

Proposed Plan Change 18: Beekeeping in Residential Zones

Incorporating


Decisions of Hearing Panel and Section 32AA Evaluation Report

28 May 2021

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Report Information

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Approved by:	 Marcus Gower Hearing Panel Chairperson	29 April 2021
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Executive Summary

Proposed Plan Change 18 to the operative Waipā District Plan focused on addressing the effects of beekeeping in residential areas (being the residential and large lot residential zones). It is recognised that beekeeping activities may result in potential effects on neighbouring sites and that the current provisions in the district plan were not effective.

A hearing was held on 29 March 2021. After hearing from submitters, the Hearing Panel determined to accept the submissions which sought the development of an animal nuisance bylaw and deletion of the beekeeping provisions in residential zones, contained in the Operative Waipā District Plan.



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Part A – Decision Report Beekeeping in the Residential Zones

Part A – Decision Report

1 Introduction and Decision

1.1 Introduction

1.1.1 This decision report contains Waipā District Council’s decision under clause 10 of Schedule 1 of the Resource Management Act 1991 on Proposed Plan Change 18 ‘Beekeeping in the Residential Zones’ to the operative Waipā District Plan (the plan change).

1.1.2 The plan change was initiated by Waipā District Council (the Council) after approaches from the public highlighting that the current provisions for beekeeping in the residential and large lot residential zones were unnecessarily restrictive.

1.1.3 Decisions on the plan change have been addressed in the Section 32AA report – Part C of this decision report. The Section 32AA report considers the changes made in response to the provisions that were notified. It considers how the changes to the provisions are an alternative to the provisions notified and whether they would be efficient and effective in achieving the objectives of the District Plan.

1.1.4 The Section 32AA report is an evaluation report and is required to be undertaken at a level of detail which corresponds to the scale and significance of the changes made.

1.2 Decision

1.2.1 Pursuant to clause 10 of Schedule 1 of the Resource Management Act 1991, the submissions to Proposed Plan Change 18 ‘Beekeeping in the Residential Zones’ seeking the development of a bylaw to control nuisance from beekeeping are accepted and all other submissions are rejected, with the decisions on submissions set out in section 2.4 of this report and the final amendments as set out in section 3.

1.2.2 The Hearings Panel has determined that on the date of this bylaw coming into effect, all provisions in the Waipā District Plan (as outlined in paragraph 1.2.6 below) relating to beekeeping in residential zones will be deleted from the District plan including any consequential amendments to give effect to the panel’s decision.

1.3 Format of Decision Report

1.3.1 The decision report contains 3 parts. Part A is the decision report which contains the decisions on the plan change and submissions.

1.3.2 Part B of the report contains the recommended tracked changes to the Waipā District Plan.

1.3.3 Part C of the report contains the section 32AA report.

1.4 Hearing

1.4.1 Proposed Plan Change 18 was heard by the Hearing Panel on Monday, 29 March 2021. The hearing panel members were Marcus Gower (Chairperson) and Lou Brown.

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

Day 1 – Monday, 29 March 2021

Submitters

- Morgan Samuels (submitter 11) – attended as an observer and granted speaking rights by the Chair.
- Phil Evans (submitter 12).
- Dr Dara Dimitrov (submitter 14) also appearing on behalf of the Waikato Domestic Beekeepers Association (submitter 13).

Waipā District Council Team

- Tony Quickfall – Manager Policy & Planning
- Jo Cook-Munro – Senior Policy Advisor District Plan
- Dr Mark Goodwin, Honeybee Scientist

2 Overview of Plan Change 18

2.1 Introduction

2.1.1 The Waipā District Plan contains controls around beekeeping in the Residential and Large Lot Residential Zones (the Residential Zones). The keeping of up to 2 beehives in the Residential Zone requires resource consent for a discretionary activity while consent for a restricted discretionary activity is required for the same activity in the Large Lot Residential Zone.

2.1.2 A member of the public approached the Council asking for the rules to be reviewed as they were extremely restrictive and not based on the realities of keeping beehives on residential properties.

2.1.3 Council reviewed the extent of beekeeping activities undertaken, the number of complaints received, and the number of consented beehives within the Residential Zones of the Waipā District. Following this review, it is apparent that the restriction on beekeeping in residential zones is both ineffective and inefficient. Six complaints have been received and 9 queries in relation to existing beekeeping activities support the conclusion that rule unnecessary.

- 2.1.4 It is recognised that beekeeping activities may result in potential effects where:
- They can result in a loss of on-site amenity for adjoining properties where they are not managed or controlled in urban environments;
 - They are located too close to sensitive receiving environments (e.g. houses, schools, neighbourhood reserves etc); or
 - There are multiple beehives with a high number of bee movements across neighbouring properties.
- 2.1.5 It is also recognised there are beneficial effects in respect of ecology, biodiversity and economy associated with the activity of beekeeping.
- 2.1.6 The proposed changes under Proposed Plan Change 18 (as notified) are:
- Amend the current definition of ‘Bee keeping’ in Part B: Definitions to read ‘Beekeeping’ for consistency.
 - Amend Part D: Section 2 Residential Zone as follows:
 - Amend Policy 2.3.2.18 to enable the keeping of beehives as a permitted activity.
 - Insert new Policy 2.3.2.18A to ensure beekeeping does not detract from residential amenity.
 - Insert new Rule 2.4.1.1(r) to provide for beekeeping as a permitted activity.
 - Delete existing Rule 2.4.1.4(m) to remove the requirement to obtain a resource consent for up to two beehives.
 - Insert new Rule 2.4.2.40A to provide for up to two beehives as a permitted activity with controls relating to minimum separation distances from internal boundaries and for the site to be 500m² or greater.
 - Amend Part D: Section 3 Large Lot Residential Zone as follows:
 - Amend Issue 3.2.11 to enable the keeping of beehives as a permitted activity.
 - Insert new Rule 3.4.1.1(p) to provide for beekeeping as a permitted activity.
 - Delete existing Rule 3.4.1.3(a) to remove the requirement to obtain a resource consent for the keeping of beehives.
 - Insert new Rule 3.4.2.13(g) to provide for up to two beehives as a permitted activity with controls relating to minimum separation distances from internal boundaries.
 - Amend Part E: Section 21 Assessment criteria and Information Requirements – Criteria 21.1.2.30 and 21.1.3.3 to clarify separation distances.

- 2.1.7 Council has the ability under the Local Government Act 2002 to create specific bylaws to address the keeping of animals, bees and poultry (section 146). For a bylaw to be justified, they need to be necessary and in the wider public interest. Bylaws are used to control or modify nuisance effects and the behaviour of individuals or businesses and there can be strong, often lasting sanctions, for non-compliance.
- 2.1.8 The Hearing Panel considers that a bylaw for the control of nuisance from animals is the most appropriate method for controlling bees in residential zones. A bylaw provides the ability to deal with nuisance arising from animals including bees in residential areas. Unlike the district plan, there would be no need to ensure retrospective consents were applied for by people who currently have beehives in residential areas. A bylaw would also enable nuisance effects to be dealt with on a case by case basis and not seek to apply a blanket rule over all properties with beehives located on them.

2.2 Submissions

- 2.2.1 16 submissions were received to the plan change. No further submissions were made. Staff grouped the submissions into topic areas as part of the section 42A report. These topic areas have been adopted for this report and are:
- Adjust permitted criteria in the district plan for beekeeping.
 - Create new bylaw for beekeeping in residential zones.
 - Enforcement and monitoring.
 - Keep existing beekeeping provisions in the district plan.
 - Permitted criteria for beekeeping.
 - Remove beekeeping criteria from the district plan.

2.3 Statutory context

Resource Management Act 1991

- 2.3.1 The purpose of the Resource Management Act 1991 (the RMA) is set out in section 5 and is to promote the sustainable management of natural and physical resources. Sustainable management means:

“Managing the use, development and protection of natural and physical resources in a way and at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing 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”.*

- 2.3.2 In the context of this report, the natural resources of the Waipā District include land, water, air, soil and all forms of plants and animals (whether native or introduced) and all physical resources including infrastructure. Careful management of these resources is required to ensure communities, both in the present and the future, can provide for their social, economic cultural well-beings in an appropriate way and at an appropriate rate.
- 2.3.3 To achieve the purpose set out in section 5, it is necessary for the council to manage land use and the provision of infrastructure in a way that minimises any potential adverse effects on the environment.
- 2.3.4 Under section 32 of the RMA, Council must examine whether the objectives and provisions of the proposed plan change are the most appropriate way for achieving the purpose of the Act. This assessment was set out in the section 32 report that was done to support the proposed plan change at the time it was notified.
- 2.3.5 Pursuant to section 32AA of the RMA, a further evaluation will be done to support the decisions made on proposed Plan Change 18. This further evaluation is provided in Part C of this report.
- 2.3.6 Section 6 of the RMA defines matters of national importance under the RMA. The section requires all persons exercising functions and powers under the Act in relation to managing the use, development, and protection of natural and physical resources, to recognise and provide for matters of national importance (e.g. the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development). It is considered that PC18 is not inconsistent with Section 6.
- 2.3.7 Section 7 identifies other matters that particular regard is to be given to. Key matters of relevance to proposed Plan Change 18 include:
- (a) Kaitiakitanga;
 - (b) The efficient use and development of natural and physical resources;
 - (c) The maintenance and enhancement of amenity values;
 - (d) The effects of climate change.
- 2.3.8 It is considered that the proposed plan change is not inconsistent with these matters.
- 2.3.9 Section 8 requires that the principles of Te Tiriti o Waitangi (the Treaty of Waitangi) be taken into account during decision-making. Local tangata whenua have been engaged through the course of the development of the plan change. While no direct feedback has been received from the relevant iwi authorities, regard has been given to the Waikato Treaty Settlement Acts, Joint Management Agreements and iwi environmental plans. It is considered the principles of the Te Tiriti o Waitangi have been taken into account.

- 2.3.10 Section 76 defines the purpose of a district plan as to assist councils to carry out their functions in order to achieve the purpose of the RMA. The functions of district councils are listed in section 31 of the Act and include (amongst other things):
- The integrated management of the effects of the use, development and protection of land and associated natural and physical resources of the district;
 - The control of any actual or potential effects of the use, development, or protection of land.

Local Government Act 2002

- 2.3.11 Local government is governed by the Local Government Act 2002 (the LGA). Section 10 of the LGA defines the purpose of local government as:
- (a) To enable democratic local decision-making and action by, and on behalf of, communities; and*
 - (b) To promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.*
- 2.3.12 Section 145 sets out the general bylaw making powers of Councils. Councils 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.*
- 2.3.13 Section 146 of the LGA sets out the specific bylaw making powers of Councils including express powers to make bylaws for “the keeping of animals, bees and poultry”.
- 2.3.14 Bylaws are rules or regulations made by the Council, under national legislation, that affects how people live, work and play. Bylaws generally relate to “nuisance” effects which are a lower order of effects than prescribed under the RMA. Bylaws protect both the Waipā community and individual rights. They are there to make Waipā a safe and healthy place in terms of nuisance.
- 2.3.15 The consequences of not complying with a rule in a bylaw can result in fines, seizure of property and remedial action. Bylaws can be enforced by Council staff or external agencies such as the New Zealand Police. A bylaw can address one specific area of operation (traffic, speed etc) or a variety of areas within the same bylaw (such as public places, cemeteries, recreational facilities).
- 2.3.16 Waipā District Council does not currently have an animal nuisance or bees bylaw. It has been determined that an animal nuisance or animal nuisance (bees) bylaw will be developed and go out for public consultation as a result of the decision on proposed Plan Change 18.

- 2.3.17 Bylaws can be restrictive and specify that certain criteria that must be met. There is no room for deviating from the criteria specified but it is a way of allowing existing activities to continue provided no nuisance effects occur.
- 2.3.18 In contrast, continuing to control beekeeping under the District Plan would require significant work by the council to identify residential properties that have registered beehives located on them. Once properties had been identified, council would then need to work with the owner / occupier to get them to apply for resource consent if the number of hives they had exceeded the number allowed for under the District Plan. This process would be resource intensive and may incur significant costs for both council and the owners / occupiers.

National Policy Statement on Urban Development 2020

- 2.3.19 The National Policy Statement on Urban Development 2020 (NPS UD) 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; and of providing sufficient development capacity to meet the different needs of people and communities.
- 2.3.20 While the proposed plan change is considered to be consistent with the NPS UD, it is felt that the introduction of a bylaw to control animal nuisance would allow for a wider range of well-beings, health and safety to be achieved.

Te Tauāki Kaupapahere Te-Rohe o Waikato: Waikato Regional Policy Statement

- 2.3.21 Te Tauāki Kaupapahere Te-Rohe o Waikato (the RPS) provides an overview of the resource management issues for the Waikato region. The RPS focuses on the ways integrated management of the region's natural and physical resources will be achieved.
- 2.3.22 It is acknowledged that the plan change is consistent with the Waikato RPS as it would have allowed for beekeeping in residential zones as permitted activities which achieves the ecological integrity and biodiversity aims of the RPS, it considered that the RPS is not relevant for the developing of the proposed bylaw.

Operative Waipā District Plan

- 2.3.23 The proposed plan change affects Section 2 'Residential Zone', Section 3 'Large Lot Residential Zone' and Section 21 'Assessment Criteria and Information Requirements'. An analysis of each of these sections is provided below.

Section 2 Residential Zone

- 2.3.24 Section 2.2 of the operative District Plan set out the resource management issues for the residential zone. These issues include (amongst other matters):

- *Residential character* – the density, design and layout of new developments and subdivisions can undermine key elements of existing character. There are clusters of existing dwellings in the District that have a special character. New developments, relocated buildings and subdivisions have the potential to detract from the character of these clusters.
- *Neighbour amenity* – developments and subdivisions can have adverse visual and functional effects on the amenity of the Residential Zone.
- *Neighbourhood safety* – Inappropriate building design, fence design, and site layout affects the opportunity for passive surveillance from dwellings to roads and other public places and consequently adversely affect community safety.
- *On-site amenity values* – buildings that are poorly positioned on a site can affect the level of sunlight and daylight that people receive and the amount of on-site space that is available for outdoor living. Poorly positioned buildings can also result in adverse effects on neighbouring properties.
- *Non-residential activities* – the intensity of non-residential activities can cause adverse effects and detract from anticipated levels of residential amenity. Some non-residential activities can contribute positively to the neighbourhood and community function of the Residential Zone, while others can undermine it. There is also the potential for non-residential activities in the Residential Zone to undermine the function and purpose of the Industrial and Commercial Zones.

2.3.25 There are no objectives which directly relate to beekeeping in residential zones. Under the objective neighbourhood amenity and safety, Policy 2.3.2.18 addresses the housing and keeping of animals and bees. The policy reads:

Policy - Housing and keeping of animals and bees

2.3.2.18 The habits and characteristics of some animals (i.e. roosters), are incompatible with the amenity expectations of the Residential Zone and shall not be kept within the Residential Zone. Some other activities such as bee keeping while having benefits for pollination have particular characteristics which shall be managed in order to avoid undue adverse effects.

2.3.26 Rule 2.4.1.4(m) currently requires landowners to obtain a resource consent for up to 2 beehives as a discretionary activity. Beekeeping is not provided for as a permitted activity in the residential zone.

Section 3 Large Lot residential Zone

2.3.27 The relevance resource management issues for the Large lot residential zone are:

- *Reverse sensitivity* – the incompatibility between activities at the Rural Zone / Hydro Power Zone / Large Lot Residential Zone interface can cause conflict by adversely affecting existing and lawfully established farming or electricity generation activities in adjoining zones.

- *Large lot residential zone character* – the open nature and character of existing low-density Large Lot Residential Zones can be adversely affected by denser and/or non-residential developments.
- *On-site amenity* – poorly positioned buildings can result in adverse effects on neighbouring properties by reducing openness and privacy and causing shading. While the keeping of small numbers of farm animals is a generally accepted activity in the zone, some animals may generate noise, odour, or other nuisance effects that are not acceptable within a large lot residential environment. Large Lot Residential Zones traditionally have a low ambient noise environment. Noise from activities within the Large Lot Residential Zone, from activities in adjacent zones, or from strategic roads and railways that adjoin the Large Lot Residential Zone, can have a detrimental impact on the amenity values for residential activities.
- *Neighbourhood safety* – inappropriate building design, fence design, and site layout affects the opportunity for passive surveillance from dwellings to roads and other public places and consequently adversely affect community safety.
- *Non-residential activities* – a number of non-residential activities provide lifestyle alternatives and benefits to the community.

2.3.28 Policy 3.3.5.3 refers to the housing and keeping of animals. It states that animals (including bees) kept in the Large Lot Residential Zone will be restricted in type, number and in the location and management of any enclosures to those compatible with the amenity expectations of the Large Lot Residential Zone.

2.3.29 Rule 3.4.1.3 requires restricted discretionary consent for any number of beehives kept in the large lot residential zone. Council has limited its discretion to:

- The location of hives and likely flight path; and
- The number of hives; and
- The effects on surrounding properties; and
- The management techniques employed to reduce the potential for nuisance.

2.3.30 These matters will be considered in accordance with the assessment criteria in Section 21. There is no permitted activity status for the keeping of beehives in this zone.

Section 21 Assessment Criteria and Information Requirements

2.3.31 Section 21 of the District Plan contains the assessment criteria and information requirements for resource consent requirements. Assessment Criteria 21.1.2.30 deals with the keeping of up to 2 beehives in a residential zones and lists the following matters to be considered when assessing a discretionary application:

- The location of hives on the site and the likely flight path of bees in relation to neighbouring dwellings, schools, childcare centres, or other community facilities. Note - preferably hives should be 10m from any property boundary

and 25m from adjoining dwellings, schools, childcare centres or other community facilities.

- The number of hives on the site.
- The management techniques employed to reduce the likelihood of a nuisance to any person.
- The positive effect that bees have on pollination.

2.3.32 For large lot residential zones, Assessment Criteria 21.1.3.3 addresses the criteria for a restricted discretionary consent for beekeeping. The criteria are:

- The location of hives on the site and the likely flight path of bees in relation to neighbouring dwellings, schools, childcare centres, or other community facilities. Note - preferably hives should be 10m from any property boundary and 25m from adjoining dwellings, schools, childcare centres or other community facilities.
- The number of hives on the site.
- The management techniques employed to reduce the likelihood of a nuisance to any person.

Conclusion

2.3.33 While there are rules currently in the district plan in respect of beekeeping in residential zones, research has shown that the rules have not been effective. There has been one resource consent issued by the Council for beekeeping in a residential area in the last 5 years. Records obtained from the Management Agency National American Foulbreed Pest Management Plan, the agency with which all beehives must be registered reveal that there are 38 apiaries located in the Cambridge and Te Awamutu urban areas and 363 beehives. It is not known how many unregistered beehives and apiaries there are in the Waipā urban areas.

2.3.34 The district plan is an instrument of the RMA. The Act focuses on the adverse effects of activities. This means beekeeping in residential zones would need to be causing an adverse effect that is more than minor. Under the LGA, the issue with animals, including bees, is whether they are causing a nuisance effect for people around them. The LGA, under section 146, allows for Councils to create a bylaw to address the keeping of animals, bees and poultry.

2.3.35 The RMA focuses on activities and the potential effect associated with them. Section 3 defines the term 'effect' as:

- (a) *Any positive or adverse effect; and*
- (b) *Any temporary or permanent effect; and*
- (c) *Any past, present, or future effect; and*
- (d) *Any cumulative effect which arises over time or in combination with other effects—*

regardless of the scale, intensity, duration, or frequency of the effect, and also includes—

(e) Any potential effect of high probability; and

(f) Any potential effect of low probability which has a high potential impact.

- 2.3.36 This means effects can be both beneficial and detrimental and can include effects over a period or effects that are combined with other effects. In contrast, the LGA focuses on the well beings of its communities and protecting the public from nuisance.
- 2.3.37 The term ‘nuisance’ can be defined as an act which is harmful or offensive to the public or a member of it and for which there is a legal remedy. It implies that there is a legal remedy to fix the matter causing the nuisance. Under the LGA, there are a range of remedies for enforcement including injunctions, the power to seize property, powers of entry and the power to recover damages.
- 2.3.38 Under the RMA, there is a hierarchy of enforcement methods ranging from abatement notices requiring people to do or to cease doing something, infringement notices applying fines and prosecution.
- 2.3.39 Continuing to control beekeeping under the District Plan would require significant work by the council to identify residential properties that have registered beehives located on them. Once properties had been identified, council would then need to work with the owner / occupier to get them to apply for resource consent if the number of hives they had exceeded the number allowed for under the District Plan. This process is resource intensive and could incur significant costs for both council and the owners / occupiers.
- 2.3.40 Waipā District Council does not have a bylaw which deals with nuisance in public and private places. To pursue the development of a bylaw for the control of beehives in residential zones requires a new process under the LGA to develop and draft a proposed bylaw which would then need to go out for public consultation.
- 2.3.41 Bylaws can be restrictive. There is no room for deviating from the criteria specified but it is a way of allowing existing activities to continue provided no nuisance effects occur. It would only be when council was made aware of a nuisance occurring that something would be done. The onus is on the owner of the beehives to use best practice to prevent a nuisance from occurring.
- 2.3.42 The Hearing Panel supports the development of a bylaw over the proposed plan change. In terms of section 32 RMA considerations, a bylaw is the most appropriate (efficient and effective) method to manage any effects. It is more appropriate that the provisions of the LGA are used to develop a bylaw to deal with nuisance arising from beehives. This would also allow consideration to be given as to whether the bylaw needs to be made wider so that it deals with nuisance issues arising from the keeping of animals, bees and poultry in urban areas.

2.4 Submission analysis and decisions on submissions

2.4.1 The analysis of submissions has been done using the topic areas defined above. These topic areas have been used in the analysis of submissions as well as the section 42A report for Proposed Plan Change 18.

TOPIC 1 - ADJUST PERMITTED CRITERIA IN THE DISTRICT PLAN FOR BEEKEEPING

2.4.2 Ten submitters made submission points seeking the adjustment of the permitted criteria for beekeeping in the Residential Zones. These submitters were James Parlane (submitter 2), Abigail Owsley (submitter 3), Stephen Parker (submitter 4), George Payne (submitter 5), Roseanne Cadman (submitter 6), Doug McCauley (submitter 7), Vicky Wilson (submitter 10), Morgan Samuel (submitter 11), Dr Dara Dimitrov (submitter 14) and Valley Heritage Honey Ltd (submitter 15).

2.4.3 The submitters support in part the plan change as it has been notified. However, they consider that the proposed rules do not reflect the realities of beekeeping in urban areas and sought the following changes:

- More hives need to be provided for under the permitted criterion (submitters 2, 4, 5, 7, 11, 14 and 15).
- Rules need to accommodate the splitting of hives which is done to avoid swarming (submitters 2, 6, 11 and 15).
- Schools should be able to have beehives on site as they have larger areas of land (submitters 3, 4, 10, 11, and 15).
- Location of hives and flight barriers (submitters 5, 10, 11, 14 and 15).
- Align rules in plan change to reflect the rules set out by the Management Agency National American Foulbrood Pest Management Plan (submitter 2).
- Require that apiary inspections occur before hives are located on a property and give advice to new beekeepers about being good neighbours (submitter 5).

2.4.4 Some of the submission points are clearly out of scope of the proposed plans change (e.g. apiary inspections and the provision of advice). Other submission points raise valid points that can be incorporated into the development of a bylaw focused on controlling animal nuisance.

2.4.5 Advice received from Council's bee expert, Dr Mark Goodwin supports the following points raised by submitters:

- A maximum of 2 hives per property is too restrictive.
- It is necessary to allow nucleus hives to be located on properties in spring and autumn.
- A safe setback distance from a boundary is 25 metres, with hives being located 3 metres or less from a straight boundary.

- Fencing of a minimum of 1.8 metres to create a flight path that goes up and over neighbouring properties.
- Council approval for hives to be located next to sensitive areas should be obtained. Alternatively, approval should be obtained from the owner and/or occupier of the sensitive site.

2.4.6 The Hearing Panel has requested that staff take note of the points raised above and that these are used to inform the proposed bylaw. As a result, **the Hearing Panel rejects** the submissions made to Topic 1 and determines that:

- (a) A new bylaw should be developed which deals with animal nuisances, including bees.
- (b) When the new Bylaw comes into force, the existing District Plan provisions relating to beekeeping in residential and large lot residential zones and the accompanying provision in section 21, will be deleted.

TOPIC 2 – CREATE A NEW BYLAW FOR BEEKEEPING IN RESIDENTIAL ZONES

2.4.7 Seven submitters sought the development of a bylaw to control beekeeping in residential zones. The submitters were Abigail Owsley (submitter 3), Stephen Parker (submitter 4), Theresa Shephard (submitter 9), Morgan Samuel (submitter 11), Waikato Domestic Beekeepers Association (submitter 13) and Dr Dara Dimitrov (submitter 14).

2.4.8 The submitters stated that a bylaw was the more appropriate method of dealing with nuisance from bees (submitters 3, 4, 9, 13 and 14). The submission points can be summarised as:

- Changes to the district plan are too expensive (submitter 3).
- The creation of a bylaw, especially for animal nuisance would align with other councils do and is logical. (submitters 3, 9, 11 and 13).
- A bylaw would reduce heavy administration costs both for the council and beekeepers (submitter 4).
- Waipā's district plan rules are 1 out of 3 plans that place restrictions on beekeeping and are too severe (submitter 11).
- A bylaw is taking positive action to encourage beekeeping (submitter 14).

2.4.9 The Hearing Panel heard from submitters at the hearing that the proposed district plan rules were too restrictive and that submitters did not feel rules in the district plan under the RMA was the appropriate way to deal with beekeeping in residential areas.

2.4.10 While the content of a bylaw was outside the scope of the plan change, discussion was had around what could be generally included in the proposed bylaw as it is developed. The Hearing Panel agreed that it should cover beekeeping and nuisance

arising from the keeping of bees in residential areas but the potential for it to be a broader animal nuisance bylaw was also there.

- 2.4.11 The **Hearing Panel accepts** the submissions from the submitters listed in paragraph 2.4.8 above.

TOPIC 3 – ENFORCEMENT AND MONITORING

- 2.4.12 Four submitters (George Payne (submitter 5), Doug McCauley (submitter 7), Morgan Samuel (submitter 11) and Esther Dorshorst (submitter 16)), made submissions on the issues of enforcement and monitoring.
- 2.4.13 One submitter (submitter 16) opposed the inclusion of enforcement and monitoring provisions in the district plan, particularly if beekeeping became a permitted activity. One submitter (submitter 11) noted that the current enforcement process was not working as there was many non-compliance hives in Waipā's urban areas. The same submitter noted that the number of complaints received was minimal when compared to the number of unconsented beehives in the district.
- 2.4.14 Submitter 7 sought that compliance officers should be trained in apiary management while submitter 5 supported the monitoring of beehives.
- 2.4.15 The Hearing Panel has decided not to progress the proposed plan change and have committed the Council to developing a bylaw for animal nuisances. This determination also means that the existing beekeeping provisions in the district plan will be deleted on the day the bylaw comes into force.
- 2.4.16 As a result, **the Hearing Panel rejects** the submissions outlined in paragraphs 2.4.13 and 2.4.14 above.

TOPIC 4 – KEEP EXISTING BEEKEEPING PROVISIONS IN THE DISTRICT PLAN

- 2.4.17 Submitter 16 (Esther Dorshorst) opposed the keeping of the existing beekeeping provisions in the District Plan. The **Hearing Panel rejects in part** this submission as the current provisions will need to remain in place in the district plan until the proposed animal nuisance bylaw is in force.

TOPIC 5 – PERMITTED CRITERIA FOR BEEKEEPING

- 2.4.18 Three submitters (Tim O'Neill (submitter 1), Valerie & Adam El-Gambel (submitter 8) and Heritage Valley Honey Ltd (submitter 15), made submissions on the permitted criteria for beekeeping in residential areas.
- 2.4.19 Submitter 1 supported the proposed permitted criteria and expressed the view that the proposed plan change is sensible.
- 2.4.20 Submitter 15 supported in part the proposed plan change as it removed the requirement for beekeepers to obtain resource consent to keep bees in residential

areas. Submitter 8 opposed the plan change in its entirety as they wanted to see beekeeping permitted in the district plan with some controls.

- 2.4.21 The **Hearing Panel rejects** these submissions on the basis that a bylaw for animal nuisance is to be developed under the LGA.

MATTERS RELATING TO TIMING

- 2.4.22 In making its decision, the Panel considered the matter of timing for implementing the bylaw. Until a bylaw is in effect, Council must rely on the current provisions in the District Plan to monitor or enforce any effects from beekeeping in residential zones. While the Panel has determined these provisions should be deleted, there is a need to retain them until the bylaw is in place. This provides a practical outcome of giving effect to the Panel's decision, while ensuring Council retains legal ability to enforce any effects, should these arise.
- 2.4.23 The Panel is aware that this approach extends the non-compliance of a large number of unconsented beehives in residential zones, that will remain technically "unlawful" under the District Plan and the RMA. This would be a matter for Council's enforcement team to determine on a case by case basis whether enforcing the non-compliances is justified.

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B

Part B – Recommended tracked changes to the Waipā District Plan

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3 Amended District Plan text

- 3.1.1 The following text is recommended to be amended or deleted from the District Plan on the day a bylaw covering nuisance from bees came into force, as approved by the Hearing Panel. Additions are shown as underlined and deletions shown as ~~strikeouts~~.
- 3.1.2 Consequential renumbering of paragraphs and rules may need to occur as a result of the proposed amendments.

Part B – Definitions

Bee-keeping Beekeeping means the keeping of bees in one or more hives.

Farming activities means...
▪ ~~BEE-KEEPING~~ BEEKEEPING

Section 2 – Residential Zone

Policy - Housing and keeping of animals ~~and bees~~

- 2.3.2.18 The habits and characteristics of some animals (i.e. roosters), are incompatible with the amenity expectations of the Residential Zone and shall not be kept within the Residential Zone. ~~Some other activities such as bee-keeping while having benefits for pollination have particular characteristics which shall be managed in order to avoid undue adverse effects.~~

2.4 – Rules

2.4.1 – Activity Status Tables

2.4.1.4	Discretionary activities
(m)	The keeping of up to two beehives

Section 3 – Large Lot Residential Zone

On-site amenity

- 3.2.11 While the keeping of small numbers of farm animals is a generally accepted activity in the Large Lot Residential Zone, some animals may generate noise, odour, or other nuisance effects that are not acceptable within a large lot residential environment. ~~Some activities such as bee-keeping, while having benefits for pollination and other activities have particular characteristics which need to be managed in order to avoid undue adverse effects.~~

3.4 – Rules

3.4.1 – Activity Status Tables

3.4.1.3	<p>Discretionary activities</p> <p>The following activities must comply with the performance standards of this zone</p>
(a)	<p>Bee-keeping.</p> <p>Assessment will be restricted to the following matters:</p> <ul style="list-style-type: none"> ▪ Location of hives and likely flight path; and ▪ Number of hives; and ▪ Effects on surrounding properties; and ▪ Management techniques employed to reduce the potential for nuisance. <p>These matters will be considered in accordance with the assessment criteria in Section 21.</p>

Section 21 – Assessment criteria and information requirements

21.1.2 Residential Zone

Residential Zone Assessment Criteria	
21.1.2.30	<p>The keeping of up to two beehives</p> <p>(a) The location of hives on the site and the likely flight path of bees in relation to neighbouring dwellings, schools, childcare centres, or other community facilities.</p> <p>Note: Preferably hives should be 10m from any property boundary and 25m from adjoining dwellings, schools, childcare centres or other community facilities.</p> <p>(b) The number of hives on the site.</p> <p>(c) The management techniques employed to reduce the likelihood of a nuisance to any person.</p> <p>(d) The positive effect that bees have on pollination.</p>

21.1.3 Large Lot Residential Zone

Large Lot Residential Zone Assessment Criteria	
21.1.2.30	<p>The keeping of up to two beehives</p> <p>(a) The location of hives on the site and the likely flight path of bees in relation to neighbouring dwellings, schools, childcare centres, or other community facilities.</p> <p>Preferably beehives should be 10m from any property boundary and 25m from adjoining dwellings, schools, childcare centres or other community facilities.</p> <p>(b) The number of hives on the site.</p> <p>(c) The management techniques employed to reduce the likelihood of a nuisance to any person.</p>



C

Part C – Section 32AA Evaluation

Part C – Section 32AA Evaluation

4 Background and Context

4.1 Introduction

Section 32 Requirements

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

4.1.2 The evaluation must:

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

Section 32AA Requirements

4.1.3 Section 32AA of the Resource Management Act 1991 (RMA) sets out the requirements for undertaking and publishing further evaluations. The section states that:

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

a national planning standard), or the decision on the proposal, is notified; or

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

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

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

4.1.4 This report is an evaluation undertaken by the Waipā District Council (the Council) in accordance with Section 32AA of the RMA in relation to Proposed Plan Change 18 – Beekeeping in Residential Zones (the plan change). The report focuses on the changes that have been made as a result of submissions and decisions from the Hearings Panel since the plan change was publicly notified.

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

4.2 Objective of Proposed Plan Change 18

4.2.1 Proposed Plan Change 18 ‘Beekeeping in residential areas’ was intended to introduce rules into the Waipā District Plan to allow beekeeping in residential areas to occur as a permitted activity provided certain conditions were met.

4.2.2 In respect of the section 32 and 32AA evaluations, the objective of Proposed Plan Change 18 was to remove the need for beekeepers to require resource consent for the keeping of beehives in the residential and large lot residential zones. It was intended to introduce provisions in the Residential Zone (Section 2), Large Lot Residential Zone (Section 3) and Assessment criteria and information requirements (section 21) parts of the district plan to allow beekeeping to occur as a permitted activity provided certain criteria were met.

4.3 Overview of Key Amendments

4.3.1 There are no amendments proposed to the existing text in sections 2, 3 and 21 of the operative District Plan.

4.3.2 The key change from the notified plan change and section 32 report is that it has been decided beekeeping in residential areas will be done via an animal nuisance bylaw under the LGA and the existing provisions removed from the operative district plan.

4.4 Criteria Assessment

4.4.1 An assessment of the decision to develop an animal nuisance bylaw against the provisions of sections 32 and 32AA has been done below.

Criteria	Assessment
Consistency with purpose of RMA	Not applicable. The bylaw to be developed comes under the provisions of the LGA.
Effectiveness	The proposed bylaw is the most effective way of addressing animal nuisance as it will allow for issues to be dealt with as they arise rather than imposing a blanket approach across the district through the District Plan.
Efficiency	If new provisions for dealing with beekeeping in residential areas were inserted into the district plan, there would be substantial costs to both council and beekeepers. Council would need to identify all existing beehives in the district and ensure that they comply with district plan rules. Beekeepers would incur costs to achieve compliance with these rules. A bylaw would allow issues to be addressed as they arise, and council and beekeepers would be able to work together to resolve issues with minimal costs.
Feasibility	Improved feasibility as issues can be addressed as they arise rather than having to retrofit provisions to fit the existing situation.
Degree of risk	The proposed bylaw would reduce the non-compliance that currently exists with beekeeping in the Cambridge and Te Awamutu urban areas.
Overall assessment	Positive impact from using a bylaw to control animal nuisance.