

Proposed Plan Change 16: Technical Improvements

Incorporating

Section 32 Evaluation Report

December 2020

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Report Information

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Executive Summary: Technical Improvements

As part of the ongoing review and assessment of the Waipā District Plan, Council have identified several provisions that are ambiguous, difficult to interpret and implement or have little policy support, particularly those provisions relating to water supplies for firefighting purposes in rural areas, facades and glazing on stand-alone garages, and outdoor living areas.

The purpose of Proposed Plan Change 16 is to make technical improvements to those provisions in order that they are more effective and efficient, and better meet the purpose of the Resource Management Act (RMA).

Council staff have considered and assessed several options in relation to the provisions that are the subject of this report.

The preferred option as a result of Council's Section 32 analysis, involves the following changes:

Topic 1 - Water supply for firefighting purposes

Section 15 – Infrastructure, Hazards, Development and Subdivision:

- Insert a new issue, objective and policy so there is increased policy support for the existing rule that requires water supply for firefighting purposes in rural areas; and
- Introduce measurable standards into the existing rule so that it specifies more clearly the levels of water supply required for firefighting purposes.

Topic 2 - Facades, glazing and outdoor living areas

Section 2 – Residential Zone:

- Change rules relating to facades and glazing so that the rules no longer apply to stand-alone garages; and
- Change the existing outdoor living areas rule to provide greater flexibility in the location of outdoor living space and to reduce the minimum area of outdoor living space that is required.



A

Part A – Proposed Plan Change 16 Technical Improvements

Part A – Proposed Plan Change 16

1 Summary of proposed changes to the Waipā District Plan

1.1 Introduction

The purpose of Proposed Plan Change 16 is to make amendments to the Waipā District Plan (District Plan) in order that the provisions subject of this plan change are more easily interpreted and implemented.

Specifically, it introduces a more supportive policy framework for the existing rule relating to water supplies for firefighting purposes in the rural areas of the district, and measurable standards to the existing rule to assist interpretation.

Further, existing rules relating to facades, glazing and outdoor living areas are amended to improve efficiency and effectiveness.

Proposed Plan Change 16 makes changes to the following sections of the District Plan:

- Section 2 – Residential Zone
- Section 15 – Infrastructure, Hazards, Development and Subdivision
- Section 21 – Assessment Criteria and Information Requirements

The following summary of proposed changes are by Topic.

1.2 Water supply for firefighting purposes

A number of changes to the existing, and the insertion of new provisions are proposed as summarised below.

1.2.1 Section 15 – Infrastructure, Hazards, Development and Subdivision

Issues

- Insert Issue 15.2.1A – to identify the resource management issue relating to rural fires and health and safety.

Objectives

- Insert Objective 15.3.5A – so that significant adverse effects arising from subdivision in un-serviced areas of the district are avoided.

Polices

- Insert Policy 15.3.5A.1 – to provide policy support for the existing rule.

Rules

- 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.

1.2.2 Section 21 – Assessment Criteria and Information Requirements

- Insert Criteria 21.1.15.20A – include new assessment criteria.

1.3 Facades

Changes to the existing, and the insertion of a new provision is proposed as summarised below:

1.3.1 Section 2 – Residential Zone

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

1.3.2 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.

1.4 Glazing

A minor change to an existing provision is proposed as summarised below:

1.4.1 Section 2 – Residential Zone

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

1.5 Outdoor living areas

A minor change to an existing provision is proposed as summarised below:

1.5.1 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.

1.5.2 Section 21 – Assessment Criteria and Information Requirements

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

2 Recommended Tracked Changes to Waipā District Plan

The following sets out the proposed changes for Proposed Plan Change 16. The proposed changes are shown with new additions underlined, and deletions shown as ~~strikeouts~~. Consequential renumbering may occur throughout amended Sections.

2.1 Water supply for firefighting purposes

2.1.1 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, 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.~~

2.1.2 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>

2.2 Facades

2.2.1 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.

Activities that fail to comply with this rule 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.

2.2.2 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). <u>(c) Whether the garage is practically located on the site of an existing dwelling.</u>

2.3 Glazing

2.3.1 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.

2.4 Outdoor living areas

2.4.1 Section 2 – Residential Zone

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.

2.4.2 Section 21 – Assessment Criteria and Information Requirements

Residential Zone Assessment Criteria		
21.1.2.11	Outdoor living area	<ul style="list-style-type: none"> (a) The internal layout of the dwelling and its relationship to the outdoor living area. (b) The size, and dimension, and orientation of the outdoor living area.



B



Part B – Section 32 Evaluation

Part B – Section 32 Evaluation

3 Background and Context

3.1 Introduction

This report presents an evaluation undertaken by the Waipā District Council (Council) in accordance with Section 32 of the Resource Management Act 1991 (RMA) in relation to Proposed Plan Change 16 – Technical Improvements to the Waipā District Plan (District Plan). Undertaking a Section 32 evaluation assists in determining why changes to existing plan provisions may be needed and formalises a process for working out how best to deal with resource management issues.

This report is as a result of a review of several provisions in the District Plan. Proposed Plan Change 16 makes technical improvements to the facades and glazing rules, and the outdoor living area rule in the Residential Zone, and to the water supply for firefighting purposes subdivision rule, which mainly affects rural or un-serviced properties.

This report examines the extent to which the objectives of Proposed Plan Change 16 are the most appropriate way to achieve the purpose of the RMA and assesses whether the proposed provisions are the most appropriate way of achieving those objectives. In assessing the proposed provisions, Council must consider other reasonably practicable options and assess the efficiency and effectiveness of the provisions in achieving Proposed Plan Change 16 objectives. Assessing effectiveness involves examining how well the provisions will work. Determining efficiency involves an examination of benefits and costs.

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

3.2 Background

The District Plan contains many provisions that aim to promote sustainable management within the District. Many of them relate to amenity within residential areas. Of particular note in this plan change, are those provisions that are ambiguous or difficult to interpret, or have proven to be challenging in a physical sense i.e. difficult to implement on the ground.

This plan change is proposed so that improvements can be made to provisions in the District Plan relating to water supply for firefighting purposes in the Rural Zone, facades and glazing, and outdoor living areas in the Residential Zone.

The provisions that are the subject of this plan change have been identified by Council staff and others as being ambiguous and difficult to interpret and implement and have been programmed for review for some time.

3.3 Current District Plan Provisions

This part of the report outlines provisions that have been identified by Council staff and others that require improvement in order that they are more easily interpreted or applied. In summary, for some of the topics identified, the policy framework is adequate and does not require amendment. In other cases, proposed amendments to the rules require that adjustments are made to objectives and policies, or indeed new objectives and policies are introduced to give greater justification for the rules.

Water for firefighting purposes

Rule 15.4.2.22 of Section 15 – Infrastructure, Hazards, Development and Subdivision states:

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.*

Advice note: SNZ 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.

Activities that fail to comply with [Rule] 15.4.2.22 will require a resource consent for a non-complying activity.

Part (b) of the rule is the subject of this plan change. The rule seeks to ensure that the effects of a fire can be mitigated, particularly in the rural areas of the district, where there is no reticulated water supply. The Advice Note refers to the New Zealand Fire Service Firefighting Water Supplies Code of Practice (COP) as a means of compliance with the rule, or for guidance when designing firefighting water protection. The COP contains a number of options for providing firefighting water, but is not mandatory in rural areas where there is no Council water supply.

The rule is not well supported by objectives and policies. The existing objectives and policies focus on subdivision in areas where natural hazards are a risk e.g. flood hazard areas. They do not focus on risk associated with other threats that might affect the health and safety of residents e.g. fire that is not a result of natural processes. Improvements to the policy framework, as well as to the rule itself are necessary to improve the effectiveness of the provisions.

Facades

In Section 2 – Residential Zone, Rule 2.4.2.3 states:

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 façade (of the dwelling and detached garage) can consist of garaging.

Any activity that does not comply with this rule will require a resource consent for a restricted discretionary activity.

The purpose of the rule is to minimise blank walls presenting to the street (i.e. garage walls or doors) and therefore enable passive surveillance of the street from inside the dwelling. This in turn meets the obligations of the Crime Prevention Through Design principles (CPTED), which is part of the New Zealand Urban Design Protocol, to which Waipā District Council is a signatory.

The rule on facades is reasonably well supported by a suitable objective and a number of policies. Objective 2.3.2 Neighbourhood amenity and safety aims:

“To maintain amenity values and enhance safety in the Residential Zone”

with associated policies as below:

“2.3.2.19 to enhance the safety of residential neighbourhoods through site layouts and building designs that incorporate Crime Prevention through Environmental Design (CPTED) principles.”; and

“2.3.2.20 To ensure that passive surveillance is provided to roads, reserves and walkways.”

Glazing

Rule 2.4.2.19 in the Residential Zone, relating to glazing states:

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

It then goes on to explain further the requirements for determining the front façade of a building so that it is clear which façade or side of the building the glazing rule refers to. Note that clause (e) of the rule states that it does not apply to relocated buildings.

The purpose of the rule is to require a certain amount of glazing on the front façade of a building that adjoins a public place, in order to allow passive surveillance of those public places. The principles of Crime Prevention through Environmental Design are evident in this rule.

This rule on glazing shares the same objective and policies as the rule on facades, and is considered to be sufficiently supported by that framework.

Outdoor Living Area

The District Plan requires that an outdoor living area be provided for every new dwelling in the Residential Zone. Rule 2.4.2.18 states:

Each dwelling shall have an outdoor living area which:

- (a) Is for exclusive use of the dwelling and is contained within the site on which the dwelling is located; and*
- (b) Is free of buildings, driveways, manoeuvring areas, parking spaces, and outdoor storage areas, but may include covered or uncovered decks, roof overhangs, and pergolas and that are designed to provide cover for users of the outdoor living area; and*
- (c) Is directly 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 60m² at ground level with a minimum dimension of 5m over the entire area.*
- (f) Where a Principal Dwelling has the Living Area solely above ground level, part of the 60m² 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 5m.*
- (g) In the case of Secondary Dwellings, the outdoor living area shall be:
 - (i) Additional to the outdoor living area for the Principal Dwelling; and*
 - (ii) A minimum of 35m² in a continuous area with a minimum dimension of 4m over the entire area.**

The rule then goes on to identify some exceptions.

This rule is supported by a strong objective and policy framework, including provisions that address whole-of-town, neighbourhood and on-site amenity in the Residential Zone. The outdoor living area rule is one of many that contribute to achieving the objectives of the Residential Zone. Other examples include minimum building setbacks from road and side boundaries, building height and length restrictions, and maximum site coverage limits.

The problem with the current rule is that it can result in outdoor living areas that are an unusable shape, and often only minor infringements result in the need for a resource consent.

3.4 Statutory Considerations

The following statutory documents are considered relevant to Proposed Plan Change 16. A discussion of each of the key statutory considerations is provided below. The documents are as follows:

- Resource Management Act 1991
- Building Act 2004
- Civil Defence Emergency Management Act 2002
- National Policy Statement on Urban Development 2020
- Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010
- Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 (Upper River Act)
- Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River
- Nga Wai o Maniapoto (Waipā River) Act 2012
- Waikato Regional Policy Statement: Te Tauākī Kaupapahere Te-Rohe O Waikato
- Joint Management Agreements
- Iwi Environmental Plans

3.4.1 Resource Management Act 1991

Section 5 of the RMA states as its purpose:

- 1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- 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 well-being and for their health and safety while—*
 - (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*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The purpose of the RMA is only achieved when the matters in (a) to (c) have also been adequately provided for within a District Plan. The Council has a duty under Section 32 to examine whether a proposed objective and its provisions are the most appropriate way of achieving the purpose of the RMA. In order to achieve the purpose of the RMA, Council must enable people and communities to provide for their economic, social, and cultural well-being and for their health and safety.

Proposed Plan Change 16 is considered to achieve the purpose of the RMA.

3.4.2 Building Act 2004

The Building Act 2004 is the primary legislation governing the building industry. Its purpose is that:

- People can use buildings safely and without endangering their health.
- Buildings have attributes that contribute appropriately to the health, physical independence and wellbeing of people who use them.
- People who use a building can escape from the building if it is on fire.
- Buildings are designed, constructed and able to be used in ways that promote sustainable development.

The Building Act and its accompanying Building Code set out requirements for protection of buildings against fire, but are more concerned with public buildings, buildings that are joined together by a common wall, neighbouring properties and the materials used in such buildings. While the Building Act does not concern itself with water supply for firefighting purposes for rural buildings, an issue arises at the time of building consent under the current rule for rural firefighting which refers to the Firefighting Water Supplies Code of Practice. If compliance with the Code of Practice is required in the District Plan, this creates a disconnect with the Building Act which does not require compliance with the Code of Practice. This issue manifests at the time of building consent, with builders and homeowners challenging Council's ability to impose a district plan requirement, for what they see as a building issue, over and above the requirements of the Building Act. They also raise the issue of the additional cost of providing on-site water supply, although these costs are relatively minor relative to the cost of a build and the potential benefits (safety, building, contents and insurance) that accrue from on-site water supply for firefighting.

This puts Council in a difficult position, particularly given the ambiguity and lack of clarity in the Code of Practice.

The intent of Proposed Plan Change 16 is to more clearly separate out the Resource Management Act functions (section 5 purpose of the RMA - providing for people's social, economic, and cultural well-being and for their health and safety), from the functions of the Building Act (physical and structural integrity of built structures).

The proposed change is considered an improvement on the current rule, and will go some way to creating clearly and more certain separation.

3.4.3 Civil Defence Emergency Management Act 2002

One of the purposes of the Civil Defence Emergency Management Act 2002 (CDEM) is to “encourage and enable communities to achieve acceptable levels of risk” by identifying risks and applying risk reduction management practices. While generally thought of as applying to district-wide risk from natural hazards or emergencies, the principle of encouraging people to be prepared for risk on an individual basis on their own property is important. For this reason, it is considered that the CDEM has some relevance to Proposed Plan Change 16, in particular section 5, the purpose of the RMA (providing for people’s social, economic, and cultural well-being and for their health and safety).

3.4.4 National Policy Statement on Urban Development 2020

The National Policy Statement on Urban Development 2020 (NPS-UD 2020) was gazetted on 23 July 2020 and has legal effect from 20 August 2020. The NPS-UD 2020 has identified Waipā District as a high-growth urban area and a tier 1 urban environment.

The NPS-UD 2020 recognises the national significance of:

- *having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future*
- *providing sufficient development capacity to meet the different needs of people and communities.*

While the NPS-UD is a high level central government policy document, the principles within it must be given effect to by Council. Although Proposed Plan Change 16 contains detailed technical improvements, it is considered to align with the provisions of the NPS-UD in that the amendments to the rules in the Residential Zone will promote well-functioning urban environments that enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. The NPS-UD 2020 is not relevant to the topic of water supply for firefighting purposes in rural areas.

3.4.5 Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

The Waikato River was subject to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 which seeks to provide direction for planning documents under the RMA in order to protect the health and well-being of the Waikato River. The legislation addresses a number of issues and created a single co-governance entity to set the agenda for the health and wellbeing of the Waikato River for future generations being the Waikato River Authority.

Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River, is part of the second schedule to the Settlement Act, and is deemed part of the Waikato Regional Policy Statement. Waipā District Council has a duty to give effect to the Vision and Strategy for the Waikato River, through the District Plan and other planning documents.

During the preparation of Proposed Plan Change 16, Council staff have considered the vision for the Waikato River and its significance under this legislation for iwi. The overall objectives for the proposed plan change relate to rules that already exist in the District Plan. The rules apply district wide, but are specific to particular buildings and on individual sites.

Overall, the outcomes sought by Proposed Plan Change 16 are not considered to be contrary to the directions sought under this legislation.

3.4.6 Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 (Upper River Act)

The Waikato River is also subject to the Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 (Upper River Act) which recognises the significance of the river to Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi. The legislation recognises Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River, provides for co-management arrangements and grants functions and powers to the Waikato River Authority.

As outlined above, Waipā District Council has a duty to give effect to the Vision and Strategy for the Waikato River, through the District Plan and other planning documents. During the preparation of Proposed Plan Change 16, Council staff have considered the vision for the Waikato River and its significance under this legislation for Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi. The outcomes sought by Proposed Plan Change 16 are not considered to be contrary to the directions sought under this legislation.

3.4.7 Nga Wai o Maniapoto (Waipā River) Act 2012

In September 2010, the Crown and Maniapoto signed a Deed in Relation to Co-Governance and Co-Management of the Waipā River (the Maniapoto Deed). The Nga Wai o Maniapoto (Waipā River) Act 2012 (the Waipā River Act) was enacted to give effect to the Maniapoto Deed which seeks to “deliver a new era of co-management over the Waipā River with an overarching purpose of restoring and maintaining the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia”. During the preparation of Proposed Plan Change 16, Council staff have considered the vision for the Waipā River and its significance under this legislation for Maniapoto. The outcomes sought by Proposed Plan Change 16 are not considered to be contrary to the directions sought under this legislation.

3.4.8 Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River

Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River arises from the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and the Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010. These acts establish a co-governance regime to protect the health and wellbeing of the Waikato River for future generations. This includes the lower Waipā River to its confluence with the Puniu River.

The vision for the Waikato River is “for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come.”

The Vision and Strategy also includes objectives and strategies to achieve the vision. Waipā District Council has a duty to give effect to the Vision and Strategy for the Waikato River, through the District Plan and other planning documents.

Waipā District Council has joint management agreements in place with the iwi that have rohe within the District. During the formulation of Proposed Plan Change 16 Council staff provided information on the draft plan change in general accordance with those joint management agreements. The Vision and Strategy has been fully considered during the formulation of the Proposed Plan Change 16. The proposed plan change does not affect how the District Plan overall “gives effect” to the Vision and Strategy.

3.4.9 Waikato Regional Policy Statement: Te Tauākī Kaupapahere Te-Rohe O Waikato

The Waikato Regional Policy Statement (RPS) is the overarching regional policy document and Waipā District Council must give effect to the RPS through its district plan. Part 6 of the RPS includes policies related to the built environment, some of which are relevant to the District Plan. However, they are very broad policies associated with long term strategic urban development. For this reason, the RPS is not relevant to Proposed Plan Change 16.

3.4.10 Joint Management Agreements (“JMA”)

3.4.10.1 Waikato Raupatu River Trust

The Waikato Raupatu Claims Settlement Act 1995 gave effect to certain provisions of the deed of settlement between the Crown and Waikato dated 22 May 1995. It settled certain Raupatu claims made to the Waitangi Tribunal by Robert Te Kotahi Mahuta, the Tainui Maaori Trust Board, and Ngaa Marae Toopu (Wai 30). Renegotiations in 2009 led to the agreement of a new deed of settlement which included provisions related to joint management agreements. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 was enacted to give effect to

that deed of settlement and subsequently a Joint Management Agreement with Waipā District Council was made.

This agreement includes giving appropriate weight to relevant matters provided for in the Settlement Act 2010, respecting the mana whakahaere rights and responsibilities of Waikato-Tainui, recognising the statutory functions, powers and duties of both parties, and recognising the Trust's rights to participate in processes where circumstances may be appropriate.

Schedule B of the Agreement outlines the anticipated process with regards to Schedule 1 of the RMA, in accordance with sections 46(1) and 46(2). Council staff corresponded with Waikato-Tainui commencing on 8 October 2020 as part of the pre-notification consultation.

3.4.10.2 Raukawa Settlement Trust

The Ngati Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 was enacted to give effect to the Co-Management Deed signed between Raukawa and the Crown in December 2009. The Joint Management Agreement was consequently established pursuant to Section 43 of the Ngati Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.

This agreement covers matters relating to co-management, agreement to embrace new and holistic ways of working together, and the continuation of building a functional and effective long-term partnership. The agreement includes matters relating to the preparation, reviewing, change or variation to RMA documents, pursuant to Section 48 of the Ngati Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.

Section 7 of the agreement outlines the expectations with regard to planning documents. Early engagement and the consideration of a Joint Working Party are the relevant considerations with regard to Proposed Plan Change 16. Council staff corresponded with the Raukawa Settlement Trust commencing on 8 October 2020 prior to the public notification of Proposed Plan Change 16 in accordance with the agreement.

3.4.10.3 Maniapoto Māori Trust Board

As outlined above, the Nga Wai o Maniapoto (Waipā River) Act 2012 (the Waipā River Act) was enacted to give effect to the Maniapoto Deed, and a deliverable of this settlement was the establishment of a joint management agreement between the local authorities and the Maniapoto Māori Trust Board.

The agreement covers matters relating to the Waipā River, activities within its catchment, matters relating to the exercise of functions, duties and powers in relation to monitoring and enforcement, RMA planning documents and applications, and other duties as agreed between the relevant parties.

Section 6 of the agreement outlines the expectations with regard to planning documents. Early engagement and the consideration of a Joint Working Party are the relevant considerations with regard to Proposed Plan Change 16. Council staff corresponded with the Maniapoto Māori Trust Board commencing on 8 October 2020 prior to the public notification of Proposed Plan Change 16 in accordance with the agreement.

3.4.11 Iwi Environmental Plans

3.4.11.1 Tai Tumu, Tai Pari, Tai Ao – Waikato Tainui Iwi Environmental Management Plan

Tai Tumu, Tai Pari, Tai Ao purpose is to enhance collaborative participation between Waikato Tainui and agencies in resource and environmental management. It provides high level guidance on Waikato Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment. The plan highlights the need for enhancement and protection of landscape and natural heritage values.

Proposed Plan Change 16 is not considered to be contrary to Tai Tumu, Tai Pari, Tai Ao.

3.4.11.2 Ko Tā Maniapoto Mahere Taiao – Maniapoto Environmental Management Plan

Ko Tā Maniapoto Mahere Taiao is a high level direction setting document and describes issues, objectives, policies and actions to protect, restore and enhance the relationship of Maniapoto with the environment including their economic, social, cultural and spiritual relationships. The Plan is also a tool to support the leadership of Maniapoto at the forefront of exercising kaitiakitanga and rangatiratanga within the Maniapoto rohe.

Proposed Plan Change 16 is not considered to be contrary to Ko Tā Maniapoto Mahere Taiao.

3.4.11.3 Te Rautaki Taiao a Raukawa - Raukawa Environmental Management Plan

Te Rautaki Taiao a Raukawa, the Raukawa Environmental Management Plan provides a statement of values, experiences and aspirations pertaining to the management of, and relationship with the environment. It assists in engagement in policy and planning processes and resource management decisions. The Management Plan offers broad objectives in relation to this matter.

Proposed Plan Change 16 is not considered to be contrary to Te Rautaki Taiao a Raukawa.

3.4.11.4 Te Rautaki Tāmata Ao Turoa o Hauā — Ngāti Hauā Environmental Management Plan

Te Rautaki Tāmata Ao Turoa o Hauā explains the importance of communication between local authorities and Ngāti Hauā in terms of keeping the Iwi Trust informed about projects, providing a feedback loop and opportunity for relationship building. The plan clearly outlines that engagement is expected and that the Iwi seek opportunities to participate in consent and site monitoring and restoration projects.

Proposed Plan Change 16 is not considered to be contrary to Te Rautaki Tāmata Ao Turoa o Hauā.

3.4.12 Ngāti Koroki Kahukura

The ancestral tribal rohe of Ngāti Koroki Kahukura spans from Southern Hamilton City, following the Waikato River to the northern end of Lake Arapuni, inland to western Te Awamutu and through again to southern Hamilton City encompassing Mount Maungatautari and many kāinga settlements. Although Council does not have a Joint Management Agreement in place with Ngāti Koroki Kahukura, they are part of the local tangata whenua and for this reason Council have consulted with Ngāti Koroki Kahukura regarding Proposed Plan Change 16. During the review of the formulation of Proposed Plan Change 16, Council staff have corresponded with and provided information on the draft Plan Change 16 to Ngāti Koroki Kahukura.

3.5 Other Considerations

3.5.1 New Zealand Fire Service Water Supplies for Firefighting Code of Practice 2008

The main purpose of the New Zealand Fire Service Water Supplies for Firefighting Code of Practice (COP) is to set out what constitutes a sufficient minimum supply of water pressure and volume for firefighting in structures in urban districts. This aspect of the COP is mandatory and is implemented through the Regional Infrastructure Technical Specifications (RITS), a document that standardises the design and construction of infrastructure throughout the region. The COP also contains recommendations for minimum water supplies for firefighting in rural areas, but they are not mandatory. For example, single family dwellings that do not have a sprinkler system are recommended to supply 45,000 litres of water (in addition to potable water supply), or a minimum of 25 litres per second for 30 minutes. Fire and Emergency New Zealand advocates that the recommendations contained in the COP are included in district plans as a way to mitigate the effect of fire risk in rural areas. For this reason, the COP is highly relevant to this plan change.

3.5.2 New Zealand Urban Design Protocol

Waipā District Council is a signatory to the New Zealand Urban Design Protocol, a document that provides a platform to make New Zealand towns and cities more successful through quality urban design. The Protocol identifies key urban design

qualities and has an expectation that signatories will be committed to quality urban design and will implement it through the work of each organisation. In Waipā District Council's case, this would be through provisions in the District Plan. Therefore, given the subject of this plan change, the New Zealand Urban Design Protocol is directly relevant to Proposed Plan Change 16.

3.6 Development of Proposed Plan Change 16

The development of Proposed Plan Change 16 has been carried out over a number of months during 2020. The basis of the proposed plan change came from the identification of several rules in the District Plan that were ambiguous and difficult to interpret, as well as some that triggered resource consent applications when there was no other practicable option in the physical sense.

Consultation was undertaken with staff and the Strategic Planning and Policy (SP&P) Committee once the topics had been assessed for priority. Workshops were held with the SP&P Committee on several occasions to keep them informed of the issues and options, and progress being made on a potential plan change.

Alongside staff consultation was an engagement process with Iwi Authorities that is ongoing. Council staff attended Waipā Iwi Consultative Committee meetings and Ngā Iwi Tōpū O Waipā meetings throughout 2020 providing presentations of the issue and options being considered, and regular updates regarding the progressing of Proposed Plan Change 16.

A full copy of the Proposed Plan Change 16 document and accompanying draft Section 32 Report was provided to Waikato-Tainui, Maniapoto, Raukawa, Ngati Hauā, and Ngāti Koroki Kahukura in October 2020 for comment. This was both to fulfil Council's obligations under Clause 4A of the First Schedule of the RMA and under the various Joint Management Agreements that Council has with Tangata Whenua in the District.

Council staff identified key stakeholders, including adjoining territorial authorities, Ministry for the Environment, Fire and Emergency New Zealand, Civil Defence and Emergency Management, surveyors, planners, real estate agents and building companies. These key stakeholders were consulted with prior to public notification of Proposed Plan Change 16 and had the opportunity to provide feedback on the proposed options.

This feedback from key stakeholders and iwi was considered by Council staff and incorporated into Proposed Plan Change 16 prior to public notification. Feedback received from stakeholders is shown in **Appendix 1**.

4 Issues

4.1 Issue 1 – Water supply for firefighting purposes

Rule 15.4.2.22 – “When infrastructure services are not provided by Council” - was originally included in the District Plan as a result of a submission from the New Zealand Fire Service¹ during the District Plan review. Since then, due to its ambiguity and the expense to property owners to implement, the rule has not been well administered or enforced by the Council. It has been programmed for review for some time.

4.2 Issue 2 – Facades and glazing

The District Plan contains provisions relating to facades, neighbourhood amenity and safety, and glazing. They are part of a suite of rules to encourage higher amenity streetscape and CPTED (Crime Prevention through Environmental Design). They include design of building façade, and neighbourhood amenity and safety.

The relevant rules relate to glazing and design of the building façade. Concern has been raised by planning staff that new stand-alone garages cannot meet glazing requirements, nor, when located in front of the house, the requirement to be less than 50% of the façade.

Stand-alone garages have the most difficulty complying with the rules. This is because such garages are generally built on sites where there is already an existing house. For this reason, it is difficult to meet the glazing and façade requirements, when it is the only building being assessed and is not part of a larger development. It is easier for new buildings and houses to comply because the rule requirements are addressed at the design stage. The consent planners have adopted their own interpretation of the rules in order to provide a practical outcome to resource consent applicants.

4.3 Issue 3 – Outdoor Living Area

The current rule for outdoor living areas is difficult to implement, and sometimes results in unusual outcomes for the site on which it is located. The main concern is that the conditions in the rule, particularly the minimum dimension condition, can result in an odd shaped outdoor living area i.e. one that wraps around the corner of the building and is split by being located on a side boundary. This renders the outdoor living area an unusable shape. It is difficult to determine how many outdoor living

¹ Note that New Zealand Fire Service Commission became Fire and Emergency New Zealand (FENZ) on 1 July 2017. FENZ is the same legal body as the former Commission.

areas in the Residential Zone are an unusable shape, because they comply with the rule as it is currently worded.

Additionally, the requirement to locate the outdoor living area in the north, east or west of the site reduces options for home owners.

5 Objectives

The objectives of Proposed Plan Change 16 are to:

- 1) 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
- 2) 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.

The planning outcome sought by Objective 1 is that the provisions subject of the proposed plan change are less ambiguous and more easily interpreted and implemented by all plan users, as well enabling practical outcomes “on the ground”.

Objective 2 seeks to provide for the health, safety and wellbeing of the residents of the district through improving residential amenity outcomes (for facades/glazing, and outdoor living areas), and increasing resilience to risks such as fire through improved safety measures at the time of subdivision and subsequent development.

5.1 Relevance of existing objectives

Proposed Plan Change 16 retains the existing planning framework of the District Plan, with the exception of the introduction of a new objective and policy in respect of water supply for firefighting purposes.

5.1.1 Section 15 – Infrastructure, Hazards, Development and Subdivision

Section 15 of the District Plan includes issues, objectives, policies and rules for subdivision, and outlines the matters that determine the ability of a subdivision to proceed. In the Rural Zone, this includes the provision of appropriate on-site infrastructure, and the consideration of matters such as site suitability, natural hazards and protection of important features, such as landscapes, cultural and heritage sites, and productive land.

However, none of the existing objectives are relevant to the matter of providing for people’s health and safety within rural areas of the District, or more specifically on-site, where health and safety provisions could be achieved most easily.

5.1.2 Section 2 – Residential Zone

Section 2 – Residential Zone identifies issues, objectives and policies that all have the effect of addressing amenity values in the Residential Zone. As an example, Objective 2.3.2 is to “Maintain amenity values and enhance safety in the Residential Zone”. This objective has a number of associated policies that identify how the objective will be achieved, including:

2.3.2.19 *To enhance the safety of residential neighbourhoods through site layouts and building designs that incorporate Crime Prevention through Environmental Design (CPTED) principles.*

2.3.2.20 *To ensure that passive surveillance is provided to roads, reserves and walkways.*

2.3.3.4 *Each dwelling on a site shall have a usable and easily accessible outdoor living area, that is positioned to receive sun throughout the year, and is accessed from a living area of the dwelling, provided that this policy does not apply to compact housing and retirement village accommodation.*

5.2 Appropriateness of Proposed Plan Change 16 Objectives

Assessment of appropriateness of Plan Change Objectives	Objective 1: 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.	Objective 2: 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.
Relevance	<ul style="list-style-type: none"> Assists Council to carry out statutory functions through improved interpretation and implementation of rules. Implements other documents that Council is a signatory to. 	<ul style="list-style-type: none"> Meets the purpose of the RMA.
Usefulness	<ul style="list-style-type: none"> Provides certainty for decision making and resource consent applicants. Provides practical and useful outcomes by reducing the need for resource consent in some situations. 	<ul style="list-style-type: none"> Provides certainty for decision making and subdivision applicants. Improves resilience to risks for residents through better mitigation measures.
Achievability	<ul style="list-style-type: none"> Achievable through Council’s functions in regard to its District Plan. 	<ul style="list-style-type: none"> Improves policy support for an existing rule.

Assessment of appropriateness of Plan Change Objectives	Objective 1: 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.	Objective 2: 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.
Reasonable	<ul style="list-style-type: none"> Fewer costs because fewer resource consents required for some activities. 	<ul style="list-style-type: none"> The rule already exists so it is reasonable to continue to implement it.

The above assessment has considered relevance, usefulness, achievability and reasonableness in order to determine if the objectives of Proposed Plan Change 16 are appropriate for achieving the purpose of the RMA.

Including a new objective and policy in relation to water supply for firefighting purposes is considered to improve policy support for an existing rule and enables people and communities to provide for their health and safety. This in turn meets the purpose of the RMA.

Improving the efficiency and effectiveness of provisions relating to facades and glazing, and outdoor living areas addresses current problems in interpretation and implementation of the rules.

For these reasons, the objectives of Proposed Plan Change 16 are considered an appropriate way to achieve the purpose of the RMA in accordance with section 32(1)(a).

5.3 Options to deliver Proposed Plan Change 16 Objectives

Section 32(1)(b)(i) of the RMA requires this report to identify “*other reasonably practicable options*” to promote sustainable management, including retaining the status quo, non-regulatory methods and plan changes. This part of the report outlines the processes undertaken and examines other reasonably practicable options considered to achieve the objectives of Proposed Plan Change 16.

In considering reasonably practicable options, a number of matters were examined before the alternative options were identified. Options were identified through feedback from internal and external stakeholders, consultation and examination of policy options by other territorial authorities.

The alternatives evaluated for the objectives of Proposed Plan Change 16 are discussed below.

5.3.1 Option 1 – Status Quo

The option to “do nothing” or retain the existing provisions as they are in the District Plan would not amend the rules for water supply for firefighting purposes, facades

and glazing and outdoor living areas. This option is not appropriate because it is clear that the rules are not working in the way they were intended to.

In relation to water supplies for firefighting purposes, the current rule is not well implemented because it is not easy to interpret. It is not clear at which stage of the planning process the rule applies, or whether properties with a restricted flow water supply must also comply. Additionally there is not a policy framework to support the current rule, resulting in it not being well understood or implemented.

In the case of facades and glazing the current rules trigger unnecessary resource consent applications and staff are already interpreting and implementing the rules in a practical way.

With regard to outdoor living areas, while well supported by a strong policy framework, the rule itself results in some odd shaped, unusual and unusable outdoor living areas.

5.3.2 Option 2 – Change the Rules to remedy the Identified Issues

With regard to water supply for firefighting purposes, this option would introduce a new policy framework, including a resource management issue, objective and policy to support the existing rule. The current rule would be amended so that it is clear and unambiguous in its intent. For example, the rule needs to be clear that it applies at subdivision, and where water is supplied on a restricted flow as well as when there is no Council water supply.

A consent notice would continue to be applied to new Records of Title making it clear that subsequent development and buildings will need to comply with the requirements of the District Plan.

In relation to facades, this option would also amend Rule 2.4.2.3 to make it clear that the requirement for no more than 50% of the façade applies only:

- If the garage is part of, and integrated into the dwelling; or
- If the garage is stand-alone and it is either forward of, or adjacent to the existing dwelling.

Additionally, this option would also amend Rule 2.4.2.19(e) to make it clear that the requirement for a building to have 15% of its front façade in glazing does not apply to stand-alone garages.

Amendments to Rule 2.4.2.18 would allow more flexibility in the location of outdoor living areas, as well as reduce the size requirement.

For these reasons, Option 2 is the preferred option in order to achieve the objectives.

5.3.3 Option 3 – Delete the rules entirely and rely on other methods outside the District Plan

This option would rely on other methods, for example non-regulatory methods, other legislation or policies to achieve the purpose of the RMA.

With regards to the supply of water for firefighting purposes this option would rely on other statutory or non-statutory instruments to ensure that the exposure of people and property to the risk of rural fires is minimised.

Other legislation and standards including the Building Act (and its accompanying Building Code) and the New Zealand Fire Service Firefighting Water Supplies Code of Practice on its own, cannot be relied upon to provide the necessary risk minimisation. The measures within these documents are often not mandatory in rural areas, and especially not for residential buildings. However, in conjunction with rules in the District Plan, the COP does provide appropriate guidance for water supplies in rural areas.

Interestingly, New Zealand’s leading rural insurance provider does not provide discounts on insurance premiums where water for firefighting purposes is provided on site. This is an option that FENZ could pursue.

The Civil Defence Emergency Management Act creates a framework within which New Zealand can prepare for, deal with and recover from local, regional and national emergencies. The National Disaster Resilience Strategy encourages individuals and others to prepare for emergencies, but again this is not mandatory.

Council could rely on a public education campaign or other legislation to mitigate the effect of fire in rural areas. However, as the rule already exists in the District Plan, it would be an organisational risk to Council to remove the rule if it were not to be replaced somewhere else or superseded by other legislation. In the absence of other appropriate methods, the District Plan is considered to be the most suitable place for such a rule at this stage.

In relation to facades and glazing, and outdoor living areas in the Residential Zone, Council could rely on the Urban Design Protocol, to which it is a signatory, to encourage good urban design. The Protocol, published by the Ministry for the Environment, is a “big picture” document and seeks to promote good design on a larger and broader scale. It is intended that the Protocol is used by Councils to develop their urban policies and rules in order to achieve the outcomes sought in the Protocol. In many cases, this can be achieved by applying rules to individual sites so that cumulatively, there are positive outcomes in urban areas. It is considered that rules in the District Plan are anticipated and suitable methods to achieve good urban design.

The National Guidelines for Crime Prevention through Environmental Design, suggests both regulatory and non-regulatory methods to improve safety in urban areas. Within district plans, Councils can take a limited or comprehensive statutory

approach. Waipā District Council already has objectives, policies and rules in the District Plan. This plan change seeks to amend the rules slightly so they are not so difficult to comply with for accessory buildings i.e. stand-alone garages. There is considered to be no perceivable benefit in providing glazing on a garage wall.

This option is not recommended because on their own, these external documents, cannot be relied upon to provide the desired outcomes. They do in turn, rely on district plans to implement the guidance within them, and when used in tandem do result in better outcomes.

5.3.4 Option 4 – Delete the rules and replace with a bylaw

Option 4 would delete the rules and replace with a bylaw.

Section 145 of the Local Government Act states:

A territorial authority may make bylaws for its district for 1 or more of the following purposes:

- (a) protecting the public from nuisance;*
- (b) protecting, promoting and maintaining public health and safety;*
- (c) minimising the potential for offensive behaviour in public places.*

Current Waipā District Council bylaws, by way of example include: Dog Control Bylaw; Public Places Alcohol Control Bylaw; Trade Waste Bylaw; Water Supply Bylaw (for the public water supply); Stormwater Bylaw.

Bylaws generally control or manage nuisance effects. Feedback from regulatory staff indicates that it would difficult to impose a bylaw for something like water supply for firefighting purposes because it does not have a nuisance aspect, and is not otherwise specifically provided for under the Local Government Act.

Section 145(b) could be used to justify making a bylaw to require water supply for firefighting purposes on rural properties without a reticulated water supply. However, the only recourse to Council where people do not comply is prosecution, and Council staff have indicated they would be unlikely to pursue public prosecution in such circumstances, given the low level of threat to the wider public. The RMA has more flexible enforcement tools available and at a lower cost to Council.

5.4 Evaluation of Options

The above section outlines the reasonably practicable options considered. In order to determine whether the other options are reasonably practicable, a comparative analysis has been undertaken. Council is not legally obliged to detail the evaluation process for other reasonably practicable options that were not identified as the preferred option. However, it is considered fair and transparent to demonstrate how the preferred option was decided upon following an assessment against other reasonably practicable options. The following is an assessment of the efficiency and effectiveness of the proposed provisions in achieving the plan change objectives.

Section 32 also requires that, if practicable, costs and benefits of each option must be quantified. In this case, the options have been quantified to the extent that is practicable. Further quantification would either be uneconomic (i.e. the cost economic analysis would outweigh any additional information it might provide), or would be speculative given the variables for each option.

Objective 1 and 2:				
	Option 1: Status Quo	Option 2: Change the Rules to remedy the Identified Issues	Option 3: Delete the rules entirely and rely on other methods outside the District Plan	Option 4: Delete the rules and replace with a bylaw
Costs	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> Some rural properties not adequately protected from fire risk <p><u>Economic Cost:</u></p> <ul style="list-style-type: none"> Cost to the applicant whether providing the water supply (approx. \$10,000) or for a resource consent (approx. \$2,500) to not have a water supply Cost of resource consent (\$1200 deposit) for non-compliance with outdoor living rule Cost to residential customers to apply for resource consent in situations where it is impossible to meet the rule <p><u>Social Cost:</u></p> <ul style="list-style-type: none"> Existing provisions do not enable people and communities to provide 	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> Potentially reduced on-site amenity <p><u>Economic Cost:</u></p> <ul style="list-style-type: none"> Cost to the applicant whether providing the water supply (approx. \$10,000) or for a resource consent (approx. \$2500) to not have a water supply <p><u>Social Cost:</u></p> <ul style="list-style-type: none"> None identified <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified 	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> Other methods are not mandatory and cannot be relied on to improve environmental outcomes such as amenity and resilience to risk <p><u>Economic Cost:</u></p> <ul style="list-style-type: none"> None identified <p><u>Social Cost:</u></p> <ul style="list-style-type: none"> Poor urban design outcomes Potential effect (low probability but high potential impact) of not requiring rural fire fighting supply <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified 	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> None identified <p><u>Economic Cost:</u></p> <ul style="list-style-type: none"> Cost to create bylaw and significantly higher cost of enforcement (prosecutions being the only enforcement tool available) <p><u>Social Cost:</u></p> <ul style="list-style-type: none"> None identified <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified

Objective 1 and 2:				
	Option 1: Status Quo	Option 2: Change the Rules to remedy the Identified Issues	Option 3: Delete the rules entirely and rely on other methods outside the District Plan	Option 4: Delete the rules and replace with a bylaw
	<p>for their health and safety adequately</p> <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified 			
Benefits	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> None identified <p><u>Economic benefits:</u></p> <ul style="list-style-type: none"> None identified <p><u>Social benefits:</u></p> <ul style="list-style-type: none"> Some residential amenity aspects retained <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified 	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> Properties at higher risk of fire in rural areas have greater preparedness and resilience <p><u>Economic benefits:</u></p> <ul style="list-style-type: none"> Reduced number of resource consents required <p><u>Social benefits:</u></p> <ul style="list-style-type: none"> Improved outcomes for residential customers <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified 	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> None identified <p><u>Economic benefits:</u></p> <ul style="list-style-type: none"> None identified <p><u>Social benefits:</u></p> <ul style="list-style-type: none"> None identified <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified 	<p><u>Environmental:</u></p> <ul style="list-style-type: none"> None identified <p><u>Economic benefits:</u></p> <ul style="list-style-type: none"> None identified <p><u>Social benefits:</u></p> <ul style="list-style-type: none"> None identified <p><u>Cultural effect:</u></p> <ul style="list-style-type: none"> None identified
Opportunities for economic growth and employment to be provided or reduced	<p><u>Economic growth:</u></p> <ul style="list-style-type: none"> None identified <p><u>Employment:</u></p> <ul style="list-style-type: none"> None identified 	<p><u>Economic growth:</u></p> <ul style="list-style-type: none"> None identified <p><u>Employment:</u></p> <ul style="list-style-type: none"> Minor employment opportunities 	<p><u>Economic growth:</u></p> <ul style="list-style-type: none"> None identified <p><u>Employment:</u></p> <ul style="list-style-type: none"> None identified 	<p><u>Economic growth:</u></p> <ul style="list-style-type: none"> None identified <p><u>Employment:</u></p> <ul style="list-style-type: none"> None identified

6 Evaluation of Provisions

6.1 Proposed Provision Assessment

This part of the Section 32 analysis assesses if the proposed provisions are the most appropriate to support Proposed Plan Change 16 objectives. The purpose of this evaluation is to ensure that the amended provisions are the most appropriate way to promote the sustainable management of natural and physical resources.

The preferred options identified in this report are considered to be aligned to the existing policy direction of the District Plan. In order to implement the preferred options, amendments to Section 2 – Residential Zone, Section 15 – Infrastructure, Hazards, Development and Subdivision, and Section 21 – Assessment Criteria and Information Requirements are proposed.

Council is required to assess the efficiency and effectiveness of the Proposed Plan Change 16 provisions. “Effectiveness” is the measure of contribution that the proposed provisions make towards resolving the issue, while “efficiency” refers to benefits and costs to all members of society.

This part of the report assesses the Proposed Plan Change 16 provisions in achieving the objectives outlined in Section 5 of this report. It identifies and assesses the benefits and costs of the environmental, social, cultural and economic effects anticipated from the implementation of the Proposed Plan Change 16 provisions.

6.1.1 Amendments relating to water for firefighting purposes

Section 15 – Infrastructure, Hazards, Subdivision and Development would need to be amended by adding a new issue, objective and policy, that would all support the existing rule. The existing rule would also be amended to make it clear which situations it applies in.

Additionally, provisions in Section 21 – Assessment Criteria and Information Requirements will also need to be amended.

Therefore, make amendments to Section 15 – Infrastructure, Hazards, Development and Subdivision, and Section 21 – Assessment Criteria and Information Requirements as follows:

Section 15 - Infrastructure, Hazards, Development and Subdivision

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, 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.

Section 21 – Assessment Criteria and Information Requirements

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

6.1.2 Assessment of amendments relating to water supply for firefighting purposes

In regard to water supply for firefighting purposes, Proposed Plan Change 16 would make several amendments to the District Plan, including to Section 15 – Infrastructure, Hazards, Development and Subdivision, and Section 21 – Assessment Criteria and Information Requirements. The table below assesses the effectiveness, efficiency, benefits and costs of the amendments.

Amendments for water supply for firefighting purposes	
Effectiveness/Efficiency	Benefit/Cost
<p>Effectiveness: The addition of a new resource management issue, objective and policy improves the support for an existing rule.</p>	<p>Benefits:</p> <p><u>Environmental:</u> Additional benefits for those on restricted flow water supply.</p> <p><u>Economic:</u> Potentially reduced fire damage to homes and properties because of an adequate water supply.</p> <p><u>Social:</u> Sense of security and resilience through being prepared for fire risk.</p> <p><u>Cultural:</u> None identified.</p>
<p>Efficiency: Amendments to the rule for water supply for firefighting purposes clarifies the situations to which the rule applies.</p>	<p>Costs:</p> <p><u>Environmental:</u> Extra water tanks and associated infrastructure may have an impact on rural character and amenity, particularly on smaller rural properties.</p> <p><u>Economic:</u> Costs imposed on those wishing to build in rural areas of the district, but no greater than they are now as the rule currently exists. Additional cost will be on those in areas of restricted flow water supply where the rule didn't previously apply. Relative to the benefits, risk reduction, and overall capital cost of a building, the cost of compliance is low.</p> <p><u>Social:</u> None identified.</p> <p><u>Cultural:</u> None identified.</p>
<p>Opportunities for economic growth and employment to be provided or reduced: Minor manufacturing and employment opportunities in the provision of water tanks and associated infrastructure and installation.</p>	
<p>Sufficiency of information and risk of not acting: Sufficient information has been provided and consultation undertaken with FENZ and CDEM to assess adequacy of existing provisions. The risk of</p>	

Amendments for water supply for firefighting purposes	
Effectiveness/Efficiency	Benefit/Cost
leaving the rule as it is continues interpretation difficulties. The liability risk to the Council is high if the rule was removed from the District Plan, and was not replaced with something else that would adequately mitigate the risks of fire, especially in rural areas.	

6.1.3 Amendments relating to facades, glazing and outdoor living areas

In regard to facades, glazing and outdoor living areas, Proposed Plan Change 16 would make amendments to the District Plan, mainly to Section 2 – Residential Zone, but also to Section 21 – Assessment Criteria and Information Requirements.

6.1.3.1 In relation to facades, the proposed amendments are as follows:

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.

Activities that fail to comply with this rule 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	<p>Design of building facade</p> <p>(a) The visual effect of the development on the streetscape.</p> <p>(b) The extent to which the development takes into account the personal safety of people and principles of Crime Prevention Through Environmental Design (CPTED).</p> <p>(c) <u>Whether the garage is practically located on the site of an existing dwelling.</u></p>

6.1.3.2 In relation to glazing, the following amendments are proposed:

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.

6.1.3.3 With regard to outdoor living areas, the following changes are proposed:

Section 2 – Residential Zone

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.

6.1.4 Assessment of amendments for facades, glazing and outdoor living areas

In regard to facades, glazing and outdoor living areas, Proposed Plan Change 16 would make several amendments to the District Plan, including to Section 2 – Residential Zone, and Section 21 – Assessment Criteria and Information Requirements. The table below assesses the effectiveness, efficiency, benefits and costs of the amendments.

Amendments for facades, glazing and outdoor living areas	
Effectiveness/Efficiency	Benefit/Cost
<p>Effectiveness: Proposed Plan Change 16 makes technical improvements to some rules in the Residential Zone so that the rules no longer apply in situations that are impractical in the physical sense.</p>	<p>Benefits:</p> <p><u>Environmental:</u> Improved residential amenity</p> <p><u>Economic:</u> Amendments to Section 2 will reduce costs to applicants because of fewer resource consents being required.</p> <p><u>Social:</u> Improved residential amenity</p> <p><u>Cultural:</u> None identified.</p>
<p>Efficiency: A fewer number of resource consents will be required, especially for stand-alone garages, thus reducing potential costs.</p>	<p>Costs:</p> <p><u>Environmental:</u> May result in smaller outdoor living areas on smaller sites, or those that are closer to maximum site coverage.</p> <p><u>Economic:</u> Fewer economic costs because of reduced need for resource consents.</p> <p><u>Social:</u> There may be potential social effects if garages do not provide passive surveillance to the street.</p> <p><u>Cultural:</u> None identified.</p>
<p>Opportunities for economic growth and employment to be provided or reduced: This plan change improves the implementation of existing rules. It is not anticipated that there will be an increase in economic growth and employment as a result.</p>	
<p>Sufficiency of information and risk of not acting: Sufficient information was available about the rewording to consider the effects of this plan change. The risk of not acting is to leave existing rules that are difficult to interpret and implement.</p>	

7 Implementation of Proposed Plan Change 16

This report must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects anticipated from the implementation of Proposed Plan Change 16. ‘Scale’ refers to the magnitude of effects, and ‘significance’ refers to the importance that the wider community places on those effects. The following table outlines the criteria considered to determine the scale and significance of the effects that are anticipated from implementation of Proposed Plan Change 16. An ordinal scale has been used for this assessment.

Criteria	Assessment High/Medium/Low/NA
Number of people who will be affected	Medium
Magnitude and nature of effects	Low
Immediacy of effects	Medium
Geographic extent	High
Degree of risk or uncertainty	Medium
Stakeholder interest	Medium
Māori interest	Low
Information and data is easily available	Medium
Information and data is easily quantified for assessment	Medium
Extent of change from status quo	Medium

In this instance, the scale and significance of the effects that are anticipated from the implementation of Proposed Plan Change 16 are considered to be medium.

8 Conclusion

This report presents an evaluation undertaken by Council in accordance with Section 32 of the RMA for Proposed Plan Change 16 regarding technical improvements to several provisions in the Residential Zone, as well as an improved policy framework for water supplies for firefighting purposes in rural areas. This report outlines the process that was taken to identify the issues and options, and then broadly evaluates the options. The report then evaluates the preferred option in detail. The report concludes with an assessment of the scale and significance of the effects anticipated from Proposed Plan Change 16 and concludes that these are considered to be medium.

As such, it is considered appropriate to revise the Waipā District Plan to amend the provisions within Section 2 – Residential Zone, Section 15 – Infrastructure, Hazards, Development and Subdivision, and Section 21 – Assessment Criteria relating to water supply for firefighting purposes, facades and glazing, and outdoor living areas.

Appendix 1 – Feedback received from Stakeholders

PC16: Summary of Submissions by Submitter Number/Name

Submitter Number:	1	Submitter:	Waikato Regional Council (Sultana Shah)
Trade Competition- Gain Advantage :	NO	Trade Competition- Directly Affected:	NO
Point Number	1.1	Category	Water for firefighting purposes - Option 3
Comments:	<p>Thank you for the opportunity to provide feedback on the proposed Plan Change 16.</p> <p>Regarding Plan Change 16, section 3: Water for Firefighting Purposes, Waikato Regional Council Civil Defence Emergency Management (CDEM) staff support the attempt to protect life and preserve human safety, and acknowledge the difficulty in meeting that objective with the ambiguous nature and application of the existing rule. CDEM staff draw attention to and support the Plan Change having regard to the National Disaster Resilience Strategy and in particular, Section 5 “Managing Risks” https://www.civildefence.govt.nz/assets/Uploads/publications/National-Disaster-Resilience-Strategy/National-Disaster-Resilience-Strategy-10-April-2019.pdf. This document takes a holistic approach to managing risk and does not rely on just a single mechanism. The rule as written does not permit the landowner to utilise all of the methods to mitigate the risk of fire. It also does not reflect current and future changes in FENZ operations. For example, fire appliances carrying greater quantities of firefighting water (approximately 2,500 litres) than when the rule was written. CDEM staff think the Building Act and Code may be better instruments to mitigate the risk of fire, than a “one size fits all” rule in the District Plan. This would allow the mitigation to be commensurate to the risk and a wider range of solutions to be available to the developer (not subdivider).</p>		
Point Number	1.2	Category	Other comments
Comments:	<p>In Plan Change 16, section 6: Dust, Smoke and Odour, three options are presented. We recommend option 2, to amend the rules rather than the preferred option 1 of doing nothing. Option 2 allows for an amendment "to include additional provisions for air quality related to land use activities such as mineral extraction, industry, earthworks and intensive farming activities." We support encouraging regulations on these activities to maintain sufficient buffers between sensitive land uses and commercial and industrial activities that have the potential to discharge dust, smoke and odour. Particularly since the issues and options paper mentions the possibility of implementing option 2 at a later date. As stated in option 2, this Plan Change provides an opportunity to take into consideration potential nuisance effects, also outlined in the Health Act of 1956.</p>		

Submitter Number:	2	Submitter:	Cogswell Surveys Ltd (Rebecca Steenstra)
Trade Competition-Gain Advantage :	NO	Trade Competition- Directly Affected:	NO
Point Number	2.1	Category	Water for firefighting purposes -
Comments:	not viable.		
Point Number	2.2	Category	Water for firefighting purposes - Option 2
Comments:	Advice notes are easily lost on a subdivision. When a property is sold a new owner would not be guaranteed to see it.		
Point Number	2.3	Category	Water for firefighting purposes - Option 3
Comments:	Any consent notice registered should refer to habitable buildings/dwellings only. It should be about protecting people and not property. If a tank needs to be supplied for a cow shed, every implement shed, accessory building etc it becomes very uneconomical and difficult to comply with. There needs to be very clear intent for the requirement.		
Point Number	2.4	Category	Water for firefighting purposes - Option 4
Comments:	I dont agree with waiting for this, we require the clarity now.		
Point Number	2.5	Category	Water for firefighting purposes - Option 5
Comments:	We require the clarity now, this is not viable.		
Point Number	2.6	Category	Facades & Glazing
Comments:	not viable		
Point Number	2.7	Category	Facades & Glazing - Facades Option 2

Comments:	agree with amendments		
Point Number	2.8	Category	Facades & Glazing - Facades Option 3
Comments:	dont delete		
Point Number	2.9	Category	Facades & Glazing - Glazing Option 1
Comments:	Agree, not viable.		
Point Number	2.10	Category	Facades & Glazing - Glazing Option 2
Comments:	We agree, this is a good option.		
Point Number	2.11	Category	Facades & Glazing - Glazing Option 3
Comments:	Agree.		
Point Number	2.12	Category	Outdoor living area
Comments:	Not viable.		
Point Number	2.13	Category	Outdoor living area Option 2
Comments:	The outdoor living area dimension split into two 20m2 areas with a 4m dimension to allow morning sun and afternoon sun.		
Point Number	2.14	Category	Outdoor living area Option 3
Comments:	Dont delete.		
Point Number	2.15	Category	Other comments
Comments:	no		

18 September 2020

Waipa District Council

Attention: Ms Julie Hansen

Plan Change 15 and 16

I write to you on behalf of Classic Builders, A1 Homes, ZB Homes, Jennian Homes and Generation Homes in relation to the forthcoming Waipa District Council (Council) Plan Changes.

Firstly, on behalf of the above referenced housing companies, we would like to acknowledge the proactive approach taken by Council in order to address a number of these key issues.

Having now reviewed Plan Change 15 and 16 we are able to comment as follows.

Permeable Surfaces

- We are in agreement with tidying up the definition – specifically in relation to what is and isn't excluded. This is particularly relevant to the area of a dwelling directly under the eaves.
- Our preferred option is to amend the permeability rule as follows (or an example thereof):

'Permeable surfacing that equates to an area less than 40% or 55% in Cambridge North shall be a Permitted Activity provided a 'drainage plan' is submitted by a suitably qualified person that demonstrates that the proposed development will not generate any additional demand on the reticulated infrastructure'.

The upshot of the above standard would ensure permeability less than 40% or 55% no longer triggers a consenting requirement.

- If the above option is not deemed appropriate, then we would like the activity status for non-complying permeability to be reduced from Discretionary to Controlled. In the discussion document, it was suggested that the reduced timeframes (10 working days) will not allow enough time for planning and engineering staff to assess the application. We disagree with this assertion on the basis that if a full and complete resource consent application is lodged, then processing the consent should be a simple procedure. If an application is not complete, then Council staff are able to return the application under Section 88, noting that Section 37 can also be used to extend the timeframes. Given there are very few 'controlled' activities represented in the Waipa District Plan, this change should not represent a significant change for Council staff.

- Permeable surfaces provisions need to relate to Net Lot Area, otherwise it's impossible for rear lots to comply post subdivision.
- We suggest excluding swimming pools from the permeable surface provision. In our opinion swimming pools do not contribute to any additional stormwater affects, as all the water is retained within the pool; however, they often get caught out needing permeable surface resource consents, which places an extra burden on home owners.

Site Coverage

Although site coverage has not been *officially* recognised in the discussion document, we feel as though it is prudent to promote the following scenario (as site coverage is intrinsically linked to permeable surfaces)

- Our preferred option would be for site coverage to increase from 40% to 50% on sites smaller than 500m². As the demand for housing sizes is increasing, it is becoming increasingly difficult for housing companies to comply with the required site coverage calculations.

The 'site coverage' restrictions have been imposed in District Plans to protect amenity values. However, in our opinion, provided a dwelling is able to comply with the other various amenity related provisions, such as boundary setbacks and glazing, an additional 10% building coverage will not generate any noticeable change to the permitted baseline. For example, from a visual perspective, it is often virtually impossible to determine if a development fails to comply with the maximum permitted site coverage percentages on the basis that a site can only be viewed from one vantage point at any given time. As such the actual extent of the depth of buildings simply cannot be determined when viewed from a single vantage point located on the road boundary or neighboring site. Only when an aerial photograph or site plan is produced can the true nature of the non-compliance be digested. However, in reality, this is not how a development is perceived by adjoining landowners. As such, we believe that providing further flexibility by slightly increasing the percentage will not generate any additional effects on the environment and represent a pragmatic approach to future development.

Garaging on Front Facade

- As our clients do not generally build stand along garaging, we have chosen not to comment on the variables associated with the 'stand-alone' garaging component of this provision.
- In terms of *attached* garaging and the corresponding front façade percentage, we believe that this provision *could* theoretically be removed. It is our understanding that this provision was introduced primarily for CPTED (Crime Protection Through Environmental Design) reasons. As such, provided a dwelling complies with the required glazing requirements, then suitable passive surveillance is accomplished, satisfying the intent of the provision. On this

basis the percentage of the façade taken up by garaging actually becomes irrelevant in our opinion. Furthermore, it is very difficult for long narrow sites to narrow with this provision.

Glazing

- In our opinion, garaging and non-habitable rooms should be removed from the glazing requirements, as it doesn't make sense requiring windows in rooms which will not generate any benefits in terms of passive surveillance on the street frontages. Furthermore, placing windows on the southern side of dwellings is also in direct conflict with Objective 2.3.5.1 which seeks to maximize passive solar gains.
- Subject to garaging and non-habitable rooms being excluded from the glazing requirements, in our opinion the glazing requirement on the remaining façade should be reduced to 10%. Should this approach not be deemed appropriate by Council then reducing the glazing to 10% (excluding garaging and non-habitable rooms) on the southern façade only, could be a suitable compromise. This approach would prevent unnecessary/token windows being placed in garages and other non-habitable rooms with the only benefit/purpose being to avoid a consenting process.
- Subject to the outcome of the topics raised in the above bullet points we suggest reducing the activity status from Restricted Discretionary to Controlled in order to expediate the consent process and avoid unnecessary costs.

Outdoor Living

- In our opinion reducing the outdoor living area to 40m² with a minimum dimension of 3.5m would be the preferred approach. Based on the information provided to me by our clients, an area of 40m² is considered to be large enough in order to retain onsite amenity values. Note, this is a similar stance that Hamilton City Council have taken with Plan Change 6, where outdoor living areas are now assessed on a 'per bedroom' basis.
- We would like some *flexibility* in terms of the location of the outdoor living areas. For example, someone might prefer to have their outdoor living area to the south facing their favorite vista as opposed to a busy street. We don't believe making someone go through a full resource consent process is a good use of time and resources to account for such an outcome. In addition, we also believe there should be some flexibility in relation to where and how you access the outdoor living area. Just because an outdoor living area is not *directly* accessible off a habitable room should not generate a consenting process. For example, an outdoor living area could be created in an alternative location in order to maximize shade or views.

- Subject to the outcome of the topics raised in the above bullet points we suggest reducing the activity status from Restricted Discretionary to Controlled in order to expediate the consent process and avoid unnecessary costs.

Firefighting

- We agree with Council's '*Option 1*', in that we believe that the firefighting provision should be removed from the District Plan and advisory notes placed on subdivision consent approvals. Based on my experience referencing non-RMA documents within District Plans is not good practice, furthermore imposing them directly as consent conditions is likely to be ultra-varies.

Thank you for considering our above referenced discussion points and we look forward to hearing from you in due course. If you have any further questions, feel free to contact me directly on 021745979 (Garethm@barker.co.nz).

Yours faithfully,



Gareth Moran

Associate

Barker & Associates Ltd

Waipa District Council
Private Bag 2402
Te Awamutu 3840

19 August 2020

Attention: Julie Hansen

Dear Julie

Fire and Emergency New Zealand - Waipa District Plan: Code of Practice Provisions

Following our meeting on 22 July 2020 regarding firefighting water supply provisions in the Waipa District Plan, we provide the following advice to assist Waipa District Council in the review of the firefighting water supply provisions, specifically rule 15.4.2.18 and 15.4.2.22.

The New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ 4509:2008

Fire and Emergency New Zealand's (Fire and Emergency) main areas of concern are the provision of a water supply and vehicle access to this supply which will enable Fire and Emergency to operate effectively and efficiently to save lives and property in the event of a fire. This is best achieved through compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ 4509:2008 (the Code). The Code sets out the standards required for firefighting water supply and vehicle access and applies to both reticulated and non-reticulated areas, as Fire and Emergency may be required to respond to a structural fire emergency in any area. Any water supply that does not achieve the Code standards will typically lack either the water pressure or the water volume (or both) needed for Fire and Emergency to operate effectively and efficiently in an emergency situation.

The Code is a critical document to help achieve those outcomes by providing nationally consistent requirements and guidance for councils and landowners developing land. The Code is integrated into the engineering standards of more than 80% of councils around the country in relation to reticulated networks.

The Code has also been reasonably well integrated into planning documents where it has been referenced in some way in 48% of all district and unitary plans across the country. References to the Code in district plans are typically either direct reference to the Code, or reference to their engineering standards which in turn references the Code. When referenced in these plans, the Code provides a standard that new developments and/or subdivisions must provide adequate water and access to that water for firefighting purposes. The integration of the Code has helped achieve good outcomes across the country, helping to promote early consideration of firefighting water supply in the development planning process.

As set out in the Code, Fire and Emergency may be required to respond to any structural fire emergency in any area therefore all buildings (not just dwellings) should provide firefighting water supply as set out in the Code.

In that regard, the implementation of the Code can be straightforward where applicants and/or council have been willing to engage with Fire and Emergency. A common example of this is an applicant agreeing to providing a dedicated firefighting water supply for new residential lots created in non-reticulated areas. Good outcomes tend to have been achieved where the council is supportive of, and understands how to implement the Code, and is able to explain the issues to applicants.

Different local authorities have taken various approaches to incorporating the Code into their district plans. This is generally guided by how their district plans are already set out, how they have integrated their engineering standards into their district plans, and how they manage their water supply infrastructure.

Table 1 provides some examples of how different councils have adopted the Code into their district plans to highlight the wide-ranging practice that exists.

Table 1: Examples of the Codes implementation into District Plans.

Council	Method	Comment
Thames-Coromandel District Council (TCDC)	Assessment criteria in District Plan	<p>During its plan review, TCDC was supportive of including a reference to the Code however preferred to have this as something to be considered when consent is required, rather than a trigger for consent.</p> <p>The District Plan has assessment criteria requiring compliance with the Code if a consent is sought for a subdivision. Refer to Rule Table 5 – Section 38 Subdivision: https://eplan.tcdc.govt.nz/pages/plan/Book.aspx?exhibit=TCDC_Appeals2016_External</p> <p>This assessment criteria is similar to that already within the Waipa District Plan at Rule 21.1.15.18 'Infrastructure servicing: water supply and reticulation', although the TCDC provisions provide direct reference to the Code and is preferred by Fire and Emergency for that reason.</p>
South Waikato District Council (SWDC)	Performance standard in District Plan	<p>In SWDC, any Rural, Rural Residential, Residential, Arapuni Village, Town Centre, Business, Neighbourhood Retail, Industrial, Electricity Generation, or Tokoroa Airport zoned subdivision which meets the relevant standards set out in Rules 10.4 to 10.8 is a controlled activity.</p> <p>Subdivision in these zones is therefore subject to services standards that require 'adequate' water supply be provided to each site (refer to standard 10.4.3, 10.5.3 and 10.6.5). Any subdivision which does not meet this standard is a restricted discretionary activity.</p> <p>The rural zone standard 10.6.5 does not make specific reference to the Code as the standard that the provision of firefighting water should comply with. Fire and Emergency do however aim to work with SWDC at the appropriate time to include specific reference to the Code for clarity.</p> <p>It is however noted that standard 10.7.3 Development Concept Plan does require that firefighting capability shall be demonstrated for each new site in accordance with NZ Standard SNZ PAS 4509:2008 under 10.7.5c)d)iii).</p>
Waikato District Council (WDC)	Performance standards in District Plan	<p>Under the operative District Plan, WDC have adopted the Hamilton City Infrastructure Technical Specifications, which requires compliance with the Code in all areas. The Hamilton City Infrastructure Technical Specifications no longer exists as it has been replaced by the Regional Infrastructure Technical Specifications (RITS) which also applies in the Waipa District. RITS makes several references to the Code in respect of water supplies.</p>

		<p>WDC are currently in the process of reviewing their District Plan and through its submission, Fire and Emergency has sought various amendments to Chapter 14 Infrastructure standard 14.3.1.8 to require provision for water supply adequate for firefighting purposes in accordance with the Code in the Rural and Country Living Zones.</p> <p>Fire and Emergency have also sought that zone-specific subdivision standards include conditions including that proposed lots must be connected to water supply sufficient for firefighting purposes and have included this as a matter of discretion.</p> <p>The decision version is yet to be released however Fire and Emergency have had positive feedback from the Panel who recognise the importance of Fire and Emergency and their requirements under the RMA.</p>
Hamilton City Council (HCC)	Code of Practice for Subdivision and Development	HCC have incorporated the Code into their Code of Practice for Subdivision and Development to be applied to both reticulated and non-reticulated areas. The Hamilton City Infrastructure Technical Specifications requires compliance with the Code in all areas. As above the Hamilton City Infrastructure Technical Specifications no longer exist and have been replaced by RITS which similarly makes several references to the Code.
Opotiki District Council	General standards for subdivision in Proposed District Plan	<p>ODC was supportive of introducing firefighting water supply standards in accordance with the Code during their District Plan review. ODC have introduced a general standard for all rural and urban areas of Opotiki to comply with the Code.</p> <p>Refer to Chapter 15 provisions 15.5.5.1(7) and 15.5.8.1 of the Decisions Version: https://www.odc.govt.nz/our-council/policies-plans-and-bylaws/proposed-district-plan/Pages/Decisions-on-submissions-to-the-Proposed-District-Plan.aspx</p>
Whangārei District Council, Grey District Council, Queenstown District Council and Central Otago District Council	Memorandums of Understanding	<p>Some councils have Memoranda of Understanding (MoU) with the former New Zealand Fire Service whereby a condition is added to every subdivision consent requiring firefighting water supply in accordance with the Code. These councils were reluctant to include provisions within their District Plans requiring compliance with the Code, although partially this was as a result of having an MoU and therefore, they deemed the inclusion in the District Plan was unnecessary. While the District Plan reference is preferable (for transparency and certainty) the willingness of these Councils to implement the MoU results in the same outcome, at least for the foreseeable future.</p> <p>Grey District Council have an MoU with Fire and Emergency where a condition will be placed on all land use and subdivision applications requiring compliance with the Code.</p>
Tasman District	Criteria requiring a firefighting water	Tasman District has some very remote areas. Council was supportive of requiring firefighting water supplies and particularly the requirement to consider sprinklers.

	supply to be provided	<p>This is the only District Plan that has a provision requiring sprinklers. Anecdotally local Fire and Emergency officers have advised that most applicants have found the cost of providing sprinklers and 45,000 litres of tanks to be similar, but applicants have chosen sprinklers to avoid the visual impact of tanks.</p> <p>The Tasman District Plan contains criteria requiring a firefighting water supply to be provided. There is no reference to the Code, however the Plan requires:</p> <ul style="list-style-type: none"> - A Sprinkler system; or - 45,000 litres of water dedicated to firefighting. <p>This applies to both rural (17.5.3.2(d)) and urban areas of Tasman District: https://www.tasman.govt.nz/my-council/key-documents/tasman-resource-management-plan/volume-1-text/part-2-land/</p>
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Waipa District Plan Rule Interpretation

In terms of the operation of the current rural rule 15.4.2.22, the rule relies on the wording providing 'adequate water supply for firefighting purposes' and then the advisory note below establishes the Code as being how it is determined. It is noted that the Regional Infrastructure Technical Specifications also makes reference to the Code, being the technical specifications now for the Waikato region.

Fire and Emergency recognise that wording such as 'adequate' introduces the requirement for judgement and interpretation by Council staff which undermines the effectiveness of the rule and potentially the vires of the rule. It is recognised that wording such as 'sufficient' and 'adequate' is better suited to be incorporated into assessment criteria rather than rules. However, the original intent of this was to allow flexibility for developers and landowners, should alternative water supply be provided at the discretion of the local Fire and Emergency representative (which is often the case with the implementation of the Code). There are multiple ways of complying with the Code and often existing water sources (e.g. swimming pools or permanent ponds) can be used. The flexibility enables bespoke, innovative, site-specific solutions. The risk of being too prescriptive (as Tasman District have sought to do as above) is that there is little to no flexibility in the provision of water supply where circumstances allow for alternatives.

Given that Rule 15.4.2.22 refers to "lot", we would consider that this applies only to the subdivision of land and providing water supply for a new lot. This should not be applied to new buildings or extensions to buildings.

Further given that all subdivisions require resource consent, the requirement to provide for firefighting water supply cannot 'trigger' the requirement for a consent on its own, although under the Waipa District Plan it does result in a non-complying activity where a subdivision cannot provide adequate firefighting water supply. This is consistent with the cascade of activity status within the District Plan, but the non-complying activity status is not important to Fire and Emergency with restricted discretionary or discretionary still enabling assessment of the matter. Given the flexibility of the Code and the willingness for Fire and Emergency to work with Council and subdivision applicants on innovative, site-specific solutions, we do not consider this a major barrier to consent, particularly in the Waipa District. Nor does Rule 15.4.2.22 have any relevance to land use proposals for dwellings or other buildings as it is a subdivision rule.

Regulation and monitoring

We understand that there are concerns among regulatory staff about monitoring compliance with the Code. Council staff do not need to monitor compliance with the Code, but the rule is asking Council to be

generally satisfied that a firefighting water supply exists. They have Fire and Emergency staff to offer advice in helping them be satisfied and this should only require a basic level of understanding of what a firefighting water supply is. This is no different to a Council Planner seeking technical advice on the likes of stormwater, acoustics or transport elements of a proposed activity where they are non-experts.

In any situation where a subdivision does not prove a firefighting water supply exists at the time of subdivision, a consent notice on any newly created Record of Title should adequately address compliance. However, we would strongly encourage Council and the developer to work with local Fire and Emergency personnel prior to, or during the subdivision stage to determine whether there is merit in providing collective firefighting water supply systems at the time of application for subdivision consent. This has the potential to address the cost concerns relating to the provision of water supply for individual sites as detailed below.

It is acknowledged that there will be historic subdivisions without firefighting water supplies within the district, which then results in unexpected problems for house builders on individuals. This is not ideal for any party but Rule 15.4.2.22 does not apply in this circumstance anyway.

Cost

Fire and Emergency recognise that councils and developers consider costs of tanks and sprinkler systems are expensive when put in on every site. This perception is likely based on the Table 2 volumes set out in the Code. A community supply for multiple sites will generally be much cheaper than individual supplies. However, where individual sites are being sold as bare land, developers often seek to pass this cost to the future owners of those individual sites. As above, we understand this can come as a surprise to the new landowner who has not undertaken adequate due diligence and understood the requirements set out in the consent notice (or there is no consent notice).

Fire and Emergency consider that education on the costs of compliance and the benefits of having adequate water supply (i.e. saving lives and protecting the surrounding environment) should sufficiently address this matter.

The Code is non-mandatory

There can be confusion that the Code is a New Zealand Standard but is not mandatory and at times there can be resistance from both Council and developers to implement the Code. In terms of Rule 15.4.2.22, this is where the wording of the advice note is important. Regulatory staff are not enforcing the Code, but they are enforcing their own district plan rules, and the rule actually makes no reference to the Code. It is the advice note that sets out the Code as a guide in achieving 'adequate' water supply for firefighting purposes.

In the case of Waipa District, the need for adequate firefighting water supply is also referenced within the RITS document and other District Plan rules that require compliance with the RITS standards for subdivision and development. Fire and Emergency also advocate for references to the need for firefighting water supplies to be provided and the Code within assessment criteria within district plans around the country.

For Fire and Emergency, the key point is that for any subdivision of land or construction of buildings where a water supply does not meet the Code of firefighting water supply, then the situation is less safe for the occupants of those buildings. Fire and Emergency does not consider that this outcome promotes the purpose of the RMA which includes the need to enable people and communities to provide for their social, economic, and cultural well-being and **for their health and safety**.

Recommendations

While we recognise that use of the word 'adequate' is somewhat subjective in the context of a rule and is not best practice, we do not see that the presence of the rule in the District Plan is particularly problematic. Where we understand the issue lies is a lack of understanding by applicants and Council staff

about the implementation of the Code and the flexibility provided within it. Therefore, the following recommendations are made:

1. Council could consider the development of a guidance document to provide clearer guidance for lay people on the flexible ways compliance with the Code can be achieved (e.g. through the use of communal firefighting water supplies) and how 'adequate' water supply can be determined i.e. through contacting the local Fire and Emergency personnel. We note that this service is free and should be promoted by Council at the likes of pre-application meetings with applicants. This document could be developed in collaboration with Fire and Emergency and could be referred to in the advice note for rule 15.4.2.22.
2. Should the wording 'adequate' not be considered appropriate by Council, consideration should be given to incorporating the requirement (with similar wording) as an assessment criterion under 21.1.15.18 for all subdivision applications creating additional lots, including as a restricted discretionary activity if that is the applicable activity status. We consider that the Thames-Coromandel Proposed District Plan is a good example in this regard.

We hope you find the above advice of use. We would be happy to work with you further to ensure the best outcome for both Waipa District Council and Fire and Emergency in reducing the incidence of unwanted fire and the associated risk to life and property, and preventing or limiting injury, damage to property land, and the environment.

Yours sincerely



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on behalf of

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