

**BEFORE INDEPENDENT HEARING COMMISSIONERS  
IN THE WAIKATO REGION**

**I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHAKE  
WAIKATO**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the hearing of submissions on Variation 3  
Enabling Housing Supply ('V3') to the Proposed  
Waikato District Plan ('PWDP')

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**STATEMENT OF PRIMARY EVIDENCE OF MICHAEL ROBERT CAMPBELL  
ON BEHALF OF KĀINGA ORA - HOMES AND COMMUNITIES**

**(PLANNING)**

**4 JULY 2023**

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## 1. EXECUTIVE SUMMARY

- 1.1 My full name is Michael Robert Campbell. I am a director of Campbell Brown Planning Limited (Campbell Brown). I have been engaged by Kāinga Ora-Homes and Communities (“**Kāinga Ora**”) to provide evidence in support of its primary and further submissions on **Variation 3**.
- 1.2 I have been engaged by Kāinga Ora to provide evidence in support of its primary and further submissions on the three Waikato Intensification Planning Instruments (“**IPI**”), being; Hamilton City Council’s Plan Change 12, Waipā District Council’s Plan Change 26 and Waikato District Council’s Variation 3 (“**V3**”) to the Proposed Waikato District Plan 2022.
- 1.3 The key points addressed in my evidence are:
- a) The statutory context created by the National Policy Statement: Urban Development 2020 (“**NPS-UD**”) and the directive requirements under the Resource Management Act 1991 (“**RMA**”) as amended by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021;
  - b) The overarching purpose of spatial planning and its role in the fulfilment of the strategic objectives of the Plan in enabling opportunities for intensification is strategically desirable locations.
  - c) The appropriateness under Policy 3(d) of the NPS-UD of greater heights and densities of built form within the Huntly Town Centre and Commercial zones.
  - d) Number of Medium Density Residential Zone (“**MRZ**”) chapters - I recommend consolidation of the MRZ1 and MRZ2 chapters into a single chapter, with specific provisions for development within Raglan and Te Kauwhata where the Proposed Waikato District Plan (“**PWDP**”) ‘MRZ’ zone would still apply (now referenced as ‘MRZ1’ under V3).

- e) Reverse sensitivity - I recommend that 'reverse sensitivity' be removed from the list of 'qualifying matters'.
  - f) Fences, walls and garages - I recommend minor amendments to the MRZ-S12 standard.
  - g) Historic Heritage - I support the s42A report's recommendation that no amendments are required to MRZ2 zone provisions where development is located adjacent to or adjoining a scheduled site identified under s6 of the RMA.
  - h) Vacant lot subdivision - I recommend the adoption of an 8 x 15m vacant lot shape factor with no specified minimum net site area, as an appropriate response to the enabling approach taken within the RMA and Medium Density Residential Standards ("MDRS").
  - i) Infrastructure and Stormwater and Flood Constraints overlays - I recommend the removal of these overlays and amendments to some provisions, having regard to Te Ture Whaimana O Te Awa o Waikato - The Vision and Strategy for the Waikato River ("Te Ture Whaimana"), and the extent to which the overlays are appropriate.
  - j) I have prepared a Section 32AA assessment as set out in **Appendix A** to my evidence.
- 1.4 Within the Waikato Regional context, it is my opinion that the approach taken by Kāinga Ora will not be contrary to the purpose and objectives of Te Ture Whaimana or the Waikato Regional Policy Statement ("WRPS") and would be consistent with those non-statutory spatial-growth strategies applicable to the Waikato Region<sup>1</sup>.

## 2. INTRODUCTION

- 2.1 My full name is Michael Robert Campbell. I am a director of Campbell Brown Planning Limited (Campbell Brown), a professional services firm in Auckland specialising in planning and resource management.

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<sup>1</sup> These are outlined at section 3 of the s42A report.

- 2.2 I graduated from Massey University in 1995 with a Bachelor's Degree in Resource and Environmental Planning (Honours).
- 2.3 I began my career in planning and resource management in 1995. I was employed by the Auckland City Council as a planner from June 1995 to August 1998. I worked as a planner for the London Borough of Bromley in the United Kingdom from December 1998 to August 2000. I was employed by a Haines Planning, a planning consultancy firm, from October 2000 to December 2003.
- 2.4 From January 2004 to October 2010, I worked for Waitakere City Council, beginning as a Senior Planner. In my final role at the Council, I was Group Manager Consent Services, where I oversaw the Planning, Building and Licensing Departments. In 2010, I started Campbell Brown together with my co-director Philip Brown.
- 2.5 I am a full member of the New Zealand Planning Institute. In July 2011, I was certified with excellence as a commissioner under the Ministry for the Environment's Making Good Decisions programme. In 2013, I was appointed to the Auckland Urban Design Panel. In 2014, I was awarded the New Zealand Planning Institute's Best Practice Award for Excellence in Integrated Planning, as well as the Nancy Northcroft Supreme Best Practice Award.
- 2.6 I have been involved in a number of plan review and plan change processes, including the Independent Hearings Panel hearings on the proposed Auckland Unitary Plan. In particular, I have been involved in the following policy planning projects including:
- (a) The Auckland Unitary Plan review for a range of residential clients and assisted the Auckland Council with the Quarry Zone topic;
  - (b) Plan change for Westgate Town Centre comprising residential and commercial activities;
  - (c) Proposed Plan Change 59 in relation to a private plan change for approximately 1,600 homes in Albany;

- (d) Proposed Private Plan Change for a research integration campus for the University of Auckland.
- (e) Reviewing, making submissions and providing evidence on behalf of Kāinga Ora in relation to a suite of private plan change requests in the Drury area of South Auckland;
- (f) Reviewing, making submissions and providing evidence on behalf of Kāinga Ora in relation to the proposed New Plymouth District Plan.
- (g) Reviewing, making submissions and providing evidence on behalf of Kāinga Ora in relation to the proposed Central Hawkes Bay District Plan.

### **Code of Conduct**

- 2.7 Although this is a Council hearing, I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court’s Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

### **Scope of Evidence**

- 2.8 The V3 hearing (“**the hearing**”) addresses submission points relating to V3 in its entirety, with the exception of those matters which are deferred to later hearings - namely financial contributions<sup>2</sup>.
- 2.9 The s42A report addresses submission points by key ‘topics’ which have been arranged into five higher-level topics as follows:
- Topic 1 Geographic Extents of Provisions and Zones
  - Topic 2 District Plan Provisions

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<sup>2</sup> Direction #10 issued by the Hearing Panel provides for all submissions on Section 18: Financial Contributions of PC26 to be heard jointly with submissions on Chapter 24 of Plan Change 12 to the Hamilton City District Plan, at the end of the hearing of Plan Change 12.

- Topic 3 Qualifying Matters
- Topic 4 Accommodating Growth (Policy 3(d))
- Topic 5 Implementation of MDRS

- 2.10 My evidence generally follows the format of the s42A report for ease of reference, and addresses Kāinga Ora submissions and further submission points in relation to the key topics summarised above, as well as the recommendations of the respective authors of the s42A report (“**the reporting planner**”). I do however, address Topic 4 ‘up front’ following Topic 1 in my evidence as the issue of greater incentivisation of intensification opportunities, including within and around centres, is relevant to the overall approach taken within the Kāinga Ora submission.
- 2.11 In preparing my evidence, I have read the s42A report, addendums, and the s32 evaluations that support V3. I have also reviewed the briefs of evidence prepared by those experts appearing in support of each Council at Hearing 1 - Strategic Overview Region-Wide. I note that the relevant statutory documents and regional spatial strategies applicable to the Waikato region have been identified and outlined within the evidence of Dr Mark Davey, Jim Ebenhoh and Tony Quickfall for Hearing 1. I agree with their collective identification of those matters which are also restated within the s42A report for Hearing 2 on V3 specifically.
- 2.12 I have also considered the evidence of Mr Cameron Wallace (Urban Design), Mr Phillip Osborne (Economics) and Mr Philip Jaggard (Infrastructure), prepared on behalf of Kāinga Ora, in addition to the evidence of Mr Gurvinderpal Singh (Corporate).

### **3. AREAS OF SUPPORT / NOT IN CONTENTION**

#### **What Towns do the MDRS Apply To (‘urban environments’)**

- 3.1 I agree with the analysis undertaken by the reporting planner in section 4.1 of the s42A report, that Huntly, Ngaaruawaahia, Tuakau

and Pookeno are the ‘urban environments’ within the Waikato District that contain ‘relevant residential zones’. As such, Kāinga Ora is not seeking the application of the MDRS and MRZ2 provisions within Raglan or Te Kauwhata, which under the PWDP are subject to the existing MRZ1 provisions.

### **Water Supply and Waste Water (Infrastructure Capacity)**

- 3.2 Experts for Kāinga Ora participated in expert conferencing on water supply and waste water infrastructure on 30 May 2023. The minutes of that session are attached as Appendix 3 to the s42A report. As noted therein, Kāinga Ora experts supported the Council’s proposed approach to managing the effects on development enabled by the MDRS on water supply and waste water infrastructure, in response to the removal of the ‘urban fringe’ qualifying matter which Kāinga Ora opposed<sup>3</sup>. That approach has not changed through the s42A report and I therefore support the reporting planner’s recommendations for the reasons they have stated<sup>4</sup>. I also consider that the proposed approach is consistent with the objectives of Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River (‘Te Ture Whaimana’).

### **Greater building heights and a High Density Residential Zone in Ngaaruawaahia**

- 3.3 As detailed through the evidence of Mr Gurvinderpal Singh, Kāinga Ora is no longer pursuing this relief.

### **Turangawaewae Marae Surrounds Qualifying Matter overlay and related matters (i.e., heritage)**

- 3.4 For the reasons outlined in evidence of Mr Gurvinderpal Singh, Kāinga Ora is not providing evidence in support of its further submissions<sup>5</sup>, concerning the proposed ‘Turangawaewae Marae Surrounds

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<sup>3</sup> 106.8, 106.25,

<sup>4</sup> Refer section 7.2 of the s42A report.

<sup>5</sup> FS 217.17, 217.18, 217.54, 217.55, 217.68, 217.75, 217.76, 217.95, 217.96, 217.97.

Qualifying Matter overlay’ and associated recognition under Section 6 of the RMA.

### **Rezoning requests**

- 3.5 Kāinga Ora made a number of rezoning requests through submissions, which related to land that was not subject to a ‘relevant residential zone’ within Raglan, Pookeno, Tuakau, Huntly and Te Kauwhata to which the MDRS would apply. Those submissions are discussed within the corporate evidence of Mr Gurvinderpal Singh.
- 3.6 While not addressed in my evidence, I note the general thrust of the submissions were to correct irregular zoning patterns that are either existing or arose through the PWDP process. I support such a request as I consider this will ensure consolidated zoning and avoid situations where different planning outcomes arise from substantially different zones that are located generally within a walking distance of existing town centres and/or are surrounded by medium density residential zones.
- 3.7 As noted later in my evidence, enabling intensification with and around centres is a key driver behind the NPS-UD. Retention of Large Lot Residential zone or lower intensity zones that are otherwise within a walkable distance of a Town Centre and/or surrounding by medium density zone under the PWDP, is not an efficient use of land and may foreclose more-efficient land uses and intensification opportunities in the future.

### **General matters**

- 3.8 I support the following general recommendations of the reporting planner such that this evidence does not specifically address those issues:
- (a) As a consequence of the removal of the ‘urban fringe’ qualifying matter<sup>6</sup>, I support the application of the proposed MDRS standards and MDRZ zoning to all ‘relevant residential

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<sup>6</sup> This was confirmed under Direction 10 of the Independent Hearings Panel (‘IHP’).



zones' as-required under the RMA<sup>7</sup> - to the extent consistent with the evidence that follows;

- (b) Amendments to affected provisions as sought in the Kāinga Ora submission, and acceptance of the relief sought (for the reasons outlined) through any further submissions made by Kāinga Ora;
- (c) Amendments to objective MRZ2-O5 and MRZ-O6 that removed reference to 'avoid' when considering reverse sensitivity effects (106.28);
- (d) Recommendations within the s42A report concerning Transpower New Zealand Limited's submissions on the National Grid, which were either supported or opposed by Kāinga Ora in a further submission;
- (e) Recommendations to not include provisions relating to compliance with other legislation and/or Codes of Practice, consistent with further submissions made by Kāinga Ora in relation to submissions by WEL Networks Ltd and Fire and Emergency New Zealand<sup>8</sup>;
- (f) Recommendations relating to the Kāinga Ora submissions (106.17, 106.26 and 106.31) on Papakāinga housing, as outlined at paragraphs 346 - 348 of the s42A report in Topic 4.3 of the s42A report.
- (g) Recommendations within the s42A report concerning submissions by the Ministry of Education to include objectives and policies requiring that 'residential development is supported by educational facilities', which were generally opposed by Kāinga Ora through further submissions<sup>9</sup>;
- (h) Recommendations within the s42A report to make no amendments to V3 in relation to retirement villages (or those

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<sup>7</sup> S42A report, para.590

<sup>8</sup> Listed in the table at para. 333 of the s42A report.

<sup>9</sup> Ibid.

more-enabling provisions sought by relevant submitters which were opposed by Kāinga Ora in further submissions);

- (i) The application of the ‘mine subsidence risk area’ QM overlay;
- (j) The recommendation to reject submissions seeking a 1.2km buffer area following the Waikato and Waipā rivers to constrain intensification;
- (k) Deferral of decisions on proposed setbacks from arterial roads, rail corridors and the Waikato Expressway under MRZ2-S14, pending the outcomes of appeals to the existing provisions under the PWDP<sup>10</sup>. It is therefore my understanding that evidence will not be heard in this topic. For the avoidance of doubt, I do not support the relief sought by Waka Kotahi and Kiwi Rail sought through their respective submissions, and which were opposed by Kāinga Ora through further submissions.

3.9 The remainder of this evidence addresses key matters of particular interest to Kāinga Ora that remain of concern.

#### **4. BACKGROUND TO THE KĀINGA ORA SUBMISSION**

4.1 The overarching philosophy to the Kāinga Ora submissions across the Waikato Region is outlined in my brief of evidence for Hearing 1 - Strategic Overview - Region Wide. I consider it relevant to consideration of the Kāinga Ora submissions on V3 to reiterate a number of points at the outset of my evidence as they relate to rezoning sought within the Kāinga Ora submission and to intensification promoted under the NPS-UD generally.

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<sup>10</sup> Kāinga Ora opposed the setbacks and is party to the appeals (submission points outlined in section 6.5 of the s42A report)

### National Policy Statement on Urban Development (“NPS-UD”)

- 4.2 Under the overarching objective of the NPS-UD (Objective 1) to ensure ‘Well functioning urban environments’, Policy 3 of the NPS-UD is highly relevant to the Kāinga Ora approach taken to the proposed spatial zoning undertaken within each of the IPI’s by Kāinga Ora.
- 4.3 In relation to Tier 1 urban environments, district plans must enable<sup>11</sup>:
- (a) *in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and*
  - (b) *in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and*
  - (c) *building heights of at least 6 storeys within at least a walkable catchment of the following:*
    - (i) existing and planned rapid transit stops*
    - (ii) the edge of city centre zones*
    - (iii) the edge of metropolitan centre zones; and*
  - (d) *within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.*
- 4.4 The NPS-UD also seeks to ensure that planning decisions improve housing affordability by supporting competitive land and development markets (Objective 2), and focuses on the identification and promotion of the future character/amenity of urban environments and their evolution over time (Policy 6), rather than protection and preservation of existing amenity, by promoting and enabling

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<sup>11</sup> Refer Policy 3 of NPS-UD

compact/efficient urban form and management of effects through good urban design (Objectives 1 and 4).

- 4.5 In my opinion, the NPS-UD requires a long-term approach to the provision of development capacity with urgency. This necessarily means in some cases, planning for growth spatially in-advance of definitive infrastructure provision and capacity in the short term in order to provide a clear spatial ‘road map’ for future development, intensification and infrastructure provision/investment. Such planning should be ‘forward looking’ and not be unduly influenced by existing infrastructure constraints, which paradoxically can be alleviated and partially funded through the contributions and revenue that ‘enabled’ development will generate. When such an approach is not taken, opportunities for meaningful redevelopment and intensification are lost, either through adherence to a less intensive form of development, or in favour of greenfield development that merely exacerbates the adverse effects of urban sprawl.

#### **The purpose of Spatial Planning and associated zone-provisions**

- 4.6 *In my opinion, it is relevant to the discussion of the spatial extent of zones, enabled dwelling numbers and building heights as sought through the Kāinga Ora submission, to consider the overarching purpose of spatial planning<sup>12</sup> and its role in the fulfilment of the strategic objectives of the Plan.*
- 4.7 Zoning of land is the fundamental mechanism within the District Plan to identify the geographical areas of the Waikato District that are best suited to providing for differing levels of change and growth over time. It sets a pattern of land use to provide for the social, economic, cultural and environmental wellbeing of the community, both now but more importantly for future generations. Where zoning and/or enabled development within zones places heavy emphasis on preservation of existing intensities of development in reference to historic development patterns; the long-term strategic objectives of

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<sup>12</sup> I refer here to ‘spatial planning’ as the general exercise of zone-based land use planning.

new District Planning (in response to national direction such as that of the NPS-UD) can be compromised.

- 4.8 This also fails to realise the opportunity cost of taking a short-medium rather than long-term approach to spatial planning (i.e., over a present District Planning cycle). Development opportunities for infill or comprehensive redevelopment at high intensities can be compromised where the zoning and/or provisions do not enable or support such objectives. Furthermore, how land is zoned does not prescribe that change must happen, rather it enables and prescribes what and how changes may occur<sup>13</sup>. In many instances, how a particular parcel of land is zoned may not lead to any change in the existing use of that land - either in the short or long term.
- 4.9 On the basis of the economic evidence of Mr Osborne and my own experience, I consider there are a number of factors that influence landowners' decisions as to whether or not they would redevelop existing residential land and the extent of that redevelopment. These factors include considerations of a landowner's existing use of land and investment in capital on land, the configuration and characteristics of the land, or fragmentation of land ownership (if changes in land use require site amalgamations), the commercial viability of undertaking development or redevelopment in certain locations and desired typology/dwelling mix. These factors may mean that land is not used or developed in the way which zoning provides for or anticipates in the short or even medium term.
- 4.10 It is therefore important to consider the application of zoning (and associated provisions), is not just to provide for the expected or anticipated realisation of change simply within the lifetime of the District Plan itself (e.g., the next 10-15 years), but also the pattern of zoning applied across Waikato over a longer-term horizon.
- 4.11 In my opinion, appropriate regulatory incentivisation in the form of enabling planning provisions for substantive infill, multi-unit and higher-density development, are therefore *critical* in achieving

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<sup>13</sup> Existing land uses are also protected from district planning changes through Section 10 of the RMA.

compact urban form outcomes that capitalise on the favourable location that existing urban areas have to established public transport, service amenities, employment and education opportunities. This also ensures the ability to realise ‘housing choice’ through a range of possible development typologies, and gives-effect to Policy 1(d) of the NPS-UD which seeks to; *‘support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets’* by ensuring that typically lower-density greenfield development does not remain a strongly preferred choice for the housing sector, by delivering a competitive advantage to intensification through encouraging development in strategic locations.

- 4.12 As such, I consider the NPS-UD and the Resource Management (as-amended by the Enabling Housing Supply and Other Matters Amendment Act 2021) prescribe a fundamental shift in how spatial planning has typically occurred throughout New Zealand, by dramatically increasing the ability to enable redevelopment in brownfield areas within existing urban areas. Certainty of outcome through clear signals on where brownfield development and intensification should occur (supported through enabling planning provisions) reduces the perception of ‘risk’ within the development community and in my experience can provide a greater level of confidence in approaching investment in both infill, multi-unit and higher-density style development.

## **5. TOPIC 4 - ACCOMODATING GROWTH (POLICY 3(d) OF THE NPSUD)**

### **Submission Overview**

- 5.1 The Kāinga Ora submission<sup>14</sup> sought to enable greater building heights and intensification within and adjacent to the existing Huntly and Ngaaruawaahia Centres, through the introduction of a High Density Residential zone (“HDRZ”) within a 400m - 800m walkable catchment of the town centre of Ngāruwhāia, and within a 400m walkable

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<sup>14</sup> Subs 106.4, 106.9, 106.18, 106.19, 106.42.

catchment of the town centre of Huntly. This was supported by a suite of HDRZ provisions, that enabled buildings up to 22m above ground level except that 50% of a building's roof in elevation may exceed that height by 1 metre. The development standards proposed within the HDRZ provisions by Kāinga Ora accorded with the MDRS density standards, while also enabling a greater building envelope (by way of height in relation to boundary and coverage controls) to reflect the 6-storey built form sought to be enabled within the zone.

- 5.2 In addition, an additional height overlay was sought to apply to the existing Town Centre and Commercial zones within and adjacent to the above centres, enabling building heights up to 24.5m in response to Policy 3(d) of the NPS-UD. The spatial extent of those additional heights were shown on the maps appended to the Kāinga Ora submission.

#### **Revised Kāinga Ora position**

- 5.3 Having considered the s42A report, undertaken further analysis in the preparation of evidence, Kāinga Ora has revised its position and is no longer pursuing its submission within Ngaaruawaahia as outlined above.
- 5.4 Notwithstanding, Kāinga Ora considers that there remains the opportunity to enable more-efficient land use development within Huntly for the reasons outlined above, albeit at a reduced extent to that sought within the primary Kāinga Ora submission. Kāinga Ora proposes the following:
- (a) A 24.5m height overlay within the Huntly Town Centre Zone (as per the submission);
  - (b) A slightly reduced 22m height overlay within the Commercial Zone to the east of the Town Centre Zone;
  - (c) No HDRZ in Huntly.

- 5.5 The proposed height overlay and amended heights sought in the Town Centre and Commercial Zones is attached as **Appendix B** to my evidence.
- 5.6 This revised position (and rationale for it) is considered against the assessment undertaken by the reporting planner within the s42A report concerning the appropriateness of further intensification opportunities beyond those originally proposed in the notified version of V3. For the reasons outlined in the evidence that follows, I support the revised position put forward by Kāinga Ora.

#### **Application of Policy 3(d)**

- 5.7 The reporting planner has provided an analysis of Policy 3(d) of the NPS-UD at paragraphs 633 to 648 of the s42A report. I generally agree with the following assessment that Policy 3 (a) to (c) of the NPS-UD do not apply, and that the Town Centre and Commercial zones are relevant to the consideration of the Kāinga Ora submission under Policy 3(d) [emphasis added]:

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

- 5.8 Following further assessment, the reporting planner recommends that the Kāinga Ora submission be rejected, noting in particular (emphasis added in underline):

655. *[...] As explained previously I do not consider the Waikato towns fall within 3(a) to 3(c) of Policy 3. Given this, in my opinion, it remains to be considered whether a 22m height in a high density zone (which equates to 6 storeys) is commensurate under Policy 3(d) to the commercial activity and community services in Huntly and Ngaaruawaahia; or whether despite the direction in 3(d) there*



is merit in considering a high density zone as requested by Kāinga Ora [...]

656. Turning to whether 22m is commensurate, I note I have earlier and at a high level described the levels of activities and services currently available in Ngaaruawaahia and Huntly. [...]

I do note that these will change over time with population growth. In this respect, I note that by the time of the Waipā hearing, Kāinga Ora was only seeking a high density zone in Cambridge. Kāinga Ora no longer sought the high density for Te Awamutu. As I have explained, Te Awamutu is larger than any of the Waikato towns.

661. Additionally, I consider if the high-density zone as proposed by Kāinga Ora is introduced into the Plan, despite these site constraints, there is a very real risk that there may be at the most a handful of apartment buildings constructed at a distance from the town centre that would absorb all the demand and dilute demand in more appropriate locations. I note Ms Fairgray’s concluding comments which I share “There is generally a smaller market size for more intensive dwellings within smaller urban areas, meaning that intensification in outer locations is more likely to dilute the intensification that would otherwise occur in more efficient locations around the commercial centres”.

664. I have recommended rejecting Kāinga Ora’s submission point on the High-Density Zone. On this basis I consider there is little rationale for the Town Centre Zone Overlay<sup>15</sup> as proposed by Kāinga Ora. I noted earlier the market assessment report completed in 2020 as part of Waikato 2070 identified the need to expand the Huntly Town Centre with additional retail space. Increased heights will provide options for more apartments within the town centre, but not additional retail space. In this regard I note the updated modelling undertaken as part of the Market Economics Report that concludes over the long term there is no commercial feasible market for apartments in Huntly.

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<sup>15</sup> The proposed height variation control/overlay extended over the Town Centre and Commercial zones, as shown on the maps appended to the Kāinga Ora submission.

- 5.9 My review of the s42A report and supporting documentation suggests that the Council has not sought to take a sufficiently longer-term view to development within and around the Huntly Centre. There is a focus throughout supporting documentation on the ‘existing’ levels of commercial and community services.
- 5.10 In my view, this does not respond to the ‘forward-looking’ and directive framework that the NPS-UD provides. Where decisions on the need to provide greater intensification are made on the basis of existing services within centres, then in my view there are no opportunities enabled to provide the necessary growth to support those centres into the future as they too grow. In my opinion, the Future Proof Strategy dated 2022 (while a non-statutory document) provides a clear indication that all centres within Waikato will be subject to growth over the long term. It is also acknowledged at para. 641 of the s42A report that Huntly is projected to be the largest centre within the Waikato District<sup>16</sup>:
641. *I note that the population growth of the four towns is predicted to grow steadily with comparatively more growth in Tuakau and Pokeno. Although I note Huntly is projected to still be the largest town in the Waikato District. With growth additional businesses may choose to locate in these towns. Regardless of this I note all four towns are predicted by 2060 to have a lower population than Cambridge and Te Awamutu had in 2018.*
- 5.11 While I acknowledge the evidence presented by Kāinga Ora in respect of Te Awamutu and accept that the projected population of Huntly is comparatively less than that of Te Awamutu as outlined by the reporting planner; in my opinion Huntly occupies a strategic location within the Waikato District with good access to rapid transit in the form of the North Island Main Trunk Rail Line and as a result, the ‘Te Huia’ train service that connects Hamilton and Huntly to Auckland<sup>17</sup>. Huntly also has ease of access to the Waikato Expressway to the north and south (via Taupiri). These features set Huntly apart from Te

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<sup>16</sup> Also noted in Table 1: University of Waikato Population Projections, page 41 of the s42A report.

<sup>17</sup> Refer: <https://at.govt.nz/bus-train-ferry/train-services/te-huia-regional-train-service/>

Awamutu in my view, and support consideration of greater building heights and intensities which in turn will support and enable future growth within Huntly. I also consider that the removal of the HDRZ sought in the original Kāinga Ora submission, responds to the concerns raised by Council and Dr Susan Fairgray (quoted at paragraph 5.8 of my evidence earlier) that “intensification in outer locations is more likely to dilute the intensification that would otherwise occur in more efficient locations around the commercial centres”.

- 5.12 This is supported by the NPS-UD, which provides guidance and direction for local authorities in relation to development within urban areas. Several NPS-UD objectives and policies suggest that intensification and the efficient use of land is a desirable outcome. I note, in particular, Objectives 3 and 4 of the NPS-UD. These objectives state as follows (underling emphasis added in underline):

**Objective 3:** *Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:*

*(a) the area is in or near a centre zone or other area with many employment opportunities*

*(b) the area is well-serviced by existing or planned public transport*

*(c) there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

**Objective 4:** *New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.*

- 5.13 As noted in section 5.10 above, Huntly is likely to experience future growth and is projected to be one of the largest towns in the Waikato district. Mr Osborne notes the following economic benefits in support of such growth:

36. [...] *enabling intensive development in the Huntly centre will assist to increase demand for services, increase sales performance,*

*encourage a larger population base to develop in the centre and in the surrounding locale, increase employment opportunities, increase the viability of public transport infrastructure, increase market efficiencies, increase return on investment on public expenditure (particularly upcoming public transport initiatives), and so on.*

- 5.14 Mr Osborne goes on to outline why greater heights are appropriate both within and around the centres. I agree that this improvement is both necessary to realise the economic efficiencies of intensified development as well as providing for realistic choice and demand preferences both now and over the long-term<sup>18</sup>.
- 5.15 Mr Osborne also notes in his evidence that providing for higher-intensity forms of development and building heights, as those sought in the Kāinga Ora submission, increases the diversity, viability and comparative advantage of commercial centres. It also provides increased choice (the ability for the market to provide for households who would choose a higher density residential product but not in the centre), and signals to the market the longer-term direction for the accommodation of district growth. Mr Osborne notes that this signal is important to the market as the potential for longer-term high-density development is often impacted through lower density developments occurring and subsequently undermining longer-term feasibilities. In my opinion, there is a clear need to support and direct growth within Huntly, in a manner consistent with the NPS-UD.
- 5.16 From an urban form perspective, Mr Wallace outlines the range of services within Huntly and its strategic location. He also notes that heights sought by Kāinga Ora remain modest, for a town centre environment - even in the Waikato District - and are commensurate with the level of existing services available within these areas as well as their potential future uses in response to population growth including improvements to the Te Huia rail service.

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<sup>18</sup> Evidence of Phil Osborne, para. 32-41.

- 5.17 I agree with Mr Wallace’s comments and his analysis that the reduced height of 22m applying to the Commercial zone will achieve a transition in height and scale between the Town Centre, Commercial and surrounding residential zones.
- 5.18 I also consider greater heights as proposed in the revised Kāinga Ora position to be consistent with the WRPS including those amendments proposed through ‘Change 1’ to the WRPS (pending decisions). Of relevance is that that UFD-P12 (as amended by Change 1) sets density targets for Future Proof areas to achieve compact urban environments. Policy UFD-P12(1-9) largely copies the NPS-UD in terms of the requirement of Policy 3 of the NPS-US. In this regard, UFD-P12(8) is relevant to the consideration of intensification with Huntly. I note that UFD-P12 states:
- “In doing so, development provisions shall seek to achieve over time the following average gross density targets minimum net target densities (dwellings per hectare) in defined locations. To the extent that requirements in UFD-P12 above may result in a higher density for certain areas than the density identified in the table below, those higher densities shall prevail.”*
- 5.19 In the case of these minimum targets, I note that the housing capacity targets across the region (despite the longer-term differences in growth across the Waikato region) are relatively uniform at 25-35 dwellings per hectare. However, there is a proviso that UFD-P12 may result in a higher density for certain areas than the density identified in the table below, and *those higher densities shall prevail* (my emphasis). I therefore do not agree with the reporting planner that providing ‘sufficient’ development capacity alone, obviates the need to ensure that fundamental principles of land use efficiency and compact urban form outcomes (as required by the NPS-UD) are achieved. Policy 2 of the NPS-UD sets demand capacity as a ‘minimum’ and not a target.
- 5.20 As such, I consider the building heights proposed by Kāinga Ora appropriate to assist in delivering a compact urban form. In my opinion, the submission will give effect to the WRPS, particularly in

terms of UFD-01 (12) (underline reflect proposed WRPS ‘Change 1’ amendments):

*“Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:*

[...]

12. strategically planning for growth and development to create responsive and well-functioning urban environments, that:

a. support reductions in greenhouse gas emissions and are resilient to the current and future effects of climate change;

b. improve housing choice, quality, and affordability;

c. enable a variety of homes that enable Māori to express their cultural traditions and norms;

d. ensure sufficient development capacity, supported by integrated infrastructure provision, for identified housing and business needs in the short, medium and long term;

e. improves connectivity within urban areas, particularly by active transport and public transport;

f. take into account the values and aspirations of hapū and iwi for urban development.

5.21 As outlined earlier in my evidence, I consider that appropriate regulatory incentivisation in the form of enabling planning provisions for substantive infill and multi-unit development (including corresponding heights), are critical in achieving compact urban form outcomes that capitalise on the favourable location that existing urban areas have to established public transport, service amenities, employment and education opportunities.

5.22 The need to ensure compact urban form and development through a fundamental shift in how spatial planning has typically occurred throughout New Zealand, by dramatically increasing the ability to enable redevelopment in brownfield areas within existing urban

areas, is a key and well-documented driver behind the NPS-UD and under the RMA.

5.23 As such, I consider the proposed heights and density of built form sought to be enabled through the Kāinga Ora submission (as-described in following sections) to be commensurate<sup>19</sup> with the level of commercial activities and community services within Huntly and an appropriate response under Policy 3(d) of the NPS-UD. In my opinion, this will give effect to Policy 1 of the NPS-UD through the application of more-enabling buildings heights, which will in turn enable a greater range of housing options that:

- (a)(i) *meet the needs, in terms of type, price, and location, of different households; and*
- (b) *have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) *have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport;*

5.24 I consider it appropriate that opportunities for meaningful growth and intensification are provided for and note that enabling greater building heights does not necessarily equate to an immediate uptake in such a scale of development (having regard to the evidence of Mr Osborne). Rather, it provides an enabling framework to promote, and maximise opportunities for, intensification and housing choice through alternative typologies in efficient locations. Mr Osborne's evidence also demonstrates the economic benefits of such an approach, and that there is no economic 'cost' associated with the revised relief sought by Kāinga Ora.

5.25 As such, it is my opinion that maintaining the existing heights-enabled in the Town Centre and Commercial Zones of Huntly under V3, does not give effect to the requirement under section 77N of the RMA to give effect to policy 3 of the NPS-UD in non-residential zones. I

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<sup>19</sup> Mr Cameron Wallace has also turned his mind to this issue and I agree with his assessment at paragraphs 5.4 – 5.9 of his evidence.

therefore support the 24.5m height variation control sought to be applied in the Kāinga Ora submission.

- 5.26 I note that consequential amendments would be required to the existing maximum height rule within the respective PWDP Town Centre Zone and Commercial Zone chapters to reflect the application of the additional height control/overlay in Huntly.
- 5.27 I consider that the existing provisions under the Town Centre and Commercial Zones will effectively manage and moderate the scale of buildings that could be enabled as a result of the 6 storey heights enabled (i.e., due to requirements in relation to pedestrian frontages, daylight, height in relation to boundary to residential zones, yards etc).
- 5.28 I also consider it appropriate to ensure that greater intensities of residential development within the Town Centre and Commercial Zones in Huntly are supported by an appropriate level of onsite residential amenity. In that regard I note that the existing provisions under the PWDP already ensure that residential units are located above the ground floor, have minimum areas of outdoor living space per unit and a minimum internal floor area, as well as requirement for internal noise levels.
- 5.29 I therefore consider that Town Centre and Commercial Zones can effectively and efficiently provide for higher-density development options (similar to those originally sought in the Kāinga Ora submission) in a location that is within and adjacent to the existing Huntly Town Centre Zone and demonstrably within a walking distance, with easy access to public transport (including rapid transit choice).
- 5.30 I have prepared a Section 32AA assessment as set out in **Appendix A** to my evidence.



## 6. TOPIC 1 – GEOGRAPHIC EXTENTS OF PROVISIONS AND ZONES

6.1 The following sections generally follow the s42A report with relevant section hearings numbered, and sub-sections in bold. However, I address the issue of subdivision later in my evidence.

### **One or to medium density residential zones<sup>20</sup>**

6.2 Kāinga Ora sought to amalgamate the two Medium Density Residential zones ('MRZ1 and MRZ2') into a single chapter<sup>21</sup>. In the submission, Kāinga Ora noted that this essentially duplicates chapters in the Plan, and will lead to administrative confusion for plan users now and into the future with regard to the application and interpretation of Medium Density Residential Zones in the Waikato district and across the Waikato region. Kāinga Ora considers there to be very little to limited distinction on the inclusion and application of the two 'Medium Density Residential Zones' in V3 to the PWDP. The only differences seen are in the application of Medium Density Residential Zone in Raglan and Te Kauwhata. I agree with the Kāinga Ora submission in the above regard.

6.3 The reporting planner has not explicitly recommended that the submission be rejected, and notes (emphasis added):

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

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<sup>20</sup> As noted in paragraph 3.1 of my evidence, Kāinga Ora is no longer seeking the inclusion of Raglan and Te Kauwhata as 'urban environments' and therefore being subject to the MDRS as-proposed under the MDRZ2 provisions as-notified.

<sup>21</sup> Submission points summarised in section 4.1 of the s42A report.

- 6.4 For the reasons outlined in the Kāinga Ora submission, I consider that a single MRZ chapter is an appropriate mechanism to reflect the desired outcomes of the PWDP as sought to be amended by V3. This would avoid unnecessary duplication of similar provisions across each of the MRZ1 and MRZ2 zones, while recognising the unique characteristics of Raglan and Te Kauwhata that set those towns apart from the ‘urban environments’ in the District.
- 6.5 Rather than the inclusion of two exhaustive ‘tables’ and/or sets of provisions suggested by the reporting planner, any differences could be accommodated within the development standards, in a similar way in which the Raglan provisions are currently accommodated within the PWDP (i.e., under the Height - Building General MRZ2-S2 standard, a specific requirement for Raglan and Te Kauwhata could be added). In addition, specific objectives and policies for Raglan and Te Kauwhata can be accommodated in sub-headings, and to ensure they are not subject to the MDRS-required objectives and policies.
- 6.6 In my opinion this is a more efficient and effective approach and aligns with the National Planning Standards.

## 7. TOPIC 2 – DISTRICT PLAN PROVISIONS

### Purpose Statement of the MRZ2

- 7.1 Kāinga Ora made further submissions<sup>22</sup> on submissions by both Transpower and Waikato Regional Council to list within the purpose statement of the MRZ2 what qualifying matters may result in modification of the MDRS.
- 7.2 The reporting planner has recommended that the purpose statement be amended as follows in the response to submissions (original emphasis):

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

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<sup>22</sup> 217.2, 217.25

• Matter of national importance under s6 (s771(a)) of the RMA

• Matter required to give effect to a national policy statement (s771(b))

• Matter required to give effect to Te Ture Whaimana (s771(c))

• Matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (s771(e))

• Reverse sensitivity

7.3 I am not opposed to the listing of qualifying matters which otherwise reflect the requirements of the Amendment Act. However, I do not consider the reference to ‘reverse sensitivity’ is a relevant qualifying matter. Such effects may be a function of the preceding qualifying matters but they are not in my view a matter that warrants a reduction in the level of development otherwise enabled by the MDRS.

7.4 While Kāinga Ora is not providing evidence on the relief sought by Kiwi Rail and Waka Kotahi in respect of setbacks from arterial roads, rail corridors and the Waikato Expressway under MRZ2-S14 (due to deferral<sup>23</sup>); reverse sensitivity effects are typically associated with issues relating to noise generated by transport corridors, the operation of activities and the location of sensitive land use activities that may compromise the operation of existing activities. In my opinion, there is a requirement to ensure that activities manage as far as practicable, their effect ‘at source’.

7.5 I acknowledge that major infrastructure networks have the potential to generate some level of adverse effects on land in the immediate vicinity and, where appropriate, planning instruments should recognise and address those effects. However, it is also important that those restrictions are no more stringent than necessary, otherwise there is a risk of unnecessary costs imposed on developers (and future home or business owners) and a risk that land is not developed to its full potential. In this regard there are existing methods in the plan (such as internal acoustic requirements) that can effectively manage

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<sup>23</sup> Noted at para. 3.5(k) of my evidence.

the stated issues around reverse sensitivity while not having an effect on the enablement of intensification required by the Act.

- 7.6 As such, I recommend that the reference to ‘reverse sensitivity’ is deleted. Should it relate to setback from sensitive land uses associated with MRZ2-S14(1)(A)(iv-vi) then I consider it appropriate that those uses are identified (rather than a generic reference to ‘reverse sensitivity’). Alternatively, should it relate to deferred topics then I consider it appropriate that the Panel also defer this matter.

### **Fences, walls and garages**

- 7.7 Kāinga Ora supported the notified MRZ2-S12 standard for fences or walls. The reporting planner recommends amendments to the standard, and notes the following (emphasis added):

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

- 7.8 I do not support a lack of control from fencing along common boundaries (i.e., side boundaries) between properties. In my opinion, the standard makes it clear to District Plan users that there are height limits that apply to fencing between properties. Were the requirement removed for the reasons outlined by the reporting planner, then there is a potential consequence that over-height fences will be constructed. I also note that the MRZ2-S3 Height in relation to boundary standard, provides a 4m+60 recession plane to common boundaries. I consider it unlikely that lay District Plan users

will also consult the definitions chapter (in the absence of a fencing requirement) to determine whether the height of any proposed fence is a ‘building’ by definition and therefore a building located within a side-yard.

- 7.9 For the reasons above, I also consider that consistency with the General Residential Zone (“GRZ”) is not a relevant consideration, given the more-enabling MDRS provisions being implemented in the MRZ2 zone.
- 7.10 In my opinion, it is a more effective and efficient approach to maintain the fencing standard as notified to avoid uncontrolled fencing along common boundaries and associated effects on adjoining neighbours. I note that Mr Wallace has also addressed this matter from an urban design perspective. I agree with his findings for the reasons outlined previously.

#### **Minimum residential unit size**

- 7.11 Kāinga Ora opposed<sup>24</sup> a lack of minimum residential within the MRZ2, which is standard present in other residential zones and the existing MRZ. The submission noted that such a standard ensures that residential units achieve a minimum internal floor area which ensures liveability and a well-functioning environment in accordance with the NPS-UD. There is no analysis of this submission point within the s42A report.
- 7.12 Mr Wallace notes the following benefits of a minimum internal floor area requirement for residential units:

4.16 *I note that the MDRS includes no standards relating to the size of dwellings. In my opinion, a minimum dwelling size standard can be useful for ensuring that the smallest dwellings will provide reasonable conditions of function and amenity for its design occupancy. I do consider that units lower than the recommended sizes can still provide appropriate living outcomes, however as the internal area of a dwelling decreases greater care is required in*

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<sup>24</sup> 106.32

*terms of design and space planning to achieve a functional unit with sufficient amenity for occupants. Minimums, if set at an appropriate level, will also provide a degree of guidance to the development community over the potential yield on any given site which will also assist with long-term infrastructure planning. They can also provide assurance to the wider public around the likely form and typologies of dwellings which could be expected to occur across the district.*

- 7.13 I agree with Mr Wallace’s analysis above and the Kāinga Ora Submission, and recommend that such a standard is included (as per the existing MRZ zone (MRZ-S2)) which will ensure consistency across the PWDP for residential development and amenity.

#### **Subdivision**

- 7.14 Kāinga Ora opposed the minimum 200m<sup>2</sup> vacant lot requirements under SUB-R153(1(a)) and SUB-154 (1(b)) and within the subdivision chapter (as they relate to the MRZ2), and sought to ensure that any such requirement is reflective of the level of development enabled under V3 and in accordance with the RMA<sup>25</sup>.
- 7.15 The reporting planner recommends that the Kāinga Ora submission is rejected, and notes the following (emphasis added):

315. *[...] The proposed rule as notified does not impose a minimum net site area where compliance with the MDRS can be achieved and thereby supports the Classic Group’s reasoning. Kāinga Ora also sought the deletion of SUB-R153 (1(a)) relating to minimum vacant lot sizes stating that they oppose the inclusion of minimum lot sizes associated with subdivision.*

316. *In the absence of a minimum vacant lot size, I am of the view that there is a risk of inefficient land use outcomes and the potential creation of allotments that cannot effectively be used for residential development. I support the inclusion of a minimum site size requirement to an area that is known to be able to accommodate the MDRS. I therefore recommend that the*

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<sup>25</sup> 106.22, 106.23.

*submission points regarding minimum net site areas and minimum vacant site sizes are rejected (#62.2, #106.22 and #106.23).*

- 7.16 In my opinion, the RMA requires that density reflects the minimum required to accommodate the level of development permitted under the MDRS. While the Part 2 density standards of Schedule 3A provide for 3 residential units per site (clause 10), it is my view that the anticipated outcome of the RMA is that any minimum lot size, shape size or other size - related subdivision requirement must be able to accommodate a single “typical” dwelling in compliance with the density standards contained in Schedule 3A - being the minimum level of development that can be achieved as a permitted activity under the MDRS as-applied through the proposed MRZ2 provisions.
- 7.17 While a minimum site area could be applied to accommodate the requirements of the MDRS, a standard based on minimum lot size does not adequately address the limitations on “practical” development caused by irregular shaped sites and topographically constrained landform. As more “marginal” land is developed for infill housing, minimum lot size becomes less useful than ensuring lots are capable of accommodating complying development. The creation of allotments which are impractical or cost-prohibitive to develop is an inefficient use of the residential land resource.
- 7.18 Kāinga Ora supports shape factor requirements only applying to vacant lots. Kāinga Ora considers that a shape factor of 8m x 15m would be more appropriate on the basis that it does not apply to concurrent land use and subdivision applications as prescribed in Clause 8 of Schedule 3A of the RMA.
- 7.19 The RMA applies the MDRS requirements across all relevant residential zones. The subdivision requirements that apply are under the ‘medium density residential standards’ within Schedule 3A of the RMA. Of note is that under Clause 7, any size related subdivision requirement should reflect the minimum required to accommodate the level of development permitted under the MDRS, and accordingly,

it is considered inappropriate to require a shape or size-related subdivision requirement in excess of that minimum outcome.

- 7.20 As a result of architectural testing, (refer to evidence of Mr Wallace<sup>26</sup>), a shape factor comprising a rectangle of 8m x 15m is proposed which is capable of accommodating a dwelling in compliance with the density standards<sup>27</sup> of building height, height in relation to boundary, setbacks, building coverage, outdoor living space, outlook space, windows to street and landscaping. This is considered to better align with the configuration of residential lots in existing urban areas which are largely rectangular.
- 7.21 I note that the density standards provide for up to three dwellings and sufficient building height to enable a three-storey building to be constructed on a permitted basis, a more conservative approach has been taken to determine what constitutes a “typical” dwelling under the MDRS. The shape factor proposed enables a two storey, two-bedroom dwelling of 94m<sup>2</sup> to be built on a 120m<sup>2</sup> site. In effect, the MDRS standards become the controlling factor in relation to managing the effects of development on the vacant lot.
- 7.22 I consider a minimum shape factor requirement can be a sufficient approach to manage the effects of *vacant*<sup>28</sup> lot area of an appropriate size to accommodate a complying building, subject to being free from access and easements.
- 7.23 In my opinion, and as assessed in Mr Wallace’s evidence, this will ensure sufficient area to accommodate the planned built form outcomes of the MRZ2 as sought by Kāinga Ora. The application of a shape factor standard will ensure vacant lots created through subdivision are usable, and support the integrated, liveable and sustainable communities envisaged by the policy framework.

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<sup>26</sup> Refer to Paragraphs 4.19 to 4.22 of the evidence of Cameron Wallace (Urban Design).

<sup>27</sup> Amendment Act, Schedule 3A, Part 1 definition ‘density standard’ - a standard setting out requirements relating to building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to streets, or landscaped area for the construction of a building

<sup>28</sup> I reiterate that minimum site area and shape factor requirements would only apply to vacant lot subdivision.



- 7.24 Were the commissioners not minded to apply a shape factor then a minimum vacant lot area would be appropriate so as to ensure there is a measure of control on the size of ‘vacant’ lots. However, for the reasons outlined below I do not support the proposed 450m<sup>2</sup> area requirement put forward by the reporting planner in the former ‘urban fringe’ area.

**Should the areas affected by the ‘urban fringe’ qualifying matter be rezoned to MRZ2? - Proposed Subdivision Constraint Overlay**

- 7.25 Kāinga Ora opposed the urban fringe qualifying matter overlay as it had been used as the basis to limit the spatial extent of the proposed MRZ2 to only be applied within an 800m walkable catchment of the Business Town Centre Zone at Huntly, Ngaaruawaahia, Pookeno and Tuakau.
- 7.26 Those centres are ‘urban environments’ (as assessed by the reporting planner) and the MDRS necessarily applies to all ‘relevant zones’ within these areas, being the full extent of the General Residential Zone under the PWDP (Appeals Version).
- 7.27 In lieu of the urban fringe qualifying matter, the reporting planner considers the following to be appropriate:

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

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

*existing medium density zone and 450m<sup>2</sup> in the urban fringe qualifying matter area.*

7.28 I do not agree with this rationale given that the MDRZ2 is in-effect a new residential zone that enables a greater intensity of residential development than what was otherwise provided for under the PWDP, and which applies the MDRS. It is therefore wholly appropriate in my opinion that vacant lot subdivision standards in the MRZ reflect and enable development anticipated by the MDRS. The legal submissions for Kāinga Ora will address the scope for such changes further.

112. *In addition to these reasons, it is my view that applying a 200m<sup>2</sup> vacant lot size throughout the residential zone in the small towns in the Waikato District does not promote a well-functioning urban environment. It will disperse development and not focus it on areas closer to the town centre. In this regard I am relying on the evidence of Ms Susan Fairgray. For these reasons, I recommend retaining the 450m<sup>2</sup> minimum lot size requirement in the previous urban fringe area. In order to achieve this I have recommended an overlay entitled 'vacant lot minimum restriction area'. I consider this is not a QM, as it does not amend a MDRS. I consider this approach provides for 3 residential units per lot and is a significant change from the notified variation. And as explained in the evidence of Ms. Fairgray Variation 3 does provide for a range of housing options.*

7.29 Notwithstanding my earlier evidence concerning the vacant lot minimum site area requirements proposed under V3, I do not support the reporting planner's approach as outlined above.

7.30 I consider that the urban fringe has already been established as an illegitimate qualifying matter as a result of Interim Guidance #1 of the IHP on 14 March 2023. Under the PWDP the minimum area requirement for vacant lot subdivision in the GRZ is 450m<sup>2</sup> under SUB-R11. By virtue of the application of the Urban Fringe qualifying matter, that requirement was maintained as the overlay essentially-precluded the application of the MRZ2 as-proposed under V3.

- 7.31 In my view, the suggested approach by the reporting planner recasts an aspect of the Urban Fringe qualifying matter, and is inconsistent with the requirements of the RMA. As noted previously, Clause 7 within Schedule 3A of the RMA requires that any size related subdivision requirement should reflect the minimum required to accommodate the level of development permitted under the MDRS. As a minimum starting point, I consider the 200m<sup>2</sup> minimum area requirement proposed under V3 for the MRZ2 zone (being the zone applied to give effect to the MDRS) is appropriate, as it remains consistent with the existing MRZ zone under the PWDP (Appeals version)<sup>29</sup>. As noted in my evidence earlier, the proposed 450m<sup>2</sup> is well in-excess of what Clause 7 would require and as-assessed in the evidence of Mr Wallace. I agree with Mr Wallace’s opinion that 450m<sup>2</sup> is not consistent with medium density housing otherwise-enabled under the MDRS.
- 7.32 I also note that the reporting planner considers the proposed Subdivision constraint overlay is necessary as a response to Policy 3(d) of the NPS-UD. In my opinion, that policy is not an invitation to apply bespoke provisions to frustrate or constrain ‘enabling’ provisions in areas beyond what are ‘within or adjacent’ to the centres identified within Policy 3(d).
- 7.33 Overall, I do not consider the ‘vacant lot minimum restriction area’ is an efficient or effective approach to subdivision, and will frustrate the intended outcomes of the MDRS and the Act.

## **8. TOPIC 3 – QUALIFYING MATTERS**

### **Historic Heritage**

- 8.1 Kāinga Ora made further submissions<sup>30</sup> opposing relief sought by Heritage New Zealand Pouhere Taonga and other submitters<sup>31</sup>, that sought to add various assessment criteria to development standards

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<sup>29</sup> Refer SUB-R31 while noting that earlier in my evidence I consider shape factor a more-appropriate response in light of the RMA.

<sup>30</sup> Submission points summarised in section 6.2 of the s42A report.

<sup>31</sup> Laura Kellaway and Bryan Windeatt (75.5)

under the MRZ2 which would require consideration of effects on recognised values of any qualifying matters located adjacent sites (such as historic heritage).

8.2 The reporting planner has recommended those submissions be rejected for the following reasons (emphasis added):

441. *It is my opinion the matters raised by the submitter can already be considered when resource consents are required for buildings that exceed height, height in relation to boundary and setbacks. I note the existing assessment criteria for height, height in relation to boundary and setbacks already include extent of shading on adjoining sites as well as privacy and overlooking on adjoining sites. In my opinion as a matter of course an effects assessment will consider the effects on the values and characteristics of adjoining sites including whether they have any identified historic heritage values. In my opinion there is merit in amending assessment criteria (c) Building Coverage to acknowledge the planned urban built character includes the restrictions on MDRS from the application of qualifying matters.*

8.3 I agree with the reporting planner's opinion (and recommendation to reject the submissions) that an assessment of any infringements to a permitted standard would consider effects on adjacent land uses.

8.4 Notwithstanding that rationale, I also consider in the context of historic heritage and the requirements of s6 of the RMA, that the relief sought by the submitters also risks expanding areas subject to protection under s6 of the RMA, irrespective of their heritage values (or lack thereof). In my experience, where identified historic heritage values extend beyond a feature/building and/or the cadastral boundary of the land they are situated upon, then an 'extent of place' or similar mapping exercise is undertaken to define that area spatially on the planning maps.

8.5 I refer to the evidence of Dr Ann McEwan (on behalf of the Council) who shares a similar observation when considering these submissions. Dr McEwan notes:

19. *[...] I do not consider that HNZPT offers any evidence to support a different planning approach for properties that share a boundary with a scheduled built heritage item. The extent of scheduling is sufficient, in my opinion, to protect the heritage item whilst still accommodating ongoing residential development that is part of the historic narrative of all four towns.*

Dr McEwan goes onto conclude that:

41. *I have considered the matter of buffer sites for scheduled built heritage items and have concluded that the extent of scheduling that has been mapped for each item is sufficient to protect it from inappropriate subdivision, use and development.*

8.6 I agree with Dr McEwan's analysis. Were the commissioners minded to grant the relief sought by the submitters, I have concerns that a more-onerous requirement would be placed on the assessment of any infringement to an effects standard through consideration of effects on 'historic heritage values' - over and above typical assessment of issues such as bulk, dominance, building scale and shading that risk conflation should such assessment matters be included. As it stands there is no objective or policy within the proposed MRZ2 zone relating to this issue.

8.7 Therefore, I do not consider the relief sought by the submitters to be appropriate. I also do not support the reporting planner's recommended amendment to the item (c) of the MRZ2-S5 Building Coverage assessment criteria, for the reasons outlined above.

### **Te Ture Whaimana - Residential Development, Flooding and Stormwater**

8.8 I consider these topics to be related despite being considered independently within the s42A report.

8.9 At the outset, I do not dispute the status of Te Ture Whaimana as a strategic document that must be given effect to in the Waikato region and its plans. Its statutory weight is clear being a matter of national importance. I also acknowledge the evidence of Mr Julian Williams at

the earlier ‘Hearing 1’, which set out the important history and significance of Te Ture Whaimana to Waikato Tainui and other River Iwi, as well as the role that Te Ture Whaimana has already played in various large-scale projects<sup>32</sup>.

8.10 In my opinion, the objectives and strategies within Te Ture Whaimana do need to ‘frame’ the planning response to the NPS-UD and RMA. However, based on the evidence of Mr Jaggard (infrastructure) I do not consider that the proposed stormwater ‘constraint’ overlay necessarily requires a planning response that effectively reduces (and in the case of the stormwater constraint may frustrate the achievement of) the density of development that is otherwise sought to be ‘enabled’ under the MDRS requirements as a permitted activity (i.e., up to three dwellings per site in relevant residential zones).

8.11 In the context of giving effect to the NPS-UD, I consider the following objectives and strategy of Te Ture Whaimana relevant:

*Objectives*

- a. *The restoration and protection of the health and wellbeing of the Waikato River.*
- b. *The restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships.*
- e. *The integrated, holistic and coordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River.*
- f. *The adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River.*
- g. *The recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the*

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<sup>32</sup> Evidence of Julian Williams for Hamilton City Council, para. 89.

*Waikato River and within its catchments on the health and wellbeing of the Waikato River.*

- h. The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities.*
- j. The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing requires the restoration and protection of the health and wellbeing of the Waikato River.*
- k. The restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length.*

#### *Strategies*

- (11) Ensure that cumulative adverse effects on the Waikato River of activities are appropriately managed in statutory planning documents at the time of their review.*

8.12 In my opinion, Te Ture Whaimana seeks to ensure the restoration and protection of the health and wellbeing of the Waikato and Waipā rivers, by placing a clear emphasis on avoiding the adverse cumulative effects of activities undertaken both on the Waikato and Waipā rivers and their catchments. I do not share the view that ‘betterment’ or ‘restoration’ alone is the sole yardstick against which the IPIs should be measured against, when the objectives of Te Ture Whaimana equally point to ‘avoidance’ of cumulative adverse effects. In my view, avoiding adverse cumulative effects of activities under Objective G (in the context of *King Salmon*<sup>33</sup>) sets an equally clear directive as ‘restoration and protection’. When taking an overall broad judgement in applying the objectives of Te Ture Whaimana, I consider the intensification requirements of the NPS-UD and RMA can be achieved in a manner entirely consistent with the Te Ture Whaimana and related provisions in the district, provided

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<sup>33</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* - [2014] NZSC 38

intensification occurs in a way that does not generate the adverse effects of concern. In my opinion, Objective ‘e’ also sets a clear expectation that these outcomes are to be achieved through an “...integrated, holistic and coordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River”.

- 8.13 As such, I do not consider that achieving ‘betterment’ or ‘restoration’ necessitates reduced levels of intensification, where the ‘cumulative adverse effects’ of such development can (as they should be) be appropriately avoided through a range of methods that will actively contribute to ‘betterment’ as expressed in Council evidence over time. While it remains unclear to me through the s42A report whether Te Ture Whaimana is being utilised as the basis for management of stormwater and flooding effects, I do consider it relevant to consideration of the appropriateness of the proposed management framework introduced through the s42A report and (in part) as a response to removal of the ‘Urban Fringe’ qualifying matter overlay<sup>34</sup>.

### Residential Provisions

- 8.14 The reporting planner has recommended a range of amendments to the MRZ2 zone provisions, which would include reference to ‘*the objectives and policies in Chapter 2-20 Te Ture Whaimana - Vision and Strategy*’ as a matter of discretion. Such wording would apply to MRZ-S1 (Residential units), MRZ-S4 (Setbacks), MRZ-S5 (Building coverage), MRZ-S10 (Impervious surfaces), MRZ-S13 (Building setbacks - water bodies) and SUB-R153 (Subdivision - general). The reporting planner notes (original emphasis):

527. *In relation to the setback from water bodies rule, I consider there is merit in adding matters of discretion. Recommendations have been made to add additional matters of discretion as part of the Issues of Significance to Māori. Both of these matters also relate to the submissions in this section of the report on Te Ture Whaimana. The matters are as follows:*

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<sup>34</sup> Opposed by Kāinga Ora (106.8)



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

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

528. *I also consider there is benefit in adding the same wording in (g) above to MRZ2-S1 to that an assessment of the benefits to the Waikato River can be carried out for an application of more than 3 dwellings on a site.*

- 8.15 While Kāinga Ora was generally supportive of the consideration of Te Ture Whaimana through further submissions<sup>35</sup>, I note that despite the analysis and recommendations of the reporting planner above, the provisions themselves now include direct reference to Chapter 2-20 of the District Plan as a matter of discretion as I have outlined in paragraph 8.14 above. I do not support such a reference.
- 8.16 While I support the intent of the amendments and the need to ensure that the district plan (as proposed to be amended by V3) gives effect to Te Ture Whaimana; I have concerns that the proposed wording of the matter of discretion above does not relate to ‘a matter to give effect to Te Ture Whaimana’ as outlined in section 771(c) of the Act.
- 8.17 My concern is that the high threshold that Te Ture Whaimana applies (and as applied by Councils across the Waikato region as outlined earlier in my evidence) may preclude or substantially-frustrate any resource consent application that exceeds 3 dwellings per site by holding any such development to account to ‘enhance’ the Waikato River.
- 8.18 In my opinion, the initial wording suggested by the reporting planner is appropriate, as it relates any assessment to the River and its catchments, and therefore to Te Ture Whaimana. I also consider that such a matter of discretion could be incorporated with ‘Stormwater Management and Low Impact Design Methods’ which are relevant to

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<sup>35</sup> Listed in the table at para. 520 of the s42A report.

how a proposed manages effects on the environment and in giving-effect to Te Ture Whaimana. I therefore recommend the following matter of discretion in lieu of that included within the tracked amendments to V3 as Appendix 2 to the s42A report (original emphasis):

*Where located within the catchment of the Waikato River the extent to which the application enhances or benefits the Waikato River and its tributaries, having regard to any proposed Stormwater Management and Low Impact Design methods.*

- 8.19 In my opinion, such wording would apply to MRZ-S1 (Residential units), MRZ-S4 (Setbacks), MRZ- S5 (Building coverage), MRZ-S10 (Impervious surfaces), MRZ-S13 (Building setbacks - water bodies) and SUB-R153 (Subdivision - general). The proposed wording that references the objectives and policies in Chapter 2-20 should consequentially be removed.
- 8.20 I consider the proposed amendments above to align with the s32AA analysis undertaken by the reporting planner at paragraphs 547 - 551 of the s42A report.

#### **Stormwater and flooding constraints overlay**

- 8.21 At paragraph 494 of the s42A report the planner outlines the current PWDP framework in relation to flooding. The evidence of Ms Katja Huls also outlines a range of ‘deficiencies’ (sic) in the current rule-framework related to the identification and management of urban development within flood plains. This has, as I understand it, prompted a proposed response to address the greater intensities of development that will now be enabled within the former ‘urban fringe’ overlay area<sup>36</sup>. Those amendments are broadly summarised by the reporting planner as follows (emphasis added):

500. *There is opportunity to manage adverse effects associated with flooding within the area identified as the “urban fringe” within*

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<sup>36</sup> I acknowledge that the proposed approach has taken into consideration the decision of the Environment Court referred to as the Waikanae decision which held that an IPI cannot lawfully disenable current development rights in a district plan.

*Variation 3. This area was zoned General Residential in the notified version of Variation 3 which has standards and rules the lead to lower site intensity and a less dense built form which is better suited to managing flooding than higher density development on smaller sites; and reduces the number of households in the flood plain. The rules in Variation 3 identified by the review that assist with flood management are those that control the site size, yards, maximum building coverage and the number of residential units per site.*

- 8.22 Mr Phil Jaggard (for Kāinga Ora) has reviewed the proposed amendments outlined above, and which he has summarised in section 6 of his statement of evidence. Mr Jaggard outlines in his evidence that under either the 40% or 50% building coverage scenarios, the maximum impervious coverage for both scenarios is 70% via standard MRZ2-S10. Therefore, the likely stormwater runoff effects, flows and volumes from developments are likely to be similar or the same. In addition, the Regional Infrastructure Technical Standards (“RITS”) document already manages the effects of stormwater discharges and effects on the receiving environment from intensifying development. I rely on the evidence of Mr Jaggard and agree with his conclusions.
- 8.23 In my opinion, the overlay is not a matter required to give effect to Te Ture Whaimana and as such, not a valid qualifying matter under s771 of the Act. There are existing rules within the District Plan that already manage to a degree, the effects of buildings within floodplains (the stated purpose of the overlay), and there is little evidence to suggest that a reduction in building coverage will have an effect on *flooding* where the impervious coverages on sites within the overlay remain permitted up to 70% under MRZ2-S10.
- 8.24 Equally as-outlined in the evidence of Mr Jaggard<sup>37</sup>, I have concerns that essentially-maintaining the underlying GRZ effects standards within the former urban fringe area, is an approach seeking to manage flooding-related issues that is more-appropriately done in the context of the District Wide natural hazards chapter, at the expense of

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<sup>37</sup> Section 12 of the evidence of Philip Jaggard

‘enabling’ development within the MRZ2 spatial extent in a manner consistent with the intent of the Amendment Act.

- 8.25 In addition to the above, limitations on the number of residential units within a site subject to flooding proposed under MRZ2-S1 and MRZ-S1a, the application of greater setbacks of buildings from boundaries proposed under MRZ-S4, and limitations on site size for subdivision under SUB-R153(c); merely frustrates the enablement of permitted intensification of existing urban land as directed by the Act and provided for under the MDRS. Having regard to my earlier evidence around incentivisation of intensification opportunities, and the likelihood of *when* the intensification enabled under V3 would take place; implementation of the development enabled under V3 will not result in an ‘overnight’ intensification of urban environments within the Waikato District. I therefore question whether the precautionary’ approach taken is strictly necessary in this case, where the extensive nature of the flooding overlay as it applied to the former ‘urban fringe’ area will place a significant constraint on development on those properties (to the extent enabled by the MDRS).
- 8.26 As outlined by Mr Jaggard and in my own experience, I consider that issues of flood displacement and risk are a resource management issue more-appropriately managed through ‘district wide’ chapters such as the existing ‘natural hazards chapter’. The proposed approach only applies flood plains to the former urban fringe area (due to scope issues associated with the *Waikanae* decision<sup>38</sup>), and yet in my opinion, does not take an integrated approach to flood plain management as-required by the WRPS (IM-04).
- 8.27 I consider that a comprehensive Schedule 1 approach with amendments to the natural hazards chapter in conjunction with a full non-statutory flood mapping (discussed below) is preferable in parallel to V3. I understand that a similar approach is being undertaken by Hamilton City Council. It is my recommendation that

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<sup>38</sup> [2023] NZEnvC 056 *Waikanae Land Company Limited v Heritage New Zealand Pouhere Taonga*

the overlay and associated provisions (including proposed amendments within the s42A report) are removed from V3.

8.28 Despite my evidence above, I note that expert conferencing is due to take place following the preparation of this evidence. The reporting planner notes:

*494. Council has circulated a discussion document on stormwater and the management of significant risks from natural hazards and Te Ture Whaimana and additional qualifying matters for Variation 3 to support discussions with submitters and expert conferencing on the 7th of June which outlines Council's proposed response to submissions. I support the intended approach outlined in the discussion document in principle but will defer finalising specific recommendations until after the expert conferencing scheduled for the 11th of July 2023.*

8.29 I therefore anticipate further discussion will take place during that conferencing which may alter my opinion expressed above.

#### **Statutory v non-statutory flood mapping and overlays**

8.1 As a general principle, I consider it is appropriate that flooding information along with any constraint mapping is a non-statutory layer that sits outside of the District Plan. Mr Jaggard also outlines in greater detail why this is appropriate, and I agree with his expert analysis. Providing flooding information as a non-statutory layer recognises that this information is continually updated at catchment scale to reflect the best information available and the evolving nature of flood plains as ongoing built development affects flooding extents, depths, flows and flow paths.

8.2 If statutory overlays, such as those proposed in the V3, are included in the District Plan, then the information effectively becomes a “snap shot in time” and does not recognise that capacity already exists within the network or may become available through upgrades. It is a reflection of the existing environment and does not take into account any future changes or upgrades planned or may happen. The Council

would be required to undertake a Schedule 1 Plan Change process every-time it is required to update the overlays.

- 8.3 Out of date information in plans can cause confusion, as well as result in additional transaction costs for councils and applicants. Council has a duty through its response to LIMs to disclose all the information it has about the hazards affecting a property (section s44A(2)(a) of LGOMIA). There is potential for misunderstanding and confusion if LIMs provide up to date information, but district plan maps contain older, outdated information that then shows up on LIMs.
- 8.4 Therefore, it is recommended that if infrastructure or stormwater/flooding constraints exist these should ideally be provided and identified as a non-statutory layer that sits outside of the District Plan and can be readily available on the Council's website, as it recognises that Council's information will change over time in response to development and land use change, as well as better modelling information and processes. As a non-statutory layer, the information can also be updated regularly and quickly, as new modelling or information becomes available. This is considered to be more efficient and effective and a better planning method to address the issues raised. That information can then be used to support appropriate district-wide rules within the 'natural hazards' chapter or the plan as outlined earlier in my evidence.
- 8.5 As I have also outlined earlier, I consider that the holistic approach should be taken to the management of flooding across the district, and that a separate Schedule 1 process is the appropriate mechanism to achieve such an outcome - similar to PC14 that I understand is being prepared by Hamilton City Council.

## **9. CONCLUSIONS**

- 9.1 In my opinion, relief sought by Kāinga Ora as set out in my evidence and that of Mr Jaggard, Mr Osborne and Mr Wallace, will better align V3 with the NPS-UD and the purpose and principles of the RMA as amended by the RMA. Within the Waikato Regional context, it is my

opinion that the approach taken by Kāinga Ora will not be contrary to the purpose and objectives of Te Ture Whaimana.

9.2 The potential benefits provided through the relief sought by Kāinga Ora as outlined in my evidence includes:

- (i) Providing for greater housing choice through a range of potential housing typologies in Huntly as result of the proposed additional height overlays within and adjacent to the existing Huntly Town Centre Zone, which are areas demonstrably within a walking distance of the Centre and with easy access to public transport (including rapid transit choice).
- (ii) Providing benefits to the social and environmental wellbeing of the community by enabling opportunities to live, work and play within their local neighbourhoods and in redeveloped housing stock, thereby improving accessibility to active travel modes, improved walking and cycling provision, and allowing existing social connections within those neighbourhoods to be maintained and enhanced;
- (iii) Providing clear signals to the development market through provisions that define what is appropriate in particular zones, and what is not, while ensure that those area most-desirable for intensification are prioritised;
- (iv) Supporting the consolidation of residential growth and development within urban areas, which will enable infrastructure providers to better plan for future network upgrades / improvements, within a more contained urban footprint, where such investment in infrastructure can best be realised and where greater efficiency can be achieved;
- (v) The protection of rural areas and productive soils from inappropriate residential lifestyle and commercial development through adequate land supply and an enabling planning framework to direct future growth and development

into the established urban areas where land use and economic efficiencies can be realised; and

- (vi) Ensuring a consistency of approach with the NPS-UD to ensure that compact urban form and development is enabled sufficiently to facilitate housing supply, so as to ensure that greenfield development and the adverse effects of urban sprawl are suitably avoided in the future.
- (vii) Ensuring that a district-wide comprehensive approach to the management of flooding is undertaken.

9.3 I consider that the amended provisions as set out in my evidence will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of the WRPS, Te Ture Whaimana and other relevant statutory documents including the NPS-UD. In my opinion they will assist in striking an appropriate balance in managing the effects of intensification, while enabling greater opportunities to facilitate growth within and around centres.



**Michael Robert Campbell**

**4 July 2023**



**Appendix A – Section 32AA Assessment**

## Appendix A - Section 32AA assessment

Having regard to section 32AA, the following is noted:

**Table 1: Additional Height in the Town Centre zone and Commercial zone (Huntly)**

Effectiveness and efficiency	<ul style="list-style-type: none"> <li>• The proposed changes to the maximum height controls will enable additional height to accommodate a greater range of building (and therefore dwelling) typologies within Huntly.</li> <li>• The proposed changes will ensure a reasonable level of amenity is afforded to residents in the surrounding area as a result of existing provisions within the respective PDP zone-chapters.</li> <li>• The proposed amendments are a simple and effective change to V3 that will respond to the requirements of the NPS-UD.</li> <li>• The proposed increase in permitted height will provide for efficient land use and greater densities in proximity to the within the Huntly town centre, thereby enhancing the walkability of the urban residential environment, which will contribute to a well-functioning urban environment.</li> </ul>
Costs/Benefits	<ul style="list-style-type: none"> <li>• The recommended amendments will introduce additional height in appropriate areas which is simple and effective.</li> <li>• The proposed changes will enhance the vitality and walkability of neighbourhoods, and create greater activation at the street edge, improving the health and safety of people and communities.</li> <li>• Provides a competitive advantage to lower intensity residential development which would otherwise compromise efficiencies of land use in the most strategically desirable locations of the Waikato District, and within Huntly.</li> <li>• The proposed change requires amendment to the existing rule framework, but costs associated with this are negligible.</li> <li>• The proposed changes could impact the amenity of some people as a result of greater building scale, however there are exiting rules within the respective zones that manage effects of development in relation to lower intensity and residential zones.</li> </ul>
Risk of acting or not acting	<ul style="list-style-type: none"> <li>• I consider that the appropriateness of adopting the relief sought must be considered in the context of the direction set out in higher order policy documents and in particular the NPS-UD.</li> <li>• The NPS-UD seeks to enable growth by requiring local authorities to provide development capacity to meet the diverse demands of communities, address overly restrictive rules, and encourage quality, liveable urban environments.</li> <li>• I am of the opinion that the relief sought by Kāinga Ora will be more in line with outcomes expressed in the NPS-UD, particularly as it will contribute to achieving a well-functioning urban environment.</li> </ul>
Decision about more appropriate action	<ul style="list-style-type: none"> <li>• The recommended amendments as set out in my evidence are therefore considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP or the proposed changes set out in the section 42A report</li> </ul>

**Table 2: Changes to MDRS Standards**

Effectiveness and efficiency	<ul style="list-style-type: none"> <li>• The proposed changes will ensure consistent wording throughout the MRZ provisions and better capture the intent of capture the intent of Policy 6 of the NPSUD.</li> <li>• Minimum unit sizes will support well-functioning urban environments and ensure a consistent level of residential amenity across the district.</li> </ul>
Costs/Benefits	<ul style="list-style-type: none"> <li>• The recommended amendments better clarify the outcomes sought by the MDRS standards and provide a better roadmap for the planned urban form.</li> <li>• The proposed changes will provide greater certainty to investors who seek to utilise the MDRS standards and in calculating potential yield for</li> </ul>

	<p>multiunit developments.</p> <ul style="list-style-type: none"> <li>• The proposed change requires amendment to the existing rule framework, but costs associated with this are negligible.</li> <li>• The proposed changes could impact the amenity of some people.</li> </ul>
Risk of acting or not acting	<ul style="list-style-type: none"> <li>• I consider that the appropriateness of adopting the relief sought must be considered in the context of the direction set out in higher order policy documents and in particular the NPS-UD.</li> <li>• The NPS-UD seeks to enable growth by requiring local authorities to provide development capacity to meet the diverse demands of communities, address overly restrictive rules, and encourage quality, liveable urban environments. I am of the opinion that the relief sought by Kāinga Ora will be more in line with outcomes expressed in the Enabling Act and the NPSUD, particularly as it will contribute to achieving a well-functioning urban environment.</li> </ul>
Decision about more appropriate action	<ul style="list-style-type: none"> <li>• The recommended amendments as set out in my evidence are therefore considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP or the proposed changes set out in the section 42A report</li> </ul>

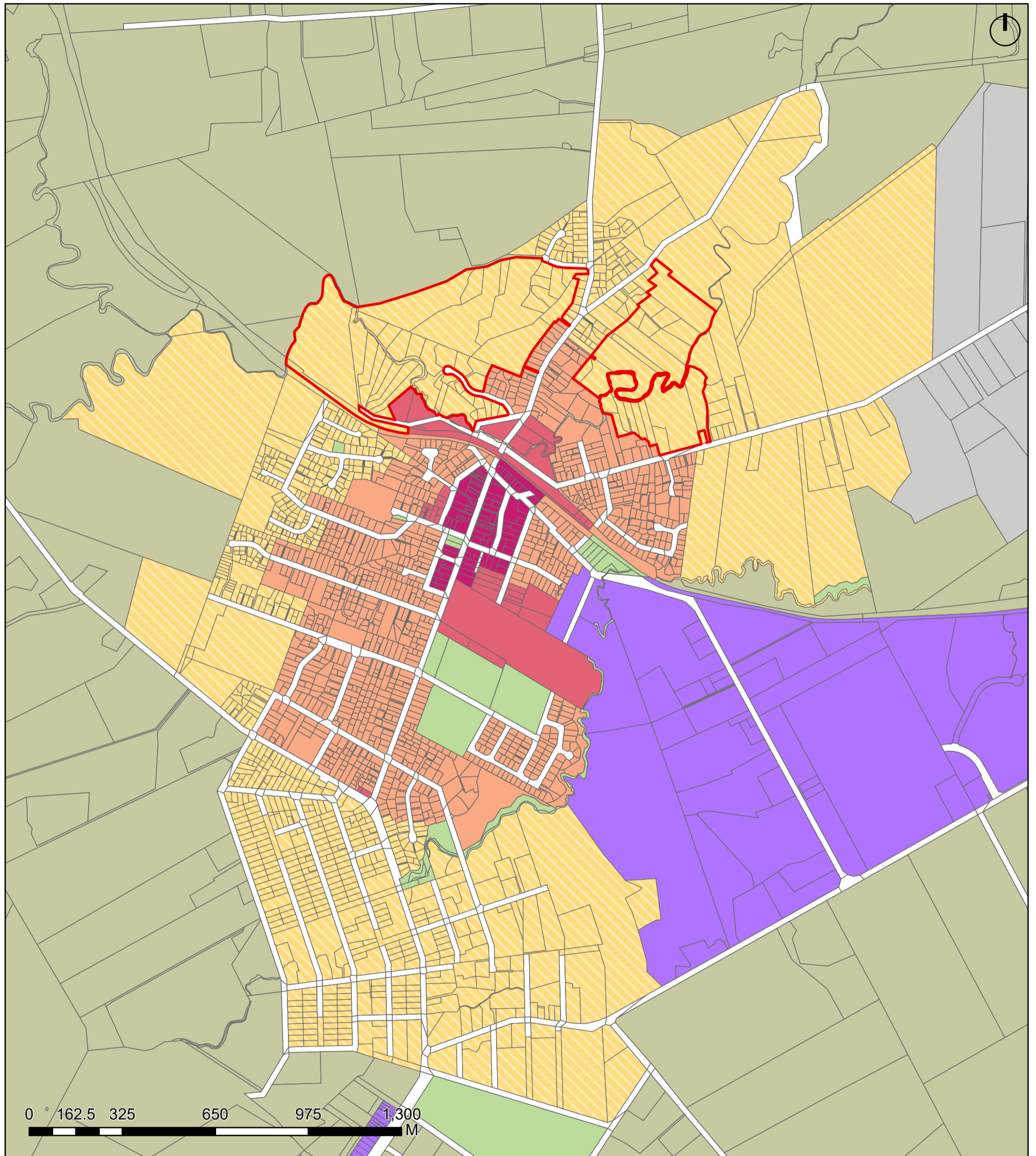
**Table 3: Deletion of minimum lot size for vacant lots and/or shape factor requirement.**

Effectiveness and efficiency	<ul style="list-style-type: none"> <li>• The recommended deletion of the minimum lot requirement provides greater flexibility to provide housing supply and choice.</li> <li>• The PDP Policy direction (particularly MRZ2-P1, MRZ-P3, MRZ-P4) provide direction on housing needs and outcomes for residential development.</li> <li>• Consistent application of lot size requirements across the MRZ2 are an appropriate resource management outcome.</li> <li>• The proposed 450m<sup>2</sup> minimum site area requirement for vacant lot subdivision is not an appropriate response to Policy 3(d) of the NPS-UD which only relates to development in and adjacent to Town Centre or equivalent zones. Neither is it shown by Council in evidence to be an appropriately-justified ‘qualifying matter’.</li> <li>• The proposed 450m<sup>2</sup> minimum site area requirement for vacant lot subdivision recasts an aspect of the Urban Fringe qualifying matter, and is inconsistent with the requirements of the HSAA. As noted previously, Clause 7 within Schedule 3A of the HSAA requires that any size related subdivision requirement should reflect the minimum required to accommodate the level of development permitted under the MDRS. It is therefore not efficient or effective in achieving the purpose of the Act.</li> </ul>
Costs/Benefits	<ul style="list-style-type: none"> <li>• The benefits of the recommended changes are the streamlining of considerations and ensuring that subdivision of vacant lots reflect the minimum level of development permitted under the MDRS in accordance with the Act.</li> <li>• Deletion of the standard will allow for flexibility of unit size and ensure standards appropriately give effect to the PDP Objectives and NPS-UD.</li> </ul>
Risk of acting or not acting	<ul style="list-style-type: none"> <li>• Both the PDP Objectives and the NPS-UD require a range of housing types and sizes to meet the needs of the community, these outcomes are clearly articulated through policies and PDP matters of discretion.</li> <li>• The relief sought must therefore be considered in light of the controls already within the PDP to manage high quality urban design outcomes.</li> <li>• The risk of not acting is that there is a lack of flexibility which recognises modern design principles and the potential to create high quality living environment in a range of dwelling sizes.</li> </ul>
Decision about more appropriate action	<ul style="list-style-type: none"> <li>• The recommended amendments as set out in my evidence are therefore considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP or the proposed changes set out in the section 42A report.</li> </ul>

Table 4: Amendments to Qualifying Matters (Flooding and Te Ture Whaimana related)

Effectiveness and efficiency	<ul style="list-style-type: none"> <li>● The objectives and strategies within Te Ture Whaimana ‘frame’ the planning response to the NPSUD and HSAA,</li> <li>● The proposed changes will remove the proposed stormwater and flooding ‘constraint’ overlays. Those overlays are not required to give effect to Te Ture Whaimana, and represent a planning response that effectively reduces (and may frustrate the achievement of) the density of development that is otherwise sought to be ‘enabled’ under the MDRS requirements as a permitted activity.</li> <li>● The evidence of Phil Jaggard (on behalf of Kainga Ora) identifies that the overlays are also not an appropriate response to a district wide issue that is more-appropriately managed through the natural hazards chapter, and through comprehensive amendment to those provisions.</li> <li>● Mr Jaggard also outlines why flooding and stormwater are ‘catchment-wide’ issues that are not efficiently or effectively managed, when under V3 controls are only being applied to the former urban fringe area.</li> <li>● The Council evidence does not support the need to manage development intensities of up to three dwellings per site based on stormwater and flooding.</li> <li>● There are existing methods within the district plan and the wider regulatory framework to achieve similar outcomes, such that the overlays are not an efficient or effective approach.</li> <li>● By providing flooding information as a non-statutory layer, recognises that this information is continually updated at catchment scale to reflect the best information available and the evolving nature of flood plains as ongoing built development affects flooding extents, depths, flows and flow paths.</li> </ul>
Costs/Benefits	<ul style="list-style-type: none"> <li>● The recommended amendments bring the PDP more in line with national direction, but will still allow for some consideration of the adverse effects of activities at the appropriate consent trigger (four or more dwellings)</li> <li>● There are no costs associated with the amendments which seek only to improve interpretation and bring the PDP in line with national direction.</li> <li>● As outlined above, the constraint overlays are not required to give effect to Te Ture Whaimana</li> </ul>
Risk of acting or not acting	<ul style="list-style-type: none"> <li>● The risk of not acting is that the provisions, as proposed within the PDP, create an expectation around the level of adverse effects which may be considered acceptable or inappropriate.</li> <li>● Not acting will be contrary to the overall intent of the NPS-UD.</li> <li>● There are existing methods within the district plan and the wider regulatory framework to achieve the same outcomes, such that the overlays are not an efficient or effective approach. While there is a current gap in the PDP provisions which poses a risk, this is an existing situation and being resolved through the appeals process. The introduction of intensification under V3 is unlikely to result in an immediate uptake in development or increased demand for housing, and there is opportunity now to commence a separate schedule 1 process to address flooding across the district in a comprehensive manner.</li> </ul>
Decision about more appropriate action	<ul style="list-style-type: none"> <li>● The recommended amendments as set out in my evidence are therefore considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP or the proposed changes set out in the section 42A report.</li> </ul>

**Appendix B – Map showing updated Kāinga Ora zoning / height relief**

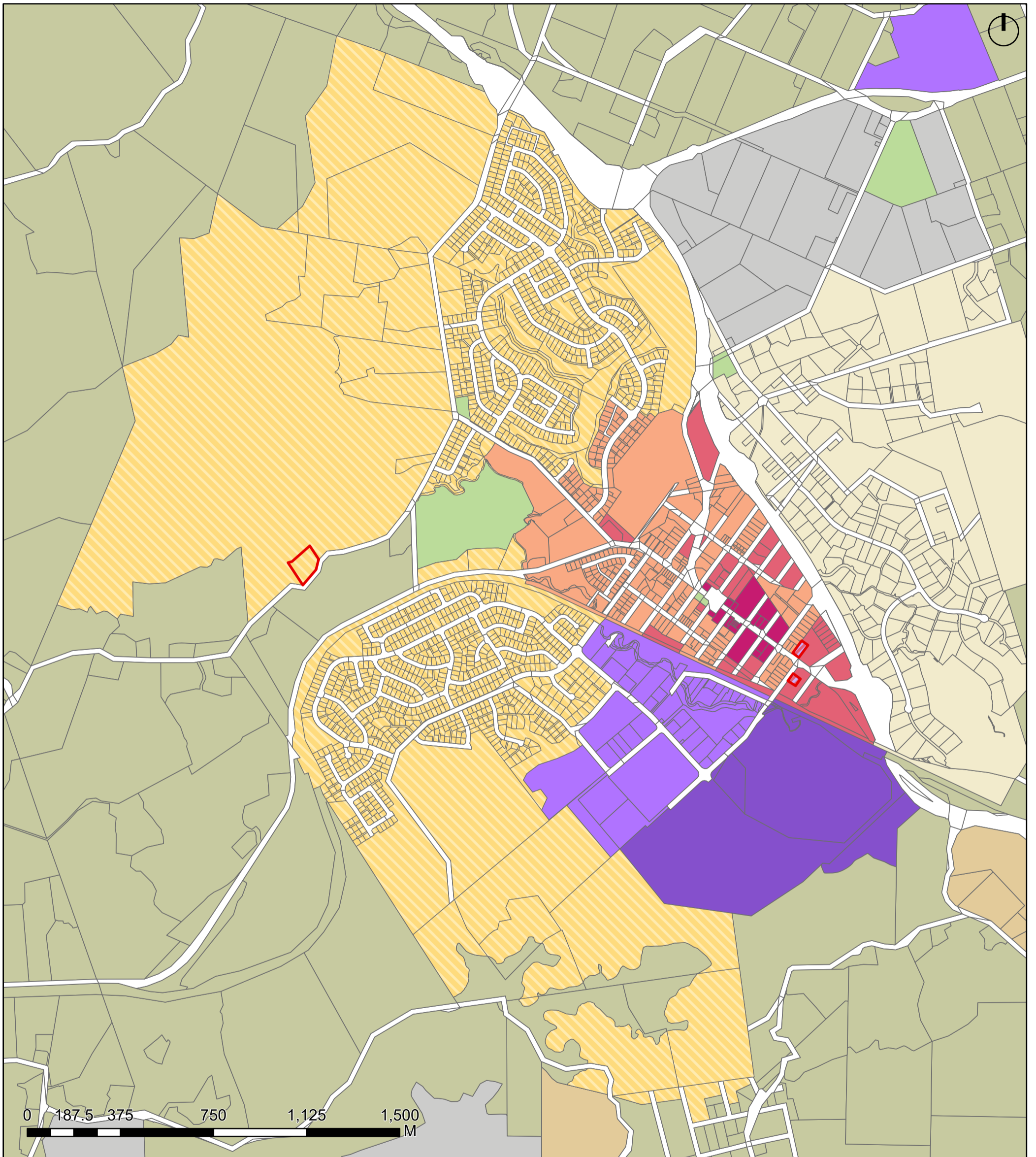


## Kāinga Ora Revised Hearing Position




- Medium Density Residential Zone
- NPS-UD Consequential Zone Extensions

## Proposed Variation 3














- TCZ - Town centre zone
- COMZ - Commercial zone
- GIZ - General industrial zone
- LLRZ - Large lot residential zone
- GRZ - General residential zone
- MRZ - Medium density residential zone
- OSZ - Open space zone
- GRUZ - General rural zone
- FUZ - Future urban zone
- Road



## Kāinga Ora Revised Hearing Position

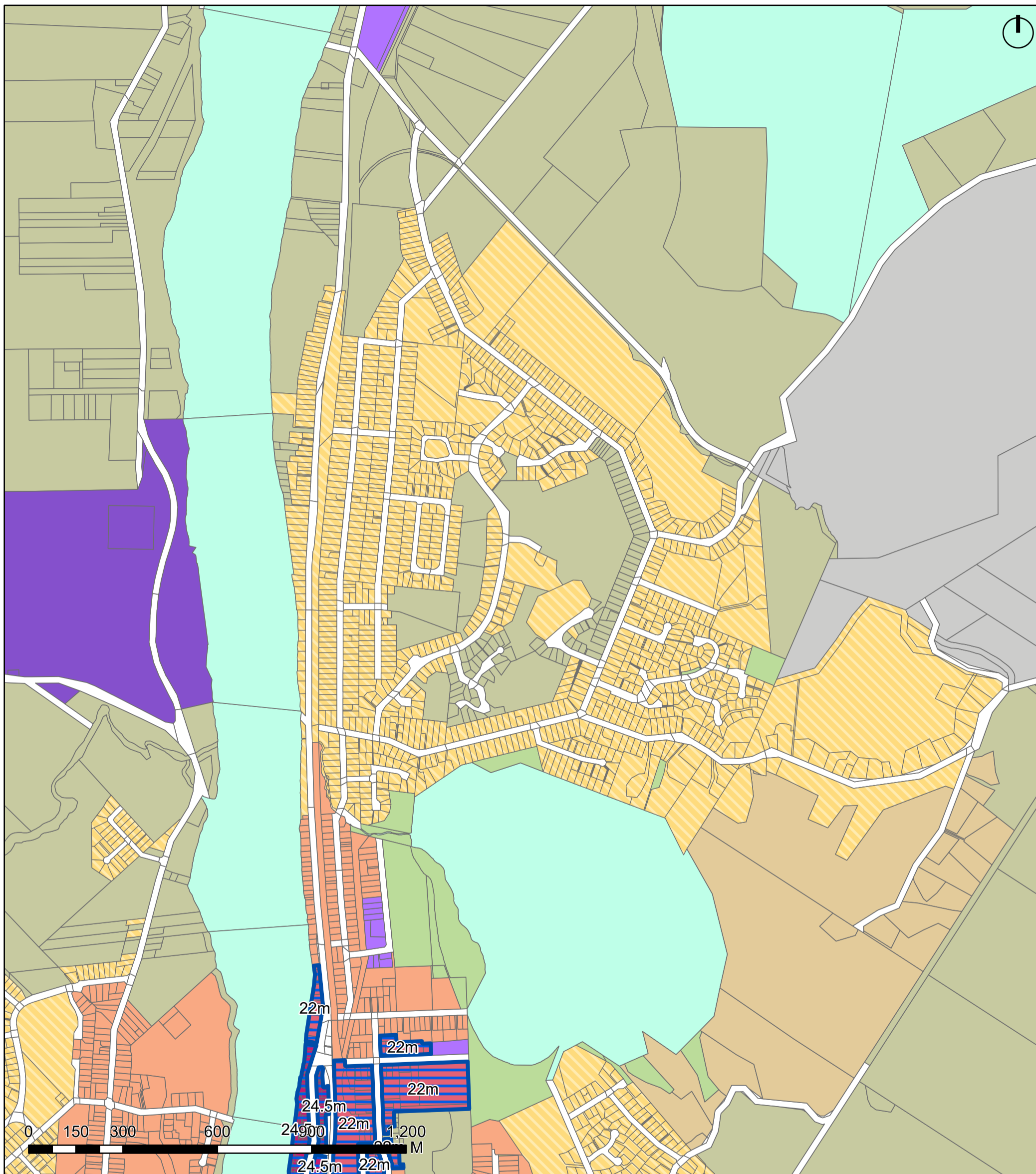
-  Medium Density Residential Zone
-  Commercial Zone
-  NPS-UD Consequential Zone Extensions

## Proposed Variation 3

- |   |  |
|---|--|
|  TCZ - Town centre zone                |  OSZ - Open space zone      |
|  COMZ - Commercial zone                |  RLZ - Rural lifestyle zone |
|  GIZ - General industrial zone         |  GRUZ - General rural zone  |
|  HIZ - Heavy industrial zone           |  FUZ - Future urban zone    |
|  LLRZ - Large lot residential zone     |  TTZ - TaTa Valley zone     |
|  GRZ - General residential zone        |  Road                       |
|  MRZ - Medium density residential zone |  |

# Huntly North

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## Kāinga Ora Revised Hearing Position

- Medium Density Residential Zone
- Business Height Variation Control

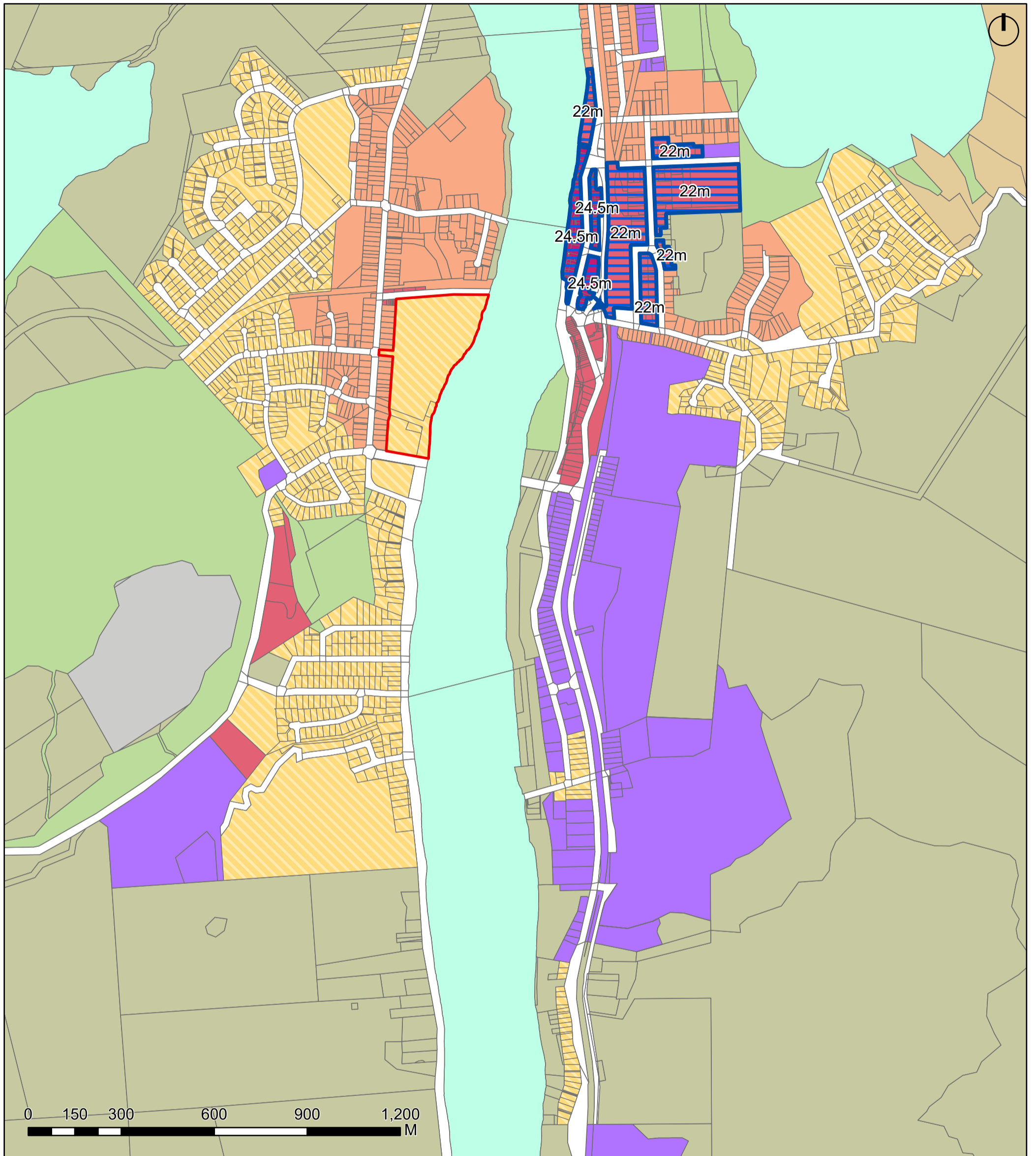
## Proposed Variation 3

- TCZ - Town centre zone
- COMZ - Commercial zone
- GIZ - General industrial zone
- HIZ - Heavy industrial zone
- GRZ - General residential zone
- MRZ - Medium density residential zone
- OSZ - Open space zone
- RLZ - Rural lifestyle zone
- GRUZ - General rural zone
- KLZ - Kimihia lakes zone
- Road
- Water






# Huntly South












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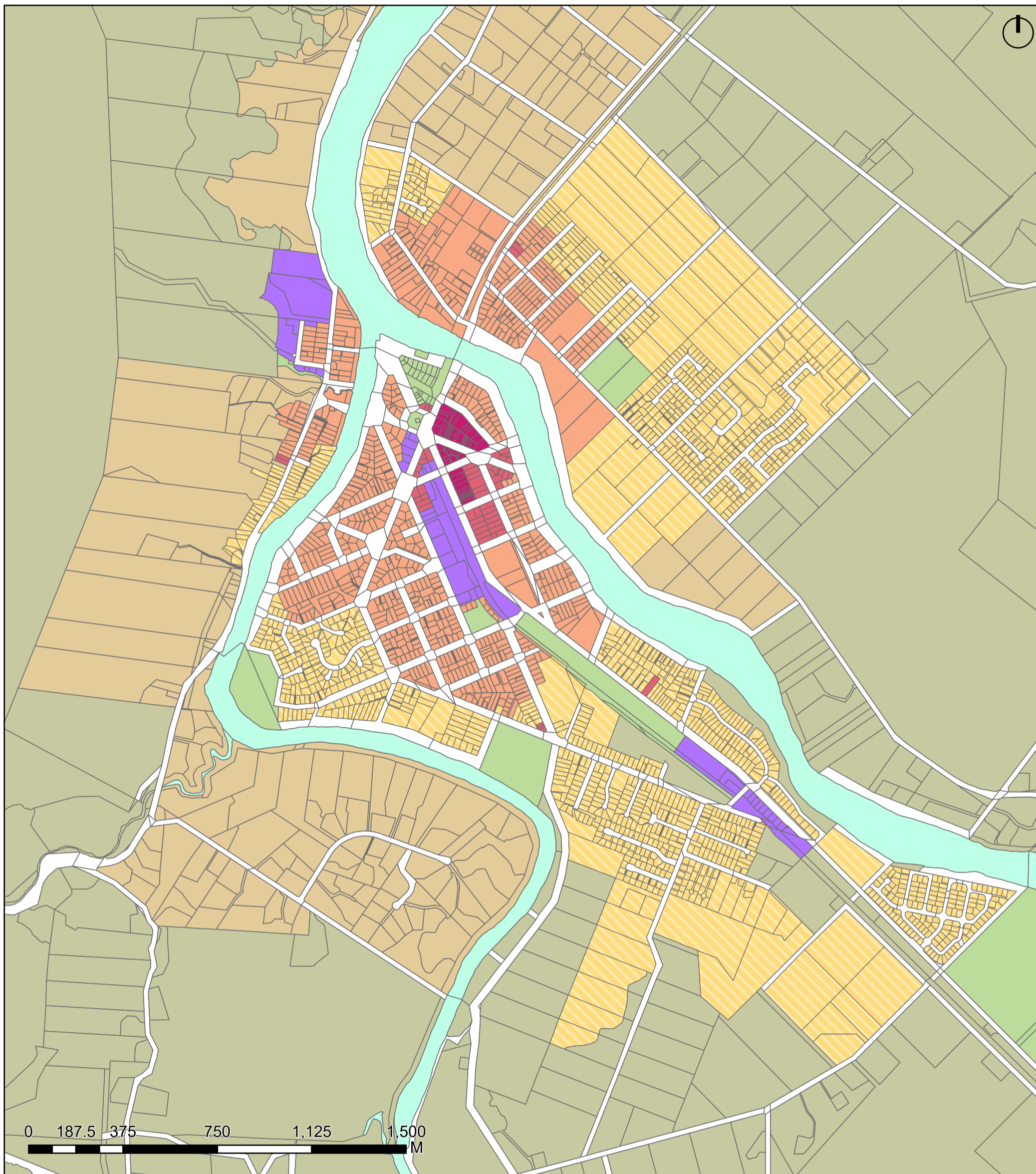


## Kāinga Ora Revised Hearing Position

-  Medium Density Residential Zone
-  Business Height Variation Control
-  NPS-UD Consequential Zone Extensions

## Proposed Variation 3

-  TCZ - Town centre zone
-  COMZ - Commercial zone
-  GIZ - General industrial zone
-  GRZ - General residential zone
-  MRZ - Medium density residential zone
-  OSZ - Open space zone
-  RLZ - Rural lifestyle zone
-  GRUZ - General rural zone
-  FUZ - Future urban zone
-  Road
-  Water



## Kāinga Ora Revised Hearing Position

Medium Density Residential Zone

## Proposed Variation 3

- TCZ - Town centre zone
- COMZ - Commercial zone
- GIZ - General industrial zone
- GRZ - General residential zone
- MRZ - Medium density residential zone
- OSZ - Open space zone
- RLZ - Rural lifestyle zone
- GRUZ - General rural zone
- Road
- Water