SECTION 42A REPORT

Rebuttal Evidence

Enabling Housing Supply

Report prepared by: Fiona Hill and Karin Lepoutre

Date: 19 July 2023

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1 Introduction and Purpose

1. This report has been prepared by Fiona Hill and Karin Lepoutre. We are the authors of the original s42A report and addendum 1 to that report. Our qualifications and experience, Code of Conduct acknowledgements and conflicts of interests are outlined in Section 1 of the s42A report.

2. The purpose of this report is to address the evidence filed by submitters, where that evidence raises points that were not taken into account in the s42A report and/or where those points have led to amended recommendations.

3. Where we do not respond to evidence it does not mean we agree with the evidence raised, rather it means there is nothing further to state above in addition to the statements made in the s42A report.

4. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in blue underlined, and deleted text in ~~blue strike through~~. All recommended amendments are brought together in Appendix A.

2 Evidence Received

5. Table 1 below shows the evidence statements that were filed by submitters.

Submitter	Submission No.	Evidence
Wel Networks	19	Sara Brown (Planning)
Heritage New Zealand Pouhere Taonga	28	Carolyn McAlley (Planning)
Ara Poutama Aotearoa The Department of Corrections	30	Sean Grace (Planning)
Turangawaewae Marae	35	Karu Kukutai (Cultural) Giles Boundy (Planning)
Waikato Regional Council	42	Katrina Andrews (Planning)
Anna Noakes and MSBCA Fruhling Trustee's Company Ltd	44	Matthew Davis (Stormwater) Anna Ruth (Property Owner)
Synlait	46	Nicola Rykers (Planning) Jake Deadman (Site Manager-Pokeno Manufacturing Site)
Pokeno Village Holdings Limited	47	Melissa McGrath (Planning)

Fire and Emergency New Zealand	53	Alec Duncan (Planning)
Kiwi Rail	54	Pam Butler (Planning)
Ministry of Education	60	Keith Frentz (Planning)
Dominion Developments	66	James Whetu (Planning)
Next Construction	99	Andrew Wood (Planning)
GDP Developments	100	Sarah Nairn (Planning)
Havelock Village Limited	105	Leo Hills (Transportation Engineering) Mark Tollemache (Planning) Ryan Pitkethley (Civil Engineering and Stormwater) Jon Styles (Acoustics) Bridget Gilbert (Landscape)
Kāinga Ora	106	Cameron Wallace (Urban Design) Mark Osborne (Economics) Michael Campbell (Planning) Phillip Jaggard (Infrastructure and Stormwater) Gurvinderpal Singh (Corporate)
Retirement Villages Association of New Zealand Incorporated	107	John Collyns (Executive Director- Retirement Villages Association of New Zealand Incorporated) Nicola Williams (Planning)
Ryman Healthcare Limited	108	Ngaire Margaret Kerse (Medical Doctor) Matthew Brown (General Manager- Development Ryman Healthcare Limited) Nicola Williams (Planning)
Te Whakakitenga o Waikato	114	Giles Boundy (Planning)
Pokeno West Limited CSL Trust and Top End Properties Limited	116	Leo Hills (Transport) Jignesh Patel (Engineering)

		James Oakley (Planning) Adam Thompson (Economic)
Hynds Pipe Systems Limited	221	Sarah Nairn (Planning) Rachel De Lambert (Landscape and Visual) Campbell McGregor (Stormwater) Adrian Hynds (Corporate)
Greig Developments Nos 2 Limited and Harrisville Twenty Three Limited	20	Adam Thompson (Economic and Property) Sally Peake (Landscape Architecture) Andrew Hunter (Traffic) Kelly Hayhurst (Ecological) Warren Boag (Infrastructure and 3-Waters) Vanessa Addy (Planning)

6. The evidence is addressed by topic with the following lead authors:

Fiona Hill:

i. Rezoning requests - Section 3
ii. Single Medium Density Zone – Section 4
iii. Minimum Net Lot Size Area – Section 5
iv. Huntly Height Overlay – Section 6
v. Stormwater - Section 7
vi. Issues of Significance to Maaori – Section 8
vii. Education Facilities - Section 9

7. **Karin Lepoutre:**

i. Retirement villages - Section 10
ii. Infrastructure providers – Section 11
iii. Havelock precinct – Section 12
iv. Miscellaneous provisions - Section 13

3 Rezoning Requests

3.1 Overview

8. The submissions and relief sought relating to rezoning requests are addressed in Topic 1, Section 4.2 of the Section 42A report. Evidence has been lodged in respect of 4 rezoning requests. The submitters, the location of the rezoning request, and the relevant paragraphs of the S42A report are identified below:

Submission	Town	S42A report and Addendum 1 to Section 42a report
Greig Developments (#20)	Tuakau	Paragraph 131 to 133
GDP Developments (#100.1)	Tuakau	Paragraph 138 to 140
Kāinga Ora (#106)	Variou	Topic 1, Section 4.2
Harkness Henry (#99)	Ngaaruawaahia	Addendum Report Paragraph 3-7

3.2 23A Harrisville Road

9. Evidence has been submitted as follows (Note the submission as lodged was on behalf of Greig Developments No2 Limited and Harrisville 23 Limited). The evidence has been lodged on behalf of Harrisville Twenty Three Limited:

Expert	Topic
Vanessa Addy	Planning
Warren Boag	Three Waters
Kelly Hayhurst	Ecology
Andrew Hunter	Traffic
Duncan McNaughton	Landowner

Sally Peake	Landscape
Adam Thomson	Economics
Robert Tilsley	Geotechnical

10. The S42A report (para 131) identifies that the properties sought to be rezoned are located on the corner of Johnson and Oak Street and 23A Harrisville Road. Both properties are zoned LLR in the PDP. (Noting the evidence addresses 23A Harrisville Road). A map from the submission is included in Figure 1 below.

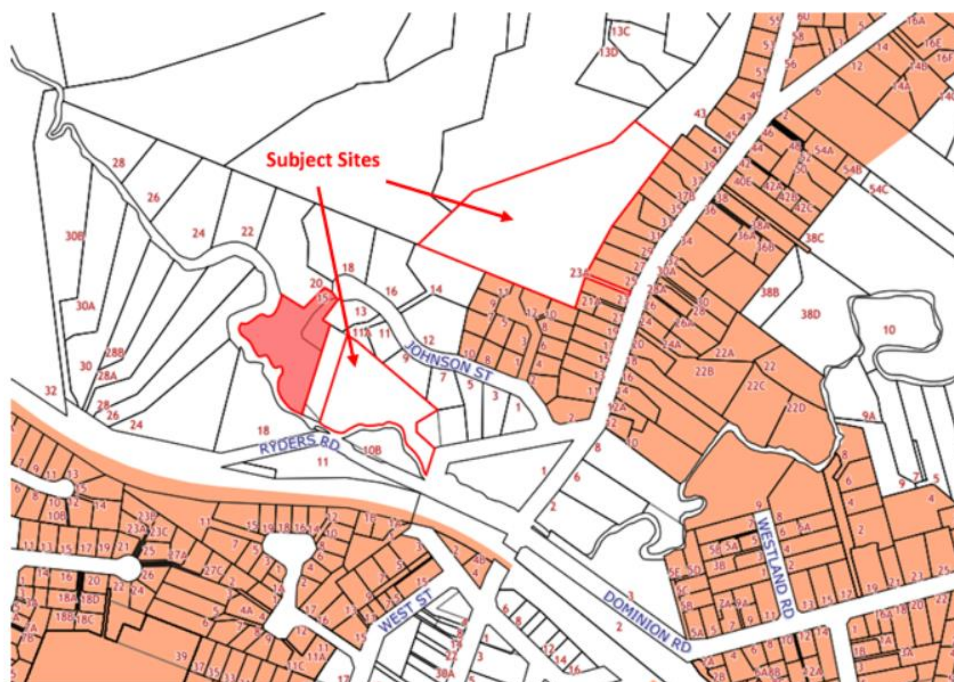

Figure 1: subject sites

11. The S42A report recommends rejecting the submission on the basis that the properties are not relevant residential zones and rezoning of the properties would need to be supported by detailed technical evidence. The report also notes the rezonings were not included in the variation as notified and for that reason people may not be aware. Technical evidence has been filed for 23A Harrisville Road, but no evidence has been filed for the properties on the corner of Johnson and Oak Street. For this reason, it is my opinion, that the recommendation to reject the submission as it applies to the properties on the corner of Johnson and Oak Streets still stands. I understand this property is subject to a rezoning appeal and will be resolved through that process.

12. Turning to No 23A Harrisville Road. The technical reports included or attached to evidence have been submitted to the Council as part of a subdivision consent for a large lot residential development. That application is currently on hold. While the technical reports have not been

reassessed under a MDRS scenario the evidence purports to consider the differences between the two zonings.

13. Ms Addy in para 5.12 of her evidence usefully provides a summary of the differences between the lot yield sought as part of the subdivision consent being 14 residential lots and what could be achievable under a MDRS2 zoning of 25 lots. Some of these lots are proposed to be less than the recommended 450m^2 lot size in the S42A report. Ms Addy does not however consider the difference in potential number of residential units per lot from the two zones. I note MRZ2 is a significant change from LLRZ with the potential for 75 residential units from 25 lots, rather than 1 residential unit and the potential for a minor residential unit per lot. I consider this to be a significant issue as it is not clear as to whether the technical experts have considered the potential for 3 residential units on each site. Furthermore, whilst I understand it is the intention to increase the number of lots by 11, the zone request does not consider the potential for a combined subdivision land use option under the MRZ2 zone. If this were to occur significantly more residential units could occur on the site. I note Ms Addy's evidence is silent on whether additional Qualifying Matters are required, despite there being constraints on the site.

14. I have the following comments to make in respect of the evidence that has been submitted:

    i. Andrew Hunter (Traffic) concludes the increase in traffic volumes is minimal and consequently he can support the rezoning. It is not clear whether Mr Hunter has assessed what the traffic generation effects would be from 75 residential units. I note in paragraph 2.7 d) and 2.7 e) Mr Hunter has not increased the vehicle generations numbers from 10 trips per site. I would have thought if 3 residential units per site were considered the vehicle generations would be higher. From this I consider it is not likely Mr Hunter has assessed the potential traffic generation effects from 3 units per site. As part of preparing this report I have consulted with the Council's roading team and can advise the roading layout submitted as part of the subdivision consent will not be acceptable under a MRZ2 zoning to the Council's roading asset management team. Furthermore, at this level of traffic generation it is not known whether additional road network upgrades will be required. As the property is a rear site there are a limited roading options this is a matter that Mr Hunter may want to consider further.

    ii. Kelly Hayhurst (Ecology) assesses ecological effects on the wetland, riparian margins and potential effects on bats. At para 5.2 Ms Hayhurst concludes there will be no increase in the effects from that considered in the assessment of the previous 14 lot application. It is not clear from the assessment whether Ms. Hayhurst has considered the potential change on number of residential units and the increase in site coverage under MRZ2 zoning and whether there will be any change in effects as a result. It is noted a Bat Managment Plan is also provided. It is understood that a bat assessment has not taken place instead a management regime is proposed. Ms Hayhurst recommends there be a 20m margin from the wetland, a 10m margin from any riparian areas, and a full bat assessment is undertaken at the time of subdivision. Ms Addy at para 6.2 recommends a qualifying matter Natural Character of waterbodies and their margins. After evidence was filed the Council did receive a suggested QM from the submitter, but more work is required in order for that to be fully developed as a QM. If the site were to be rezoned then the waterway setback rule MRZ2-S13 is already identified as a QM and would apply to the site. This requires a setback of 20m from the margin of any wetland and 21.5m from the boundary of any river.

    iii. Robert Tilsley (Geotechical) has provided a preliminary assessment. I understand the site has identified geotechnical risks. The geotechnical report prepared by AECOM and

included as part of the 2017 Tuakau Structure Plan identifies that the general area the site is located in has moderate geotechnical risks (See the orange area in Figure 1 below).

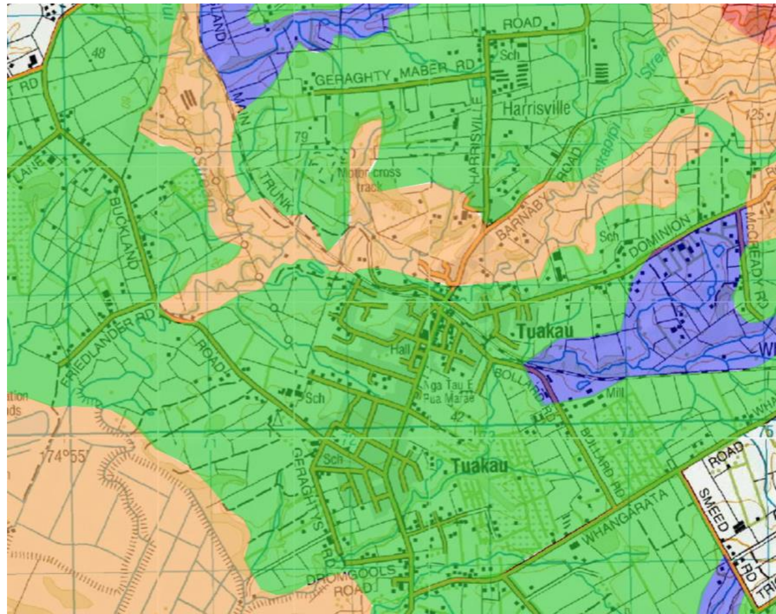

Figure 2: Moderate geotech risks shown in orange (2017 Tuakau Structure Plan)

iv. I understand this classification means there are likely to be geohazards present and detailed engineering assessments are required. In para 2.7 Mr Tilsley notes the additional lots are located on land previously assessed as being stable. It is not known whether Mr Tilsley has considered the additional load from 3 residential units at 50% site coverage. He notes Lot 19 is subject to further investigation. The recommendations attached in the technical report include the need for specific building foundation designs. I note the subdivision plan attached to Ms. Addy's evidence following page 23 notates a building line restriction but it is not clear whether this line relates to geotechnical reasons or not. I note the lots on the subdivision plan are located on steep land and are proposed to be around 3,000m2 to 4,000m2 in size. I consider if the land is to be rezoned, this area of the site should be considered as a slope residential area similar to the approach proposed for Havelock. In the slope residential area in Havelock one residential unit per 2,500m2 of land area is permitted.

v. I note Mr. Mat Telfer in his rebuttal evidence has considered the evidence of Mr. Warren Boag.

15. Appended to Ms. Addy's planning evidence is also an Archaeological report and a letter from Ngati Tamaoho relating to the subdivision. It is not known whether the landowner or Ms. Addy has consulted with Ngaati Naaho who have indicated as part of Variation 3 that they have interests in the North Waikato Area including Tuakau and Pookeno. It is also not known whether Harrisville have consulted with Ngaati Tamaoho in respecet of their submission on Variation 3.

16. In response to comments made in paragraph 132 of the S42A report Ms Addy states (para 4.8) that the technical evidence has now been supplied. I agree the technical reports and associated evidence are helpful. I am however concerned the experts do not appear to have assessed the effects from MDRS zoning, rather the experts have relied on the previous assessments completed as part of a proposed 14 lot subdivision, (rather than 25 lots), and do not appear to have considered the effects associated with 3 units on each lot. This matter could be clarified further

at the time of the hearing. I consider this is particularly important for this site because the site is a rear sjte, there are limited options for vehicle access, the site has geotechnical constraints but no QM is proposed, and the site borders a stream and contains a wetland.

17. In paragraphs 4.10 to 4.14 Ms, Addy comments that in principle discussions have been held with Council staff which have indicated that because the site is serviced, residential zoning is the most appropriate use of the land. I have assumed Ms. Addy is referring to water and wastewater, although this is not clear. I agree servicing is an important consideration as to whether a site should be rezoned. However, I consider there are other matters that need to be considered which I have outlined in this rebuttal evidence.

18. In section 7. Ms Addy provides an assessment against higher order policy documents. When referencing the NPSUD Ms. Addy refers to Mr. Thompson's evidence regarding an estimate shortfall of 13,750 houses in the sub $730,000 price range. In regards to this point I refer to Ms. Fairgray's evidence who disagrees with the conclusions reached by Mr. Thompson. Ms. Addy also references Objective 1 and Policy 1 of NPSUD and refers to the closeness of the site to the town centre and associated amenities and the proximity to existing areas of residential development. I agree with the points raised by Ms. Addy that the site concerned is near the commercial centre of Tuakau. In reference to the Waikato Regional Policy Statement (para 7.9 and 7.10) Ms. Addy refers to the recent Plan Change 1. Ms. Addy then goes to conclude that Variation 3 gives effect to the Waikato Regional Policy Statement. While I agree with Ms. Addy I also consider it is important to look at how the objectives and policies in the RPS relate to the 23A Harrisville Road property. In this regard I consider it is important the Panel refers to UFD-P1:

Policies

UFD-P1 – Planned and co-ordinated subdivision, use and development

Subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which:

1. has regard to the principles in APP11;
2. recognises and addresses potential cumulative effects of subdivision, use and development;
3. is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and
4. has regard to the existing built environment.

19. Ms Addy has not assessed the rezoning of 23A Harrisville Road against this policy or the general principles for new development in App11 of the RPS. The policy requires the built environment to occur in a planned and co-ordinated manner. The area is not planned for residential development. The Council's strategic growth strategy, Waikato 2070, does not identify residential development in this location (refer Figure 3). I also note there is no structure plan for the wider large lot residential area. From the information supplied it is also difficult to conclude the area will be co-ordinated with adequate transport infrastructure as it is uncertain whether the effects have been adequately assessed. Turning to the principles in APP11 whilst I consider the rezoning meets some of the principles I do have the following concerns:

    i. E. Connect well with existing and planned development and infrastructure. It is not clear how the development will connect with other land zoned large lot residential. I also note concerns have been raised about whether infrastructure, including transport, has been adequately assessed under a MDRS planning framework. I think this matter is particularly important for this site given its constrained nature.

    ii. M. Regarding adverse effects on soil stability, water quality and aquatic ecosystems. I have concerns regarding the development as it is difficult to conclude based on the information provided whether the site is suitable for MRZ2 zoning under a MDRS framework.

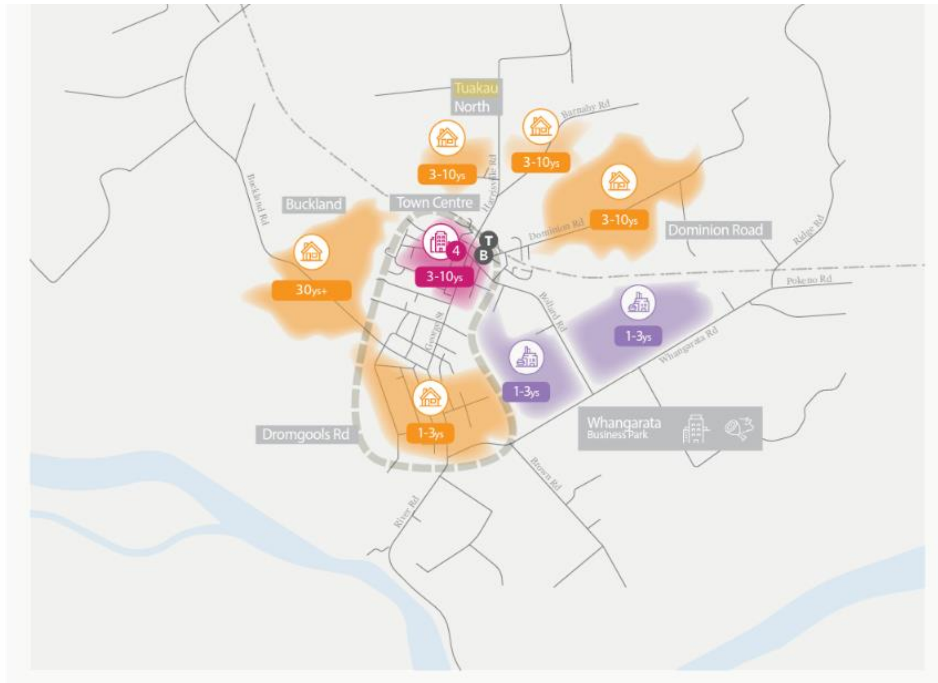

Figure 3: Waikato 2070, does not identify residential development in this location

20. For the reasons included in the previous paragraphs it is my opinion there are outstanding concerns with the rezoning of this site. Whilst I agree with Ms. Addy and Mr. Thomson the site is ideally located being within close distance to the existing town centre, I consider the site has several constraints and it is important as part of considering the rezoning of the area that these constraints are appropriately considered under a MDRS development.

3.3 GDP Developments

21. Ms. Nairn has provided planning evidence in respect of the site at 111 Harrisville Road. The site is owned by Gerardus and Yvonne Arts. The location of the site is shown below. The submissions is considered in paragraph 138 to 140 of the S42A report where it is noted the land concerned is subject to an Environment Court appeal. The S42A report concludes the zoning of the site is a matter for the Environment and if the site is to be rezoned then the MDRS zoning will apply. Ms. Nairn does not appear to disagree with this approach and notes in paragraph 9.1 that if the appeal is resolved prior to the hearing on Variation 3 concluding, the site will contain a relevant residential zone. Ms. Nairn recommends if this is the case then qualifying matters relating to wastewater capacity and reverse sensitivity would be appropriate. In my opinion, the qualifying matters should be considered by the Environment Court at the time of the zoning. I understand the appeal will not be resolved before the Variation 3 hearing.

22. The only comment I would like to make is that infrastructure capacity itself may only be considered as a qualifying matter unless if it is linked to Te Ture Whaimana. The proposed rule in the evidence to support the infrastructure capacity constraint is linked to reverse sensitiivty of the nearby motorsport club. This is a matter for the submitter to consider through the appeals. Furthermore, it is noted the Council is recommending water and wastewater capacity can be adequately managed through the Council's connections and the associated Bylaws. The submitter may want to consider this approach through the appeal.

23. I do not understand the submitter to be requesting any recommendation from the Panel in light of the appeal.

3.4 Kāinga Ora

24. Kāinga Ora requested a number of rezonings as part of their submission. These rezonings are located in all 4 towns subject to Variation 3 as well as in Raglan and Te Kauwhata. It is understood from the evidence of Mr. Singh (Para 8.2) that Kāinga Ora are not pursuing any submissions points relating to Raglan and Te Kauwhata and therefore I have not commented any further on these submission points.

25. Both Mr. Singh and Mr. Campbell consider the rezonings should be approved but no technical evidence is provided. Mr Singh describes the location of the zones at para 9.2 to 9.4 and are summarised as follows:

    i. Tuakau, areas of Large Lot Residential Zone located within the walkable catchment of Tuakau

    ii. Pookeno a property located within the General Rural Zone but surrounded by residential zoned properties

    iii. Huntly College site located within the General Rural Zone but surrounded by residential zoned properties.

26. Mr. Campbell supports the rezonings (in para 3.6) but says the matter is considered in the evidence of Mr. Singh. I note Mr. Singh in turn considers the zonings n paragraphs 9.1 to 9.4. It is Mr. Singh's opinion that it is important to regularise the zoning pattern to avoid potential conflict that arise between zones. Conceptually, I agree with Mr. Singh. However, I consider there are detailed matters to be considered when looking at rezoning properties. In this regard I note Kāinga Ora have provcded no technical evidence to support the rezoning requests in their submission. As an example, in respect of the Large Lot Residential Zone in Tuakau, I have noted several issues as they relate to the request to rezone land at 23A Harrisville Road. In respect of the property at Huntly, I have noted in para 150 of the Section 42A report there are significant flood hazard issues. Furthermore, Kāinga Ora do not own these properties, so it is unclear whether consultation with landowners has occurred. For these reasons these rezonings requests are not supported.

3.5 99A Ngaaruawaahia Road and 18 Rangimarie Road

27. Submission point 99.1 is considered in S42A Report and Addendum 1. Mr. Andrew Wood's evidence relates to the rural zoned portions of 99A Ngaaruawaahia Road and 18 Rangimarie Road. The properties are split zoned with part of the property zoned GRZ and part zoned GRUZ. The location of these properties is shown below:

Figure 4: Subject Sites (starred)

28. Paras 3 to 7 of Addendum 1 to the S42A report, which I authored, are relevant to this submission. The report recommends rejecting the rezoning for the following reasons:

    i. The General Rural Zone area of the site is located within the High Risk Flood Zone and Flood Plain Management Area.

    ii. No additional information is provided with the submission that supports the rezoning of the site.

    iii. If this area was to be rezoned I consider a comprehensive approach is required given the presence of the flood hazard in this location.

29. Mr. Wood addresses these matters in his evidence. Turning to the matter of information, Mr. Wood states in para 11 there is sufficient information. In para 21. Mr. Wood acknowledges this information was not provided in the submission, but it is understood he considers there is sufficient information available in the 2017 Ngaaruawaahia Structure Plan to support the rezoning. In this paragraph he lists the technical reports the Council provided to support the structure plan. Mr. Wood identifies the land concerned as N3b. He also states in para 32 "*investigative work on the urban development potential of the land including master planning engagement with archaeologists, mana whenua, engineers, Planners*" is underway, but no details of this work has been included as part of the evidence.

30. I agree with Mr. Wood the 2017 Structure Plan identifies the sites subject to the submission and wider area as being an area of future residential expansion as shown on the map below:

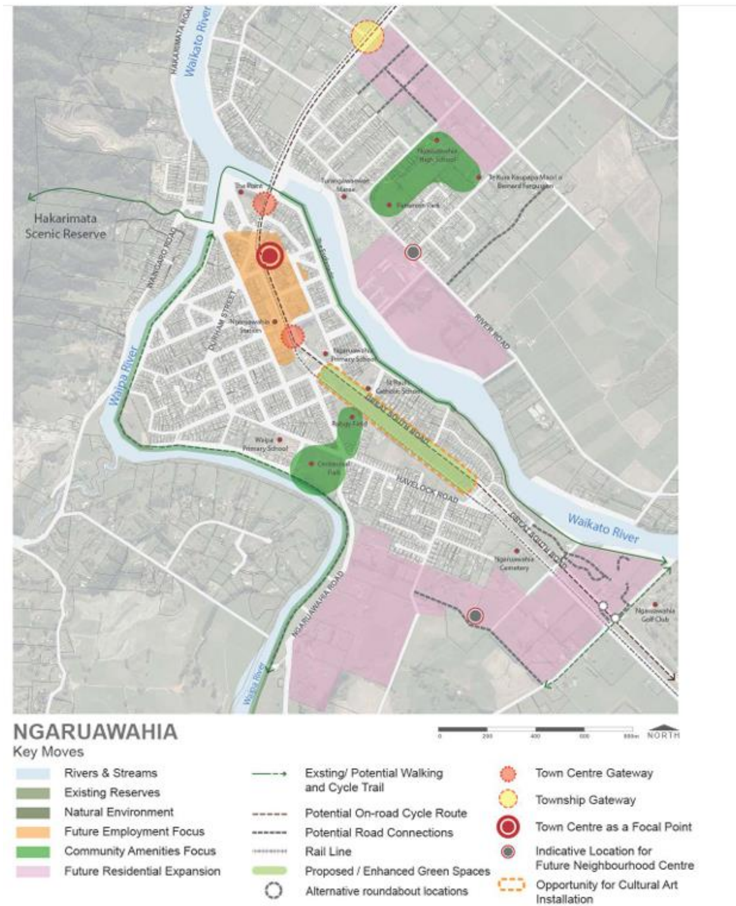

Figure 5: Structure Plan showing future residential expansion

31. I have also reviewed the technical reports accompanying the 2017 Structure Plan in respect of the site and note the following:

    i. The archaeology report prepared by Simmons and Associated entitled "Ngaaruawaahia and Enviros Archaeological Heritage" dated June 2014 identifies the area, including the site as containing borrow pits and modified garden soils (see figure below). I have annotated the Figure with a X to identify the sites subject to the rezoning.

Figure 6: Location of borrow pits and modified garden soils

ii. The site and its general location is not identified in the ground contamination report

iii. The Catchment Management Plan prepared by Tonkin and Taylor identifies the location as being in Growth Sector F. It states in 5.5.1.3 that throughout growth sector F there are areas of flooding greater than 0.3m in depth. The report recommends "If Growth Sector F is to be developed the natural low points and the overland flow paths running through will need to be considered"

iv. The Preliminary Urban Design Assessment (2014) prepared by Beca considers this location and indicates the potential for a through road.

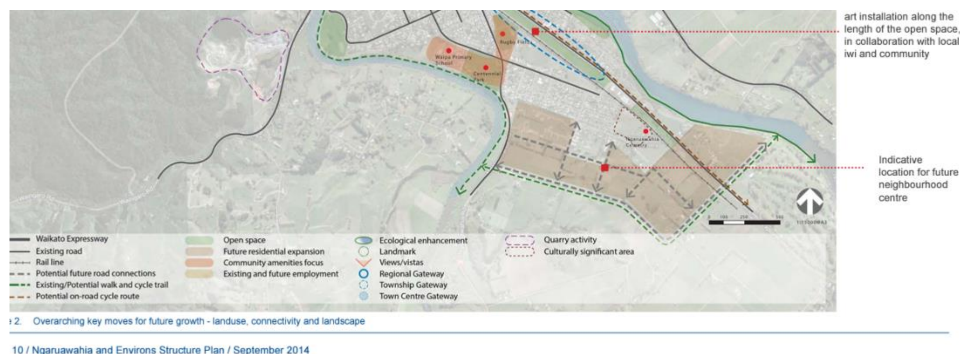

Figure 7: Through-road identified in the 2014 Urban Design Assessment prepared by Beca

v. Additionally, there is a Geotechnical Suitability report (2014) prepared by AECOM. This report identifies the area as being in Category C – Moderate Risk. This category applies to large areas of Ngaaruawaahia. Further, part of the General Rural Zone portion of these properties is located withing 200m of the Waipa River. The report notes Category D applies within 200m of waterways, lakes and open drains. Category D indicates area of High Risk where significant geohazards are likely to be present and detailed engineering assessments are

required. I have included below the description of what Category D means. No technical evidence has been provided to address these matters.

Category D - High Risk

- Likely that a significant geohazrds is present
- Detailed engineerign assesment required to adress impacts on buildings roads and infrastructure
- If the potential geohazard confirmed then mitigation is unlikley to be possible in a safe and economically viable manner
- High environmental risk due to earthworks
- Individual and cumulative effects of stormwater and wastewater discharges to be assessed
- Hill Country and adjacent land due to potential for large landslides and debris flows
- Peat swamps with settlement and liquefaction potential
- Includes alluvuial soil within 200m of waterways and gully/river terrace slopes (not shown on map)

Figure 8: High Risk Criteria from the Geotechnical Suitability report (2014)

32. I note the 2017 Ngaaruawaahia Structure Plan does not include a Cultural Impact Assessment. The Council is currently reviewing the structure plan and has recently engaged with the community (March 2023).

33. The other points mentioned in the S42A report relate to flood management, part of the site is located within the high risk flood plain, the area within the red dots below:

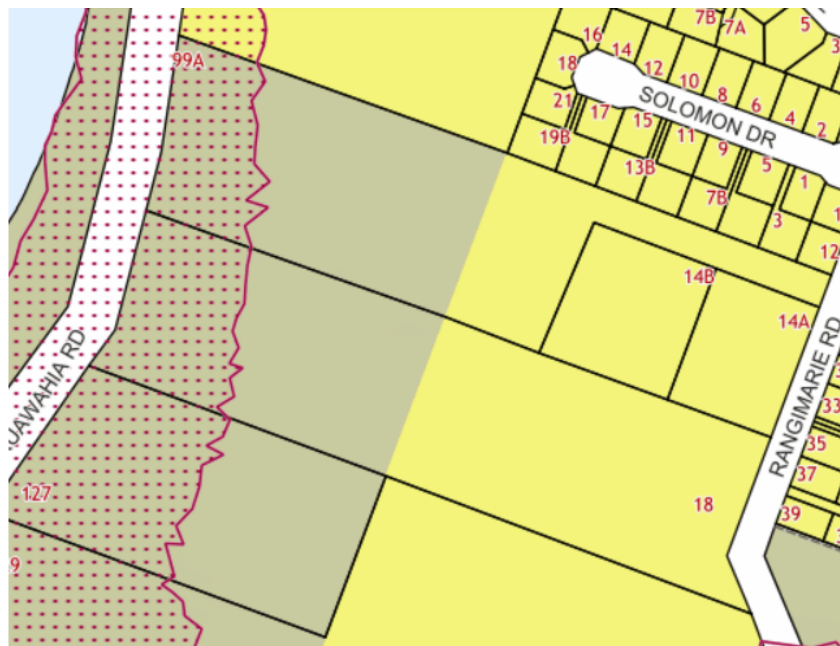

Figure 9: High risk flood area shown on the subject site

34. In the Section 42A report it was considered, if the area was to be rezoned then a comprehensive approach to the flood hazard needs to be taken. In para 35, Mr. Wood considers that the rezoning can occur as the majority of the land within the parcel is located outside of the identified flood plain. Mr. Wood also says in paragraph 36 that "R*ezoning the aera of land to MRZ2 (subject to hazards) does not enable the premise of urbanisation and certainly not residential activities. Residential activities with such hazards are identified as Non-Complying Activities in the ODP and PWDP currently. The hazard areas will ensure appropriate restrictions on development without additional Rural Zone policy burdens to urbanisation*".

35. I accept the points raised by Mr. Wood in respect of the management of the flood hazard matter and agree this is the approach that has been applied elsewhere in the PDP. Whilst I accept Mr. Wood's position on this matter I do consider there are outstanding issues for this site that need to be resolved. In terms of the information that is before me I consider these issues are:

    i. The significance of the archaeological resource on the sites;
    ii. Consultation with mana whenua on the cultural values associated with the sites'
    iii. Whether there are significant geotechnical restraints on the site that would make the level of development permitted under MDRS unachievable; and
    iv. Road connections to other areas within this growth cell.

36. In respect of water and wastewater connections. I note, there is a master plan attached to the submission that identifies some smaller sites and depending on how these sites are developed and to what density it should not be assumed that water and wastewater connections can be made available.

37. For the reasons mentioned in paragraph 3 I do not consider it is appropriate to rezone this land at this point in time in absence of technical information. Further technical information would also be required to support any appropriate qualifying matters. None have been identified in the evidence. I also note there is no need to rezone additional land residential for capacity reasons.

4 Single Medium Density Zone

38. Kāinga Ora (#106.2) requested that MDRZ1 and MDRZ2 be merged and there instead be one medium density zone. I considered the submission in paragraph 108 of the S42A report where it is suggested one approach could be to have one medium density zone with two sets of tables within the same zone. The rationale for retaining the different standards is because the existing medium density zone also applies to Raglan and Te Kauwhata which do not contain relevant residential zones. In para 8.3 Mr. Singh agrees that MDRS is not necessary, at this time, for Raglan and Te Kauwhata. In para 8.4 Mr. Singh suggests consolidating the two zones and carrying over the reduced standards. Mr. Singh suggests a precinct approach can be applied where the standards are different in Raglan and Te Kauwhata. Mr. Wallace agrees with the precinct approach in para 4.5 of his evidence. Mr. Campbell also agrees with the one zone approach and considers this issue in para 6.5 where he recommends rather than a new set of tables being introduced the rules themselves are amended to specifically refer to different standards where they apply. Mr. Campbell concludes that he considers this is a more efficient and effective approach and aligns with the National Planning Standards. Mr. Campbell does not provide an

example of what the new rules would look like, and consequently whether they represent an administratively efficient approach.

39. I agree with Messrs Singh, Campbell, and Wallace that there are benefits in a one zone approach, Given there are differences between the provisions that apply within MRZ1 and MRZ2 (including objectives, policies, rules and standards), I am of the view that the most efficient approach would be to provide for two parts within one Chapter. The introduction to the chapter could articulate the reason why different provisions apply to different areas (i.e. areas with and without relevant residential zones) and subsequently be split into two parts:

    i. MRZ Part 1: MRZ land in Raglan and Te Kauwhata

    ii. MRZ Part 2: MRZ land in all other areas

40. The application of this approach will take some time to draft. It is recommended that an amended set of Plan provisions be prepared at the conclusion of the hearing.

5 Minimum Net Lot Size Area

41. Evidence has been filed for Kāinga Ora, Havelock Village Limited and Pokeno West and West Pookeno Limited in relation to applying a 200m^2 vacant lot size to the area of the 4 towns that were part of the urban fringe qualifying matter.

42. This matter is considered from para 109 in the S42A report. The rebuttal evidence of Ms. Fairgray and Mr. Mead also considers this issue. I note there appears to be no disagreement about the vacant minimum lot size of 200m^2 in the existing minimum density zone, except for the matter raised in evidence by Messrs Campbell and Wallace relating to a minimum shape factor.

43. Para 110 of the S42A report notes there is no duty under S77G to amend the current vacant lot size. I noted in para 112 that if a 200m^2 was applied throughout the residential zone then it would disperse development rather than focus it on the town centre, and this outcome would not result in a well-functioning urban environment. I have now had the benefit of reading the evidence from submitters, the evidence from Ms. Fairgray and Mr. Mead and the expert conferencing that occurred on 18 July. I would like to begin by referring to some points raised in evidence.

44. In para 8.10 Mr Oakley, on behalf of Pookeno West and West Pookeno Ltd refers to the desire by the submitter to create medium density outcomes around neighbourhood centres/key open spaces where activity is encouraged. I note whilst the provision for neighbourhood centres identified on structure plans is included in the GRZ provisions it is not included in the MRZ2 Zone. Mr. Oakley may want to comment on this matter at the time of the hearing. Mr. Oakley also refers in para 8.17 to the need to provide flexibility and a range of housing choices / typologies. In para 8.19 Mr. Oakley states retaining the 450m^2 is tantamount to recreating the urban fringe which has already been established as being unlawful.

45. In respect of what m^2 the vacant minimum lot size area should be I understand Mr. Oakley considers the minimum lot size should be 200m^2, Mr. Tollemache initially considered it should be 240m^2, and Messrs. Wallace and Campbell favour replacing the minimum vacant lot size with a shape factor. I understand the shape factor sought is 8m x15m equating to 120m^2 (para 4.21 of Mr. Wallace's evidence). I understand Mr. Wallace considers the subdivision standards should be aligned to support the development typologies planned for the zoned.

46. Witnesses for these submitters participated in expert conferencing on this topic on the18th of July. The Joint Witness Statement (JWS) records the experts from the submitter parties do not consider the "*450m² minimum vacant lot size standard implements the relevant statutory requirement (including WDC subdivision policy SUB-P3(3)) and does not respond to Schedule 3A(7) of the Amendment Act. They consider that, given the Council notified a 200m2 vacant fee simple lot size in the MDRS2 Zone, the matter of an appropriate lot size in the former urban fringe area is within the scope of matters that Variation 3 is considering*". The JWS also records experts from Havelock Village Limited and Pookeno West and West Pookeno Limited "*consider a minimum vacant lot size of 300m² in the former urban fringe area contributes to a well-functioning urban environment; choice, affordability, and variety of housing; and does not inappropriately disperse development nor detract from any focus around a town centre*".

47. I consider establishing the vacant minimum lot size at a level that provides for a range of future range of options is important. On this point I note the evidence of Ms. Fairgray who states at paragraph 24: "*The initial lot size will have a significant and long-term effect on housing, including prices and affordability, through affecting the development opportunity and value. It is important that an initial subdivision minimum lot size provides opportunity and encourages development patterns that include a range of different dwelling sizes and typologies to better align with patterns of demand.*" I agree with Ms. Fairgray and consider it is important the vacant minimum lot size is established at a level that provides for intensification, but is not too small, that it does not enable different dwelling sizes. I note Mr, Mead in his evidence at para 85 has provided 3 options to enable MDRS type intensification. These options are:

    i. The creation of a super lot that can be subsequently be developed in a comprehensive way into terrace and apartment housing
    ii. A vacant lot size that can accommodate a stand along house on a smaller lot
    iii. A vacant or existing lot that can be (re) developed and subsequently re-subdivided for duplexes or triplex type units (either through construction of the dwellings first or consent being granted to the dwellings, followed by subdivision).

48. After reviewing this evidence, I have reviewed my position and consider there is merit in reconsidering the vacant minimum lot size. I note and agree with the advantages stated in Mr. Mead's evidence that there is benefit in a minimum lot size at 300m². At this size the option of one smaller house on a section is not precluded. I agree with Ms. Fairgray that 300m² is more likely to enable a range of dwelling typologies and sizes than 200m² (para 26). I acknowledge at this level it may potentially affect future development options for intensification on some sites. In saying this I consider, while this may change in the future, the one dwelling per site development currently predominates and there is not projected to be huge market demand for apartment living in the Waikato District, especially in the short to medium term.

49. I also share the same view as Ms. Fairgray in para 30. That it is important to have different minimum vacant lot sizes between inner urban areas of towns closer to town centres and those areas further away. The current minimum vacant lot size of 200m² in the existing medium density zone will provide a different level of development and encourage increased levels of development closer to the town centre.

50. The amended vacant lot subdivision rule is shown in Appendix A.

6 Huntly Height Overlay

6.1 Overview

51. I have focused this evidence on the outstanding matter of the Height Control Overlay in Huntly. I understand from para 5.1 of Mr. Singh's evidence that Kāinga Ora have revised their position and are no longer seeking a High Density Residential Zone in the Waikato District, nor are they pursuing a Height Control Overlay in either the TCZ or COMZ in Ngaaruawaahia. I also understand Kāinga Ora have amended the maximum height they are seeking in the Huntly COMZ from 24.5m to 22m. They continue to seek 24.5m in the Huntly TCZ. The relevant part of the Section 42A report is Section 7.1 at paragraph 630.

52. Based on the Policy 3(d) analysis undertaken in the Section 42A report I recommended rejecting the submissions from Kāinga Ora. I concluded the maximum heights sought by Kāinga Ora were not commensurate with the level of activities and services provided in these centres.

53. Since writing the S42A report I have had the benefit of reading the rebuttal evidence of Ms Fairgray, the evidence of Mr. Mead (urban planner) and the evidence of Messers Singh, Wallace and Campbell for Kāinga Ora. After reading this evidence I have amended my opinion and consider there is merit in providing a future opportunity for additional height within the Huntly COMZ. The key reason for this is Huntly is the primary commercial centre in the District and has the widest range of activities and services. I also agree with the macro level analysis undertaken by Mr Wallace at para 5.6 which identifies Huntly's strategic location, the proximity of the growth area at Ohinewai, and connection with key transport nodes as key reasons.

54. Given that it is now accepted Huntly is an appropriate location for increased height, it remains to be considered where the height overlay should be located and how it is most appropriately provided for. Like Mr. Mead, I consider careful attention needs to be given to this matter. I agree for the reasons stated by Mr. Mead the most appropriate location is within the COMZ, and that additional provisions in the PDP are required to ensure appropriate control of buildings between 12m and 22m in height in this location. I note this includes the relationship with existing residential zones and listed heritage items. The drafting of the relevant PDP provisions will be presented at the time of the hearing.

7 Stormwater

7.1 Overview

55. Section 6.3 Natural Hazards, Section 6.4 Te Ture Whaimana and Section 7.2 Infrastructure Capacity of the s42A report all address aspects of stormwater management. Stormwater management relates to the management of flooding (a natural hazard); water quality, which is related to Te Ture Whaimana, and stormwater network (infrastructure) capacity.

56. Submissions related to stormwater were addressed in the Natural Hazards - Flooding section of the s42A and also the Te Ture Whaimana section. The submissions are discussed in para482 – 492 of the s42A report. Submitters sought retention of the impervious surface standard, inclusion of assessment criteria related to Low Impact Design and green infrastructure, on-site retention and detention and stormwater management generally. A more consistent approach to

stormwater management and flooding was also sought, and more specific consideration of stormwater effects on rural land. Finally, amendments to objectives and policies to require improvements to the transport network to make it more resilient to natural hazards and flooding. It was noted that this amendment was out of scope.

57. Submissions related to Te Ture Whaimana are addressed in paras 520 – 523. Stormwater related submissions sought to retain Te Ture Whaimana as a qualifying matter and sought consideration of additional provisions to give effect to it and noted that intensification is not appropriate where it adversely affects the Waikato River.

58. Submitters evidence received on the 4th of July sought removal of the Stormwater Constraints Overlay and the associated planning provisions, seeking a more comprehensive approach via a plan change instead (Kāinga Ora, Next Construction). Evidence from Waikato Regional Council (WRC) supported the Council advancing as much work on stormwater as possible through Variation 3 with the remaining work being undertaken as part of a variation or / plan change. Kāinga Ora also sought that the rules be inserted into the Natural Hazards chapter of the PDP which I support, this includes the new rules NH-26A, NH-26B, NH-26C, NH-26D and NH-26E. I note that a new plan change or variation would need to occur at a later date and therefore I consider that a precautionary approach is warranted. Future amendment of the planning rules to achieve a more comprehensive approach will entail less risk of development occurring in inappropriate locations in the meantime.

59. Drafting amendments were proposed to achieve more consistent wording (WRC) and the use of a building platform requirement was proposed (Pokeno West Et al.) in place of a minimum site size and amended development controls and site sizes. I support this approach. Including a rule requiring the building platform to be outside of the flood plain is a simpler way to achieve good stormwater management outcomes. Additional or amended matters of discretion were sought (WRC, Kāinga Ora, Pokeno West Et al., Noakes Et al. and Synlait Milk Ltd) to refine the reference to Te Ture Whaimana within the assessment criteria, Low Impact Design and the effects of stormwater discharges on rural land. Hynds sought reference to relevant Catchment Management Plans in the assessment criteria. These amendments are discussed below as they were the topic of an expert conferencing session after submitters evidence was received.

60. The use of a non-statutory layer to show flood plains (rather than the use of planning maps) was requested by Kāinga Ora, Pokeno West Et al. and WRC. While this approach has merit, I consider that the use of a mapped overlay will be less confusing to plan users given that there is no scope in Variation 3 to amend the existing mapped overlays. This matter should be considered in any new plan change initiated to more comprehensively address flooding effects across the district.

61. Finally, Pokeno Village Holdings Ltd sought the inclusion of pipe capacity maps and an associated RD rule. I note that Watercare does not have such modelling readily available, as discussed by Mr Telfer, and that the Te Miro Water stormwater technical report was unable to determine pipe capacity using the data available at this point in time. Stormwater pipe capacity has been estimated based on the age of the pipe and the sizing requirements at the time it was installed. This data would need refinement before a rule can established based on a map. Nevertheless, stormwater capacity is addressed in rule WWS-R1. Ms Huls has recommended an advice note be added to the relevant subdivision rules and MRZ2-S1 to advise plan users that water, wastewater and/or stormwater connections will require approvals from the network providers.

62. Expert conferencing was held on stormwater on the 11th of July 2023, with follow on sessions on the 12th and 13th of July to address water quality and effects of development on downstream rural

land, and to discuss the drafting of provisions to reflect appropriate consideration of stormwater matters at the time of development. Two joint witness statements were prepared to reflect the discussions.

63. The outcome of the conferencing acknowledged that Te Ture Whaimana is the primary direction setting document and a key statutory document for the Waikato River. Provisions included in Variation 3 need to give effect to Te Ture Whaimana.

64. The experts discussed the provisions that related to stormwater management. It was acknowledged that there were some drafting errors in the s32AA report which caused confusion. The intent was to include one overlay with rules associated with that. The overlay was named the Stormwater Constraints Overlay and it relates to flood management.

65. Related appeals to the PDP were discussed. Rule WWS-R1 is intended to manage stormwater at the time of development and is subject to appeal. Additional wording is sought to better reflect the stormwater effects of development on downstream rural land. Further, Waikato Regional Council sought changes to the way that flood plains are referenced in the PDP. The use of a non-statutory layer and the need for a more comprehensive plan change addressing flooding.

66. Many of the experts agreed that development in the flood plain should be discouraged, but some felt this was a step too far and felt that development should be managed. It was agreed that development in the flood plain should trigger a resource consent.

67. More detailed discussions were had on the specific wording of the rules and the triggers for resource consent. Discussion was had on the benefit of imposing a requirement that the building platform be entirely outside of the flood plain rather than putting more restrictive controls on development intensity, setbacks, building coverage and site sizes for stormwater purposes. Amended assessment criteria were discussed to better reflect stormwater effects, including those on rural land. Ms Huls has set out the specific changes to the assessment criteria in MRZ2-S1, MRZ-S4, MRZ-S5, MRZ-S10, SUB-153 and SUB-154, and the introduction of rules in the Natural Hazards chapter (NH-26D) to ensure a building platform is available outside the Stormwater Constrains Overlay.

68. I agree with the proposed rule amendments referred to in the rebuttal evidence of Ms. Katja Huls including inserting new provisions into the Natural Hazards chapter and amended matters of discretion for subdivision to better reflect good stormwater management. Ms. Huls has also recommended a new rule in the Water Wastewater and Stormwater chapter to require a stormwater management plan for development or subdivision of 4 or more units or lots. The new rule will ensure the minimum stormwater quality standards in the Council's relevant discharge consents will be achieved (WWS-R1A). I support this addition.

69. I also note Mr. Telfer recommended in his primary evidence the addition of a new rule to manage the location and design of services in infill sites (para 81). I support the addition of the rule and note it can only apply where there is scope within Variation 3, this is included as WWS-R1B.

8 Education Facilities

8.1 Overview

70. The Ministry of Education (#60) sought to add new objectives, policies and rules for education facilities within the MRZ2 Zone. The submission points are considered in para 357 to 369 of the S42A report. The recommendation in the S42A report is to reject the relief sought. Following the release of the S42A report further conversations were had with the consultant representatives from Ministry of Education. These conversations resulted in the letter dated 30 June 2023 submitted to the Hearings Panel. The letter records the agreement reached. For the sake of completeness the agreement reached has been included below and the amendments have been made in Appendix A.

71. The amendments are as follows:

    i. Add the words including education facilities into MRZ-O4

    ii. Include a new rule into MRZ2 that lists education facilities excluding childcare facilities as a RDIS activity. The matters of discretion are to be the same as the existing rule GRZ-R13.

72. It is considered that the recommended addition of the new rule avoids the issue raised in retrofitting the community facilitates rule raised in para 367 of the S42A report. Furthermore, it is still considered given a new rule has been added there is now merit in specifically recognising education facilities in MRZ-O4.

9 Issues of Significance to Maaori

9.1 Overview

73. Issues of Significance to Maaori and the consideration of the relevant submissions are contained in Section 6.1 of the S42A report from para 383.

74. A matter considered in this section relates to the submitters who are seeking recognition of the significance of the Tuurangawaewae Marae and its relationship with its surroundings including the outlook to Hakarimata Range, Waikato Awa, and Taupiri Maunga. Expert conferencing occurred on this topic on 6 June. The discussions on this topic have been informed by korero from kaumatua from Tuurangawaewae Marae and its surroundings and a technical landscape report prepared by Mr. Dave Mansergh. Representatives from Kāinga Ora attended the expert conferencing and separately met with representatives from the Marae. Following this engagement Kāinga Ora advised they are no longer pursuing their submission related to a high density zone and a height overlay in TCZ and COMZ in Ngaaruawaahia. In this regard I refer to para 5.1 of Mr. Singh's evidence.

75. Mr. Giles Boundy has prepared planning evidence for Tuurangawaewae Marae and Te Whakakitenga o Waikato. At para 5.3 Mr. Boundy identifies two matters in Mr Mansergh's evidence that have not been considered in the S42A report. The matters being recognition of the Waikato River as forming part of the culturally significant viewshaft from Tuurangawaewae Marae and assessment criteria/matters of discretion. The remaining matter identifed in Mr. Boundy's

evidence relating to adding a matter of discretion "*Effects on cultural values identified in Maaori Values and Maatauranga Maaori Chapter*" is considered in Section 13.2 of this evidence.

76. I note Mr. Mansergh in paragraph 169 of his evidence recommends a further matter of discretion be added to Rules MRZ2-S2, MRZ2-S3 and MRZ2-S5 to ensure the assessment of any potential effects on the cultural view shafts from Tuurangawaewae Marae from any non-compliance with the permitted height, building coverage, and height in relation to boundary standards. I agree with Mr Mansergh and also Mr Boundy that it is important to add relevant matters of discretion. In paragraph 404 I state it is clear from the submissions that have been received that the relationship between Tuurangawawae and the Hakarimata Ranges is of significant cultural heritage importance. What I did not say in this paragraph but equally applies is that it is also clear there is an equally important relationship between Tuurangawaewae Marae, the Waikato Awa and between the Marae and Taupiri Maunga. Because of these reasons and based on the technical report and evidence presented by Mr. Mansergh I support the addition of new matters of discretion as recommended by Mr. Mansergh. I consider the following matter of discretion should be added to MRZ2-S2 Height, MRZ2-S3 Height in Relation to Boundary and MRZ2-S5 Building Coverage:

    In Ngaaruawaahia the potential to adversely effect the outlook from Tuurangawaewae Marae to Hakarimata Ranges, Taupiri Maunga, and Waikato Awa.

77. I also consider it would be helpful if an additional policy were to be added to MRZ2 Chapter of the Proposed District Plan to assist in the assessment of potential effects. A draft policy is provided below. I acknowledge submitters may wish to comment further on this suggestion at the time of the hearing:

    In Ngaaruawaahia, provide for the cultural heritage relationship between Tuurangawaewae Marae the Hakarimata Ranges, Taupiri Maunga and the Waikato Awa.

10 Retirement Villages

10.1 Overview

78. The provisions for retirement villages and the relief sought by the Retirement Villages Association (submitter #107), Ryman Healthcare (submitter #108) and Wayne Bishop and Cameron Smith (submitter #14) are predominantly addressed in the following sections of the s42A and the s42A Addendum reports:

    i. Sections 334-335 of the s42A report.

    ii. Section 3 of the s42A Addendum report.

79. Nicola Williams prepared planning evidence in support of the Retirement Villages Association and Ryman Healthcare submissions. Ms Williams and her colleague Hannah O'Kane and I met on 13 July 2023 to discuss the relief sought and the evidence provided. The table below outlines the relief supported by Ms Williams and my response to those matters.

Ms Williams' supported relief	s42A Author Response
Amendments to the objectives of the MRZ2 and the inclusion of a new objective in the MRZ2.	No change from the position outlined in s42A and the s42A Addendum report.
Amendments to the policies of the MRZ2 and the inclusion of new policies in the MRZ2	No change in relation to the amendments to policies and new policies not relating to retirement villages from the position outlined in the s42A and the s42A Addendum report. Support the inclusion of a new policy in relation to retirement villages (discussed below).
The inclusion of a new definition for retirement unit and associated amendments to the rules within the MRZ2 to better differentiate between the standards that apply to residential units and those that apply to retirement units.	Support the proposal to clarify the application of MDRS to retirement villages and an alternative approach to address this issue is discussed below.
Amendments to the Local Centre Zone, the Commercial Zone and the Town Centre Zone to better provide for retirement villages and residential activities generally	No change from the position outlined in s42A and the s42A Addendum report.

10.2 New Policy for Retirement Villages in the MRZ2

80. Ms Williams sets out her recommended policy for retirement villages within the MRZ2 in paragraph 98 of her evidence statement.

81. In considering the evidence provided by Ms Williams, I agree that specific provisions for retirement villages in the form of enabling policies should be included within the MRZ2. My reasons include:

    i. Retirement villages are provided for as a permitted activity within the MRZ2, however, there is no policy that specifically enables retirement villages. I support the inclusion of policy that provides for and enables retirement villages in the MRZ2. I am of the view that supportive policy/policies would provide for a better policy-to-rule cascade within the PDP.

ii. The GRZ includes relevant policies that provide for and enable retirement villages[1]. With the removal of the urban fringe, large parts of the former GRZ are now proposed to be zoned MRZ2. As a result, land that previously had a policy framework that supported retirement villages, no longer does. The unintended consequence is that Variation 3 is less enabling of retirement villages than the PDP itself. In my view, the inclusion of supportive policy/policies would retain the existing level of support for retirement villages across the Waikato District.

82. As is stated above, the GRZ includes relevant policies that provide for and enable retirement villages within the GRZ. I recommend that those existing policies are included within the MRZ2. I prefer the GRZ policies to the recommended policy proposed by Ms Williams to retain a consistent policy approach to retirement villages within the PDP. The proposed policies were discussed with Ms Williams who appeared to be generally supportive of the alternative proposed wording and the reasons for retaining consistency within the plan.

83. For the above reasons I recommend the following:

i. An amendment to MRZ2-P5 in relation to outdoor or communal living spaces. The proposed wording is consistent with the equivalent GRZ policy (GRZ-P10).

ii. New policy MRZ2-PX 'Retirement Villages' which provides for the establishment of new retirement villages and enables alterations and additions to existing retirement villages in the MRZ2. The proposed wording is consistent with the equivalent GRZ policy (GRZ-P12).

The above amendments are shown in Appendix A.

10.3 Amended Rules for Retirement Villages in the MRZ2

84. I agree with Ms Williams that not all MDRS should apply to retirement villages given their different functional and operational needs to individual residential units. I further agree that the current rule framework could result in interpretation issues without amendments[2] and inadvertently apply all MDRS to retirement villages.

85. To address the potential interpretation issues, Ms Williams recommends the following (summarised) approach:

i. Provide for the construction of retirement villages (rather than the use of retirement villages) as a restricted discretionary activity under MRZ2-R2.

ii. Include a definition for 'retirement unit' within the PDP.

iii. Amend the MRZ2 Standards to explicitly state how these apply to retirement units.

86. I agree with the intent of the above amendments to clearly identify the standards that do and do not apply to retirement villages. In my view, an alternative approach can be used to address the potential interpretation issues more efficiently. The alternative approach requires amending MRZ2-R2 (Retirement villages) as follows:

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[1] GRZ-P12 'Retirement Villages' and GRZ-P10 'Outdoor living space – retirement villages'

[2] Refer to paragraph 30 of Ms Williams' primary evidence statement

i. Delete the minimum living space and service court requirements (1b and 1c).

ii. Add the following standards to exclusions listed in (1)e[3]:

- MRZ2-S7 (Outlook space per unit)
- MRZ2-S11 (Ground floor internal habitable space)

iii. Amend MRZ2-R2 to clarify that the following standards do apply:

- MRZ2-S2 (Height)
- MRZ2-S3 (Height in relation to boundary)
- MRZ2-S4 (Setbacks)
- MRZ2-S5 (Building coverage)
- MRZ2-S8 (Windows to street)
- MRZ2-S9 (Landscaped area)
- MRZ2-S10 (Impervious surfaces)

87. The above amendments are shown in Appendix A and were discussed with Ms Williams on 13 July 2023 who appeared to be generally supportive.

11 Infrastructure Providers

11.1 Transpower NZ Limited

88. As identified in the s42A report, Transpower appealed the PDP decision to the Environment Court in relation to the National Grid provisions[4]. One component of the appeal and Transpower's requested relief relates to the location of the National Grid rules in one chapter, rather than the duplication of the provisions across multiple zones. I understand from Transpower that should the provisions be duplicated across the various zone chapters, the provisions must be consistent.

89. I understand that Transpower, Council and the s274 parties to the appeal are currently progressing the National Grid provisions for the residential zones of the PDP and that the parties are close to reaching agreement. I further understand the amendments sought to the residential zone provisions are confined in nature with the majority of the amendments being corrections and consistent application of the provisions through the various zones.

90. Minor corrections/edits requested by Transpower are as follows:

i. insert a ';' after clause MRZ2-R10 (1)(a)(iii)

ii. Amend rule reference in clause (1)(b) from GRZ2-R10 to MRZ2-R10

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[3] MRZ2-R2 (1)e already excludes MRZ2-S1 and MRZ2-S6

[4] ENV-2002-AKL-000074

iii. Amend numbering within MRZ2 R10(1)(b) to renumber clauses (c), (d) and (e) to make (renumbered) matters (1), (2) and (3) a subset of clause (ii).

91. Further discussions have been held with Transpower and their representatives since the release of the s42A report. Through those discussions it appears that Transpower generally accept the recommendations contained in the s42A report, however seek that any provisions agreed through Environment Court process are applied to the MDRZ2 zone. Such an approach would address the Transpower appeal on the PDP seeking consistency across the various zone provisions.

92. I agree that the provisions that are agreed through the PDP appeals process should be consistently applied across all zones within the Waikato District. I recommend that, following the issuing of a consent notice (or a decision) the finalised provisions in relation to the National Grid Yard and associated advice notes are included in the MRZ2 if there is scope to do so. On this basis, I recommend that a further update be provided to the panel in relation to this matter at the November 2023 Variation 3 hearing.

11.2 WEL Networks Limited

93. Paragraphs 336-340 of the s42A report address the submission points from WEL Networks in relation to electricity distribution infrastructure and their specific requests for:

i. A new subdivision rule requiring compliance with NZECP 34:2001); and

ii. An amendment to MRZ2-S4 (Setbacks) to require compliance with NZECP 34:2001.

94. Sara Brown prepared planning evidence in support of the WEL Networks' submissions. I agree with Ms Brown's statement in relation to the ability for Council to include related provisions (including 'infrastructure') as part of the variation under s80E of the RMA[5]. I further agree with Ms Brown's statement that the definition of infrastructure in the RMA includes the distribution of electricity (including the WEL electricity lines).

95. The relief sought by WEL Networks may restrict the ability to achieve the MDRS (specifically the setback requirements). Council may make development within a relevant residential zone less enabling of development only if one or more qualifying matter is present[6]. In relation to 'infrastructure' as a qualifying matter, the RMA provides for only <u>nationally significant infrastructure</u>[7].

96. 'Nationally significant infrastructure' is defined in the NPS-UD and in relation to electricity distribution provides for:

> *(b) the national grid electricity transmission network*
>
> *(c) renewable electricity generation facilities that connect with the national grid*

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[5] Paragraph 3.2 of Sara Brown evidence statement
[6] Section 77I of the RMA
[7] Section 77I(e) of the RMA

97. The ‘National Grid’ is defined in the National Policy Statement on Electricity Transmission and means:

> *The assets used or owned by Transpower NZ Limited.*

98. Based on the above, I do not consider that the regional distribution network operated by WEL (as a related provision) can be considered as a qualifying matter under the RMA. For that same reason, I am of the view that the requested amendments cannot be included in the PDP as they could restrict density.

99. Notwithstanding the above, I acknowledge the potential serious consequences of breaches with the code of practice. For that reasons, and as is stated in the s42A report[8], 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.

11.3 Fire and Emergency NZ

100. The request from Fire and Emergency NZ (FENZ) to amend the matters of discretion for MRZ2-S4 (Setbacks) was addressed in paragraphs 288-291 of the s42A report. Upon reviewing the reasons for rejecting the submission points, Alec Duncan, on behalf of FENZ, tabled the following alternative wording:

> *4. The extent to which the non-compliance compromises the ability for emergency services to access the property in an emergency.*

101. I support the recommended wording above. I agree that non-compliance with the required setback standards could have adverse access effects for emergency services and that this should be considered as part of assessing an application for resource consent. The above wording is included as a recommended amendment in Appendix A.

12 Havelock Precinct[9]

102. Matters relating to the Havelock Precinct are addressed in the following sections of the s42A report:

    i. Paragraphs 414-419 in relation to the cultural landscapes
    ii. Paragraphs 458-462 in relation to the slope residential area
    iii. Paragraphs 603-621 in relation to reverse sensitivity and the suite of proposed provisions generally

103. By way of summary, the s42A recommendation[10] was to:

    i. Apply the MRZ2 to all GRZ land within the Havelock Precinct;

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[8] Paragraph 340 of the s42A report
[9] This section excludes matters relating to stormwater management and minimum vacant lot sizes
[10] Refer to paragraph 614 and Appendix 2 of the s42A report

ii. Apply the existing PDP overlays, standards and rules as qualifying matters and related provisions; and

iii. Apply new qualifying matters to minimise the potential for reverse sensitivity effects and protect culturally significant landscapes.

104. Appendix 6 to the s42A report includes a table that shows the proposed qualifying matters for the Havelock Precinct. The table is repeated below as it provides a useful overview of the proposed qualifying matters and their effects.

MRZ2 Provision	Requirement	Variation required?	Qualifying Matter/s
Number of residential units per site (MRZ2-S1)	Three residential units per site	**Yes -** The number of residential units per site will be restricted to one residential unit per site within the Slope Residential Area. Three residential units per site will be permitted in all other parts of the Havelock Precinct.	Slope stability
Building height (MRZ2-S2)	11 metres	**Yes -** Height is restricted to 5m within: 50m of the boundary of a hilltop park (Transmission Hill and Potters Hill). Height is restricted to 5m within 50m of the Havelock Industry Buffer Height Restriction Area. Height is restricted to 8m within the 40dB L_{Aeq} noise contour area (outside the Havelock Industry Buffer Zone). Heights of up to 11m will be permitted in all other parts of the Havelock Precinct (subject to no other qualifying matters or district wide provisions applying).	Cultural landscape Cultural landscape Reverse sensitivity
Building coverage (MRZ2-S5)	50%	**Yes -** Building coverage within the Slope Residential Area must not exceed 40% of the net site area[11].	Slope stability
Building setback – sensitive land use (MRZ2-S14)	This rule stipulates setback requirements for sensitive land uses to a number of sites/infrastructure.	**Yes -** This rule will be amended to avoid sensitive land uses (new buildings or alterations to existing buildings) within the Havelock Industry Buffer (providing for it as a non-complying activity).	Reverse sensitivity
Subdivision (SUB-R153)	Minimum lot size of 200 square metres.	**Yes -** The minimum lot size within the Slope Residential Area is required to be at least 2,500 square metres. The minimum vacant lot size for all other areas within the Havelock Precinct is 200 square metres.	Slope stability

[11] This rule was not captured in Appendix 2 of the s42A. It is now included as SUB-R153 in Appendix A.

105. Expert evidence has been provided in support of submissions received from the following submitters:

i. Synlait Milk (Synlait)
ii. Pokeno Village Holdings Limited (PVHL)
iii. Havelock Village Limited (HVL)
iv. Hynds Pipes Systems Limited (Hynds)

106. On reviewing the evidence statements provided on behalf of the above submitters, I seek to provide rebuttal and/or clarifications regarding:

i. The EPA as a qualifying matter
ii. Recommended qualifying matters within the Havelock Precinct
iii. General matters related to the provisions

12.1 The EPA as a Qualifying Matter

107. There are four Environmental Protection Areas (EPAs) within the GRZ parts of the PDP within the Havelock Preinct. Variation 3 provides for the EPAs as 'related' provisions[12] whereby the existing provisions within the plan would continue to apply. The relevant existing provisions relating to the EPAs are as follows:

i. SUB-R21 which requires:

- The creation of the EPAs within the Havelock Precinct
- A legal mechanism to retain the EPAs in Havelock Precinct in perpetuity and prevent further subdivision.
- A planting management plan for weed and pest control and ongoing management of the EPAs in Havelock Precinct

ii. GRZ-S23[13] which requires

- A building to be setback a minimum of 3m from an EPA

108. Based on the expert evidence received I consider that the following three key matters regarding EPAs should be addressed in more detail:

i. The EPA within Area 1
ii. Density effects of EPAs
iii. The EPA as Qualifying Matters under Section 77I(a) of the RMA

[12] Refer to paragraph 614 and Appendix 6 of the s42A report.
[13] This standard is proposed to be duplicated within the MRZ2 as MRZ2-S15 (Building setback – Environmental Protection Area).

The EPA in Area 1

109. Figure 12.1 below shows the extent of the EPA within Area 1 adjacent to the Havelock Industry Buffer[14] in red outline.

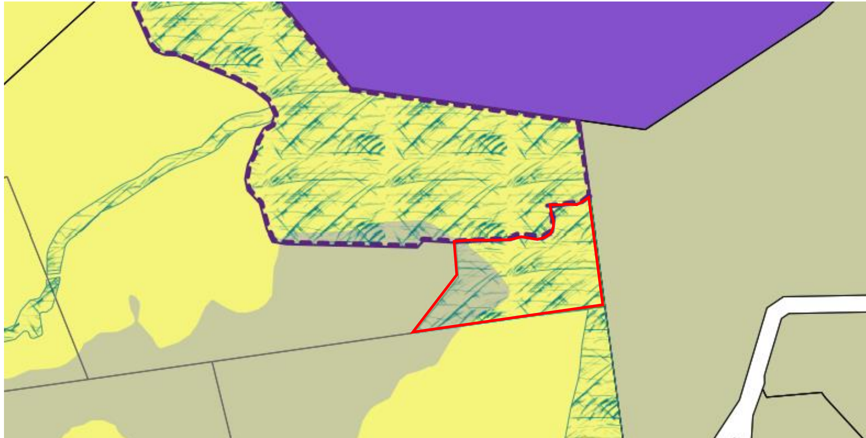

Figure 12.1: Extent of EPA within Area 1(shown in red outline) not subject to the Havelock Industry Buffer in the PDP

110. Ms Nairn provides details[15] regarding the PWDP panel's decision for Area 1 and confirms that:

    i. The panel were of the view that dwellings in Area 1 have the potential to generate adverse reverse sensitivity effects and that residential activity from the area should be excluded.

    ii. The panel applied an EPA to Area 1 to exclude dwellings in Area 1 and provide the added benefit of extending the planted/natural backdrop provided by Transmission Hill.

111. Despite the above, I note that the panel did not extend the Havelock Industry Buffer to the full extent of Area 1. This is something that is also questioned by Ms Nairn in her evidence where she states[16]:

> *Given the clearly stated intention in the decision that Area 1 would be excluded from development, it is not clear to me why the Council zoned this land residential and did not apply the Havelock Industry Buffer.*

112. The decision by the Panel to apply the EPA within Area 1 (and other aspects of the decision) was appealed by Hynds[17] on the basis that:

> *The rules within the General residential and General rural zone chapters relating to the EPA and Pokeno Industry Buffer are not adequate or appropriate and will not achieve*

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[14] The Havelock Industry Buffer was known and referred to as the Pookeno Industry Buffer throughout the course of the PDP process. The PDP shows the industry buffer as 'the Havelock Industry Buffer' in the planning maps. For consistency with the PDP I refer to the industry buffer as the Havelock Industry Buffer.
[15] Refer to Sections 7.1 and 7.2 of Sarah Nairn's primary evidence statement.
[16] Refer to Section 7.4 of Sarah Nairn's primary evidence statement
[17] ENV-2022-AKL-000087

the result described by the Council in its decision or give effect to the provisions of the WRPS or objectives and policies of the PWDP that relate to reverse sensitivity.

113. The decision by the Panel to apply the EPA within Area 1 (and other aspects of the decision) was also appealed by HVL[18] on the basis that:

    Residential development in this area would not have any credible reverse sensitivity effects nor constraints on existing industrial uses due to the Havelock industrial buffer proposed through the Havelock Precinct provisions.

114. The sentiment of these appeals is echoed within the evidence statements of the respective planning experts for the appellants (Sarah Nairn for Hynds and Mark Tollemache for HVL).

115. I understand that discussions between HVL, Hynds, Council and the s274 parties are ongoing in relation to all appeals for the Havelock Precinct.

116. If a decision was made to extend the Havelock Industry Buffer across the EPA as part of the IPI process there would be no ability by HVL (or any other party) to appeal that decision[19]. In my view, a decision to extend the Havelock Industry Buffer across the EPA would predetermine the suitability of the land for residential development and would therefore undermine the existing Environment Court appeal process.

117. For the above reason I recommend that the EPA is retained as a related provision within Area 1 and is applied to the extent shown in the PDP. The final outcome of the zoning and/or rules pertaining to this part of the Havelock Precinct can then be determined through the appeals process. In my view this is the most fair and reasonable process for this aspect of the precinct.

Density Effects of the EPA

118. Related to the above discussion is the issue regarding the density effect of the EPA. Specifically, Ms Nairn is of the view that the EPA directly limits the density of development that can occur within the Havelock Precinct and disagrees with the statement in Appendix 6 of the s42A report which states that EPAs do not affect density[20]. I agree with Ms Nairn's statement in part and provide the following clarification regarding the density statement made in Appendix 6:

    i. Area 1 is entirely held within one property parcel which consists of approximately 25 hectares.

    ii. The MDRS provide for three residential units per site as a permitted activity.

    iii. Given the substantial size of the site, I am of the view that the EPA affects the siting of dwellings on the site, rather than density. It is clear that three dwellings can be established on the site, without encroaching into the EPA (or its required setbacks).

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[18] ENV-2020-AKL-000072

[19] Section 107 of Schedule 1 of the RMA

[20] Refer to section 9.3 of Sarah Nairn's primary evidence statement

119. Subdivision within the Havelock Precinct is required to be consistent with the Havelock Precinct Plan (SUB-R21) and requires the creation of the EPA through subdivision. Once subdivided into smaller property parcels, I agree that there would be a direct density affect as a result of the EPA.

120. Notwithstanding the future potential density effects of the EPA, I retain the opinion that decisions regarding the EPA, Area 1 and its underlying zoning should be determined through the appeals process.

The EPA as Qualifying Matters under Section 77I(a) of the RMA

121. This section addresses whether the EPA should be provided for as qualifying matter under Section 77I(a) (i.e. a matter of national importance). Ms McGrath is of the view that the view that the EPA is a qualifying matter[21] under s77I(a) and states that:

> *The EPA was intended to provide for the enhancement and protection of wetlands and streams, ecology in accordance with s6(a) and (c) matters of national importance.*

122. Conversely, Mr Tollemache states[22]:

> *The EPA is a planting rule which includes measures for ongoing management and protection of the planted vegetation. The EPA in Havelock was developed as part of the comprehensive master planning of the site and outlined in evidence through the PDP hearing process. The EPA in Havelock serves multiple purposes depending on where it is located on the site.*

123. Mr Tollemache outlines the various functions of the EPAs within the Havelock Precinct in section 6.3 of his evidence statement. The listed reasons do not include matters of national importance under sections 6(a) and 6(c).

124. In my view, the section 6(a) and 6(c) matters that required protection on the site were identified through the PDP process and are shown as Significant Ecological Areas (SNAs) within the precinct. No evidence has been provided to suggest that the land within the EPAs warrants additional protection as section 6(a) and/or section 6(c) matters and for that reason I do not agree that the EPAs can be considered as qualifying matters under section 77I(a).

12.2 Recommended Qualifying Matters in the Havelock Precinct

125. The table below outlines the qualifying matters that were recommended in the s42A report, the evidence provided from experts regarding those matters and my position on those matters. Overall, the table shows that there is in principle agreement from all experts regarding the application of the proposed qualifying matters.

[21] Refer to Section 2.2 of Melissa McGrath's primary evidence statement
[22] Refer to Section 6.3 of Mark Tollemache's primary evidence statement

s42A QM	Experts' Evidence	s42A Author Response
Slope Residential area	Sarah Nairn (for Hynds) provides planning evidence which supports the slope residential area qualifying matter[23]. Rachel de Lambert (for PVHL and Hynds) provides landscape architecture evidence which supports the slope residential area qualifying matter[24]. Melissa McGrath (for PVHL) provides planning evidence which supports the slope residential area qualifying matter[25]. Mark Tollemache (for HVL) provides planning evidence which supports the slope residential area qualifying matter and the recommended provisions[26].	No change from the position outlined in the s42A.
Reverse sensitivity	Sarah Nairn (for Hynds) provides planning evidence which supports the Havelock Industry Buffer generally, however, recommends its extension across the EPA in Area 1[27]. Melissa McGrath (for PVHL) provides planning evidence which supports the Havelock Industry Buffer and the restrictions/requirements within the 40dB LAeq contour [28]. Mark Tollemache (for HVL) provides planning evidence which: - supports the recommended provisions in relation to the Havelock Industry Buffer[29]. - supports the recommended intent of the 8m height restrictions within the 40dB LAeq	Position remains fundamentally unchanged from the s42A with minor modifications proposed to the drafting of provisions (discussed in more detail below).

[23] Refer to Section 13.1 of Sarah Nairn's primary evidence statement.
[24] Refer to Section 4.5 of Rachel de Lambert's primary evidence statement
[25] Refer to Section 2.9 of Melissa McGrath's primary evidence statement
[26] Refer to Section 5.17 of Mark Tollemache's primary evidence statement
[27] Refer to Section 11.3 of Sarah Nairn's primary evidence statement
[28] Refer to Section 7.1 of Melissa McGrath's primary evidence statement
[29] Refer to Section 5.21 of Mark Tollemache's primary evidence statement

s42A QM	Experts' Evidence	s42A Author Response
	contour and provides recommended amendments to give effect to this requirement[30]. Jon Styles (for HVL) provides acoustic engineering evidence which supports the retention of the Havelock Industry Buffer and the height restriction to 8m for properties within the 40dB LAeq contour[31]. Rachel de Lambert (for PVHL and Hynds) provides landscape architecture evidence which supports the Havelock Industry Buffer, however, recommends its extension across the EPA in Area 1.	
Cultural landscapes	Rachel de Lambert (for Hynds and PVHL) provides landscape architect evidence and: - Supports the reduced height restrictions adjacent to the Havelock Industry Buffer (referred to as the height restriction area)[32]. - Supports the reduced heights within 50m of the hilltop parks and seeks amendments to the use of natural ground levels for measuring the heights of buildings. Bridget Gilbert (for HVL) provides landscape architect evidence that supports the proposed QMs which limit building heights within 50m of the hilltop parks, the ridgeline and the elevated sections along the Havelock Industry Buffer to 5m[33]. Sarah Nairn (for Hynds) provides planning evidence which supports height restrictions to 5m within 50m of a hilltop park within the Havelock Industry Buffer Height Restriction	Position remains fundamentally unchanged from the s42A with minor modifications proposed to the drafting of provisions (discussed in more detail below).

[30] Refer to Section 5.26 of Mark Tollemache's primary evidence statement
[31] Refer to section 5.9 of Jon Styles' primary evidence statement
[32] Refer to Section 6.9 of Rachel de Lambert's primary evidence statement
[33] Refer to sections 4.5, 5.5 and 6.11 of Bridget Gilbert's primary evidence statement

s42A QM	Experts' Evidence	s42A Author Response
	Area[34] and seeks amendments to the use of natural ground levels for measuring the height of buildings. Mark Tollemache (for HVL) provides planning evidence which supports the cultural landscape qualifying matters in principle and recommends that the height restriction area be mapped on the precinct plan[35] Melissa McGrath (for PVHL) provides planning evidence which supports restrictions to provide for cultural landscapes as a qualifying (noting the exception for its application to the GRZ as is discussed below)[36].	

12.3 General Matters Relating to the Proposed Provisions

126. While the table in the section above demonstrates that there is general support for the proposed qualifying matters, additional amendments were recommended by experts relating to:

   i. The use of natural ground levels for measuring building heights
   ii. Building setback rules within the Havelock Industry Buffer
   iii. Qualifying matters within the General Rural Zone

127. The above issues are addressed in more detail below.

The use of natural ground levels for measuring building heights

128. Ms de Lambert[37] and Ms Nairn[38] have recommended amendments to the use of natural ground level for measuring the height of buildings in the provisions so that it refers to 5m and single story. Specifically Ms de Lambert recommends that buildings are limited to one storey. She is of view that the current rule drafting requires buildings to be measured from natural ground level and with future recontouring, this could result in buildings that are higher than 5m.

129. The height restrictions within the Havelock Precinct refer to heights measured from the natural ground level. I acknowledge the issue raised by Ms de Lambert and Ms Nairn. Rather than

[34]Refer to Section 13.1 of Sarah Nairn's primary evidence statement
[35] Refer to Section 5.36 of Mark Tollemache's primary evidence statement
[36] Refer to Sections 5.1-5.3 of Melissa McGrath's primary evidence statement
[37] Refer to Sections 9.9 of Rachel de Lambert's primary evidence statement
[38] Refer to attachment C of Sarah Nairn's primary evidence statement

requiring single storeys, I recommend that the rules are amended to reference 'Ground level' instead of natural ground level.

130. The PDP includes the following definition for Ground level:

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

131. The ground level definition clearly provides for earthworks/recontouring. Therefore, I am of the view that amendments to the rules to reference 'ground level' rather than 'natural ground level' addresses the issue raised by Ms de Lambert and Ms Nairn. These recommended amendments are shown in Appendix A.

Building heights within the 40 dB LAeq noise contour

132. In paragraph 611 of the s42A report I recommended that the building heights within the 40 dB LAeq noise contour should be restricted to 8m. The recommendation was not included in the amendments in Appendix 2 of the s42A report. Mr Tollemach includes a recommended amendment to give effect to my earlier recommendation and concurrently seeks to address an overlap between the height restriction area and the 40 dB LAeq noise contour which provide for 5m and 8m respectively[39]. I agree with the recommendation by Mr Tollemache and include the amendment in Appendix A[40].

Height Restriction Areas

133. Mr Tollemache recommends combining the rules for the Havelock Industry Buffer Height Restriction Area and the small area of land located within 50m of a ridgeline[41]. The height restrictions within both of these areas is proposed to be limited to 5m. I agree with the recommendation on the basis that it provides for a more efficient approach to the height restrictions within the precinct. I further recommend that the height restriction area similarly be applied to the area of land within 50m of a hilltop park for the same reasons. The recommended amendments to the provisions and the Havelock Precinct Plan are shown in Appendix A.

Qualifying Matters within the General Rural Zone

134. The proposed Havelock Precinct Plan that was included in the s42A report showed a number of qualifying matters across land zoned General rural. Sarah Nairn[42] and Melissa McGrath[43] consider that qualifying matters can only apply to relevant residential zones. I agree with these statements

[39] Refer to Section 5.26 in Mark Tollemache's primary evidence statement
[40] Noting the minor amendment to the proposed drafting of Mr Tollemache's rule to apply to 'ground level' rather than 'natural ground level'.
[41] Refer to Section 5.36 in Mark Tollemache's primary evidence statement
[42] Refer to Section 4.4 of Sarah Nairn's primary evidence statement
[43] Refer to Section 5.4 of Melissa McGrath's primary evidence statement

and recommend that qualifying matters are only shown to apply to land proposed as MRZ2. An amended precinct plan has been prepared and is included within Appendix A.

13 Miscellaneous Provisions

13.1 Climate Change and Transport

135. In their submission, Waikato Regional Council requested additional provisions to better provide for the relationship between urban intensification, transport and climate change. No specific wording for the provisions was provided and for that reason, the request was rejected in the s42A report[44].

136. Katrina Andrews prepared planning evidence on behalf of Waikato Regional Council and requests the inclusion of three new objectives and four new policies within the MRZ2[45]. The objectives and policies broadly relate to:

    i. Neighbourhood amenity and safety
    ii. Integration of development with infrastructure and the transport network
    iii. Climate change

137. In principle I agree that the above matters are important considerations and note that they are generally already provided for as follows:

    i. MRZ2-O3 provides for residential and neighbourhood amenity. This is supported by a range of standards included in the MRZ2.
    ii. Provisions relating to the efficient use of land and infrastructure and the transport environment are provided for at a district wide level in the PDP (AINF-O7 and AINF-O8, AINF-P27, AINF-P35). In addition, MRZ2-O2 and MRZ2-P7 also provide for the efficient use of land and infrastructure.
    iii. Climate change provisions are provided for at a district wide level within the PDP (SD-O13, AINF-P4).

138. The original submission points were (at least in part) supported by Kāinga Ora, Ryman Healthcare, the Retirement Villages Association and Te Whakakitenga o Waikato. I have asked the planning experts for each of these organisations to provide any preliminary views regarding the specific wording proposed by Waikato Regional Council.

139. On the basis that the broad intent of objectives and policies is already provided for within the PDP, I recommend that the suggested provisions are rejected. If the panel were of a view to accept the recommended objectives and provisions I recommend that Waikato Regional Council be requested to undertake a section 32AA analysis.

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[44] Paragraphs 230-231 of the s42A report

[45] Paragraph 40 of Ms Andrews' primary evidence statement.

13.2 Cultural Values as a Matter of Discretion

140. Paragraph 287 of the s42A report addresses the merits of including cultural values as a matter of discretion for MRZ2-S1, MRZ2-S1 (Residential Units). MRZ2-S2 (Height) and MRZ2-S3 (Height in relation to boundary) as was requested by Waikato Tainui in their submission.

141. The s42A report recommended that the matter of discretion was rejected on the basis that:

i. Assessing cultural values would be difficult for Council officers and would require specialist assessment;

ii. Encroachment of MRZ2-S1, MRZ2-S2 and MRZ2-S3 would likely be in established areas that have already been developed; and

iii. Provisions are made for identified and known sites and areas of significance to Maaori (SASM).

142. Giles Boundy prepared planning evidence for Waikato Tainui and is of the view that[46]:

i. The difficulty in assessing cultural matters should not in itself detract from those matters being included as a matter of discretion; and

ii. SASMs identified in the plan are not the sole indicator for cultural values.

143. Mr Boundy is of the view that the Maaori Sites of Significance and Maatauranga Maaori Chapter provides a useful framework of values for consideration and therefore recommends the following additional matter of discretion for MRZ2-S1, MRZ2-S2 and MRZ2-S3

Effects on cultural values identified in Maaori Values and Maatauranga Maaori Chapter.

144. I agree with Mr Boundy on both (i) and (ii) above, however, retain the view that assessing cultural effects (even within the framework outlined within the Maaori Values and Maatauranga Maaori Chapter) will be difficult. for planning officers. Of relevance, MV-P5 of the Chapter requires the management of effects of subdivision and land use on Maaori Values by:

(a) Providing for the opportunity for engagement with mana whenua prior to undertaking activities or applying for resource consent and addressing the outcomes of that engagement;
(b) Providing the opportunity for mana whenua to assess the effects on Maaori values such as through cultural impact/values assessments;
(c) Recognising and providing for customary uses of resources including hauanga kai;
(d) Recognising and providing for maatauranga Maaori, including as expressed through kaitiakitanga and tikanga;
(e) Recognising that iwi, hapuu and whaanau are owners and kaitiaki of Maatauranga; and,
(f) Recognising and providing for tangata whenua relationships with ancestral lands, water, sites, waahi tapu and other taonga to be maintained or strengthened.

145. The intention of the Maaori Values and Maatauranga Maaori Chapter is for the Objectives and Policies contained within the Chapter to be assessed for any discretionary and non-complying activities[47]. In my view *widening the application of the requirements of the Chapter to matters relating*

[46] Paragraphs 8.2-8.5 of Giles Boundy's primary evidence statement
[47] Refer to Rule MV-R1

to the general encroachment of development standards (as restricted discretionary activities) is not consistent with the intended use of the framework.

146. Despite the above, I acknowledge (as stated by Mr Boundy) that there are known sites of significance and areas that are not identified or documented within the district plan. In my view it would be beneficial to identify areas/scenarios where there is an increased importance for assessing cultural effects and amending the relevant standards accordingly. Such an approach could have the dual benefit of:

    i. Ensuring that cultural effects are adequately addressed in areas where there is a potential effect on Maaori values; and

    ii. Providing for a more efficient consenting process in areas where there are unlikely to be adverse effects on Maaori values.

147. I have advised Mr Boundy of the position above to provide the opportunity for further refinements regarding the matters of discretion.

13.3 Standards for Fences and Walls

148. Cameron Wallace, urban designer for Kāinga Ora, sets out in section 4.10 of his evidence the reasons for further amendments to MRZ-S12 (Fences or walls). The s42A report recommended the removal of maximum height controls for fencing along side and rear yards and for the front yard fencing requirements to be retained. Mr Wallace:

    i. Recommends a reduced front yard side fence height of 1.5m if solid or 1.8m if visually permeable; and

    ii. Supports the retention of a maximum height of 1.8m (including if solid) along both side and rear boundaries.

149. I agree with Mr Wallace regarding (i) above that the side fencing within the front yard setback should be lower (1.5m) on the basis of positive streetscape outcomes.

150. In relation to (ii) above I consider that a 1.8m maximum rear yard side fence height is too low. Mr Wallace and I briefly discussed the rear side fence requirements on 13 July. Based on our discussion I understand that Mr Wallace considers controls on side fence heights to be important within a medium density environment where reduced outdoor open space areas could be compromised by high side fences.

151. Mr Wallace and I discussed the trade-off between privacy and sunlight access/shadowing. In our discussion I proposed increasing the height to 2m (MRZ2-S12) and Mr Wallace stated that that could be acceptable. I note that this is consistent with other district plans including the Auckland Unitary Plan. Appendix A contain my recommendations to this effect.

13.4 Minimum Residential Unit Sizes

152. In section 4.13 of his urban design evidence statement, Cameron Wallace (on behalf of Kāinga Ora) provides reasons for including minimum residential unit sizes. I understand that existing minimum residential unit size standards in the MRZ were not carried through to the MRZ2 on the assumption that they affect density. Th deleted minimum residential unit sizes are shown as

strike through provisions in the notified MRZ2 chapter. Those removed unit sizes are consistent with those requested by Kāinga Ora and supported by Mr Wallace.

153. In my view minimum residential unit sizes do not affect density and can contribute to achieving appropriate levels of internal residential amenity. For these reasons, I agree with Mr Wallace and recommend that the standard for minimum residential unit sizes be reinstated in the MRZ2. Appendix A contain my recommendations to this effect.

13.5 Outdoor Living Space Standards

154. In their submission, Kāinga Ora supported the notified wording for MRZ2-S6 (Outdoor Living Space). In section 4.12 of his urban design evidence, Cameron Wallace (on behalf of Kāinga Ora) questions why the notified minimum open space standard is larger than those included within the PDP for the MRZ1. Mr Wallace supports the smaller requirements relating to outdoor living space contained in existing MRZ1-S8.

155. I support retaining the MRZ2-S6 as notified for the following reasons:

i. The standard is consistent with the RMA MDRS requirement for outdoor living space (per unit)[48].

ii. The RMA provides for the outdoor living space (per unit) as a *minimum* standard. In my view minimum means a standard that cannot be reduced further. The standard provides for a minimum level of expected internal amenity.

iii. The MRZ2 applies far more broadly than the MRZ1 which is limited to the walkable catchments of Raglan and Te Kauwhata. The larger minimum outdoor space area in MRZ2 will provide for better internal amenity across more areas of the Waikato District which I consider to be a positive outcome overall.

[48] Density standard 15, Schedule 3A of the RMA