

Appendix 1: Statutory Requirements

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Section/Clause	Text	Summary-briefly summarise how these clauses/sections have been complied with
Schedule 1 3 Consultation	<p><i>(1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—</i></p> <p><i>(a) The Minister for the Environment; and</i></p> <p><i>(b) Those other Ministers of the Crown who may be affected by the policy statement or plan; and</i></p> <p><i>(c) Local authorities who may be so affected; and</i></p> <p><i>(d) The tangata whenua of the area who may be so affected, through iwi authorities</i></p> <p><i>(2) A local authority may consult anyone else during the preparation of a proposed policy statement or plan.</i></p> <p><i>(4) In consulting persons for the purposes of subclause (2), a local authority must undertake the consultation in accordance with section 82 of the Local Government Act 2002.</i></p>	<p>Consultation has been undertaken in accordance with Clause 3. The full suite of engagement undertaken in the preparation of Plan Change 9 is set out in Appendix 4 of this report.</p>
Schedule 1 4A Further Pre-Notification Requirements Concerning Iwi Authorities	<p><i>(1) Before notifying a proposed policy statement or plan, a local authority must—</i></p> <p><i>(a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and</i></p> <p><i>(b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.</i></p> <p><i>(2) When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with subclause (1), it</i></p>	<p>Consultation with the iwi has been undertaken and the draft copy of the Plan Change was provided to Waikato-Tainui on 3 June 2022.</p> <p>On 20 June 2022 Waikato-Tainui provided feedback, advising general comfort with the approach of the Draft Section 32 Evaluation Report.</p>

	<i>must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.</i>	
5 Purpose	<p><i>(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.</i></p> <p><i>(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—</i></p> <p><i>(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and</i></p> <p><i>(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.</i></p>	The evaluation under section 32 must, as directed in section 32(1)(a), “examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve” the purpose of the RMA. A full s.32 evaluation has been completed in accordance with the RMA requirements.
31 Functions of Territorial Authorities under this Act	<p><i>(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district</i></p> <p><i>(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.</i></p>	<p>This plan change is being undertaken in accordance with Hamilton City Council’s authority under the Act.</p> <p>Section 31 of the RMA requires council to, among other things, establish, implement, and review objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land, and associated natural and physical resources of the City. This includes functions specified in other parts of the RMA.</p> <p>This Plan Change has been prepared to manage the use, development, and protection of natural and physical resources, and in particular the historic heritage resources of areas, buildings,</p>

		<p>structures and areas with heritage values, notable trees, archaeological and cultural sites, and sites and areas of significance to Maaori. PC9 also recognises and providing for, as matters of national importance, the relationship of Maaori and their culture and traditions with ancestral lands, water, sites, waahi tapu, and other taonga (section 6(e) RMA), and the protection of historic heritage from inappropriate subdivision, use and development (section 6(f) RMA). This Plan Change has also been prepared to manage the use, development, and protection of natural and physical resources, having particular regard to kaitiakitanga (section 7(a) RMA); and taking into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (section 8 RMA). As discussed below in more detail in relation to the Waikato Regional Policy statement and Council’s duties under s.75(3)(c) RMA, the Plan Change also seeks to contribute to the Council’s implementation in the District Plan of Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River). PC9 contributes to, but is not the sole means of, Council achieving its duty under section 75(3)(c) RMA to give effect to Te Ture Whaimana o Te Awa o Waikato. The protection of notable trees is set out under s.76(4A), (4B), (4C) and (4D) RMA. Where it states Council may for the purposes of carrying out its functions under the RMA and achieving the objectives and policies of the district plan include rules relating to the restricting the felling, trimming, damage or removal of tree or trees.</p>
<p>32 Requirements for Preparing and Publishing Evaluation Reports</p>	<p><i>(1) An evaluation report required under this Act must—</i> <i>(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and (b) examine whether the provisions in the proposal are the</i></p>	<p>A full s.32 evaluation has been completed in accordance with the RMA requirements. The plan change is seeking to alter existing objectives and provisions in a number of chapters in the ODP. The ODP contains existing objectives, policies and rules which have been used as a basis for the additional and amended provisions in this</p>

	<p><i>most appropriate way A full s.32 evaluation has been completed in accordance with the RMA requirements to achieve the objectives by—</i></p> <p><i>(i) identifying other reasonably practicable options for achieving the objectives; and(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and</i></p> <p><i>(iii) summarising the reasons for deciding on the provisions; and(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.</i></p> <p><i>(2) An assessment under subsection (1)(b)(ii) must—</i></p> <p><i>(a) identify and assess the benefits and costs of the environmental, economic social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—</i></p> <p><i>(i) economic growth that are anticipated to be provided or reduced; and</i></p> <p><i>(ii) employment that are anticipated to be provided or reduced; and</i></p> <p><i>(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and</i></p> <p><i>(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.</i></p> <p><i>(3) If the proposal (an amending proposal) will amend a standard, statement, national planning standard, regulation, plan, or change that is already proposed or that already exists (an existing proposal), the examination under subsection (1)(b) must relate to—</i></p>	<p>plan change.</p>
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	<p><i>(a) the provisions and objectives of the amending proposal; and</i></p> <p><i>(b) the objectives of the existing proposal to the extent that those objectives—</i></p> <p><i>(i) are relevant to the objectives of the amending proposal; and</i></p> <p><i>(ii) would remain if the amending proposal were to take effect.</i></p> <p><i>(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.</i></p> <p><i>(4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—</i></p> <p><i>(a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and</i></p> <p><i>(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.</i></p> <p><i>(5) The person who must have particular regard to the evaluation report must make the report available for public inspection—</i></p> <p><i>(a) as soon as practicable after the proposal is made (in the case of a standard or regulation); or</i></p> <p><i>(b) at the same time as the proposal is notified.</i></p> <p><i>(6) In this section,—objectives means,—</i></p> <p><i>(a) for a proposal that contains or states objectives, those objectives:</i></p>	
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	<p><i>(b) for all other proposals, the purpose of the proposal I means a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act provisions means,—</i></p> <p><i>(a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:</i></p> <p><i>(b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal</i></p>	
32A Failure to Carry Out Evaluation	<p><i>(1) A challenge to an objective, policy, rule, or other method on the ground that an evaluation report required under this Act has not been prepared or regarded, a further evaluation required under this Act has not been undertaken or regarded, or section 32 or 32AA has not been complied with may be made only in a submission under section 49, 149E, 149F, or 149O or under Schedule 1.(2) Subsection (1) does not prevent a person who is hearing a submission or an appeal on a proposal from having regard to the matters stated in section 32.</i></p> <p><i>(3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which—</i></p> <p><i>(a) an evaluation report must be prepared under this Act; or</i></p> <p><i>(b) a further evaluation must be undertaken under this Act.</i></p>	A full s.32 evaluation has been completed in accordance with the RMA requirements.
72 Purpose of District Plans	<p><i>The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.</i></p>	-

<p>74 Matters to be considered by territorial authority</p>	<p><i>(1) A territorial authority must prepare and change its district plan in accordance with—</i></p> <ul style="list-style-type: none"> <i>(a) its functions under section 31; and</i> <i>(b) the provisions of Part 2; and</i> <i>(c) a direction given under section 25A(2); and</i> <i>(d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and</i> <i>(e) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and (ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and (f) any regulations.</i> <p><i>(2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—</i></p> <ul style="list-style-type: none"> <i>(a) any—</i> <ul style="list-style-type: none"> <i>(i) proposed regional policy statement; or</i> <i>(ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and</i> <i>(b) any—</i> <ul style="list-style-type: none"> <i>(i) management plans and strategies prepared under other Acts; and</i> <i>(ii) [Repealed]</i> <i>(iia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and</i> <i>(iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to</i> 	<p>All matters considered in the preparation of Plan Change 9 are set out in Appendices 5 – 12.</p> <p>This plan change is being undertaken in accordance with the requirements of the Resource Management Act. Consultation, in accordance with the Schedule 1 requirements set out by the RMA, has been undertaken to ensure that the provisions are efficient and effective approach to addressing the Resource Management issues.</p> <p>This draft plan change and section 32 documentation has been prepared for review by the local iwi in accordance with the requirements under clause 4A of Schedule 1 of the Act.</p> <p>The proposed options are considered most appropriate to improve the efficiency and effectiveness of the Plan and promote the sustainable management of natural and physical resources.</p>
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	<p><i>taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—</i> <i>to the extent that their content has a bearing on resource management issues of the district; and</i> <i>(c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.</i></p> <p><i>(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.</i></p> <p><i>(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.</i></p>	
<p>75 Contents of district plans</p>	<p><i>(1) A district plan must state—</i> <i>(a) the objectives for the district; and</i> <i>(b) the policies to implement the objectives; and</i> <i>(c) the rules (if any) to implement the policies.</i></p> <p><i>(2) A district plan may state—</i> <i>(a) the significant resource management issues for the district; and</i> <i>(b) the methods, other than rules, for implementing the policies for the district; and</i> <i>(c) the principal reasons for adopting the policies and methods; and</i> <i>(d) the environmental results expected from the policies and methods; and</i> <i>(e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and</i> <i>(f) the processes for dealing with</i></p>	-

	<p><i>issues that cross territorial authority boundaries; and</i></p> <p><i>(g) the information to be included with an application for a resource consent; and</i></p> <p><i>(h) any other information required for the purpose of the territorial authority's functions, powers, and duties under this Act.</i></p> <p><i>(3) A district plan must give effect to—</i></p> <p><i>(a) any national policy statement; and</i></p> <p><i>(b) any New Zealand coastal policy statement; and</i></p> <p><i>(ba) a national planning standard; and</i></p> <p><i>(c) any regional policy statement.</i></p> <p><i>(4) A district plan must not be inconsistent with—</i></p> <p><i>(a) a water conservation order; or</i></p> <p><i>(b) a regional plan for any matter specified in section 30(1).</i></p> <p><i>(5) A district plan may incorporate material by reference under Part 3 of Schedule 1.</i></p>	
<p>Section 76 District Rules</p>	<p><i>(1) A territorial authority may, for the purpose of—</i></p> <p><i>(a) carrying out its functions under this Act; and</i></p> <p><i>(b) achieving the objectives and policies of the plan,—</i></p> <p><i>include rules in a district plan.</i></p> <p><i>(2) Every such rule shall have the force and effect of a regulation in force under this Act but, to the extent that any such rule is inconsistent with any such regulation, the regulation shall prevail.</i></p> <p><i>(2A) Rules may be made under this section, for the protection of other property (as defined in section 7 of the Building Act 2004) from the effects of surface water, which require persons undertaking building work to achieve performance criteria additional to,</i></p>	<p>All matters have been considered in the preparation of the proposed Plan Change. In particular, s.76(4A) in relation to notable trees.</p>

	<p><i>or more restrictive than, those specified in the building code as defined in section 7 of the Building Act 2004.</i></p> <p><i>(3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect.</i></p> <p><i>(3A)[Repealed]</i></p> <p><i>(3B)[Repealed]</i></p> <p><i>(4) A rule may—</i></p> <p><i>(a) apply throughout a district or a part of a district:</i></p> <p><i>(b) make different provision for—</i></p> <p><i>(i) different parts of the district; or</i></p> <p><i>(ii) different classes of effects arising from an activity:</i></p> <p><i>(c) apply all the time or for stated periods or seasons:</i></p> <p><i>(d) be specific or general in its application:</i></p> <p><i>(e) require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.</i></p> <p><i>(4A) A rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if, in a schedule to the plan,—</i></p> <p><i>(a) the tree or trees are described;</i></p> <p><i>and</i></p> <p><i>(b) the allotment is specifically identified by street address or legal description of the land, or both.</i></p> <p><i>(4B) A rule may prohibit or restrict the felling, trimming, damaging, or removal of trees on 2 or more urban environment allotments only if—</i></p> <p><i>(a) the allotments are adjacent to each other; and</i></p> <p><i>(b) the trees on the allotments together form a group of trees; and</i></p> <p><i>(c) in a schedule to the plan,—</i></p>	
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	<p><i>(i)the group of trees is described; and</i></p> <p><i>(ii)the allotments are specifically identified by street address or legal description of the land, or both.</i></p> <p><i>(4C) In subsections (4A) and (4B) group of trees means a cluster, grove, or line of trees urban environment</i></p> <p><i>allotment or allotment means an allotment within the meaning of section 218—</i></p> <p><i>(a)that is no greater than 4 000 m²; and</i></p> <p><i>(b)that is connected to a reticulated water supply system and a reticulated sewerage system; and</i></p> <p><i>(c)on which there is a building used for industrial or commercial purposes or as a dwelling house; and</i></p> <p><i>(d)that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.</i></p> <p><i>(4D) To avoid doubt, subsections (4A) and (4B) apply—</i></p> <p><i>(a)regardless of whether the tree, trees, or group of trees is, or the allotment or allotments are, also identified on a map in the plan; and</i></p> <p><i>(b)regardless of whether the allotment or allotments are also clad with bush or other vegetation.</i></p> <p><i>(5) A rule may exempt from its coverage an area or class of contaminated land if the rule—</i></p> <p><i>(a)provides how the significant adverse effects on the environment that the hazardous substance has are to be remedied or mitigated; or</i></p> <p><i>(b)provides how the significant adverse effects on the environment</i></p>	
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	<p><i>that the hazardous substance is reasonably likely to have are to be avoided; or</i></p> <p><i>(c)treats the land as not contaminated for purposes stated in the rule.</i></p>	
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