

Proposed Plan Change 16: Technical Improvements

Incorporating

Decisions of Hearings Panel and Section 32AA Evaluation Report


May 2021



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Report Information

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Approved by:	 Marcus Gower – Hearings Panel Chairperson	25 May 2021
Date publicly notified	28 May 2021	

Executive Summary

Waipā District Council notified Proposed Plan Change 16 – Technical Improvements on 4 December 2020. The proposed plan change sought to make improvements to various provisions in the District Plan that were considered to be ambiguous or difficult to interpret, or automatically triggered the requirements for a resource consent where it was not always warranted.

The provisions that were the subject of Proposed Plan Change 16 relate to facades and glazing in relation to stand-alone garages, outdoor living areas, and water supply for firefighting purposes in rural areas.

Four submissions were received, making a number of submission points to various parts of the proposed plan change.

A hearing was held on 12 April 2021. After hearing from submitters, the Hearings Panel ('the Panel') has made decisions on each submission and further submission.

In addition to decisions on submissions, there are two minor amendments to the text of Proposed Plan Change 16. These amendments are made under clause 16 of Schedule 1 of the Resource Management Act, without using the process prescribed for plan changes in that Schedule, and do not require a decision to be made by the Hearings Panel.



A

Part A – Decision Report Technical improvements

Part A – Decision Report

1 Introduction and Decision

1.1 Introduction

- 1.1.1 This decision report contains Waipā District Council’s decision under clause 10 of Schedule 1 of the Resource Management Act 1991 on Proposed Plan Change 16 - ‘Technical Improvements’ to the Waipā District Plan.
- 1.1.2 The proposed plan change was initiated by Waipā District Council after staff identified issues with several provisions in the District Plan that were considered to be ambiguous or difficult to interpret, or that automatically triggered the requirements for resource consent in unwarranted situations.
- 1.1.3 The provisions being amended by Proposed Plan Change 16 relate to facades and glazing rules as they pertain to stand-alone garages, the size and location of outdoor living areas in the Residential Zone, and water supply for firefighting purposes in rural areas.

1.2 Decision

- 1.2.1 Pursuant to clause 10 of Schedule 1 of the Resource Management Act:
- (a) The submissions are either accepted in whole or in part, or rejected as set out in Part B of this decision; and
 - (b) Amendments to the Waipā District Plan are made in accordance with Part C of this decision.

1.3 Format of Decision Report

- 1.3.1 This decision report contains four parts.
- 1.3.2 Part A is the decision report containing:
- Decisions on submissions and further submissions
 - Information on the hearing
 - Overview of Plan Change 16
 - Statutory context
 - Submission analysis
- 1.3.3 Part B contains:
- Table of Decisions on individual submission and further submission points

- 1.3.4 Part C contains:
- Tracked change version of district plan amendments

- 1.3.5 Part D contains:
- Section 32AA report

1.4 Hearing

1.4.1 Submissions on Proposed Plan Change 16 were heard and considered by the Hearings Panel on 12 April 2021. The Hearings Panel members were Councillor Marcus Gower (Chairperson), Councillor Lou Brown and Councillor Liz Stolwyk.

1.4.2 The following record of attendance is provided as a minute of the hearing:

Monday, 12 April 2021

Submitters

- Craig Sharman – Planner Beca on behalf of Fire and Emergency New Zealand (FENZ)
- George Jensen – FENZ
- Ed Hopping - FENZ

Waipā District Council Team

- Tony Quickfall – Manager District Plan and Growth
- Julie Hansen – Policy Advisor
- Jo Cook-Munro – Policy Advisor Support
- Emma Norman – Planner
- Danielle Hooper – Senior Building Compliance Officer - Processing
- Jenny Nemaia – Hearing Secretary

2 Overview of Plan Change 16

2.1 Introduction

2.1.1 The District Plan contains provisions that aim to promote sustainable management within the district, in accordance with the purpose of the Resource Management Act ('the Act'). The plan change was proposed so that technical improvements could be made to those provisions in order that they be more effective and efficient, and better meet the purpose of the Act.

2.1.2 The changes included in the proposed plan change apply to the following provisions:

Facades

- 2.1.3 Changes to the existing provisions, and insertion of a new provision were proposed as summarised below:

Section 2 – Residential Zone

- Amend 2.4.2.3 and insert 2.4.2.3A– to improve wording and make the rule no longer apply to stand-alone garages that are set back further than a dwelling on a site.

Section 21 – Assessment Criteria and Information Requirements

- Insert Criteria 21.1.2.6(c) – to provide guidance where there is no other practical location for a stand-alone garage.

Glazing

- 2.1.4 A minor change to an existing provision was proposed as summarised below:

Section 2 – Residential Zone

- Amend 2.4.2.19(e) – to exempt stand-alone garages from the 15% glazing requirement.

Outdoor living areas

- 2.1.5 A minor change to an existing provision was proposed as summarised below:

Section 2 – Residential Zone

- Amend 2.4.2.18 – remove the location requirement, and reduce the size and minimum dimension for an outdoor living area.

Section 21 – Assessment Criteria and Information Requirements

- Amend 21.1.2.11 – delete reference to orientation of the outdoor living area

Water supply for firefighting purposes in rural areas

- 2.1.6 Changes to the existing provisions, and insertion of new provisions were proposed as summarised below.

Section 15 – Infrastructure, Hazards, Development and Subdivision

- Insert Issue 15.2.1A – to identify the resource management issue relating to rural fires and health and safety.
- Insert Objective 15.3.5A – so that significant adverse effects arising from subdivision in un-serviced areas of the district are avoided.
- Insert Policy 15.3.5A.1 – to provide policy support for the existing rule.

- Amend Rule 15.4.2.22 – consequential amendment as a result of amending part (b) and making it a new rule.
- Insert Rule 15.4.2.22A – insert as a new rule and introduce measurable standards.

Section 21 – Assessment Criteria and Information Requirements

- Insert Criteria 21.1.15.20A – include new assessment criteria.

2.2 Submissions

2.2.1 Four submissions and one further submission were received on Proposed Plan Change 16. Only one of these submitters (FENZ, topic 4) was heard. No other submitters wished to be heard. The submissions were grouped into topic areas as part of the s42A report prepared for the hearing. These topic areas have been adopted for this report and are:

- Topic 1 – Front facades
- Topic 2 – Glazing
- Topic 3 – Outdoor living area
- Topic 4 – Water supply for firefighting purposes
- Topic 5 – Consequential amendments

2.3 Statutory context

2.3.1 An assessment of the plan change against relevant legislation and national and regional policy documents has been carried out in the Section 32 and 32AA reports undertaken for this plan change.

2.3.2 In terms of legislation, the provisions of the Resource Management Act 1991 have been considered. In terms of national direction, the following national policy statements have been applied:

- National Policy Statement on Urban Development 2020.

2.3.3 Other documents considered include the Vision and Strategy for the Waikato River. The Waikato Regional Policy Statement has also been considered, in particular part 6. The plan change has also been assessed against the provisions of Future Proof and the Waipā 2050 District Growth Strategy.

2.3.4 The Hearings Panel has adopted the reporting planner’s statutory assessment and assessment against the relevant iwi management plans and Joint Management Agreements it is party to.

2.4 Submission analysis and decisions on submissions

2.4.1 Analysis of the submissions was completed using the topic areas defined in part 2.2.1 of this report. These topic areas were used in the analysis of submissions in the s42A report prepared for the hearing, and are now used in this decision report for submissions on Proposed Plan Change 16.

TOPIC 1 – FRONT FACADE

2.4.2 Proposed Plan Change 16 sought to amend Rule 2.4.2.3 as follows:

Rule – Design of building façade

2.4.2.3 ~~Not more than 50% of the overall front façade of a building can consist of garaging, as measured from the inside internal walls of the garage. Where the garage is accessory to a dwelling but detached from the dwelling, not more than 50% of the combined front façades (of the dwelling and detached garage) can consist of garaging.~~

A garage that is integrated into and forms part of a dwelling must not exceed 50% of the total front façade length of a building as measured from the inside internal walls of the garage.

2.4.2.3A A garage that is an accessory building:

(a) Must not exceed 50% of the total combined front façade length of a dwelling and detached garage when:

(i) Viewed from the street; and

(ii) Located either forward of, or directly beside, an existing residential unit.

Activities that fail to comply with ~~this rule~~ Rules 2.4.2.3 and 2.4.2.(new) will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- *Visual effect from the road; and*
- *Crime Prevention through Environmental Design; and*
- *Ability to practically locate a garage on the site of an existing dwelling.*

These matters will be considered in accordance with the assessment criteria in Section 21.

2.4.3 The rule as it is currently in the District Plan requires all buildings to have less than 50% of the front façade being “garage”. This has the effect of capturing all stand-alone garages because 100% of their façade is garage, and it is impossible for them to comply. The proposed changes to the rule were specifically targeted at stand-alone garages because they are often being built on the site of an existing dwelling.

2.4.4 Two submitters made submission points in relation to the provisions included in the proposed plan change. The submitters were Classic Builders, A1 Homes, ZB Homes,

Jennian Homes, Generation Homes (Classic Builders et al) (2/3) and Carla Mounsey (4/3).

- 2.4.5 Submitter 2/3 opposed the rule as amended by the proposed plan change because in their opinion it did not provide any additional benefit over and above what is required by other rules e.g. glazing. The submission sought to delete the rule from the plan change as notified. This would have the effect of leaving the rule as it is in the District Plan and the problem initially identified would not be resolved. Stand-alone garages would continue to need a resource consent. The Hearings Panel rejects this submission.
- 2.4.6 Submitter 4/3 supported the proposed changes on the basis that the design process would be easier, but did not request a specific decision. The Hearings Panel agreed with the assessment in the s42A report that the relief sought was reasonably and fairly identified.
- 2.4.7 In the notified version of the proposed plan change, and the s42A hearing report, Rule 2.4.2.3A(a)(ii) states "Located either forward of, or directly beside, an existing residential unit." The use of the term residential unit is not consistent with the rest of the rule, or indeed the rest of the District Plan.
- 2.4.8 Although there is no submission that would enable this inconsistency to be rectified, it is raised in this report in the interests of efficiency and transparency. This amendment is made under clause 16 of Schedule 1 of the Resource Management Act, without using the process prescribed for plan changes in that Schedule, and does not require a decision to be made by the Hearings Panel.

Decision

- 2.4.9 The Hearings Panel:
- **Rejects** submission 2/3
 - **Accepts** submission 4/3

and retains Rule 2.4.2.3 and Rule 2.4.2.3A as notified in the proposed plan change with the exception of the clause 16 amendment as follows:

2.4.2.3A A garage that is an accessory building:

(a) Must not exceed 50% of the total combined front façade length of a dwelling and detached garage when:

(i) Viewed from the street; and

(ii) Located either forward of, or directly beside, an existing residential unit. dwelling.

TOPIC 2 – GLAZING

2.4.10 Proposed Plan Change 16 sought to amend Rule 2.4.2.19 as follows:

Rules – Neighbourhood amenity and safety

2.4.2.19 *The minimum area of glazing on the front façade(s) of a building that adjoins a public place shall be 15%.*

Provided that:

(a)

(e) *This rule shall not apply to relocated buildings or a garage that is an accessory building.*

2.4.11 The current rule was included in the plan in order that passive surveillance of the street be possible from a number of rooms in a dwelling. An issue was identified with the current rule that requires all buildings to provide a minimum area of glazing on the front façade. The rule catches all stand-alone garages being built on the site of an existing dwelling by requiring them to provide the glazing, or obtain a resource consent to not provide glazing. The proposed new wording of the rule means that a garage that is an accessory building i.e. a stand-alone garage, would no longer be subject to the rule requiring glazing.

2.4.12 The first part of submission 2/2 sought to amend the rule so that it would apply to “at least one habitable room that faces a transport corridor”. The Panel agrees that non-habitable rooms,¹ even with a window, provide little benefit in terms of passive surveillance to the street.

2.4.13 However, if non-habitable rooms were excluded from the rule, any habitable rooms on the front façade of the building would be left to make up the 15% glazing requirement. This is likely to be more difficult to achieve than if a number of rooms, both habitable and non-habitable, are contributing to meeting the requirement.

2.4.14 The intention of the plan change was to specifically exclude stand-alone garages from the rule. The 15% glazing requirement is not part of the proposed plan change and this submission would mean that all aspects of the rule would need to be reconsidered. For this reason, part (a) of the decision requested by submission 2/2 is rejected as it is considered to be outside the scope of the proposed plan change.

2.4.15 Part (b) of submission 2/2 supported the proposed change and sought to retain the wording as notified. The Hearings Panel accepts this part of the submission.

2.4.16 Submission 4/2, while supporting the proposed change to the plan because it will make design easier, did not request a decision. The Hearings Panel has analysed the

¹ Habitable room defined in the District Plan: means any room in a dwelling apart from those used solely for the purposes of an entrance, passageway, toilet, bathroom, laundry, garage or storeroom.

submission and concludes that the relief sought can be reasonably and fairly identified, and accepts the submission.

Decision

2.4.17 The Hearings Panel:

- **Rejects** submission 2/2, part (a) for being outside of scope of the plan change
- **Accepts** submission 2/2, part (b)
- **Accepts** submission 4/2

and retains Rule 2.4.2.19 as notified in the proposed plan change.

TOPIC 3 – OUTDOOR LIVING AREA

2.4.18 Proposed Plan Change 16 sought to amend Rule 2.4.2.18 as follows:

Rule – Outdoor living area

2.4.2.18 *Each dwelling shall have an outdoor living area which:*

(a) ...

~~(d) Is located in the north, east or west of the site.~~

(e) *Where a Principal Dwelling has a living area at Ground Level, it shall have a minimum continuous area of ~~60~~ 50m² at ground level with a minimum dimension of ~~5~~ 4m over the entire area.*

(f) *Where a Principal Dwelling has the Living Area solely above ground level, part of the ~~60~~ 50m² outdoor living area requirement must comprise a balcony that is directly accessible from the living area with a minimum area of 8m² and a minimum dimension of 2m. For the avoidance of doubt the remaining outdoor living area shall have a minimum dimension of ~~5~~ 4m.*

2.4.19 Submission 2/1 made several points about Rule 2.4.2.18 relating to outdoor living areas. Each of these points is addressed in turn.

2.4.20 Part (a) of submission 2/1 sought to retain the deletion of “is located in the north, east or west of the site” as proposed in the plan change. The Hearings Panel supports this submission point.

2.4.21 The proposed plan change sought to reduce the minimum outdoor living area from 60m² to 50m² and reduce the minimum dimension from 5m to 4m. Part (b) of submission 2/1 sought to reduce the minimum size of the outdoor living area from that proposed in the plan change of 50m² to 40m² and reduce the minimum dimension further from 4m to 3.5m.

2.4.22 The Hearings Panel consider the minimum requirements proposed in the plan change will address the issue initially identified, that is the minimum dimension often

caused outdoor living areas to wrap around the corner of a building, which makes the space unusable.

- 2.4.23 Further reduction in the minimum area and dimension across the entirety of the Residential Zone will not improve on-site or neighbourhood amenity, nor will it meet the current District Plan objectives and policies relating to outdoor living areas for the Residential Zone.
- 2.4.24 The Hearings Panel rejects part (b) of submission 2/1.
- 2.4.25 Part (c) of submission 2/1 sought that the rule enable an outdoor living area to be split to maximise or minimise sunshine.
- 2.4.26 The proposed plan change already removes the need for an outdoor living area to be located on the north, east or west of a site. The Hearings Panel consider that enough flexibility in the location of any outdoor living area has already been provided. Further, splitting an outdoor living area will only reduce the amount of available usable space for a lawn or courtyard.
- 2.4.27 The Hearings Panel rejects part (c) of submission 2/1.
- 2.4.28 Part (d) of submission 2/1 sought to remove the words “directly accessible” from the rule as shown below. Living area is defined as “means a habitable room that is a minimum area of 10m² in size or more in a dwelling, excluding bedrooms”.² The provision “directly accessible from a living area” restricts the outdoor living area to being located directly adjacent to a kitchen, living or dining room.
- 2.4.29 The submitter suggested that outdoor living areas could be located anywhere on a site to maximise sunshine or views. The Hearings Panel agrees with this and has deleted “directly” so that part (c) of Rule 2.4.2.18 reads:

2.4.2.18 ...

(c) *Is **directly** accessible from a living area of the dwelling, except where the outdoor living area complies with (g) below; and*

- 2.4.30 The effect of this change is that an outdoor living area need only be accessible from, and not necessarily directly adjacent to a living area. This change will have the added bonus of assisting owners of relocated dwellings that cannot comply with the current rule due to the existing internal layout of the dwelling.
- 2.4.31 Part (e) of submission 2/1 sought to amend the category of consent from restricted discretionary to controlled if the outdoor living area is the only rule being breached.

² Habitable room means any room in a dwelling apart from those used solely for the purposes of an entrance, passageway, toilet, bathroom, laundry, garage or storeroom.

A controlled activity cannot be declined, whereas a restricted discretionary activity can be granted or declined with or without conditions.

2.4.32 The proposed plan change, and the amendments as a result of submissions and decisions have the combined effect of amending the rule to:

- Reduce the size and minimum dimension.
- Remove the requirement to locate on the north, east or west of the site.
- Remove the requirement to be “directly” accessible from a living area.

2.4.33 The Hearings Panel considers that the combined changes will make it easier to comply with the permitted activity performance standards. If a proposed outdoor living area cannot comply with the new standards, then Council needs to retain the ability to examine the merits of the application through a restricted discretionary application and to decline it if deemed appropriate. The Hearings Panel rejects part (e) of submission 2/1.

2.4.34 Submission 4/4 supported the proposed plan changes stating that the design process will be easier, but did not request a specific decision. The Hearings Panel has analysed the submission and conclude that the relief sought has been reasonably and fairly identified, and accepts the submission.

Decision

2.4.35 The Hearings Panel:

- **Accepts** submission 2/1 part (a)
- **Rejects** submission 2/1 part (b)
- **Rejects** submission 2/1 part (c)
- **Accepts** submission 2/1 part (d)
- **Rejects** submission 2/1 part (e)
- **Accepts** submission 4/4

and amends the proposed plan change as follows:

2.4.2.18 ...

(c) *Is **directly** accessible from a living area of the dwelling, except where the outdoor living area complies with (g) below; and*

TOPIC 4 – WATER SUPPLY FOR FIREFIGHTING PURPOSES

2.4.36 Proposed Plan Change 16 sought to amend Section 15 – Infrastructure, Hazards, Development and Subdivision by inserting a new issue, objective and policy, and amend the current rule to include new standards relating to quantity and location of water for firefighting purposes. The changes proposed as part of the notified plan change are as follows:

Resource Management Issues

On-site infrastructure

15.2.1A Inadequate or unsuitable on-site infrastructure at the time of, and subsequent to subdivision in un-serviced areas can expose future residents to risks associated with natural hazards and other threats, affecting their health and safety.

Objective – subdivision in areas that are not serviced

15.3.5A Avoid significant adverse effects on people, property, infrastructure and the environment arising from any subdivision in areas that are not serviced by Council infrastructure.

Policy – health and safety on rural properties

15.3.5A.1 Health and safety for residents in areas that are not serviced by Council infrastructure should be provided through appropriate design and mitigation measures.

Rules – when infrastructure services are not provided by Council

15.4.2.22 Where water is **not** supplied by Council each lot shall provide: ~~(a) An independent potable water supply sufficient for activities permitted on the site; and~~

~~(b) Access to an adequate water supply for firefighting purposes.~~

15.4.2.22A Where water is not supplied by Council or a private community supply, or water is supplied by Council but is a restricted flow supply, each lot shall provide access to water supply for firefighting purposes that is or will be:

(a) Accessible to firefighting equipment; and

(b) Between 6 and 90 metres from a dwelling on the site; and

(c) On the same site as a dwelling (except where the specified volume or flow of water is in a pond, dam or river that is within the required distances); and

(d) Either:

(i) Stores at least 45,000 litres, or

(ii) Provides at least 25 litres per second for 30 minutes.

~~Advice note: Further advice and information about managing fire risk and storage of water for firefighting purposes can be obtained from Fire and Emergency New Zealand and NZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice. sets out a number of options to provide water for the New Zealand Fire Service's operational requirements, and shall be used as a guide when designing fire fighting water protection.~~

2.4.37 Submission 1/1 supported the inclusion of new provisions relating to water supply for firefighting purposes but did not request a specific decision. The Hearings Panel have analysed the submission and conclude that the decision requested is to retain the new provisions as proposed by Proposed Plan Change 16. There were three further submissions (FS1/1, FS1/2 and FS1/3) in support of the original.

2.4.38 Submission 3/1 sought to retain the inclusion of the new issue, objective, policy, and rule with specific performance standards. Submission 3/1 also sought to provide some exemptions to the rule so that certain new lots do not need to comply. The suggested exemptions to the rule are where the lot is being created for:

- A conservation lot
- A network utility lot
- An access lot or
- A lot solely for a rural purpose

2.4.39 The suggested exemptions are supported by the Hearings Panel, with amendments to maintain consistency with terminology currently in the District Plan as follows:

15.4.2.22A

[This rule does not apply to lots created for the purpose of enabling a conservation block, a network utility, access to a lot or lots having no legal frontage, or a lot solely for a rural purpose and which does not require a residential building.](#)

2.4.40 Submission 4/1 sought clarification about whether the rule requires a continuous supply of water i.e. separate and in addition to the household water supply or capacity for 45,000l of water as part of the household water supply. If the former applies, then the submitter is opposed.

2.4.41 Further submission FS1/4 opposed original submission 4/1 on the basis that the original submission is opposed to having a separate and continuous water supply.

2.4.42 The New Zealand Fire Service Firefighting Water Supplies Code of Practice “establishes the minimum firefighting water supply that is required for the fire hazard. To comply with this code of practice it must be shown that this minimum supply is designed to be available at all times as far as practicable. If it is not then either the supply must be increased or the fire hazard in the premises must be reduced”.

2.4.43 It is clear that the Code of Practice anticipates that water for firefighting purposes is available at all times as far as practicable. Additional text in Rule 15.4.2.22A clarifies this and Rule 15.4.2.22A(d) is amended as follows:

15.4.2.22A

(d) *Either:*

- (i) Stores at least 45,000 litres in addition to the independent potable water supply required by Rule 15.4.2.22, or
- (ii) Provides at least 25 litres per second for 30 minutes.

2.4.44 FENZ, through its further submission (FS1/4), provided evidence at the hearing in support of its submission. FENZ noted that the Code of Practice allows for several alternative firefighting water sources where reticulated supplies are unavailable or insufficient, e.g. swimming pools, ponds or streams. So although FS1/4 opposes the original submission, adding new text to provide clarity to the rule aligns with the content of FS1/4. The Panel was also interested to hear from FENZ that rural water tankers are a regional resource, and their availability to attend rural fires is very limited and dependent on where the tankers may be deployed at any point in time. This was of particular interest to the Panel, who felt that the limited availability of water tankers strengthened the need to retain a requirement for on-site water supply. The Panel is cognisant of the cost of providing an on-site water supply, but also notes there are different options to provide water. Overall the Panel accepted the evidence from FENZ and considers that the cost of on-site water supply for firefighting is outweighed by risk to life and property.

2.4.53 The Hearings Panel also turned its mind to the argument that by the time the fire service have got there, it's too late. FENZ touched on this point, and advised that on-site water supply is about mitigation. In other words, the difference between having on-site supply and not having on-site supply may be saving a life or mitigating building damage, building loss and the cost of repair – or the difference between building repair (if there is a supply) or building replace (if there is no supply). The Panel accepted FENZ advice and agrees that on-site water supply has considerable mitigation value.

2.4.52 In the notified version of the proposed plan change, the words “Advice note” at the end of new Rule 15.4.2.22A were inadvertently shown to be struck through (meaning that they were to be deleted). Although there is no submission that would enable this minor error to be rectified, it is raised in this report in the interests of efficiency and transparency. Clause 16 of Schedule 1 of the Act allows a local authority to make an amendment to a proposed plan change where such an alteration is to correct a minor error. This amendment is made under clause 16 of Schedule 1 of the Resource Management Act, without using the process prescribed for plan changes in that Schedule, and does not require a decision to be made by the Hearings Panel.

Decision

2.4.53 The Hearings Panel:

- **Accepts** submission 1/1 and further submissions FS1/1, FS1/2, FS1/3
- **Accepts** submission 3/1
- **Accepts** submission 4/1 and further submission FS1/4

and amends the proposed plan change as follows:

15.4.2.22A Where water is not supplied by Council or a private community supply, or water is supplied by Council but is a restricted flow supply, each lot shall provide access to water supply for firefighting purposes that is or will be:

- (a) Accessible to firefighting equipment; and
- (b) Between 6 and 90 metres from a dwelling on the site; and
- (c) On the same site as a dwelling (except where the specified volume or flow of water is in a pond, dam or river that is within the required distances); and
- (d) Either:
 - (i) Stores at least 45,000 litres in addition to the independent potable water supply required by Rule 15.4.2.22, or
 - (ii) Provides at least 25 litres per second for 30 minutes.

This rule does not apply to lots created for the purpose of enabling a conservation block, a network utility, access to a lot or lots having no legal frontage, or a lot solely for a rural purpose and which does not require a residential building.

Advice Note: Further advice and information about managing fire risk and storage of water for firefighting purposes can be obtained from Fire and Emergency New Zealand and NZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice. sets out a number of options to provide water for the New Zealand Fire Service's operational requirements, and shall be used as a guide when designing fire fighting water protection.

TOPIC 5 – CONSEQUENTIAL AMENDMENTS

- 2.4.54 One submitter lodged a submission relating to all of the proposed plan change.
- 2.4.55 The submitter sought to ensure that any consequential amendments can be made to other provisions as a result of accepting or rejecting submissions. This submission is accepted by the Hearings Panel.

Decision

- 2.5.56 The Hearings Panel **accepts** submission 2/4 and makes consequential amendments to the proposed plan change and Waipā District Plan as required.



B



Part B – Decisions on Submissions

Part B – Decisions on submissions

Topic 1: Front facade

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose/ In Part	Decision requested	Hearings Panel Decision
2/3	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.3	Oppose	Delete Rule 2.4.2.3 from the plan change as notified.	Reject
4/3	Carla Mounsey	Various	Support	No decision requested <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept

Topic 2: Glazing

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose/ In Part	Decision requested	Hearings Panel Decision
2/2	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.19	Support in part	(a) Amend the rule to read (or similar) "At least one <u>habitable room</u> of the residential unit shall have a clear glazed window facing the transport corridor from which vision toward the roading corridor is not blocked by any accessory building."	Part (a) Reject Out of scope
				(b) Retain the wording as notified to Rule 2.4.2.19(e) that reads "This rule shall not apply to relocated buildings or a garage that is an accessory building."	Part (b) Accept
4/2	Carla Mounsey	Various	Support	No decision requested. <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept

Topic 3: Outdoor living area

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose/ In Part	Decision requested	Hearings Panel Decision
2/1	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.18	Support in part	(a) Retain removal of the term "is located to the north, east or west of the site".	Part (a) Accept
				(b) Reduce the minimum outdoor living area requirement from 50m ² to 40m ² with a 3.5m minimum dimension.	Part (b) Reject
				(c) Add the ability to split outdoor living areas to maximise/minimise sunshine.	Part (c) Reject
				d) Remove the wording "directly accessible" from the rule.	Part (d) Accept by deleting the word "directly"
				(e) Reduce activity status from restricted discretionary to controlled if outdoor living is the only non-compliance associated with a consent.	Part (e) Reject
4/4	Carla Mounsey	Various	Support	No decision requested. <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept

Topic 4: Water supply for firefighting purposes

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose/ In Part	Decision requested	Hearings Panel Decision
1/1	Waikato Regional Council	New Objectives and Policies	Support	No decision requested <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	Decision requested	Hearings Panel Decision
FS1/1	Fire and Emergency New Zealand (FENZ)	New Objectives and Policies	Support	No decision requested.	Accept
FS1/2			Support	No decision requested.	Accept
FS1/3			Support	No decision requested.	Accept
3/1	Fire and Emergency New Zealand (FENZ)	New Objectives and Policies	Support in part	Retain new issue, objective and policy, and assessment criteria and amend revised rule to read: "14.4.2.22A Where water is not supplied by Council or a private community supply, or water is supplied by Council but is a restricted flow supply, each lot (except where the lot is being created for the purpose of a conservation lot, a network utility lot, an access lot or a lot solely for a rural purpose) shall provide access to water supply for firefighting purposes that is or will be..."	Accept by adding <u><i>This rule does not apply to lots created for the purpose of enabling a conservation block, a network utility, access to a lot or lots having no legal frontage, or a lot solely for a rural purpose and which does not require a residential building.</i></u>
4/1	Carla Mounsey	Rule 15.4.2.22A(d)(i)	Oppose	Amend Rule 15.4.2.22A to clarify whether the rule is for a continuous store of 45000l of water, or for capacity to store 45000l.	Accept by amending the rule to give clarification
FS1/4	Fire and Emergency New Zealand (FENZ)	Rule 15.4.2.22A(d)(i)	Oppose	No decision requested.	Accept

Topic 5: Consequential amendments

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support /Oppose/ In Part	Decision requested	Hearings Panel Decision
2/4	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Various	Neutral	Make consequential amendments as necessary.	Accept



C

Part C – Recommended tracked changes to the Waipā District Plan

Part C – Tracked changes to Waipā District Plan

Note:

- Text from the Waipā District Plan is included in the same colour and text as the notified version of the proposed plan change.
- Text included in response to submissions is in blue and underlined [submission number] and text deleted in response to submissions ~~is in blue and struck through~~.
- There are no further amendments as a result of decisions made by the Hearings Panel.
- Clause 16 amendments are made in teal underline or ~~red strikethrough~~.
- Consequential renumbering of some provisions in the District Plan may be required as a result of accepting or rejecting submissions on the proposed plan change.

Facades

Section 2 – Residential Zone

Rule – Design of building façade

2.4.2.3 ~~Not more than 50% of the overall front façade of a building can consist of garaging, as measured from the inside internal walls of the garage.~~

~~Where the garage is accessory to a dwelling but detached from the dwelling, not more than 50% of the combined front facades (of the dwelling and detached garage) can consist of garaging.~~

A garage that is integrated into and forms part of a dwelling must not exceed 50% of the total front façade length of a building as measured from the inside internal walls of the garage.

2.4.2.3A A garage that is an accessory building:

(a) Must not exceed 50% of the total combined front façade length of a dwelling and detached garage when:

(i) Viewed from the street; and

(ii) Located either forward of, or directly beside, an existing residential unit dwelling. [C16]

Activities that fail to comply with this rule ~~Rules 2.4.2.3 and 2.4.2.(new)~~ will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- Visual effect from the road; and
- Crime Prevention through Environmental Design; and
- Ability to practically locate a garage on the site of an existing dwelling.

These matters will be considered in accordance with the assessment criteria in Section 21.

Section 21 – Assessment Criteria and Information Requirements

Residential Zone Assessment Criteria		
21.1.2.6	Design of building facade	(a) The visual effect of the development on the streetscape. (b) The extent to which the development takes into account the personal safety of people and principles of Crime Prevention Through Environmental Design (CPTED). (c) <u>Whether the garage is practically located on the site of an existing dwelling.</u>

Glazing

Section 2 – Residential Zone

Rules – Neighbourhood amenity and safety

2.4.2.19 The minimum area of glazing on the front façade(s) of a building that adjoins a public place shall be 15%.

Provided that:

- (a)
- (e) This rule shall not apply to relocated buildings or a garage that is an accessory building.

Outdoor living areas

Section 2 – Residential Zone

Rule – Outdoor living area

2.4.2.18 Each dwelling shall have an outdoor living area which:

- (a) ...
- (b) ...
- (c) Is ~~directly~~ *[submission 2/1]* accessible from a living area of the dwelling, except where the outdoor living area complies with (g) below; and
- (d) ~~Is located in the north, east or west of the site.~~
- (e) Where a Principal Dwelling has a living area at Ground Level, it shall have a minimum continuous area of ~~60~~ 50m² at ground level with a minimum dimension of ~~5~~ 4m over the entire area.
- (f) Where a Principal Dwelling has the Living Area solely above ground level, part of the ~~60~~ 50m² outdoor living area requirement must comprise a balcony that is directly accessible from the living area with a minimum area of 8m² and a minimum dimension of 2m. For the avoidance of doubt the remaining outdoor living area shall have a minimum dimension of ~~5~~ 4m.

Section 21 – Assessment Criteria and Information Requirements

Residential Zone Assessment Criteria		
21.1.2.11	Outdoor living area	(a) The internal layout of the dwelling and its relationship to the outdoor living area. (b) The size, <u>and</u> dimension, <u>and</u> orientation of the outdoor living area.

Water supply for firefighting purposes

Section 15 – Infrastructure, Hazards, Development and Subdivision

Resource Management Issues

On-site infrastructure

15.2.1A Inadequate or unsuitable on-site infrastructure at the time of, and subsequent to subdivision in un-serviced areas can expose future residents to risks associated with natural hazards and other threats, affecting their health and safety.

Objective – subdivision in areas that are not serviced

15.3.5A Avoid significant adverse effects on people, property, infrastructure and the environment arising from any subdivision in areas that are not serviced by Council infrastructure.

Policy – health and safety on rural properties

15.3.5A.1 Health and safety for residents in areas that are not serviced by Council infrastructure should be provided through appropriate design and mitigation measures.

Rules – When infrastructure services are not provided by Council

15.4.2.21

15.4.2.22 Where water is **not** supplied by Council each lot shall provide: ~~(a) An~~ independent potable water supply sufficient for activities permitted on the site; and
~~(b) Access to an adequate water supply for firefighting purposes.~~

15.4.2.22A Where water is not supplied by Council or a private community supply, or water is supplied by Council but is a restricted flow supply, each lot shall provide access to water supply for firefighting purposes that is or will be:

- (a) Accessible to firefighting equipment; and
- (b) Between 6 and 90 metres from a dwelling on the site; and
- (c) On the same site as a dwelling (except where the specified volume or flow of water is in a pond, dam or river that is within the required distances); and

(d) Either:

- (i) Stores at least 45,000 litres, in addition to the independent potable water supply required by Rule 14.4.2.21 [submissions 4/1 and FS1/4]
or
- (ii) Provides at least 25 litres per second for 30 minutes..

This rule does not apply to lots created for the purpose of enabling a conservation block, a network utility, access to a lot or lots having no legal frontage, or a lot solely for a rural purpose and which does not require a building. [submission 3/1]

Advice note: [C16] Further advice and information about managing fire risk and storage of water for firefighting purposes can be obtained from Fire and Emergency New Zealand and NZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice. ~~sets out a number of options to provide water for the New Zealand Fire Service's operational requirements, and shall be used as a guide when designing fire fighting water protection.~~

Section 21 – Assessment Criteria and Information Requirements

Infrastructure, Hazards, Development and Subdivision Assessment Criteria		
<u>21.1.15.20A</u>	<u>Water supply for firefighting purposes where there is no, or restricted flow Council water supply</u>	<u>(a) The extent of consistency with the New Zealand Fire Service Code of Practice.</u> <u>(b) The potential for spread of fire to other buildings or properties.</u> <u>(c) Whether other fire mitigation measures are proposed.</u>



D



Part D – Section 32AA Evaluation

Part D – Section 32 Evaluation

3 Background and Context

3.1 Introduction

Section 32 Requirements

3.1.1 **Section 32 of the Resource Management Act 1991 (the Act) requires a council or supporter of a private plan change to evaluate the purpose of a proposal along with the proposed policies and methods, including rules.**

3.1.2 **The evaluation must:**

- (a) assess the scale and significance of the problem or issue;
- (b) examine whether the objectives of the plan change are the most appropriate way to achieve the purpose of the Act;
- (c) examine whether the proposed approach is the most appropriate way of achieving the objective;
- (d) identify and assess the benefits and costs of new provisions, including any assumptions and risks; and
- (e) assess the risks of acting or not acting if there is uncertain or insufficient information.

Section 32AA Requirements

3.1.3 Section 32AA of the Act sets out the requirements for undertaking and publishing further evaluations. It states that:

“(1) A further evaluation required under this Act -

- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and*
- (b) must be undertaken in accordance with section 32(1) to (4); and*
- (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
- (d) must -*
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or*

(ii) *be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.*

(2) *To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).*

(3) *In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act”.*

3.1.4 This report is an evaluation undertaken by the Waipā District Council in accordance with Section 32AA of the Act in relation to Proposed Plan Change 16 – Technical Improvements. The report focuses on the changes that have been made as a result of submissions and decisions from the Hearings Panel since the plan change was publicly notified.

3.1.5 This report has been prepared to fulfil the obligations of the Council under Section 32AA of the Act, with respect to undertaking a plan change within the Waipā District Plan.

3.2 Objective of Proposed Plan Change 16

3.2.1 The objective of Proposed Plan Change 16 – Technical Improvements was to:

- (a) Review the provisions in question to assess their efficiency and effectiveness, and whether they remain the most appropriate method of addressing the resource management issue; and
- (b) Amend the provisions in question as needed to remedy any issues around efficiency, effectiveness, costs or benefits, to ensure the health, safety and wellbeing of residents of the district is provided for through an appropriate policy framework.

3.2.2 The planning outcome sought by the objective was that the provisions that were the subject of the proposed plan change would be less ambiguous and more easily interpreted and implemented by all plan users.

3.3 Overview of Key Amendments

3.3.1 There are amendments to two of the topic areas of the proposed plan change since the initial s32 evaluation report was prepared prior to notification of the proposed plan change.

3.3.2 As a result of submissions and decisions on submissions, changes have been made to the provisions relating to outdoor living areas, and water supply for firefighting purposes.

3.4 Analysis of individual changes

3.4.1 Table 1 below shows the changes made to Proposed Plan Change 16 as a result of decisions on submissions.

Table 1: District Plan changes

Notified Version PC16	Decision Version PC16
<p>Rule – Outdoor living area</p> <p>2.4.2.18 Each dwelling shall have an outdoor living area which:</p> <p>(a) ...</p> <p>(d) — Is located in the north, east or west of the site.</p> <p>(e) Where a Principal Dwelling has a living area at Ground Level, it shall have a minimum continuous area of 60 <u>50</u>m² at ground level with a minimum dimension of 5 <u>4</u>m over the entire area.</p> <p>(f) Where a Principal Dwelling has the Living Area solely above ground level, part of the 60 <u>50</u>m² outdoor living area requirement must comprise a balcony that is directly accessible from the living area with a minimum area of 8m² and a minimum dimension of 2m. For the avoidance of doubt the remaining outdoor living area shall have a minimum dimension of 5 <u>4</u>m.</p>	<p>Rule – Outdoor living area</p> <p>2.4.2.18 Each dwelling shall have an outdoor living area which:</p> <p>(a) ...</p> <p>(c) is directly accessible from a living area of the dwelling, except where the outdoor living area complies with (g) below; and</p> <p>(d) — Is located in the north, east or west of the site.</p> <p>(e) Where a Principal Dwelling has a living area at Ground Level, it shall have a minimum continuous area of 60 <u>50</u>m² at ground level with a minimum dimension of 5 <u>4</u>m over the entire area.</p> <p>(f) Where a Principal Dwelling has the Living Area solely above ground level, part of the 60 <u>50</u>m² outdoor living area requirement must comprise a balcony that is directly accessible from the living area with a minimum area of 8m² and a minimum dimension of 2m. For the avoidance of doubt the remaining outdoor living area shall have a minimum dimension of 5 <u>4</u>m.</p>
<p><u>15.4.2.22A Where water is not supplied by Council or a private community supply, or water is supplied by Council but is a restricted flow supply, each lot shall provide access to water supply for firefighting purposes that is or will be:</u></p> <p><u>(a) Accessible to firefighting equipment; and</u></p> <p><u>(b) Between 6 and 90 metres from a dwelling on the site; and</u></p> <p><u>(c) On the same site as a dwelling (except where the specified volume or flow of water is in a pond, dam or river that is within the required distances); and</u></p>	<p><u>15.4.2.22A Where water is not supplied by Council or a private community supply, or water is supplied by Council but is a restricted flow supply, each lot shall provide access to water supply for firefighting purposes that is or will be:</u></p> <p><u>(a) Accessible to firefighting equipment; and</u></p> <p><u>(b) Between 6 and 90 metres from a dwelling on the site; and</u></p> <p><u>(c) On the same site as a dwelling (except where the specified volume or flow of water</u></p>

Notified Version PC16	Decision Version PC16
<p><i>(d) Either:</i></p> <p>(i) <u>Stores at least 45,000 litres, or</u></p> <p>(ii) <u>Provides at least 25 litres per second for 30 minutes.</u></p>	<p><i>is in a pond, dam or river that is within the required distances); and</i></p> <p><i>(d) Either:</i></p> <p>(i) <u>Stores at least 45,000 litres in addition to the independent potable water supply required by Rule 15.4.2.22, or</u></p> <p>(ii) <u>Provides at least 25 litres per second for 30 minutes.</u></p> <p><u>This rule does not apply to lots created for the purpose of enabling a conservation block, a network utility, access to a lot or lots having no legal frontage, or a lot solely for a rural purpose and which does not require a residential building.</u></p>

3.5 Criteria Assessment

- 3.5.1 An assessment of the changes made to the plan change since the initial s32 evaluation report was completed has been undertaken.

Table 2: Criteria assessment

Criteria	Assessment
Consistency with purpose of the Act	Sustainable management of resources is the purpose of the Resource Management Act. The amendments to the rules are consistent with the purpose and principles of the RMA.
Effectiveness	The rules are more effective with the amendments included as a result of submissions.
Efficiency	A fewer number of resource consents will be required for outdoor living areas that cannot be provided with direct access from a living area.
Degree of risk	Reduces the risk to landowners by not requiring a water supply in certain situations.
Overall assessment	The amendments as a result of Council decisions are considered to meet the objectives of the plan change as identified in the s32 report.