

RMA HEARINGS PANEL REPORT



To: RMA Hearings Panel Commissioners

From: Jo Cook-Munro, Senior Policy Advisor District Plan

Subject: **Section 42A Hearing Report on Plan Change 18: Beekeeping in Residential Zones**

Meeting Date: 29 March 2021

File Reference: 10548949

EXECUTIVE SUMMARY

Plan Change 18 'Beekeeping in Residential Zones' came out of complaints received from the public that the current rules in the Residential Zone and Large Lot Residential Zone in the District Plan were too restrictive. The current rules do not allow for the keeping of beehives in the Residential Zones as permitted activities with resource consent being required to keep up to beehives in the Residential Zone and for an unlimited number of beehives in the Large Lot Residential Zone.

Proposal

Plan Change 18 proposes to allow up to 2 beehives to be kept on Residential Zones as a permitted activity provided certain conditions relating to condition and lot size are met. If the conditions are unable to be met, then a resource consent for a discretionary activity is required.

Submissions

16 submissions were received to Plan Change 18. No further submissions were received. The submissions are broken into the following topics:

- 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 from the District Plan.

Analysis

The submissions seeking deletion of the rules and the creation of a bees bylaw are supported, for reasons set out in the submissions. There is a matter of timing, in removing the rules prior to a bylaw being enacted. This leaves council with no mechanism to manage or control nuisance effects from beekeeping. For these reasons it would be prudent to retain the existing bee rules until a bylaw is enacted.

Recommendation

It is recommended that pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991 that:

- (a) Council progress with a bee nuisance bylaw within the 2021 calendar year, informed by the submissions received to Plan Change 18; and
- (b) Council accepts those submissions seeking to delete the existing bee rules in the District Plan; and
- (c) Council accepts those submissions seeking to create a bylaw; and
- (d) Other submissions are accepted or rejected as recommended in sections 5.1 to 5.5 of this report; and
- (e) The Waipā District Plan “bee provisions” identified in Appendix B are deleted under the decision of Plan Change 18, with deletion to take effect on the date of the enactment of the bee nuisance bylaw.

Table of Contents

1	Introduction.....	4
2	Plan change Scope.....	4
2.2	Background to Plan Change 18.....	4
3	Statutory and Policy Context.....	6
3.1	Resource Management Act 1991.....	6
3.2	Local government Act 2002.....	7
3.3	Adverse effects versus nuisance.....	7
3.4	National Policy Statement on Urban Development 2020.....	8
3.5	Te Tauāki Kaupapahere Te-Rohe o Waikato: Operative Waikato Regional Policy Statement.....	9
3.6	Te Ture O Te Awa o Waikato: Vision & Strategy for the Waikato River.....	9
3.7	Iwi Joint Management Agreements and Environmental Management Plans.....	10
4	Analysis of Submissions.....	10
5	Whole of Plan Change Submissions by topic.....	11
5.1	Topic 1 - Adjust permitted criteria in the district plan for beekeeping.....	11
5.2	Topic 2 - Create new bylaw for beekeeping in Residential Zones.....	17
5.3	Topic 3 - Enforcement and monitoring.....	23
5.4	Topic 4 - Keep existing beekeeping provisions in the District plan.....	25
5.5	Topic 5 - Permitted criteria for beekeeping.....	25
5.6	Topic 6 - Remove beekeeping provisions from district plan.....	26
6	Conclusion.....	27
7	Recommendations.....	28
	APPENDIX A – Analysis of Proposed Plan Change 18: Beekeeping in residential zones, by Dr R. Mark Goodwin, Honeybee Scientist.....	29
	APPENDIX B – Text to be amended or deleted from operative Waipā District Plan.....	34

1 INTRODUCTION

- 1.1.1 This report is prepared in accordance with Section 42A of the Resource Management Act 1991 (the Act). The report considers the contents of proposed Plan Change 18 - Beekeeping in Residential Zones (PC18) as well as the 16 submissions (submissions) that were received by Waipā District Council (the Council). No further submissions were received to the plan change.
- 1.1.2 It has been identified that the current rules in the operative Waipā District Plan (the Plan) are too restrictive and do not reflect the realities of keeping beehives on residential properties.
- 1.1.3 A report by Dr Mark Goodwin, honeybee specialist, has been prepared for the Council to consider. It is attached as Appendix A to this this report.

2 PLAN CHANGE SCOPE

- 2.1.1 PC18 proposes amendments to the planning framework for the Residential Zone and Large Lot Residential Zone of the Plan.
- 2.1.2 The scope of PC18 and the hearing cover the following sections of the District Plan:
- Part B: Definitions
 - Part D: Section 2 – Residential Zone
 - Part D: Section 3 – Large Lot Residential Zone
 - Part E: Section 21 – Assessment Criteria and Information Requirements.

2.2 BACKGROUND TO PLAN CHANGE 18

- 2.2.1 The District Plan currently contains two zone specific rules relating to the keeping of beehives within the urban areas of Waipā district. Specifically, “the keeping of up to two beehives” within the Residential Zone requires resource consent as a Discretionary Activity, and “Bee Keeping” within the Large Lot Residential Zone requires resource consent as a Restricted Discretionary Activity.
- 2.2.2 A member of the public has asked that these rules be reviewed as they consider the rules to be “extremely restrictive, and [is] not really based on the realities of keeping hives on residential properties”.
- 2.2.3 Since 2019, Council has received 6 complaints in respect of beehives located in the urban areas of the district. The complaints were made in the months between October to March which are the months where it is warmer, and bees are at their most active.
- 2.2.4 In addition, 9 queries have been received in relation to existing beekeeping operations or for what the requirements are for keeping bees in an urban garden or on council reserve.
- 2.2.5 While there are not a significant number of complaints, there is an issue of significant non-compliance with the current rules in the Plan. Information received from the Management Agency National American Foulbrood Pest Management Plan, the agency with which all beehives

must be registered, shows that within the Te Awamutu urban area there are 19 apiaries (sites) and 128 beehives, and within the Cambridge urban area there are 29 apiaries and 235 beehives.

- 2.2.6 These figures include only those beehives that are registered. There are likely to be more that are not registered. Council records show that there has only been one resource consent for keeping beehives in the Residential Zone in the last five years. This consent was applied for and granted in 2019.
- 2.2.7 These statistics highlight that the current beekeeping rules in the Residential Zones is either too restrictive, unnecessary, ambiguous and generally not suitable for controlling the activity of beekeeping in residential zones.
- 2.2.8 The proposed changes under 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.

3 STATUTORY AND POLICY CONTEXT

3.1 RESOURCE MANAGEMENT ACT 1991

3.1.1 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”.*

3.1.2 The purpose of the Act is only achieved when the elements in section 5 (a), (b) and (c) have been provided for in a District Plan. In order to achieve the purpose, Council should enable people and communities to provide for their social, economic and cultural well beings, both now and in the future.

3.1.3 Section 6 of the RMA defines matters of national importance under the Act. 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 consistent with Section 6.

3.1.4 Section 7 identifies other matters that particular regard is to be given to. Those matters of key relevance to PC18 include ‘(a) kaitiakitanga’, ‘(b) the efficient use and development of natural and physical resources’, ‘(c) the maintenance and enhancement of amenity values’ and ‘(i) the effects of climate change’. It is considered that the plan change is not inconsistent with these matters.

3.1.5 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 PC18. While no direct feedback has been received from the relevant iwi authorities, consideration 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.

3.1.6 Under section 32 of the RMA Council must examine whether the objectives of the proposal and its provisions are the most appropriate way for achieving the purpose of the Act. This assessment was set out in the ‘Section 32 Report’ that supported the proposed plan change at the time of notification. Pursuant to section 32AA of the Act a further evaluation will be taken in support of the release of decisions on the proposed plan change.

3.1.7 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 Act. The functions of district councils are listed in section 31 of the Act and include (amongst other things):

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

- 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.

3.1.8 The purpose and contents of proposed PC18 are consistent with the purpose of a district plan pursuant to section 76 of the RMA.

3.2 LOCAL GOVERNMENT ACT 2002

3.2.1 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.

3.2.2 Section 145 of the LGA 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.

3.2.3 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*”.

3.2.4 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 Resource Management Act. In this way bylaws protect both the Waipā community and individual rights. They are there to make Waipā a safe and healthy place in terms of nuisance.

3.2.5 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.

3.2.6 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). Waipā District Council does not currently have an animal nuisance bylaw.

3.3 ADVERSE EFFECTS VERSUS NUISANCE

3.3.1 The RMA focuses on activities and the potential effect associated with them. Section 3 of the Act defines the term ‘effect’ as:

- (a) Any positive or adverse effect; and
- (b) Any temporary or permanent effect; and

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

- (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.
- 3.3.2 This means effects can be both beneficial and detrimental and can include effects over a period of time 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.
- 3.3.3 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.¹ 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.
- 3.3.4 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.
- 3.3.5 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 would require a new process to develop and draft a proposed bylaw which would then need to go out for public consultation.
- 3.3.6 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.
- 3.3.7 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.

3.4 NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT 2020

- 3.4.1 The National Policy Statement on Urban Development 2020 (NPS UD) recognises the national significance of:
- (a) 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;
 - (b) Providing sufficient development capacity to meet the different needs of people and communities.

¹ <https://www.lexico.com/definition/nuisance> Accessed 03/02/2021.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

- 3.4.2 Section 2 of the NPS UD contains the objectives for the NPS. Objective 1 has as its purpose that “New Zealand has 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”.
- 3.4.3 Objective 4 requires that “New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations”.
- 3.4.4 The proposed plan change seeks to provide for the NPS UD by enabling people and communities to provide for their social, economic and cultural wellbeing as well as catering for the changing needs of people, communities and future generation through allowing beekeeping to a certain level to occur as a right in residential zones.

3.5 TE TAUĀKI KAUPAPAHERE TE-ROHE O WAIKATO: OPERATIVE WAIKATO REGIONAL POLICY STATEMENT

- 3.5.1 Te Tauāki Kaupapahere Te-Rohe o Waikato (the RPS) provides an overview of the resource management issues for the Waikato region. The RPS also focuses on the ways integrated management of the region’s natural and physical resources will be achieved. It contains policies and methods to achieve integrated outcomes across the region.
- 3.5.2 Section 75 of the RMA requires district plans to give effect to any relevant RPS. Regional Policy Statements are required to achieve the purpose of the Act by providing an overview of the resource management issues of the region, and policies and methods to achieve integrated management of the natural and physical resources.
- 3.5.3 Plan Change 18 is consistent with the Waikato RPS as it provides for beekeeping in residential zones as permitted activities which achieves the ecological integrity and biodiversity aims of the RPS.

3.6 TE TURE O TE AWA O WAIKATO: VISION & STRATEGY FOR THE WAIKATO RIVER

- 3.6.1 Te Ture Whaimana o Te Awa o Waikato was developed by the Waikato River Guardians Establishment Committee, iwi and communities of the Waikato River catchment including the lower reaches of the Waipā River. The Waikato River co-management legislation -Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and the Ngāti Tūwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 (Upper River Act) - establishes the Vision and Strategy in law. The Vision and Strategy is the primary direction setting document for the Waikato River including its catchment which includes most of the Waipā District.
- 3.6.2 The Vision and Strategy is deemed to be part of the Waikato Regional Policy Statement and must be given effect to by the District Plan. The proposed plan is focused on an activity which is small and scale. It is thought that there will be no or very little effects from the keeping of bees in residential zones on the health and wellbeing of the Waikato and Waipā rivers.

3.7 IWI JOINT MANAGEMENT AGREEMENTS AND ENVIRONMENTAL MANAGEMENT PLANS

- 3.7.1 Council has joint management agreements in place with Waikato Tainui, Raukawa and Maniapoto. Pre consultation copies of the proposed plan change were sent to these Iwi as well as Ngāti Hauā and Ngāti Koroki Kahukura for their information and for comment. While no feedback was received, Council believes it has fulfilled its obligations under the clause 4A, First Schedule of the Act as well as the joint management agreements.
- 3.7.2 A review of the relevant iwi environmental plans has been done. The relevant plans are:
- (a) Tai Tumu, Tai Pari, Tai Ao – Waikato Tainui Iwi Environmental Plan
 - (b) Ko Tā Maniapoto Mahere Taiao – Maniapoto Environmental Plan
 - (c) Te Tautaki Taiao a Raukawa – Raukawa Environmental Plan
 - (d) Te Rautaki Tamata Ao Turoa o Hauā – Ngāti Hauā Environmental Plan.
- 3.7.3 Staff believe that the proposed plan change is consistent with the above environmental management plans in that the keeping of beehives in residential zones will help achieve the enhancement of the natural environment as well as providing for the effective use of the land.

4 ANALYSIS OF SUBMISSIONS

- 4.1.1 A total of 16 submissions were received on Plan Change 18. No further submissions on the plan change were received. The submissions have been grouped into topic areas which this report adopts. The topic areas are as follows:
- 1. Adjust permitted criteria in the District Plan for beekeeping.
 - 2. Create new bylaw for beekeeping in Residential Zones.
 - 3. Enforcement and monitoring.
 - 4. Keep existing beekeeping provisions in the District Plan.
 - 5. Permitted criteria for beekeeping.
 - 6. Remove from the District Plan.
- 4.1.2 This report has grouped the common issues together in order to avoid repetition as much as possible. The table below shows what submitters submitted to what topic.

Table 1: Topic and Submitter number and name

Topic	Submitter number and name
Adjust permitted criteria in the District Plan for beekeeping	2 – James Parlane 3 – Abigail Owsley 4 – Stephen Parker 5 – George Payne 6 – Roseanne Cadman 7 – Doug McCauley 10 – Vicky Willison 11 – Morgan Samuel 14 – Dr Dara Dimitrov

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Topic	Submitter number and name
	15 – Valley Heritage Honey Ltd, Attn: Alex Reeker
Create new bylaw for beekeeping in Residential Zones	3 – Abigail Owsley 4 – Stephen Parker 9 – Theresa Shephard 11 – Morgan Samuel 12 – Phil Evans 13 – Waikato Domestic Beekeepers Association, Attn: Mike Simmonds 14 – Dr Dara Dimitrov
Enforcement and monitoring	5 – George Payne 7 – Doug McCauley 11 – Morgan Samuel 16 – Esther Dorshorst
Keep existing provisions in the District Plan	16 – Esther Dorshorst
Permitted criteria for beekeeping	1 – Tom O’Neill 8 – Valerie and Adam El-Gambel 15 – Valley Heritage Honey Ltd, Attn: Alex Reeker
Remove from the District Plan	9 – Theresa Shephard 12 – Phil Evans

5 WHOLE OF PLAN CHANGE SUBMISSIONS BY TOPIC

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

- 5.1.1 Ten submitters made submission points seeking the adjustment of the permitted criteria for beekeeping in the Residential Zones.
- 5.1.2 The majority of submitters support in part the plan change as it has been notified. It is considered that the proposed rules do not reflect the realities of beekeeping in urban areas. In addition, the following points were made:
- More hives need to be provided for under the permitted criterion.
 - Rules need to be able to accommodate the splitting of hives which is done to avoid swarming.
 - Schools should be able to have beehives on site as they have larger areas of land.
 - Insert provisions relating to land area and the number of hives allowed, apiary inspections and providing advice to new beekeepers about being good neighbours.
- 5.1.3 While 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 raised valid points that can be incorporated in to the development of a bylaw focused on controlling animal nuisance.
- 5.1.4 The table below summarises what the submitters said, and the decisions sought.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Table 2: Summary of submissions for Topic 1

Submission / Point	Submitter	Provision / reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
2/1	James Parlane	New permitted criteria for beekeeping	Not stated	Plan change should reflect and align with AFB Agency, including 3 beehives per residential property.	Amend permitted criteria to align with AFB agency.	It is recommended that a bees bylaw is progressed and the bee rules deleted from the District Plan on enactment of the bylaw. In the interim, the current rules will remain in place in the District Plan.
2/2				Rules should accommodate the spring season when hives are spilt to avoid swarming, which means this should be referred to as half a hive.	Amend permitted criteria in district plan.	
2/3				The permitted criteria should allow for 6 half hives or 3 full hives.	Amend permitted criteria in district plan.	
3/3	Abigail Owsley	District plan – beehives near schools	Support	Proposed criteria are still prohibitive such as not being beside schools as many schools have their own beehive.	No decision requested.	
4/2	Stephen Parker	New permitted criteria for bee-keeping rules	Oppose	If option 3 (bylaw) is not possible then proposed option 4 (permit in plan) should be altered.	No decision requested.	
4/3		District plan – number of hives	Oppose	Increase maximum beehives to four and include a minimum requirement of two hives. If queen fails in one hive, the other hive can be used to donate to other 3-4 hives, gives greater manoeuvrability.	No decision requested.	
4/4		District plan – beehives near schools	Oppose	Many schools have hives. Bees forage up to 3km from their hive so a hive should have negligible effects on neighbouring properties.	No decision requested.	
5/1	George Payne	District plan – beehives based on lot size	Support	There shouldn't be a blanket approach to beekeeping provisions. The amount of hives on a property should be determined based on	Approve the change but put in provisions for the number of hives per land area, apiary inspection before a	

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision / reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
				the size of that site (i.e. one hive per 350m ²).	beekeeper can locate hives, provide advice for new beekeepers about being good neighbours.	
5/2	George Payne	District plan -	Support	Beekeepers should be mindful of the direction of their hive entrance points so it does not direct the bees across the neighbours.	No decision requested.	It is recommended that a bees bylaw is progressed and the bee rules deleted from the District Plan on enactment of the bylaw. In the interim, the current rules will remain in place in the District Plan.
6/1	Roseanne Cadman	District plan – number of beehives	Support in part	Rule of no more than 2 beehives on properties is appropriate. Rule should allow time to sell/rehome nucleus colonies to prevent swarming and this hive should not be counted as a separate hive.	Amend permitted criteria to that there is no more than 2 beehives and 2 nucleus colonies on a site and that the nucleus colonies should be no more than 3 months old.	
6/2				Nucleus colonies should not be more than 3 months old.		
7/1	Doug McCauley	District plan – number of beehives	Support in part	Hive maximum is quite restrictive and does not provide any real increased protection to surrounding areas from nuisance bees.	Remove maximum hive number limits – remove or amend. Better describe lot sizing parameters if not removed. Consult beekeeping community to get accurate knowledge. Make sure field staff are suitably trained to be able to form an opinion on apiaries.	It has been identified that controlling bees and beehives through the District Plan is not the appropriate vehicle. A bylaw to address nuisance effects from bees is recommended.
7/2		District plan -beehives based on lot size	Support in part	Regulation of lot size seems unnecessary. However plan change could be clearer on what defines a larger lot.	No decision requested.	
10/1	Vicky Willison	District plan -location of beehives	Support in part	Fence height is more important than requiring setbacks.	Create a bylaw instead of including new rules in district plan.	Developing a bylaw to address nuisance effects from bees is recommended.
10/2		District plan – beehives near schools	Support in part	Banning near school is not required as some schools have beehives	No decision requested.	

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision / reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
				that the students manage.		
11/4	Morgan Samuel	New permitted criteria for beekeeping rules	Support in part	If there are rules in district plan that would mean beekeeping requiring any kind of consent or permit with the council, this would need to be consistent across all registered beehives in the district to be fair.	No decision requested.	The submitter's comment that rules of beekeeping need to be consistent is noted.
11/5	Morgan Samuel	District plan – beehives near schools	Support in part	<p>Bees can fly anywhere within a 5km radius of their hive. Because of this, where a hive is situated does not affect the immediate density of bees except for a 2m space directly in front of the hive. Once away from the front of the hive, bees fly up into the sky – well above the heads of humans and spread out in the 5km radius.</p> <p>Te Awamutu Primary School has 2 active beehives on their grounds which are part of the TAPS Enviro Warriors initiative teaching children essential skills such as gardening and beekeeping.</p>	No decision requested.	It has been identified that controlling bees and beehives through the District Plan is not the appropriate vehicle. Developing a bylaw to address nuisance effects from bees is recommended.
11/6	Morgan Samuel	New permitted criteria for beekeeping rules	Support in part	<p>Proposed rules under option 4 do not address realities of beekeeping. Two beehives per site would not allow a beekeeper to manage their hives properly.</p> <ul style="list-style-type: none"> • Need to be able to spilt one hive into two in spring is crucial for swarm prevention. • If two hive limit imposed, bee-keepers will struggle to keep 	No decision requested.	Developing a bylaw to address nuisance effects from bees is recommended.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision / reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
				<p>their hives from swarming.</p> <ul style="list-style-type: none"> Criteria would severely increase the risk of nuisance caused by bees. <p>Hives should not be placed away from boundaries.</p> <ul style="list-style-type: none"> The distance of hive placement from a boundary is incorrect. Will make it harder for a residential beekeeper to find a suitable place for a hive. Beehives need to be placed with the rear of the hive sitting right up against a fence (i.e. 0.2m – 0.5m away) and the hive entrance must be facing inwards from the fence (i.e. into the owner’s property). Beehives need shade which is often gained from a high fence. Locating hives 3-5m from a fence will not be good for the health of the hive in warmer seasons and will increase risk of bees swarming and/or dying. <p>Height criteria of 1.8m is correct as it will force the bees to fly up above the height of humans immediately.</p> <ul style="list-style-type: none"> Fence does not need to be solid. <p>Size of residential lot is irrelevant to having a</p>		

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision / reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
				<p>beehive on the property.</p> <ul style="list-style-type: none"> • More important is the land to dwelling ration. • Beehives only need about 2.5m of space to operate. This allows enough room for a 0.17m² beehive and provides enough space at the front of the hive for the bees to fly up and down the entrance. <p>In respect of sensitive environments, the flight radius of a bee is bigger than 500m².</p>		
14/3	Dr Dara Dimitrov	New permitted criteria for beekeeping rules	Support in part	<p>Agrees beekeeping should be a permitted activity with no more than 3 hives. Disagrees that there should be a restriction on controls from boundaries. Other controls suggested, e.g. hives to face away from neighbours' driveways, children's playgrounds, clotheslines, homes. Should be requirements for providing on-site water sources for bees including a birdbath and providing fencing or hedging.</p>	No decision requested.	<p>It has been identified that controlling bees and beehives through the District Plan is not the appropriate vehicle. Developing a bylaw to address nuisance effects from bees is recommended.</p>
15/2	Heritage Valley Honey Ltd	District plan – number of beehives	Support in part	<p>Opposes 2 beehives per site and wants this increased to four hives per site. This will allow beekeeper to split in the spring to control swarming and colony population size.</p>	No decision requested.	
15/3		District plan – location of beehives	Support in part	<p>Opposes hive restrictions as there is no benefit to lacing a hive any specific distance inside a boundary.</p>	No decision requested.	

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision / reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
				<ul style="list-style-type: none"> • Solid boundaries are more beneficial to obscure the bee flight path. • Barrier should be a minimum of 1.8m in height and should extend minimum of 1m horizontally from the outermost beehives of the apiary. 		
15/4	Heritage Valley Honey Ltd	District plan – beehives near schools	Support in part	Opposes restriction of beehives near schools. Supports restriction as it relates to preschools and early childhood centre as these are much smaller and confined which increases risk if bees swarm or become agitated in these confined spaces.	No decision requested/	It has been identified that controlling bees and beehives through the District Plan is not the appropriate vehicle. Developing a bylaw to address nuisance effects from bees is recommended.

5.2 TOPIC 2 - CREATE NEW BYLAW FOR BEEKEEPING IN RESIDENTIAL ZONES

- 5.2.1 Option 3 in the section 32 evaluation report for Proposed Plan Change 18 explored the development of a bylaw to control beekeeping in residential zones. The option would delete the relevant rules from the District Plan and replace them with a bylaw made under the Local Government Act 2002 (LGA).
- 5.2.2 The development of a bylaw provides the power to deal with nuisance effects and to use the complaints and enforcement processes set out in the LGA. The focus on nuisance effects provides the ability for council to work with landowners / occupiers to resolve complaints.
- 5.2.3 Seven submitters made submissions on the option of creating a new bylaw. The majority of these felt that a bylaw was more appropriate to control bees in the Residential Zone than having rules in a district plan. It was felt that the proposed rules did not reflect current best practice for beekeeping.
- 5.2.4 One submitter (submitter 4) sought the following decisions:
- Increase the minimum number of hives allowed to 4.
 - Ensure that beehives are placed in such a way to avoid their flight path from causing a nuisance effect to neighbouring properties.
 - Allow for schools to have beehives on-site.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

5.2.5 Submitter 9 amended the proposed rules to require the following:

- Hives located in the district shall be registered under the Biosecurity Regulations.
- Persons keeping bees or permitting bees to be kept on their premises to ensure that no nuisance is caused to other persons.
- Allow for the removal of a beehive by authorised council officer if the hive is considered to be dangerous, injurious or offensive to people.
- Requirements to be met for persons keeping beehives in a property in a residential zone of less than 2000m².

Table 3: Summary of submissions for Topic 2

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
3/1	Abigail Owsley	Create a bylaw instead of including new rules in the District Plan	Support	Changes to district plan are too expensive.	Create a bylaw instead of including new rules in district plan.	It has been identified that controlling bees and beehives through the district plan is not the appropriate vehicle. Developing a bylaw to address nuisance effects from bees is recommended.
3/2				Create bylaw to align with other councils		
4/1	Stephen Parker	Create a bylaw instead of including new rules in the District Plan	Oppose	A bylaw should mean that Waipā DC don't have to be hindered with heavy administration costs, and neither do beekeepers.	Rule 3.4.2.13A (a) - Two hives are the minimum that should be kept for good beekeeping as if queen fails in one hive, the other hive can be used to donate to that hive. 3-4 hives gives greater manoeuvrability. Rule 3.4.2.13A (b) – replace with hives should be positioned to ensure that their flight path does not cause nuisance to neighbouring properties. Rule 3.4.2.13A (c) – Remove.	The submission points made by the submitter have been noted and will be carried forward to development of a bylaw.
9/1	Theresa Shephard	Create a bylaw instead of including new rules in	Oppose	Prefers option 3 which is to have a bylaw as part of an animal nuisance rule like most other councils. Bees are necessary in our	Replace with following rules: 13.1 Any hives located within the district shall be registered under	The submission points made by the submitter have been noted and will be carried forward

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
		the District Plan		urban environment especially for pollination services.	<p>the Biosecurity Regulations.</p> <p>NB: Registering hives may be completed through the National AFB Pest Management Agency.</p> <p>Website: www.afb.org.nz</p> <p>13.2 In all areas of the district, any person keeping bees or permitting bees to be kept on their premises shall ensure that no nuisance is caused to other persons by those bees.</p> <p>13.3 Where an authorise council officer considers a hive to be dangerous, offensive or likely to be injurious to people the authorised council officer may require the removal of such a hive.</p> <p>13.4 in all other areas within the district no hive shall be kept less than 40 metres from any boundary, roadside, public place or right of way unless council has provided its written approval.</p> <p>13.5 Location of hives within an urban area section of less than 2000m2 must comply with the following:</p> <p>a. hives that are shielded by a fence or suitably dense vegetation not less 1.8m high may be</p>	to the development of a bylaw.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
					<p>located no closer than 3m from a footpath</p> <p>b. hives suitably shielded by a building or fence or suitably dense vegetation not less than 1.8m may be located no closer than 10m from a neighbour's principal building</p> <p>c. a shielding plan shall be provided to ensure that the bees flight path is made to go a minimum of 1.8m high over the adjacent property or road.</p>	
11/1	Morgan Samuel	Create a new bylaw	Support in part	<p>Agree with option 3 for the following reasons:</p> <ul style="list-style-type: none"> ▪ Enforcement risk to beekeepers is low. ▪ Bylaw for animal nuisance like Hamilton City Council has, is by far the most logical and sensible option. ▪ Waipā is only 1 of 3 councils out of 67 that restrict hive numbers and locations like this. ▪ Waipā is alone in the severity of its rules. ▪ No need to restrict beehive numbers or define locations. ▪ Simple recommendation is to have a 1.8m fence height around beehives. Trellis could be attached to lower existing fences to 	No decision requested.	Developing a bylaw to address nuisance effects from bees is recommended.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
				<p>get the required height.</p> <ul style="list-style-type: none"> ▪ Bees will fly up and over a 2m fence and don't drop down unless there are flowers with nectar and pollen and only a few bees would go there. ▪ Bees can fly up to 4km from their own hives. ▪ Bees can sit up against a fence or be 20m away and the bees will still go up and over as they do not drop down unless there are flowers. ▪ Placing restrictions on proximity to sensitive sites will cause problems. Many schools have hives on site which the pupils, with supervision, manage. ▪ Due to a bee's foraging range of up to 4km, restricting hives adjacent to sensitive areas achieves nothing. Hives 2 sections over are exactly the same as one right next door. ▪ Any restriction would need to be a minimum of 4km which would wipe out all beehives in and around a wide area of Cambridge and Te Awamutu. 		
13/2	Waikato Domestic Beekeepers	Create a bylaw instead of including new rules in	Support in part	<p>For option 4, noted:</p> <ul style="list-style-type: none"> ▪ Many of the submitter's members keep up 	No decision requested.	Developing a bylaw to address nuisance effects from bees is recommended.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
	Association	the District Plan		<p>to four hives inside Hamilton City without issues with their neighbours.</p> <ul style="list-style-type: none"> ▪ While two hives are the minimum that should be kept for good animal husbandry (you can solve queen failure in one hive using the second hive), 3-4 hives allows for more flexibility and thus more responsible beekeeping. ▪ Better to replace setback requirement with more general statement that hives should be placed in such a manner as to ensure their flight path does not provide a nuisance to any neighbouring properties. This would allow beekeepers to site the beehives in the most suitable location, such as next to a high boundary fence. 		
13/3	Waikato Domestic Beekeepers Association	Create a bylaw instead of including new rules in the District Plan	Support in part	<p>Members have raised the point that most, if not all councils, within New Zealand control urban beekeeping using bylaws to address nuisance issues.</p> <p>Urge council to consider this option (bylaw) as a simple, cost effective solution.</p>	No decision requested.	Developing a bylaw to address nuisance effects from bees is recommended.
14/1	Dr Dara Dimitrov	Create a bylaw instead of including new rules in	Support in part	<p>Beekeeping is on the rise, the number of registered bee-keepers continues to increase. Biosecurity Act 1993 requires all beekeepers</p>	Maximum number of hives should not exceed three, require fencing or hedging, require an onsite water source	The points made by the submitter have been noted by staff and will be used to inform the development of a

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
		the District Plan		to register their hives and pay an AFB levy fee to the Management Agency National American Foulbrood Pest Management Plan and hobbyist beekeepers are encouraged to be members of Apiculture New Zealand which represents all sectors of the apiculture industry.	to prevent the bees going to pools and other sources of water at neighbouring properties. Do not allow hives to face a neighbour's driveway, children play areas, clotheslines or home.	bylaw to control bee nuisance.
14/2				Rather than restrain beekeeping, council should take positive action and encourage beekeeping and include a bylaw rather than a district plan rule.	No decision requested.	Development of a bee nuisance by-law is recommended.

5.2.6 It is clear from the submission analysis in the above table that the development of a bylaw to control beekeeping in residential zones is the option preferred by submitters, over having rules in the District Plan.

5.2.7 Expert advice received supports the points raised by submitters in that:

- A maximum of 2 beehives per property is considered to be too restrictive.
- It is necessary to allow for nucleus hives to be present on a property in spring and autumn.
- A safe distance for a setback from a hive to a boundary is 25m.
- Fencing of at least 1.8m will create a flight path that goes up and over neighbouring properties and reduce the need for bees to display defensive behaviour.
- Hives should be located 3m or less from a straight fence.
- Council approval for beehives to be located next to sensitive sites should be obtained. Alternatively, approval from the owner/occupier of the sensitive site should be obtained.

5.2.8 These are all matters that are able to be incorporated into a bylaw.

5.3 TOPIC 3 - ENFORCEMENT AND MONITORING

5.3.1 Four submitters lodged submission concerning the enforcement and monitoring of beehives located in residential areas. The submitters support the enforcement and monitoring of beehives in residential zones. The table below shows a summary of the submission points raised received concerning enforcement and monitoring.

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Table 4: Summary of submissions for Topic 3

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
5/3	George Payne	Enforcement and monitoring	Support	Beehives should be monitored and inspected like fencing for dogs and pools.	No decision requested.	Submission point noted.
7/3	Doug McCauley	Enforcement and monitoring	Support in part	It would make sense for compliance officers to have some training in apiary management to be able to help beekeepers if required rather than impede them with compliance notices.	No decision requested.	Submission point is out of scope. Council has a statutory role in ensuring activities do not cause adverse effects on neighbouring properties as well as controlling activated to stop nuisances occurring.
11/2	Morgan Samuel	Enforcement and monitoring	Support in part	If there is a clear process for complaints, there is no reason why any nuisance effects can't be managed under a bylaw. If beehives are placed and maintained correctly (which all New Zealand registered bee-keepers are required to do as part of the NZ apiary register) any potential nuisance from a beehive is minimal. Any responses to nuisances could be managed the same way that nuisance dogs are managed.	No decision requested.	Developing a bylaw to address nuisance effects from bees is recommended.
11/3		Remove from the District Plan	Support in part	Option 4 (permit within district plan) is not viable based on the statistics of complaints received versus how many unconsented beehives there are.	No decision requested.	It is apparent from the submission received, that having rules in the District Plan is not the most appropriate way to deal with beekeeping in residential zones.
16/2	Esther Dorshorst	Enforcement and monitoring	Oppose	Has concerns over enforcement if activity was permitted with controls and neighbour did not comply with the permitted criteria.	Keep existing beekeeping provisions in district plan.	

5.4 TOPIC 4 - KEEP EXISTING BEEKEEPING PROVISIONS IN THE DISTRICT PLAN

5.4.1 One submitter sought the retention of the current beekeeping provisions in the District Plan. The submitter is concerned that if the rules change, the potential for the number of bees to increase exists.

Table 5: Summary of submissions for Topic 4

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
16/1	Esther Dorshorst	Keeping existing beekeeping provisions in district plan	Oppose	Has concerns relating to people with allergies and one’s health if beekeeping was permitted within residential zones. Notes that there are already bees in backyards but has concerns that the number of bees would increase if the rules were changed.	Keep existing beekeeping provisions in district plan.	The submitter’s concerns are noted and will be taken into account in the bylaw.

5.4.2 It has become apparent through the drafting of this report that having rules in the District Plan is not the most appropriate way to control beekeeping in residential zones. Staff believe that better control will be achieved through the development of a bees nuisance bylaw.

5.5 TOPIC 5 - PERMITTED CRITERIA FOR BEEKEEPING

5.5.1 Three submitters lodged submissions on the permitted criteria for beekeeping contained in proposed PC18. Two submitters supported the plan change with one wanting it retained as per the preferred option. Another submitter (submitter 15) sought the amendment of the permitted criteria so that 4 hives could be kept on site and that there was a requirement for barriers to be used instead of setbacks. The same submitter also sought the removal of the sensitive site restrictions for schools. A summary of the submissions received on this topic is shown in the table below.

Table 6: Summary of submissions for Topic 5

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
1/1	Tim O’Neill	Permitted criteria for beekeeping rules	Support	Plan change is sensible.	As per the preferred option (option 3).	Developing a bylaw to address nuisance effects from bees is recommended.
8/1	Valerie and Adam El-Gambel	Permitted criteria for beekeeping rules	Oppose	Wants to see beekeeping permitted with some controls.	Wants to see beekeeping permitted with some controls.	
15/1	Heritage Valley Honey Ltd	Permitted criteria for beekeeping rules	Support in part	Supports the plan change to remove the current requirement to apply for a resource	Increase permitted criteria to four hives.	

WAIPA DISTRICT PLAN: PLAN CHANGE 18 – BEEKEEPING IN RESIDENTIAL ZONES

Submission / Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
				consent for hobbyist bee-keepers.	Requirement of fly way barriers of minimum height of 1.8m and extend minimum of 1m horizontally from the side of the outermost beehives of the apiary instead of setbacks. Remove restrictions to schools but keep for preschools and early childhood centres.	

5.6 TOPIC 6 - REMOVE BEEKEEPING PROVISIONS FROM DISTRICT PLAN

5.6.1 Two submitters made points concerning the removal of beekeeping provisions from the District Plan. A summary of their submissions is shown in the table below.

Table 7: Summary of submissions for Topic 6

Submission/ Point	Submitter	Provision/ reference	Support/ oppose	Reason for submission	Decision requested	Recommendation
9/2	Theresa Shephard	Remove from the District Plan.	Oppose	The proposed rules are not fit for purpose and should be removed not requiring permitted.	No decision requested.	Developing a bylaw to address nuisance effects from bees is recommended.
12/1	Phil Evans	Remove from the District Plan.	Support in part	Option 1 is not viable.	No decision requested.	
12/2				Partially sees some merit in option 2 based on fact that most councils in NZ have no real issues between beekeepers and neighbours.	No decision requested.	
12/4				Does not agree with option 4 as: a) Used of enforcement options is unnecessary. b) Restriction relating to number of hives and locations is unnecessary. c) Requiring consent to add additional hive is unnecessary.		

6 CONCLUSION

- 6.1.1 The submissions give rise to reconsideration of Option 3 of the section 32 report, being to delete the “bee rules” entirely from the District Plan and replacing these with a bylaw.
- 6.1.2 After analysing the submissions received and carrying out further research on how other local authorities address beekeeping in residential areas, staff have reached the conclusion that it is not appropriate to control nuisance caused by bees through the inclusion of provisions in the District Plan.
- 6.1.3 District plans are developed under the Resource Management Act 1991. The RMA is effects based and the matter of avoiding, remedying or mitigating adverse effects of activities on the environment. The environment takes in the existing environment as well as the future environment after taking into account what activities are permitted and what resource consents are granted.
- 6.1.4 To take action under the RMA, you would need to show that the effects of the activity (in this case beekeeping in a residential area) would be more than minor. This has a high burden of proof attached to it. The High Court has held that the term “less than minor” means an effect that in “the overall context” is insignificant and one which is so limited that it is objectively acceptable and reasonable in the receiving environment and to a potentially affected person.²
- 6.1.5 In contrast, under the LGA, the burden to prove nuisance is not as high. The definition of ‘nuisance’ is an act which is harmful or offensive to the public or a member of it and for which there is a legal remedy. Something as simple as bee droppings would be considered a nuisance which would allow the council to become involved and work towards an acceptable solution.
- 6.1.6 This focus on nuisance is supported by the LGA which focuses on the environmental, economic, social and cultural well beings of its communities and protecting the public from nuisance.
- 6.1.7 Council has the ability to develop a bylaw under the LGA to address the issue of animal nuisance within its district, noting that the LGA specifically includes beekeeping. Given the LGA scope of a bylaw, the council could also consider applying a wider scope to the bylaw beyond just bees. This would be considered as part of drafting and consulting on the bylaw.
- 6.1.8 However, this option does give rise to a timing consideration. Drafting and consulting on a bylaw could take around 12 - 15 months from commencement to having a bylaw in place. There is also a possibility that submissions on the proposed bylaw give rise to matters not considered, and do not guarantee that a bylaw will be put into place.
- 6.1.9 There is some risk in deleting the bee rules in the District Plan before a bylaw is in place, as:
- (a) Council would have no mechanism at all to control beehives or the effects arising from residential bee keeping; and
 - (b) confirming the enactment of a bylaw is not 100% guaranteed due to the bylaw statutory consultation process.

² *Gabler v Queenstown Lake District Council* [2017] NZHC 2086.

6.1.10 For these reasons, it would be prudent to retain the existing bee rules until a bylaw is confirmed, and delete the rules on the enactment of the bylaw.

7 RECOMMENDATIONS.

7.1.1 It is recommended that pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991 that:

- (a) Council progress with a bee nuisance bylaw within the 2021 calendar year, informed by the submissions received to Plan Change 18; and
- (b) Council accepts those submissions seeking to delete the existing bee rules in the District Plan; and
- (c) Council accepts those submissions seeking to create a bylaw; and
- (d) Other submissions are accepted or rejected as recommended in sections 5.1 to 5.5 of this report; and
- (e) The Waipā District Plan “bee provisions” identified in Appendix B are deleted under the decision of Plan Change 18, with deletion to take effect on the date of the enactment of the bee nuisance bylaw.

Report prepared by:



Jo Cook-Munro
SENIOR POLICY ADVISOR DISTRICT PLAN

Report reviewed and approved by:



Tony Quickfall
MANAGER DISTRICT PLAN AND GROWTH

APPENDIX A – ANALYSIS OF PROPOSED PLAN CHANGE 18: BEEKEEPING IN RESIDENTIAL ZONES, BY DR R. MARK GOODWIN, HONEYBEE SCIENTIST

ANALYSIS PROPOSED PLAN CHANGE 18: BEEKEEPING IN RESIDENTIAL ZONES

Dr R. Mark Goodwin
Honeybee Scientist

This document discusses the Proposed Plan Change 18: Beekeeping in Residential Zones. It only deals with the proposed rules required for beekeeping to be carried out safely, but does not comment on the benefits of beekeeping to the community nor the necessity for a bylaw change that was commented on in several submissions^(3/1,3/2,4/1,9/1,11/1,12/3,13/1,13.2,13/3,14/1,14/2). The superscript numbers refer to submission numbers assigned in the Document 'Summary of Decisions Required to Proposed Plan Change 18: Beekeeping in Residential Zone by Topic' and points made. The topics discussed are:

- 1) → The number of hives per site
- 2) → The placement of hives at a site
- 3) → Proposed conditions for placing hives on various sized properties
- 4) → The placement of hives on properties next to parks, schools, and community halls.

In addition to the proposed controls, there are New Zealand wide legal requirements for sites where beehives are kept. These requirements are:

- 1) → The location of all apiaries must be registered with the National American Foulbrood Pest Management Agency within 30 days of the apiary site being established.
- 2) → The hives must be inspected by an approved beekeeper in the spring of each year for the presence of clinical symptoms of the honeybee larval disease, American Foulbrood.
- 3) → Any colonies found with clinical symptoms of American Foulbrood Disease must be burnt.
- 4) → The number of hives on apiary sites and the finding of any American disease must be reported each June.

¶

Proposed Controls

Number of hives per site

Proposed: 2 hives per site.

There are several considerations for the number of hives permitted per site. These are related to:

- 1) → The number of bees flying in the general environment. This may not necessarily be determined by the number of hives at a single site, but more by the number of hives in the neighbourhood as bees will spread themselves evenly over the available food sources. Each colony may have a foraging range of 70km².
- 2) → The amount of honeybee faeces dropped around the hives. Most bees defecate close to (within 20m) their hives. The amount of faeces will be related to the number of honeybees in the site rather than the number of hives. A hive with 60,000 bees will produce 60x as much faeces as a hive with 1000 bees. Unless the location of all the hives in the neighbourhood are known it may be difficult to attribute faeces to hives at a single site. Faeces can be an issue for washing hanging on clothes lines.

¶ An Apiary is defined in the National American Foulbrood Pest Management Strategy Order in Council as in a place where beehives are kept.

- 3) → Swarming:--This is part of a honeybee colony's normal reproduction behaviour. --Half of the bees, and the old queen, will leave their hive in spring. They will hang on a nearby tree or other structure while looking for a space to move into. --The bees are usually not aggressive when swarming, however, the presence of a swarm may be disturbing for some people. --The number of swarms will be related to the number of hives at the site and how the colonies are managed. --It is usually a simple matter to find someone to collect a swarm and many Councils keep a list of beekeepers who are willing to do this. ¶
- 4) → Beestings and allergic reactions:--Honeybees will attempt to sting anyone that they consider a threat to their hive. --The response is usually elicited by activity with 2 m of the hive or when a hive is opened by beekeepers. --Beekeepers usually puff smoke into the hive as they open it, to calm the bees and prevent this aggressive behaviour. --Bees will occasionally sting if they accidentally get caught in clothing or hair. --This most often occurs if somebody stands in the flight path between a hive and a food source. --Management of the space around the entrance of hives and the flight path is therefore needed. --Most people are either not allergic to beestings or just have localise swelling. --There are, however, others that have life-threatening reactions. --If the issue of life-threatening allergic reactions needs to be managed, it could only be done so by a blanket restriction on beekeeping in urban areas. --Even this will not prevent beestings as bees will fly into urban areas to forage. ¶
- 5) → The number of hives that are required to operate a successful beekeeping operation:--At least two hives would normally be required to successfully keep bees. --This is because bees and brood can be moved between hives when needed ^(4/1). --¶
- 6) → Number of hives currently at sites:--There are already numerous apiary sites in the urban areas, some of which will have more than two hives. --The proposed two hives per site will force these beekeepers to either reduce their hive numbers or ignore the proposed rule for two hives per site. --¶

Options ¶

- → Restricting sites to 2 hives:--Based on some of the submissions, a limit of 2 hives per site may require many beekeepers to reduce their hives. ¶
- → Number of full hives per site:--It is difficult to make an argument for a specific number of hives that should be permitted at a site, other than it should be at least two hives for beekeeping management reasons. --The submissions suggested 2 hives ^(6/1,4/1), 3 hives, ^(2/1,14/1), 4 hives ^(4/3,15/2), and 6--8 hives ^(7/1). The point made by one submission was that hive management with a larger hive numbers is easier, ^(7/1) is correct. --As a general principle, the more hives at a site, the easier they will be to manage but the more likely it is that they will have nuisance effect on neighbours. --It might be worth asking the Waikato Domestic Beekeepers Association to survey its members with hives within the Residential Zones to determine the range of hives numbers that are currently held on each site without causing issues. --This could be used to inform the decision on how many hives can be kept on sites without problems. --¶
- → Nucleus hives:--These are very small colonies used with some beekeeping management techniques, for example swarm prevention. --The colonies that they are housed in only have 4--5 frames[¶] rather than the ten frames in standard beehives. Nucleus hives would typically have less than 5,000 bees rather than the 60,000 bees that might be present in a full colony in the middle of summer. --Typically, they only need to be present on site in the spring and Autumn. --Several submitters requested that they should be permitted at

¶

¶ Frames are sheets of honeycomb wax held in a frame that slots vertically into a hive. ¶

a site along with the large hives.^(2/2,2/3,6/3)...If these were permitted in the spring and autumn, it would make beekeeping simpler without increasing the maximum number of bees at the site that are usually present during summer. As suggested by submitters, the presence of nucleus colonies could also reduce swarming nuisance.^(2/2,11/16,15/2) ¶

¶

Recommendation ¶

It is not possible to argue for a hive number per site other than there should be two or more for beekeeping reasons. This could be determined by assessing the number of hives currently at sites within the residential areas without causing issues for neighbours. An analysis of complaints that have been made to Councils in the past could be carried out to determine if the issues were due to the presence of hives or the number of hives at a site. ¶

Nucleus hives (4-5 frame) could be allowed in the spring, autumn, and winter without increasing the number of bees that will be at a site above that which will be present from the full hives in the summer. The number of nucleus colonies should be no more than twice the number of full hives. ¶

Placement of hives ¶

Proposed: 3m from boundary if there is a solid fence of at least 1.8m on the boundary or 5m from a boundary if there is no solid fence of 1.8m on the boundary. ¶

There are several reasons for being concerned with where the hives are placed on a property. These are: ¶

- 1) → **Beestings:** Bees may be defensive and sting anybody who they consider to be a threat to their hive. Proximity to a hive and whether the person can be seen from the hive entrance is usually important. ¶
- 2) → **Flight paths:** Bees try to fly a straight line (B-line) between their hive and their food source. In the middle of the summer these streams of bees can be disconcerting to somebody standing in their path. Although not common, bees can get caught in a person's clothing or hair, potentially resulting in them being stung. ¶

Options ¶

These issues can be mitigated by managing the distance between the hives and the boundary, and fences. ¶

- → **Distance:** The distance from a which a hive may consider to be a threat depends on the breed of bees, and the season. A safe distance to ensure that defensive behaviour will not be elicited, is about 25m. This distance would also make it less likely that the flight paths would be an issue. ¶
- → **Fencing:** This has two advantages. A 1.8m high fence means that bees cannot see someone standing on the other side of the fence from the hive and are therefore unlikely to show defensive behaviour. It also has the advantage that bees will have to fly about 2m vertically when they leave their hive area on their way to a food source. This should result in them flying over a neighbouring property rather than through it, unless of course the neighbouring property provides an attractive food source. The length of the fence is also important. If the fence is too short, bees will fly around the end of the fence at body height and cause problems with bees flying through a property rather than flying over it. This can be managed by extending the fence at least 5m on each side of the hive. ¶

3 ¶

–

better approach is to build a fence that surrounds the hives on three or four sides. These fences do not have to be as long, just giving enough room for the beekeeper to work on their hives. With a completely enclosed site, all bees have to fly upwards 2m before they leave their hive site. ¶

- → Distance of hives from the fence^(10/3,11/6,15/3,13/2): The only factor likely to be important is that with increasing distance from a straight fence, the more likely it is that the bees will fly around it than flying up 2 m to fly over it. The hives will need only to be far enough from the fence so that the beekeeper can easily walk around the hives.^(11.6) ¶
- → Fences or hedges: Both would be equally effective as long as bees cannot fly through them. Likewise, a building on a property might also serve for the same purpose. ¶

Recommendation ¶

That the hives are at least 25m from a boundary or separated from a neighbouring property by a 1.8m high fence, bee-proof hedge or building that extends at least 5 m either side of the site. The fences can be shorter if they have 3 or 4 sides. The hives should not be more 3 m from a straight fence. ¶

¶

Size of the site ¶

Proposal: hives can be kept on residential zones, large lot residential zones but not on properties less than 500m². ¶

As long as a site can meet the requirements of hive placement (discussed above) it is unclear why there should be a different requirement for the two residential zones or on properties less than 500m²^(11/6). However, for very small properties, it may be necessary to have 1.8 m fences or hedges completely surrounding the hives. ¶

Recommendation ¶

That hives can be kept on any site that meets the requirements for placing hives ¶

Location of site ¶

Proposed: the site does not adjoin a neighbourhood reserve, or any lawfully established school, childcare facility, community centre or place of assembly. ¶

There are several issues with this proposal regarding the sensitive areas: ¶

- 1) → As pointed out by some submitters^(3/3,4/4,11/5,12/3,13/2), some schools already have beehives on site and more may follow. The proposed rule changes may result in difficulties for them. ¶
- 2) → The proposal could result in many residents being prevented from keeping bees when they could safely do so if the boundary is properly fenced. ¶
- 3) → The proposal is a very broad prohibition, where many hives sited on properties next to the sensitive sites would not cause issues even if not fenced, e.g. where the neighbouring land is waste land or has trees on it. ¶
- 4) → With the narrow dimensions of many residential properties, the proposal ignores the fact that properties 2 or more sections back from the sensitive site, would be allowed to have hives and their bees would be flying and foraging in these areas. This could result in the same perceived potential issues preventing beehives being sited on property neighbouring the sensitive site.^(12/3) ¶

5) → If Council is concerned about places where the public congregate or frequent, then public food paths should probably be included. ¶

Options ¶

- → That residents, schools etc. can keep bees if they meet the other rules that are designed to mitigate the effect of keeping bees. ¶
- → Beekeepers adjacent to sensitive sites need to get approval from Council, or from the organisation operating the sensitive site. ¶
- → That situations are considered on a case-by-case basis. This would require the Council to be involved in assessing sites which could be time-consuming. ¶

Recommendation ¶

Beekeeping on or near sensitive sites should not be prevented because in most cases it can be carried out safely. ... Some process for checking with the site operators could be put in place although approvals could be time-consuming. ... This would help with the issues of schools that want to keep bees. ¶

¶

Summary ¶

Determination of the number and type of hives to be permitted on a site is difficult and many submitters suggested increasing the number. ... The suggestion that nucleus hives in the spring and autumn sounds reasonable. ... A possible method of assessing whether numbers can be increased has been suggested. ... Recommendations have been made for placement of hives, size of properties and the location of apiary sites. ... ¶

¶

¶

APPENDIX B – TEXT TO BE AMENDED OR DELETED FROM OPERATIVE WAIPĀ DISTRICT PLAN

Note:

- 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, if this is the option approved by the Hearings Panel.
- Additions are shown as underlined and deletions shown as ~~strikeouts~~.
- 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	Discretionary activities The following activities must comply with the performance standards of this zone
(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>