



Submission on Variation 3 to the Waikato District Plan

To: Waikato District Council ('Council')

Name of submitter: **Ministry of Education** Te Tāhuhu o Te Mātauranga ('**the Ministry**')

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This is a submission on Waikato District Council – Variation 3

Background

The Ministry is the Government's lead advisor on the New Zealand education system, shaping direction for education agencies and providers and contributing to the Government's goals for education. The Ministry assesses population changes, school roll fluctuations and other trends and challenges impacting on education provision at all levels of the education network to identify changing needs within the network so the Ministry can respond effectively.

The Ministry has responsibility for all education property owned by the Crown. This involves managing the existing property portfolio, upgrading and improving the portfolio, purchasing and constructing new property to meet increased demand, identifying and disposing of surplus State school sector property and managing teacher and caretaker housing. The Ministry is therefore a considerable stakeholder in terms of activities that may impact on existing and future educational facilities and assets in the Waikato District.

The Ministry of Education's submission is:

Future school network impacts

Variation 3 to the Waikato District Plan (the 'Plan') is seeking to introduce housing intensification in line with Resource Management (Enabling Housing Supply and Other Matters) Amendment Act and the National Policy Statement on Urban Development (NPS-UD) by incorporating the Government's Medium Density Residential Standards (MDRS) as follows:



- Renaming the Medium Density Residential Zone in Huntly, Ngāruawāhia, Pōkeno and Tuakau to Medium Density Residential Zone 2;
- Amending the objectives, policies and rules of the Medium Density Residential Zone 2 to provide for three, three storey residential units as a permitted activity if all the standards are met;
- Retaining the current provisions for the General Residential Zone in Huntly, Ngāruawāhia, Pōkeno and Tuakau to provide for one and two storey residential units as a permitted activity if all the standards are met;
- Rezoning specified areas of land from the General Residential Zone to the Medium Density Residential Zone 2, and from the Rural Zone to the General Residential Zone.

The proposed increase in residential density will put pressure on the local school networks. Through this submission, the Ministry is seeking that provisions for educational facilities be included in the plan variation, to enable the Ministry to service the growth facilitated by Variation 3 in the Waikato District.

The Ministry's position on Variation 3 to the Waikato District Plan

The Ministry is neutral on Variation 3 if the provisions outlined below and in Appendix 1 are accepted.

The Ministry acknowledges that the plan variation will contribute to providing additional housing within the district. This will require additional capacity in the local school network to cater for this growth as the area develops and potentially drive the need for additional schools throughout the district in the future.

The Ministry understands the Council must meet the requirements under the National Policy Statement on Urban Development 2020 (NPS-UD) to provide development capacity for housing and business. The Ministry wishes to highlight that Policy 10 of the NPS-UD states that local authorities should engage with providers of development infrastructure and additional infrastructure (schools are defined as additional infrastructure), to achieve integrated land use and infrastructure planning. In addition, subpart 3.5 of the NPS-UD states that local authorities must be satisfied that the additional infrastructure required to service the development capacity is likely to be available.

Growth as a result of the variation will require careful planning and communication between Council and the Ministry to meet community demand for educational facilities. The Ministry therefore has an interest in ensuring the Plan specifically acknowledges and provides for educational facilities. This is critical given educational facilities are an essential piece of social and community infrastructure. An absence of supportive provisions can place obstacles in the way of the establishment of education facilities in future years.

Qualifying Matters (Submission Point 1)

The Resource Management Act 1991 (RMA) clearly sets out the requirements for how the MDRS should apply to designated sites.



Section 77I of the RMA outlines how territorial authorities can make the MDRS less enabling of development by applying a qualifying matter to the site or activity. Designations are considered a qualifying matter under Section 77I (g) as outlined below:

77I (g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order.

The Ministry own the majority of their designated school sites and control any proposed development and built form outcomes within the designation. Additionally, if a school is operative then the designation has likely been given effect to. Therefore, applying a qualifying matter to the Ministry's designations is contrary to the clear requirements of Section 77I (g), as it is not necessary in order to ensure that the Ministry's designations are given effect to. Instead, the qualifying matter would constrain the Ministry's ability to utilise its designation over time in a manner that is consistent with the surrounding future planned built environment.

Section 77M (6) of the RMA allows the Ministry to rely on the provisions of the relevant residential zone (either an underlying zone or an adjoining zone) that incorporate the MDRS if those provisions are more enabling than conditions included in the designation as outlined below:

77M (5) Subsection (6) applies if a designation for which the Minister of Education is the requiring authority—

- (a) is included in the specified territorial authority's district plan; and*
- (b) the designation applies to land that—*
 - i) is in a relevant residential zone; or*
 - ii) adjoins a relevant residential zone.*

77M (6) Works undertaken under a designation of the kind referred to in subsection (5) may rely on the provisions of the relevant residential zone that incorporate the density standards in Part 2 of Schedule 3A if those provisions are more lenient than conditions included in the designation.

This provision allows the Ministry to develop their sites to the same standards that are applied to the immediately adjoining residential neighbourhoods. This ensures that schools are able to provide for growth over time and recognises that development on school sites should not be unduly constrained in a manner inconsistent with the existing and future planned built environment in which they are located. Applying the same standards ensures that school development will interface with, and be consistent with, anticipated amenity outcomes within the surrounding environment.

For Variation 3, Council has identified all designations as a qualifying matter. This may unnecessarily result in section 77M (6) not being available to the Ministry until after the plan variation becomes operative. The Ministry therefore requests that the Council confirm that the purported qualifying matter does **not** apply to Minister of Education designations, such that in the absence of any other qualifying matters applying to Schools, section 77M (6) can immediately be relied upon by the Ministry.

Objectives and policies (See Appendix 1. Submission Points 2 – 11)

The Ministry broadly supports provisions in Variation 3 that seek to put in place a framework that will deliver integrated communities that support the concepts of liveable, walkable and connected



neighbourhoods. This includes a transport network that is easy and safe to use for pedestrians and cyclists and is well connected to public transport, shops, schools, employment, open spaces and other amenities.

Schools are an essential piece of social infrastructure that is required to support the wellbeing of local communities. Variation 3 will enable greater intensification that will require more schools in the future to support that growth. Therefore, the Ministry requests new objectives and amendments to existing policies and rules to specifically enable and provide for educational facilities in the residential zones. These changes are outlined in Appendix 1 to this submission.

Decision sought

The Ministry is neutral on Variation 3 in its current form if the following relief and consequential amendments requested can be accepted.

The Ministry's requested relief on Variation 3 is outlined above and in Appendix 1 to this submission. Council's notified text as part of Variation 3 is shown in **black**. The Ministry's requested amendments are shown in **red text**. Additions are shown as underlined and deletions as ~~strikeouts~~.

Given the level of increase in housing provision in the Waikato District as a result of Variation 3, the Ministry requests regular engagement with Council to be kept informed of the housing typologies being proposed, staging and timing of development so that the potential impact of the plan variation on the local school network can be planned for. The key Ministry contact email is:

Resource.Management@education.govt.nz

The Ministry wishes to be heard in support of its submission.

Danielle Rogers
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(Consultant to the Ministry of Education)
Date: 28 October 2022

Appendix 1 - The Ministry of Education's Submission on the Waikato District Council Proposed District Plan Variation 3

The Ministry's requested amendments are shown in **red text**. Additions are shown as underlined and deletions as ~~strikeouts~~. Council's amendments as part of Plan Variation 3 are shown in black.

ID	Section of Plan	Proposed Provision	Support/ Oppose/ Neutral/	Reason for Submission	Relief Sought (in red)
1.	Part 3 Residential zones	New objective	New provision	Council has an obligation under the NPS-UD to ensure sufficient 'additional infrastructure' (which includes educational facilities) is provided in development, and local authorities must be satisfied that additional infrastructure to service the development capacity is likely to be available (see Policy 10 and 3.5 of Subpart 1 of Part 3: Implementation, in particular). Educational facilities should therefore be enabled in the Plan to service the growth enabled by Variation 3.	<u>GRZ-O7 Educational Facilities</u> <u>Residential development is supported by educational facilities</u>
2.		GRZ-P15 Non-residential activities. (1) Maintain the zone for residential activities by: i. Ensuring the number of non-residential activities are not dominant within a residential block; ii. Ensuring non-residential activities are in keeping with the scale and intensity of development anticipated by the zone and contribute to the amenity of the neighbourhood; iii. Enabling non-residential activities that provide for the health, safety and wellbeing of the community, and that service or support an identified local need; iv. Avoiding the establishment of new non-residential activities on rear sites, or sites located on cul-de-sacs, or that have access to national routes, regional arterial roads and arterial roads; and v. Ensuring that the design and scope of non-residential activities and associated buildings: a. Maintain residential character including the scale and design of buildings and their location on the site, and on-site parking and vehicle maneuvering areas; and b. Mitigate adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill, to the extent that they minimise adverse effects on residential character and amenity and the surrounding transport network.	Support in part	Educational facilities are typically located in residential zones to support the surrounding residential catchments. Therefore, the Ministry requests that an additional objective is added to each of the residential zones (general residential zone 1 and the medium density residential zone 2) that acknowledges that development in residential areas should be supported by educational facilities to help meet the needs and demand of local communities in the future. The Ministry acknowledges that Policy GRZ-P15, MRZ1-P7 and MRZ2-P10 for non-residential activities is not proposed to be amended through Variation 3 and are existing operative policies under the Plan. However, the Ministry recommends these policies are amended through Variation 3 to specifically enable educational facilities as non-residential activities to support the needs and demands of those residential communities. The proposed amendment is also necessary to support the Ministry's suggested new objectives.	GRZ-P15 Non-residential activities. (1) Maintain the zone for residential activities by: i. Ensuring the number of non-residential activities are not dominant within a residential block; ii. Ensuring non-residential activities are in keeping with the scale and intensity of development anticipated by the zone and contribute to the amenity of the neighbourhood; iii. Enabling non-residential activities that provide for the health, safety and wellbeing of the community, <u>including educational facilities</u> and that service or support an identified local need; iv. Avoiding the establishment of new non-residential activities on rear sites, or sites located on cul-de-sacs, or that have access to national routes, regional arterial roads and arterial roads; and v. Ensuring that the design and scope of non-residential activities and associated buildings: a. Maintain residential character including the scale and design of buildings and their location on the site, and on-site parking and vehicle manoeuvring areas; and b. Mitigate adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill, to the extent that they minimise adverse effects on residential character and amenity and the surrounding transport network.
3.		GRZ-R9 Childcare facility (1) Activity status: PER Activity-specific standards: (a) For up to 4 children that are not permanent residents of the household unit. (2) Activity status where compliance not achieved: DIS	Oppose	The Ministry acknowledges that childcare facilities are provided for a permitted activity subject to an activity-specific standard for up to 4 children in the general residential zone under	Entirely remove provision.

ID	Section of Plan	Proposed Provision	Support/ Oppose/ Neutral/	Reason for Submission	Relief Sought (in red)
4.		<p>GRZ-R13 Educational facilities This excludes childcare facilities.</p> <p>(1) Activity status: RDIS</p> <p>Activity-specific standards: Nil</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) The extent to which it is necessary to locate the activity in the GRZ – General residential zone; (b) Reverse sensitivity effects of adjacent activities; (c) The extent to which the activity may adversely impact on the transport network; (d) The extent to which the activity may adversely impact on the streetscape and the amenity of the neighbourhood; (e) The extent to which the activity may adversely impact on the noise environment. 	Support in part	<p>rule GRZ-R9. Most childcare facilities would exceed this limit meaning the activity status would be unnecessarily restrictive as a discretionary activity. The Ministry opposes this rule and recommends that childcare facilities are included in rule GRZ-R13 for educational facilities. This would enable childcare facilities as restricted discretionary activities to support the needs and demands of those residential communities while allowing Council to maintain discretion over the listed matters.</p> <p>The Ministry notes that educational facilities are not specifically provided for in the medium density residential zone 1 and 2 rules and are discretionary under rule MRZ1-R10 and MRZ2-R12. However, the Ministry recommends amendments to rules MRZ1-R4 and MRZ2-R4 for community facilities to include educational facilities through Variation 3. This will enable educational facilities as permitted (subject to meeting activity-specific standards) and Restricted Discretionary where they do not meet the activity-specific standards, to support the needs and demands of those residential communities. This also aligns with the Ministry's suggested new objectives and policy amendments.</p>	<p>GRZ-R13 Educational facilities This excludes childcare facilities.</p> <p>(1) Activity status: RDIS</p> <p>Activity-specific standards: Nil</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) The extent to which it is necessary to locate the activity in the GRZ – General residential zone; (b) Reverse sensitivity effects of adjacent activities; (c) The extent to which the activity may adversely impact on the transport network; (d) The extent to which the activity may adversely impact on the streetscape and the amenity of the neighbourhood; (e) The extent to which the activity may adversely impact on the noise environment.
5.	Part 3 Medium density residential zone 1	New objective	New provision		<p><u>MRZ1-O5 Educational Facilities</u> <u>Residential development is supported by educational facilities</u></p>
6.		<p>MRZ1-P7 Non-residential activities.</p> <p>(1) Maintain the zone primarily for residential activities while also:</p> <ul style="list-style-type: none"> a) Ensuring community facilities: <ul style="list-style-type: none"> i) Are suitably located; ii) Are of a limited scale and intensity that is compatible with the zone; iii) Contribute to the amenity of the neighbourhood; and iv) Support the social and economic well-being of the residential community. b) Avoiding the establishment of new non-residential activities (except home occupations) on rear sites, or sites located on cul-de-sacs; and c) Ensuring that the design and scale of non-residential activities and associated buildings mitigates adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill. <p>(2) Enabling existing non-residential activities to continue and support their redevelopment and expansion, provided they do not have a significant adverse effect on character and amenity.</p>	Support in part		<p>MRZ1-P7 Non-residential activities.</p> <p>(1) Maintain the zone primarily for residential activities while also:</p> <ul style="list-style-type: none"> a) Ensuring community facilities <u>and educational facilities</u>: <ul style="list-style-type: none"> i) Are suitably located; ii) Are of a limited scale and intensity that is compatible with the zone; iii) Contribute to the amenity of the neighbourhood; and iv) Support the social and economic well-being of the residential community. b) Avoiding the establishment of new non-residential activities (except home occupations) on rear sites, or sites located on cul-de-sacs; and c) Ensuring that the design and scale of non-residential activities and associated buildings mitigates adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill. <p>(2) Enabling existing non-residential activities to continue and support their redevelopment and expansion, provided they do not have a significant adverse effect on character and amenity.</p>
7.		<p>MRZ1-R4 Community facilities</p> <p>(1) Activity status: PER</p> <p>Activity-specific standards:</p> <ul style="list-style-type: none"> i. No more than 200m² GFA. <p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> i. Consideration of the effects of the activity-specific standard not met; 	Support in part		<p>MRZ1-R4 Community facilities <u>and educational facilities</u></p> <p>(1) Activity status: PER</p> <p>Activity-specific standards:</p> <ul style="list-style-type: none"> i. No more than 200m² GFA. <p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> i. Consideration of the effects of the activity-specific standard not met;

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		<ul style="list-style-type: none"> ii. Measures to avoid, remedy or mitigate adverse effects; and iii. Cumulative effects. 			<ul style="list-style-type: none"> ii. Measures to avoid, remedy or mitigate adverse effects; and iii. Cumulative effects.
8.	Part 3 Medium density residential zone 2	New objective	New provision		<p><u>MRZ1-O7 Educational Facilities</u> <u>Residential development is supported by educational facilities</u></p>
9.		<p>MRZ2-P10 Non-residential activities.</p> <p>(1) Maintain the zone primarily for residential activities while also:</p> <ul style="list-style-type: none"> a) Ensuring community facilities: <ul style="list-style-type: none"> i) Are suitably located; ii) Are of a limited scale and intensity that is compatible with the zone; iii) Contribute to the amenity of the neighbourhood; and iv) Support the social and economic well-being of the residential community. b) Avoiding the establishment of new non-residential activities (except home occupations) on rear sites, or sites located on cul-de-sacs; and c) Ensuring that the design and scale of non-residential activities and associated buildings mitigates adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill. <p>(2) Enabling existing non-residential activities to continue and support their redevelopment and expansion, provided they do not have a significant adverse effect on character and amenity.</p>	Support in part		<p>MRZ2-P10 Non-residential activities.</p> <p>(1) Maintain the zone primarily for residential activities while also:</p> <ul style="list-style-type: none"> a) Ensuring community facilities <u>and educational facilities</u>: <ul style="list-style-type: none"> i) Are suitably located; ii) Are of a limited scale and intensity that is compatible with the zone; iii) Contribute to the amenity of the neighbourhood; and iv) Support the social and economic well-being of the residential community. b) Avoiding the establishment of new non-residential activities (except home occupations) on rear sites, or sites located on cul-de-sacs; and c) Ensuring that the design and scale of non-residential activities and associated buildings mitigates adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill. <p>(2) Enabling existing non-residential activities to continue and support their redevelopment and expansion, provided they do not have a significant adverse effect on character and amenity.</p>
10.		<p>MRZ2-R4 Community facilities</p> <p>(1) Activity status: PER</p> <p>Activity-specific standards:</p> <ul style="list-style-type: none"> i. No more than 200m² GFA. <p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> i. Consideration of the effects of the activity-specific standard not met; ii. Measures to avoid, remedy or mitigate adverse effects; and iii. Cumulative effects. 	Support in part		<p>MRZ2-R4 Community facilities <u>and educational facilities</u></p> <p>(1) Activity status: PER</p> <p>Activity-specific standards:</p> <ul style="list-style-type: none"> ii. No more than 200m² GFA. <p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> iv. Consideration of the effects of the activity-specific standard not met; v. Measures to avoid, remedy or mitigate adverse effects; and vi. Cumulative effects.