kāinga Ora	42.19	217.35	Reject submission point.
Waikato Regional Council*	42.3		No specific decision requested, but submission considers there is scope to strengthen policy wording around emissions in the Variation, especially in relation to transport provisions.
Top End Properties*	42.3	222.8	Disallow the submission
CSL Trust*	42.3	223.8	Disallow the submission
Pokeno West* and West Pokeno Limited	42.3	224.8	Disallow the submission
Waikato Regional Council*	42.10		Add new OR Amend objectives, policies, rules, and standards to address climate change and carbon emissions reduction goals in the context of housing intensification, including consequential amendments to Part 2: District-wide matters.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ara Poutama Aotearoa	30.4		Amend the definition of Supported residential accommodation as follows: Means, in the Corrections Zone, the use of a residential unit(s) by a person or persons who reside within such unit(s) on a short- or long-term basis and receives supervision, assistance, care and/or support from, or on behalf of, Ara Poutama Aotearoa – The Department of Corrections. It includes the provision of non-custodial rehabilitation activities.
Pareoranga Te Kata	30.4	225.9	Allow the submission in part
Fire and Emergency NZ	53.1		Retain SD-O14
Fire and Emergency NZ	53.2		Retain Table 12 – access and road standards
Fire and Emergency NZ	53.3		Retain SUB-P23
Fire and Emergency NZ	53.4		Retain SUB-R31
Fire and Emergency NZ	53.5		Retain SUB-R153
Fire and Emergency NZ	53.6		Add new matters of control to SUB-R154 to include (f) Vehicle and pedestrian networks.
Fire and Emergency NZ	53.7		Retain MRZ-P3

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Fire and Emergency NZ	53.8		Amend matter of discretion in MRZ2-S1: (b) Design, scale and layout of buildings and outdoor living spaces in relation to the planned urban character of the zone, the efficient movement of residents and the provision for the health and safety of residents in meeting their day-to-day needs.
Kāinga Ora	53.8	217.39	Reject submission point.
Fire and Emergency NZ	53.9		Add advice note to MRZ2-S4 as follows: Advice note: Building setback requirements are further controlled by the Building Code. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered/granted. AND Add new matter of discretion as follows: 4. The extent to which the non-compliance compromises the efficient movement of residents and emergency services and the provision for the health and safety of residents in meeting their day-to-day needs.
Kāinga Ora	53.9	217.4	Reject submission point.
Fire and Emergency NZ	53.10		Add advice note within MRZ2-S6 : Advice note: Access requirements are further controlled by the Building Code. This includes the provision for firefighter access to buildings and egress from buildings. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered/granted. AND Add new matter of discretion (new text shown as bold underlining): 4. The extent to which the non-compliance compromises the provision for the health and safety of residents in meeting their day-to-day needs.
Kāinga Ora	53.10	217.41	Reject submission point.
Ministry of Education	60.1		Amend MRZI-R4 Community facilities to include educational facilities as follows: MRZI-R4 Community facilities and educational facilities AND Any consequential amendments.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ministry of Education	60.1		Amend Variation 3 to include provisions for educational facilities to enable the Ministry of Education to service the growth facilitated by Variation 3 in the Waikato District. This includes new objectives and amendments to existing policies and rules to specifically enable and provide for educational facilities in the residential zones. AND Any consequential amendments.
Kāinga Ora	60.1	217.52	Accept submission point in part.
Ministry of Education	60.2		Confirmation that a qualifying matter does not apply to Minister of Education designations, such that section 77M (6) of the RMA can immediately be relied upon by the Ministry in the absence of any other qualifying matters applying to Schools. AND Any consequential amendments.
Ministry of Education	60.4		Add a new objective as follows: GRZ-O7 Educational Facilities Residential development is supported by educational facilities AND Any consequential amendments.
Kāinga Ora	60.4	217.53	Reject submission point.
Ryman Healthcare Limited	60.4	219.5	Allow submission point subject to excluding retirement villages from the application of this provision
Retirement Villages Association	60.4	220.5	Allow submission point subject to excluding retirement villages from the application of this provision
Ministry of Education	60.5		Amend GRZ-P15(1)(iii) Non-residential activities as follows: (1) Maintain the zone for residential activities by: iii. Enabling non-residential activities that provide for the health, safety and wellbeing of the community, including educational facilities and that service or support an identified local need; AND Any consequential amendments.
Ministry of Education	60.6		Delete GRZ-R9 Childcare facility AND Any consequential amendments.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ministry of Education	60.7		Amend GRZ-R13 Educational facilities as follows: GRZ-R13 Educational facilities This excludes childcare facilities. (1) Activity status: RDIS Activity-specific standards: Nil AND Any consequential amendments.
Ministry of Education	60.8		Add the following objective: MRZ1-O5 Educational Facilities Residential development is supported by educational facilities AND Any consequential amendments.
Ministry of Education	60.9		Amend MRZ1-P7(1)(a) Non-residential activities as follows: (1) Maintain the zone primarily for residential activities while also: a) Ensuring community facilities and educational facilities: i) Are suitably located; ii) Are of a limited scale and intensity that is compatible with the zone; iii) Contribute to the amenity of the neighbourhood; and iv) Support the social and economic well-being of the residential community. AND Any consequential amendments.
Ministry of Education	60.11		Add the following new objective: MRZ1-O7 Educational Facilities Residential development is supported by educational facilities AND Any consequential amendments.
Ryman Healthcare Limited	60.11	219.6	Allow submission point subject to excluding retirement villages from the application of this provision
Retirement Villages Association	60.11	220.6	Allow submission point subject to excluding retirement villages from the application of this provision
Ministry of Education	60.12		Amend MRZ2-P10(1)(a) Non-residential activities as follows (1) Maintain the zone primarily for residential activities while also: a) Ensuring community facilities and educational facilities: i) Are suitably located; ii) Are of a limited scale and intensity that is compatible with the zone; iii) Contribute to the amenity of the neighbourhood; and iv) Support the social and economic well-being of the residential community. AND Any consequential amendments.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ministry of Education	60.13		Amend MRZ2-R4 Community facilities to include educational facilities as follows: MRZ2-R4 Community facilities and educational facilities AND Any consequential amendments.
Waikato Community Lands Trust & Others	93.1		Variation 3 be amended to include new Plan provisions on inclusionary zoning and including financial contributions.
Rangitahi	93.1	208.2	Reject submission point.
Kāinga Ora	93.1	217.74	Reject submission point.
Ryman Healthcare Limited	93.1	219.23	Disallow submission point
Retirement Villages Association	93.1	220.23	Disallow submission point

## Analysis

### *Retirement villages*

334. Wayne Bishop and Cameron Smith (submitter #14) made three submission points that seek for more enabling provisions for retirement villages/elderly housing. The submitters considers there has been a missed opportunity by Council to identify new urban areas for elderly care/retirement which are more bespoke and difficult to accommodate within the existing land parcels. Specifically, they seek:

- Amendments to Variation 3 to include retirement village/elderly housing to occur on land where there is a connection with existing urban areas and suitable infrastructure is available.
- For Council to consider options of providing residential zoning contiguous with Gordonton to enable a bespoke retirement village development and a Settlement Zone in Gordonton consistent with the National Planning Standards.
- Amendments to Variation 3 to meet the demand for elderly housing such retirement villages.

335. In my view the requested amendments are not required, to support, or as a consequence of, the MDRS or Policies 3, 4 and 5 of the NPS-UD. I therefore do not consider the IPI process to be an appropriate mechanism for the requested amendments. For these reasons I recommend that the submission points in relation to retirement villages be rejected (#14.1, #14.2 and #14.3).

*Electricity distribution infrastructure*

336. WEL Networks Limited (submitter #19) seeks amendments to existing provisions and the inclusion of new provisions which require compliance with the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). Specifically, the following new subdivision rule is sought:

*Subdivision Activities adjacent to Electricity Distribution Infrastructure:*

*Any subdivision in the vicinity of electricity infrastructure must demonstrate that building platforms can be in positions where a subsequent building can comply with the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). Vegetation to be planted in the vicinity of electricity infrastructure should be selected and/or managed so that it does not breach the Electricity (Hazards from Trees) Regulations 2003.*

337. The following amendment is sought to MRZ2-S4 (Setbacks):

*Front – 1.5m provided the building or structure can achieve compliance with the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).*

338. Through their submission and through a meeting with WEL Networks it is clear that the reasons for requesting these amendments relate to safety concerns and the importance of raising awareness of the Code of Practice. At a meeting, WEL Networks provided numerous examples that demonstrated apparently unsafe practices within proximity of electrical infrastructure.
339. I acknowledge the concerns raised by WEL Networks however do not consider it appropriate for a District Plan to mandate compliance with other legislation. In my view, the requirement for Council to assess compliance with the other legislation is unreasonable, particularly in relation to technical matters such as setbacks from electrical infrastructure.
340. I accept that Variation 3 in incorporating the MDRS, including the reduced setbacks, has the potential to increase the occurrence of potential breaches with the Code of Practice. Therefore, I recommend that an advice note be included to raise awareness of the Code of Practice and the potential for increased setbacks to be required to comply with the Code of Practice. On this basis recommend that WEL Networks' submission points are accepted in part (#19.1 and #19.3).

*Papakaainga*

341. Three submission points were made by Kāinga Ora (submitter #106) relating to papakaainga. Specifically they seek to:
- Delete the definitions for papakaainga and papakaainga housing development and add the following definition for papakaainga:



*A development by tangata whenua established to be occupied by tangata whenua for residential activities and ancillary social, cultural, economic, conservation and/or recreation activities to support the cultural, environmental and economic wellbeing of tangata whenua.*

Kāinga Ora state that the reason for replacing the two definitions with the above definition is to be consistent with definitions of papakaainga across the Waikato Region.

- Amend rules within the GRZ to provide for one papakaainga development as a permitted activity on general title land, to align with permitted levels of development for residential activities and enable urban papakaainga developments.
- Amend MRZ2-S1 to provide for both residential units and papakaainga to be more enabling of this form of development in accordance with Clause 80E(1)(b)(ii) of the RMA.

342. Section 80E(1) of the RMA outlines what an IPI must and may include. Provisions to enable papakaainga in the district ((80E(1)(b)(ii)) are included as provisions that *may* be included.

343. I am of the understanding that the papakaainga provisions were extensively reviewed as part of the district plan review process and no further changes were considered necessary when preparing Variation 3.

344. The PDP includes the following definitions relating to papakaainga:

*Papakaainga*

*Original home, home base, village communal living*

*Papakaainga housing development*

*Means a comprehensive residential development for a Tangata Whenua group or organisation residing in the Waikato district to support traditional Maaori cultural living on Maaori land for members of the iwi group or organisation.*

345. Part 2 of the PDP (District Wide Matters) includes a Maaori Land Chapter. The PDP defines Maaori land as Maaori freehold land, Maaori customary land, Maaori reservation or treaty settlement land.

346. Rule 1 of the Maaori land chapter states that for land use – the building rules of the underlying zone apply excluding:

- *Number of residential dwellings*
- *Minor residential unit rules*
- *Buildings and structures in the Landscape and Natural Character Areas*
- *Building height; and*
- *Building coverage*

347. On that basis, Papakaainga and Papakaainga housing development are provided for in a more enabling manner than other residential developments given that there are no restrictions on the above built form standards on Maaori land.
348. Given that Variation 3 does not propose to amend provisions relating to papakaainga and that the existing provisions are sufficiently enabling, I recommend that the submission points be rejected (#106.17, #106.26 and #106.31).

*Community corrections facilities*

349. Ara Poutama Aotearoa (submitter #30) made four submission points seeking to provide for community corrections facilities in appropriate locations, including areas of housing intensification, should they be required in the future. Seven further submission points were received in response to the Ara Poutama submission.
350. The changes sought by Ara Poutama are to amend the definition for residential unit and to amend the definition of supported residential accommodation.
351. In relation to the definition for residential unit, Ara Poutama Aotearoa state that the definition refers to a 'household' which is not defined and that it should be clarified that households are not necessarily limited to a family unit or flatting arrangement. The submission point is supported by Pareoranga Te Kata (further submitter #225) and is opposed by Kāinga Ora (further submitter #217).
352. In my view, the definition of residential unit does not imply that it is limited for use by a family unit or a flatting arrangement. While I agree with Ara Poutama that a household can constitute different makeups, I do not consider it necessary for the district plan definition to outline such specific intricacies. For these reasons I recommend that this submission point (#30.3) be rejected.
353. In relation to the definition for supported residential accommodation, Ara Poutama seek that the definition be restricted to apply only within the Corrections zone as follows:
354. Means, in the Corrections zone, the use of a residential unit(s) by a person or persons who reside within such unit(s) on a short or long term basis and receives supervision, assistance, care and/or support from, or on behalf of, Ara Poutama Aotearoa – The Department of Corrections. It includes the provision of non-custodial rehabilitation activities
355. Supported residential accommodation is not proposed to be specifically provided for within the Medium density residential zone 2 and would therefore be a discretionary activity<sup>12</sup>. The requested amendment would provide greater opportunities for community corrections facilities to establish as a permitted activity (as a residential activity<sup>13</sup>) with no applicable alternative definition.

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12 MRZ2-R12

13 MRZ2-R1

356. In my view, the requested amendment is not consequential on the MDRS or policies 3,4 and 5 of the NPS-UD and therefore do not consider that the requested provisions are ‘related provisions’ under section 80E of the RMA. For this reason I do not consider the IPI process to be an appropriate mechanism for the requested amendments. It is also my view that the submissions do not meet the Clearwater tests to be within scope. I therefore recommend that the point (#30.4) in relation to amending the definition for supported residential accommodation be rejected.

#### *Educational Facilities*

357. The Ministry of Education (submitter #60) submitted that the increase in residential densities will put pressure on the local school networks and that provisions for educational facilities should be included in the variation to enable the Ministry of Education to service the growth facilitated by Variation 3.

358. In relation to the General residential zone the Ministry of Education submitted that a new objective that reads ‘*Residential development is supported by educational facilities*’ be included and that GRZ-P15 is amended to include specific reference to “educational facilities”. The Ministry of Education further seeks the removal of GRZ-R9 (relating to childcare facilities) and an amendment to GRZ-R13 to delete reference to childcare facilities.

359. In relation to the Medium density residential zone I the Ministry of Education submitted that a new objective that reads ‘*Residential development is supported by educational facilities*’ be included and that MRZI-P7 and MRZI-R4 are amended to include specific reference to “educational facilities”.

360. In response to the Ministry of Education’s submission points relating the provisions of the General residential zone and the Medium density residential zone I I note that Variation 3 does not propose any amendments that provide for greater densities than currently enabled by the PDP. I therefore do not consider that the requested provisions are ‘related provisions’ under section 80E of the RMA and therefore do not consider the IPI process to be an appropriate mechanism for the requested amendments. For these reasons I recommend that the Ministry of Education’s submission points in relation to the provisions of the General residential zone and the Medium density residential zone I be rejected.

361. In relation to the Medium density residential zone 2 the Ministry of Education submitted that a new objective that reads ‘*Residential development is supported by educational facilities*’ be included and that MRZ2-P10 and MRZ2-R4 are amended to include specific reference to “educational facilities”.

362. I agree with the Ministry of Education that the increased densities enabled by Variation 3 is likely to put pressure on the capacity of the existing schools network. In my view, educational facilities within the Medium density residential zone 2 can be considered as ‘related provisions’ under section 80E of the RMA, as a consequence of the MDRS.

363. Educational facilities are not specifically provided for as a land use activity within the Medium density residential zone 2 and are therefore a discretionary activity<sup>14</sup>. Consent authorities have full discretion in their assessment of discretionary activities and will be guided by any relevant

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<sup>14</sup> MRZ2-R12

objectives and policies of the district plan. Given the discretionary activity status for educational facilities, I agree with the Ministry of Education that educational facilities should be provided for within the relevant objectives and policies framework.

364. In my view, the requested objective submitted by the Ministry (*'Residential development is supported by educational facilities'*) is unlikely to achieve their desired outcome for two reasons:
- Firstly, there will be limited opportunities for Council to assess resource consent applications for residential developments against the objectives and policies of the district plan as they would typically be provided for as permitted<sup>15</sup>, controlled<sup>16</sup> or restricted discretionary<sup>17</sup> activities within the MRZ2.
  - Secondly, the objective is directed towards residential development, rather than enabling educational facilities. The requested objective would be inconsequential in an assessment for an application for an educational facility (either a resource consent or a notice of requirement) as it relates to residential development.
365. I am further of the view that MRZ-O4 adequately encompasses the provision of educational facilities. The objective provides for *'An appropriate mix of complementary and compatible activities is enabled to support residential growth.'*
366. In relation to the requested amendment to policy MRZ2-P10 (non-residential activities), I am of the view that educational facilities (broadly) are already provided for within MRZ2-P10, 1(c). In my view, the requested amendment would result in additional restrictions for educational facilities rather than enable them.
367. In relation to the requested amendment to rule MRZ2-R4 (community facilities), I do not consider that this provision can be retrofitted to provide for educational facilities. The activity standard provides for ground floor areas of no more than 200 square metres which is unrealistic for an educational facility. The matters of discretion relate to matters that are relevant to community facilities and in my view differ to matters that should be considered for educational facilities.
368. For the reasons above, I consider that the relief sought by the Ministry of Education should be rejected.
369. In addition to the above requests, the Ministry of Education also sought confirmation that qualifying matters do not apply to their designations and that s77M(6) of the RMA can be relied on. The Ministry of Education submission incorrectly states that Council has identified all designations as qualifying matters. While s771(g) of the RMA enables Councils to include 'the need to give effect to a designation or a heritage order' as a qualifying matter, this is not proposed by Variation 3. In the absence of any other qualifying matter, s77M(6) can be relied on by the Ministry of Education.

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15 MRZ2-R1

16 SUB-R152 and SUB-R154

17 SUB-R153

*Climate change and greenhouse gas emissions*

370. Waka Kotahi (submitter #29) and Waikato Regional Council (submitter #42) both made submission points that seek to reduce/mitigate greenhouse gas emissions through amended transportation provisions.
371. Waka Kotahi seeks to amend TRPT-R4 to include a specific requirement for traffic assessments to demonstrate how the proposal mitigates operational greenhouse gas effects. TRPT-R4 relates to traffic generation for sites which have access from an arterial or regional arterial and requires a restricted discretionary resource consent if there are more than 50 traffic movements per day. Given that the MDRS provides for three dwellings per site as a permitted activity which is unlikely to generate more than 50 traffic movements per day, I do not consider that the requested provision can be considered as a 'related provision' under section 80E of the RMA. For that reason I recommend that the submission point from Waka Kotahi be rejected (#29.5).
372. Waikato Regional Council requested that the policy wording around emissions be strengthened as follows:
- To avoid, remedy or mitigate transport network construction and operation effects specifically regarding emissions and to minimise the need to travel/total distance travelled.
  - To avoid, minimise or reduce the adverse effects (transport emissions) of the transport network on adjoining land uses and the wider environment.
  - To protect and promote the development of the regional rail network for the transportation of passengers and freight.
373. The implementation of the MDRS does not necessitate amendments to the traffic network and I therefore do not consider the requested amendments to be 'related provisions' under section 80E of the RMA.
374. In relation to the provisions relating to the minimisation for the need to travel and the total distance travelled, I am of the view that the implementation of the MDRS which specifically enables the development of more compact urban form already contributes to achieving this outcome.
375. For the above reasons I recommend that the submission points from Waikato Regional Council be rejected (#42.3, #42.10, #42.11, #42.13 #42.17).
376. Waikato Regional Council further sought new or amended provisions that promote the retention of existing vegetation (particularly matures trees) during development. Waikato Regional Council submitted that this could contribute to mitigating urban heat island effects and provide for a range of other benefits for amenity, urban biodiversity and air quality. While I support the retention of mature vegetation where possible, I do not consider it practical for this to be encouraged through policy. For this reason I recommend that submission point #42.19 be rejected.

*Inclusionary zoning and financial contributions*

377. Waikato Community Lands Trust & Others (submitter #93) requested that Variation 3 be amended to include new provisions on inclusionary zoning and including financial contributions.

The submitter considers inclusionary zoning to be an important response to affordability issues and that the model provisions could be based on the Queenstown Lakes District Council provisions.

378. On 11 April 2023 the IHP provided direction on the scope for inclusionary zoning and affordable housing under the Waikato IPI and directed that the amendments sought in relation to inclusionary zoning are not in scope and were struck out under s41D(1)(b) of the RMA. No further consideration is therefore given to the submission.

### **Recommendations**

379. I recommend that:

- An advice note be added relating to the potential for additional setbacks in accordance with the Code of Practice for Electrical Safe Distances (NZECP 34:2001)

### **Recommended amendments**

380. Include the following advice note to MRZ2-S4 (Setbacks):

*Advice note: Compliance with the Code of Practice for Electrical Safe Distances (NZECP 34:2001) may require increased setbacks to electrical infrastructure.*

### **Section 32AA evaluation**

The advice note is not considered a provision an accordingly does not require a s32AA evaluation. The recommended advice note will provide guidance to plan users in relation to the Code of Practice for Electrical Safe Distances and could therefore addressing non-compliance and unsafe practices in future.

## 6 Topic 3: Qualifying Matters

381. S771 of the RMA states that territorial authorities may make the MDRS and the relevant building height or density requirements under Policy 3 of the NPS-UD less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate a qualifying matter<sup>18</sup>.
382. This section of the report addresses the submissions that were received in relation to qualifying matters and addresses the following:
- Issues of Significance to Maaori (as a section 6 matter under s771(a))
  - Historic heritage (as a section 6 matter under s771(a))
  - Natural hazards (as a section 6 matter under s77(a))
  - Te Ture Whaimana o Te Awa o Waikato (under s771(d))
  - Nationally significant infrastructure (under s771(e))
  - Urban Fringe (under s771(j))
  - Reverse sensitivity (under s771(j))

### 6.1 Issues of Significance to Maaori

#### Introduction

383. s771(a) identifies matters of national importance that decision makers are required to recognise and provide for under section 6 as a qualifying matter. This qualifying matter allows the Council to make the MDRS less enabling to accommodate matters of national importance. Section 6(e) identifies the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga as a matter of national importance.
384. Schedule 3 of the PDP identifies two sites or areas of significance to Maaori within the urban areas of the four towns subject to Variation 3. There are other sites, zoned General Rural that are close by. The two sites are both located in Ngaaruawaahia and are: The Point Broadway (scheduled site 318) and 5851 Great South Road (scheduled site 294). I note although the Point is identified in the s32 report, as a SASM, it is on land zoned Open Space. In respect of S80E it is not located within a relevant residential zone. Sites or Areas of Significance to Maaori are identified in Variation 3 as qualifying matters. The effect of the qualifying matter is described as follows:
- Earthworks requires a resource consent as a restricted discretionary activity (SASM-R4)
  - The subdivision of any allotment containing a SASM is a restricted discretionary activity (SASM-R5).

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<sup>18</sup> Qualifying matter is defined within the RMA as a matter referred to in s771 or 770.

## Submissions

385. The submissions lodged in this section raise three main issues:

- Ngaati Ngaho have requested that all of their sites or areas of significance to Maaori are identified in the PDP.
- Ngaati Naho have also requested to retain existing qualifying matters as they apply to outstanding natural features and landscapes, significant natural areas, and the maintenance and enhancement of public access to and along rivers.
- Ngaati Naho have requested to add Manawa-a-Whenua, Wairua, and Te Mana-o-Wai principles as qualifying matters.
- Ngaati Naho have also submitted that Variation 3 does not compromise outstanding treaty claims, or breach existing claims, principles of fairness and equity are incorporated, and that plans for papakainga housing are protected, and for the 6 pou indicators to be included within the Plan.
- Heritage New Zealand have supported the identification of the Point as a qualifying matter.
- 5 submitters have requested the recognition of the significance of the Tuurangawaewae Marae and its relationship with its surroundings including the Haakarimata Range and Taupiri Maunga.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Heritage New Zealand	28.13		Retain the qualifying matter found in Assessment report: PDP identifier-318-Corner of Eyre Street and Broadway-the-point
Te Whakakitenga o Waikato Incorporated	28.13	213.8	The submitter seeks that the whole of the submission be allowed
Tuurangawaewae Marae	35.1		Amend Section 6E and 6F (historic heritage qualifying matters) to include the surrounding areas of Tuurangawaewae Marae.
Te Whakakitenga o Waikato Incorporated	35.1	213.11	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	35.1	217.17	Reject submission point in part.



Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Tuurangawaewae Marae	35.2		Delete the surrounding area of Tuurangawaewae Marae from MDRS zoning maps including River Road, Regent Street, Kent Street, George Street, Edwards Street, and King and Queen Street.
Pokeno Village Holdings Limited	35.2	206.3	Accept submission point.
Te Whakakitenga o Waikato Incorporated	35.2	213.12	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	35.2	217.18	Reject submission point in part.
Estate of Te Puea Herangi	72.1		Amend the Variation to apply Section 77I(a) Section 6 matters to include the surrounding areas of Tuurangawaewae marae.
Te Whakakitenga o Waikato Incorporated	72.1	213.18	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	72.1	217.54	Reject submission point in part.
Estate of Te Puea Herangi	72.2		Amend the zoning of the properties surrounding Tuurangawaewae Marae, including River Road, Regent Street, Kent Street, George Street, Edward Street, King and Queen Street that were proposed to be rezoned MDRS.
Te Whakakitenga o Waikato Incorporated	72.2	213.19	The submitter seeks that the whole of the submission be allowed

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Kāinga Ora	72.2	217.55	Reject submission point in part.
Ngāti Naho Trust	83.1		That proposed v3 to the PDP does NOT compromise or put at risk the cultural landscape of the North Waikato region known by Mana Whenua like Ngāti Naho as “Manawa-ā-whenua”(‘heart of the land’) which refers to the existence of a massive water table and aquifers that connects all our waterways in towns like (but not limited to) Tuakau, Pokeno, Mangatangi, Maramarua, Mercer, Meremere, Te Kauwhata, Ohinewai, Tahuna and Huntly.
Te Whakakitenga o Waikato Incorporated	83.1	213.22	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.1	217.58	Reject submission point in part.
Ngāti Naho Trust	83.2		Add ‘Manawa-ā-whenua’ as a Qualifying Matter in (MRZ2-P6).
Te Whakakitenga o Waikato Incorporated	83.2	213.23	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.2	217.59	Reject submission point in part.
Ngāti Naho Trust	83.3		Add Te Mana o te Wai principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater, and these principles inform this National Policy Statement and its implementation.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Te Whakakitenga o Waikato Incorporated	83.3	213.24	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.3	217.60	Reject submission point in part.
Ngāti Naho Trust	83.6		Retain Outstanding natural features and landscapes s6(b) as a qualifying matter
Te Whakakitenga o Waikato Incorporated	83.6	213.27	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.7		Retain Areas of significant indigenous vegetation and significant habitats of indigenous fauna s6(c) as a qualifying matter
Te Whakakitenga o Waikato Incorporated	83.7	213.28	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.8		Retain Maintenance and enhancement of public access to and along lakes and rivers s6(d)
Te Whakakitenga o Waikato Incorporated	83.8	213.29	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.16		Add principles of fairness and equity provisions.
Te Whakakitenga o Waikato Incorporated	83.16	213.37	The submitter seeks that the whole of the submission be allowed

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Ryman Healthcare Limited	83.16	219.21	Disallow submission point
Retirement Villages Association	83.16	220.21	Disallow submission point
Ngāti Naho Trust	83.189		Ensure that the proposed v3 to the PDP does not prejudice, discriminate, compromise, or jeopardize residual or outstanding Treaty of Waitangi Claims (including any claims under Te Tiriti) and the potential redress mechanisms available such as co-governance and or co-management with Council or the potential return of RFR properties held by central or local government. AND Protect the implementation of Hapū / Iwi Environmental Management Plans that address for example, Wai Māori / Wai Ora. AND Protect the implementation of Hapū / Iwi Social Development Plans that address for example, Papakāinga Housing or Kaumātua Housing or hapū, marae or whānau development initiatives.
Ngāti Naho Trust	83.18		Ensure there are no breaches of existing treaty of Waitangi Settlements namely, Waikato Raupatu Settlement Act 1995, Waikato River Settlement Act 2010.
Te Whakakitenga o Waikato Incorporated	83.18	213.39	The submitter seeks that the whole of the submission be allowed
Te Whakakitenga o Waikato Incorporated	83.19	213.40	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.25		Add Wairua as a Qualifying Matter in Reference A (MRZ2-P6).

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Te Whakakitenga o Waikato Incorporated	83.25	213.46	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.25	217.67	Reject submission point.
Ngāti Naho Trust	83.26		Add all of Ngati Naho's sites of cultural significance and protect and enhance them AND protect the heritage trail of the 1863-1864 land wars.
Te Whakakitenga o Waikato Incorporated	83.26	213.47	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.26	217.68	Reject submission point in part.
Ngāti Naho Trust	83.27		Retain Section 6(e). within Variation 3 (Relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga)
Te Whakakitenga o Waikato Incorporated	83.27	213.48	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.29		Add the 6 pou indicators in Subm 83.1 to 83.27 to the Waikato District including their reason.
Te Whakakitenga o Waikato Incorporated	83.29	213.49	The submitter seeks that the whole of the submission be allowed
Marae Tukere	87.2		Apply a buffer area between the Tuarangawaewae Marae and any intensified

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
			housing development. AND Any associated consequential amendments
Te Whakakitenga o Waikato Incorporated	87.2	213.51	The submitter seeks that the whole of the submission be allowed
Tuurangawaewae Rugby League Sports and Cultural Club	98.1		Amend the Variation to apply Section 771(a) Section 6 matters to include the surrounding areas of Tuurangawaewae marae.
Te Whakakitenga o Waikato Incorporated	98.1	213.60	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	98.1	217.75	Reject submission point in part.
Tuurangawaewae Rugby League Sports and Cultural Club	98.2		Amend the zoning of the properties surrounding Tuurangawaewae Marae, including River Road, Regent Street, Kent Street, George Street, Edward Street, King and Queen Street that were proposed to be rezoned MDRS.
Te Whakakitenga o Waikato Incorporated	98.2	213.60	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	98.2	217.76	Reject submission point in part.
Waikato Tainui	114.1		Amend the definition of “Qualifying matter” to include the area surrounding Tuurangawaewae Marae.
Kāinga Ora	114.1	217.95	Reject submission point in part.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Waikato Tainui	114.2		Amend the explanatory note in MRZ2 to include reference to the area surrounding Tuurangawaewae Marae in the context of a qualifying matter.
Kāinga Ora	114.2	217.96	Reject submission point in part.
Waikato Tainui	114.5		Amend the MRZ2 zoning surrounding Tuurangawaewae Marae being the sites on River Road, Regent Street, Kent Street, George Street, Edward Street, King and Queen Street.
Kāinga Ora	114.5	217.97	Reject submission point in part.

## Analysis

386. Mr Andrew Boldero has applied the Te Mana o te Wai principles in assessing what effects the MDRS will have on water resources and stormwater in particular. This information was circulated to submitters on 7 June. This report identifies a number of actions that are required to meet these principles. Some of these actions sit outside of Variation 3. In this regard I note the recommendation to Council to ‘identify freshwater health areas’
387. In my opinion there is existing policy direction that goes some way to achieve the matters raised by this submission. In this regard I refer to the existing provisions in the PDP being the objectives and policies in the section MV - Maaori values and Maatauranga Maaori and the objectives and policies in the section TETW - Te Ture Whaimana – Vision and Strategy. As an example, TETW-PI on implementing Te Ture Whaimana includes subparagraph (f) ‘recognising and providing for application of maatauranga Maaori’.
388. In respect of Variation 3 process we are currently in, there is limited ability to make other amendments. This is because there is no ability to recommend changes that are more restrictive than those that are within the PDP Proposed Plan (Waikanae Decision).
389. I consider there is the opportunity to add additional matters of discretion to MRZ2-SI 3 Building setbacks – Waterbodies related specifically to the Waikato River and its tributaries and effects on cultural values identified in the Maaori Values and Maatauranga Maaori chapter of the PDP. I consider these matters of discretion are helpful in respect of the issues raised and will promote a fuller consideration of the principles raised in the Ngaati Naho submission. All of the four towns subject to Variation 3 are located within the Waikato River catchment. I note the current matters of discretion in the setbacks rule include:

- (a) *Effects on the landscape, ecological, cultural and recreational values of the adjacent water body;*
- (b) *Adequacy of erosion and sediment control measures;*
- (c) *The functional or operational need for the building to be located close to the waterbody;*
- (d) *Effects on public access to the waterbody;*
- (e) *Effects on the amenity of the locality; and*
- (f) *Effects on natural character values.*

390. In respect of the issues raised in this submission I recommend amending MRZ2-S13 to include additional assessment matters as follows: (g) Where located within the catchment of the Waikato River the extent to which the application enhances or benefits the Waikato River and its tributaries and (h) Effects on cultural values identified in the Maaori Values and Maatauranga Maaori Chapter.
391. Ngaati Naho (#83.18 and 83.189) have also submitted asking that Variation 3 does not compromise outstanding treaty claims, or breach existing claims, that six pou indicators are included within the PDP, the principles of fairness and equity are incorporated into the PDP, and that plans for papakaainga housing are protected.
392. In respect of the last point I note no changes are proposed to the Maaori Land chapter in the PDP as part of this process and this chapter of the plan PDP provides for papakaainga housing as a permitted activity on Maaori land. To the best of my knowledge at the time of writing the S42A report I am not aware of any breach of Variation 3 causing any breach or compromise to existing Treaty claims . In respect of the six Pou indicators I note a number of these outcomes are already included within the Maaori Values and Maatauranga Maaori Chapter of the PDP. Representatives from Ngaati Naho are welcome to discuss any of these issues further with the Council.
393. Heritage New Zealand Ltd (#28.13) has sought to retain the Point as a qualifying matter. The Point is a very significant historical area in our District. The description in SCHED 3 states it is a site of pre-1900 history that connects Puke-i-aahua Paa to the naming of Ngaaruawaahia and the Kingitanga movement. I have included a map of the Point area below (Figure 25) being the block land surrounded by Broadway, Waingaro, Eyre and Durham Street. I note the land is zoned open space and is not a residential zone. For this reason, I consider there is no need to identify the Point as a qualifying matter as the MDRS will not apply to the land and no changes are proposed as part of Variation 3. The blocks of residential properties surrounding the Point are already zoned medium density in the PDP. Earlier the report I noted I have had the benefit of reading Ms Ann McEwan's preliminary evidence on historic heritage matters where she recommends the Council reconsider the appropriate zoning applying to the residential land surrounding the Point and Tuurangawaewae House given the cultural and historic significance of the area. I have recommended the Council undertakes that work.





Figure 25: Map of the Point (#318)

394. Tuurangawaewae Marae (#35), Estate of Te Pua Herangi (#72), Marae Tukere (#87), Tuurangawaewae Rugby League Sports and Cultural Club (#98), and Te Whakakitenga o Waikato Incorporated (#114) have all requested to either rezone MRZ2 land surrounding the Marae, or apply a qualifying matter and /or a buffer area. The reasons for the submissions are summarised below:

- 3 storey/11m structures will diminish the cultural significance of the Tuurangawaewae Marae and Kiingitanga.
- Whilst not identified in the PDP Decision Version as a site of significance, Tuurangawaewae Marae is a site of significance to Waikato Tainui and Kiingitanga.
- The area chosen for the Marae was based on its location next to the Waikato River and cultural viewshafts to Taupiri Maunga and Haakarimata Range. These important attributes should not be diminished by property developers who will not consider our views.
- Section 6(e) and 6(f) should be extended to include the surrounding areas of Tuurangawaewae Marae.
- Tuurangawaewae Marae is a significant place of historical and cultural importance and requires a buffer zone from intensive developments.

395. Further submissions have been lodged in support and in opposition. Kāinga Ora have lodged the further submission in opposition.

396. Tuurangawaewae Marae is located on the eastern bank of the Waikato River. Its location is shown on the second map below. I am not qualified to speak of the historical, cultural and spiritual significance of Tuurangawaewae Marae nor of the importance of maintaining the relationship between the Marae, the Awa, Haakarimata Range and Taupiri Maunga. From the submissions I understand the site of Tuurangawaewae Marae was chosen because of its relationship to the awa and because of cultural viewshafts to the Haakarimata Range and Taupiri Maunga. I note Tuurangawaewae Marae is the seat of the Maori King movement and the official

residence and reception of the Maaori King. Te Whakakitenga o Waikato Incorporated state in their submission Tuurangawaewae Marae is a site of significance to Waikato Tainui and Kiingitanga.

397. The cultural significance of the natural features is recorded in SCHED5 Outstanding natural features and landscapes of the PDP. That schedule identifies the Haakarimata Range and Taupiri Maunga as outstanding natural features and the Waikato River as an outstanding natural landscape. SCHED5 also explains the cultural significance of the features and landscapes and identifies the Haakariamata and Taupiri Ranges as having very high cultural values and the Waikato River as being of the utmost importance to Waikato Tainui.
398. The Council engaged Dave Mansergh (Landscape Architect) to assist in understanding how existing viewshafts from Tuurangawaewae Marae to Haakarimata Range and Taupiri Maunga are affected by Variation 3. Mr Mansergh used a GIS based 3D model to map various planning scenarios, and illustrate how the viewshafts will be affected. Prior to the modelling work, myself and Dave Mansergh met with representatives from Tuurangawaewae Marae to understand where the relevant viewpoints of significance are. These viewpoints are recorded within the material that Council circulated to submitters prior to conferencing on this topic. . The planning scenarios that have been modelled are: The ODP, PDP Decisions Version, Variation 3 as notified, Variation 3 with removal of the urban fringe qualifying matter, and the Kāinga Ora submission requesting a High Density zone of 22m within 400m of the Town Centre Zone, and a height overlay of 24.5m in the Town Centre Zone. The map from the Kāinga Ora submission identifying the blocks affected by the High Density zone and the height overlay is included below (Figure 26) (the darker orange and yellow diagonal striped colour represents the High Density Zone):

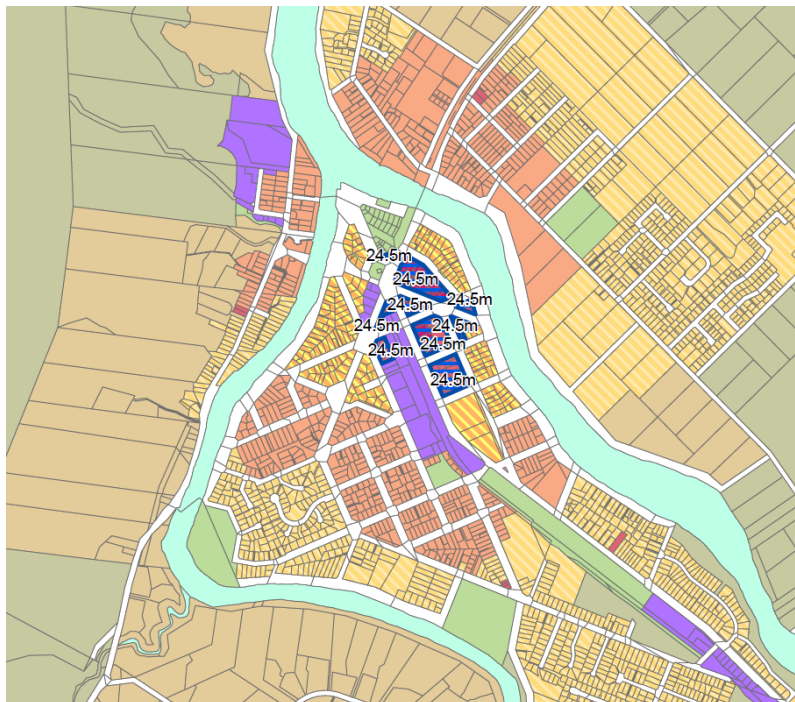


Figure 26: Kāinga Ora Rezoning Requests

399. In accordance with Direction 14(e) from the Independent Hearings Panel, conferencing was held on this topic. Before conferencing a Memorandum was prepared by Mr Mansergh and sent to

all submitters. The memorandum contained preliminary recommendations. The outcomes from the conferencing are recorded in the Joint Witness Statement.

400. A summary of Mr Mansergh's preliminary findings are as follows:

- The Haakarimata Ranges and Taupiri Maunga are landscapes of significant value to local iwi.
- Views of the base of the Haakarimata Ranges are largely obscured by existing vegetation and buildings.
- The extent to which existing development within the immediate blocks to the north and east along River Road affect views depend on the planning scenario that is applied.
- The taller the building and the greater the site coverage the more potential there is to block views of the Hakarimata Ranges.
- The closer a development is to Tuurangawaewae Marae the greater the potential there is to block views.
- All planning scenarios will affect views of the Haakarimata Ranges to varying degrees.
- A change of the ratio of natural to built elements will affect the views of the Hakarimata Range.

401. I agree with the points in Mr Mansergh's summary. Turning to S771(a) I note qualifying matters can be applied to amend the relevant building height or density requirements to accommodate a matter of national importance that decision makers are required to recognise and provide for. In respect of viewshafts to Tuurangawaewae Marae, I consider the relevant section 6 matters of national importance are subsections 6(b),(e) and (f):

- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development*
- (e) *The relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and taonga.*
- (f) *The protection of historic heritage from inappropriate, subdivision, use or development.*

402. While I consider S6(b) to be self-explanatory (and I am not aware of any submission that challenges the status of the outstanding natural features and landscapes) I am relying on the submissions and evidence I understand will be prepared for 6 (e). I wish to explain why I consider subsection 6(f) to also be relevant. In this regard I note the definition from the Act which is:

403. **historic heritage**—

*(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*

- (i) *archaeological:*
- (ii) *architectural:*
- (iii) *cultural:*
- (iv) *historic:*

(v) scientific;

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iv) surroundings associated with the natural and physical resources

404. From the submissions I consider it is clear Tuurangawaewae Marae and its relationship with Haakarimata Range is of significant cultural heritage importance.

405. I think it is also relevant to consider the policy direction in the RPS and the PDP. The RPS policy HCV-P2 states:

Recognise and provide for the relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

406. While many other methods are also relevant, I particularly note RPS Method HCV-M9 which states:

In determining whether an activity is inappropriate, regional and district plans shall require that regard is given to:

...

9. whether the relationships between sites or areas of cultural or historic and cultural heritage to other sites of historic or cultural heritage will be maintained

10. the irreversibility of adverse effects on heritage values including:

...

(f) a significant reduction in the value of the historic, cultural and spiritual associations with historic and cultural heritage resources which are held by tangata whenua and the wider community

407. Objective MV-O2 in the PDP Maori Values and Maatauranga Maori Chapter states :

*Hononga*

*The connections between tangata whenua and their ancestral lands, water, sites of significance, waahi tapu, other taonga and taonga species are protected or enhanced*

408. Policy NFL-P3 in the NFL – Natural features and landscapes chapter states

*The relationships between Maaori with natural resources and land:*

*(1) Provide for consideration of cultural and spiritual relationships of Maaori with Outstanding Natural Features and Outstanding Natural Landscapes as part of subdivision, use and development*

409. On this basis I consider there is a clear policy cascade that is directly relevant to the matters raised in the submissions.
410. Because of this policy direction and the submissions, I consider it is clearly important to maintain the relationship between Tuurangawaewae Marae and the Haakarimata Range and Taupiri Maunga. In reaching this conclusion I note the relationship between the recommendations made in this report on the submission lodged by Kāinga Ora relating to the rezoning of Ngaaruawaahia. This submission is considered in Topic I of this report.
411. I consider the protection of the relationship between Tuurangawaewae Marae and the Haakarimata Range and Taupiri Maunga can be achieved, through the preliminary recommendations, in Mr Dave Mansergh's Memorandum, which are follows:
- The sites located within the blue line on the plan below illustrate the area of Ngaaruawaahia with the potential to affect existing viewshafts from Tuurangawaewae Marae to Hakarimata Range and Taupiri Maunga.
  - Area A identifies existing town blocks zoning for medium density in the PDP and identified as MRZ2 in Variation 3. The recommendation is to retain the MDRS standards.
  - Area B and C extend over the Town Centre Zone and the Commercial Zone. The existing height of 12 metres and coverage standards are recommended to be retained.
  - Area D are the blocks of land located closest to Tuurangawaewae Marae that Mr Mansergh recommends including a qualifying matter for that retain the heights, coverage, and recession plane standards that apply in the medium density zone in the Proposed District Plan decisions version (before the MDRS was incorporated).

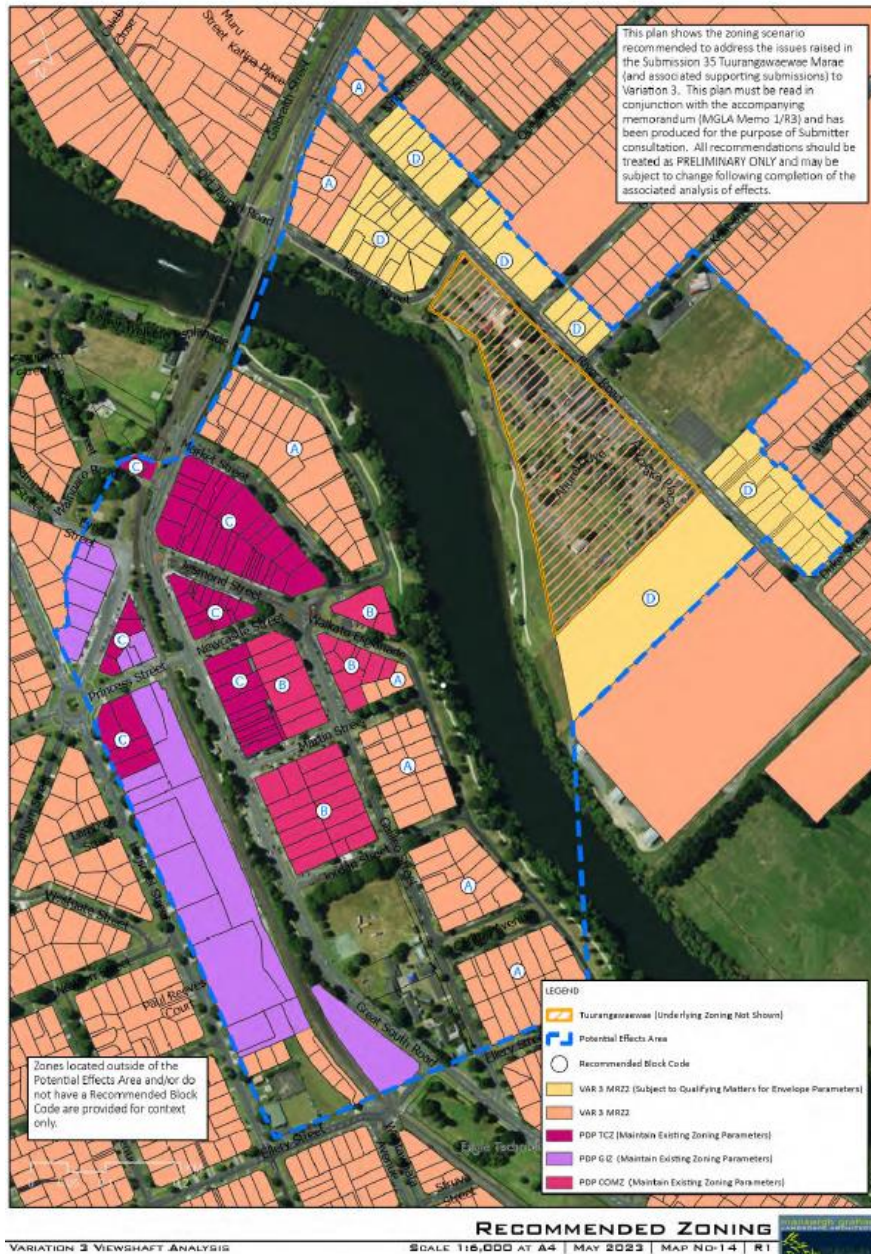


Figure 27: Recommendations from Mr Mansergh

412. I understand from Mr Mansergh that the standards proposed for Area D to the north of the Marae are not the ideal to maintain the existing viewshafts, but are recommended in order to comply with the principle from the Waikanae decision that any standards introduced through an IPI cannot be less enabling of the standards in the PDP. The properties in Area D north of the Marae are zoned Medium Density Residential in the PDP. Ideally a height limit lower than 11m, closer to 8m, as provided for in the Operative Plan and the PDP General residential zone is required. As this lower height limit is more restrictive than the PDP a future variation / plan change will be required to achieve this outcome in this location.
413. In the interim I recommend adding a new qualifying matter into the PDP to maintain the height, height in relation to boundary, and coverage standards that currently exist in the PDP medium

density zone. The effect of the QM is explained in the table below. Mr Mansergh will set out his reasoning for the qualifying matter standards in his evidence.

<b>Standards</b>	<b>MDRS2 Zone table</b>	<b>QM</b>
Height	Height 11m with an allowance for pitched roof	11m
Height in relation to boundary	4m and 60 degrees	3m and 45 degrees
Site coverage	50%	45%

*Havelock Precinct – Cultural Landscapes*

414. As is stated above, as result of the removal of the urban fringe, Council was required to consider whether there were any additional qualifying matters that should be included. As part of this process, Council identified the protection of landscapes with high cultural values as a draft qualifying matter to protect the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga<sup>19</sup>.
415. The Havelock Precinct is a greenfield site within Pookeno that was partially rezoned General residential through the district plan review process. The decision on the PDP applied a range of provisions to the Havelock Precinct to control development outcomes and manage a range of actual and potential effects on the environment as a result of the rezoning. A more detailed context of the Havelock precinct and a map are included in Appendix 5.
416. There are numerous Environment Court appeals against the WDC’s decision on the PDP in relation to the Havelock Precinct which includes the zoning of the precinct in its entirety and a range of other matters.
417. To give effect to the protection of cultural landscapes qualifying matter within the Havelock Precinct, prior to expert conferencing, Council proposed to restrict heights within 50m of the boundary of a hilltop park (Transmission Hill and Potter Park) to 5m. This proposed provision is based on an existing requirement within the PDP (PREC4-S1) which was recently considered by an IHP as part of the district plan review process. While this provision only applies to two small areas within the precinct, I understand that the value of the cultural landscape within the Havelock Precinct (including land above R.L 100) is of high significance to iwi and that the retention of this provision is important for protecting the landscape with this significant cultural value. On this basis, I support the inclusion of a provision within the Havelock Precinct that limits heights to 5m within 50m of a hilltop park.
418. Prior to expert conferencing, Council further proposed to restrict heights within 50m of the Havelock Industry Buffer (shown as the Havelock industry buffer height restriction area in the Havelock Precinct Plan contained in Appendix 5). The purpose of this provision was to manage potential impacts of additional MDRS building height relating to cultural and landscape features

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<sup>19</sup> Refer to Havelock Precinct – Draft Qualifying Matters and Controls dated 24 April 2023 at Appendix 5

as areas viewed from the Pookeno town centre. I understand that additional evidence to support this provision will be provided within submitter evidence for the Variation 3 hearing.

419. While this evidence is yet to be provided, I support the inclusion of a 50m setback from the Pookeno industry buffer and associated reduction in building height to 5m in principle. I support the provisions on the basis that it forms part of a suite of provisions that seek to manage development outcomes within the Havelock Precinct, including the protection of culturally significant landscapes.

### Recommendations

420. I recommend the following:

- Further engagement occurs with Ngaati Naho around sites of significance to Maaori. Any additional sites are included in a future variation / plan change process.
- To the extent that the scope of Variation 3 is limited, the Council should consider the recommendations made in Andrew Boldero’s report on how the PDP can better give effect to Te Mana o te Wai.
- Council engage with mana whenua when developing guidance for applicants on how proposed assessment criteria (g) in MRZ2-S13 can be achieved where resource consent is required for a building within the waterbody setbacks.
- A new qualifying matter ‘Turangawaewae Marae Surrounds’ be included in the PDP in Area D identified in the Memorandum prepared by Mr Dave Mansergh to maintain existing building coverage and height and relation to boundary standards.
- Additional matters of discretion are added to MRZ2-S13.

421. In relation to the Havelock Precinct cultural landscapes I recommend that:

- Existing standard (PREC4-S1) be retained to restrict building heights within 50m of a hilltop park to 5m; and
- A new standard is included that restricts the heights of buildings within the Pookeno industry buffer height restriction area (located within 50m of the Pookeno industry buffer).

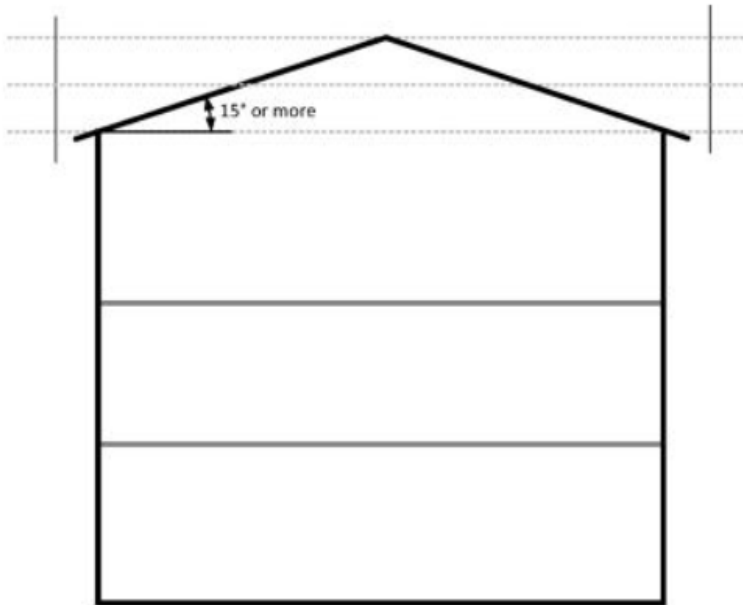
### Recommended amendments

422. Recommended amendments to the text are shown in red underlining:

<b>MRZ-S2</b>	Height – building general	
<p><b>Where:</b></p> <p>a. <u>Except in the Tuurangawaewae Marae surrounds</u>  <u>QM: Buildings must not exceed 11 metres in height, except that 50% of a building’s roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1m, where the entire roof slopes 15° or more, as shown on the following</u></p>	<p>(1) <b>Activity status: PER</b></p>	<p><b>2. Activity status where compliance not achieved: RDIS</b></p> <p><b>Council’s discretion is restricted to the following matters:</b></p>



[diagram \(enlarged as Figure 1 at the conclusion of this Chapter\).](#)



- a. Height of the building or structure;
- b. Design, scale and location of the building;
- c. Extent of shading on adjacent sites; and
- d. Privacy and overlooking on adjoining sites.
- e. [In addition, within the Tuurangawaewae Marae surrounds QM: The effect on cultural viewshafts from Tuurangawaewae Marae to Hakarimata Range and Taupiri Maunga](#)

**Notification**

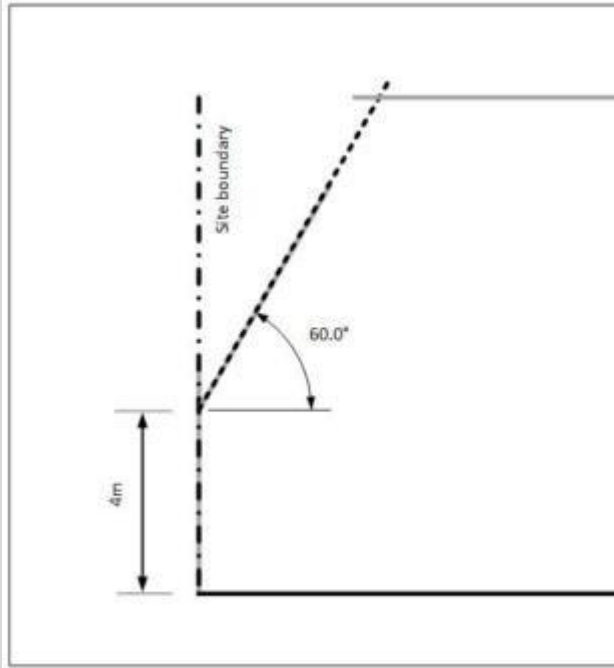
[Any application for resource consent for one to three dwellings that does not meet the standard of MRZ2-S2 will be considered without public notification.](#)

**[In the Tuurangawaewae Marae surrounds QM](#)**

- a. The permitted height of any building or structure is 11m measured from the natural ground level immediately below that part of the structure;
- b. Chimneys not exceeding 1m in width and finials shall not exceed a maximum height of 13m measured from the natural ground level immediately below the structure;
- c. ~~In Raglan, the permitted height of any building or structure is 7.5m measured from the natural ground level immediately below that part of the structure.~~
- d. ~~In Raglan, chimneys not exceeding 1m in width and finials shall not exceed a maximum height of 9.5m measured from the natural ground level immediately below the structure;~~

<p><b>MRZ2-S3</b></p>	<p>Height in relation to boundary</p>
<p>(1) <b>Activity status: PER</b></p> <p><b>Where:</b></p> <ol style="list-style-type: none"> <li>a. <a href="#">Except in the Tuurangawaewae Marae surrounds QM: Buildings must not project beyond a 60° recession plane measured from a point 4 metres vertically above ground level along all</a></li> </ol>	<p>2. <b>Activity status where compliance not achieved: RDIS</b></p> <p><b>Council's discretion is restricted to the following matters:</b></p> <ol style="list-style-type: none"> <li>a. Height of the building;</li> </ol>

boundaries, as shown on the following diagram (enlarged as Figure 2 at the conclusion of this Chapter). Where the boundary forms part of a legal right of way, entrance strip, access site, or pedestrian access way, the height in relation to boundary applies from the farthest boundary of that legal right of way, entrance strip, access site, or pedestrian access way.



- b. Standard (a) above does not apply to:
  - i. a boundary with a road
  - ii. existing or proposed internal boundaries within a site;
  - iii. site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.

- a. Within the Tuurangawaewae Marae surrounds QM buildings and structures must not protrude through a height control plane rising at an angle of 45 degrees commencing at an elevation of 3m above natural ground level at every point of the site boundary, except
  - i. Where the boundary forms part of a legal right of way, entrance strip or access site; the standard applies from the farthest boundary of that legal right of way, entrance strip or access site;
  - ii. This standard does not apply to existing or proposed internal boundaries within a site;

- b. Design and location of the building;
- c. Extent of shading on adjacent sites; and
- d. Privacy on adjoining sites.
- e. In addition, within the Tuurangawaewae Marae surrounds QM: The effect on cultural viewshafts from Tuurangawaewae Marae to Hakarimata Range and Taupiri Maunga

**Notification**

Any application for resource consent for one to three dwellings that does not meet the standard of MRZ2-S3 will be considered without public notification. The notification provision does not apply to the Tuurangawaewae Marae surrounds QM

<p>iii. Where a site in the MRZ – Medium density residential zone adjoins a site in the GRZ – General residential zone, LLRZ – Large lot residential or SETZ – Settlement zone, then buildings must not protrude through a height control plane rising at an angle of 45 degrees commencing at an elevation of 2.5m above natural ground level at every point of the site boundary abutting that GRZ – General residential zone, LLRZ – Large lot residential zone or SETZ – Settlement zone;</p> <p>iv. Where the boundary adjoins a legal road.</p>	
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<b>MRZ2-S5</b>	Building coverage	
<p><b>(I) Activity status: PER</b></p> <p><b>Where:</b></p> <p>a. <u>Except in the Tuurangawaewae Marae surrounds QM The maximum building coverage must not exceed 50% of the net site area.</u></p> <p><u>Within the Tuurangawaewae Marae surrounds QM:</u></p> <p>b. The maximum building coverage must not exceed 45% of the net site area.</p> <p>c. MRZ-S6(1)(a) does not apply:</p> <p>i. To a structure that is not a building; or</p> <p>ii. Eaves of a building that project less than 750mm horizontally from the exterior wall of the building.</p>		<p><b>2. Activity status where compliance not achieved: RDIS</b></p> <p><b>Council's discretion is restricted to the following matters:</b></p> <p>a. Design, scale and location of the building;</p> <p>b. Provision for outdoor living space and service courts; and</p> <p>c. Effects on the planned urban built character of the surrounding residential area.</p> <p>d. <u>In addition, within the Tuurangawaewae Marae surrounds QM: The effect on cultural viewshafts from Tuurangawaewae Marae to Hakarimata Range and Taupiri Maunga</u></p> <p><b>Notification</b></p> <p><u>Any application for resource consent for one to three dwellings that does not meet the standard of MRZ2-S5 will be considered without public notification. The notification provision does not apply to the Tuurangawaewae Marae surrounds QM</u></p>

<b>MRZ2-S13</b>	Building setbacks – water bodies	
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. A building must be set back a minimum of: <ul style="list-style-type: none"> <li>i. 20m from the margin of any lake;</li> <li>ii. 20m from the margin of any wetland;</li> <li>iii. <del>21.5m</del> 23m from the bank of any river (other than the Waikato River and Waipa River);</li> <li>iv. <del>25.5m</del> 38m from the margin of either the Waikato River and the Waipa River</li> <li>v. <del>23m from mean high water springs</del></li> </ul> </li> <li>b. A public amenity of up to 25m<sup>2</sup> or pump shed within any building setback identified in MRZ2-S13(1)(a);</li> <li>c. This standard does not apply to a structure which is not a building.</li> </ul>	<p><b>2. Activity status where compliance not achieved: RDIS</b></p> <p><b>Council's discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>a. Effects on the landscape, ecological, cultural and recreational values of the adjacent water body;</li> <li>b. Adequacy of erosion and sediment control measures;</li> <li>c. The functional or operational need for the building to be located close to the waterbody;</li> <li>d. Effects on public access to the waterbody;</li> <li>e. Effects on the amenity of the locality; and</li> <li>f. Effects on natural character values.</li> <li>g. <u>Where located within the catchment of the Waikato River the extent to which the application enhances or benefits the Waikato River and its tributaries</u></li> <li>h. <u>Effects on cultural values identified in Maaori Values and Maatauranga Maaori Chapter.</u></li> </ul>	

<b>PREC4-SX</b>	<u>Height – buildings or structures adjoining Hilltop parks within PREC4 – Havelock precinct</u>	
<p><b><u>I. Activity status: PER</u></b></p> <p><b><u>Where:</u></b></p> <ul style="list-style-type: none"> <li>a. <u>A building or structure with a maximum height not exceeding 5m, measured from the natural ground level immediately below that part of the structure, where it is located within 50m (horizontal distance) of the boundary of the hilltop parks identified on the Havelock precinct plan in APPI 4 – Havelock precinct plan.</u></li> </ul>	<p><b><u>2. Activity status where compliance not achieved: DIS</u></b></p>	

<b><u>PREC4</u></b> <b><u>-SX</u></b>	<u>Height – Pookeno industry buffer height restriction area</u>	
<p><b><u>(I) Activity status: PER</u></b></p> <p><b><u>Where:</u></b></p> <p>a. <u>A building or structure with a maximum height not exceeding 5m, measured from the natural ground level, where it is located within the Pookeno industry buffer height restriction area</u></p>	<p><b><u>I. Activity status where compliance not achieved: DIS</u></b></p>	

## Section 32AA evaluation

### *Additional Assessment Criteria added to Water bodies setback rule*

423. As changes are recommended to the assessment criteria an evaluation must be undertaken at a level of detail that corresponds to the significance of the changes. In my opinion these changes while reasonably significant are more of a clarification that are already required to be considered. I say this for the following reasons:

- Te Ture Whaimana is a guiding policy document, where there is any inconsistent provision in any national policy statement, Te Ture Whaimana has the highest status. It is very important that Te Ture Whaimana is considered as part of Variation 3. Given the special planning process and scope of Variation 3 there are limitations as to where it can be considered.
- The existing assessment criteria reference cultural values as assessment matters to be considered but provide no more detail. It is my opinion there would be benefit in being more explicit as to what cultural values are considered. I consider this to be a benefit to iwi and applicants.

424. In my opinion the addition of the new assessment criteria to the existing Water Bodies Setback rule is the most appropriate way to achieve the purpose of the Act. I say this because these assessment criteria are directly relevant to S6(e), 7(a), 8 and S77O(c). If the changes were not made then the assessment of these matters would not be triggered by any application seeking to construct a building within the setback and closer to the water body. I note the recommended change relies on an existing rule in the PDP. At the time of the notification of the PDP this rule was 'rolled over' from the ODP. In my opinion the rule does need to be reassessed in order to be confident that the setbacks identified do address the range of effects it is intended to. In this regard I consider these amendments are important. Whilst it would have been desirable for a more thorough assessment to have occurred prior to the notification of the PDP, it is not possible for a thorough review to be achieved at this stage of the Variation process.

425. I consider the provisions are the most appropriate way of achieving the objectives. In particular, I note:

*MV-O1 Recognition of Maaori Values*

*Maaori Values are recognised and mana whenua are able to exercise kaitiakitanga, manakitanga, tikanga, and manawhakahaere*

*Recognise that only tangata whenua can determine effects on their, values, traditions, resources, waters, sited of significant, wahi tapu, taonga and other species*

*MV-O2 Hononga*

*The connections between tangata whenua and their ancestral lands, water, sites of significance, wahi tapu and other taonga species are protected or enhanced*

*MV-O3 Kaitakitanga*

*The exercise of kaitiakitanga by mana whenua is recognised and maintained*

*MV-P5 (1) Managing the effects of subdivision and land use on Maaori Values, in particular those arising from the following:*

...

*(g) Building and structures in water body setbacks*

426. I note the benefits associated with the new assessment criteria are to require appropriate assessment of the effects associated with constructing buildings closer to water ways than the setbacks require. I note these matters are currently listed as 'cultural values'. In my opinion there are significant benefits in making it clear what cultural values means. This is particularly the case given the importance of Te Ture Whaimana and the relationship the water resources in the District have with mana whenua.
427. I note the costs associated with the amendments are that people applying for resource consents will need to provide a more fulsome assessment of these matters and will need to actively consider how the application enhances or benefits the Waikato River and its tributaries. In my opinion this is appropriate and will better recognise the importance of Te Ture Whaimana in the District. It is considered mana whenua and Council could provide some examples of how this assessment matter could be achieved.
428. Overall, I consider the additional assessment matters to be the most appropriate way to achieve the Purpose of the Act

*Tuurangawaewae Marae*

429. I note that as changes are recommended an evaluation must be undertaken at a level of detail that corresponds to the significance of the changes. In my opinion these changes are not of high significance. I say this for the following reasons the new qualifying matter does not:
- Restrict the number of residential units that can be constructed on a property, 3 units can still be constructed

- Materially affect the overall maximum height that can be obtained on a property, although I note the change in the height in relation to boundary setback will affect how close a building can be to the boundary
430. In my opinion the proposed QM is the most appropriate way to achieve the purpose of the Act. I say this because the changes will assist in maintaining viewshafts to the Haakarimata Range and Taupiri Maunga. It has previously been identified this is important in achieving Section 6(b),(e)and (f). If the changes were not made then the viewshafts could be more adversely affected than would otherwise be the case. To give full effect to the technical work of Mr Mansergh will require a variation or plan change in the future, with the qualifying matter providing interim protection of the status quo.
431. I consider the provisions are the most appropriate way to achieve the objectives. In particular I refer to Objective MV-O2 which requires connections between tangata whenua and their ancestral lands, water, sites of significance, waahi tapu, other taonga and taonga species are protected or enhanced. If the QM was not included then this objective would not be met.
432. I note the benefits associated with the QM are the retention of the viewshafts to the Haakarimata Range. I say this because the reduced site coverage and recession plane provides opportunities for views to be obtained through buildings that would otherwise be the case with the MDRS.
433. I note the costs associated with the amendments are the owners affected by the QM, while still being able to construct three residential units, will have slightly reduced site coverage and height and recession plane requirements than would otherwise be the case. I consider these changes to be relatively minor.
434. Overall, I consider the proposed QM to be the most appropriate way to achieve the purpose of the Act.
435. The evaluation for the Havelock Precinct provisions is assessed within the reverse sensitivity topic of this report.

## 6.2 Historic Heritage

### Introduction

436. The decisions on the PDP were released in January 2022 following a full district plan review. Consideration of the appropriate policy and rule response for Historic Heritage formed part of this process. Given how recent this has been no further technical work has been undertaken as part of Variation 3. In response to submissions the Council engaged Dr. Ann McEwan heritage specialist to provide expert evidence on Historic Heritage. I have had the benefit of reading her preliminary advice in the writing of the S42A report.
437. Variation 3 as notified identified 22 sites of historic heritage within the 4 towns subject to Variation 3. In the PDP historic heritage items are mapped along with the extent of the setting of the item. In most cases the site extent relates to the property that the item is located on. Additionally, there is a historic heritage area in Huntly consisting of 8 railway houses. Variation 3 applied qualifying matters to all 22 sites. The qualifying matters are existing rules in the PDP and the S32 explains the effect of the qualifying matters as follows:

- All new buildings within the extent of the setting for the historic heritage item are a restricted discretionary activity (HH-R2)
- Alterations or additions to a historic heritage item are a restricted discretionary activity (HH-R4)
- Demolition, removal or relocation of any B ranked historic heritage item listed in SCHED I – Historic Heritage items is a discretionary activity (HH-R7)
- Demolition, removal or relocation of any A ranked historic heritage item listed in SCHED I – Historic Heritage items is a non-complying activity (HH-R8)
- Construction of or alteration to a building in the Huntly heritage area (identified on the planning maps as a specific controls) is a restricted discretionary activity (HH-R5)
- Subdivision of land containing a historic heritage item listed in SCHED I – Historic Heritage items is a restricted discretionary activity where the historic heritage item is wholly contained within one Record of Title (HH-R9). Subdivision that does not achieve this is a non-complying activity.

### Submissions

438. Three submitters have lodged submissions raising historic heritage issues. Section 6.1 of this S42A report includes the submissions related to sites or areas of significance to Māori:

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Heritage New Zealand	28.2		Amend to improve acknowledgement of qualifying matters within the residential zone's objective, policy and assessment frameworks to provide for improved and integrated consideration of historic heritage.
Heritage New Zealand	28.9		Retain the matters of discretion in MRZ2-S2(2) Height – building general except for the amendments sought below AND Add the following matter of discretion to MRZ2-S2(2) Height - building general as follows: e) whether the infringement detracts from the recognised values of any qualifying matters located adjacent sites.
Te Whakakitenga o Waikato Incorporated	28.9	213.4	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	28.9	217.9	Reject submission point.
Heritage New Zealand	28.10		Retain the matters of discretion in MRZ2-S3(2) Height in relation to boundary, except for the amendments sought below AND Add the following matter of discretion to MRZ2-S3(2) height in relation to boundary as follows: (e) Whether the infringement



Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
			detracts from the recognised values of any qualifying matters located on adjacent sites.
Te Whakakitenga o Waikato Incorporated	28.10	213.5	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	28.10	217.1	Reject submission point.
Heritage New Zealand	28.11		Retain the matters of discretion in MRS2-S4(2) Setbacks, except for the amendments sought below AND Add a matter of discretion to MRZ2-S4(2) Setbacks as follows: e) Whether the infringement detracts from the recognised values of any qualifying matters located on adjacent sites.
Te Whakakitenga o Waikato Incorporated	28.11	213.6	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	28.11	217.11	Reject submission point.
Heritage New Zealand	28.12		Retain the matters of discretion in MRZ2-S5(2) Building coverage, except for the amendments sought below AND Add the following matter of discretion to MRZ2-S5 Building coverage as follows: d) Whether the infringement detracts from recognised values of any qualifying matters located on adjacent sites.
Te Whakakitenga o Waikato Incorporated	28.12	213.7	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	28.12	217.12	Reject submission point.
Heritage New Zealand	28.14		Retain the historic heritage items already scheduled in the Plan that are in the 4 growth towns, and the Huntly Railway Cottages in Harris Street as part of Variation 3
Laura Kellaway and Bryan Wendeatt	75.5		Add Buffer adjacent to historic heritage, with reduced heights and setbacks, along with rules that reduce heights and site coverage in terms of infill and subdivision of historic heritage AND Add include

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
			potential historic areas of the 4 towns as a qualifying matter
Ryman Limited Healthcare	75.5	219.13	Disallow submission point
Retirement Association Villages	75.5	220.13	Disallow submission point
Queen's Redoubt Trust	115.1		Do not allow anything but single storey housing in the south side of Selby Street, adjoining the Queen's Redoubt site, and in William Rogers Road, Pookeno, opposite the entrance to the redoubt.

## Analysis

439. Heritage New Zealand (#28.2) has requested amendments to further acknowledge qualifying matters within the residential zone's objective, policy and assessment frameworks in order to provide for improved and integrated consideration of historic heritage. I note Section 5.2 Purpose of the S42A report has recommended amendments to the Purpose Section which I agree are appropriate and address the matters raised in this submission point. I note objective MRZ2-O5 and MRZ2-P6 focus on qualifying matters and acknowledge where a QM applies the level of development envisaged by the MDRS will not be appropriate. In my opinion no further amendments are required.
440. Heritage New Zealand (#28.9 - #28.12) have requested to add matters of discretion to MRZ-S2 Height, MRZ-S3 Height in relation to boundary, MRZ-S4 Setbacks and MRZ-S5 Building coverage. For each standard it is requested to add assessment criteria which would require consideration of effects on the recognised values of any qualifying matters located on adjacent sites. The reasons for the submission state the submitter considers the impacts on qualifying matters including historic heritage items, archaeological sites and sites significance to Maaori are matters of national importance and can be affected where the standards are exceeded. The submissions are supported by Waikato Tainui and opposed by Kāinga Ora. Kāinga Ora states zone outcomes should be separated from the application of qualifying matters. Waikato Tainui support the amendments because in their opinion they provide for matters of national importance in Section 6(e) and 6(f) of the Act.
441. It is my opinion the matters raised by the submitter can already be considered when resource consents are required for buildings that exceed height, height in relation to boundary and setbacks. I note the existing assessment criteria for height, height in relation to boundary and setbacks already include extent of shading on adjoining sites as well as privacy and overlooking on adjoining sites. In my opinion as a matter of course an effects assessment will consider the effects on the values and characteristics of adjoining sites including whether they have any identified historic heritage values. In my opinion there is merit in amending assessment criteria

(c) Building Coverage to acknowledge the planned urban built character includes the restrictions on MDRS from the application of qualifying matters.

442. Heritage New Zealand (#28.13 and #28.14) has sought to retain the historic heritage items already scheduled in the Plan within the 4 towns and the Huntly Railway Cottages in Harris Street. No amendments to SCHED I – Historic Heritage have been recommended as part of this report.
443. Laura Kellaway and Bryan Windeatt (#75.5) have requested to add buffer areas on sites adjacent to historic heritage items. The requested buffer areas would include reduced heights, setbacks and building coverage. The submitters are concerned about effects on heritage values and overshadowing. The same submitters have requested to add potential historic heritage areas of the 4 towns as a qualifying matter.
444. It is important when considering this submission to apply the tests in S77J(3). I note a key point for evaluation when considering whether a qualifying matter is appropriate is for the Council to demonstrate the qualifying matter is incompatible with the level of development permitted by the MDRS (S77J(3)(a)(ii)). In this case the question is whether the level of development permitted by the MDRS being 3 houses of 3 storeys in height is incompatible with a listed heritage building on an adjoining site. In assessing this submission point I have relied on the preliminary evidence of Dr Ann McEwan. Dr Ann McEwan has reviewed the existing heritage buildings in the 4 towns and their mapped extents. After undertaking this work Dr McEwan has concluded, with the exception of the area around the Point in Ngaruawahia discussed below, that the extent of the sites mapped on the planning maps provides sufficient protection for the historic heritage items. I agree with Dr McEwan and consider that no additional buffer area control is required on sites adjoining historic heritage items.
445. In relation to the area around the Point Ngaruawaahia, I note Dr McEwan has recommended the blocks bound by Herschel, Eyre, and Durham Streets and Broadway and Sampson Streets in Ngaruawaahia should have a qualifying matter applying to them which would retain the provisions of the GRZ. Dr McEwan considers that the historic and cultural values of The Point and Tuurangawaewae House are of such significance that intensification should be limited. While I do not disagree with Dr McEwan, I note the blocks referred to are already zoned medium density in the PDP decisions version (refer map below). It is my understanding a Council cannot use the IPI process under the Enabling Housing Act to remove or restrict development rights that already exist in a district plan (Waikanae decision). On this basis it is my opinion it is not possible to amend the PDP in the way that Dr McEwan is recommending seeking through the IPI process. Furthermore, mana whenua and adjoining landowners will need to be consulted as part of any future district plan process.

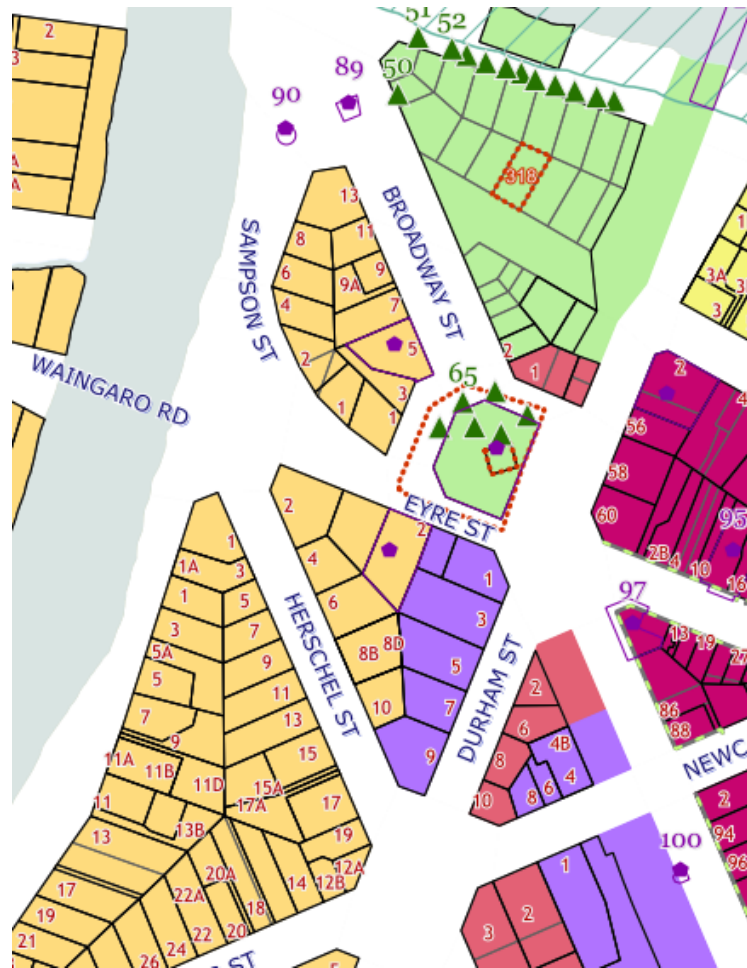


Figure 28: The Point

446. Queen's Redoubt Trust (#115.1) has requested that only single storey housing be allowed on the south side of Selby Street, adjoining the Queen's Redoubt site, and in Walter Rodgers Road, Pookeno (there is an error in the naming of the road in the submission), opposite the entrance to the redoubt. In the reasons for the submission the submitter states these sections are part of the Queen's Redoubt archaeological site and are protected under the Heritage New Zealand Pouhere Taonga Act 2014. The submitter also states the Queen's Redoubt site was to become a special heritage zone under the Franklin DC Plan, Plan Change 42. On this point I note there is a Queen's Redoubt Heritage Zone in the Operative District Plan (Franklin Section). The primary Queen's Redoubt site is zoned Commercial Zone in the Proposed District Plan and it is not scheduled as a heritage item in the PDP. The neighbouring property at 24 Great South Road is zoned Medium Density and contains a scheduled heritage site Pokeno Redoubt House, a B ranked historic heritage item.
447. The properties on the south side of Selby Street and in Walter Rodgers Road are already zoned medium density in the PDP Decisions (see map below where the Queen's Redoubt site is the large Commercial zoned property in the centre of the map). The medium density zone in the Proposed District Plan already provides for 3 storey housing 11m in height as a permitted activity. It is my understanding a Council cannot use the IPI process under the Enabling Housing Act to remove or restrict development rights that already exist in a district plan (Waikanae decision). On this basis it is not possible to amend the PDP in the way that the submitter is seeking through this process. Putting aside the issue of scope, I note the preliminary advice of Dr Ann McEwan

is to reject that part of the submission relating to property opposite the site at 3 Walter Rodgers Road as no evidence is provided by the submitter on adverse effects, for the Council to advise the adjoining landowners of the significance of the Queen's Redoubt Heritage site and the requirements of the Heritage New Zealand Pouhere Taonga Act, especially regarding earthworks on an archaeological site, and to consider scheduling the Queen's Redoubt site in its entirety. I agree with this recommendation and consider this work should be added to the Council's forward work programme for the PDP.



Figure 29: Queens Redoubt

### Recommendations

448. To amend MRZ2-S5 assessment criteria (c)
449. Outside of Variation 3 for Council to reconsider:
- The planning approach to the Queen's Redoubt Site; and
  - Appropriate zoning around The Point and Tuurangawaewae House in Ngaaruawaahia

### Recommended amendments

450. It is recommended that MRZ2-S5 Building Coverage assessment criteria (c) is amended as follows:

(c) Effects on the planned urban built character and any qualifying matter of on the surrounding residential area.

## Section 32AA evaluation

451. As changes are recommended to assessment criteria MRZ2-S5 Building Coverage an evaluation must be undertaken at a level of detail that corresponds to the significance of the changes. In my opinion these changes while being important are not a significant change of direction. I say this for the following reasons:
- The amendment recognises that planned urban built character may change because of qualifying matters
  - Qualifying matters apply on identified sites so they can be readily identified
452. In my opinion the addition of the recommended words to the assessment criteria is the most appropriate way to achieve the purpose of the Act. I say this because these assessment criteria are directly relevant to the qualifying matters listed in S771(a). If this change is not made, then there would be no direct reference to the way in which qualifying matters can affect the surrounding residential areas.
453. I note the benefits associated with the amended assessment criteria are to require appropriate assessment of the effects on the surrounding residential area when there is a qualifying matter.
454. I note the costs associated with the amendments are that people applying for resource consents will need to provide a fuller assessment of these matters and will need to actively consider how the application. Overall, I consider the amendments are the most appropriate way to achieve the Purpose of the Act

## 6.3 Natural Hazards

### Introduction

455. The management of significant risks from natural hazards is recognised in the RMA is a matter of national importance under section 6(h) and is therefore a qualifying matter under s771(a). Volume 2 of the s32A report specifically identifies the following existing relevant district wide rules in the PDP to manage natural hazard risks<sup>20</sup>:
- Flood plain management area NH-R10
  - High risk flood area NH-R20, NH-R19
  - Defended area NH-R25, NH-R24
  - Mine subsidence risk area HG-R72, NH-R73, NH-R74
456. As a result of the removal of the urban fringe qualifying matter, Council was required to consider whether there were any additional qualifying matters that should be included in

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<sup>20</sup> Refer to Havelock Precinct – Draft Qualifying Matters and Controls dated 24 April 2023 at Appendix 5 and Discussion Document: Stormwater included at Appendix 7

Variation 3. As part of this process, Council identified the following additional draft matters in relation to the management of significant risks from natural hazards<sup>21</sup> :

- The Slope Residential Area within the Havelock Precinct
- Amendments were required to the proposed management of natural hazard risks within the mapped mine subsidence risk area in Huntly
- Flood hazards within the Urban Fringe

457. The first part of this section addresses the Havelock Precinct and the Mine Subsidence Area. No submissions were received relating to these natural hazards, as they were within the urban fringe area.

*The slope residential area within Havelock Precinct*

458. As is shown in Figure 30 below, the PDP identifies three areas within the Havelock Precinct as 'Havelock slope residential area'.

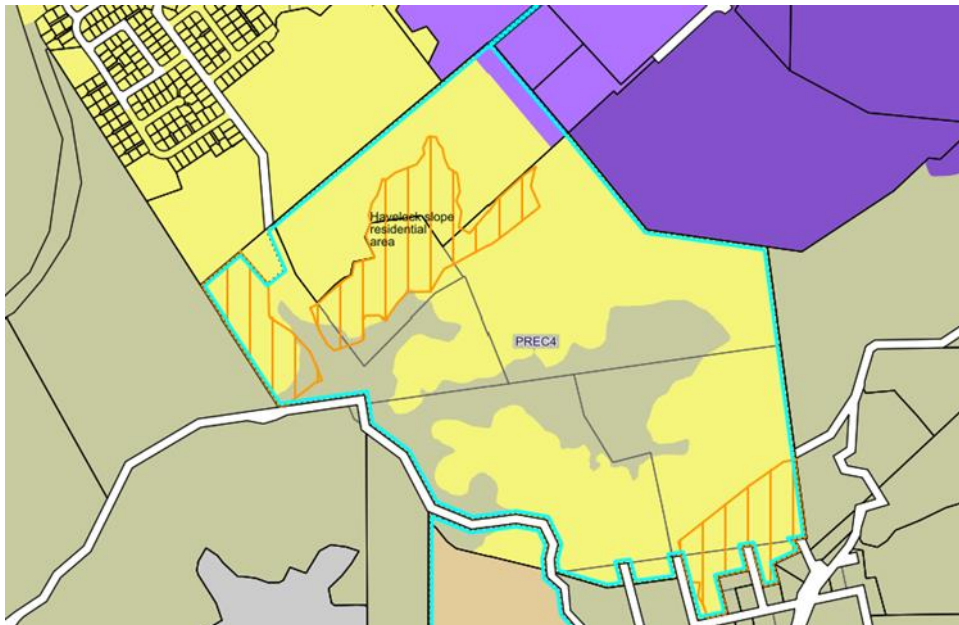


Figure 30: Havelock slope residential area within the Havelock Precinct (orange hatching)

### Analysis

459. Mr Shane Lander identified these areas as 'High Risk (Zone C) in his PDP evidence in relation to the rezoning of the Havelock Precinct<sup>22</sup>. Havelock Village Limited (the primary landowner)

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21 Refer to Appendix 6 WDC Variation 3 – Other Qualifying Matters dated 19 May 2023

22 Primary Evidence of Shane Lander, Topic 25 – Zone Extents, 17 February 2021

proposed a minimum net lot size within these areas of 2,500 square metres<sup>23</sup>. This increased minimum net lot size was supported by Mr Lander in his evidence and subsequently accepted by the IHP<sup>24</sup> as a way to manage slope stability risks. In turn, I am of the view that the proposed minimum lot size within the Havelock slope residential area should be retained to manage slope stability risk.

460. To further manage the risk to a level that was consistent with Mr Lander’s assessment, I recommend that the number of residential units within the Havelock slope residential area be limited to one per site (rather than three units enabled by the MDRS).

461. The above provisions (minimum lot size and residential unit restrictions) were circulated to all submitters on 24 April 2023<sup>25</sup> and were subsequently discussed at the Havelock Precinct expert conference meeting held on 17 May 2023. The JVS for that meeting records:

*Mark Tollemache, Melissa McGrath and Sarah Nairn agree that slope stability is a QM in respect to s771(a). They agree with the provisions outlined in the table above subject to finalising specific wording of the rules.*

462. The specific wording of the rule in relation to one residential unit per site is included in the recommended amendments section below. The wording for the minimum lot size already exists in the PDP and I recommend that it is retained (PREC4-SUBR20).

**Recommendations**

463. I recommend that:

- The minimum lot size within the Slope Residential Area is required to be at least 2,500 square metres. I note that this is an existing rule within the PDP and therefore recommend that this provision be retained (PREC4-SUBR20).
- A new standard is included within the MRZ2 which restricts the number of residential dwellings within the Slope Residential Area to one per site.

**Recommended amendments**

<b><u>PREC4-SX</u></b>	<b><u>Residential unit within the Slope Residential Area</u></b>	
<b><u>Where:</u></b>	1. <b><u>Activity status: PER</u></b>	2. <b><u>Activity status where compliance not achieved: DIS</u></b>
	1. <b><u>One residential unit within a site.</u></b>	

23 Havelock Village Hearing Package (Sub 862), PDP Hearing 25

24 Refer to Decision Report 281 Dated January 2022

25 Refer to Havelock Precinct – Draft Qualifying Matters and Controls dated 24 April 2023



## Section 32AA Evaluation

464. My section 32AA evaluation for the Havelock Precinct is set out in section on the reverse sensitivity qualifying matter. I have evaluated the suite of provisions for Havelock Precinct as a package.

*The mine subsidence risk area in Huntly*

465. Figure 31 below shows the Mine subsidence risk area in the PDP (located in the north-east of Huntly).

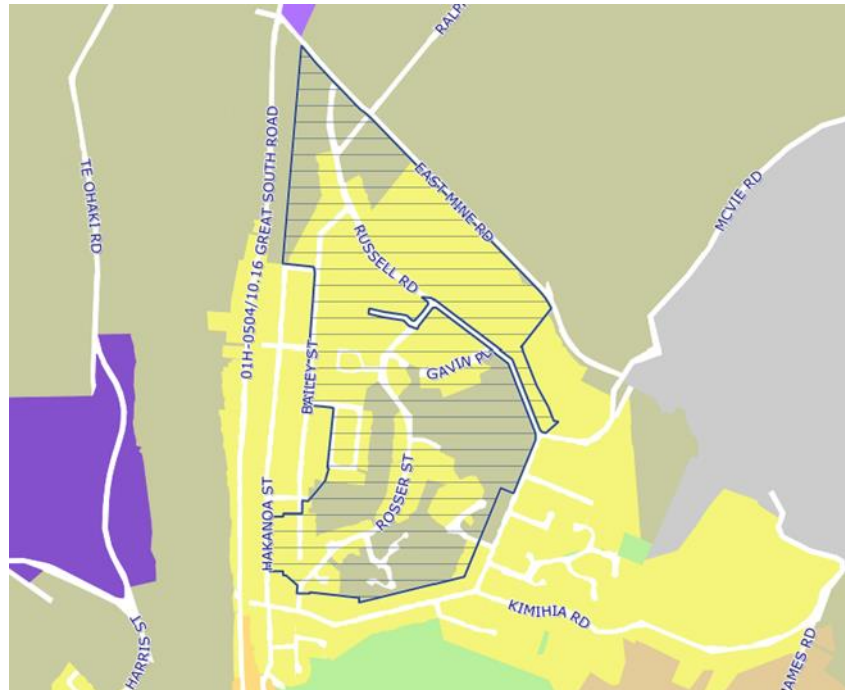


Figure 31: Mine Subsidence Area in Huntly (black hatching)

## Overview and analysis

466. As is shown in the Figure 31 above, parts of the mine subsidence area have an underlying General residential zone.
467. As is outlined in Volume 2 of the S32A report, the Huntly mine subsidence risk area provisions are within the Natural Hazards (district wide) chapter of the PDP and provides restrictions on development, earthworks and subdivision.
468. Doug Johnson (Engineering Geologist) from Tonkin + Taylor was engaged by Council to provide advice regarding the implications of MDRS on the Huntly mine subsidence area. The advice provided by Tonkin + Taylor is included in Appendix 10 and concludes that:

- The current policies and rules in the PDP that control development within the mine subsidence area are appropriate to ensure the likelihood of future development triggering settlement remain low.
  - While increased development enabled by MDRS is unlikely to increase subsidence, the additional number of dwellings would result in an increase in the risk of properties exposed to the risk of subsidence.
469. The T+T advice suggests that if Council is willing to accept an increase in risk, the MDRS can be implemented within the mine subsidence area and if Council is not willing to accept an increase in risk, the existing provisions relating to development within the mine subsidence area should be retained.
470. Having considered the advice prepared by T+T, I recommend that the existing exposure to subsidence is not further increased by the application of the MDRS and that the existing provisions be retained (consistent with the s32A evaluation) in reliance on a qualifying matter under s771(a). I do not believe it is appropriate to expose further development and people to any level risk, particularly when intensification in this area is not required for Council to meet its development capacity.
471. Retaining the existing level of risk exposure within the Huntly mine subsidence area would require restricting the number of dwellings and the number of allotments created within the area. If MRZ2 was applied within the area, with amendments to the number of dwellings per site and the minimum site size, I am of the view that this would undermine the essence of the MDRS.
472. Alternatively, if MDRS (and as a consequence the MRZ 2) must be applied within the Huntly mine subsidence risk area (given that it is a relevant residential zone), I would recommend that the following provision of MRZ2 be varied by way of a qualifying matter under s771(a) to reduce the likelihood of increased exposure to the risk of subsidence:
- Retaining the GRZ maximum of one residential unit per site.
  - Retaining the GRZ minimum site size of 450 square metres.

### **Recommendations**

473. I recommend that:
- The GRZ zone be retained within the Huntly mine subsidence risk area.

### **Recommended amendments**

474. There are no recommended amendments.

### **Section 32AA evaluation**

475. The following options are considered:

- Option 1 – Applying the MDRS (via MRZ2) to the relevant residential zone within the mine subsidence risk area in Huntly and retaining the relevant district wide provisions.
  - Option 2 - Applying the MDRS (via MRZ2) to the relevant residential zone within the mine subsidence risk area in Huntly, retaining the relevant district wide provisions and restricting:
    - The number of residential units per site to 1;
    - Restricting the minimum vacant lot size to 450 square metres
  - Option 3 – Retaining the GRZ and relevant district wider provisions.
476. Option 1 is not considered to be the most effective or efficient as it will increase the risk (through exposure) to mine subsidence. Option 1 would enable more intensification to occur within the mine subsidence risk area than is currently enabled.
477. Option 2 is considered to be more effective and efficient as it would retain the exposure to mine subsidence risk at the existing level (by limiting additional residential development to occurring). I do not consider that this option would be effective from a built form perspective as it could result in adverse urban design outcomes (as described above). In addition, I do not consider option 2 to be efficient as the development enabled within the zone would be inconsistent with the objectives and policies of the zone chapter.
478. Option 3 is considered to be the most effective and efficient as it would retain both the exposure to mine subsidence risk at the existing level and limit adverse built form outcomes. Furthermore, the type of development that would be expected to occur would be consistent with the objectives and policies of the General residential zone.
479. Option 1 is considered to have the highest potential costs in the event that subsidence was to occur. Options 2 and 3 would have similar costs in the event that subsidence occurred. Option 2 has an increased cost associated with potential adverse built form outcomes and Option 3 could reduce that cost by managing built form outcomes that are appropriate within the context of the GRZ (one dwelling per site).
480. For the above reasons, I recommend that Option 3 is the most appropriate way to achieve the objectives of the proposal. In my view, Option 3 will best manage the natural hazard risk of the mine subsidence area while providing for appropriate urban environment outcomes.

#### *Flooding*

481. This section of the report addresses submissions received in relation to the management of significant risks from natural hazards and provides additional details regarding to the additional qualifying matters that were identified post notification.

## Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Waikato Regional Council*	42.18		Amend objectives and policies to require the resilience of the transport network to natural hazard risk and climate change disruptions to be improved.
Kāinga Ora	42.18	217.34	Reject submission point in part.
Waikato Regional Council	42.20		Consider adding a new matter of discretion relating to stormwater management to SUB-R153
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	42.20	200.4	That the submission be allowed
Waikato Regional Council	42.21		Retain MRZ2-S10(i) Impervious surfaces
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	42.21	200.5	That the submission be allowed.
Kāinga Ora	42.21	217.36	Accept submission point.
Waikato Regional Council*	42.22		Add a new matter of discretion to MRZ2-S10(2) Impervious surfaces relating to effects on waterways and/or the use of low-impact design technologies
Anna Noakes* and MSBCA Fruhling	42.22	200.6	That the submission be allowed to the extent that it would not have adverse stormwater effects.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Trustee's Company Ltd			
Kāinga Ora	42.22	217.37	Accept submission point.
Ngāti Naho Trust	83.9		Retain Management of significant risks from natural hazards s6(h) s77I (b) - Matter required to give effect to a national policy statement
Te Whakakitenga o Waikato Incorporated	83.9	213.30	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.4		Amend Variation 3 by including requirements for green infrastructure and low impact design.
Te Whakakitenga o Waikato Incorporated	83.4	213.25	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.4	217.61	Accept submission point
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.2		No specific decision requested, but the submission opposes Variation 3 to the extent that increased housing density enabled by the Variation would generate adverse stormwater effects on downstream catchments. AND any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Vilages Limited*	44.2	218.3	Reject submission point.
Hynds Pipe Systems Ltd*	44.2	221.7	Accept submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Top End Properties*	44.2	222.14	Disallow the submission
CSL Trust*	44.2	223.14	Disallow the submission
Pokeno West* and West Pokeno Limited	44.2	224.14	Disallow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.3		No specific decision requested, but submission opposes Variation 3 to the extent that the Variation goes beyond the central Government directions to promulgate plan changes to incorporate the MDRS and give effect to the NPS-UD and would enable more intense development. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Village Limited*	44.3	218.4	Reject submission point.
Top End Properties*	44.3	222.15	Disallow the submission
CSL Trust*	44.3	223.15	Disallow the submission
Pokeno West* and West Pokeno Limited	44.3	224.15	Disallow the submission
Anna Noakes* and MSBCA Fruhling	44.4		Amend the stormwater management provisions throughout the PDP to ensure that such adverse stormwater effects on properties downstream of proposed development are appropriately, avoided remedied or mitigated, in the event that Variation

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Trustee's Company Ltd			3 is approved. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Vilages Limited*	44.4	218.5	Reject submission point.
Top End Properties*	44.4	222.16	Disallow the submission
CSL Trust*	44.4	223.16	Disallow the submission
Pokeno West* and Pokeno West Limited	44.4	224.16	Disallow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.5		Amend the stormwater provisions of the PDP and Variation 3 to address the adverse stormwater effects of more intense development in terms of altered natural flow paths, and altered hydrological conditions, including the volume, frequency and duration of discharges, and the extent of inundation on downstream properties. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Villages Limited*	44.5	218.6	Reject submission point.
Top End Properties*	44.5	222.17	Disallow the submission
CSL Trust*	44.5	223.17	Disallow the submission

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West* and West Pokeno Limited	44.5	224.17	Disallow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.6		Amend the PDP to take a consistent approach to stormwater management across the entire plan, with the stormwater management provisions in all chapters amended accordingly. The submission notes that there are provisions governing stormwater management in urban areas throughout the PDP including in the Definitions, Strategic Direction, Water Wastewater and Stormwater, All Infrastructure, Natural Hazards and Climate Change, Subdivision, Earthworks and all Residential Zone chapters of the PDP. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Vilages Limited*	44.6	218.7	Reject submission point.
Top End Properties*	44.6	222.18	Disallow the submission
CSL Trust*	44.6	223.18	Disallow the submission
Pokeno West* and West Pokeno Limited	44.6	224.18	Disallow the submission
Retirement Villages Association	107.46		Amend Rule MRZ2-S10(2) (Impervious Surfaces) as follows: (2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Site design, layout, and amenity; and (b) The risk of flooding, nuisance or damage to the site or other buildings and



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			sites. (c) <u>The effects of any on-site stormwater retention or detention devices.</u>
Te Whakakitenga o Waikato Incorporated	107.46	213.86	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	107.46	217.93	Accept submission point

## Analysis

### *Resilient transport network*

482. Waikato Regional Council (submitter #42) seeks to amend objectives and policies to require the resilience of the transport network to natural hazard risk and climate disruptions to be improved.
483. In response to this submission point, I note the scope of the IPI is relatively limited. In the absence of specific amendments to the provisions it is not possible to determine whether the requested amendments can be considered as related provisions under 80E of the RMA. For these reasons I recommend that the submission points from the Waikato Regional Council be rejected (#42.18). I will reconsider my recommendation after seeing the WRC evidence.

### *Impervious surfaces and low impact design*

484. Waikato Regional Council asks for the impervious surface standard of 70% in MRZ2-S10 be retained and that a new matter of discretion be added relating to effects on waterways and/or the use of low-impact design technologies.
485. I note that the impervious surface control is important for stormwater management, and that development proposals seeking to exceed the control need to assess the effects of the additional impervious surfaces in terms of stormwater management and the effects on waterways and flooding. I recommend that these submission points be accepted (#42.21 and #42.22)
486. A related submission point from Ngāti Naho Trust is to amend Variation 3 by including requirements for green infrastructure and low impact design. I agree that the principles of Low Impact Design (which include the use of green infrastructure) contribute positively to Te Ture Whaimana and also the management of flood risk and stormwater outcomes (among other things) and recommend that the submission point be accepted (#83.4).
487. The Retirement Villages Association (submitter #107) has requested an additional matter of discretion be added to the impervious surface rule relating to the effects of on-site retention or detention devices. I agree that this is useful matter for discretion for decision makers, and

onsite retention and detention is an important part of managing stormwater. I recommend the submission point be accepted (#107.46).

*Stormwater management – generally*

488. Waikato Regional Council also seeks that a matter of discretion be included to SUB-R153 related to stormwater management. Assessing subdivision proposals for appropriate stormwater outcomes contributes to the management of flood risk and to good stormwater outcomes. I note that flood risk can change over time due to changes in the catchment associated with development and climate, and development proposals should be assessed against the latest stormwater information. I recommend that this submission point be accepted. (#42.20).
489. Anna Noakes and MSBCA Fruhling Trustee's Company Ltd. (Submitter 44) seeks that the PDP be amended to take a consistent approach to stormwater management across the entire plan, with the stormwater management provisions in all chapters amended accordingly. I agree that consistent stormwater management is an important method for avoiding, remedying and mitigating the adverse effects of development. In my opinion, amendments with a district wide application to Rule WWS-R1, a key rule for managing the effects of stormwater across the district at the time of development, is out of scope of Variation 3 (although I do support amendments to manage stormwater associated with additional development enabled by Variation 3 as discussed below). Amendments are proposed to include stormwater management and flooding as a matter of discretion. I recommend that these submission points be accepted in part (#44.2 - 44.6). The submitter also has an appeal on the PDP related to this rule and additional changes may be appropriate through that forum.

*Flooding*

490. Ngāti Naho Trust (submitter #83) submitted that the natural hazards qualifying matter should be retained, especially with known flood risks associated with the lower Waikato River Catchment. The submission is supported by Te Whakakitenga o Waikato. I agree that there are areas that warrant additional management to protect from natural hazard risks and therefore recommend that the submission point be accepted (#83.9).
491. A stormwater technical review was commissioned to respond to submissions related to the removal of the urban fringe and the associated intensification that has been enabled by Variation 3 higher in the stormwater catchments, and to respond to submissions. This work entailed modelling to determine the predicted flood plain when maximum probable development is reached and a review of the rules that relate to stormwater management in the PDP and Variation 3.

*Mapped flood plains and relevant rules in the PDP*

492. There are existing mapped flood plain hazards in the PDP named the Flood Plain Management Area and Flood Ponding Area, The High-Risk Flood Area, and the Defended Area. These are areas that are subject to riverine flooding modelled by the Waikato Regional Council. The high-risk flood area is defined in accordance with the Waikato RPS. The Defended Area is the land that is protected by council owned and managed stop banks. The four townships of Huntly, Ngaaruawaahia, Pookeno and Tuakau all have mapped flood hazards. Huntly has extensive areas within the Defended Area flood plain.

493. The PDP rule framework entails:

- Flood hazard maps are included in the PDP for riverine flooding but not flooding in the upper catchment;
- A number of rules, including development in high-risk areas and the minimum freeboard requirement are limited to the mapped extent of the riverine flooding, and do not apply to other flood hazard areas;
- Earthworks require a resource consent when within 1.5m of a waterway, open drain or overland flow path, whether these are mapped or not;
- Development standards vary between the General Residential and Medium Density zone; and
- All subdivision (other than subdivision in accordance with a land use consent in the Medium Density zone) is a restricted discretionary activity providing an opportunity for WDC to assess infrastructure requirements and mitigation of natural hazards, and consent can be declined.
- While there is an ODP rule that requires a minimum floorboard level in any Flood Risk Area or other land that is subject to flood hazards this rule will only apply until the PDP rules are either deemed operative or made operative. There are two appeals that remain unresolved at the time of writing this report, meaning the ODP rule is still relevant.

*Currently unmapped Flood Hazards in the Urban Fringe*

494. Council has circulated a discussion document on stormwater and the management of significant risks from natural hazards and Te Ture Whaimana and additional qualifying matters for Variation 3 to support discussions with submitters and expert conferencing on the 7<sup>th</sup> of June which outlines Council's proposed response to submissions. I support the intended approach outlined in the discussion document in principle but will defer finalising specific recommendations until after the expert conferencing scheduled for the 11<sup>th</sup> of July 2023.
495. Broadly, the assessment has determined that urban intensification can have adverse effects on water quality and erosion and stability, and flooding. This is because increased impervious surfaces generate greater stormwater volume that moves at greater velocities and because additional buildings and structures in areas that are affected by flooding can divert flood water onto other properties and create cumulative flooding effects associated with loss of storage for flood water. Over time, flood plains in and downstream of developed areas will become larger. Effects will be exacerbated unless the effects of development are appropriately mitigated.
496. The current Natural Hazard rules enable filling in the flood plain to provide a building foundation that is raised above the expected flood level. If filling associated with new dwellings is carried out for denser development styles, the cumulative effects on flood storage may contribute to flooding effects, including causing flooding on sites that don't currently experience flooding.
497. It is good practice to take a risk-based approach and avoid development in the current and future (modelled) flood plain where it is high risk and to avoid, remedy and mitigate effects where it is medium-low risk to avoid adverse effects associated with flooding including loss of life and damage to property, erosion and damage to natural environments. This is supported by the objectives and policies and methods of the RPS.

498. The modelled flood plains have now been mapped and show areas of high risk where they meet the definition of a high-risk flood plain in the PDP (and RPS), and areas of medium to low risk where flows and velocities are lesser. The model has taken into account the effects of climate change and has removed isolated ponding areas that affect less than 20% of the average lot size and is less than deep 100mm has been excluded from the results.
499. The preservation of flood plains is a key tenet of Low Impact Design to achieve water quality, habitat, open space, urban amenity and health and safety outcomes.
500. There is opportunity to manage adverse effects associated with flooding within the area identified as the “urban fringe” within Variation 3. This area was zoned General Residential in the notified version of Variation 3 which has standards and rules the lead to lower site intensity and a less dense built form which is better suited to managing flooding than higher density development on smaller sites; and reduces the number of households in the flood plain. The rules in Variation 3 identified by the review that assist with flood management are those that control the site size, yards, maximum building coverage and the number of residential units per site.

### Recommendations and recommended amendments

#### *Impervious surfaces*

501. I recommend the following amendments:

MRZ2-S10	Impervious surfaces	
	(1) Activity status: PER Where: (a) The impervious surfaces of a site must not exceed 70%.	(2) Activity status where compliance not achieved: RDIS  Council’s discretion is restricted to the following matters:  (a) Site design, layout and amenity; and  (b) The risk of flooding, nuisance or damage to the site or other buildings and sites.  <u>(c) stormwater management and the use of Low Impact Design methods</u>  <u>(d) the objectives and policies in Chapter 2-20 Te Ture Whaimana – Vision and Strategy</u>  <u>(e) the effects of any on-site stormwater retention or detention devices</u>

*Stormwater management*

502. I recommend the following matters of discretion are added to SUB-R153:

(a) *Subdivision layout;*

(b) *Shape of lots and variation in lot sizes;*

(c) *Ability of lots to accommodate a practical building platform including geotechnical stability for building;*

(e) *Avoidance or mitigation of natural hazards;*

(f) *Opportunities for streetscape landscaping;*

(g) *Vehicle and pedestrian networks;*

(h) *Consistency with any relevant structure plan or master plan including the provision of neighbourhood parks, reserves and neighbourhood centres; and*

(i) *Provision of infrastructure.*

(j) *Flooding effects including safe access and egress*

(k) *stormwater management and the use of Low Impact Design methods*

(l) *the objectives and policies in Chapter 2-20 Te Ture Whaimana – Vision and Strategy*

*Flooding*

503. Below I set out the recommendations that I support in principle at this stage of the process. I recommend that the specific detail of how the matters are drafted should be reconsidered following the exchange of evidence and expert conferencing on stormwater scheduled for the 11th of July 2023.

504. **Recommendation 1:** Apply an overlay that aligns with the extent of the new modelled flood plains and are also within the urban fringe area. The overlay should show the high-risk flood areas and the low-risk flood areas.

505. **Recommendation 2:** Apply an overlay that aligns with the extent of the Defended Area and the Flood Prone and Flood Ponding Areas identified in the PDP planning maps and are also within the urban fringe area.

506. **Recommendation 3:** Rely on a qualifying matter to enable flooding constraints that create environmental and health safety risk to be accommodated in Variation 3. The qualifying matters are provided for by s77(G) of the RMA and are a matter of national importance that decision makers are required to recognise and provide for under s6, that is s6(h) the management of significant risks from natural hazards and a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River.

507. **Recommendation 4:** Rules should be applied to lessen the development intensity in the flood plains.
508. **Recommendation 5:** The rules should relate to the site intensity (the number of residential units per site), the building coverage, the building and waterway set backs, and the site size. Due to the scope of Variation 3, these should align with the development controls of the General residential zone.
509. **Recommendation 6:** If the site is within the high-risk flood area the rules should align with the development controls of the General residential zone as recommended above and have a non-complying activity status for two or more residential units.
510. **Recommendation 7:** For subdivision and development that requires a resource consent in Variation 3 add new matters of discretion to assess flood hazards, stormwater management and Low Impact Design; and link the matters of discretion to the objectives and policies in Part 2, Chapter 20 of the PDP Te Ture Whaimana.
511. **Recommendation 8:** Add new matters of discretion to MRZ-S1, MRZ-S4, MRZ-S5, MRZ2-S10(2), SUB-R153
1. *Flooding effects including safe access and ingress to the site*
  2. *stormwater management and the use of Low Impact Design methods*
  3. *the objectives and policies in Chapter 2-20 Te Ture Whaimana – Vision and Strategy*
512. **Recommendation 9:** Amend the matters of discretion for MRZ-S13 to include flooding and the objectives and policies in Chapter 2-20 Te Ture Whaimana – Vision and Strategy.
513. The following recommendations were made through the technical work that I understand are out of scope of Variation 3. I recommend the Council consider whether these should form part of a separate planning process:
- Amend the activity status of NH-R1 from permitted to Restricted Discretionary to ensure the effects of infilling in the flood plain and flood risk.
  - Amend the activity status of NH-R8 from permitted to Restricted Discretionary and apply the matters of discretion in NH-R9.
  - Amend the activity status of NH-R9 from permitted to Restricted Discretionary NH-R9 activity status
  - Add the high-risk flood areas in the Flood Hazard overlay to the High-risk flood area rule NH-R19
  - Amend the activity status of WWS-R1 for managing the stormwater effects of new development and subdivision from permitted to Restricted Discretionary and correct drafting errors. Note this rule is under appeal in the PDP (ENV-2022-AKL-000078 Noakes and Fruhling Trust and Waikato District Council) and these issues may be resolved via the appeal.

### **Section 32AA evaluation**

514. A thorough section 32AA evaluation on this topic has been prepared separately by Ms Katja Huls and will be appended to her evidence. Ms Huls has been involved in the technical work undertaken and has led the development of the recommendations in this section.
515. If further amendments are proposed through the expert conferencing, I will undertake a revised section 32AA assessment in an addendum to this report.

## **6.4 Te Ture Whaimana**

### **Introduction**

516. Te Ture Whaimana o Te Awa o Waikato – The Vision and Strategy for the Waikato River is identified in s771(c) as a Qualifying Matters. Volume 2 of the S32 report identifies the significance of Te Ture Whaimana and the relevant existing district wide rules as qualifying matters:
- Setbacks of buildings from Waterbodies
  - Impervious surface standards
  - Ensuring subdivisions, can be appropriately serviced for water, wastewater and stormwater
517. In the S32 report the impervious service standard (70%) and the 3 waters servicing standards (in the WWS Chapter) were identified as not technically being qualifying matters because they do not limit density, but were included as they are directly relevant to achieving the objectives of Te Ture Whaimana. Because the urban fringe qualifying matter is no longer being pursued a review of the 3 water servicing standards has been undertaken. These reviews have recommended the following key changes:
- A revised approach to managing water and wastewater connections (refer to the Infrastructure Capacity Section of this report)
  - New qualifying matters for stormwater management (refer to the Natural Hazards Section of this report)
518. Those sections of the report along with this section are associated with giving effect to Te Ture Whaimana.
519. This section of the report considers the submissions that directly:
- Reference Te Ture Whaimana
  - Relate to Rule MRZ2-S13 Setbacks of buildings from waterways
  - Submissions that relate to impervious surfaces rule MRZ2-S10 are contained in the Natural Hazards Section. Submissions on building setbacks from water bodies rule MRZ2-S13 are also considers in the Issues of Significance to Maaori Section.

## Submissions

520. The submissions in this section seek to:

- Retain Te Ture Whaimana as a qualifying matter
- Clarify whether additional provisions or qualifying matters are required to better give effect to Te Ture Whaimana
- Add a buffer area/setback adjoining the Waikato River and the Whangamarino and Mangatawhiri wetlands
- Seeking amendments / clarification to the existing waterway setback rule

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Heritage New Zealand	28.15		Retain the qualifying matter Te Ture Whaimana o Te Awa Waikato - The vision and strategy for the Waikato River
Te Whakakitenga o Waikato Incorporated	28.15	213.9	The submitter seeks that the whole of the submission be allowed
Waikato Regional Council*	42.5		Clarify whether the need for additional provisions to restore and protect the health and wellbeing of the Waikato River has been investigated given the additional intensification enabled by the Variation.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	42.5	200.2	That the submission be allowed.
Te Whakakitenga o Waikato Incorporated	42.5	213.13	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	42.5	217.23	Accept submission point.
Waikato Regional Council*	42.6		Amend objectives, policies, and rules to better give effect to Te Ture Whaimana, if required.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	42.6	200.3	That the submission be allowed.



Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Te Whakakitenga o Waikato Incorporated	42.6	213.14	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	42.6	217.24	Accept submission point.
Waikato Regional Council*	42.23		Amend MRZ2-S13(1)(a)(iv) Building setbacks – waterbodies to 26.5m from the margin of the Waikato River and the Waipa River.
Laura Kellaway and Bryan Wendeatt	75.3		Support Vision and Strategy for the Waikato River including setback from the Waikato River.
Ngāti Naho Trust	83.5		Apply a 1.2km buffer zone along the Waikato River, Lake Waikare, and the Whangamarino and Mangatawhiri wetlands that excludes any medium or high-density housing.
Ryman Limited Healthcare	83.5	219.18	Disallow submission point
Retirement Association Villages	83.5	220.18	Disallow submission point
Ngāti Naho Trust	83.20		Retain National Policy Statement for Electricity Transmission s771 (c) - Te Ture Whaimana o te Awa o Waikato AND Add a setback from wind and solar plants of 3km to 5km from medium density housing.
Te Whakakitenga o Waikato Incorporated	83.20	213.41	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.20	217.65	Reject submission point.
Ryman Limited Healthcare	83.20	219.22	Disallow submission point
Retirement Association Villages	83.20	220.22	Disallow submission point

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Ngāti Naho Trust	83.21		Mitigate the negative impact of existing roads and the construction of new roads that consume land resources and cause adverse impacts on natural water resources and discharge areas. The three most damaging effects of road construction and management are noise, dust, and vibrations.
Te Whakakitenga o Waikato Incorporated	83.21	213.42	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.23		Add protection of the mana, mauri and wairua of the Waikato River and its people.
Te Whakakitenga o Waikato Incorporated	83.23	213.44	The submitter seeks that the whole of the submission be allowed
Ngāti Naho Trust	83.24		Add the following to Natural character of the waterbodies and their margins s6(a): · Including the mana, mauri and wairua of the Waikato River. · Including the wairua and mauri of the Manawa-ā-whenua. · Including the mauri tupua and mauri taniwha.
Te Whakakitenga o Waikato Incorporated	83.24	213.45	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	106.36		Amend MRZ2-S13 Building setbacks – water bodies as follows: (I) Activity status: PER Where: (a) A building must be set back a minimum of: (i) 20m from the margin of any lake; (ii) 20m from the margin of any wetland; (iii) 20m 21.5m23m from the bank of any river (other than the Waikato River and Waipā River); (iv) 20m 25.5m 38m from the margin of either the Waikato River and the Waipā River AND River. Undertake an appropriate site by site analysis under ss77J-77L of the Housing Supply Act if the increase is to be over and above what the RMA anticipates. AND Delete reference to the MRZ2 chapter, to reflect a single 'Medium density residential zone' chapter. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.36	213.83	The submitter seeks that the whole of the submission be disallowed
Waikato Tainui	114.3		Retain Te Ture Whaimana as qualifying matter in MRZ2 Explanatory note.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Waikato Tainui	114.4		Amend policy SD-P2 Medium Density Residential Standards as follows: Apply the MDRS across all relevant residential zones in the district plan except in circumstances where the qualifying matter is relevant (including Te Ture Whaimana o Te Awa o Waikato or other matters of significance such as historic heritage and the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga).
Waikato Tainui	114.13		No specific decision requested, but submission considers that including Te Ture Whaimana in planning documents, including maatauranga maaori is not an optional addition but a key component of any plan review within the Waikato and Waipaa River Catchments.
Kāinga Ora	114.13	217.101	Accept submission point.
Waikato Tainui	114.15		No specific decision requested; however submitter considers that housing intensification, inappropriate subdivisions, use or development of resources has the potential to adversely affect the Waikato River and therefore, fails to give effect to Te Ture Whaimana.
Kāinga Ora	114.15	217.103	Accept submission point.

## Analysis

521. Heritage New Zealand (#28.15), Laura Kellaway (#75.3), Ngatio Naho (#83.20). Waikato Tainui (#114.3, 114.4, 114.13) seek to retain / support Te Ture Whaimana as a qualifying matter. I agree with these submissions. Te Ture Whaimana is a recognised Qualifying Matter under S771(c), is incorporated into the RPS by statute, and is a matter that effect is required to be given too. I agree with Waikato Tainui's submission that Te Ture Whaimana is not an optional requirement. Additionally, its status has been recognised in numerous Environment Court Decisions.
522. Submission (#83.20) seeks to add a setback of 3km to 5km from wind farms and solar farms from medium density housing. In my opinion this aspect of the submission is not within the scope of Variation 3. I note solar and wind farms required resource consent and reverse sensitivity can be considered as part of this process.
523. Waikato Regional Council (#42.5-42.6) and Waikato Tainui (#114.15) have asked whether additional provisions are required to give effect to Te Ture Whaimana and Waikato Tainui have stated in their submission that intensification is not appropriate where there is the potential to adversely affect the Waikato River.

524. In respect of whether additional provisions are required I note the following existing provisions in the PDP:
- Part 20 Te Ture Whaimana this section contains district wide policy direction on how Te Ture Whaimana will be implemented in the Waikato District. This includes managing the effects associated with subdivision, earthworks, intensive farming and building in river setbacks. The objectives and policies in this section apply to all full discretionary activities and non-complying activities. They also direct how to best achieve Te Ture Whaimana in the provisions in the PDP.
  - The Waikato River (including a small margin) is identified as an outstanding natural landscape. Subdivision of any land containing an outstanding natural landscape is a full discretionary activity.
  - The 3 waters section (WWS) applies to development and subdivision and requires connections to water and wastewater infrastructure and has permitted activity standards for stormwater.
  - The water bodies setback rules.
525. Overall, I consider improvements can be made to the current rules and policy framework and amendments are proposed as part of this S42A report. Amendments that give effect to Te Ture Whaimana also relate to a number of other topics addressed in this report. Below I have set related recommendations and cross references to the sections where these are addressed.
526. It is important to acknowledge that when Te Ture Whaimana was considered as part of the PDP review it was not within the context of the MDRS or the Enabling Housing Act. For that reason, and on the basis of the submission #14.15, I consider it is appropriate to add 'residential intensification' to TETW-PI(g). That Policy would now read "To restore and protect the health and wellbeing of the Waikato River including by ... (g) Managing the effects of subdivision, use and development including those associated with: ... (v) Residential development.
527. In relation to the setback from water bodies rule, I consider there is merit in adding matters of discretion. Recommendations have been made to add additional matters of discretion as part of the Issues of Significance to Maaori. Both of these matters also relate to the submissions in this section of the report on Te Ture Whaimana. The matters are as follows:
- (g) Where located within the catchment of the Waikato River the extent to which the application enhances or benefits the Waikato River and its tributaries
- (h) Effects on cultural values identified in Maaori Values and Maatauranga Maaori Chapter.
528. I also consider there is benefit in adding the same wording in (g) above to MRZ2-S1 to that an assessment of the benefits to the Waikato River can be carried out for an application of more than 3 dwellings on a site.
529. This report also recommends adding matters of discretion relating to Te Ture Whaimana to the subdivision rules, and these are discussed in the Natural Hazards Section.
530. Furthermore, I consider the recommendations in the Natural Hazards Section in relation to the managing flooding and stormwater in what was the urban fringe also assist in giving effect to Te Ture Whaimana.

531. I note the Technical Report prepared by Te Miro Water makes a number of additional recommendations that are outside the scope Variation 3 to better give effect to Te Mana o te Wai. It is my opinion there is the opportunity for the Council, iwi and Waikato Regional Council to work collaboratively on achieving these outcomes.
532. Ngaati Naho (83.5) and Marae Tukere (87.1) have requested to add a buffer area adjoining the River and the Whangamarino and Mangatawhiri wetlands. Ngaati Naho have requested this buffer be 1.2 km wide. I note the closest town to the Whangamarino wetland is Te Kauwhata and the Mangatawhiri wetland is located more than 1.2 km from Pookeno
533. Whilst I am supportive of the concept of a buffer area to manage adverse effects on the Waikato River, I consider there are potentially scope issues with adding a buffer area at this point in time that restricts any medium or high density developments within 1.2km of the River. The PDP decisions version added a Medium Density Zone to the four towns, including within 1.2km of the River in Huntly and Ngaaruawaahia. A map showing 1.2km distance from the edge of the Waikato River in the four towns subject to Variation 3 has been included below. The dark orange colour on the maps identifies the location of the existing medium density zone in the PDP. The requested buffer would have minimal impact on Tuakau and Pookeno, where only a small number of properties that will become MRZ2 are located within 1.2km of the Waikato River:

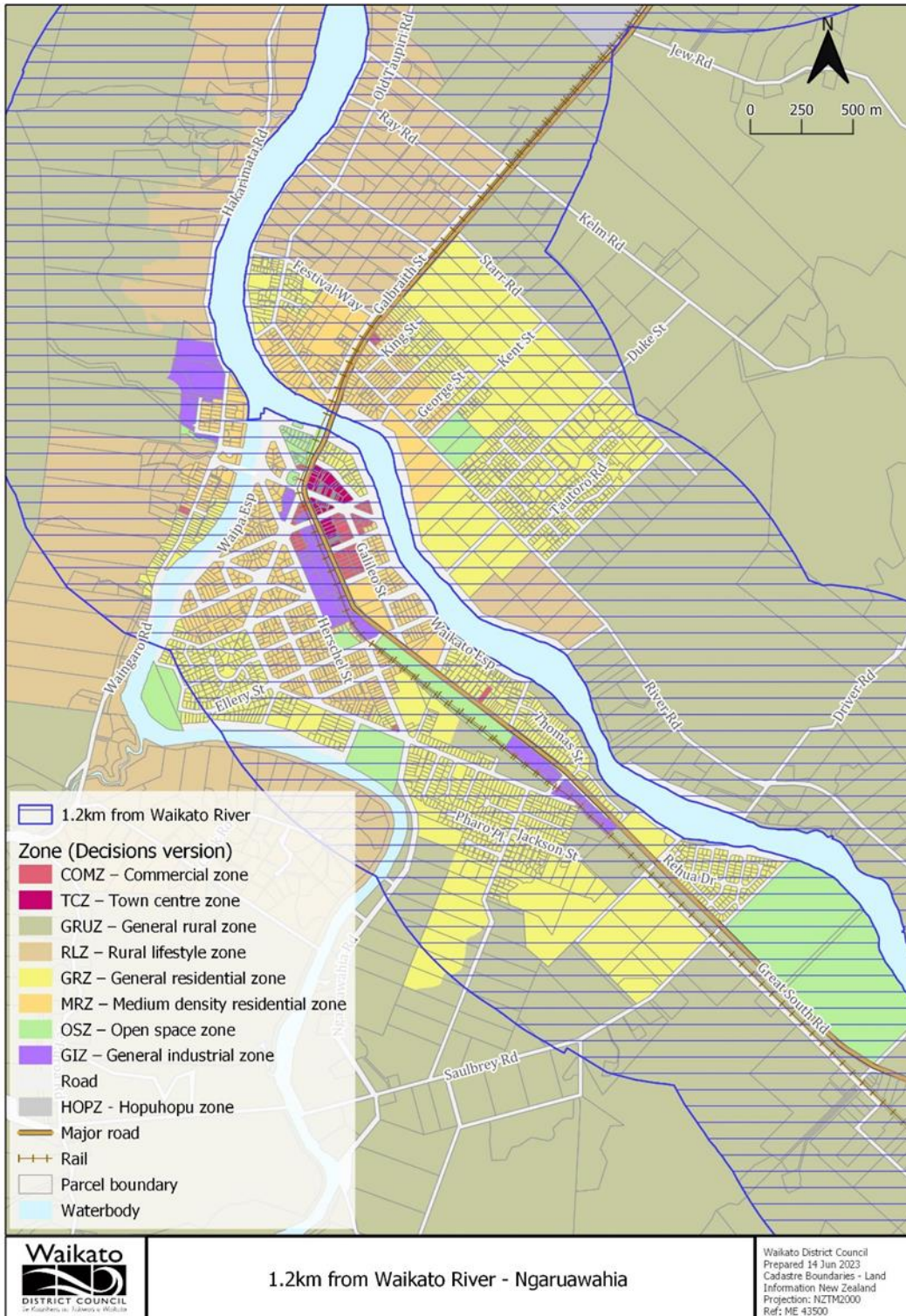


Figure 32: 1.2km setback Ngaruawahia

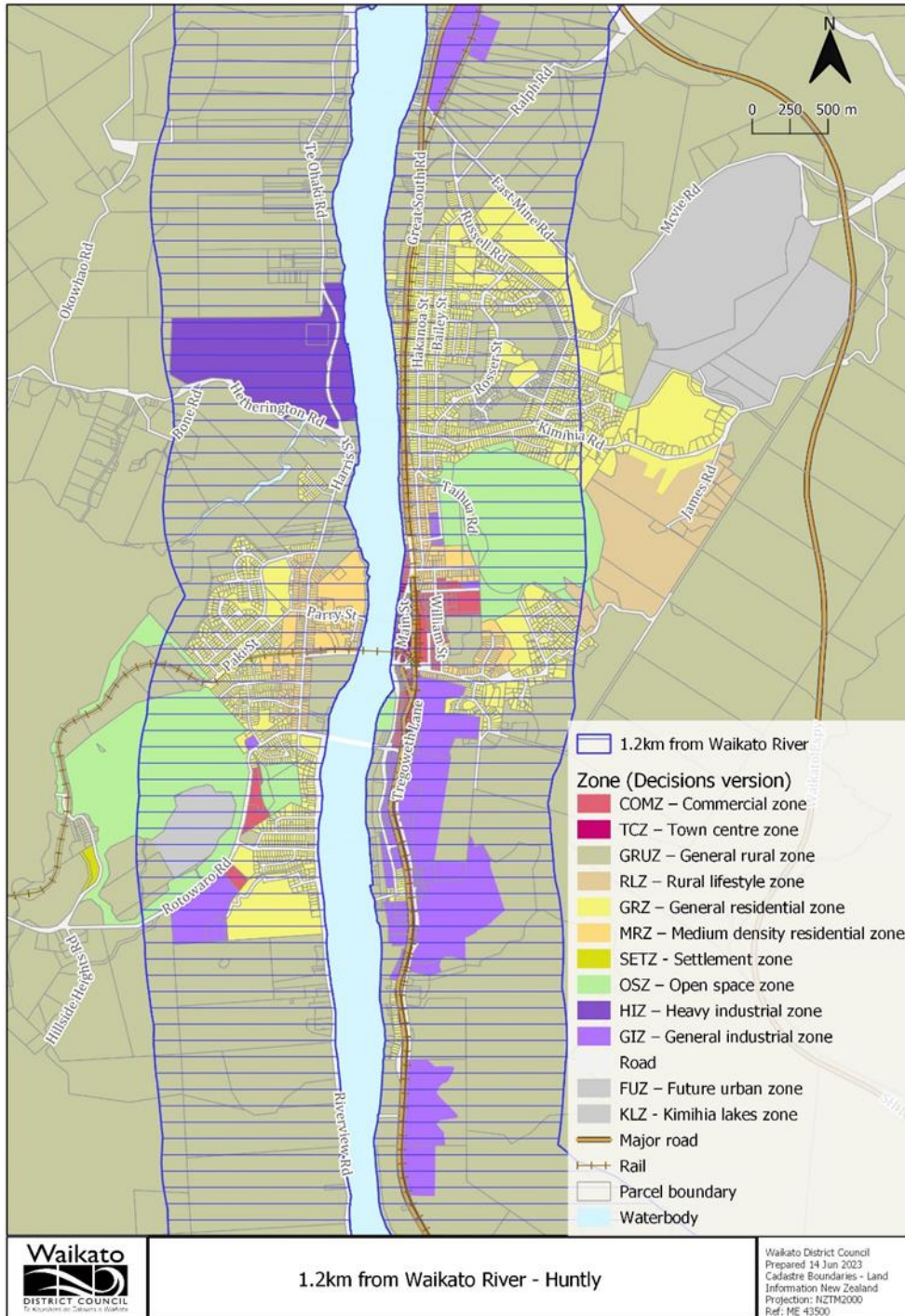


Figure 33: 1.2km setback Huntly

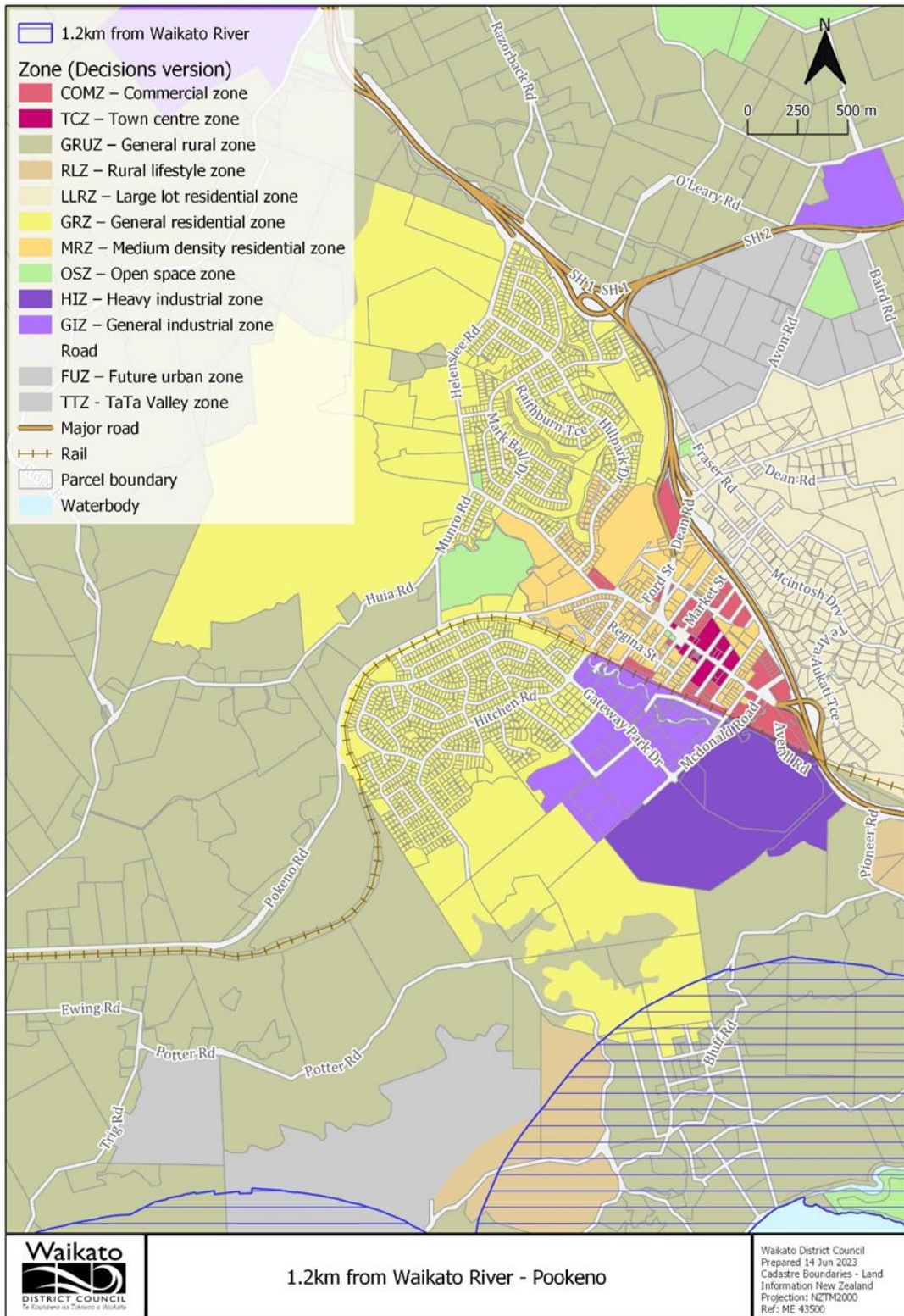


Figure 34: 1.2km setback Pookeno



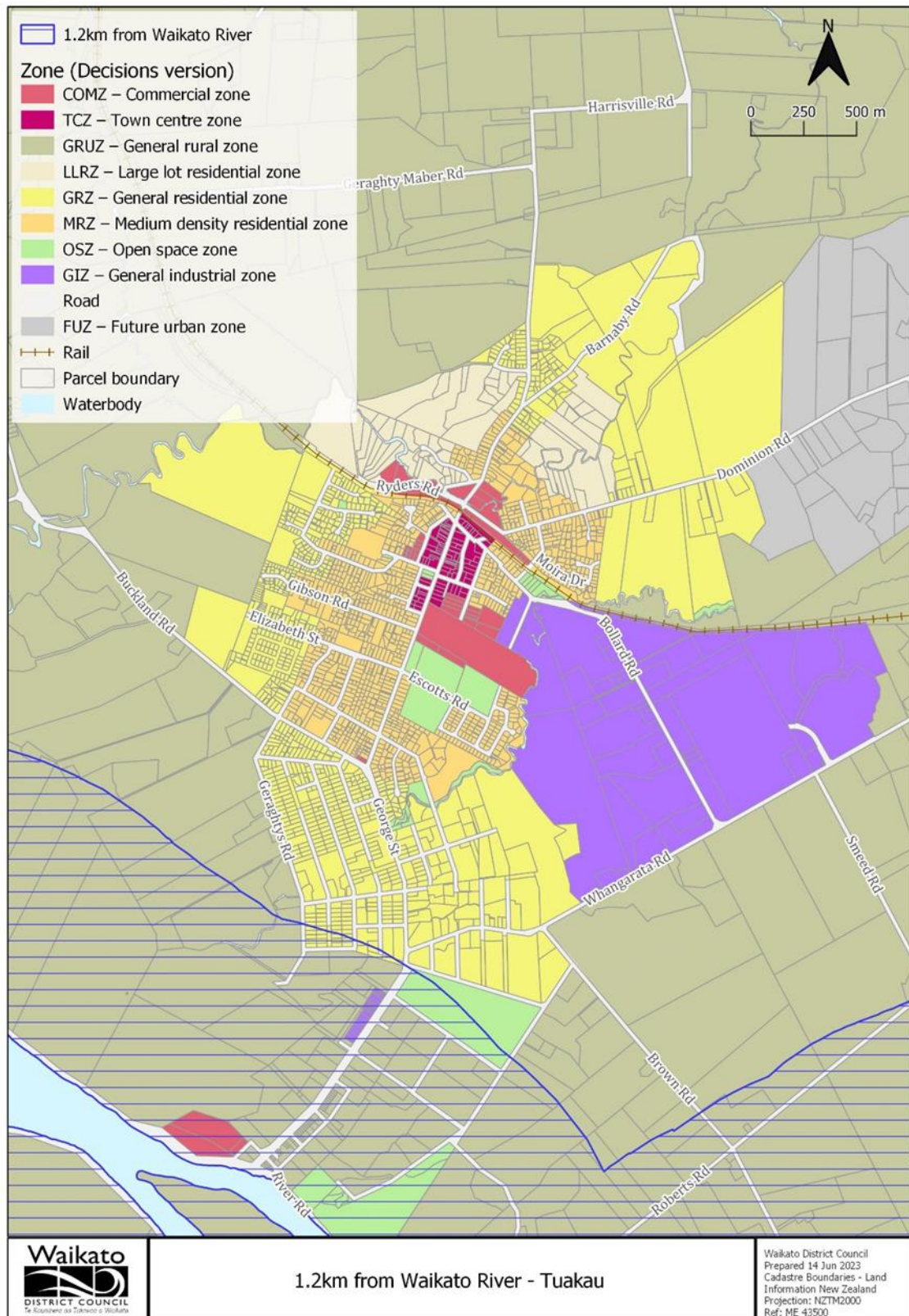


Figure 35: 1.2km setback Tuakau

534. It is my understanding that as a result of the *Waikanae* decision it is not possible through an IPI process to make development less enabling than the existing PDP. If the submission was accepted to include a buffer area, there are numerous properties within Huntly and Ngaaruawaahia that are already zoned medium density in the PDP that would have development rights restricted by reducing the permitted number of dwellings that could otherwise be located within a property from 3 to 1.
535. I am also concerned from natural justice and fair process point of view that the relief sought by the submitter would impact on many properties, potentially removing development rights that they would not have been aware could occur through this Variation where all information in the public discusses the increase of housing supply rather than removing current development rights.
536. From a planning perspective, a buffer restricting medium and high density development would result in very limited permitted intensification in Huntly and Ngaaruawaahia, and where it was permitted would be on the outskirts of the towns, as the town centres have historically developed on the river banks.
537. In rejecting the submission for a restrictive 1.2km buffer, I consider amendments can be made to assessment criteria which may go some way to achieve the outcomes the submitter is seeking. I recommend adding assessment criteria to the water bodies setback rules and where more than 3 residential units are proposed on the site that relate to giving effect to Te Ture Whaimana.
538. Kāinga Ora (#106.36) and Waikato Regional Council (#42.23) have sought amendments in relation to the existing waterway setback rule. The rule as amended by Variation 3 is included below:

<b>MRZ2-S13</b>	Building setbacks – water bodies	
<p><b>I. Activity status: PER</b></p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. A building must be set back a minimum of: <ul style="list-style-type: none"> <li>i. 20m from the margin of any lake;</li> <li>ii. 20m from the margin of any wetland;</li> <li>iii. <del>23m</del> <b>21.5m</b> from the bank of any river (other than the Waikato River and Waipa River);</li> <li>iv. <del>38m</del> <b>25.5m</b> from the margin of either the Waikato River and the Waipa River</li> <li>v. <del>23m from mean high water springs</del></li> </ul> </li> <li>b. A public amenity of up to 25m<sup>2</sup> or pump shed within any building setback identified in MRZ2-S13(1)(a);</li> <li>c. This standard does not apply to a structure which is not a building.</li> </ul>	<p><b>2. Activity status where compliance not achieved: RDIS</b></p> <p><b>Council’s discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>a. Effects on the landscape, ecological, cultural and recreational values of the adjacent water body;</li> <li>b. Adequacy of erosion and sediment control measures;</li> <li>c. The functional or operational need for the building to be located close to the waterbody;</li> <li>d. Effects on public access to the waterbody;</li> <li>e. Effects on the amenity of the locality; and</li> <li>f. Effects on natural character values.</li> </ul>	

539. Waikato Regional Council has sought to amend the existing rule a.(iv) to read 26m rather than the proposed 25.5m. The Section 32 Report records that the PDP decisions version for the MDZ has a 38m setback from the Waikato and Waipa Rivers, however, this was a transcription error when converting the Hearings Panel's decision to the National Planning Standards format (Volume 2, page 10). The Hearing Panel decision clearly states 28m.
540. The S32 report states the approach taken for setback to the Waikato River is to apply a setback of 25m and then apply the normal yard controls or setbacks for a building. In Variation 3 for the MDZ2 Zone a setback of 25.5m was applied. This results in a 0.5m building setback in the zone beyond the waterbody setback. I note that 0.5m is not the standard setback in the MRZ2 Zone that is 1.5m for a front yard and 1m from the other boundaries. I note in this regard that (iii) has been reduced by 1.5m in recognition of the new standard. The submission by the Waikato Regional Council seek to amend the rule to 26m, leaving 1m for the building setback. I recommend the rule is amended to require a setback of 26.5m being the 25m setback for the river and the 1.5m front yard setback for the MRZ2 Zone. I consider this approach is consistent with that states in the S32 Report. I also note there are recommendations in this report to continue to apply the GRZ rules including the setbacks where the site is located within the stormwater constraints overlay. Further amendments to this rule are contained in the Natural Hazards Section which address this rule as it applies to the stormwater constraints overlay.
541. I note Kāinga Ora has sought that an appropriate site by site analysis is required in relation to the waterway setback ules. I consider this is not necessary as Te Ture Whaimana is a matter listed under S771(c).
542. Ngaati Naho (#83.21 – 83.23) have requested provisions to mitigate the impact of existing roads and new roads. Ngaati Naho have also requested to add mauri and wairua as matters to be considered. In relation to the latter requests I note that amendments have been made as part of the 'Issues of Significance to Maaori Chapter' which do assist. In particular, I note the recommended amendment to the matters of discretion to MRZ2- S13:

*(g) Where located within the catchment of the Waikato River the extent to which the application enhances or benefits the Waikato River and its tributaries*

*(h) Effects on cultural values identified in Maaori Values and Maatauranga Maaori Chapter.*

543. In respect of the submission point related to mitigation from the effects from roads I understand this relates to the increase in private vehicle use from intensification resulting in increased contaminant loads entering the stormwater system. In larger subdivision applications proposing new roads, these effects are assessed through the subdivision process. In relation to smaller developments and potentially permitted intensification, I note that the Council has to comply with the conditions of comprehensive stormwater discharge consent, which includes water quality standards from road surfaces discharging to the environment.
544. An increase in vehicle usage may mean the Council has to change stormwater treatment systems in order to comply with the standards of the consents. The Council will need to reapply for replacement comprehensive stormwater consents in the next year or two and this matter will be considered through that process. Additionally, I note WWS-RI does contain water treatment requirements and those are recommended to be revised as part of the technical review undertaken by Te Miro Water.

## Recommendations

545. It is recommended to add:

- Residential development to TETW-PI
- Add additional assessment criteria to MRZ2-S13
- Add additional assessment criteria to MRZ2-S1

## Recommended amendments

546. The following amendments are recommended:

*TETW-PI Implementing Te Ture Whaimana (Vision and Strategy for the Waikato River).*

*(1) To restore and protect the health and wellbeing of the Waikato River including by;*

- (a) Identifying and recognising the Waikato River as an Outstanding Natural Cultural Landscape;*
- (b) Acquiring appropriate public access to and along the Waikato River at time of subdivision;*
- (c) Protecting and restoring significant natural areas, riparian margins and wetlands within the catchment;*
- (d) Providing for conservation activities;*
- (e) Protecting waahi tapu, sites and areas of significance to Maaori;*
- (f) Recognising and providing for application of maatauranga Maaori; and*
- (g) Managing the effects of subdivision, use and development including those associated with:*
  - (i) Building in river setbacks;*
  - (ii) Intensive farming;*
  - (iii) Earthworks and land disturbance; and*
  - (iv) Subdivision.*
  - (v) Residential development*

<b>MRZ2-S13</b>	Building setbacks – water bodies
<p><b>2. Activity status: PER</b></p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>b. A building must be set back a minimum of:               <ul style="list-style-type: none"> <li>ii. 20m from the margin of any lake;</li> <li>iii. 20m from the margin of any wetland;</li> <li>iv. <del>21.5m</del> <u>23m</u> from the bank of any river (other than the Waikato River and Waipa River);</li> <li>v. <del>25.5m</del> <u>38m</u> from the margin of either the Waikato River and the Waipa River</li> <li>vi. <del>23m from mean high water springs</del></li> </ul> </li> <li>c. A public amenity of up to 25m<sup>2</sup> or pump shed within any building setback identified in MRZ2-S13(1)(a);</li> <li>d. This standard does not apply to a structure which is not a building.</li> </ul>	<p><b>3. Activity status where compliance not achieved: RDIS</b></p> <p><b>Council’s discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>b. Effects on the landscape, ecological, cultural and recreational values of the adjacent water body;</li> <li>c. Adequacy of erosion and sediment control measures;</li> <li>d. The functional or operational need for the building to be located close to the waterbody;</li> <li>e. Effects on public access to the waterbody;</li> <li>f. Effects on the amenity of the locality; and</li> <li>g. Effects on natural character values.</li> <li>h. <u>Consistency with the objectives and policies in Chapter 2-20 Te Ture Whaimana -Vision and Strategy</u></li> </ul>

## Section 32AA evaluation

547. As changes are recommended to policy TETW-PI and assessment criteria an evaluation must be undertaken at a level of detail that corresponds to the significance of the changes. In my opinion these changes while reasonably significant are more of a clarification that are already required to be considered. I say this for the following reasons:
- Te Ture Whaimana is a guiding policy document, where there is any inconsistent provision in any national policy statement, Te Ture Whaimana has the highest status. It is very important that Te Ture Whaimana is considered as part of Variation 3.
  - The existing assessment criteria for MRZ2- S1 while referencing 3 waters infrastructure do not reference Te Ture Whaimana. In my opinion it is clear that residential intensification can affect the Waikato River and its tributaries. It is widely recognised that the Waikato River is in a degraded state. Te Ture Whaimana requires a different approach to be taken. For this reason, I consider it is important this matter is assessed when a resource consent is required for more than 3 units on a site.
  - The existing assessment criteria for MRZ2-S13 reference cultural values as assessment matters to be considered but provide no more detail. It is my opinion it is clear through submissions that Te Ture Whaimana is inextricably woven with the cultural values of manawhenua in the Waikato District.
548. In my opinion the addition of the new point in Policy TETW-PI and assessment criteria to the existing water bodies setback rule is the most appropriate way to achieve the purpose of the Act. I say this because these assessment criteria are directly relevant to S6(e), 7(a), 8 and S77O(c). If the changes were not made then the assessment of these matters would not be triggered by any application seeking to construct a building within the setback and closer to the Rivers.
549. I note the benefits associated with the amended policy and assessment criteria are to require appropriate assessment of the effects associated with residential intensification and constructing buildings closer to water bodies than the setbacks require. In my opinion there are significant benefits particularly given the importance of Te Ture Whaimana and the relationship mana whenua have with the water resources in the District.
550. I note the costs associated with the amendments are that people applying for resource consents will need to provide a more fulsome assessment of these matters and will need to actively consider how the application enhances or benefits the Waikato River and its tributaries. In my opinion this is appropriate and will better recognise the importance of Te Ture Whaimana in the District. It is considered mana whenua and Council could provide some examples of how this assessment matter could be achieved.
551. Overall, I consider the amendments are the most appropriate way to achieve the purpose of the Act.

## 6.5 Nationally Significant Infrastructure

### Introduction

552. The NPS-UD includes a definition for nationally significant infrastructure. In the context of Waikato, this includes:

- State highways
- The national grid electricity transmission network
- The high-pressure gas transmission pipeline
- The rail network

553. The following sections of this report address the submissions that were received in relation to the above matters.

### Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Transpower NZ Ltd*	18.1		Amend Variation 3 to give effect to the National Policy Statement on Electricity Transmission 2008
Transpower NZ Ltd*	18.2		Amend Variation 3 to recognise the National Grid as a qualifying matter in the implementation of the RMA.
Transpower NZ Ltd*	18.3		No specific decision requested, but submission supports Variation 3, in particular: · The identification of the National Grid as a qualifying matter; and · The inclusion of the PDP National Grid corridor provisions within the IPI and ISPP process.
Transpower NZ Ltd*	18.4		No specific decision requested, but submission supports the inclusion of existing provisions relating to the National Grid within MRZ2.
Transpower NZ Ltd*	18.5		No specific decision requested, but submission supports the retention of the National Grid provisions within the GRZ.
Transpower NZ Ltd*	18.9		Retain SUB-P23 Subdivision in the MRZ2 – Medium density residential zone 2.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Transpower NZ Ltd*	18.10		Retain SUB-R162 Subdivision within the National Grid Corridor.
Transpower NZ Ltd*	18.19		Retain MRZ2-R10 Buildings, structures and sensitive land uses within the National Grid Yard in sites existing as of 18 July 2018, except for the amendments outlined below. AND Amend MRZ2-R10(1)(b) as follows: (b) All buildings or structures permitted by Rule GMRZ2-R10(1)(a) must: ...
Transpower NZ Ltd*	18.20		Retain MRZ2-R11 The establishment of any new sensitive land use within the National Grid Yard.
Transpower NZ Ltd*	18.21		Retain the National Grid as a qualifying matter to MRZ2 if the extent of MRZ2 changes.
Transpower NZ Ltd*	18.22		Retain the application of the National Grid provisions to development within the GRZ if the approach to the GRZ changes.
Transpower NZ Ltd*	18.22		No specific decision requested, but submission supports the assessment contained within the s32 report in relation to the identification of the National Grid as a qualifying matter.
Kāinga Ora	18.22	217.3	Reject submission point.
Waka Kotahi*	29.4		Defer any decision on MRZ2-S14 until the Environment Court mediated process assigned for Topic 5 Infrastructure OR Delete MRZ2-S14 and replace with Waka Kotahi preferred noise provisions.
Kāinga Ora	29.4	217.13	Accept submission point.
Pareoranga Te Kata	29.4	225.4	Allow the submission in part

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
KiwiRail*	54.1		Retain rail as a qualifying matter pursuant to s771(e) and s770(e) of the Resource Management Act 1991
KiwiRail*	54.1		Amend MRZ2-P11 Reverse sensitivity as follows: Maintain appropriate setback distances between new sensitive (and altered) land uses and existing lawfully established activities and require buildings to be designed with acoustic insulation and vibration measures to minimise the potential that may result in for reverse sensitivity effects and risks to public health and safety. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Kāinga Ora	54.1	217.42	Reject submission point.
KiwiRail*	54.2		Amend Variation 3 to ensure development near the rail corridor does not adversely affect the safe or efficient operation of the rail corridor as follows: · a 5m setback apply to all buildings, not just buildings containing sensitive land uses; and · acoustic insulation and ventilation standards be applied to all (new and altered) noise sensitive activities within 100m of the railway corridor; and · a vibration standard be applied to all (new and altered) noise sensitive activities within 60m of the rail corridor. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Hugh Green Limited	54.2	204.4	Reject submission so that: A new acoustic installation and ventilation standard applying to all noise sensitive activities within 100 m of the railway corridor across all zones is not introduced as part of Variation 3; AND A new vibration standard to all noise sensitive activities within 60 m of the railway corridor across all zones is not introduced as part of Variation 3.
Kāinga Ora	54.2	217.43	Reject submission point.



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ryman Healthcare Limited	54.2	219.2	Disallow submission point
Retirement Villages Association	54.2	220.2	Disallow submission point
KiwiRail*	54.7		Retain MRZ2-O5 Qualifying matters
KiwiRail*	54.9		Amend MRZ2-P6 Qualifying matters as follows: Restrict residential development to an appropriate level to provide for and protect any relevant qualifying matters AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Kāinga Ora	54.9	217.45	Reject submission point.
Transpower NZ Ltd*	54.10	209.24	If the submission is allowed, amend the wording as follows: Maintain appropriate setback distances between new (and altered) land uses and existing lawfully established activities that may result in reverse sensitivity effects and or, where appropriate, require buildings to be designed with acoustic insulation and vibration measures to minimise the potential for reverse sensitivity effects and risks to public health and safety.
Kāinga Ora	54.10	217.46	Reject submission point.
Ryman Healthcare Limited	54.10	219.4	Disallow submission point
Retirement Villages Association	54.10	220.4	Disallow submission point

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
KiwiRail*	54.11		Amend GRZ-S20 Building setback – sensitive land use as follows: (1) Activity status: PER Where: (a) Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii)(i) 15m from the boundary of a national route or regional arterial; (iii)(ii) 25m from the designated boundary of the Waikato Expressway; (iv)(iii) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; (v)(iv) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and (vi)(v) 300m from the boundary of the Alstra Poultly intensive farming activities located on River Road and Great South Road, Ngaaruawaahia. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Kāinga Ora	54.11	217.47	Reject submission point.
KiwiRail*	54.12		Amend MRZ2-S14 Building setback – sensitive land use as follows: (1) Activity status: PER Where: (a) Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii)(i) 15m from the boundary of a national route or regional arterial; (iii)(ii) 25m from the designated boundary of the Waikato Expressway; (iv)(iii) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; (v)(iv) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and (vi)(v) 300m from the boundary of the Alstra Poultry intensive farming activities located on River Road and Great South Road, Ngaaruawaahia. (vii)(vi) 6m from the centre of a gas transmission line identified on the planning maps AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Kāinga Ora	54.12	217.48	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
KiwiRail*	54.13		Add a new permitted activity standard into the GRZ and MRZ2 (and all relevant zones adjoining the rail corridor affected by Variation 3) as follows: RX-Building Setback – railway corridor (1) Activity status: PER Where: (a) Any new building or alteration to an existing building must be setback 5 metres from any designated railway corridor boundary. (2) Activity status where compliance not achieved: RDIS Council’s discretion is restricted to the following matters: (a) The size, nature and location of buildings the on the site; (b) The extent to which the safety efficiency and of rail operations will be adversely affected; (c) The outcome of any consultation with KiwiRail; (d) Any characteristics of the proposed use that will make compliance unnecessary. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Hugh Green Limited	54.13	204.5	Reject submission so that: A new acoustic installation and ventilation standard applying to all noise sensitive activities within 100 m of the railway corridor across all zones is not introduced as part of Variation 3; AND A new vibration standard to all noise sensitive activities within 60 m of the railway corridor across all zones is not introduced as part of Variation 3.
Ports of Auckland	54.13	214.3	Disallow the submission insofar as it may apply to zones other than the GRZ or MRZ2.
Kāinga Ora	54.13	217.49	Reject submission point.
KiwiRail*	54.14		Add a new rule RX- Indoor railway noise into the GRZ and MRZ2 (and all relevant zones affected by Variation 3) for sensitive land uses within 100m of the legal boundary of the rail corridor. See submission for details of new rule, which includes: · a permitted activity; · restricted discretionary activity where there is non-compliance with any of the standards; and · Schedule Y Construction Schedule for indoor noise control. AND Such further or other

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			consequential relief, as may be necessary, to fully give effect to the relief sought.
Kāinga Ora	54.14	217.50	Reject submission point.
KiwiRail*	54.15		Add a new rule into the GRZ and MRZ2 (and all relevant zones adjoining the rail corridor) as follows: R4-Rail Vibration (1) Activity status: PER (a) Any new building or alteration to an existing building for a sensitive land use within 60m of the legal boundary of any railway network Activity-specific standards: (1) Any new buildings or alterations to existing buildings containing a sensitive land use, closer than 60 metres from the boundary of a railway network must be: (a) designed, constructed and maintained to achieve rail vibration levels not exceeding 0.3 mm/s vw,95 or (b) a single-storey framed residential building with: i. a constant level floor slab on a full surface vibration isolation bearing with natural frequency not exceeding 10 Hz, installed in accordance with the supplier's instructions and recommendations; and ii. vibration isolation separating the sides of the floor slab from the ground; and iii. no rigid connections between the building and the ground. (2) Activity status where compliance is not achieved: RDIS: (a) location of the building; (b) the effects of any non-compliance with the activity specific standards; (c) special topographical, building features or ground conditions which will mitigate vibration impacts; (d) the outcome of any consultation with KiwiRail. AND Such further or other consequential relief, as may be necessary, to fully give effect to the relief sought.
Hugh Green Limited	54.15	204.6	Reject submission so that: A new acoustic installation and ventilation standard applying to all noise sensitive activities within 100 m of the railway corridor across all zones is not introduced as part of Variation 3; AND A new vibration standard to all noise sensitive activities within 60 m of the railway corridor across all zones is not introduced as part of Variation 3.
Kāinga Ora	54.15	217.51	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ngāti Naho Trust	83.22		Not stated. The submitter states that the topic relates to the North Island Main Trunk rail.
Te Whakakitenga o Waikato Incorporated	83.22	213.43	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	83.22	217.66	Reject submission point.
Kāinga Ora	106.3		Delete the setback requirements from rail and transport corridors AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.29		Retain the deletion of MRZ2-R8 Construction or alteration of a building for a sensitive land use AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.37		Delete the setbacks for railway corridors, national route/regional arterial and the Waikato Expressway from MRZ2-SI4 Building setback – sensitive land use as follows: (1) Activity status: PER Where: (a) Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii) 15m from the boundary of a national route or regional arterial; (iii) 25m from the designated boundary of the Waikato Expressway; ... (2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Road network safety and efficiency; AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Wel Networks	106.37	203.2	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
KiwiRail	106.37	215.4	Reject submission point.
First Gas Limited	117.1		Amend variation 3 to recognise the safety and reserve sensitivity concerns of building close to First Gas assets. The relief sought is carried over from the original submission (#945) by First Gas on the Proposed Waikato District Plan.
Horitiu Farms Limited	117.1		Disallow submission point
First Gas Limited	117.2		Amend MRZ2-S14(1) to include the following additional setback minimums:  (1) Activity status: PER Where: (a) Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii) 5m from the boundary of a national route or regional arterial; (iii) 25m from the designated boundary of the Waikato Expressway; (iv) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; (v) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; <del>and</del> (vi) 300m from the boundary of the Alstra Poultry intensive farming activities located on River Road and Great Sought Road, Ngaaruawaahia (vii) <del>620</del> m from the centre of a gas transmission line identified on the planning maps; <del>and</del> (viii) <u>60m from the gas network (other than a gas transmission pipeline)</u>
Horitiu Farms Limited	117.2		Disallow submission point

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
First Limited Gas	117.3		<p>Add an additional matter over which Council's discretion is limited to MDRZ2-S14(2), as follows:</p> <p>(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters:</p> <p>(a) Road network safety and efficiency;</p> <p>(b) On-site amenity values ;</p> <p>(c) Odour, dust and noise levels received at the notional boundary of the building;</p> <p>(d) Mitigation measures; <del>and</del></p> <p>(e) Potential for reverse sensitivity effect; <u>and</u></p> <p><u>(f) The extent to which the development will avoid or mitigate conflict with the gas network.</u></p>

## Analysis

### State highways and the rail network

554. Variation 3 proposes building setbacks for sensitive land uses (MRZ2-S14) of:

- 15m from the boundary of a national or regional arterial
- 25m from the designated boundary of the Waikato Expressway
- 5m from the designated boundary of the railway corridor.

555. These provisions are consistent with the PDP setbacks included within the GRZ (GRZ-S20) which have been appealed by Waka Kotahi and KiwiRail (separately) to the Environment Court<sup>26</sup>. The relief sought by Waka Kotahi and KiwiRail in their submissions to Variation 3 is consistent with their respective reliefs sought through the Environment Court appeals.

556. Waka Kotahi (submitter #29) seeks to defer any decision on MRZ2-S14 to allow the appeal process to occur or, alternatively, replace MRZ2-S14 with the preferred Waka Kotahi noise provisions outlined in their notice of appeal. KiwiRail (submitter #54) seeks to amend the setback to apply to 100m with an additional standard in relation to vibration effects within 60m of the designated boundary of the railway corridor.

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<sup>26</sup> ENV-20022-AKL-000048

557. In a joint memorandum<sup>27</sup> of counsel by Waka Kotahi, KiwiRail and Waikato District Council to the IHP it was stated that:

*Waka Kotahi, KiwiRail and Council have met several times to discuss the key issues relating to the appeals and are making progress on some updated provisions. A meeting is scheduled for 28 June 2023 with all the parties to the appeals (including 274 parties) to discuss the updated provisions. The parties have been working hard to expediate the appeals process with the timing of the Variation 3 hearing in mind, but cannot be certain that the appeals will be resolved before the Variation 3 hearing in late July/early August.*

*For that reason, the parties respectfully request that all Waka Kotahi and KiwiRail's relief elements for noise and vibration controls and setbacks in relation to Variation 3 is postponed until the end of the hearing process to enable time and resources to be put into resolving the PDP appeals.*

558. The request was accepted by the IHP on 12 June 2023.
559. Based on the above, I recommend that decisions on submission points #54.2, #54.11, #54.12, #54.13, #54.14, #54.15 and #29.4 be deferred until the end of the Variation 3 hearing process in early November 2023.
560. In addition to submission points relating to MRZ2-S14, KiwiRail submitted that rail should be retained as a qualifying matter. Given the rail network traverses relevant residential zones within the Waikato, I similarly support the retention of rail as a qualifying matter and recommend that submission point #54.1 be accepted.

#### *The national grid electricity transmission network*

561. Variation 3 proposes new rule MRZ2-R10 (Buildings, structures and sensitive land uses within the National Grid Yard in sites existing as of 18 July 2018). Of relevance to residential development the rule proposes a non-complying activity status for new buildings for sensitive land uses or additions for buildings that accommodate sensitive land uses that increase the building height or footprint. Variation 3 also propose new rule MRZ2-R11 which provides for the establishment of any new sensitive land use within the National Grid Yard as a non-complying activity and SUB-R162 (Subdivision within the National Grid Yard) requires new allotments to demonstrate that building platforms for sensitive land uses can be accommodated outside the National Grid Yard. The proposed provisions are consistent with the National Grid Yard rules of other zones within the PDP including the General residential zone<sup>28</sup>. On that basis, there is no change proposed to the management of residential development within the National Grid Yard.
562. Transpower (submitter #18) submitted in support of the recognition of the National Grid as a qualifying matter and in support of the proposed National Grid provisions within Variation 3 and I recommend that their submission points regarding the National Grid Yard rules be accepted (#18.3, #18.4, #18.5, #18.9, #18.19 and #18.22).

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<sup>27</sup> Paragraphs 6-7 of the joint memorandum to the IPH, 9 June 2023

<sup>28</sup> The National Grid does not traverse the MRZ1 and therefore there the same provisions do not apply within this zone.



563. Transpower makes other submission points in relation to the definition of qualifying matters, strategic directions, subdivision provisions. These submission points generally relate to improved plan usability and are addressed within other sections of this report.

*The high-pressure gas transmission pipeline*

564. Variation 3 proposes a setback of 6m from the centre of a gas transmission line identified on the planning maps (MRZ-S14). The mapped gas transmission line traverse relevant residential zones in Tuakau as shown in Figure 36 below. There are no other relevant residential zones affected within the Waikato District.

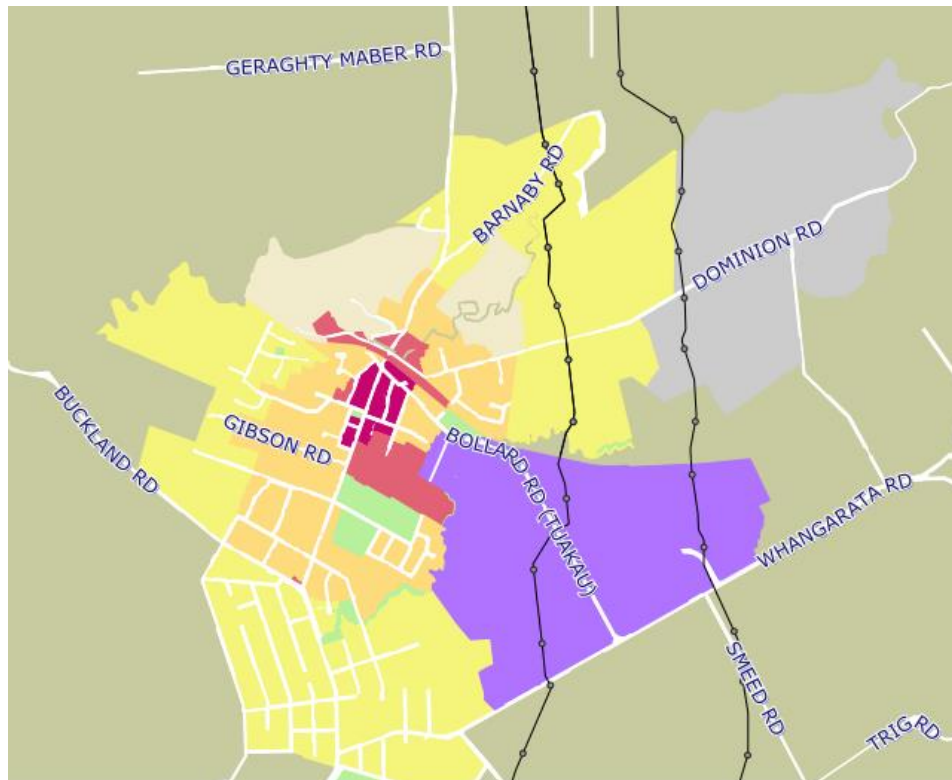


Figure 36: Gas transmission lines traversing relevant residential zones (yellow and orange) in Tuakau

565. First Gas Ltd (submitter #117) submitted that Variation 3 should be amended in line with the relief sought in their original submission to the PDP. Specifically, they seek the following amendment to MRZ2-S14(1):

*(1) Activity status: PER*

*Where:*

*(a) Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of:*

*(i) 5m from the designated boundary of the railway corridor;*

*(ii) 5m from the boundary of a national route or regional arterial;*

*(iii) 25m from the designated boundary of the Waikato Expressway;*

(iv) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site;

(v) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed;

(vi) 300m from the boundary of the Alstra Poultry intensive farming activities located on River Road and Great Sought Road, Ngaaruwaahia;

(vii) ~~620m~~ from the centre of a gas transmission line identified on the planning maps;  
and

(viii) 60m from the gas network (other than a gas transmission pipeline)

566. First Gas submitted on their primary submission to clarify that the relief sought extends to all residential zones that the pipeline traverses, the General residential zone and the Medium density residential zone.

567. The setback proposed by Variation 3 and the relief sought by First Gas are both more restrictive than what is currently provided for in the PDP. If the Waikanae approach was applied, I am of a view that the proposed setback or the relief could not be considered as part of the IPI process and would therefore recommend the submission point be rejected (#117.2) and the proposed setback be removed.

568. First Gas further seek the following amendment to the matters of discretion of MDRZ2-s14(2):

*(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters:*

*(a) Road network safety and efficiency;*

*(b) On-site amenity values ;*

*(c) Odour, dust and noise levels received at the notional boundary of the building;*

*(d) Mitigation measures; ~~and~~*

*(e) Potential for reverse sensitivity effect; and*

*(f) The extent to which the development will avoid or mitigate conflict with the gas network.*

569. MDRZ2-S14(2) relates to setbacks of sensitive uses from a range of infrastructure and activities, including a setback from the gas transmission line identified on the planning maps. The existing matters of discretion do not specifically include a matter that is relevant to the safe and efficient functioning of the gas network. If the rule included a setback to the gas network I would support the inclusion of a relevant matter of discretion. However, on the basis of my recommendation above (to remove the setback to gas transmission lines if the Waikanae approach applies) I do not consider it appropriate to include the requested matter of discretion. On that basis reject the First Gas submission point (#117.2).

570. I note that First Gas have appealed the PDP decision to the Environment Court and that draft consent documents were lodged with the court on 19 May 2023 in relation to setbacks to the gas network in the GIZ, HIZ, GRUZ and RLZ. The draft consent documents propose building setbacks for sensitive land uses of 6m and include a draft matter of discretion where compliance is not that is consistent with the requested matter of discretion outlined above.

571. I understand that due to scope limitations the setback was not applied consistently across all zones traversed by the gas network (i.e. not the GRZ and the MRZ). If the Panel were of a view that the Waikanae approach should not be adopted, my recommendation would be to:

- Retain the notified setback requirements for gas transmission lines (i.e. 6m); and
- Include the above stated matter of discretion.

## Recommendations

572. If the Panel applies the Waikanae approach, amend MRZ2-S14(1) as follows:

*(1) Activity status: PER*

*Where:*

*(a) Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of:*

*573. (i) 5m from the designated boundary of the railway corridor;*

*574. (ii) 5m from the boundary of a national route or regional arterial;*

*575. (iii) 25m from the designated boundary of the Waikato Expressway;*

*(iv) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site;*

*(v) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed;*

*(vi) 300m from the boundary of the Alstra Poultry intensive farming activities located on River Road and Great Sought Road, Ngaaruawaahia; and*

~~*(vii) 6m from the centre of a gas transmission line identified on the planning maps*~~

576. If the Panel does not apply the Waikanae approach, amend MRZ2-S14(2) as follows:

<b>MRZ-S14</b>	Building setback – sensitive land use	
<p><b>1. Activity status: PER</b></p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of: <ul style="list-style-type: none"> <li>i. 5m from the designated boundary of the railway corridor;</li> <li>ii. 15m from the boundary of a national route or regional arterial;</li> <li>iii. 25m from the designated boundary of the Waikato Expressway;</li> <li>iv. 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site;</li> <li>v. 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and</li> <li>vi. 300m from the boundary of the Alstra Poultry intensive farming activities located on River Road and Great South Road, Ngaaruawaahia.</li> <li>vii. 6m from the centre of a gas transmission line identified on the planning maps</li> </ul> </li> </ul>	<p><b>2. Activity status where compliance not achieved: RDIS</b></p> <p><b>Council’s discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>a. Road network safety and efficiency;</li> <li>b. On-site amenity values;</li> <li>c. Odour, dust and noise levels received at the notional boundary of the building;</li> <li>d. Mitigation measures; <del>and</del></li> <li>e. Potential for reverse sensitivity effects <u>and</u></li> <li>f. <u>The extent to which development will avoid or mitigate conflict with the gas network.</u></li> </ul>	

### S32AA Evaluation

577. If the Waikanae approach is applied, the setback provisions to the gas transmission line can not be included. This amendment therefore does not require a s32AA evaluation.

578. If the Panel did not apply the Waikanae approach, I consider there to be 3 options to address the protection of the gas transmission line as a qualifying matter:

- **Option 1** – Status quo - apply the standard as notified (6m setback) and no relevant matters of discretion.
- **Option 2** – Apply the standard as notified (6m setback) and include a relevant matter of discretion.

- **Option 3** – Apply the standards and matters of discretion requested by FirstGas (20m setback from gas transmission lines, 60m setback from the gas network other than transmission lines) and a relevant matter of discretion.
579. Option 1 is not efficient or effective as there would be no ability for Council to assess any encroachment into the gas pipeline setback on the gas network.
580. Option 2 is efficient and effective in that it provides for protection for the operation of the gas network and enables Council to assess any encroachments into the setback on the network. The option is further efficient as it would be consistent with the draft setbacks that have been proposed (via consent orders to the Environment Court) for the GIZ, HIZ, GRUZ and RLZ.
581. Option 3 is difficult to assess given that no evidence was provided by FirstGas to support the requested 20m and 60m setbacks. Notwithstanding this, I do not consider it efficient to apply different setback standards to the same infrastructure within different zones.
582. The costs of Option 1 and 2 are likely to be similar, however, there are benefits to the effective operation of nationally significant infrastructure if Council can assess the effects of any encroachment into the setback on the operation of the network. The costs of Option 3 are likely to be substantial with significant areas of land unable to be developed and would therefore be inconsistent with the objectives of the proposal (in relation to intensification).
583. The risk of not acting/amending the proposed provisions are that the gas network may not be managed in the most effective and efficient manner. It could result in adverse effects on the operation of the gas network.
584. For the reasons outlined above, I consider that Option 2 is the most appropriate way to achieve the objectives of the proposal and provide for national infrastructure as a qualifying matter.

## 6.6 Urban Fringe

### Introduction

585. Variation 3 included an urban fringe qualifying matter which limited the geographic application of the MDRS to within the 800m walkable catchments of Pookeno, Tuakau, Huntly, and Ngaaruawaahia. This section of the report addresses the submissions that were received in relation to the urban fringe qualifying matter (noting that the urban fringe qualifying matter was considered by the IHP as not satisfying the requirements of s77L of the RMA<sup>29</sup> as is detailed in section 2 of this report).

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<sup>29</sup> IHP Interim Guidance issued on 13 March 2023.

## Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Waka Kotahi*	29.1		Support the walkable catchment for the medium Density Residential 2 Zone.
Top End Properties*	29.1	222.1	Disallow the submission
CSL Trust*	29.1	223.1	Disallow the submission
Pokeno West* and West Pokeno Limited	29.1	224.1	Disallow the submission
Pareoranga Te Kata	29.1	225.1	Allow the submission in whole
Waka Kotahi*	29.3		Evaluate the additional option of providing for increased density in the four towns and make any consequential changes.
Pokeno Village Holdings Limited	29.3	206.1	Reject submission point.
Havelock Vilages Limited*	29.3	218.1	Accept submission point
Hynds Pipe Systems Ltd*	29.3	221.3	Reject submission point.
Top End Properties*	29.3	222.2	Allow the submission
CSL Trust*	29.3	223.2	Allow the submission
Pokeno West* and West Pokeno Limited	29.3	224.2	Allow the submission
Pareoranga Te Kata	29.3	225.3	Allow the submission in part
Waikato Regional Council*	42.8		Consider enabling an intermediary density within the areas of the four towns outside of the 800m walkable catchment, for example by providing for two residential units per site as a Permitted Activity. AND Amend the objectives, policies, and rules within the areas of the four towns outside of the 800m walkable catchments subsequently.
Kāinga Ora	42.8	217.26	Reject submission point.
Hynds Pipe Systems Ltd*	42.8	221.5	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Top End Properties*	42.8	222.9	Allow the submission
CSL Trust*	42.8	223.9	Allow the submission
Pokeno West* and West Pokeno Limited	42.8	224.9	Allow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.1		No specific decision requested, but submission supports the proposal to not allow further intensification by retaining the General residential zone in Pookeno to address qualifying matters. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Vilages Limited*	44.1	218.2	Reject submission point.
Hynds Pipe Systems Ltd*	44.1	221.6	Accept submission point.
Top End Properties*	44.1	222.13	Disallow the submission
CSL Trust*	44.1	223.13	Disallow the submission
Pokeno West* and West Pokeno Limited	44.1	224.13	Disallow the submission
Synlait Milk Ltd	46.1		Retain the Pookeno planning map as notified, in particular the retention of the General Residential Zoning as shown on the Planning Map. Submission opposes any change from General Residential to Medium Residential Zone 1 or Medium Residential Zone 2 on land adjoining or in proximity of the Heavy Industrial Zone.
Pokeno Village Holdings Limited	46.1	206.5	Support submission point in part.
Havelock Village Limited*	46.1	218.9	Reject submission point.
Hynds Pipe Systems Ltd*	46.1	221.8	Accept submission point.
Top End Properties*	46.1	222.2	Disallow the submission
CSL Trust*	46.1	223.2	Disallow the submission
Pokeno West* and West Pokeno Limited	46.1	242.2	Disallow the submission

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ngāti Te Ata	46.1	228.5	Accept submission point 46.1 to the extent it seeks to appropriately limit the application of the MDRS throughout Pōkeno's rural backdrop.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.7		Retain the proposal not to allow further intensification of residential land at Pookeno to address qualifying matters AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Vilages Limited*	44.7	218.8	Reject submission point.
Top End Properties*	44.7	222.19	Disallow the submission
CSL Trust*	44.7	223.19	Disallow the submission
Pokeno West* and West Pokeno Limited	44.7	224.19	Disallow the submission
Ministry of Housing and Urban Development (HUD)	50.1		Delete the urban fringe qualifying matter and apply the MDRS as required by the RMA across the relevant residential zones. AND Amend to apply the MDRS to all relevant residential zones.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	50.1	200.9	Reject submission point.
Pokeno Village Holdings Limited	50.1	206.6	Reject submission point.
Kāinga Ora	50.1	217.38	Accept submission point.
Havelock Vilages Limited*	50.1	218.15	Accept submission point.
Hynds Pipe Systems Ltd*	50.1	221.13	Reject submission point.
Top End Properties*	50.1	222.23	Allow the submission
CSL Trust*	50.1	223.23	Allow the submission
Pokeno West* and West Pokeno Limited	50.1	224.23	Allow the submission
Jodie Bell	71.4		Amend urban fringe to from 800m to 1000m (1km)



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Patricia (Trish) Savage	74.2		Amend the approach to look for total area equivalent spaces to the proposed area covered under the blanket 800m radius which might be made up of pockets of land in different areas. The submission describes a few undeveloped areas around Pokeno where medium density housing could be considered without affecting current housing, such as east side of Helenslee Road, and the area in behind Helenslee and Hillside which are in the proposed areas to be rezoned.
CSL Trust*	82.1		Amend to apply the MDRS to all residential land within urban environments of the District, subject to any legitimate qualifying matters. This would apply to Pokeno, Tuakau, Huntly and Ngaaruwaahia. If necessary, a new zone created to accommodate that amendment. This zone could be referred to as General residential zone 2 (GRZ2) or similar. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.1	200.12	Reject submission point.
Pokeno Village Holdings Limited	82.1	206.8	Reject submission point.
Transpower NZ Ltd*	82.1	209.1	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Ports of Auckland	82.1	214.6	Disallow the submission sought in respect of a bespoke controlled activity process in the General residential zone to the extent that it would allow medium density residential development in areas outside of the "urban environment", such as Horotiu.
Top End Properties*	82.1	222.3	
Pokeno West* and West Pokeno Limited	82.1	224.3	
Ngāti Te Ata	82.1	228.8	Reject submission point 82.1 in part
CSL Trust*	82.2		Delete the Urban Fringe qualifying matter, which fails to meet the relevant statutory requirements and is inappropriate. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission (which could include the application of the MRZ2 to the full extent

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			over the four settlements that the submitter is seeking MDRS over.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.2	200.13	Reject submission point.
Pokeno Village Holdings Limited	82.2	206.9	Reject submission point.
Transpower NZ Ltd*	82.2	209.2	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	82.2	221.14	Reject submission point.
Top End Properties*	82.2	222.31	Not specified
Pokeno West* and West Pokeno Limited	82.2	224.31	Not specified
CSL Trust*	82.3		Delete the relevant standards from the GRZ that are being replaced by the MDRS [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.3	200.14	Reject submission point.
Pokeno Village Holdings Limited	82.3	206.10	Reject submission point.
Transpower NZ Ltd*	82.3	209.3	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	82.3	221.15	Reject submission point.
Top End Properties*	82.3	222.32	Not specified
Pokeno West* and West Pokeno Limited	82.3	224.32	Not specified
CSL Trust*	82.4		Add a new rule that any infringement of the MDRS is a restricted discretionary activity [see submission for

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			untracked version of the GRZ chapter]. AND Add matters of discretion based on the equivalent of those from the MDRZ2 proposed in V3. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.4	200.15	Reject submission point.
Pokeno Village Holdings Limited	82.4	206.11	Reject submission point.
Transpower NZ Ltd*	82.4	209.4	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	82.4	221.16	Reject submission point.
Top End Properties*	82.4	222.33	Not specified
Pokeno West* and West Pokeno Limited	82.4	224.33	Not specified
CSL Trust*	82.5		Add a new rule in the GRZ that one to three units are permitted subject to compliance with the MDRS [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.5	200.16	Reject submission point.
Pokeno Village Holdings Limited	82.5	206.12	Reject submission point.
Transpower NZ Ltd*	82.5	209.5	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	82.5	221.17	Reject submission point.
Top End Properties*	82.5	222.34	Not specified

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West* and West Pokeno Limited	82.5	224.34	Not specified
CSL Trust*	82.6		Add a new rule in the GRZ that four or more units are restricted discretionary activity subject to compliance with the MDRS and the remaining standards of the GRZ [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.6	200.17	Reject submission point.
Pokeno Village Holdings Limited	82.6	206.13	Reject submission point.
Transpower NZ Ltd*	82.6	209.6	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	82.6	221.18	Reject submission point.
Top End Properties*	82.6	222.35	Not specified
Pokeno West* and West Pokeno Limited	82.6	224.35	Not specified
CSL Trust*	82.7		Add matters of discretion for four or more units based on the equivalent of those from the MDRZ2 proposed in V3 or the notified Multi-Unit Housing discretions of the Proposed District Plan [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.7	200.18	Reject submission point.
Transpower NZ Ltd*	82.7	209.7	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Top End Properties*	82.7	222.36	Not specified

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West* and West Pokeno Limited	82.7	224.36	Not specified
CSL Trust*	82.8		Add a rule that for four or more units that any infringement of a MDRS rule is a restricted discretionary activity [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	82.8	200.19	Reject submission point.
Top End Properties*	82.8	222.37	Not specified
Pokeno West* and West Pokeno Limited	82.8	224.37	Not specified
Ngāti Naho Trust	83.11		Retain the 800m walkable catchment from each of the four town centres AND Apply low impact design principles and guidelines
Te Whakakitenga o Waikato Incorporated	83.11	213.32	The submitter seeks that the whole of the submission be allowed
Hynds Pipe Systems Ltd*	83.11	221.21	Accept submission point.
Jim Ivens	97.2		If the Council approve the Variation amend the walkable catchment criteria from 800m to 500m and consider applying it from a supermarket or High School, AND Amend the Variation 3 criteria to be single story
Jim Ivens	97.3		Amend Variation 3 to exclude 69b Hakanoa Street as it is outside the 800m walkable catchment AND Delete other properties that are outside the 800m walkable catchment and those that are covered by other Variations to avoid confusion
Harkness Henry Lawyers	99.1		Ensure all General residential zones have the Medium Density Standards applied as anticipated by the Resource Management Act (Enabling Housing Supply Act and Other Matters Amendment Act) OR In the alternative, if the MDRS is not applied in the General residential zone, apply the MDRS to 61 Old Taupiri Road, 26 Jackson Steet Ngaaruwaahia, 99 and 99A Ngaaruwaahia Road, Ngaaruwaahia, 18 Rangaimarie Road, Ngaaruwaahia AND retain the Medium density residential zone 2 in 15 and

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			29/33 Galbraith Street Ngaaruawaahia OR if the MDRS is not applied to the General residential zone, or the General residential zone is not rezoned to medium Density Residential 2 Zone, that the Comprehensive Residential development ('CRD' rules are reinstated AND Rezone 99A Ngaaruawaahia Road and 18 Rangimarie Road are rezoned to include the whole property under the one General residential zone to avoid having half in the General residential zone and half in the Rural Zone.
Waikato Regional Council*	99.1	205.6	Reject submission point (rezoning request).
Te Whakakitenga o Waikato Incorporated	99.1	213.61	The submitter seeks that the whole of the submission be disallowed
Ports of Auckland	99.1	214.7	Disallow the submission sought in respect of a bespoke controlled activity process in the General residential zone to the extent that it would allow medium density residential development in areas outside of the "urban environment", such as Horotiu.
Top End Properties*	99.1	222.39	Allow the first part of the submission
CSL Trust*	99.1	223.3	Allow the first part of the submission
Pokeno West* and West Pokeno Limited	99.1	224.39	Allow the first part of the submission
Kenneth Whyte	102.1		Amend the area proposed for Variation 3 for Tuakau to be within 300 metres of the periphery of The Town Centre Zone
Havelock Villages Limited*	105.1		Amend to apply the MDRS to all residential land within urban environments of the District, subject to any legitimate qualifying matters. This would apply to Pokeno, Tuakau, Huntly and Ngaaruawaahia. If necessary, a new zone created to accommodate that amendment. This zone could be referred to as General residential zone 2 (GRZ2) or similar. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.1	200.22	Reject submission point.
Pokeno Village Holdings Limited	105.1	206.15	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Transpower NZ Ltd*	105.1	209.10	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current “Land use activities” Rules GRZ-R1 to GRZ-R17.
Ports of Auckland	105.1	214.8	Disallow the submission sought in respect of a bespoke controlled activity process in the General residential zone to the extent that it would allow medium density residential development in areas outside of the “urban environment”, such as Horotiu.
Hynds Pipe Systems Ltd*	105.1	221.22	Reject submission point.
Top End Properties*	105.1	222.4	Allow the submission
CSL Trust*	105.1	223.31	Allow the submission
Pokeno West* and West Pokeno Limited	105.1	224.4	Allow the submission
Ngāti Te Ata	105.1	228.10	Reject submission point
Havelock Villages Limited*	105.2		Delete the Urban Fringe qualifying matter, which fails to meet the relevant statutory requirements and is inappropriate. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission (which could include the application of the MRZ2 to the full extent over the four settlements that the submitter is seeking MDRS over.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.2	200.23	Reject submission point.
Pokeno Village Holdings Limited	105.2	206.16	Reject submission point.
Transpower NZ Ltd*	105.2	209.11	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current “Land use activities” Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	105.2	221.23	Reject submission point.
Top End Properties*	105.2	222.41	Allow the submission
CSL Trust*	105.2	223.32	Allow the submission
Pokeno West* and West Pokeno Limited	105.2	224.41	Allow the submission

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Havelock Villages Limited*	105.3		Delete the relevant standards from the GRZ that are being replaced by the MDRS [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.3	200.24	Reject submission point.
Pokeno Village Holdings Limited	105.3	206.17	Reject submission point.
Transpower NZ Ltd*	105.3	209.12	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-RI to GRZ-R17.
Hynds Pipe Systems Ltd*	105.3	221.24	Reject submission point.
Top End Properties*	105.3	222.42	Allow the submission
CSL Trust*	105.3	223.33	Allow the submission
Pokeno West* and West Pokeno Limited	105.3	224.42	Allow the submission
Havelock Villages Limited*	105.4		Add a new rule that any infringement of the MDRS is a restricted discretionary activity [see submission for untracked version of the GRZ chapter]. AND Add matters of discretion based on the equivalent of those from the MDRZ2 proposed in V3. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.4	200.25	Reject submission point.
Pokeno Village Holdings Limited	105.4	206.18	Reject submission point.
Transpower NZ Ltd*	105.4	209.13	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-RI to GRZ-R17.
Hynds Pipe Systems Ltd*	105.4	221.25	Reject submission point.



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Top End Properties*	105.4	222.43	Allow the submission
CSL Trust*	105.4	223.34	Allow the submission
Pokeno West* and West Pokeno Limited	105.4	224.43	Allow the submission
Havelock Villages Limited*	105.5		Add a new rule in the GRZ that one to three units are permitted subject to compliance with the MDRS [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.5	200.26	Reject submission point.
Pokeno Village Holdings Limited	105.5	206.19	Reject submission point.
Transpower NZ Ltd*	105.5	209.14	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	105.5	221.26	Reject submission point.
Top End Properties*	105.5	222.44	Allow the submission
CSL Trust*	105.5	223.35	Allow the submission
Pokeno West* and West Pokeno Limited	105.5	224.44	Allow the submission
Havelock Villages Limited*	105.6		Add a new rule in the GRZ that four or more units are restricted discretionary activity subject to compliance with the MDRS and the remaining standards of the GRZ [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.6	200.27	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno Village Holdings Limited	105.6	206.20	Reject submission point.
Transpower NZ Ltd*	105.6	209.15	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	105.6	221.27	Reject submission point.
Top End Properties*	105.6	222.45	Allow the submission
CSL Trust*	105.6	223.36	Allow the submission
Pokeno West* and West Pokeno Limited	105.6	224.45	Allow the submission
Havelock Villages Limited*	105.7		Add matters of discretion for four or more units based on the equivalent of those from the MDRZ2 proposed in V3 or the notified Multi-Unit Housing discretions of the Proposed District Plan [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission. .
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.7	200.28	Reject submission point.
Transpower NZ Ltd*	105.7	209.16	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	105.7	221.28	Reject submission point.
Top End Properties*	105.7	222.46	Allow the submission
CSL Trust*	105.7	223.37	Allow the submission
Pokeno West* and West Pokeno Limited	105.7	224.46	Allow the submission
Havelock Villages Limited*	105.8		Add a rule that for four or more units that any infringement of a MDRS rule is a restricted discretionary activity [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	105.8	200.29	Reject submission point.
Transpower NZ Ltd*	105.8	209.17	Disallow the submission but if the submission is allowed, ensure that the chapter includes the current "Land use activities" Rules GRZ-R1 to GRZ-R17.
Hynds Pipe Systems Ltd*	105.8	221.29	Reject submission point.
Top End Properties*	105.8	222.47	Allow the submission
CSL Trust*	105.8	223.38	Allow the submission
Pokeno West* and West Pokeno Limited	105.8	224.47	Allow the submission
Kāinga Ora	106.8		Delete the "urban fringe" qualifying matter. AND Apply the proposed MRZ2 zone (which contains the MDRS standards) to the spatial extent of the GRZ in its entirety within Huntly, Ngaaruawaahia, Pokeno and Tuakau. AND Consequential changes and amendments to the provisions and planning maps. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.8	200.32	Reject submission point.
Pokeno Village Holdings Limited	106.8	206.21	Reject submission point.
Brett Titchmarsh	106.2	210.1	Accept submission point.
Te Whakakitenga o Waikato Incorporated	106.8	213.66	The submitter seeks that the whole of the submission be disallowed
Havelock Vilages Limited*	106.8	218.16	Accept submission point.
Hynds Pipe Systems Ltd*	106.8	221.32	Reject submission point.
Top End Properties*	106.8	222.49	Allow the submission
CSL Trust*	106.8	223.4	Allow the submission

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West* and West Pokeno Limited	106.8	224.50	Allow the submission
Kāinga Ora	106.25		Amend the zoning of the General residential zoned sites in Huntly, Ngaaruawaahia, Pokeno, and Tuakau to Medium density residential 2 zone (as sought to be modified elsewhere in this submission). AND Amend the zoning so that General residential zone is only applied in areas that are not defined as 'urban environments' under the Housing Supply Act, with the exception of Raglan and Te Kauwhata. AND any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.25	200.38	Reject submission point.
Pokeno Village Holdings Limited	106.25	206.22	Reject submission point.
Hynds Pipe Systems Ltd*	106.25	221.36	Reject submission point.
Pokeno West and Pokeno West Limited*	116.1		Amend to apply the MDRS to all residential land within urban environments of the District, subject to any legitimate qualifying matters. This would apply to Pokeno, Tuakau, Huntly and Ngaaruawaahia. If necessary, a new zone created to accommodate that amendment. This zone could be referred to as General residential zone 2 (GRZ2) or similar. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes and MSBCA Fruhling Trust	116.1		Reject submission point.
Pokeno West and Pokeno West Limited*	116.2		Delete the Urban Fringe qualifying matter, which fails to meet the relevant statutory requirements and is inappropriate. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission (which could include the application of the MRZ2 to the full extent over the four settlements that the submitter is seeking MDRS over.
Anna Noakes and MSBCA Fruhling Trust	116.2		Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West and Pokeno West Limited*	116.3		Delete the relevant standards from the GRZ that are being replaced by the MDRS [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes and MSBCA Fruhling Trust	116.3		Reject submission point.
Pokeno West and Pokeno West Limited*	116.4		Add a new rule that any infringement of the MDRS is a restricted discretionary activity [see submission for untracked version of the GRZ chapter]. AND Add matters of discretion based on the equivalent of those from the MDRZ2 proposed in V3. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes and MSBCA Fruhling Trust	116.4		Reject submission point.
Pokeno West and Pokeno West Limited*	116.5		Add a new rule in the GRZ that one to three units are permitted subject to compliance with the MDRS [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes and MSBCA Fruhling Trust	116.5		Reject submission point.
Pokeno West and Pokeno West Limited*	116.6		Add a new rule in the GRZ that four or more units are restricted discretionary activity subject to compliance with the MDRS and the remaining standards of the GRZ [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes and MSBCA Fruhling Trust	116.6		Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pokeno West and Pokeno West Limited*	116.7		Add matters of discretion for four or more units based on the equivalent of those from the MDRZ2 proposed in V3 or the notified Multi-Unit Housing discretions of the Proposed District Plan [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes and MSBCA Fruhling Trust	116.7		Reject submission point.
Pokeno West and Pokeno West Limited*	116.8		Add a rule that for four or more units that any infringement of a MDRS rule is a restricted discretionary activity [see submission for untracked version of the GRZ chapter]. AND Any other such relief, and consequential amendments (including zone and overlay maps, objectives and policies), as considered appropriate to give effect to the points raised in the submission.
Anna Noakes and MSBCA Fruhling Trust	116.8		Reject submission point.
Anna Noakes and MSBCA Fruhling Trust	116.9		Reject submission point.

## Analysis

586. Eleven submission points were received in support of the urban fringe or seeking minor amendments to the way that the urban fringe is implemented. Twenty-nine submission points were received opposing the urban fringe and/or questioning its legality.

587. S771(j) of the RMA provides for 'any other matter' (as a qualifying matter) but only if s77L is satisfied. s77L contains three tests that must be met for a matter to be a qualifying matter being:

- The identification of the specific characteristic that makes the level of development provided by the MDRS (or policy 3) inappropriate in the area; and
- Justification why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and
- A site specific analysis that:
  - (i) Identifies the site to which the matter relates; and

- (ii) Evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
- (iii) Evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS while managing the specific characteristics.

588. The IHP's Directions #10 (paragrpah 22) directed any submitters who supported the urban fringe qualifying matter to advise the Panel whether they wished to pursue the matter and indentify the subject matter of evidence to be provided at the substantive hearing. No submitter responded to the direction. As a result, the IHP issued an Interim Guidance #1 on 13 March 2023. I agree with the IHP's Interim Guidance that the urban fringe qualifying matter does not meet the requirements of s77L.

589. For the above reasons, I recommend that:

- The eleven submission points that support the urban fringe are rejected.
- The twenty-nine submission points that were received in opposition to the urban fringe be accepted.

590. In the absence of an urban fringe qualifying matter, I recommend that the MRZ2 be applied to all relevant residential zones within Ngaaruawaahia, Pookeno, Tuakau and Huntly. Within the context of these four towns, the relevant residential zones are:

- The existing General residential zones
- The existing Medium density residential zones

591. I acknowledge that the removal of the urban fringe and the expansion of the MRZ2 within the four towns has resulted in the identification of additional qualifying matters and controls and these are addressed within different sections of this report as appropriate.

## **Recommendations**

592. I recommend that:

- The urban fringe is removed as a qualifying matter in accordnace with Interim Guidance #1 from the IHP.
- The MRZ2 is extended to all relevant residential zones within Ngaaruawaahia, Pookeno, Tuakau and Huntly.

## **Recommended amendments**

593. Appendix 2 contains the recommended updates to the PDP as a result of the removal of the urban fringe qualifying matter and includes the removal of any reference to 'urban fringe' or its intended outcome.

## Section 32AA evaluation

594. On the basis that the urban fringe is not considered to meet the test for a qualifying matter, and the legislative requirement to apply the MDRS within all relevant residential zones, it is not considered necessary to provide a s32AA evaluation. In addition, the s32 evaluation that supports Variation 3 continues to be relevant as it applies to the extended residential area.

## 6.7 Reverse Sensitivity

### Introduction

595. Reverse sensitivity is a proposed qualifying matter under s771(j) of the RMA. The following areas/activities<sup>30</sup> are identified as requiring restrictions to make the MDRS less enabling of development:

- Land within 300m of oxidation ponds that are part of a municipal wastewater treatment facility.
- Land within 30m of a municipal wastewater treatment facility where the treatment process is fully enclosed.
- Land within the Amenity Setback specific control in Tuakau.
- Land within the Pookeno Industry Buffer.
- Land within 300m from the boundary of the Alstra Poultry intensive farming activities located on River Road and Great South Road, Ngaaruawaahia.

596. This section of the report addresses submission points received in relation to the reverse sensitivity qualifying matter.

### Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Synlait Milk Ltd	46.4		Retain MRZ-PII Reverse Sensitivity as notified. AND Retain existing mitigation such as the Pookeno Industry Buffer to avoid any erosion of the existing development rights and opportunities of the Heavy Industrial Zone.

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<sup>30</sup> It is noted that the listed activities contain existing provisions in the PDP that protect residential activities from reverse sensitivity effects.



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Havelock Vilages Limited*	46.4	218.12	Reject submission point in part.
Hynds Pipe Systems Ltd*	46.4	221.11	Accept submission point.
Ngāti Naho Trust	83.10		Retain Reverse Sensitivity
Te Whakakitenga o Waikato Incorporated	83.10	213.31	The submitter seeks that the whole of the submission be allowed
Hynds Pipe Systems Ltd*	83.10	221.20	Accept submission point.

## Analysis

597. Synlait Milk (submitter #46) sought to retain the Pookeno Industry Buffer. Ngati Naho trust (submitter #83) sought to retain the reverse sensitivity qualifying matter generally. No other specific submission points were made in relation to the reverse sensitivity qualifying matter, however, a number of submission points related to the reverse sensitivity objectives and policies and are addressed within section 5.1 of this report.
598. Residential activities can be sensitive to activities that generate nuisance effects such as noise, odour, dust, vibration and lighting. Where residential activities are enabled in proximity to such activities, there are likely to be reverse sensitivity effects. It is noted that provisions to protect sensitive land uses (which includes residential activities) from reverse sensitivity effects are already included in the PDP and have recently been considered by an IHP as part of the district plan review process.
599. In my view, enabling further intensification within residential areas that are proximate to activities that could generate nuisance effects, increases the importance of including suitable mechanisms to protect both operators and existing/future residents.
600. S771(j) of the RMA provides for 'any other matter' (as a qualifying matter) but only if s77L is satisfied. s77L contains three tests that must each be met for a matter to be considered as a qualifying matter being:

- The identification of the specific characteristic that makes the level of development provided by the MDRS (or policy 3) inappropriate in the area; and
- Justification why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and
- A site specific analysis that:
  - (i) Identifies the site to which the matter relates; and
  - (ii) Evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
  - (iii) Evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (or policy 3) while managing the specific characteristics.

601. The information that addresses the above requirements was provided within the s32 Report that supports Variation 3<sup>31</sup>.

602. Based on the above, I support the reverse sensitivity qualifying matter and recommend that submission points #46.4 and #83.10 be accepted.

603. As a result of the intended removal of the urban fringe, Council was required to consider whether there were any additional qualifying matters that should be included with the spatial extent of the urban fringe as notified. As part of this process, Council identified the following additional draft matters in relation to the reverse sensitivity qualifying matter<sup>32</sup>:

- Land within the Pookeno Industry Buffer<sup>33</sup> (located within the Havelock Precinct); and
- The 40dB LAeq noise contour area within the Havelock Precinct.

604. As is stated earlier, the Havelock Precinct is a greenfield site within Pookeno that was partially rezoned General residential through the district plan review process. The decision on the PDP applied a range of provisions to the Havelock Precinct to control development outcomes and manage a range of actual and potential effects on the environment as a result of the rezoning.

605. There are numerous Environment Court appeals against the WDC's decision on the PDP in relation to the Havelock Precinct which include both the zoning of the precinct in its entirety and matters relating to reverse sensitivity (as well as a range of other matters). As a result, it is difficult to assess individual provisions in isolation from the broader intended outcomes of the precinct.

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31 Refer to Section 12 in the Section 32 Report, Volume 2 dated September 2022

32 Refer to Havelock Precinct – Draft Qualifying Matters and Controls dated 24 April 2023 at Appendix 5

33 This was incorrectly referred to as the Havelock Industry Buffer within the 24 April 2023 document

606. An expert conferencing meeting was held on 17 May 2023 in relation to the Havelock Precinct. The Joint Witness Statement for the Havelock Precinct records that<sup>34</sup>:

*All planning experts propose that reverse sensitivity as a qualifying matter be implemented (in part) through the following methods:*

- Pookeno Industry Buffer (PIB)
- The 40 dB LAeq noise contour area.

*The experts' agreement is at a conceptual level as specific wording of proposed provisions has not been circulated or discussed.*

607. In relation to the Pookeno Industry Buffer, Council propose to retain the existing provision (PREC4-S2) which provides for any new building or alteration to an existing building within the buffer as a non-complying activity. The buffer was deemed to be appropriate by the PDP IHP to minimise the potential for reverse sensitivity from adjacent industrial operators and I recommend that this provision is retained to provide for the reverse sensitivity qualifying matter.

608. Similarly, the 40 dB LAeq noise contour is an existing overlay within the PDP which applies acoustic attenuation standards to sensitive land uses. It is understood that noise modelling undertaken to support the District Plan review process was based on a GRZ scenario and that a 8m building height was the maximum height that was assessed. For this reason, Council propose to retain the 8m height restriction within the noise contour, rather than 11m, to minimise any potential reverse sensitivity effects.

609. Evidence to support the reduction of the 11m MDRS building height within the 40 dB LAeq noise contour has not been provided. It is therefore not possible to assess the appropriateness or the necessity of the reduced building height to manage reverse sensitivity effects within the noise contour. Despite this, the landowner (Havelock Villages Limited) supports the proposed provision.

610. My understanding following the expert conferencing was that Havelock Villages Limited was to provide the evidence to support the additional qualifying matters. This would address some concerns raised by submitters as a result of the intended removal of the urban fringe and appellants who have appealed the PDP rezoning of the Havelock Precinct.

611. While this evidence is yet to be provided, I support:

- The inclusion of the 40 dB LAeq noise contour and associated reduction in building height to 8m; and
- The inclusion of a 50m setback from the Pookeno industry buffer and associated reduction in building height to 5m.

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34 Page 4, Havelock Precinct JWS, 17

612. I support the provisions on the basis that they form part of a suite of provisions that seek to manage development outcomes within the Havelock Precinct, including the management of reverse sensitivity. It is also consistent with the IHP's decision to rezone part of the area to GRZ subject to controls to address reverse sensitivity effects.

### **Recommendations**

613. I recommend that the following additional areas/activities are identified as requiring restrictions to make the MDRS less enabling:

- Land within the 40 dB LAeq noise contour.
- Land within 50m of the Pookeno Industry Buffer.

### **Recommended amendments for the Havelock Precinct**

614. Due to numerous amendments proposed to the Havelock Precinct provisions as a whole, the recommended amendments are shown in Appendix 2 rather than within the report. The recommended amendments (including amendments in relation to culturally significant landscapes discussed in section 6.1) include:

- Retaining the existing Environmental Protection Areas and associated setback standards (these are existing provisions within the PDP).
- Restricting the number of residential units within the slope residential area to one unit per site.
- Restricting the building coverage within the slope residential area to 40%.
- Retaining the existing provision that restricts the height of any building or structure within 50m of a hilltop park to 5m.
- Restricting the height of any building or structure within the Havelock industry buffer height restriction area to 5m.
- Retaining existing provisions for building design standards for sensitive land uses within the 40dB LAeq noise contour area.
- Retaining existing subdivision provisions for subdivisions within the Havelock precinct (SUB-R19, SUB-R20, SUB-R21),

### **Havelock precinct provisions Evaluation**

615. The section below assesses the application of the recommended provisions for the Havelock Precinct that would apply in addition to the relevant district wide and the underlying zoning provisions. It is considered that the suite of provisions should be considered as a package as they collectively contribute to specific outcomes within the precinct.

616. The following options are considered:

- **Option 1** - Apply the MDRS (via MRZ2) to the relevant residential zone within the precinct without qualifying matters.

- **Option 2** - Apply the MDRS (via MRZ2) to the relevant residential zone within the precinct and apply the existing overlays, standards and rules that apply within the precinct as qualifying matters and related provisions.
  - **Option 3** - Apply the MDRS (via MRZ2) to the relevant residential zone within the precinct. Apply the existing overlays, standards and rules that apply within the precinct as qualifying matters and related provisions and apply additional qualifying matters to minimise the potential for reverse sensitivity effects and protect culturally significant landscapes.
617. Option 1 is not considered to be the most effective or efficient as it does not provide for and/or protect a number of important features and characteristics of the precinct.
618. Option 2 is not considered to be the most effective or efficient as it does not address the concerns raised by submitters in relation to managing potential adverse effects associated with the development of the precinct.
619. Option 3 is considered to be most effective and efficient as it manages the potential adverse effects associated with the development of the precinct and provides for qualifying matters. The suite of provisions that should ultimately apply within the precinct may change (based on further evidence that is yet to be provided). Notwithstanding this, in my view the additional qualifying matters included within Option 3 better manage effects associated with culturally significant landscapes and reverse sensitivity effects than Options 1 and 2.
620. The costs of implementing the options to Council are similar for all options. The costs of implementing the requirements of each Option to the developer are lowest for Option 1, higher for Option 2 and highest for Option 3. The environmental costs (including the impacts on the wider area) are highest for Option 1, lower for Option 2 and lowest for Option 3.
621. For the above reasons, and with the evidence available to date, I recommend that Option 3 is the most appropriate way to achieve the objectives of the proposal. In my view Option 3 provides the best balance for enabling MDRS outcomes while protecting and providing for a number of important features and characteristics of the site and surrounds.

## **6.8 Additional Qualifying Matters Requested by Submitters**

### **Introduction**

622. Variation 3 provided an opportunity to submitters to identify any additional qualifying matters that would warrant the MDRS and Policy 3 of the NPS-UD to be less enabling. This section of the report addresses submission points that were received in relation to additional qualifying matters not included in the notified variation.

## Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Pookeno Community Committee	41.2		Add Pookeno Special Character as a Qualifying matter in MRZ2-P6.
Pokeno Village Holdings Limited	41.2	206.4	Accept submission point to the extent it seeks to appropriately limit the application of the MDRS throughout Pōkeno.
Kāinga Ora	41.2	217.19	Reject submission point.
Top End Properties*	41.2	222.5	Disallow the submission
CSL Trust*	41.2	223.5	Disallow the submission
Pokeno West* and West Pokeno Limited	41.2	224.5	Disallow the submission
Ngāti Te Ata	41.2	228.4	Accept submission point 41.22 to the extent it seeks to limit the application of the MDRS throughout Pōkeno's rural backdrop.
Teresa Wine	61.2		Add Pookeno special character as a qualifying matter
Top End Properties*	61.2	222.26	Disallow the submission
CSL Trust*	61.2	223.26	Disallow the submission
Pokeno West* and West Pokeno Limited	61.2	224.26	Disallow the submission

## Analysis

623. Two submission points were received in relation an additional qualifying matter. Pookeno Community Committee (submitter #41) and Teresa Wine (submitter #61) both requested that the special character of Pookeno should be included as a qualifying matter.
624. I do not consider that the character of Pookeno can be a qualifying matter under 771(a)-771(i). Therefore, it would need to be provided for as an 'any other matter' under 771(j)

625. s77L(j) of the RMA provides for 'any other matter' (as a qualifying matter) but only if s77L is satisfied. s77L contains three tests that must each be met for a matter to be considered as a qualifying matter being:
- The identification of the specific characteristic that makes the level of development provided by the MDRS (or policy 3) inappropriate in the area; and
  - Justification why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and
  - A site specific analysis that:
    - (i) Identifies the site to which the matter relates; and
    - (ii) Evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
    - (iii) Evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (or policy 3) while managing the specific characteristics.
626. No information that addresses the above requirements was provided and on that basis I do not consider that the character of Pookeno can be considered as a qualifying matter under s77L(j). On that basis, I recommend that submission points #41.2 and #61.2 be rejected.

### **Recommendations**

627. I recommend that there are no additional qualifying matters included.

### **Recommended amendments**

628. There are no recommended amendments

## 7 Topic 4: Accommodating Growth

629. This topic includes the following themes:

- Application of Policy 3(d)
- Infrastructure Capacity

### 7.1 Application of Policy 3(d)

#### Introduction

630. Section 80E of the Act defines an IPI as a change or variation to a proposed district plan that must incorporate the MDRS and for a Tier 1 territorial authority to give effect to Policy 3 and 4 of the NPS-UD. The interpretation section of the Act defines Waikato District Council as a Tier 1 territorial authority. Policy 3 is therefore relevant to Waikato District Council.

631. The Act requires consideration of Policy 3 in respect of both residential and non-residential zones (s77G and s77N).

632. I think it is useful to start with an overview of Policy 3 and its requirements. The Policy is set out below:

**Policy 3:** In relation to tier 1 urban environments, regional policy statements and district plans enable:

- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and
- (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
- (c) building heights of at least 6 storeys within at least a walkable catchment of the following:
  - (i) existing and planned rapid transit stops
  - (ii) the edge of city centre zones
  - (iii) the edge of metropolitan centre zones; and
- (d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.

633. I consider 3 (a) to (c) do not apply in the context of the Waikato District. Turning to 3(d) I note the towns subject to Variation 3 do contain town centre zones and local centre zones. I note they also contain a commercial zone which I consider is also relevant under this Policy. In my opinion it is relevant to consider in this S42A report whether within and adjacent to these zones any amendments to building height and densities are required commensurate with the level of commercial activities and services.

634. In my opinion the key matters to consider are:

- What is the level of commercial activities and community services?



- What is commensurate?
- What is within and adjacent?
- Within this context is there the need for any further amendments to building height and densities over and above the existing provisions and those proposed through Variation 3

635. A fulsome Policy 3(d) analysis was not carried out as part of the notified Variation. I also note no land was rezoned to a commercial zone as part of the Variation, nor was any high-density zone identified.

*Level of commercial activities and community services*

636. The towns in the Waikato District, subject to Variation 3, are located between the metropolitan centres of Auckland and Hamilton. They form part of the Hamilton to Auckland Corridor. They are important and strategic towns because of this location, but they are not metropolitan centres, nor are they cities.

637. I also consider in terms of the wider Waikato Future Proof area the Waikato District towns are not the size of Cambridge and Te Awamutu, nor are they planned to be. In this regard I note the populations of the township of Cambridge was 18,654 at the time of the 2018 census and the population of Te Awamutu was 12,198. In comparison I note the 2018 census population of the largest township in the Waikato District is Huntly which was 8,342 people with a population projection of 13,706 people by 2060. It is also relevant to consider the existing comparative size of the commercial centres with the Waipā district. I note Mr McGahan in his S42A report for the Waipā Plan Change 26 hearing on the Waipā IPI reported Cambridge was around 69ha in size, with Te Awamutu being 44ha this compares to Huntly at 27.98ha, Ngaaruawaahia at approximately 8.68ha, Tuakau at 28.17ha and Pookeno at around 21.56ha (based on the TCZ and the COMZ in the PDP Decisions version). In my opinion, the comparative scale of the towns in the Waikato District is an important consideration under Policy 3(d).

638. The comparatively smaller scale of the townships in the Waikato District mean they do not support the level and range of commercial activities and community services that commonly exist in larger towns. Appendix 4 lists the range of activities and community services that currently exist. At the time of writing this report I am not aware of any significant planned developments. As a simple example I note there is one small supermarket in Ngaaruawaahia and one superette. By comparison there are two large supermarkets in Te Awamutu and three large supermarkets in Cambridge with another one planned, Along with multiple superette options in both Waipā towns.

639. The existing range of commercial activities and community services in the Waikato District townships subject to Variation 3 have been identified (refer Appendix 4). I consider this is helpful as it does identify that even with smaller population sizes there are a range of existing commercial activities and community services albeit with limited options and a restricted range of retail activities. I note there are some notable gaps, for instance Pookeno does not have a secondary school, there are a limited range of banking facilities compared to other towns, limited or no government departments, and not all towns have swimming pools. This is to be expected as smaller population sizes cannot sustain the market for retail stores, particularly specialty stores or those that rely on comparison shopping. Also, with smaller population bases there is less demand and some community services become less viable. For the townships in the Waikato, I note there is also ready access in the adjoining larger centres of Auckland and

Hamilton. I consider the proximity of the larger centres will impact on the role and function of the townships in the Waikato District.

640. I also consider in terms of commercial and community services that in townships of a smaller scale there may be only one option available whereas in other towns there will be a greater range of goods and services. As an example Mr McGahan presented in his S42A report for Plan Change 26 that there are multiple options for medical and health facilities in the towns of Cambridge and Te Awamutu, by comparison only one medical centre is located in each of Ngaaruawaahia, Tuakau and Pookeno and two in Huntly. Over time the range of community services and commercial activities in the Waikato towns may change as population grows. However, there are also some wider economic considerations that need to be taken into account, for instance Ngaaruawaahia's accessibility to Hamilton and Tuakau and Pookeno's accessibility to Pukekohe will influence the level growth in the Waikato towns. In my opinion, because of this factor it is unlikely that the role and function of the centres in the Waikato towns will change. Also, the commercial feasibility of establishing businesses and community services in areas will be influenced by how buoyant the local economy is.
641. I note that the population growth of the four towns is predicted to grow steadily with comparatively more growth in Tuakau and Pookeno. Although I note Huntly is projected to still be the largest town in the Waikato District. With growth additional businesses may choose to locate in these towns. Regardless of this I note all four towns are predicted by 2060 to have a lower population than Cambridge and Te Awamutu had in 2018.

#### *Commensurate*

642. Policy 3(d) requires consideration of buildings heights and densities that are commensurate with the level of commercial activities and services. The term commensurate is defined as, corresponding or in proportion with. It therefore follows that building densities and heights are to be in proportion to the level of commercial activities and services. I agree with the conclusion reached at Waipa Plan Change 26 hearing that what is commensurate is forward looking, and upto 30 years, as per the long term timeframe in the NPS-UD. Earlier on in this section I have explained what I consider to be a proportionate scale of buildings and densities within the Waikato / Auckland metro-spatial area. As explained it is considered that the level of commercial activities and services of the Waikato towns are smaller and have a different function than Auckland and Hamilton metropolitan centres and also different to the larger Cambridge and Te Awamutu towns. I think this is a useful comparison as it is not a one size fits all approach. Below, and in Appendix 4 I set out the findings of recent work looking at the town centres of Huntly, Pookeno and Ngaaruawaahia.

#### *Within and adjacent*

643. I would like to turn to the question what within and adjacent means in respect of the town centres subject to Variation 3. I consider the term 'within' is self-explanatory but I think it is worth considering what the term 'adjacent' means. In my opinion the term adjacent must mean close to, not necessarily adjoining, but nearby. I think this is important in the context of the spatial scale of the Waikato towns because what adjacent means in the context of Ngaaruawaahia, Huntly, Pookeno and Tuakau in my opinion is different than Cambridge, Te Awamutu and Hamilton. Simply because the geography of the towns is different, when you are at a larger scale the areas considered to be adjacent are larger whereas at a smaller scale they are simply smaller.

*Is there a need to amend density and height?*

644. To answer this question, there needs to be consideration of whether there is the need to amend densities and height in residential and non-residential zones in proportion to the level of commercial activities and community services.
645. As part of this overview there are a few key points I would like to make, and I will consider whether greater height and density is required in response to the submissions that have been received. Firstly, through the recent PDP process, in response to submissions, the height of the Town Centre Zone and the Commercial Zone was increased from 10m to 12m. The additional height more readily provides for a three-storey commercial building. These zones also provide for residential activities above the ground floors as a permitted activity.
646. Additionally, as part of Waikato 2070 a review of retail capacity was undertaken for the townships of Huntly and Pookeno (Retail and Office Space Projections for Centres, 2020). I note Waikato 2070 was developed following the notification of but before decisions on the Proposed Plan. This retail capacity study identified the need to plan for more retail space in these town centres. In towns of the scale in the Waikato retail space is generally provided for at ground floor. This would require the rezoning of sites in Huntly and Pookeno to Town Centre Zone. This rezoning did not occur when Variation 3 was notified. In respect of Huntly, it is noted in the aforementioned retail report the actual level of demand could be substantially reduced based on the take up commercial sites at Ohinewai. At a general level it is considered this report indicates the extent of the Town Centre Zone should be investigated. In my opinion, the report needs to be reviewed following the release of PDP decisions version before any further planning process is considered.
647. The Council is also currently reviewing the 2017 Ngaaruawaahia structure plan including a Town Centre Plan. This work is happening at the same time as this Variation. I note that as part of the 2017 structure plan Property Economics undertook a market assessment of Ngaaruawaahia town centre. The 2017 report concluded there is no need for any more retail space in Ngaaruawaahia, rather there is the need to consolidate existing retail within the Town Centre. This report is being updated as part of the 2023 structure plan process but is not available in time for this hearing. What the 2017 reports indicates is that no additional land around the town centre needs to be rezoned, and potentially there is a need to consolidate the zoning to provide more viable economic activity.
648. Following completion of the Ngaaruawaahia structure plan process it is likely the Council will consider introducing a plan change to implement the findings. Structure planning is also proposed to be undertaken for the other towns in the Waikato District.

## **Submissions**

649. The submissions in this section seek to:
- Retain MRZ2-O4 and MRZ2-P10 add new rules to enable more expansion of commercial or mixed uses where intensification will occur (Waikato Regional Council #42.16)
  - Add a new High Density residential zone in a 400m walkable catchments of Ngaaruawaahia and an 800m walkable catchment of Huntly along with amendments to objectives and policies (Kāinga Ora #106.4, #106.18 and #106.19). A maximum height of 22m is sought within the proposed High Density Zone

- Add a height variation control over the Town Centre zoning in Ngaruawaahia and Huntly. The height sought is 24.5m (Kāinga Ora 106.9 and #106.42).
- Extend the town centre zoning in Raglan and consider further medium density zoning (Kāinga Ora 106.6). The analysis for this submission point is contained in Topic 1.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Waikato Regional Council*	42.16		Retain MRZ2-O4 Activities AND Retain MRZ2-P10 Non-residential activities AND Amend OR Add new rules to enable more, or expansion of existing, commercial and mixed uses where intensification will be occurring.
Kāinga Ora	106.4		Add a new High Density Residential Zone (HRZ) [see submission for new chapter and provisions] AND Amend the planning maps to apply a High density residential zone to the sites within a 400m walkable catchment of the town centre of Ngaruawaahia [see submission for amended planning maps]. AND Amend the planning maps to apply a High density residential zone to the sites within an 800m walkable catchment of the town centre of Huntly [see submission for amended planning maps]. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Te Whakakitenga o Waikato Incorporated	106.4	213.63	The submitter seeks that the whole of the submission be disallowed
Ryman Healthcare Limited	106.4	219.25	Allow submission point, subject to the relief sought in Ryman's primary submission
Retirement Villages Association	106.4	220.25	Allow submission point, subject to the relief sought in Ryman's primary submission
Kāinga Ora	106.6		Encourages the Council to immediately prepare and notify plan changes that would increase the extent of the town centre zoning footprint within Raglan. Such a plan change should also provide for consideration of additional medium density zoning within the walkable catchment of the future extent of the Raglan Town Centre. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Rangitahi	106.6	208.4	Reject submission point.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Te Whakakitenga o Waikato Incorporated	106.6	213.65	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.7		No specific decision requested, but submission states that where proposed amendments to the operative district plan are not included in the submission table, those provisions are supported in part, subject to the relief sought by Kāinga Ora in its primary submission. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Kāinga Ora	106.9		Add a height variation control over the Huntly and Ngaaruawaahia centres to enable a proportionate height of buildings to that sought within the HRZ, including consequential amendments to the Town Centre Zone provisions as required [see submission for new provisions] AND Add a height variation control over business zoned land in the PDP [see submission for maps]. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.9	200.33	Reject submission point.
Te Whakakitenga o Waikato Incorporated	106.9	213.67	The submitter seeks that the whole of the submission be disallowed
Ryman Healthcare Limited	106.9	219.26	Allow submission point
Retirement Villages Association	106.9	220.26	Allow submission point
Kāinga Ora	106.18		Add a new policy to the Strategic direction chapter as follows: To provide for high density residential development within a 400m walkable catchment of the town centres of Huntly and Ngaaruawaahia AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Te Whakakitenga o Waikato Incorporated	106.18	213.75	The submitter seeks that the whole of the submission be disallowed
Kāinga Ora	106.19		Add reference to the High Density Residential Zone within the SUB subdivision provisions associated with the Medium density residential zone. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.19	200.35	Reject submission point.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.20	200.36	Reject submission point.
Kāinga Ora	106.42		Add an additional height overlay applies to the Town centre zone in Huntly, Ngaaruawaahia, Pokeno and Tuakau, to reflect the increased building heights sought within the proposed Height density residential zone sought elsewhere in the submission. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	106.42	200.41	Reject submission point.
Te Whakakitenga o Waikato Incorporated	106.42	213.84	The submitter seeks that the whole of the submission be disallowed
Retirement Villages Association	107.49		Amend the purpose, objectives and policies to recognise that residential activities are appropriate within the LCZ.
Retirement Villages Association	107.50		Add the following policies into Part 3- Local Centre Zone Provision of housing for an ageing population 1. Provide for a diverse range of housing and care options that are suitable for the needs and characteristics of older persons in the Local Centre Zone, such as retirement villages. 2. Recognise the functional and operational needs of retirement villages,

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
			including that they: a. May require greater density than the planned urban built character to enable efficient provision of services. b. Have unique layout and internal amenity needs to cater for the requirements of residents as they age. Larger sites Recognise the intensification opportunities provided by larger sites within the Medium density residential zone by providing for more efficient use of those sites. Density standards Enable the density standards to be utilised as a baseline for the assessment of the effects of developments AND Delete or Amend other Local Centre Zone objectives and policies for consistency

## Analysis

650. Waikato Regional Council (#42.16) have sought to retain MRZ2-O4 and MRZ-P10 and make amendments to rules to enable more expansion of commercial or mixed uses where intensification will occur. In the reasons for the submission the submitter states allowing for mixed use areas and the expansion of the existing commercial zones helps avoid continued reliance on the car as the main mode of transport. The submitter also states intensification may solve the housing crisis but will create transport issues if easy access to day to day needs by active or public transport are not provided for.
651. I note MRZ2-O4 and MRZ-P10 have been retained as part of this S42A report. Turning to the rules for MRZ2 I note MRZ2-R3 provides for home businesses with no restriction on the size area for the commercial activity as long as the home business remains incidental to the residential use. In addition, two people who are not permanent residents on the site are permitted to be employed at the site. Non-compliance with the standards is a RDIS activity. Furthermore MRZ2-R4 does enable community facilities as long as they are no more than 200m<sup>2</sup> GFA. The definition of community facilities is broad and is set out below:

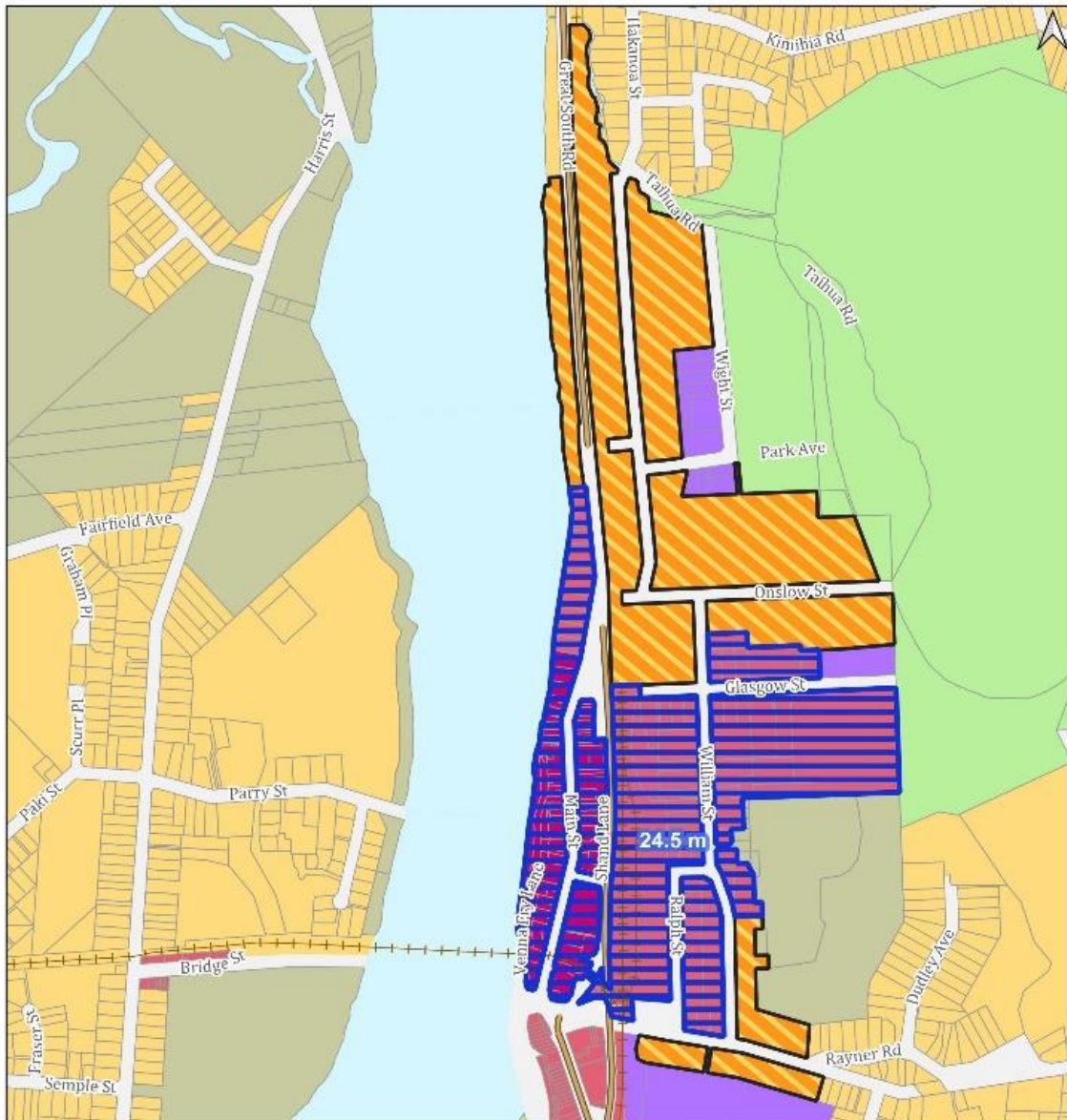
Community facility	Means land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility.
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652. The definition provides for a range of activities that people would find helpful to have near where they live.
653. I am concerned about moving away from the existing PDP framework of commercial activity focused in the town centres without more evidence. I consider further information would be required about enabling stand-alone office and retail development out of the primary town centre and the effects that would have on the comparatively small centres. I note at the time the submitter lodged the submission the Council was only applying the medium density zone to a walkable catchment from the town centre. If the relief sought by the submitter was granted, with the wider application of the MDRS, there is the potential for mixed use development to apply to sites away from the centre. On balance considering the small scale nature of the

townships within the Waikato District I recommend there should be no change in respect of this submission.

654. Kāinga Ora (#106.4, #106.18 and #106.19) has sought to add a new high density residential zone in a 400m walkable catchments of Ngaaruawaahia and an 800m walkable catchment of Huntly along with amendments to objectives and policies. A maximum height of 22m is sought. In the reasons for the submission the submitter states the high density zone is appropriate because of the size and range of activities within the centres and that locating high density development close to centres is consistent with the NPS-UD. The location of the proposed High Density Zone is shown below with darker orange stripe (Figure 37 and 38).:





**Legend**

- Kaainga Ora HRZ - High density residential zone
- GRUZ – General rural zone
- Kaainga Ora Business height variation overlay
- OSZ – Open space zone
- Recommended Variation 3 zoning
- GIZ – General industrial zone
- MRZ2 - Medium density residential zone 2
- Road
- Parcel boundary
- Decisions version zoning
- COMZ – Commercial zone
- TCZ – Town centre zone



**Kaainga Ora submission - Huntly**

Waikato District Council  
 Prepared 15 Jun 2023  
 Cadastre Boundaries - Land Information  
 New Zealand  
 Projection: NZTM2000  
 Ref: NE18900

Figure 37: Huntly High density request

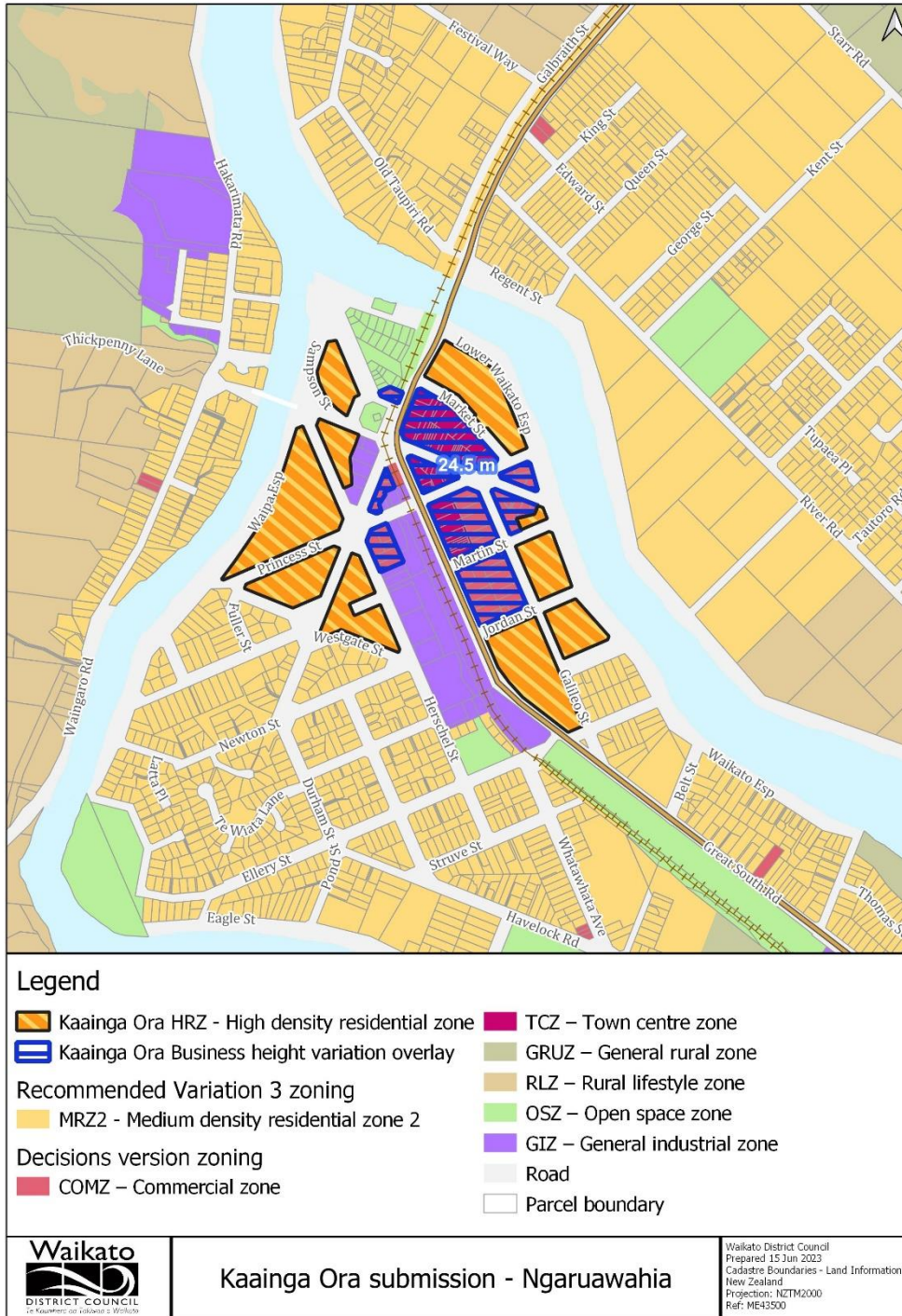


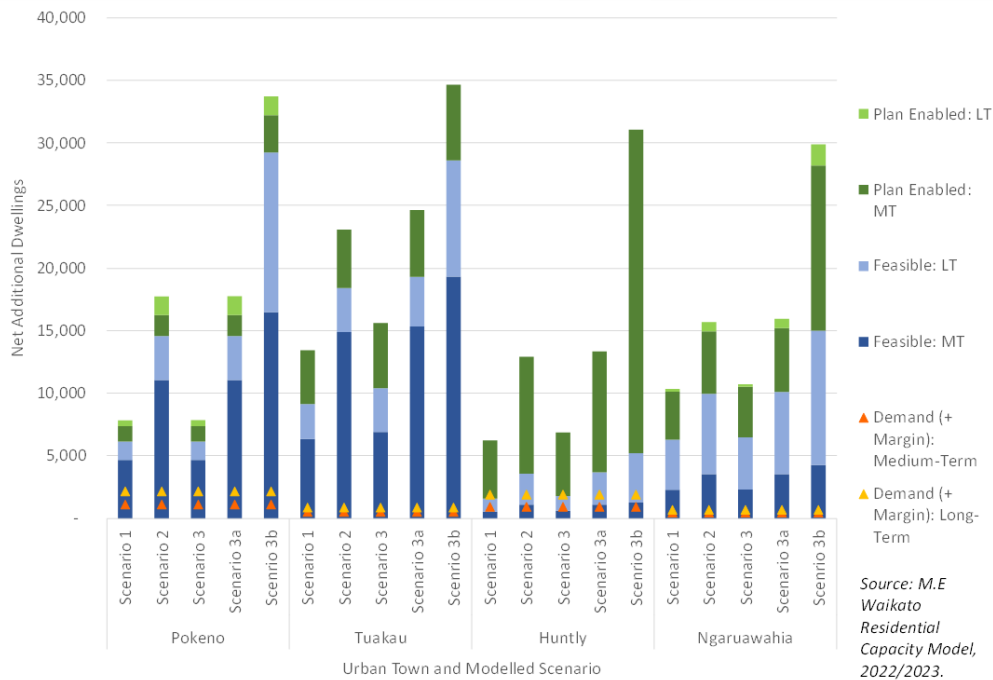
Figure 38: Ngaaruawaahia high density request

655. I do not agree for the following key reasons. There is a clear intensification cascade in Policy 3 where higher levels of development are required in places with the greatest range of activities and services. I support this approach. As explained previously I do not consider the Waikato

towns fall within 3(a) to 3(c) of Policy 3. Given this, in my opinion, it remains to be considered whether a 22m height in a high density zone (which equates to 6 storeys) is commensurate under Policy 3(d) to the commercial activity and community services in Huntly and Ngaaruawaahia; or whether despite the direction in 3(d) there is merit in considering a high density zone as requested by Kāinga Ora.

656. Turning to whether 22m is commensurate, I note I have earlier and at a high level described the levels of activities and services currently available in Ngaaruawaahia and Huntly. The main conclusion reached is while a range of activities and services are provided there are limited options for the community. I also compared Ngaaruawaahia and Huntly with Cambridge and Te Awamutu and noted the activities and services in these places are different with a greater range being provided within the latter two towns. I do note that these will change over time with population growth. In this respect, I note that by the time of the Waipā hearing, Kāinga Ora was only seeking a high density zone in Cambridge. Kāinga Ora no longer sought the high density for Te Awamutu. As I have explained, Te Awamutu is larger than any of the Waikato towns.
657. The updated Market Economics Report attached to this report identifies demand figures (Appendix 9). It notes the district's total demand for urban dwellings is projected to nearly double over the long term with a projected net increase of an additional 9,700 urban dwellings across the district's main urban towns and settlements. Over the long term (30 years) it notes the highest net increase in urban residential demand will be in Pookeno and Huntly with a projected net increases of 1,900 and 1,700 urban dwellings respectively, with smaller projected increases in Tuakau 800 dwellings and Ngaaruawaahia of 600 dwellings. It also notes this demand will also be taken up by urban areas outside of the four MDRS towns. This report also considers capacity and models several different scenarios and identifies the plan enabled capacity and commercially feasible capacity under each scenario. The scenarios are:
1. Baseline PDP Decision Version
  2. Unmodified intensification provision, applies MDRS to the base zone structure in the PDP decisions version
  3. Modified Intensification provisions – Variation 3 as notified (including urban fringe qualifying matter)
    - 3a Modified Intensification provisions – Variation 3 as notified (excluding urban fringe qualifying matter)
    - 3b Kāinga Ora proposed scenario
658. The report concludes that under all scenarios' additional dwelling capacity is large relative to demand. It summarises the enabled capacity as follows: under WDC proposed scenarios range from 5 to 12 times the level of long-term demand, with the capacity enabled under the Kāinga Ora proposed scenario being between 13 and 22 times the level of long term demand (p 64). A summary of plan enabled and commercial feasible capacity relative to demand under all scenarios is illustrated in the graph below. The graph clearly shows, from a capacity point of view there is no need for the high density zone as sought by Kāinga Ora in its submission

Figure 5-13: Modelled Capacity and Urban Demand by Location and Scenario: Medium and Long Term



659. This report also considers the demand for different housing typologies and applies a commercial feasibility lens. From this analysis I note the graphs and tables show the commercially feasible capacity for apartments does increase through time, but even in the long term there is no commercial feasibility for apartments in Huntly and reduced feasible capacity in Ngaruawahia compared with Pookeno and Tuakau (refer table below).

Table 5-36: Waikato District Long-Term Commercially Feasible Capacity by Dwelling Typology and Urban Area: Scenario 3b – Kainga Ora Proposed

LEVEL	INFILL				REDEVELOPMENT				GREENFIELD (Long-Term Infrastructure)				Max Greenfield and Existing Urban	
	Detached	Attached	Terraced/Apartment	Max Infill	Detached	Attached	Terraced/Apartment	Max Redevelopment	Max Infill or Redevelopment	Detached	Attached	Terraced/Apartment		Max Greenfield
Pokeno	1,400	5,000	3,600	5,800	1,500	7,700	1,900	8,200	9,400	7,100	13,800	19,700	19,900	29,200
Tuakau	1,100	3,300	3,500	4,400	2,400	8,100	4,500	9,600	9,900	7,800	14,100	18,500	18,700	28,600
Huntly	1,300	1,500	-	2,000	2,500	2,300	-	3,700	4,200	600	700	-	1,000	5,200
Ngaruawahia	1,100	3,700	1,300	4,000	3,400	10,800	100	10,800	11,000	1,900	4,000	10	4,000	15,000
<b>Total MDRS Area</b>	<b>4,900</b>	<b>13,500</b>	<b>8,300</b>	<b>16,300</b>	<b>9,800</b>	<b>29,000</b>	<b>6,500</b>	<b>32,300</b>	<b>34,500</b>	<b>17,500</b>	<b>32,600</b>	<b>38,200</b>	<b>43,500</b>	<b>78,000</b>
Te Kauwhata	800	1,500	800	1,700	1,100	2,200	400	2,300	2,600	2,300	2,200	1,400	2,600	5,100
Ohinewai	-	-	-	-	-	-	-	-	-	1,400	-	-	1,400	1,400
Taupiri	100	-	-	100	200	-	-	200	200	600	-	-	600	800
Hopuhopu	-	-	-	-	-	-	-	-	-	100	-	-	100	100
Horotiu	200	-	-	200	200	-	-	200	300	300	-	-	300	600
Raglan	600	900	500	1,100	900	1,300	200	1,700	1,800	1,300	50	20	1,300	3,100
<b>Total Other Urban Areas</b>	<b>1,700</b>	<b>2,400</b>	<b>1,300</b>	<b>3,100</b>	<b>2,400</b>	<b>3,500</b>	<b>700</b>	<b>4,400</b>	<b>4,800</b>	<b>6,000</b>	<b>2,300</b>	<b>1,400</b>	<b>6,300</b>	<b>11,100</b>
<b>District Total Urban</b>	<b>6,600</b>	<b>15,900</b>	<b>9,600</b>	<b>19,400</b>	<b>12,200</b>	<b>32,500</b>	<b>7,100</b>	<b>36,700</b>	<b>39,300</b>	<b>23,500</b>	<b>34,900</b>	<b>39,600</b>	<b>49,800</b>	<b>89,100</b>

Source: M.E Waikato Residential Capacity Model, 2023.

660. It is my opinion that while the modelling undertaken by Ms Fairgray indicates in the long term it is feasible for there to be apartment living in Ngaaruawaahia this is at a very modest level. I note the area proposed by Kāinga Ora does cover a reasonably large extent of the existing urban area of Ngaaruawaahia and Huntly. In Ngaaruawaahia it includes blocks of land that sit on the opposite side of the state highway from the town centre, it also includes blocks of land that are located within high risk flood zones. In Huntly it includes land that extends some distance from the town centre, and also on sites that adjoin the Waikato River that are at least partially within high risk flood zones and flood plain management areas.
661. Additionally, I consider if the high-density zone as proposed by Kāinga Ora is introduced into the Plan, despite these site constraints, there is a very real risk that there may be at the most a handful of apartment buildings constructed at a distance from the town centre that would absorb all the demand and dilute demand in more appropriate locations. I note Ms Fairgray's concluding comments which I share "*There is generally a smaller market size for more intensive dwellings within smaller urban areas, meaning that intensification in outer locations is more likely to dilute the intensification that would otherwise occur in more efficient locations around the commercial centres*". In my opinion the extent of the high density zone as proposed by Kāinga Ora will not support a well-functioning urban environment. Even if the high density zone was amended and located closer to the town centre, it is my opinion, for the reasons previously explained that it cannot be considered to be commensurate.
662. While I do not support the high density zone proposed by Kāinga Ora I do note the amendments proposed as part of the S42A report will encourage higher densities to be located closer to the existing town centres giving effect to Policy 3(d). I refer to the recommendation in Topic 1 in this report which retains the 450m<sup>2</sup> minimum site size in the area referred to in the notified version of Variation 3 as the 'urban fringe'. In my opinion this recommendation, if accepted by the Panel, will encourage higher densities closer to the centres in a building form which will be commensurate with the commercial activities and community services located within the four towns subject to MDRS in the Waikato District.
663. Kāinga Ora (#106.9 and #106.42) are seeking to add a height variation control over the Town Centre zoning in Ngaruawahia and Huntly. The height sought is 24.5m. (I note the height standard in the Town Centre was recently increased to 12m through the PDP process). In the reasons for the submission Kāinga Ora states this height is proportionate to the height of buildings sought within the High-Density Residential Zone.
664. I have recommended rejecting Kāinga Ora's submission point on the High-Density Zone. On this basis I consider there is little rationale for the Town Centre Zone Overlay as proposed by Kāinga Ora. I noted earlier the market assessment report completed in 2020 as part of Waikato 2070 identified the need to expand the Huntly Town Centre with additional retail space. Increased heights will provide options for more apartments within the town centre, but not additional retail space. In this regard I note the updated modelling undertaken as part of the Market Economics Report that concludes over the long term there is no commercial feasible market for apartments in Huntly.
665. In respect of Ngaaruawaahia I consider it would be premature to recommend height increases at this stage given the structure plan process that is currently being undertaken. Furthermore, as increased height will only provide for apartment living I had previously noted the modest demand for apartment living in this town. In my opinion this demand could easily be met in the town centre within the current height limit of 12m, or within the medium density zone as identified in the notified version of Variation 3. On these points I note:

- Currently there is reasonable levels of opportunities for redevelopment within the existing town centre, an example being the former Waipa tavern site which is vacant, and the simple fact that a lot of existing buildings are of a single storey. While I acknowledge this may change over time it is my opinion there is significant capacity available within the current height limit.
- In the medium density zone, in the locations identified in the notified version of Variation 3, a minimum vacant site size of 200m<sup>2</sup> is provided for. This site size provides suitable land area that would provide for apartment type living.

## **Recommendations**

666. On this basis, I recommend retaining 12m as the maximum height standard in the Town Centre Zone.

## **Recommended amendments**

667. There are no recommended amendments.

## **7.2 Infrastructure Capacity**

### **Introduction**

668. Variation 3 will enable significant intensification within the residential zones of Pookeno, Tuakau, Huntly and Ngaaruawaahia. This section of the report addresses the submissions that were received in relation to water, wastewater and stormwater infrastructure capacity. Council has assessed whether Variation 3 needs to be amended to respond to any water and wastewater capacity issues.
669. Additional advice has been sought from Watercare as a result of to support the removal of the urban fringe on water and wastewater infrastructure capacity. These discussions were supported by the Residential Capacity Modelling report for the Medium Residential Standards in the Waikato District prepared by m.e Consulting (July 2022) which explains that the additional development capacity enabled by the MDRS is not equivalent to growth. Growth is expected to remain consistent with growth predictions that supported the Waikato District Council Growth & Economic Development Strategy (Waikato 2070) but that there may be a significant shift to the development patterns that have characterised growth across in the urban areas in the Waikato District.
670. Watercare has advised that there is an existing programme of work to upgrade trunk infrastructure and treatment plant capacity to meet discharge consent requirements and to support growth. This work is set out in the Asset Management Plan, which is updated on annual and three-yearly cycles.
671. The four towns that will have the MDRS applied each have their own water and wastewater treatment facilities, and their capacity is not expected to be taxed more as a consequence of the MDRS, because development demand is not expected to increase in the towns overall. However, local water and wastewater networks may lack capacity due to an increase in infill development.

672. Watercare advised that it is possible for water and wastewater asset owners to refuse connections to the water and wastewater networks if there is no capacity available, and there are also mechanisms to refuse connections based on network capacity in the Waikato District Trade Waste and Wastewater Bylaw 2016 and the Waikato District Council Water Supply Bylaw 2014.
673. Discussions were had on the merit of introducing additional rules to Variation 3 to manage local network capacity. Taking into account rules in the PDP that require water and wastewater network connections at the time of subdivision and the relatively low number of new connections in a year (approximately 500) there are expected to be relatively few new developments that require network capacity checks that are not addressed by existing rules in the PDP. These would relate to developments that require a building consent, but no resource consent. In addition, the scope of amendments that can support infrastructure capacity checks within Variation 3 is limited, and network modelling is insufficient to readily map areas subject to capacity constraints. Rather, site specific analysis supported by modelling outcomes is required.
674. Capacity checks are currently carried out where a development of approximately 10 lots or more is proposed because developments smaller than this were unlikely to cause capacity constraints within the areas zoned General Residential. This is because the local network design is generally compatible with the development intensity enabled by the General residential zone. In order to manage network capacity, internal processes are proposed to be tightened to ensure that capacity checks are carried out for all new development that is at a greater site intensity than the General residential zone.
675. No changes to Variation 3 are proposed in relation to water and wastewater network capacity. In order to overcome the absence of rules specific to new development that is not related to a subdivision, WDC will prepare information for developers so that they are aware that capacity constraints may hinder development proposals, and that new connections should be requested prior to further investment in development plans. Enforcement for any illegal connections will be via the bylaw and Local Government Act.
676. There were relatively few submission points received in relation to infrastructure capacity and Council's ability to address infrastructure capacity matters through Variation 3 is limited.

## Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.2		No specific decision requested, but the submission opposes Variation 3 to the extent that increased housing density enabled by the Variation would generate adverse stormwater effects on downstream catchments. AND any consequential amendments to other parts of the PDP to address the matters raised in the submission.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Havelock Vilages Limited*	44.2	218.3	Reject submission point.
Hynds Pipe Systems Ltd*	44.2	221.7	Accept submission point.
Top End Properties*	44.2	222.14	Disallow the submission
CSL Trust*	44.2	223.14	Disallow the submission
Pokeno West* and West Pokeno Limited	44.2	224.14	Disallow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.3		No specific decision requested, but submission opposes Variation 3 to the extent that the Variation goes beyond the central Government directions to promulgate plan changes to incorporate the MDRS and give effect to the NPS-UD and would enable more intense development. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Vilages Limited*	44.3	218.4	Reject submission point.
Top End Properties*	44.3	222.15	Disallow the submission
CSL Trust*	44.3	223.15	Disallow the submission
Pokeno West* and West Pokeno Limited	44.3	224.15	Disallow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.4		Amend the stormwater management provisions throughout the PDP to ensure that such adverse stormwater effects on properties downstream of proposed development are appropriately, avoided remedied or mitigated, in the event that Variation 3 is approved. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.



Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Havelock Vilages Limited*	44.4	218.5	Reject submission point.
Top End Properties*	44.4	222.16	Disallow the submission
CSL Trust*	44.4	223.16	Disallow the submission
Pokeno West* and West Pokeno Limited	44.4	224.16	Disallow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.5		Amend the stormwater provisions of the PDP and Variation 3 to address the adverse stormwater effects of more intense development in terms of altered natural flow paths, and altered hydrological conditions, including the volume, frequency and duration of discharges, and the extent of inundation on downstream properties. AND Any consequential amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Villages Limited*	44.5	218.6	Reject submission point.
Top End Properties*	44.5	222.17	Disallow the submission
CSL Trust*	44.5	223.17	Disallow the submission
Pokeno West* and West Pokeno Limited	44.5	224.17	Disallow the submission
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	44.6		Amend the PDP to take a consistent approach to stormwater management across the entire plan, with the stormwater management provisions in all chapters amended accordingly. The submission notes that there are provisions governing stormwater management in urban areas throughout the PDP including in the Definitions, Strategic Direction, Water Wastewater and Stormwater, All Infrastructure, Natural Hazards and Climate Change, Subdivision, Earthworks and all Residential Zone chapters of the PDP. AND Any consequential

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
			amendments to other parts of the PDP to address the matters raised in the submission.
Havelock Vilages Limited*	44.6	218.7	Reject submission point.
Top End Properties*	44.6	222.18	Disallow the submission
CSL Trust*	44.6	223.18	Disallow the submission
Pokeno West* and West Pokeno Limited	44.6	224.18	Disallow the submission
Laura Kellaway and Bryan Windeatt	75.11		Add a rule within the chapter if more than 10% of a street is under redevelopment there should be a neighbourhood infrastructure plan in place.
Ryman Healthcare Limited	75.11	219.15	Disallow submission point
Retirement Villages Association	75.11	220.15	Disallow submission point
Laura Kellaway and Bryan Windeatt	75.13		Include a rule that only allows linking to laterals where they are less than 20 years old
Waikato District Council	76.1		Amend Variation 3 to give greater consideration to the capacity within the three-waters network to accommodate the future growth that would be enabled by Variation 3.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	76.1	200.10	That the submission be allowed.
Te Whakakitenga o Waikato Incorporated	76.1	213.20	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	76.1	217.56	Reject submission point.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Ngāti Naho Trust	83.15		Add provisions that better manage impacts on services in particular three waters, electricity, energy, transport, telecommunications, internet and waste management.
Te Whakakitenga o Waikato Incorporated	83.15	213.36	The submitter seeks that the whole of the submission be allowed
Marae Tukere	87.1		Confirmation that the current and future water infrastructure is adequate to support intensified housing AND There must be no further discharge to the awa.
Te Whakakitenga o Waikato Incorporated	87.1	213.50	The submitter seeks that the whole of the submission be allowed
Blue Wallace Surveyors Ltd*	89.1		Require Council to work collaboratively with industry and network utility providers to integrate infrastructure connection for all medium density residential service connections – not only limited to Council owned infrastructure
Retirement Villages Association	107.46		Amend Rule MRZ2-S10(2) (Impervious Surfaces) as follows: (2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Site design, layout, and amenity; and (b) The risk of flooding, nuisance or damage to the site or other buildings and sites. (c) The effects of any on-site stormwater retention or detention devices.
Te Whakakitenga o Waikato Incorporated	107.46	213.86	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	107.46	217.93	Accept submission point.

## Analysis

### Stormwater

677. Five submission points were received from Anna Noakes and MSBCA Fruhling Trustee's Company Ltd (submitter #44) opposing Variation 3 due to adverse stormwater effects, seeking

amended provisions to address the adverse stormwater effects of more intensive developments and for the PDP to be amended to take a consistent approach to stormwater management. Stormwater Management matters are addressed in the Natural Hazards section section above.

678. The Retirement Villages Association seek to add a matter of discretion to MRZ2-S10(2) (Impervious Surfaces) “the effects of any on-site stormwater retention or detention devices.”. Retention and detention are some of the elements of good stormwater management (as set out in the Waikato Regional Stormwater Management Guidelines). I support the inclusion of a matter of discretion related to stormwater, because impervious surfaces are known to generate adverse stormwater effects but recommend that this criteria be broadened to cover stormwater management in general and encompass Low Impact Design and the matters in Chapter 2-20 of the PDP Te Ture Whaimana – Vision and Strategy. I recommend that the submission point be accepted (#107.46).

#### *Water and Wastewater*

679. Laura Kellaway and Bryan Windeatt (submitter #75) seek that a rule be added within the chapter that would require a neighbourhood infrastructure plan to be in place if more than 10% of a street is under redevelopment and the submitter seeks to include a rule that only allows linking to laterals that are less than 20 years old. Infrastructure planning is carried out via processes regulated by the Local Government Act and needs to be respond to growth pressures and network management objectives. Including infrastructure connection requirements and planning in the PDP would be overly restrictive. I recommend that these submission points be rejected (#75.11 and #75.13)
680. Waikato District Council (submitter #76) submitted that Variation 3 should be amended to give greater consideration to the capacity within the three-waters network to accommodate the future growth that would be enabled by Variation 3. Having investigated the specific infrastructure capacity risks, I support the tightening of internal processes to manage local network capacity constraints and continued use of the Local Government Act via the relevant bylaws for compliance. I recommend that this submission point be rejected (#76.1).
681. Marae Tukere seeks that current and future water infrastructure is adequate to support intensified housing to prevent discharges to the awa. As discussed in the sections above, infrastructure capacity is a matter that can be managed by the network provider and enforcement can occur via the Local Government Act. No specific relief is sought (#87.1).

#### *General and other infrastructure*

682. Ngāti Naho Trust (submitter #83) submitted that additional provisions should be included to better manage impacts on services in particular three waters, electricity, energy, transport, telecommunications, internet and waste management.
683. The matters relating to three waters are addressed above in the stormwater and water and wastewater sections. As no specific additional provisions are proposed within the submission it is difficult to assess the appropriateness and necessity of the request. Regardless, I note that the Part 2 of the PDP includes provisions in relation to infrastructure, electricity distribution/generation, telecommunications and transportation which specifically enable the provision of this infrastructure. In relation to waste management I note that this will continue to be managed outside the PDP with Council having a responsibility for waste collection and management. For these reasons I recommend that submission point #83.15 be accepted (in relation to three waters provisions).

684. Blue Wallace Surveyors Ltd (submitter #89) submitted that Council should be required to work collaboratively with industry and network utility providers to integrate infrastructure connection for all medium density residential service connections – not only limited to Council owned infrastructure. I agree with Blue Wallace Surveyors that there would be benefits to the effectively integration of infrastructure through collaboration, however, do not consider that this can be mandated or required through the PDP. I therefore recommend that the submission point from Blue Wallace Surveyors Ltd be rejected (#89.1).

### **Recommendations**

685. I recommend that there are no additional qualifying matters included.

### **Recommended amendments**

686. No amendments are recommended.

## 8 Topic 5: Implementation of MDRS

687. This topic includes the following themes:

- Urban Design and landscape
- Private covenants in Pookeno
- General support for/opposition to the MDRS

### 8.1 Urban Design and Landscape Outcomes

#### Introduction

688. Variation 3 will enable significant intensification within the residential zones of Pookeno, Tuakau, Huntly and Ngaaruwaaahia. This section of the report addresses the submissions that were received in relation to the likely changes to the form, character and residential amenity within these existing residential areas.

#### Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Jan Sedgwick	11.1		Amend Variation 3 to include Crime Prevention Through Environmental Design CPTED provisions and provisions for neighbourhood and pocket parks.
Waikato Regional Council	42.15		Retain references to CPTED principles.
Kāinga Ora	42.15	217.32	Accept submission point.
Laura Kellaway and Bryan Windeatt	75.4		Include urban design rules including: <ul style="list-style-type: none"> <li>• MFE urban design guides</li> <li>• Restricted discretionary rules to include design and character, and associated rules and design guides</li> <li>• Use of assessment by Waikato urban design panel with associated design guidelines.</li> </ul>
Ryman Healthcare Limited	75.4	219.11	Disallow submission point
Retirement Villages Association	75.4	220.11	Disallow submission point

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Laura Kellaway and Bryan Windeatt	75.6		Add definition of 'character' and inclusion in residential chapter or character along with design guidelines
Laura Kellaway and Bryan Windeatt	75.8		Include carparking rule requiring where an on-site vehicle parking area includes more than 4 parking spaces; it must be landscaped at a certain rate
Laura Kellaway and Bryan Windeatt	75.9		Retain rules which include character, privacy, permeable surfaces definitions, and north facing and controls on overshadowing, AND Add associated design rules and urban design guidelines for example a rule that requires modelling of overshadowing of neighbouring properties when it falls outside the permitted activity status.
Ryman Healthcare Limited	75.9	219.12	Disallow submission point
Laura Kellaway and Bryan Windeatt	75.10		Add rules that require landscaping assessment AND Add rule that gives benefits to developers if substantial onsite trees are retained. Tree sizes should be maintained, with protection of dripline as per Notable Trees to ensure trees survive.
Laura Kellaway and Bryan Windeatt	75.12		Add a monitoring rule to control the degree of change and give the ability to pre plan and reduce impacts for the street or neighbourhood eg impacts on parking . The monitoring rule within the residential zones should include planning provisions, landscaping, permeable surfaces etc. tied to the CCC. In regards streets a rule in residential chapter that assesses impact of parking with introduction of 3x3 housing and requires a consultant street design for parking and trees and landscaping before substantial change in scale of developments is constructed.
Waikato District Council	76.2		Amend Variation 3 to give greater consideration to the urban design outcomes of development and growth enabled by Variation 3.

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	76.2	200.11	Accept submission point
Te Whakakitenga o Waikato Incorporated	76.2	213.21	The submitter seeks that the whole of the submission be allowed
Kāinga Ora	76.2	217.57	Reject submission point.
Ryman Healthcare Limited	76.2	219.17	Reject submission point.
Retirement Villages Association	76.2	220.17	Reject submission point.

## Analysis

689. Ten submission points were made in relation to urban design outcomes. Jan Sedgwick (submitter #11) and Waikato Regional Council (submitter #42) seek to include crime prevention through environmental design (CPTED) provisions. Similarly, Laura Kellaway and Bryan Windeatt (submitter #75) seek to include design and character as a matter of discretion, along with the inclusion of design rules such as the MFE urban design guidelines. Laura Kellaway and Bryan Windeatt further seek the retention of rules which include character, privacy, permeable surfaces and the requirement to model overshadowing of neighbouring properties when development falls outside the permitted activity status.
690. As a way of monitoring the degree of change and urban design outcome, Laura Kellaway and Bryan Windeatt submitted that a monitoring rule should be included to control the degree of change and give the ability to pre-plan and reduce impacts for the street or neighbourhood (e.g. impacts on parking). They further submitted requesting that a landscaping rule be included for more than four parking spaces and that a rule be included that gives benefits to developers if substantial on site trees are retained.
691. WDC (submitter #76) requested that greater consideration be given to the urban design outcomes of development and growth enabled by Variation 3.
692. In my view there are minimal opportunities to influence the design outcomes of the MDRS for up to three residential units per site which comply with the relevant development standards as this would not require a resource consent.
693. In response to the submissions received relating to urban design and amenity outcomes, I assessed the matters of discretion that are proposed for all breached development standards for residential development within the MRZ2. I had particular regard to whether Council is



given sufficient discretion to consider the potential impacts on adjoining properties and on overall urban design and streetscape outcomes when a standard is breached.

694. I am of the view that the following standards include sufficient matters of discretion to assess impacts on adjoining properties and/or urban design and streetscape outcomes (if relevant):
- MRZ2-S1 (Number of residential units per site)
  - MRZ2-S9 (Landscaped area)
  - MRZ2-S12 (Fences or walls)<sup>35</sup>
695. The above standards include relatively broad matters of discretion including the intensity of the development<sup>36</sup>, the design, scale and layout of buildings and outdoor living spaces in relation to the planned urban character of the zone<sup>37</sup>, privacy and overlooking,<sup>38</sup> and the effect on any reduction in landscaping on adjoining properties, including the street or other public open space<sup>39</sup>.
696. I am however of the view that the following standards require additional matter/s of discretion to enable Council to better assess impacts on adjoining properties and/or urban design and streetscape outcomes:
- MRZ2-S2 (Height) – specifically in relation to streetscape outcomes
  - MRZ2-S3 (Height in relation to boundary) - specifically in relation to visual dominance effects from adjoining properties.
  - MRZ2-S4 (Setbacks) – specifically in relation to visual dominance effects from adjoining properties.
  - MRZ2-S5 (Building coverage) – specifically in relation to visual dominance effects from adjoining properties
697. In my view, the existing matters of discretion for the above standards are relatively limited and amendments will better enable Council to assess impacts on adjoining properties and/or urban design and streetscape outcomes. The amendments could contribute towards facilitating more appropriate design outcomes.
698. To provide for an appropriate cascade from the objectives and policies to the rules and standards framework, I further consider that a supporting policy should be included within the MRZ2 which relates to visual dominance and effects on adjoining sites. The following policy is included within the MRZ1 and in my view, a similar policy within the MRZ2 would be appropriate.

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35 Noting the proposed amendments to this standard outlined in section 5.2 of this report.

36 MRZ-S1(2)(a)

37 MRZ-S1(2)(b)

38 MRZ-S1(2)(c)

39 MRZ2-S9(2)(e)

*MRZ1-P3 Building form, massing and coverage*

(1) *Enable residential development that:*

- (a) *Is of a height and bulk that manages daylight access and a reasonable standard of privacy for residents; and*
- (b) *Manages visual dominance effects on adjoining properties.*

699. I do not consider that an additional objective or policy is required in relation to urban design and streetscape outcomes as the existing proposed provisions already encompass suitable directives in relation to these.

700. In response to Laura Kellaway and Bryan Windeatt's other submission points:

- I do not consider it necessary to require that an overshadowing model be provided, however, with the proposed amendments that I recommend above, Council will be able to request such a model to assist in assessing overshadowing effects if needed.
- I do not consider it practical to impose a monitoring rule within the district plan to control the degree of change. The district plan itself facilitates the degree of change and any enabled changes are therefore anticipated. This is specifically acknowledged in the NPS-UD.
- I do not consider it necessary to require landscaping to be provided for more than four carparking spaces on the basis that a minimum landscaped area rule is already included.
- I agree that the retention of healthy trees can be valuable, however, note that this is not always practical. It is unclear what specific benefits the submitters envisage should be provided to developers for retaining trees and it is therefore not possible to assess a specific rule.

701. In response to submission points relating to CPTED provisions and reference to the MFE Urban Design outcomes:

- I am of the view that an appropriate design response will be site specific and while guidelines can be useful to assess and develop proposals, they are not standards and should be retained as a guideline. On that basis, I do not consider it necessary to include reference to any specific guidelines. Notwithstanding this, Council and applicants can refer to such documents to assist in preparing and assessing applications if desired. In addition to the above, I am of the view that Council can have adequate regard to CPTED and urban design outcomes with the recommended amendments standards outlined above.

702. For the above reasons I recommend that submission point #76.2 be accepted and that submission points #11.1, #42.2, #42.15, #75.4, #75.6, #75.8, #75.9, #75.10, and #75.12 be rejected.

**Recommendation**

703. I recommend that:

- The policy be included that provides a directive regarding the management of unreasonable visual dominance effects on adjoining properties.
- The following standards be amended to include matters of discretion that enable Council to assess urban design/streetscape outcomes and impacts on adjoining properties when permitted standards are breached:
  - MRZ2-S2 (Height)
  - MRZ2-S3 (Height in relation to boundary)
  - MRZ2-S4 (Setbacks)
  - MRZ2-S5 (Building coverage)

### Recommended amendments

704. I recommend that the following policy be included:

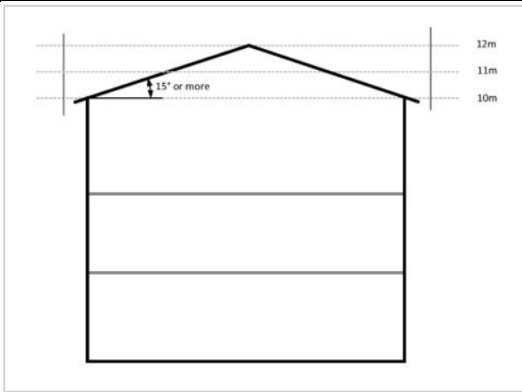
MRZ2-PX Building form, massing and coverage

(1) Enable medium density residential development that:

- (a) Is of a height and bulk that manages daylight access and a reasonable standard of privacy for residents; and
- (b) Manages unreasonable visual dominance effects on adjoining properties.

705. I recommend that the following amendments are made to the matters of discretion:

<b>MRZ2-S2</b>	Height – building general	
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <p>(a) Buildings must not exceed 11 metres in height, except that 50% of a building’s roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1m, where the entire roof slopes 15° or more, as shown on the following diagram (enlarged as Figure 1 at the conclusion of this Chapter).</p>	<p><b>(2) Activity status where compliance not achieved: RDIS</b></p> <p><b>Council’s discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>(a) Height of the building or structure;</li> <li>(b) Design, scale and location of the building;</li> <li>(c) Extent of shading on adjacent sites; <del>and</del></li> <li>(d) Privacy and overlooking on adjoining sites; <del>and</del></li> <li>(e) <u>The visual dominance effects on adjoining sites; and</u></li> <li>(f) <u>The relationship of the development with adjoining streets or public open spaces, including the provision of landscaping.</u></li> </ul> <p><b>Notification</b></p> <p>Any application for resource consent for one to three dwellings that does not meet the</p>	



standard of MRZ2-S2 will be considered without public notification.

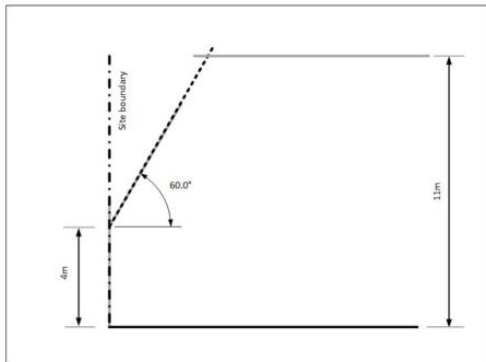
**MRZ2-S3**

Height in relation to boundary

**(1) Activity status: PER**

**Where:**

- (a) Buildings must not project beyond a 60° recession plane measured from a point 4 metres vertically above ground level along all boundaries, as shown on the following diagram (enlarged as Figure 2 at the conclusion of this Chapter). Where the boundary forms part of a legal right of way, entrance strip, access site, or pedestrian access way, the height in relation to boundary applies from the farthest boundary of that legal right of way, entrance strip, access site, or pedestrian access way.



- (b) Standard (a) above does not apply to:
  - (i) a boundary with a road
  - (ii) existing or proposed internal boundaries within a site:
  - (iii) site boundaries where there is an existing common wall between 2

**(2) Activity status where compliance not achieved: RDIS**

**Council's discretion is restricted to the following matters:**

- (a) Height of the building;
- (b) Design and location of the building;
- (c) Extent of shading on adjacent sites; ~~and~~
- (d) Privacy on adjoining sites.
- (e) The visual dominance effects on adjoining sites; and
- (f) The relationship of the development with adjoining streets or public open spaces, including the provision of landscaping.

**Notification**

Any application for resource consent for one to three dwellings that does not meet the standard of MRZ2-S3 will be considered without public notification.

buildings on adjacent sites or where a common wall is proposed.										
<b>MRZ2-S4</b>	Setbacks									
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <p>(a) Buildings must be set back from the relevant boundary by the minimum depth listed in the yards table below:</p> <table border="1"> <thead> <tr> <th>Yard</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Front</td> <td>1.5m</td> </tr> <tr> <td>Side</td> <td>1m</td> </tr> <tr> <td>Rear</td> <td>1m (excluded on corner sites)</td> </tr> </tbody> </table> <p>(b) This standard does not apply to site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.</p>		Yard	Minimum depth	Front	1.5m	Side	1m	Rear	1m (excluded on corner sites)	<p><b>(2) Activity status where compliance not achieved: RDIS</b></p> <p><b>Council's discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>(a) Road network safety and efficiency;</li> <li>(b) Potential to mitigate adverse effects on the streetscape through use of other design features;</li> <li>(c) Daylight admission to adjoining properties; <del>and</del></li> <li>(d) Privacy overlooking on adjoining sites; <del>and</del></li> <li>(e) <u>The visual dominance effects on adjoining sites.</u></li> </ul> <p><b>Notification</b></p> <p>Any application for resource consent for one to three dwellings that does not meet the standard of MRZ2-S4 will be considered without public notification.</p>
Yard	Minimum depth									
Front	1.5m									
Side	1m									
Rear	1m (excluded on corner sites)									
<b>MRZ2-S5</b>	Building coverage									
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <p>(f) The maximum building coverage must not exceed 50% of the net site area.</p>		<p><b>(2) Activity status where compliance not achieved: RDIS</b></p> <p><b>Council's discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>(a) Design, scale and location of the building;</li> <li>(b) Provision for outdoor living space and service courts; <del>and</del></li> <li>(c) Effects on the planned urban built character of the surrounding residential area ; <del>and</del></li> <li>(d) <u>The visual dominance effects on adjoining sites;</u></li> </ul> <p><b>Notification</b></p> <p>Any application for resource consent for one to three dwellings that does not meet the standard of MRZ2-S5 will be considered without public notification.</p>								

## **Section 32AA Evaluation**

706. There are two options that address submitter concerns regarding urban design and landscape outcomes associated with the MDRS:
- Status quo (no amendments to the notified provisions).
  - Provide for an additional policy and additional matters of discretion that enable Council to consider visual dominance effects on adjoining sites and assess the relationship of the development with adjoining streets or public open spaces.
707. Option 1 is not considered to be effective or efficient on the basis that it does not provide Council with sufficient discretion to assess urban design, streetscape and amenity outcomes of non-compliant proposals.
708. Option 2 is considered to be more effective and efficient on the basis that it provides Council with more discretion to assess urban design, streetscape and amenity outcomes of non-compliant proposals. Given that the MDRS will facilitate substantial change within established residential areas, I am of the view that these are important matters for Council to have discretion over.
709. The financial cost of both options is the same, however, it is likely that greater urban outcomes and less adverse amenity effects will result with Option 2.
710. The risk of not acting is that Council's ability to manage urban design and urban amenity outcomes of non-compliant proposal will be limited.
711. Based on the above assessment, I am of the view the Option 2 is the most appropriate way to achieve the objectives of the proposal and provide for well functioning urban environments.

## **8.2 Private covenants in Pookeno**

### **Introduction**

712. Parts of Pookeno's residential areas are subject to private land covenants. The covenants are intended to control subdivision outcomes and restrict development including the size and height of dwellings. This section of the report addresses if and how the implementation of the MDRS affects areas that are subject to such a covenant and whether the MDRS should be applied at all.

## Submissions

Submitter Names	Submission Point	FS Point	Summary of Decision Requested:
Stephen Banks	68.1		Amend to restrict medium density housing to areas not yet developed so people are aware, when purchasing in the future, what is allowed in that location. The submission refers to Pookeno.
Patricia (Trish) Savage	74.1		Amend the restricted area in Pookeno that the MDRS has been applied to, and focus on areas in Pookeno that are yet to be developed rather than areas that currently have housing with existing covenants.
Pokeno Village Holdings Limited	74.1	206.7	Reject submission point.
Wendy & Shane Harrod	86.1		No specific decision requested, however submission opposes the proposed 3 x 3 housing changes in Pookeno and expresses the following concerns: <ul style="list-style-type: none"> <li>· Covenants to protect the country village lifestyle in a rural setting.</li> <li>· Changes to the outlook of Pookeno.</li> <li>· Infrastructure cost, including wastewater.</li> <li>· Blocking of sun.</li> <li>· Privacy.</li> <li>· Devaluing existing properties.</li> <li>· Character.</li> </ul>
Anna Wilson	92.1		Reconsider the 800m and apply the Medium density residential zone to focus on the areas that are yet to be developed, not areas that have existing covenants. Submission refers to Pookeno.
Michael Allington	109.1		Delete GRZ TO MRZ AND Delete MRZ to MRZ2. This submission relates to Pookeno.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	109.18	200.34	Reject submission point.

## Analysis

713. Five submission points were received in relation to private covenants in Pokeno. Stephen Banks (submitter #68), Patricia Savage (submitter #74), Wendy & Shane Harrod (submitter #86), Anna Wilson (submitter #92), and Michael Allington (submitter #109) all submitted in opposition of implementing MDRS within areas that have restrictive covenants within Pokeno. Generally, the submitters are concerned about potential adverse character and amenity outcomes that may arise that are inconsistent with the intended outcomes of the covenants.
714. S77G of the RMA requires the MDRS to be incorporated into relevant residential zones. No reasons are provided by the above submitters that would meet the requirements under s77I of the RMA to be a qualifying matter. In addition, Waikato District Council's opening legal submissions to the Strategic Hearing held in February 2023<sup>40</sup> it addressed whether the characteristics sought to be protected under the private covenants could constitute a qualifying matter under s77I. The submissions concluded the nature of the Pookeno private covenants (limits on dwelling size, height, further subdivision, landscaping, and fencing) do not satisfy any of the qualifying matters prescribed by s77I(a) to (i) (being matters of importance) and are not substantially specific to meet the statutory test to be a 'any other qualifying matter' under s77I(j).
715. I acknowledge that the covenants are likely to restrict development but they do not meet the tests to be a qualifying matter. As such, I do not consider there to be scope to provide the relief requested by the submitters and I recommend that the above submission points be rejected (#68.1, #74.1, #68.1, #92.1 and #109.1).
716. As acknowledged by the legal submissions for the strategic hearing (paragraph 6.10), landowners subject to such covenants are required to comply with their terms of the MDRS enabled under Variation.

## Recommendations

717. I recommend that:
- No amendments are made in response to submissions relating to private covenants in Pookeno.

## 8.3 General Support/Opposition for MDRS and Variation 3

### General opposition to MDRS

#### *Introduction*

718. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 came into force on 21 December 2021. The RMA requires the incorporation of medium density residential standards (MDRS) into every relevant residential zone of a specified territorial authority, with the intention to increase housing supply and enable a wider variety of housing

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<sup>40</sup> Opening legal submissions of Council for Waikato District Council for the joint opening hearing dated 10 February 2023.



choice. The RMA mandated specific obligations on “specified territorial authorities” which include all tier 1 territorial authorities, and any tier 2 or 3 territorial authorities required by regulations within the RMA, to prepare and notify an IPI.

719. As a tier 1 territorial authority in the Waikato Region, Waikato District Council was required by the RMA to prepare and publicly notify an IPI before 20 August 2022.

S80E(1)(a) of the Act requires that an IPI must:

- Incorporate the Medium Density Residential Standards (MDRS); and
- Give effect to, in the case of tier 1 territorial authorities, policies 3 and 4 of the NPS-UD.

720. Submissions have been received which oppose the incorporation of the MDRS across the relevant residential zones in the Waikato District.

721. The Panel’s Direction # 5 to the Waikato IPI’s dated 23 December 2022 is relevant to this topic. In that direction the Panel agreed with the Councils’ Joint Memorandum dated 22 December 2002 that the Council has no power to withdraw Variation 3 and the Panel has no power to amend the MDRS in Schedule 3A of the RMA, except where a qualifying matter applies. The Panel recorded will limit any submitter presentations which seek to argue for outcomes not available at law.

#### Submissions

722. 43 submissions were received that stated general opposition to Variation 3. The concerns raised in the submissions relate to negative impacts on privacy, sunlight, height of buildings, infrastructure capacity, anti-social behaviour, views, security, amenity, loss of character, adverse urban design outcomes, increased vehicle congestion, decreases in property value, and lack of resource consent assessment. Concerns were also raised about the variation being introduced so soon after the district plan process and the impact of the variation on the district plan appeals.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Brent & Kym Cooper	2.2		Delete MRZ2-PI Housing Typology.
Ruth Williams	9.1		Amend and leave the same.
Graciela Edith Eidelman Di Denia	15.2		Delete MDRS provisions.
Roberto Denia	16.2		· Opposes the development for up to 3 homes and up to 11 m high without needing resource consent and permission from neighbours.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Douglas W Rowe	17.1		Delete GRZ to MRZ2.
Douglas W Rowe	17.2		Delete MRZ to MRZ2.
John and Priscilla Boyson	22.1		Delete Variation 3 provisions from the proposed district plan.
John and Priscilla Boyson	22.2		Council to make a submission to the government on behalf of the community demanding that the requirements imposed on the Council to create this Variation be removed.
Jenny Kelly	23.1		Delete the medium density provisions from the proposed district plan.
Sarath & Damayanthi Jayasinghe	25.1		Delete Variation 3 and ask the government to look at more innovative ways to add to the housing stock.
Lucia Daniels	26.1		Delete the change from three-storey housing to two-storey housing and retain two levels maximum.
Lucia Daniels	26.2		No specific decision requested but submission opposes Variation 3 MRZ to MRZR and expresses the following concerns: · Privacy of neighbours. · Safety in the event of fire. · Volunteer fire brigade in the community. · Overcrowding of schools. · Parking area limited as roads have narrowed over the years.
Pokeno Village Holdings Limited	33.1	206.2	Accept submission point.
Anita Jacobsen	36.1		Delete Variation 3.
Peter Nicholas and Ann Nicholas	37.1		Reject Variation 3 in its entirety (as is stated in submission #41).
Chris Annadale	38.1		Assurance that if the proposal goes ahead, it will not impact on existing residents. The submission expresses the following concerns: · Shade, privacy and noise. · Parking. · The quality of life and wellbeing of residents. · Potential for slum style living. · Safety.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Chris Annadale	38.2		Council should have had community meetings to address this earlier and help with the submission process as it is not designed for the average person to feel comfortable navigating the process.
Hayley and Jarrod Taylor	39.1		Delete Variation 3 from the Proposed District Plan
Gurjeet Singh Sainy	40.1		Delete Variation 3
Pokeno Community Committee	41.1		Delete Variation 3 from the proposed district plan.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	41.1	200.1	That the submission be allowed.
Top End Properties*	41.1	222.4	Disallow the submission
CSL Trust*	41.1	223.4	Disallow the submission
Pokeno West* and West Pokeno Limited	41.1	224.4	Disallow the submission
Pokeno Community Committee	41.4		At the least, apply these changes to newly created sections that have not yet been sold to homeowners
Hynds Pipe Systems Ltd*	41.4	221.4	Reject submission point.
Top End Properties*	41.4	222.7	Disallow the submission
CSL Trust*	41.4	223.7	Disallow the submission
Pokeno West* and West Pokeno Limited	41.4	224.7	Disallow the submission
David Jones	45.6		Reduce the extent of farmland and open grazing land which is proposed to be zoned to MRZ2.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Pokeno Village Holdings Ltd	47.1		Delete Variation 3 from the Proposed District Plan
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	47.1	200.7	That the submission be allowed.
Anna Noakes* and MSBCA Fruhling Trustee's Company Ltd	47.1	200.8	That the submission be allowed.
Havelock Vilages Limited*	47.1	218.13	Reject submission point.
Top End Properties*	47.1	222.21	Disallow the submission
CSL Trust*	47.1	223.21	Disallow the submission
Pokeno West* and West Pokeno Limited	47.1	224.21	Disallow the submission
Pokeno Village Holdings Ltd	47.2		That the Council review all land zoned General residential zone in the Proposed Waikato District Plan decision, reducing General residential zone to give effect to the NPS-UD in a manner that reflects the true residential demand capacity.
Havelock Vilages Limited*	47.2	218.14	Reject submission point.
Hynds Pipe Systems Ltd*	47.2	221.12	Accept submission point in part.
Top End Properties*	47.2	222.22	Disallow the submission
CSL Trust*	47.2	223.22	Disallow the submission
Pokeno West* and West Pokeno Limited	47.2	224.22	Disallow the submission

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Megan Martin	48.1		No specific decision requested, but submission opposes Variation 3. Submitter considers that areas for future planning should be set out for townhouses with commune style living and facilities to support this, ie coffee shops, gardens, central areas.
Allen Frabric Ltd	51.1		Amend to limit 3x3 houses to within walking distance from town centres as per the proposed amended by Council.
Brian Hopkins	52.1		Delete Variation 3. Submission expresses concern about the character of Pokeno being changed from a country village to a multi-storey subdivision and the lack of public notification for permitted buildings.
Tupeka Kani	55.1		Delete Variation 3 from the proposed district plan
Hemokai Kani	56.1		Delete Variation 3 from the proposed district plan
Sharlene Kani	57.1		Delete Variation 3 from the Proposed District Plan
Turia Kani	58.1		Delete Variation 3 from the proposed district plan
Wai Kani	59.1		Delete Variation 3 from the Proposed District Plan
Teresa Wine	61.1		Delete Variation 3
Top End Properties*	61.1	222.25	Disallow the submission
CSL Trust*	61.1	223.25	Disallow the submission
Pokeno West* and West Pokeno Limited	61.1	224.25	Disallow the submission
Teresa Wine	61.3		At the least, apply these changes to newly created sections that have not yet been sold to homeowners
Top End Properties*	61.3	222.27	Disallow the submission

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
CSL Trust*	61.3	223.27	Disallow the submission
Pokeno West* and West Pokeno Limited	61.3	224.27	Disallow the submission
Megan Ryder	64.2		No specific decision requested, but submission considers that if built, any medium density housing definitely needs to be regulated by rules along with permission sought from neighbours.
Christopher Els	67.1		Delete Variation 3
Chris Parker	73.1		Delete Variation 3
Top End Properties*	73.1	222.29	Disallow the submission
CSL Trust*	73.1	223.29	Disallow the submission
Pokeno West* and West Pokeno Limited	73.1	224.29	Disallow the submission
Ngāti Naho Trust	83.28		Reject Variation 3 changes to the Proposed Waikato District Plan.
Mirika Paul	85.1		Delete Variation 3 provisions from the Proposed District Plan.
Marae Tukere	87.3		Not stated
Te Whakakitenga o Waikato Incorporated	87.3	213.52	The submitter seeks that the whole of the submission be allowed
Mr and Mrs. Lex Deaby	94.1		Retain height restrictions for buildings. Submission opposes rezoning of streets.
Adrian Paul Van Weerden	95.1		The submitter is seeking amendment to the Variation. No specific decision requested.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Jim Ivens	97.1		Delete Variation 3 provisions from the Proposed District Plan
Lana Tapu	111.1		Not stated.

#### *Analysis*

723. Brent & Kym Cooper (submitter #2.2), Graciela Edith Eidelman Di Denia (submitter #15.2), and Ruth Williams (submitter #9.1) all oppose Variation 3 on the basis that permission for 3x3, increased building height allowances and the removal of the resource consent requirement will obscure views and result in increased congestion.
724. Douglas W Rowe (submitter #17.1), John and Priscilla Boyson (submitter #22.2), Pookeno Community Committee (submitter #41.1), and Chris Parker (submitter #73.1) all highlight the need for additional infrastructure generally and are concerned for the current infrastructure capacity and the cost associated with building additional capacity. They also highlight that the MDRS are more effective in major cities. Infrastructure capacity and Variation 3 are discussed in detail in section 3.28 of the report, therefore no further comment is provided here.
725. Jenny Kelly (submitter #23.1), Sarath & Damayanthi Jayasinghe (submitter #25.1), Lucia Daniels (submitter #26.1 and submitter #26.2), Anita Jacobsen (submitter #36.1), and Megan Martin (submitter #48.1) seek the deletion of Variation 3 highlighting that the MDRS will result in a loss of character and privacy and cause a decrease in property values.
726. Tupeka Kani (submitter #55.1), Hemokai Kani (submitter #56.1), Sharlene Kani (submitter #57.1), Turia Kani (submitter #58.1) and Wai Kani (submitter #69.1) also seek the deletion of Variation 3 on the basis that such housing developments typically bring in lower socio-economic groups, potentially resulting in increased undesirable behaviour/problematic neighbours.
727. Pokeno Village Holdings Ltd (submitter #47.1) oppose Variation 3 on the basis that it undermines the current appeal process for the Proposed District Plan and predetermines the outcome.

#### *Recommendations*

728. I recommend that:
729. No amendments are made in response to submissions relating to general opposition to Variation 3 raised in the submissions for the reasons set out in Direction # 5.

#### *Recommended amendments*

730. There are no recommended amendments for this section.

#### *Section 32AA evaluation*

731. A s32AA report is not required as no amendments are recommended to be made

### General support for Variation 3

732. Council received submissions that were generally in support of Variation 3 as notified and its application of the MDRS to Ngaaruwaahia, Pookeno, Huntly and Tuakau. This section responds to those submissions.

#### Submissions

733. 13 submissions in total were received that stated general support for Variation 3. The general themes from these submissions regarding their reasoning for their support of the variation included enabling a greater housing supply and improved housing affordability, enabling of development on suitable land, maintenance of rural amenity, provision for subdivision, and generally supportive of the overall variation and giving effect to the purpose of the RMA. It is important to note that Variation 3 as notified included the urban fringe qualifying matter. The submissions in support therefore should be read as including support for the urban fringe qualifying matter. As stated earlier in this report, the Panel's Interim Guidance # 1 concluded that the urban fringe did not meet the statutory tests to be a qualifying matter. The urban fringe is covered in section 3.26 of this report therefore no further comment is provided here.

Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Max Robitzsch	5.1		Retain all changes of Variation 3, OR Amend to further strengthen intensification opportunities.
Heritage New Zealand	28.1		No specific decision requested, but submission recognises and supports the intention to acknowledge and make provisions for identified qualifying matters.
Nathan Harvey	34.1		Retain new MRZ2 zone for its intended purposes.
Waikato Regional Council*	42.1		No specific decision requested, but submission is supportive of the Variation and acknowledges the scope of the change is directed by central government requirements.
Tineka Wymer	43.1		Retain Variation 3.
Kiwi Rail*	54.3		No specific decision requested, but submission supports urban development, including around transport nodes, and recognises the benefits of co-locating housing near transport corridors which provide passenger connections.
Jodie Bell	71.1		Retain the Medium Residential Zone
Jodie Bell	71.6		Retain the Lower Waipa Esplanade Area being included in the MZR2 zone.
Laura Kellaway and Bryan Windeatt	75.2		In principle support the proposed MDRZ 1 and 2 Zones.



Submitter Names	Point Number	FS Point No.	Summary of Decision Requested:
Kāinga Ora	106.1		No specific decision requested, however the submission generally supports the proposed provisions contained within the Medium density residential zone 2. AND Any such further, alternative or consequential relief as may be necessary to fully achieve the relief sought in the submission.
Queen's Redoubt Trust	106.1	211.2	Decline the original submission of Kainga Ora to the extent that it relates to part of the Queen's Redoubt . Amend the plan in a manner that recognises the location of the specified properties, and the archaeological values that may be evident in parts of these sites and any consequential changes.
Richard Piechazak	112.1		Approve future subdivision.
Retirement Villages Association	107.2		Incorporate the MDRS into the District Plan without amendments

### Analysis

734. Max Robitzsch (submitter #5.1) and Nathan Harvey (submitter #34.1) are generally supportive of the variation as notified as they believe it will enable greater housing supply and address housing affordability issues and congestion issues.693. KiwiRail (submitter #54.3), whilst not requesting a specific decision, noted that they support urban development around key transport nodes and recognise the benefits of developing housing near key transport corridors. The submission's reasoning stated that the transport network is able to support increased growth and housing intensification.
735. Jodie Bell (submitter #71.1 and #71.6) requested the retention of the Medium Residential Zone and highlighted that it enables existing residents the same opportunities as developers through the elimination of resource consent costs. The submission also notes that the variation enables greater brownfield development, which reduces the need to encroach on rural land and retains the existing the rural amenity.
736. Kāinga Ora (submitter #106.1) is generally supportive of the Medium density residential zone 2 noting that it gives effect to the purpose of the RMA.
737. Laura Kellaway and Bryan Windeatt (submitter #75.2), Heritage New Zealand (submitter #28.1), and Waikato Regional Council (submitter #42.1) all stated their general support for Variation 3. Richard Piechazak (submitter #112.1) supports Variation 3 on the basis that it will enable future subdivision to be approved (conditional activity).
738. The Retirement Villages Association (submitter #107.2) requests the MDRS is incorporated into the District Plan without amendments.
739. The support for Variation 3 as notified raised in the submissions is noted.

*Recommendations*

740. No amendments are recommended in relation to these submissions and it is noted many of the submissions in support don't seek a particular decision.

*Section 32AA evaluation*

741. A section 32AA report is not required as no amendments are recommended to be made.

## 9 Conclusion

742. This report considers the submissions received to Variation 3 to the PDP. All submissions have been considered and have informed the recommended amendments that are outlined in Appendix 2 to this report. We recommend that the IHP accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix 1 to this report. We further recommend that the PDP is amended in accordance with the changes set out in Appendix 2.