



Waikato Region Intensification Planning Instruments

Themes and Issues report

Joint Opening Hearing

Document: Waikato Intensification Planning Instrument Report

Date: 15 December 2022

Prepared by: Grant Eccles, Damien McGahan, Fiona Hill

Authorised by: Mark Davey – City Planning Manager - Hamilton City Council, Tony Quickfall – Manager District Plan and Growth – Waipā District Council, Jim Ebenhoh – Planning and Policy Manager – Waikato District Council

Contents

1.0	Introduction.....	4
1.1	Qualifications and experience	4
1.2	Code of Conduct	4
1.3	Conflict of Interest	4
2.0	Purpose	4
3.0	Background.....	5
4.0	Themes in common	6
	Discussion on Common Themes and Issues.....	7
	Common Theme 1: Fundamental Opposition to or Support for Intensification.....	7
	Common Theme 2: Application of NPS-UD Policy 3	8
	Common Theme 3: Identification of Qualifying Matters.....	9
	Common Theme 4: Transport/Carparking.....	11
	Common Theme 5: Out of Scope Matters	12
5.0	Territorial Authority specific themes.....	14
5.1	Waikato District Council	14
	Waikato Theme 1: Scope of V3 within the District.....	16
	Waikato Theme 2: Qualifying Matters.....	16
	Waikato Theme 3: Policy 3 of the NPS-UD.....	18
	Waikato Theme 4: Betterment of Waikato Te Awa.....	19
	Waikato Theme 5: Effect of private covenants in Pookeno.....	21
	Waikato Theme 6: Infrastructure Capacity	21
5.2	Waipā District Council	22
	Discussion on Waipā District Council specific themes.....	23
	Waipā Theme 1: Application of NPS-UD Policy 3(d).....	23
	Waipā Theme 2: Qualifying Matters - Nationally Significant Infrastructure.....	24
	Waipā Theme 3: Qualifying Matters - Historic heritage / character clusters	25
	Waipā Theme 4: Qualifying Matters - River/Gully Proximity Overlay.....	26
	Waipā Theme 5: Qualifying Matters – SNAs / reserves.....	27
	Waipā Theme 6: Financial Contributions.....	27
	Waipā Theme 7: Financial Contributions – Te Ture Whaimana Management/Distribution	29
5.3	Hamilton City Council (“HCC”).....	30
	Discussion on Hamilton City Council specific themes	31
	Hamilton Theme 1: Strategic Framework	31

Hamilton Theme 2: Financial Contributions.....	32
Hamilton Theme 3: Central City	34
Hamilton Theme 4: On Site Three Waters Requirements and Infrastructure Capacity Assessments	36
6.0 Conclusion.....	38

1.0 Introduction

Qualifications and experience

- 1.1 This report has been jointly prepared by Grant Eccles, Damien McGahan, and Fiona Hill.
- 1.2 Mr Eccles has prepared Section 4 (Themes in Common) and the Hamilton City Council specific themes section. Mr McGahan has prepared the Waipā District Council specific themes section, while Ms Hill has prepared the Waikato District Council specific themes section.
- 1.3 Mr Eccles is a consultant planner with 28 years of experience, the last 26 of those based in Hamilton. He holds the qualifications of a Bachelor of Resource and Environmental Planning from Massey University and has been a Member of the New Zealand Planning Institute since 2001.
- 1.4 Mr McGahan is a consultant planner with 22 years of planning experience in New Zealand. He holds a Bachelor of Social Sciences (Geography, University of Waikato 1995) and a Masters of Resource and Environmental Planning (Massey University 1997). He is a full member of the New Zealand Planning Institute.
- 1.5 Ms Hill is a Principal Policy Planner recently employed by Waikato District Council. She has 29 years experience, with six of those working in the greater Hamilton area (Waipā District Council and Waikato District Council). Ms Hill holds a Masters of Social Science (Resources and Environmental Planning, University of Waikato) and is a full member of the New Zealand Planning Institute.

Code of Conduct

- 1.6 The authors confirm that they have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that they have complied with it when preparing this report. Other than when they state that they are relying on the advice of another person, this evidence is within their area of expertise. They have not omitted to consider material facts known to them that might alter or detract from the opinions that they express.

The authors are authorised to give this evidence on the respective Council's behalf to the Independent Hearing Panel.

Conflict of Interest

- 1.7 The authors confirm that they have no real or perceived conflict of interest in the matters addressed by this report.

2.0 Purpose

- 2.1 The purpose of this s42A report is to assist the Independent Hearings Panel (IHP) in making recommendations on the respective Waikato Region Intensification Planning Instruments (IPIs) by presenting the key themes and associated issues that require consideration by the IHP. It is also intended that the report might assist the IHP in making directions subsequently to the Joint Opening Hearing as to out of scope matters and the type and content of evidence expected for the substantive hearings for the respective IPI's later in 2023.

- 2.2 This report identifies key submitters related to each theme, outlines the specific issues related to each theme that are being raised through the submissions, and sets out factors that the IHP will need to consider in their decision making on specific issues.
- 2.3 An overview of the relief sought through submissions is provided, including identification where applicable of any commonality of relief sought.

3.0 Background

- 3.1 In response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (“the Housing Supply Amendment Act”), tier 1 territorial authorities were required to notify changes or variations to their district plans by 20 August 2022 to incorporate the Medium Density Residential Standards (MDRS) and give effect to Policy 3 of the National Policy Statement – Urban Development 2020 (NPS-UD). These changes or variations are IPIs under section 80E of the Resource Management Act 1991 (RMA).
- 3.2 The tier 1 territorial authorities in the Waikato Region, being Hamilton City Council, Waikato District Council and Waipā District Council (the Councils), have established an IHP to hear submissions and make recommendations on their respective IPIs using the Intensification Streamlined Planning Process (ISPP).
- 3.3 The Waikato Region IPIs are separately referred to as:
 - 1. Plan Change 12 for Hamilton City Council;
 - 2. Variation 3 for Waikato District Council; and
 - 3. Plan Change 26 for Waipā District Council.

4.0 Themes in common

- 4.1 This section set out the submission themes (in Table 1 below) which are relevant to the three Waikato Region IPIs.
- 4.2 Submissions associated with the Council specific themes will be heard at later substantive hearings for each relevant territorial authority. Separate s42A reports that cover those themes and issues in more depth will be issued by each territorial authority prior to each relevant hearing.
- 4.3 As a result, the discussion that follows Table 1 focuses only on those themes that are relevant to the Joint Opening Hearing.

Table 1 - Submission themes common to Intensification Planning Instruments in Hamilton City, Waikato District, and Waipā District that will be considered at the Joint Opening Hearing

Theme	Key issues being raised
1 Fundamental Opposition to or Support for Intensification	<ul style="list-style-type: none"> • No need for intensification to occur • The IPIs should be withdrawn • Reject all the provisions allowing for intensification • Intensification is necessary to ensure compact urban areas
2 Application of NPS-UD Policy 3	<ul style="list-style-type: none"> • interpretations of the NPS-UD • changes to urban non-residential zones • centres/walkable catchments approaches
3 Identification of qualifying matters and modification of NPS-UD Policy 3 in response	<p>Te Ture Whaimana</p> <ul style="list-style-type: none"> • The necessity for, extent and effect of the infrastructure overlays required to give effect to Te Ture Whaimana. <p>Nationally significant infrastructure</p> <ul style="list-style-type: none"> • The identification of the National Grid, Rail Corridor and State Highways as qualifying matters, and the extent of setbacks that are necessary to accommodate the qualifying matter. <p>Historic heritage/character areas</p> <ul style="list-style-type: none"> • The identification of historic heritage/character areas as qualifying matters, and whether the character areas should be extended or reduced in size (specifically in relation to Hamilton City and Waipā District). <p>Significant Natural Areas</p> <ul style="list-style-type: none"> • Whether proposed setbacks from SNAs and other SNA related provisions are necessary to accommodate the qualifying matter.

Theme	Key issues being raised
4 Transport/Carparking	Lack of minimum carparking requirements Congestion effects on roads
5 Out of Scope Matters	Rezoning requests from non-residential to residential Inclusionary Zoning/Affordable Housing Provisions Activity specific provisions (eg provision for corrections facilities in residential zones) Whether the plan changes/variations should be used as an opportunity to give effect to national and regional climate change policy.

Discussion on Common Themes and Issues

4.4 The following sections discuss each theme and the key issues related to each theme.

Common Theme 1: Fundamental Opposition to or Support for Intensification Discussion

4.5 A significant number of submitters to each of the IPIs, predominantly non-corporate individual or joint residential landowners, record fundamental opposition to housing intensification in the manner proposed in the respective IPI's, both in terms of density and location.

4.6 These submissions raise various issues such as effects on views, loss of sunlight to existing and future properties, the lack of on-site open space that will result from MDRS intensification, loss of established character of residential areas, and the potential for adverse social effects from poorly designed higher density housing.

4.7 Conversely, a number of submissions (from both corporate and non-corporate submitters) support residential intensification in principle to support compact urban areas and avoid further urban expansion into rural land. These submitters predominantly seek specific amendments to the proposed provisions to address specific concerns they hold.

Relief Sought

4.8 Variously that:

- the relevant IPI be withdrawn
- the relevant IPIs be amended so that the densities and extent of zoning of the MDRS are reduced
- the bulk and location and on-site open space controls in the relevant IPIs be amended to provide for greater building setbacks from boundaries, more sunlight admission to properties, and more on-site open space.

Factors for the panel to consider in their decision-making on this issue

4.9 Section 77I of the Resource Management Act 1991 (RMA) provides scope to amend the MDRS standards in terms of building heights and densities to be less enabling of

development only to the extent necessary to accommodate one or more of the qualifying matters listed in Section 771. The IHP will need to consider whether amendments to controls in residential areas are needed to accommodate any of the qualifying matters listed, including perhaps most relevantly Te Ture Whaimana o Te Awa Waikato – the Vision and Strategy for the Waikato River.

- 4.10 The Housing Supply Amendment Act compelled Tier 1 local authorities to notify an IPI using the ISPP, with the IPI to be publicly notified before 20 August 2022. Once notified, an IPI cannot be withdrawn (s80G(1)(c)). There are several references in submissions to the precedent set by the Christchurch City Council decision to refuse to prepare an IPI as required by the legislation, and that the respective Tier 1 Waikato local authorities should have also refused.
- 4.11 In that regard, it is relevant to note that on 17 November the Associate Minister for the Environment initiated an investigation under Part 4 of the Resource Management Act 1991 into Christchurch City Council’s decision not to notify an IPI as required by the Housing Supply Amendment Act. One potential outcome of that investigation, as allowed for under s25 of the RMA, is that the Minister for the Environment may appoint one or more persons to prepare and notify an IPI for Christchurch in place of the Christchurch City Council, with the costs to be borne by Christchurch City Council as a debt to the Crown.
- 4.12 The point here is that even if any or all of the Tier 1 Waikato local authorities had refused to notify an IPI, the Minister has the power to prepare and notify an IPI for each authority regardless. Therefore, refusing to notify an IPI would not avoid the issue.

Common Theme 2: Application of NPS-UD Policy 3

Discussion

- 4.13 Policy 3 of the NPS-UD 2022 requires that in relation to Tier 1 urban environments, district plans enable:
- (a) *in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and*
 - (b) *in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and*
 - (c) *building heights of at least 6 storeys within at least a walkable catchment of the following:*
 - (i) *existing and planned rapid transit stops*
 - (i) *the edge of city centre zones*
 - (ii) *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.*

- 4.14 Submissions to each of the IPIs from the likes of Kāinga Ora, Ministry of Housing and Development, Retirement Village Association and significant private sector land developers query whether the respective Councils have interpreted the above requirements appropriately, particularly with regard to clause (d) which has an element of subjectivity in determining building heights and densities.
- 4.15 However, given the differences in the scale and nature of the urban areas within Waipā District, Waikato District and Hamilton City, and hence the nature of the provisions in each IPI, there are differences between the issues within this theme that are relevant to each authority. These local authority differences are explained in the Council specific sections in Section 5 of this report.

Relief Sought

- 4.16 The relief sought by the larger public and private sector submitters on the various IPIs differs depending on the local authority involved. Generally, they can be described as seeking more permissive heights and densities than what was notified.

Factors for the panel to consider in their decision-making on this issue

- 4.17 The IHP will need to consider the methodology and assessments used by each local authority to determine the various underpinning components of NPS-UD policy 3 (housing and business demand, calculation of walkable catchments, etc).
- 4.18 With particular regard to clause (d), the IHP will need to examine evidence from the local authorities with regards to existing levels of commercial activity and community services, and how those have influenced the building heights and densities proposed. Consideration of demand for the type of development that differing heights and densities would produce will also be necessary.
- 4.19 Likewise, the IHP will need to consider evidence from submitters that seek changes to building heights and densities to demonstrate that the changes sought remain commensurate to existing levels of commercial activity and community services. This is particularly relevant where submitters are requesting substantial changes in building heights and densities around neighbourhood, local and town centre zones which are currently characterised by generally lower intensity development with corresponding one-two storey built form.
- 4.20 Consideration will also need to be given as to whether the plan provisions, which by necessity need to be forward looking, should be dictated by current/historical heights and densities. In that regard, while there may not be demand apparent now or in the immediate future for development of greater heights and densities, “plan enabling” such development will allow the respective plans to respond to any changes to market trends in the future.

Common Theme 3: Identification of Qualifying Matters

Discussion

- 4.21 Submissions to each of the IPIs have raised the following issues with regards to how qualifying matters have been addressed:
- The necessity for, extent and effect of the infrastructure overlays required to give effect to Te Ture Whaimana/the Vision and Strategy as a Qualifying Matter – noting that this matter in the as notified versions of the respective IPIs is only relevant to HCC PC12 and Waipā DC PC26 – Waikato DC Var 3 as notified did not contain any infrastructure overlays to address

Te Ture Whaimana. Several submitters (eg Ministry of Housing and Urban Development), assert that there has been insufficient evidence produced by the respective authorities to justify the need for and widespread application of an infrastructure overlay to give effect to Te Ture Whaimana, when the requirements of Section 77I of the RMA are taken into account. Other submitters (eg Kāinga Ora) set out that infrastructure and associated overlays should not be used as limiting factors for the application of intensification across the urban areas but rather as a matter to be considered alongside development that exceeds permitted thresholds of the relevant District Plan.

- The identification of the National Grid, Rail Corridor and State Highways as qualifying matters, and the nature and extent of setbacks that are necessary to accommodate such infrastructure as a qualifying matter (see for example submissions from Transpower, Kiwirail, and Waka Kotahi).
- The identification of historic heritage/character areas as qualifying matters, and whether the character areas should be extended or reduced in size.
- Whether proposed setbacks from SNAs and other SNA related provisions are necessary to accommodate SNAs as a qualifying matter, and whether the application of qualifying matters for s6(c) matters should go beyond SNAs to include urban trees and vegetation (see for example the submissions from Department of Conservation)

4.22 In addition to the above, there are also submissions that raise local authority specific qualifying matter issues that are addressed in later sections of this report.

Relief Sought

4.23 With regard to the matters set out above, submitters variously seek that:

- Infrastructure overlays to give effect to Te Ture Whaimana should be removed entirely, be amended to be more focused in their application either spatially or in effect, or made more extensive and/or strengthened
- Development setbacks from significant infrastructure should either be introduced or where they are already proposed made more or less onerous
- Historic heritage overlays should be removed entirely or on a property/neighbourhood specific basis, made more extensive and/or strengthened, or made more targeted in their effect.
- SNA setbacks be deleted or strengthened, and that controls be introduced to protect urban trees and vegetation as a qualifying matter

Factors for the panel to consider in their decision-making on this issue

4.24 The key factors for the IHP to consider will be the extent to which the various qualifying matter provisions that restrict the application of the MDRS standards achieve compliance with:

- (i) section 77I (is the matter a listed qualifying matter?); and
- (ii) section 77J (does the available information/evidence meet the requirements of an evaluation report, and does that evidence sufficiently justify the provisions put forward by the plan change/variation proponents and the changes sought by submitters?); and

- (iii) section 77K (if the matter is an existing qualifying matter, are the requirements of section 77K met with regards to identification of the area(s) to which the existing qualifying matter applies, why the existing qualifying matter should apply, and what alternative density standards are proposed?); and
- (iv) section 77L (if the matter is not specifically listed as a qualifying matter under s77I and either the proponents or submitters are relying on s77I(j), does the available information/evidence, which should include site specific analysis, identify the special characteristics of a site or area that make it inappropriate for the application of the MDRS standards?)

4.25 With particular regard to consideration of infrastructure overlays to give effect to Te Ture Whaimana, the IHP will need to consider that (i) Te Ture Whaimana is a specifically listed qualifying matter in section 77I(c) that only applies in the Waikato River catchment, and (ii) Te Ture Whaimana prevails over any provisions in a resource management document that are inconsistent with it. These are powerful provisions that in themselves generate a precautionary lens to consideration of plan provisions that seek to give effect to Te Ture Whaimana, and submissions that seek to amend or delete those provisions.

Common Theme 4: Transport/Carparking

Discussion

- 4.26 A number of submitters are concerned about the transportation impacts of the respective IPI's. The two central issues set out by submitters are:
- (i) Adverse effects from allowing intensification to occur without the requirement for any on-site carparking. In that regard submitters cite concerns about cars being parked on streets that are too narrow to accommodate parking and on berms and footpaths which will impede access and generate the potential for anti-social behaviour (eg increased opportunities for car theft and break-ins); and
 - (ii) Increases and/or changes in traffic flows on local transportation networks and streets that are not designed to cater for such volumes. Submitters are concerned that congestion will increase with associated decreases in air quality and travel times.

Relief Sought

- 4.27 Common relief sought by the majority of submitters is that minimum on-site carparking standards should be included in the rules in each IPI.
- 4.28 Some submitters request that Transportation Assessments should be required for any development of three or more dwellings, with the development able to be declined if Council is not satisfied that the transportation effects of the development will be acceptable.

Factors for the panel to consider in their decision-making on this issue

- 4.29 National Direction – The NPS-UD removed the requirement for any minimum parking standards. There would thus appear to be no ability to include such standards through this IPI process. In the alternative the IHP can consider alternative measures such as Travel Demand Management and how that could be factored into the respective plans.

Common Theme 5: Out of Scope Matters

Discussion

Zoning Requests

- 4.30 A number of submissions to each IPI are related to the zoning of individual or groups of properties. Predominantly these submissions seek either that the as-notified zoning be retained, or changed from one form of residential zone to another type of residential zone (eg from Medium Density Residential Zone to High Density Residential Zone).
- 4.31 Other submissions seek that an as-notified non-residential zoning be changed to a residential zoning. For example, seeking that a site zoned Rural (as-notified) be rezoned to Medium Density Residential Zone.

Inclusionary Zoning/Affordable Housing Provisions

- 4.32 Specific provisions for affordable housing were not included in any of the respective IPIs.
- 4.33 Five organisations (Waikato Community Lands Trust, Waikato Housing Initiative, Momentum Waikato, Habitats for Humanity Central Region Limited and Bridge Housing Charitable Trust) have lodged a joint submission to each of the IPI's seeking that each IPI make provision for 'inclusionary zoning' as a pathway to increasing the supply of affordable housing in each local authority area. Options to implement this zoning include either the provision of a 10% requirement for greenfield sites and larger scale brownfield development of 5 or more units of affordable units or an equivalent rate of financial contribution.
- 4.34 The submitters seek that the IPI's be amended to provide for inclusionary zoning as per the Queenstown Lakes District Council (QLDC) model plan provisions attached to the submission.

Activity Specific Requests

- 4.35 A number of submitters have sought that activity specific provisions be inserted into the respective IPI's. For example, the Department of Corrections seeks that community corrections activities be made a permitted activity throughout the various residential zones. A further example is that the Retirement Village Association submit that policy support and specific rule provisions should be introduced for retirement villages and associated activity. Other examples include the Ministry of Education, Fire and Emergency New Zealand and WEL Networks all seeking specific relief to better enable the delivery of their respective services.

Climate Change

- 4.36 The Waikato Regional Council has submitted on a range of points relating to climate change seeing the IPI's as an opportunity to give effect to national and regional climate change policy. Retention of planting of street tree provisions and several new or amended objectives and policies to address climate change, a low carbon transport system and carbon emission reduction goals are all requested by the Waikato Regional Council.

Relief Sought

- 4.37 As discussed above.

Factors for the panel to consider in their decision-making on this issue

- 4.38 It is necessary for the IHP to define what the scope of the respective IPIs is as part of considering submissions related to the matters set out above and below.
- 4.39 More generally, it should also be noted that new clause 99(2) of Schedule 1 to the RMA alters the orthodox approach to determining the scope of the IHP's recommendatory powers. The effect of the clause is that the scope of the IHP's recommendatory power extends to matters that are "on" the respective IPI, including matters identified during the hearing. This contrasts with the orthodox approach which limits scope to matters that are deemed "on" the plan change provided they are raised in submissions.
- 4.40 Accordingly, submitters are still limited to seeking relief in respect of matters that are within the ambit of the IPI. That requires the relief sought to meet the bipartite test in *Clearwater Resort Ltd v Christchurch City Council (Clearwater)*. Clause 99(2) simply means that the recommendatory powers are not limited to what was submitted on, and can extend to matters raised in the hearing.
- 4.41 In determining whether submissions are "on" the plan change and therefore within scope, applying *Clearwater*, it should be noted that:
- a) A submission can only fairly be regarded as being "on" a plan change if it is addressed to the extent to which the plan change or variation changes the pre-existing status quo; and
 - b) If the effect of regarding a submission as "on" a plan change or variation would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, this is a powerful consideration against finding that the submission was "on" the plan change or variation.
- 4.42 In terms of these tests, the following factors may be relevant.

Zoning Requests

- 4.43 In terms of zoning, clause 77G(4) of the RMA (Duty of specified territorial authorities to incorporate MDRS and give effect to policy 3 or 5 in residential zones) sets out the following:
- "In carrying out its functions under this section, a specified territorial authority may create new residential zones or amend existing residential zones".*
- 4.44 In addressing submissions that seek a change from non-residential to residential zoning, the IHP will need to consider whether the scope of this clause is sufficient to justify new spatial extents of residential zoning, either contiguous with or isolated from existing residential zones.
- 4.45 If there is no issue as to scope, the IHP will need to consider whether the zoning sought is appropriate taking into account the characteristics of the site, the zoning of adjacent sites, and the desired outcomes of the as-notified zone against the outcomes sought by the legislation.

Inclusionary Zoning/Affordable Housing Provisions

- 4.46 The IHP will need to consider what mechanism is available through the ISPP process to include such provisions – given that Inclusionary Zoning/Affordable Housing is not a listed qualifying matter in s77L the only mechanism would be through satisfaction of the tests for “other matters” in s77L. The s77L tests focus on the effect of the identified “other matter” on the appropriate level/intensity of development in an affected area, the geographical definition of affected areas, and the heights and densities to be applied accordingly.
- 4.47 If the IHP decides that there are no scope issues, the IHP will need to determine whether there is sufficient evidence available that there is a need for affordable housing provisions in the each of the respective IPI’s.

Activity Specific Requests

- 4.48 The same considerations for this issue apply as for Inclusionary Zoning as set out above.

Climate Change

- 4.49 The same considerations for this issue apply as for Inclusionary Zoning and Activity Specific Requests as set out above.

5.0 Territorial Authority specific themes

- 5.1 This section defines and details the specific themes from the submissions received by each of the Councils. Each theme is described, some of the key parties associated with each theme are mentioned and the specific issue(s) related to each theme are highlighted and discussed.
- 5.2 As set out earlier, these themes will be addressed in greater detail at later substantive hearings for each Council’s IPI, where specific recommendations will be made in terms of new or amended provisions as a result of submissions.
- 5.3 The purpose of this section is simply to describe and provide an early indication to the IHP and submitters of the themes arising from submissions to each IPI, and the factors that the IHP will need to consider when making decisions arising from the later substantive hearings. It is hoped that the provision of this early indication of key Council specific themes, may assist all parties with early scoping and commissioning of key evidence that will be required to assist the IHP later in the process.

Waikato District Council

- 5.4 The Waikato District Council specific themes not already addressed under the common themes are as follows:

Table 2: Waikato District Council Themes and Issues

Theme	Key issues being raised
1 Scope of Variation 3 within the District	<ul style="list-style-type: none">Whether there are relevant residential zones in Raglan and Te Kauwhata that should have the MDRS applied?
2 Qualifying matter (specific to Waikato District not covered in Common Themes section above)	Urban Fringe <ul style="list-style-type: none">Whether, in applying the MDRS standards to only the walkable catchment of the central business area

		<p>of each relevant town, the requirements of S77G been misinterpreted?</p> <ul style="list-style-type: none"> • Whether the urban fringe meets the statutory tests to be a qualifying matter. • Whether the provisions of the GRZ should be reviewed to provide an intermediary form of density. • Whether the walkable catchment should be increased to 1000m . <p>Other Qualifying Matters</p> <ul style="list-style-type: none"> • Whether additional qualifying matters should be included within Variation 3.
3	Application and interpretation of Policy 3 of NPS-UD	<ul style="list-style-type: none"> • Whether a new High Density Zone should be introduced in the District Plan and applied within a 400m walkable catchment of the town centre of Ngaaruawaahia and an 800m walkable catchment from the centre of Huntly. • Whether the heights and densities of the existing Town Centre Zone and Commercial Zone need to be reassessed (Policy 3(d)). • Whether the density should be increased within the walkable catchment.
4	Betterment of Waikato River	<ul style="list-style-type: none"> • Whether variation 3 has appropriately addressed the requirements of Te Ture Whaimana in recognising the need to provide for the betterment of the Waikato Awa and associated waterbodies. • Whether additional provisions are required to effectively recognise Te Ture Whaimana over and above existing provisions, such as infrastructure capacity constraints and associated effects on the River, and whether financial contributions are an effective mechanism to address this issue.
5	Effect of private covenants in Pookeno	<ul style="list-style-type: none"> • Whether the MDRS should not apply to sites with private covenants in Pookeno.
6	Infrastructure Capacity	<ul style="list-style-type: none"> • Whether there is capacity within existing networks to service the increased density envisaged by Variation 3 • Who will be responsible for the costs associated with the additional infrastructure that will be required with intensification.

		<ul style="list-style-type: none"> • The relationship between infrastructure provision and Theme 4 Betterment of Waikato River. • Whether financial contributions are required to be added to the PDP to address infrastructure capacity constraints.
--	--	---

Waikato Theme 1: Scope of V3 within the District

Discussion

- 5.5 Section 77G(1)(1) of the RMA requires *every relevant residential zone* of a specified territorial authority to have the MDRS incorporated into that zone. Waikato District Council's application of the MDRS is challenged by Kāinga Ora, the Retirement Villages Association and by default submitters who support and seek the same relief as Kāinga Ora and the Retirement Villages Association. They seek that the MDRS should also apply to Te Kauwhata and Raglan in addition to Huntly, Ngaaruawaahia, Tuakau and Pookeno. In contrast, the Ministry of Housing and Urban Development states they consider Variation 3 correctly identifies the residential zones in Huntly, Ngaaruawaahia, Tuakau, and Pookeno as relevant residential zones.
- 5.6 Specifically, Kāinga Ora oppose the approach taken by Council which results in the establishment of two Medium Density Residential Zones within the Waikato District and does not consider it to be consistent with the intended spatial hierarchy of zones under the National Planning Standards. The consequential amendment of their relief would be the application of the MDRS within Te Kauwhata and Raglan (which is also sought by the Retirement Villages Association).
- 5.7 With regard to Raglan Kāinga Ora seeks to apply the MDRS within a 400m walkable catchment of the town centre in Raglan, including land that was previously GRZ.
- Factors for the panel to consider in their decision-making on this issue
- 5.8 Whether the residential zones in Te Kauwhata and Raglan meet the definition of a "relevant residential zone" under the RMA. If so, the MDRS must be incorporated into those zones.
- 5.9 If the definition does not apply to Te Kauwhata or Raglan two separate Medium Density Zones will need to be retained.

Waikato Theme 2: Qualifying Matters

Discussion

- 5.10 Numerous submissions were received in relation to the proposed qualifying matters.
- 5.11 In relation to the urban fringe qualifying matter, while there was support from a considerable number of submitters, submitters also questioned whether Council had met the statutory requirements of the RMA in establishing the urban fringe qualifying matter. These submitters requested further and better evidence to prove the legislative requirements have been met and/or the removal of the urban fringe qualifying matter in its entirety. Specifically, it was stated that the urban fringe qualifying matter fails to recognise that higher density residential options are appropriate in many other areas beyond the strict

800m catchment and that this area does not have any special characteristics to differentiate it from land within the 800m walkable catchment (CSL Trust).

- 5.12 Waka Kotahi have also requested that heights and densities within the walkable catchment be reviewed in light of retaining the GRZ. Waikato Regional Council have requested that the provisions of the GRZ are reviewed to provide an intermediary form of density. Some submitters such as Jodie Bell have also requested for the walkable catchment to be extended to 1000m. This same submitter also stated a larger area will enable more Maori to develop their land.

Relief Sought in relation to the urban fringe qualifying matter

- 5.13 Submitters have sought:

- That the urban fringe qualifying matter be retained.
- For the deletion of the urban fringe qualifying matter and for the MDRS to apply to all relevant residential zones within Pookeno, Tuakau, Huntly and Ngaaruawaahia.
- If the urban fringe qualifying matter is retained consider whether the walkable catchment should be extended to 1000m.
- If the urban fringe qualifying matter is retained, Waka Kotahi considers that Council should re-evaluate whether increased density can be provided within the walkable catchment to balance out the potential loss in additional capacity that would not be realised outside the walkable catchment.

- 5.14 In addition to the issues in relation to the urban fringe qualifying matter, a number of submissions were made in relation to other qualifying matters.

Relief Sought in Relation to Other Qualifying Matters:

- 5.15 Support for:

- The qualifying matters generally as notified by Synlait.
- The identification of the National Grid Yard and National Grid Subdivision Corridor as a qualifying matter by Transpower.
- The identification of rail as a qualifying matter by Kiwi Rail.
- The identified historic items as qualifying matter by Heritage New Zealand
- Retaining the qualifying matter Ture Whaimana o Te Awa Waikato by Heritage New Zealand, Waikato Regional Council
- Outstanding natural features and landscapes and significant indigenous vegetation and significant habitats of indigenous fauna by Ngāti Naho Trust

- 5.16 Amendments seeking to:

- Include Turangawaewae Marae as a qualifying matter by Estate of Te Puea Herangi, Marae Tukere, Turangawaewae Marae, Turangawaewae Rugby League and Waikato Tauiui and that this qualifying matter could extend to include the view shafts to Taupiri Maunga and the Hakarimata Ranges, and the surrounding area (including River Road, Regent Street, Kent Street, George Street, Edwards Street, and King and Queen Street).
- Include Pookeno's special character as a qualifying matter in MRZ2 by the Pookeno Community Committee and Teresa Wine.

- Delete setbacks for railway corridors, national route/regional arterial and the Waikato Expressway by Kāinga Ora.
- Include the historic areas of the 3 towns as a qualifying matter by Laura Kellaway and Bryan Windeatt.
- Include a buffer area adjacent to historic heritage by Laura Kelleway and Bryan Windeatt and similarly that heritage qualifying matters should include controls on adjoining sites to limit height and avoid detracting from recognised heritage values on adjoining sites (Heritage New Zealand and Queen’s Redoubt Trust specifically in relation to the Queen’s redoubt site).
- Include Manawa-ā-whenua as a qualifying matter by Ngāti Naho Trust
- Include Wairua as a qualifying matter by Ngāti Naho Trust
- Consider whether qualifying matters (or other provisions) over and above those in Variation 3 are required to give appropriate recognition to Te Ture Whaimana.

Factors for the panel to consider in their decision-making on this issue

- 5.17 See factors to be considered under common theme 3 above.
- 5.18 Whether the urban fringe qualifying matter undermines the intention of the Enabling Housing Amendment Act and whether it meets the requirements of the RMA.
- 5.19 If the Panel decides to retain the urban fringe qualifying matter, whether the provisions within the walkable catchment and/or within the GRZ need to be reviewed
- 5.20 Whether and to what extent the Tuurangawaewae Marae and the surrounding area and viewshafts from the marae should be included as a qualifying matter under section 77(l)(a) in reliance on section 6(e) (Relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga) or under section 6(f) (Historic Heritage).
- 5.21 Whether the requested amendments to the other qualifying meet the requirements of the RMA

Waikato Theme 3: Policy 3 of the NPS-UD

Discussion

- 5.22 Policy 3 of the NPS-UD requires district plans of Tier 1 urban environments to enable higher built forms and increased densities. Of relevance to Waikato District is Policy 3(d) which states that:
- (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.*
- 5.23 The NPS-UD further requires every Tier 1 authority to identify, by location, the building heights and densities required by Policy 3¹.

¹ Subpart 6, Clause 3.31 of the NPS-UD.
WJE-203933-275-324-V3:grece

- 5.24 In the Waikato District Plan there are two commercial zones in each of the four towns (Huntly, Ngaaruawaahia, Tuakau, Pokeno) that the MDRS applies to. These being a Town Centre Zone and a Commercial Zone.
- 5.25 The purpose of the Town Centre Zone is to be the primary focal point for retail, administration, commercial services and civic functions. The purpose of the Commercial Zone is to provide for larger scale commercial activities. The maximum height in both zones is 12m² with a Restricted Discretionary consent being required for exceeding the maximum building height. The matters of discretion in both zones are limited to the height of the building, the design and location of the building and the extent of shadowing and privacy impacts on adjoining sites. The Section 32 assessment accompanying the variation did not reassess the height and densities on the premise that the recent Waikato District Plan review had addressed the consideration of heights and densities within its centres. This work will need to be carried out for the s42A report for the substantive hearing.

Relief Sought

- 5.26 To give effect to Policy 3(d), Kāinga Ora seek the introduction of a new High Density Residential Zone ("HRZ") in the PDP be applied within a 400m walkable catchment of the town centre of Ngaaruawaahia and an 800m walkable catchment of the town centre of Huntly. The HRZ is considered appropriate by Kāinga Ora given the size and range of activities within these town centres. The Kāinga Ora submission states that higher density residential in proximity to town centres is a consistent approach sought by them nationally and is consistent with the NPS-UD. The requested spatial extent of the HRZ along with the provisions for the HRZ are included within the submission. Kāinga Ora also sought for a review of the provisions and extent of the Town Centre Zone in Raglan, however, they acknowledged that this would be part of a separate process (i.e. out of scope for Variation 3).

Factors for the panel to consider in their decision-making on this issue

- 5.27 See factors under Common Theme 2 above.
- 5.28 Whether the proposed building heights and densities of urban form provided for in Variation 3 are commensurate with the level of commercial activity and community services that in the town centres of Huntly, Ngaaruawahia, Pokeno and Tuakau.
- 5.29 In that regard, further investigations of the level of commercial activity and community services in the four towns (to meet both existing and future demand) are required to progress this issue.

Waikato Theme 4: Betterment of Waikato Te Awa

Discussion

- 5.30 The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (Settlement Act) gives effect to the Deed of Settlement entered into by the Crown and Waikato-Tainui on 17 December 2009 in relation to Treaty of Waitangi claims pertaining to the Waikato River. The Settlement Act has the overarching purpose of restoring and protecting the health and well-being of the Waikato River for future generations. Section 9(2) of the Settlement Act

² Standard 3 of the Town Centre Zone and Standard 4 of the Commercial Zone
WJE-203933-275-324-V3:gre

confirms that Te Ture Whaimana, the Vision and Strategy for the Waikato River, applies to the Waikato River and activities within its catchment affecting the Waikato River.

- 5.31 As a qualifying matter under section 77I(c), Variation 3 includes: “a matter to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River.” The provisions amended by the QM are as follows:
- Setbacks from waterbodies (including 26.5m from the margin of either the Waikato River and the Waipā River).
 - Maximum impervious surface of 70%.
 - The requirement for vacant lot subdivision and non-residential subdivision within the MRZ2 to be able to connect to public reticulated water supply and wastewater.
- 5.32 While there is specific support for Te Ture Whaimana as a qualifying matter including Ngāti Naho Trust and Waikato Tainui, questions have been raised about whether additional provisions are needed to give better effect to Te Ture Whaimana. Specifically, Waikato Tainui states that housing intensification, and inappropriate subdivisions, use or development of resources has the potential to adversely affect the Waikato River and therefore, fails to give effect to Te Ture Whaimana. Similarly, Ngāti Naho Trust and Waikato Regional Council question whether the need for additional provisions to restore and protect the health and wellbeing of the Waikato River need to be provided and/or investigated.

Relief Sought

- 5.33 In relation to the setback provisions:
- Ngāti Naho Trust seeks for a 1.2km buffer zone to be applied along the Waikato River, Lake Waikare, and the Whangamarino and Mangatawhiri wetlands that excludes any medium or high-density housing to avoid negative impacts on the Waikato River and its waterways and tributaries.
 - Kāinga Ora seek to reduce the setbacks from 26.5 metres to 20m stating that they require clarification for the metrics and justification for the proposed distances.
- 5.34 In relation to other provisions:
- Waikato Regional Council and Ngāti Ngaho question whether other provisions / qualifying matters over and above those in Variation 3 are required to give appropriate recognition to Te Ture Whaimana but do not specify any particular relief.
 - Waikato Regional Council has raised issues as to whether infrastructure capacity constraints will mean the health and well being of the river will be affected by additional intensification.
- 5.35 There were no specific submissions in seeking amendments to the maximum impervious surface or subdivision provisions that seek to give effect to Te Ture Whaimana.
- Factors for the panel to consider in their decision-making on this issue
- 5.36 See common Theme 3 above in relation to the legal tests for a qualifying matter
- 5.37 In addition, whether new or amended provisions are required to better give effect to Te Ture Whaimana o Te Awa o Waikato.

Waikato Theme 5: Effect of private covenants in Pookeno

Discussion

- 5.38 Substantial parts of Pookeno's residential areas are subject to registered private covenants which prohibit subdivision of the lot and limit dwelling sizes (floor area and height). A number of submitters have raised concerns about the impact Variation 3 will have on their expected amenity and built form outcomes for Pookeno as a result of the covenants that apply to the land. Submitters state that they felt assured about the future built form outcomes of the area and that Variation 3 undermines their expectations arising from the registered covenants.

Relief Sought

- 5.39 The general relief sought is for the Medium Density Residential Standards to be removed from Pookeno's relevant residential zones.

Factors for the panel to consider in their decision-making on this issue

- 5.40 Do restrictive private covenants meet the statutory test for a qualifying matter under s771(j) of the RMA?
- 5.41 If not, the Act requires the MDRS to be incorporated into the relevant residential zones in Pookeno.

Waikato Theme 6: Infrastructure Capacity

Discussion

- 5.42 Integration between development and infrastructure provision is a key policy theme in the NPS-UD, Waikato Regional Policy Statement, and the Proposed Waikato District Plan.
- 5.43 One of the most consistently made points by submitters is the effect of applying MDRS on existing infrastructure. Submitters have raised concerns about capacity constraints with 3 waters and other infrastructure such as electricity and roads. Submitters have also questioned who will pay for the increased infrastructure requirements.
- 5.45 Relief Sought
- Submitters have generally sought for the removal (or partial removal) of the MDRS from the PDP due to issues with infrastructure capacity as a whole and in specific towns. For instance, D Randall, L and M Garth, Teresa Wine, Stephen Banks, Patricia Savage, Gaylene and Wayne Rogers have concerns about infrastructure capacity in Pookeno, T Nepe in Te Kauwhata. Submitters such as J and P Boyson, S and D Jayasinghe, Anna Noakes and MSBCA Fruhling Trustee's Company Ltd, Laura Kellaway and Bryan Windeatt have raised district wide issues with infrastructure provision
 - Submitters such as D Rowe have raised issues about the cost of additional infrastructure and who will pay for that and therefore seek to have Variation 3 removed.
 - Waikato Regional Council has raised issues as to whether infrastructure capacity constraints will mean the health and well being of the river will be affected by additional intensification.

- Waikato District Council have said in their submission that network capacity constraints provide a degree of uncertainty to developers and the community. They have sought for the ability to refuse connections for new development where there is no capacity.

Factors for the Panel to consider in their decision making

- 5.46 The Panel will need to consider whether the existing Plan provisions are sufficient or whether they require amending to address the issues that have been raised³.
- 5.47 The Panel will also need to consider whether, and to what extent, infrastructure capacity can be considered a qualifying matter under S77I.

Waipā District Council

- 5.48 The Waipa District Council specific themes not already addressed under the common themes are as follows:

Table 3: Waipa District Council Themes and Issues

Theme	Key issues being raised
1 Application of NPS-UD Policy 3(d)	<ul style="list-style-type: none"> • Whether amendments should be made to other urban environments within Waipā District. • Whether high density residential development should be enabled within walkable catchments of town centres. • Whether amendments should be made to the non-residential zones within town centres
2 Qualifying matters (specific to Waipā District not covered in Common Themes section above)	<p>Nationally significant infrastructure</p> <ul style="list-style-type: none"> • Whether a new qualifying matter should apply surrounding the Hautapu and Te Awamutu Dairy Factories. <p>Historic heritage / character clusters</p> <ul style="list-style-type: none"> • The identification of historic heritage/character clusters as qualifying matters, and whether the character clusters should be extended as proposed by PC26. <p>SNAs/ reserves</p> <ul style="list-style-type: none"> • Whether the proposed setback from SNAs and reserves is necessary to accommodate the qualifying matter. <p>River/Gully Proximity Overlay</p> <ul style="list-style-type: none"> • The extent of the River/Gully Proximity Overlay and whether the rules within the overlay are

³ The existing provisions in the PDP such as WWS-R1, WWS-R2 and WWS-R10 in relation to stormwater, wastewater and water supply respectively. If the standards are not complied with then resource consent is required for a restricted discretionary activity. There are no provisions for financial contributions within the PDP.

		necessary to accommodate the qualifying matter.
3	Financial contributions	<p>Te Ture Whaimana/residential amenity</p> <ul style="list-style-type: none"> • Whether PC26 should provide for a financial contribution for Te Ture Whaimana/residential amenity. <p>Inclusionary zoning</p> <ul style="list-style-type: none"> • Whether PC26 should provide for a financial contribution for affordable housing. <p>Te Ture Whaimana</p> <ul style="list-style-type: none"> • Responsibility for management and distribution of the financial contributions for Te Ture Whaimana.

Discussion on Waipā District Council specific themes

Waipā Theme 1: Application of NPS-UD Policy 3(d)

Discussion

- 5.49 PC26 inserted a new Medium Density Residential Zone and qualifying matters (where relevant) into the Operative Waipā District Plan (Waipā District Plan) over the residential areas of Cambridge, Te Awamutu and Kihikihi. PC26 did not propose a High Density Residential Zone or amendment to the current Commercial Zone that applies throughout the Waipā District.
- 5.50 The Waipā District Plan contained a Compact Housing Overlay which identified suitable areas in the Waipā district where comprehensively designed higher density residential development could be located. PC26 proposed to remove reference to the Compact Housing Overlay as greater housing density is enabled by the medium density residential standards.
- 5.51 Currently a single Commercial Zone covers the retail, office, and commercial service areas in the district. The Waipā District Plan refers to a hierarchy of commercial centres, with the CBDs (or primary commercial centres) of Cambridge and Te Awamutu at the top of this hierarchy followed by village commercial centres (Kihikihi, Pirongia and Ohaupo), neighbourhood centres (Leamington, Cambridge North), large format centre (Cambridge Road, Te Awamutu) and local shops. The current Commercial Zone maximum height limit is 14m and 3 storeys.
- 5.52 A number of submissions have raised issues with PC26 in relation to how it has addressed Policy 3(d) of the NPS-UD. These issues include not enabling higher levels of density within non-residential areas, specifically centres (Marshall, J); a lack of a pathway to enable higher density development, above the medium density standards especially in proximity to centres (Cogswell Surveys Ltd and Rider, T); or a combination of both (Rider, T; Waka Kotahi, Kāinga Ora).

Relief Sought

- 5.53 The following relief is sought by submitters on how to address implementation of Policy 3(d) of the NPS-UD:

- Include properties which are within the Compact Housing Overlay to be high density, or those properties bordering a reserve or commercial centre. (Cogswell Survey Ltd)
- Further assessment is required, supported by an accessibility study of walkable catchments surrounding town centre zones. (Waka Kotahi)
- Compact Housing should be included in the activity status table. (Rider, T)
- A High-Density Residential Zone (“HDRZ”) that will enable up to 6 storeys should be incorporated into the District Plan (via PC26) and applied within a 400m (also 400m-800m) walkable catchment of both the Cambridge and Te Awamutu town centres. (Kāinga Ora)
- Apply a height variation control over the Te Awamutu and Cambridge Town centres to enable a proportionate height of buildings to that sought within the High-Density Residential Zone (Business Height Variation Overlay of 24.50m). (Kāinga Ora)

Factors for the panel to consider in their decision-making on this issue

- 5.54 The key factors for the IHP to consider are those listed under Common Theme 2, which in summary include consideration of the methodology and assessments used by Waipā District Council to determine the various underpinning components of NPS-UD policy 3 (housing and business demand, calculation of walkable catchments, etc) and how this has influenced the building heights and densities in PC26. Evidence from submitters that seek changes to building heights and densities will also need to demonstrate that the changes sought remain commensurate to existing levels of commercial activity and community services in Waipā’s centres. Finally, consideration will need to be given to how PC26 responds to changes to market trends in the future.

Waipā Theme 2: Qualifying Matters - Nationally Significant Infrastructure Discussion

- 5.55 PC26 has retained, as existing qualifying matters, the provisions from the Waipā District Plan that relate to Nationally Significant Infrastructure such as the state highway network, rail corridor and national grid.
- 5.56 A number of submissions raise issues with the Qualifying Matters relating to Nationally Significant Infrastructure. These submissions focus on reverse sensitivity effects although various requests have been made.
- 5.57 Transpower has supported the National Grid as a qualifying matter.
- 5.58 The Rail Corridor has been opposed as a qualifying matter by Cogswell Survey and Kāinga Ora and supported as a qualifying matter by KiwiRail.
- 5.59 The State Highway Network has been questioned as a qualifying matter by Waka Kotahi, including the setback from the Network that is proposed. Kāinga Ora has opposed reverse sensitivity provisions for rapid transport routes and the State Highway Network as a qualifying matter.
- 5.60 Fonterra has requested that an additional Qualifying Matter be added for land surrounding the Hautapu Dairy Factory and the Te Awamutu Dairy Factory to address reverse sensitivity.

Relief Sought

- 5.61 The following relief is sought by submitters on nationally significant Infrastructure as a Qualifying Matter:
- Retain the National Grid as a qualifying matter and minor amendments to support this. (Transpower NZ Ltd)
 - The Rail Corridor should not be retained as a qualifying matter; the submitter goes on to state that if the qualifying matter is retained KiwiRail written approval should be required or the requirements for building next to a railway should be outlined. (Cogswell Survey Ltd)
 - Seeks a 5m setback for buildings and structures from the Rail Corridor. (KiwiRail)
 - Seeks a vibration standard for all noise sensitive activities locating within 60 metres of the Rail Corridor. (KiwiRail)
 - Seeks noise controls to apply to noise sensitive activities within 100 meters of the Railway Corridor including ventilation standards. (KiwiRail)
 - Remove State Highway and Rail Corridor as qualifying matter. (Kāinga Ora)
 - Seeks new qualifying matter (Reverse Sensitivity qualifying matter) for land surrounding Hautapu Dairy Factory (land used for spray irrigation) and Te Awamutu Dairy Factory (storage and distribution facilities) to limit density to 2 rather than 3 dwellings per site and to enable potential reverse sensitivity matters to be assessed and mitigated. (Fonterra Ltd)

Factors for the panel to consider in their decision-making on this issue

- 5.62 The key factors for the IHP to consider are those listed under Common Theme 3, which include how the various Nationally Significant Infrastructure qualifying matter provisions that restrict the application of the MDRS standards achieve compliance with sections 77I, 77J, 77K and 77L of the RMA.

Waipā Theme 3: Qualifying Matters - Historic heritage / character clusters

Introduction

- 5.63 PC 26 has retained, as existing qualifying matters, the historic heritage and character clusters already provided for in the Waipā District Plan and has also included additional character clusters.

Discussion

- 5.64 Historic heritage and character clusters is a topic of interest for a number of submitters for a range of reasons. Many submissions have requested specific amendments to the historic heritage and/or character cluster provisions concerning individual properties, streets or trees. Other submissions have been more general and have supported the provisions generally or requested that the provisions be deleted in their entirety.
- 5.65 A number of submitters have opposed intensification in areas where there are heritage buildings or requested that heritage buildings be protected from intensification (Cowan, F; Henwood, M; Martin, E; Martin, P). Similarly, a number of submitters have supported historic heritage and/or character clusters in whole or in part (Heritage NZ Pouhere Taonga; MacGillivray J and J; Rushworth, C).

- 5.66 Opposition to the character clusters and need for additional assessment and mapping of character clusters was raised by Cogswell Surveys Ltd, Retirement Villages Association of NZ and Ryman Healthcare Ltd. Opposition to the process for reviewing and deciding character clusters as a qualifying matter including their justification in the section 32 evaluation report was raised by a number of submitters (Kāinga Ora; Overdevest, P and B; Retirement Villages Association of NZ and Ryman Healthcare Ltd).

Relief Sought

- 5.67 The following relief is sought from the general submissions on historic heritage / character clusters:
- Intensification should not be in areas of heritage buildings (Martin, E; Martin, P)
 - Clear protections should be put in place to prevent loss of character areas and properties (Cowan, F)
 - Protect and preserve cultural and heritage sites including heritage buildings and trees, which may be destroyed by housing intensification (Henwood, M)
 - No expansion of character clusters (Cogswell Survey Ltd)
 - The proposed character cluster overlay be withdrawn / delete Planning Maps 58 and 59 (Kāinga Ora; Overdevest, P and B; Retirement Villages Association of NZ and Ryman Healthcare Ltd)
 - Review extent and justification for character related qualifying matters. (Kāinga Ora; Overdevest, P and B; Retirement Villages Association of NZ and Ryman Healthcare Ltd)

Factors for the panel to consider in their decision-making on this issue

- 5.68 The key factors for the IHP to consider are those listed under Common Theme 3, which include how the qualifying matter provisions for historic heritage and character clusters that restrict the application of the MDRS standards achieve compliance with sections 77I, 77J, 77K and 77L of the RMA.

Waipā Theme 4: Qualifying Matters - River/Gully Proximity Overlay Discussion

- 5.69 PC26 has introduced a new qualifying matter to preserve the natural character of rivers and their margins, and to enable public access to and along rivers. This is proposed to be achieved by a River / Gully proximity qualifying matter overlay.
- 5.70 Three submissions have been received on the River/Gully Proximity qualifying matter overlay. Two of these from Cogswell Survey and Waipā District Council seek specific amendments to the provisions. A third submission on this matter from Kāinga Ora opposes the River/Gully Proximity qualifying matter overlay altogether. The Kāinga Ora submission states that the implications of the overlay have not been sufficiently assessed or justified in accordance with ss77J and ss77L of the RMA and its purpose and that alternative methods have not been explored to address its application.

Relief Sought

- 5.71 Kāinga Ora seeks deletion of the River/Gully Proximity qualifying matter overlay including its spatial application and associated provisions.

Factors for the panel to consider in their decision-making on this issue

- 5.72 The key factors for the IHP to consider are the those listed under Common Theme 3, which include how the River / Gully proximity qualifying matter provisions that restrict the application of the MDRS standards achieve compliance with sections 77I, 77J, 77K and 77L of the RMA.

Waipā Theme 5: Qualifying Matters – SNAs / reserves

Discussion

- 5.73 PC26 has proposed a setback of 20m from significant natural areas (SNAs) and a setback of 4m from reserves as qualifying matters.
- 5.74 Three submissions have raised the theme of Significant Natural Area qualifying matters. From a strategic level, the submission from Cogswell Survey is noted. This submission has opposed the 20m setback proposed for properties adjoining an SNA. The submission outlines that as most SNAs are located along the Waikato River, where a 23m setback already applies, this already provides sufficient separation.
- 5.78 Cogswell Surveys Ltd have also opposed the 4m boundary setback proposed by PC26 from a reserve as they assert that this will push dwellings further back from the public space reducing the effectiveness of any passive surveillance and creating a reduced interface to the reserve.

Relief Sought

- 5.79 The submission requests:
- That the minimum building setback on sites adjoining a SNA is reduced to 10m along the boundary of the SNA (as required in the Rural Zone).
 - That the building setback to reserves is reduced to 1.5m.

Factors for the panel to consider in their decision-making on this issue

- 5.80 The key factors for the IHP to consider are those listed under Common Theme 3, which include how the SNA and reserves qualifying matter provisions that restrict the application of the MDRS standards achieve compliance with sections 77I, 77J, 77K and 77L of the RMA.

Waipā Theme 6: Financial Contributions

Discussion

- 5.81 PC26 includes amendments to Waipā District Plan's Financial Contributions Chapter (Chapter 18). Up until now these contributions have only been used for roading contributions. PC26 has introduced two new matters that financial contributions can be collected for which include giving effect to Te Ture Whaimana and a residential amenity contribution.
- 5.82 There are a range of positions put forward by submitters on the Financial Contributions provisions of PC26. Many seek specific wording changes including a specific request by CKL NZ Ltd that greenfield developments not be required to pay financial contributions as the submitter states that infrastructure required for this type of development is already covered by the Development Contribution Policy. In line with this submission Ryman Healthcare Ltd

submitted that the Financial Contribution provisions may result in 'double dipping' when the development contribution and financial contribution regimes are applied.

- 5.83 Ryman Healthcare Ltd goes on to oppose the residential amenity Financial Contribution as it does not recognise the amenity that residential intensification can provide.
- 5.84 A number of submitters support or support in part the Financial Contribution provisions as proposed.
- 5.85 TA Projects are neutral but consider the Financial Contribution provisions may not produce timely outcomes for funding necessary infrastructure, no specific relief is sought in this case.
- 5.86 Kāinga Ora supports the general purpose of financial contributions but does not believe the approach for collecting contributions to give effect to Te Ture Whaimana is fully justified or that it should be applied in a blanket approach. Kāinga Ora also opposes the inclusion of a financial contribution for parks / reserves / open space network as they state that although intensification may result in a change in character or amenity, this is not an adverse effect that requires offsetting through financial payments.

Relief Sought

- 5.87 The submissions seek the following relief:
- That greenfield developments are not required to pay financial contributions (CKL NZ Ltd)
 - Provide certainty on what financial contributions will be required to be paid (Ryman Healthcare Ltd; Shears, S)
 - Delete residential amenity financial contribution (Kāinga Ora; Ryman Healthcare Ltd)
 - That the financial contributions in Chapter 18 be retained, or generally retained with specific amendments (Bannon, K; Barnes, P; FENZ; Waikato Regional Council; Waikato Tainui; Waipā District Council; Waka Kotahi)
 - Require 'extensive' financial contributions including for transport matters (Henwood, M)
 - Ensure consistency in requiring financial contributions for the purposes of giving effect to Te Ture Whaimana between Hamilton City Council, and other territorial authorities within the Waikato and Waipā River Catchments (Waikato Tainui)
 - Reconsider the infrastructure financial contributions and replace with clear provisions that are not levied in a blanket approach, which the submitter believes is more akin to development contributions (Kāinga Ora)

Factors for the panel to consider in their decision-making on this issue

- 5.88 Section 77E of the RMA provides the ability for Council to make a rule requiring a financial contribution for any class of activity other than a Prohibited Activity. The ability for Council's to levy financial contributions to address effects stemming from residential intensification was a discretionary tool that was specifically provided for in the housing intensification legislation through the insertion of section 77T (Review of financial contributions provisions) of the RMA.
- 5.89 The IHP will need to carefully consider assertions of "double dipping" between the financial contribution provisions and Councils Development Contributions Policy. An examination of the scope of the Development Contributions Policy in comparison to the matters for which financial contributions are proposed to be levied will be required.

- 5.90 An important matter to be considered is the capacity of the Waipā's three waters and transportation network to cater for the growth that will be enabled by PC26, whether that capacity (or lack of it) will generate adverse effects on the health and well-being of the Waikato River in a manner that is inconsistent with Te Ture Whaimana, and the corresponding need for the financial contribution provisions to address those effects.

Waipā Theme 7: Financial Contributions – Te Ture Whaimana Management/Distribution

Discussion

- 5.91 Administration and oversight of financial contributions for Te Ture Whaimana were proposed by PC26 to be by the Waipā District Council. Waikato-Tainui seek clarity on who will administer and have oversight of the fund for financial contributions to give effect to Te Ture Whaimana.

Relief Sought

- 5.92 The submission seeks the following relief:
- That section 18 of PC26 be amended to make it clear who will administer and have oversight of the fund for financial contributions collected to give effect to Te Ture Whaimana including that Waikato Tainui will have oversight and participate in the decision making for those matters. (Waikato Tainui)

Factors for the panel to consider in their decision-making on this issue

- 5.93 The IHP will need to consider whether Chapter 18 should specify an appropriate arrangement for administering and having oversight of the contributions collected to give effect to Te Ture Whaimana if agreement cannot be reached between the parties.

Waipā Theme 8: Provision of Affordable Housing (Inclusionary Zoning)

Discussion

- 5.94 Specific provisions regarding affordable housing were not included in PC26.
- 5.95 Five organisations have put a single submission to PC26 seeking that the plan change make provision for 'inclusionary zoning' as a pathway to increasing the supply of affordable housing in Waipā. Options to implement this zoning include either the provision of a 10% requirement for greenfield sites and larger scale brownfield development of 5 or more units of affordable units or an equivalent rate of financial contribution. (Waikato Community Lands Trust, Waikato Housing Initiative, Momentum Waikato, Habitats for Humanity Central Region Limited and Bridge Housing Charitable Trust)

Relief Sought

- 5.96 The submission seeks the following relief:
- That PC26 be amended to provide for inclusionary zoning as per the Queenstown Lakes District Council (QLDC) model plan provisions attached to the submission.

Factors for the panel to consider in their decision-making on this issue

- 5.97 The IHP will need to determine whether there is sufficient evidence available that there is a need for affordable housing provisions in the Waipā District Plan, and whether the scope of PC 26 as a IPI allows for the inclusion of such provisions.

Hamilton City Council (“HCC”)

- 5.98 The HCC specific themes not already addressed under the common themes are as follows:

Table 4: Hamilton City Council Themes and Issues

	Theme	Key issues being raised
1	Strategic Framework	<ul style="list-style-type: none"> • Walkable catchments are too small and densities and heights are too conservative • the plan is currently lacking in terms of the need to accommodate the needs of the present and future population of both disabled people and older people • General support for integration of transport, landuse and infrastructure • General support for Te Ture Whaimana recognition
2	Financial Contributions	<ul style="list-style-type: none"> • Financial Contributions chapter as proposed will result in ‘double dipping’ under dual financial and development contribution regimes. • Needs to be a distinction between greenfields and brownfields development. • FC for Network renewal is inconsistent with the HCC DC policy. • FC for TTW should be withdrawn and redrafted. • Waikato-Tainui should have oversight of the TTW FCs and how they are applied for • Alternative models for three waters and transport infrastructure funding should be used (eg targeted rates, SPV’s) • FCs should only be levied on residential development in residential zones – as currently worded the provisions apply to all new development including permitted activities in the Industrial Zone.
3	Central City Zone	<ul style="list-style-type: none"> • Victoria St HHA – create height protections • Minimum density/size requirements – retain or remove • Retirement homes – allow greater enablement • Storage/service areas – remove • Daylight standards - remove

	Theme	Key issues being raised
		<ul style="list-style-type: none"> • Reduction or extension of walkable catchment (<800m, 1200m, 1500m) • Ground floor apartments – permit in Living Precinct • Site coverage – increase in Precincts
4	On-site 3 waters requirements	<ul style="list-style-type: none"> • Requirements for on-site water sensitive design measures • Permeable surface standards

Discussion on Hamilton City Council specific themes

Hamilton Theme 1: Strategic Framework

Discussion

- 5.99 The purpose of the Strategic Framework section of the Hamilton City District Plan is to provide objective and policy linkages between the District Plan, Te Ture Whaimana, and various regional and city growth strategies. PC12 has introduced provisions to the Strategic Framework section to respond to the housing intensification legislation.
- 5.100 The Strategic Framework provisions are arranged under headings of Mana Whenua, Te Awa o Waikato, Towards a Sustainable City, Urban Design Approach, Central City, Business and Industry, Residential Development, Hamilton's Identity, Character and Heritage, Natural Environment, Resource Efficiency, Integrate Transport, Landuse and Infrastructure, and City Urban Form.
- 5.101 Most of the submissions to the Strategic Framework section of PC12 are in varying degrees of support for the provisions (for example, Rotokauri North Holdings, Waikato-Tainui).
- 5.102 The most significant issue raised with the Strategic Framework section has come from Kāinga Ora in terms of the City Urban form provisions. These objective and policy provisions are entirely new and reflect the HCC response to the MDRS legislation. The urban form provisions set out that the arrangement of density proposed within Hamilton by PC12 as follows:
- Residential and mixed use developments of unlimited height in the Central City Zone
 - High density residential developments with 800m walking distance of the Central City Zone
 - Medium density residential development within 400m walking distance of Chartwell sub-regional centre and other suburban centres
 - Higher density development within 200m of the Nawton suburban centre
 - A continuation of existing duplex lead density in all other residential areas of the city
- 5.103 Kāinga Ora has submitted that this density and walkable catchment arrangement is overly conservative and should be significantly more intensive. On the other hand, a range of submitters such as The Retirement Villages Association, Waka Kotahi, and Waikato Regional Council support in full or in part the urban form provisions on the basis that they give effect to the NPS-UD.
- 5.104 An issue that should not be overlooked is raised by the Disabled Persons Assembly, and relates to the need to recognise the needs of the elderly and disabled people, mostly when it

comes to accessible housing and making communities safe, inclusive and accessible for everyone.

Relief Sought

5.105 Various that the Strategic Framework objectives and policies should be:

- Retained as notified
- Amended to give effect to the positions of submitters whilst retaining the intent of the as-notified provisions
- Significantly amended (in terms of the Urban Form provisions) to allow for the following:
 - (i) high density development of at least 6 storeys within 1200m of the Central City, 800m of the sub-regional centre of Chartwell and 800m surrounding key public transport spines (Ulster Street, Te Rapa Road, Peach Grove, Hukanui and the Orbiter routes).
 - (ii) Additionally, high density development should be provided for within 400-800m of the following Town Centres: Rototuna (North) Ruakura, Rotokauri, Peacocke, Five Crossroads, Thomas Road, Frankton, Hamilton East (Grey Street), Dinsdale.

Factors for the panel to consider in their decision-making on this issue

- 5.106 Fundamentally the IHP will need to consider whether the provisions as-notified, and the change sought by submitters, achieve the intent of the NPS-UD and the Housing Intensification Legislation. With regards to the urban form provisions an examination of the methodology underpinning the walkable catchment and density approach of both HCC and of submitters (eg Kāinga Ora) will be important, including whether the various approaches are a proportionate response to the legislative requirements. Consideration of situational aspects will also be required, for example, does the urban form of Hamilton lend itself to the same density and height standards that may be sought by submitters in other urban centres in the country (eg Auckland)?
- 5.107 The IHP will also need to consider whether the local authority approach also balances other NPS—UD objectives (for example, Objective 6 a) of the NPS-UD, that requires that decisions on urban environment are integrated with infrastructure planning and funding decisions).

Hamilton Theme 2: Financial Contributions

Discussion

- 5.108 The FC rules in PC12 allow for FCs of either money or land to be required for both residential and non-residential activities in Hamilton. In the case of non-residential activities, the FCs are for the purposes of giving effect to Te Ture Whaimana, local network infrastructure renewals, and streetscape amenity.
- 5.109 There are a range of positions put forward by submitters on the Financial Contributions provisions of PC12.
- 5.110 A common theme amongst submitters in opposition to the provisions is that Council will be “double dipping” by requiring contributions of either money or land under both the Financial Contributions provisions of the District Plan (a RMA mechanism) and the provisions of

Council's Development Contributions Policy (a Local Government Act mechanism). Many of the "double dipping" submission points particularly relate to the FCs proposed for local network infrastructure renewals.

- 5.111 Several other submitters (eg B Mitchelmore, Fonterra) challenge the fundamental rationale for the FC's calculations, in particular the use of vehicle movements as a proxy for demand.
- 5.112 Submitters (eg Adare Company, The Base Te Awa Ltd) variously assert that the proposed financial contribution provisions, both cumulatively and in the way they are proposed to be calculated, disproportionately impact on:
- (i) greenfields development in comparison to brownfields development - given the citywide approach for FCs for streetscape and Te Ture Whaimana works, and given that infrastructure to serve greenfields development will either be developer funded and installed or funded through the developer paying DC's
 - (ii) commercial and retail activities in comparison with other categories of activities – submitters assert that using vehicle movements as a proxy for demand wrongly assumes that vehicle traffic that visits commercial and retail outlets is generated (in wholly or in part) by those activities, rather than by the residential growth that the activities have been developed to serve.
- 5.113 There is also varying degrees of support expressed for the FC provisions from the likes of Waikato-Tainui and Waka Kotahi. Waikato-Tainui support the FC provisions but request that they have oversight of the projects that the Te Ture Whaimana contributions are used for (as described in the preceding section of this report this request has also been made in Waikato-Tainui's submission to Waipā District Council), and that land that is provided as an alternative to a monetary contribution that Te Ture Whaimana contribution is excluded from any further development. Waikato-Tainui also seek that the approach to FCs for Te Ture Whaimana purposes is consistent across the three Tier 1 local authorities.
- 5.114 Conversely Kāinga Ora submit that the FC provisions as notified do not give full effect to Te Ture Whaimana, do not appropriately recognise the role and status of the Waikato River Authority, and should be withdrawn and a collaborative process initiated between all relevant parties to develop FCs that more appropriately achieve the requirements of Te Ture Whaimana.

Relief Sought

- 5.116 The relief sought by submitters is wide ranging and includes:
- (i) Retention of the FC provisions and an increase in the required contributions
 - (ii) Total deletion of the Financial Contribution provisions in PC12
 - (iii) Withdraw the FC provisions and redraft them once a specific overall FC policy is developed
 - (iv) Withdraw some or all of the FC provisions and utilise alternative funding mechanisms as an alternative
 - (v) Restrict the application of FC's to only residential development occurring in residential zones
 - (vi) Restrict the application of FC's to only brownfields development, or exempt specific parts of the city where greenfields development is predominant eg Peacocke

- (vii) Certain classes of activity (eg not for profit social housing providers, Retirement Villages) should be exempt from FC's
- (viii) Make the FC provisions consistent with other Tier 1 local authorities in the region.

Factors for the panel to consider in their decision-making on this issue

- 5.117 Section 77E of the RMA provides the ability for Council to make a rule requiring a FC for any class of activity other than a Prohibited Activity. The ability for Council's to levy FC's to address effects stemming from residential intensification was a discretionary tool that was specifically provided for in the housing intensification legislation through the insertion of section 77T (Review of financial contributions provisions) of the RMA.
- 5.118 The IHP will need to carefully consider assertions of "double dipping" between the FCs provisions and Councils DCs policy. An examination of the scope of the DC policy in comparison to the matters for which FCs are proposed to be levied will be required.
- 5.119 An important matter to be considered is the capacity of the city's three waters and transportation network to cater for the growth that will be enabled by PC12, whether that capacity (or lack of it) will generate adverse effects on the health and well-being of the Waikato River in a manner that is inconsistent with Te Ture Whaimana, and the corresponding need for the FCs provisions to address those effects.
- 5.120 The legality of some the relief sought by submitters will also need to be carefully considered. For instance, is it possible in law to extinguish development rights from land provided as a FC?

Hamilton Theme 3: Central City

Discussion

- 5.121 The Central City Zone in Hamilton contains three distinct precincts: Downtown, City Living, and Ferrybank.
- 5.122 The chapter is structures to provide a policy framework that applies to the whole Central City zone, as well as a specific policy framework that is relevant to each of the precincts.
- 5.123 The Operative District Plan provisions include a requirement for housing density across the entire Central City Zone to be consistent with 50 dwellings/hectare. PC12 seeks to replace this density with a policy of maximising the benefits of intensification by realising as much development capacity as possible in the Central City, with an attendant increase in density particularly in the Downtown and City Living Precincts. While these provisions are well supported by submitters, Jones Land Ltd believes that HCC has missed an opportunity to enable full development of the Central City Zone by not removing density standards altogether.
- 5.124 Accordingly, PC12 proposes to remove any limits on building height in the Central City Zone and remove the minimum floor area requirements for residential units. The removal of maximum building heights in the Central City Zone is universally supported by submitters however Kāinga Ora and NZIA Registered Architect Practices oppose the removal of minimum floor areas, citing concerns about the liveability of small units/apartments.

- 5.125 Allied to the above, amendments are also proposed that impose more relaxed height to boundary controls and boundary setbacks, remove service area requirements, and introduce larger storage area requirements. Building coverage and permeable surface requirements remain unchanged from the operative provisions. Kāinga Ora, RVA and Jones Land Ltd are amongst the submitters that oppose various of these development standard provisions.
- 5.126 Consistent with the aim of maximising the development potential of land in the Central City, single detached dwellings are a non-complying activity in all of the Central City Zone. Feathers Planning opposes this provision while a number of other submitters support it given the desired outcomes for the Central City Zone.
- 5.127 RVA support the overall intent of the Central City Zone provisions but submit that policy support and specific rule provisions be made for retirement villages and associated activity in the Central City Zone, asserting that retirement villages provide substantial benefit including enabling older people to remain in familiar community environments for longer (close to family and support networks), whilst also freeing up a number of dwellings located in surrounding suburbs.
- 5.128 Department of Corrections seeks that community corrections activities be made a permitted activity throughout the central city zone.

Relief Sought

- 5.129 The relief sought by submitters for the Central City provisions is wide ranging, with the more significant requests including:
- (i) Retain the removal of the maximum height limit
 - (ii) Delete/retain the removal of minimum floor areas for residential units and apartments
 - (iii) Delete/modify/retain development standards
 - (iv) Delete/retain Rules 6.3 and 7.3 that make stand alone residential units on the ground floor a non-complying activity
 - (v) Allow for retirement village activities and community corrections activities as permitted.

Factors for the panel to consider in their decision-making on this issue

- 5.130 The IHP will need to weigh up the various requested amendments against the overall objective of maximising the benefits of intensification by realising as much development capacity as possible in the Central City, balanced against the NPSUD requirement to achieve well-functioning urban environments and an adequate level of amenity. If the effect of implementing the amendments sought is to “water down” the central city intensification provisions, it then needs to be considered whether a more dispersed approach to density supports or diminishes how the functioning of the urban environment.
- 5.130A In terms of the activity status for stand alone single residential dwellings, the IHP will need to consider whether making such activity permitted would foreclose upon more efficient high-density development of land for residential activity. In this regard, the relationship of the central city provisions to the wider walkable catchment and medium density provisions around centres needs to be considered, and whether the over-arching effect of the provisions warrants a relaxation of restrictions in building stand alone dwellings in the city centre.

Hamilton Theme 4: On Site Three Waters Requirements and Infrastructure Capacity Assessments

Discussion

- 5.131 Consistent with the intent of managing the impacts of more intensive residential development on the city infrastructure network to give effect to Te Ture Whaimana, Plan Change 12 proposes a number of new stormwater, site permeability, landscaping, and water conservation related provisions for residential development. These include new requirements for residential developments to meet onsite permeability standards, achieve retention of rainfall through mechanisms such as on-site water tanks and/or soakage pits, and standards for landscaping that include minimum tree requirements.
- 5.132 In residential zone areas where Council has identified constrained three waters infrastructure capacity, subdivision and development is required to prepare a three waters infrastructure capacity assessment that assesses whether or not sufficient capacity exists or can be provided to serve the development without necessitating additional unplanned public investment or compromising the ability of the network to service other enabled activities.
- 5.133 A common theme amongst submitters (for example, the Property Council, NZIA Registered Architect Practices) is the implementation cost of these measures, both in terms of the financial costs of the physical measures themselves and the financial and time cost of the required infrastructure capacity assessments, and the flow on effect of these costs to homebuyers.
- 5.134 Other submitters (eg Chedworth Properties Ltd, Tainui Group Holdings) raise concerns with the scope and information requirements of, and the potential complexities and effectiveness associated with the Infrastructure Capacity Assessments and the individual on-site standards themselves.
- 5.135 Kāinga Ora in particular assert that the three waters framework (including the Infrastructure Capacity Overlay) proposed through Plan Change 12 is obstructive to achieving intensification of the urban environment and is not considered to be necessary to give effect to the qualifying matter of Te Ture Whaimana. Similar positions are held by the likes of the RVA, the Property Council, and Jones Land Ltd.
- 5.136 MHUD note that the Infrastructure Capacity Overlay could be clearer in terms of what is required in terms of local and trunk capacity. MHUD also notes that the overlay could act as a de facto density control, noting for example that in the General Residential Zone an assessment is only required for development above a net density of one unit per 200m².
- 5.137 In contrast to the above views the Waikato Regional Council, Fire and Emergency New Zealand, and a number of individual submitters support the full suite of three waters provisions. The Waikato Regional support is on the basis of the stated aim of the provisions to protect and improve the health and wellbeing of the Waikato River, while Fire and Emergency New Zealand support the need for adequate waters infrastructure to exist to serve new developments to ensure firefighting capability is maintained.
- 5.138 Waikato-Tainui support the application of the Infrastructure Capacity Overlay and submit that it should be extended to include (amongst other things) greenfields development areas.

Relief Sought

5.139 The relief sought is varied and ranges from requesting retention of the three waters provisions as notified, amendments of various provisions, through to deletion the Infrastructure Capacity Overlay and all associated provisions altogether.

Factors for the panel to consider in their decision-making on this issue

5.140 The IHP will need to consider whether:

- (i) the cost of compliance with the various requirements makes them an inappropriate method as part of the city-wide response embodied in PC12 to give effect to Te Ture Whaimana; and
- (ii) the provision of adequate three waters infrastructure needs to be a District Plan matter or whether it can be addressed through either the resource or building consent process; and
- (iii) the responsibility for providing adequate three waters infrastructure should be met solely by Council in response to demand; and
- (iv) the Infrastructure Capacity Overlay needs to be more targeted; and
- (v) if they are to remain, whether amendments to the scope of the individual on-site requirements are warranted (eg should allowance be made for communal stormwater detention devices serving several lots rather requiring individual on lot devices?).

6.0 Conclusion

- 6.1 The majority of the submissions relevant to the Strategic Issues hearing address either:
- (i) the fundamental premise of the IPIs prepared by Waikato District Council, Waipā District Council, and Hamilton City Council in terms of the need or otherwise for intensification; and/or
 - (ii) the manner in which each local authority has incorporated Qualifying Matters into their respective IPIs, in particular the linkage between the Vision and Strategy for the Waikato River and infrastructure constraints; and/or
 - (iii) matters that the IHP has no power to address through this process (for example, bulk and location controls that are mandated by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021).
- 6.2 For matters (i) and (iii) above, there is no scope for the IHP to accept submissions seeking withdrawal of the IPIs or cancellation of the provisions. Central government has directed through law that Tier 1 local authorities must notify IPIs to give effect to intensification, and within that law has mandated specific provisions to be included (eg height to boundary building controls) that cannot be made more stringent unless a qualifying matter directly affects them.
- 6.3 For matter (ii), it is noted that the application of qualifying matters varies depending on the particular context of each local authority and thus each respective IPI. As a result, the IHP will need to carefully consider any further proponent or submitter evidence put before them at the hearing in reaching a judgement on the incorporation of qualifying matters.