

# **Proposed Plan Change 18: Beekeeping in the Residential Zones**

**Incorporating**

## **Section 32 Evaluation Report**

**December 2020**

# Table of Contents

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<b>Executive Summary: Beekeeping in Residential Zones</b> .....	<b>5</b>
<b>Part A – Proposed Plan Change 18</b> .....	<b>8</b>
<b>1 Summary of proposed changes to the Waipā District Plan</b> .....	<b>8</b>
1.1 Introduction .....	8
1.2 Definitions.....	8
1.3 Section 2 – Residential Zone.....	8
1.4 Section 3 – Large Lot Residential Zone .....	9
1.5 Section 21 – Assessment Criteria and Information Requirements .....	9
<b>2 Recommended Tracked Changes to Waipā District Plan</b> .....	<b>10</b>
2.1 Definitions.....	10
2.2 Section 2 - Residential Zone .....	10
2.3 Section 3 – Large Lot Residential Zone .....	11
2.4 Section 21 – Assessment Criteria and Information Requirements .....	12
<b>Part B – Section 32 Evaluation</b> .....	<b>14</b>
<b>3 Background and Context</b> .....	<b>14</b>
3.1 Introduction .....	14
3.2 Background .....	14
3.3 Current District Plan Provisions .....	15
3.4 Statutory Considerations .....	16
3.4.1 Resource Management Act 1991 .....	16
3.4.2 Local Government Act 2002 .....	17
3.4.3 National Policy Statements.....	19
3.4.4 National Environmental Standards.....	19
3.4.5 Waikato Treaty Settlement Acts.....	19
3.4.6 Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River .....	20
3.4.7 Waikato Regional Policy Statement: Te Tauākī Kaupapahere Te-Rohe O Waikato ..	20
3.4.8 Joint Management Agreements (‘JMA’).....	21
3.4.9 Iwi Environmental Plans .....	22
3.4.10 Ngāti Koroki Kahukura .....	24

3.5	Other Considerations.....	24
3.5.1	Future Proof.....	24
3.5.2	Waipā 2050 Growth Strategy .....	24
3.6	Development of Proposed Plan Change 18.....	24
<b>4</b>	<b>Issues.....</b>	<b>25</b>
4.1	Issue: Effectiveness of the current Plan Rules.....	25
<b>5</b>	<b>Objectives .....</b>	<b>25</b>
5.1	Objective of this Proposed Plan Change 18.....	25
5.2	Appropriateness of Proposed Plan Change 18 Objective.....	25
5.3	Options to deliver Proposed Plan Change 18 Objective.....	26
5.3.1	Option 1: Do nothing- Status Quo ( <i>unviable</i> ) .....	26
5.3.2	Option 2: Delete the Rule and Provide No Replacement ( <i>Viable, not recommended</i> ) .....	27
5.3.3	Option 3: Delete the Current Rules and replace with a Bylaw ( <i>Viable, not recommended</i> ).....	27
5.3.4	Option 4: Retain a Rule that Permits Beehives with Controls ( <i>Viable, recommended</i> ) .....	27
5.4	Evaluation of Options .....	28
<b>6</b>	<b>Proposed Provision Assessment .....</b>	<b>31</b>
6.1.1	Amendments to the Residential Zone.....	31
6.1.2	Amendments to the Large Lot Residential Zone .....	32
6.1.3	Amendments to Assessment Criteria (Section 21).....	32
<b>7</b>	<b>Implementation of Proposed Plan Change 18 .....</b>	<b>33</b>
<b>8</b>	<b>Conclusion .....</b>	<b>34</b>

## Report Information

<b>Author</b>	Simone Williams	September 2020
<b>Reviewed by:</b>	Tony Quickfall	October 2020
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## Executive Summary: Beekeeping in Residential Zones

The Waipā District Plan contains controls around beekeeping in the Residential and Large Lot Residential Zones (hereafter referred to collectively as the “Residential Zones”). Beekeeping and beehives are not permitted in either of these zones, and a resource consent must be obtained for beekeeping activities within these zones.

Council has 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. The very low incidence of complaints and compliance with the rules compared with the number of beehives makes the rule unnecessary.

However, it is recognised that beekeeping activities may, on occasion, 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.

To remedy this, Proposed Plan Change 18 seeks to:

- Delete the current rules that restrict beekeeping in Residential Zones; and
- Introduce a new rule that permits beekeeping with restrictions on location and number of beehives.

The effect of Proposed Plan Change 18 would be that beekeeping activities would be permitted under the Waipa District Plan, and resource consent would no longer be required for up to two beehives provided they meet the following criteria, for the Residential Zone and Large Lot Residential Zone.

### Residential Zone:

- There are no more than two beehives on a site; and
- The beehives are placed at least:
  - 3m from a boundary if there is a solid fence of at least 1.8m on that boundary;  
or
  - 5m from a boundary if there is no solid fence of at least 1.8m on that boundary;  
and
- The site does not adjoin a neighbourhood reserve, or any lawfully established school, childcare and pre-school facility, community centre or place of assembly; and
- The site is 500m<sup>2</sup> or greater.

Large Lot Residential Zone:

- There are no more than two beehives on a site; and
- The beehives are placed at least 5m from the boundary; and
- The site does not adjoin a neighbourhood reserve, or any lawfully established school, childcare and pre-school facility, community centre or place of assembly.

These changes will:

- Reduce compliance costs for those wanting to keep beehives.
- Still allow for small scale beekeeping in Residential Zones.
- Enable an effective and practical approach to compliance and enforcement if effects arise.



# A

## **Part A – Proposed Plan Change 18 Beekeeping in the Residential Zones**

## Part A – Proposed Plan Change 18

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### 1 Summary of proposed changes to the Waipā District Plan

#### 1.1 Introduction

The purpose of Proposed Plan Change 18 is to amend the rules relating to beekeeping in the Residential and Large Lot Residential Zones to permit beekeeping (which is currently not permitted in either of these zones), and to introduce some permitted criteria to manage any potential on-site amenity and nuisance effects.

Proposed Plan Change 18 makes changes to the following sections of the Waipā District Plan:

- Definitions
- Section 2 – Residential Zone
- Section 3 – Large Lot Residential Zone
- Section 21 – Assessment Criteria and Information Requirements

#### 1.2 Definitions

Change the Definition title from “Bee keeping” to “Beekeeping” for consistency.

#### 1.3 Section 2 – Residential Zone

A number of changes to the existing, and the insertion of new provisions are proposed within Section 2 Residential Zone as summarised below:

##### Policy

- Amend Policy 2.3.2.18 – to enable the keeping of beehives as a permitted activity.
- Insert Policy 2.3.2.18A – to ensure that beekeeping doesn’t detract from residential amenity.

##### Rules

- Insert Rule 2.4.1.1(r) – to provide for beekeeping as a permitted activity.
- Delete Rule 2.4.1.4(m) – to remove the requirement to obtain resource consent for up to two beehives.
- Insert Rule 2.4.2.40A – to provide for up to two beehives as a permitted activity, with controls relating to a minimum separation distances from internal boundaries and for the site to be 500m<sup>2</sup> or greater.



## 1.4 Section 3 – Large Lot Residential Zone

### Issues

- Amend Issue 3.2.11 – to enable the keeping of beehives as a permitted activity.

### Rules

- Insert Rule 3.4.1.1(p) – to provide for beekeeping as a Permitted activity.
- Delete Rule 3.4.1.3(a) – to remove the requirement to obtain resource consent for beehives.
- Insert Rule 3.4.2.13(g) – to provide for up to two beehives as a permitted activity, with controls relating to a minimum separation distances from internal boundaries.

## 1.5 Section 21 – Assessment Criteria and Information Requirements

- Amend Criteria 21.1.2.30 – to clarify separation distances.
- Amend Criteria 21.1.3.3 – to clarify separation distances.

## 2 Recommended Tracked Changes to Waipā District Plan

The following sets out the recommended changes for Proposed Plan Change 18. The proposed changes are shown with new additions underlined, and deletions shown as ~~strikeouts~~. Consequential renumbering may occur throughout amended Sections.

### 2.1 Definitions

~~‘Bee keeping’~~ ‘Beekeeping’ means the keeping of bees in one or more hives.

‘Farming activities’ means....

- ~~BEE KEEPING~~ BEEKEEPING .....

### 2.2 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.~~ Adverse effects related to noise must be managed to avoid undue adverse effects on residential character and amenity.

2.3.2.18A To ensure that beekeeping activities are carried out in a manner that retains on-site amenity values for adjoining and nearby properties, and avoids nuisance effects.

#### Rules

2.4.1.1	Permitted activities
	The following activities shall comply with the performance standards of this zone
(r)	<u>Beekeeping</u>

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

#### Rule - Housing and keeping of animals

2.4.2.38 .....

2.4.2.39 .....

2.4.2.40 .....

2.4.2.40A Beekeeping is permitted if:

- (a) There are no more than two beehives on a site; and

- (b) The beehives are placed at least:
  - (i) 3m from a boundary if there is a solid fence of at least 1.8m on that boundary; or
  - (ii) 5m from a boundary if there is no solid fence of at least 1.8m on that boundary; and
- (c) The site does not adjoin a neighbourhood reserve, or any lawfully established school, childcare and pre-school facility, community centre or place of assembly; and
- (d) The site is 500m<sup>2</sup> or greater.

Activities that fail to comply with Rules 2.4.2.38 to 2.4.2.40A will require a resource consent for a discretionary activity.

## 2.3 Section 3 – Large Lot Residential Zone

3.2.11 While the keeping of small numbers of farm animals and beehives are generally accepted activities in the Large Lot Residential Zone, some animals may generate noise, odour, or other nuisance effects that are not acceptable or compatible 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~~

### Rules

3.4.1.1	Permitted activities The following activities shall comply with the performance standards of this zone
(p)	Beekeeping

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

### Rule - Beekeeping

3.4.2.13A Beekeeping is permitted if:

- (a) There are no more than two beehives on a site; and
- (b) The beehives are placed at least 5m from the boundary; and

- (c) The site does not adjoin a neighbourhood reserve, or any lawfully established school, childcare and pre-school facility, community centre or place of assembly.

Activities that fail to comply with this rule will require a resource consent for a discretionary activity.

## 2.4 Section 21 – Assessment Criteria and Information Requirements

### 21.1.2 Residential Zone

Residential Zone Assessment Criteria	
21.1.2.30	<p>The keeping of <del>more than up to</del> two beehives</p> <p>(a) The location of <del>beehives</del> on the site and the likely flight path of bees in relation to neighbouring dwellings, schools, childcare centres, or other <u>sensitive receiving environments</u> <del>community facilities</del>.</p> <p>Note: Preferably beehives should be <del>10m from any property boundary and</del> 25m from adjoining <del>dwellings,</del> schools, childcare centres, <u>community centres, places of assembly</u> 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) <u>The positive effect that bees have on pollination.</u></p> <p>(e) <u>Flight path management to direct bees to fly above head height through provision of a flyway barrier of at least 1.8 metres tall, placed 1-2 metres out from the front of the hive entrance.</u></p>

### 21.1.3 Large Lot Residential Zone

Large Lot Residential Zone Assessment Criteria	
21.1.3.3	<p><del>Beekeeping</del> <u>The keeping of more than two beehives</u></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 <u>sensitive receiving environments</u> <del>community facilities</del>.</p> <p>Preferably beehives should be <del>10m from any property boundary and</del> 25m from adjoining <del>dwellings,</del> schools, childcare centres, <u>community centres, places of assembly</u> 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) <u>Flight path management to direct bees to fly above head height through provision of a flyway barrier of at least 1.8 metres tall, placed 1-2 metres out from the front of the hive entrance.</u></p> <p>(e) <u>The positive effect that bees have on pollination.</u></p>



**B**



**Part B – Section 32 Evaluation**

## Part B – Section 32 Evaluation

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### 3 Background and Context

#### 3.1 Introduction

This report presents an evaluation undertaken by the Waipā District Council ('Council') in accordance with Section 32 of the Resource Management Act 1991 ('the Act') in relation to Proposed Plan Change 18 – Beekeeping in Residential Zones. Undertaking a Section 32 evaluation assists in determining why changes to existing plan provisions may be needed and formalises a process for working out how best to deal with resource management issues.

This report examines the extent to which the objectives of Proposed Plan Change 18 are the most appropriate way to achieve the purpose of the Act and assesses whether the proposed provisions are the most appropriate way of achieving those objectives. In assessing the proposed provisions, Council must consider other reasonably practicable options and assess the efficiency and effectiveness of the provisions in achieving Proposed Plan Change 18 objectives. Assessing effectiveness involves examining how well the provisions will work. Determining efficiency involves an examination of benefits and costs.

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

#### 3.2 Background

##### The Issue

The issue that is being sought to be managed is best described as on-site amenity and nuisance effects. Beekeeping is generally seen as beneficial for many reasons, but nuisance can arise where beehives may be too close to places that people occupy. Allergies are also a valid consideration with a low risk, but high possible impact for anyone who may have an allergic reaction to a bee sting. This risk can be exacerbated where beehives are kept because of the higher concentration of bees than would otherwise occur naturally.

##### Compliance and Complaints

Council staff have generally taken the approach that if there is a complaint about beehives in a residential area, then enforcement action may be taken. Six complaints have been received in the last two years about beehives in the urban areas of the district, and another nine queries in relation to existing beekeeping operations, or the requirements for keeping bees in their own garden or a council reserve. The

complaints were all in the months between October and March, the warmer months when bees are at their most active, and generally related to the proximity of beehives to residential dwellings.

A review of compliance with the existing rules has found significant non-compliance. Information received from the Management Agency - National American Foulbrood Pest Management Plan, the agency with which all beehives must be registered, advises the following:

Location	# of Apiaries	# of Registered beehives
Te Awamutu	19	128
Cambridge	29	235

Note that these figures are within the urban boundaries (which may include non-residential zones). It excludes beehives that are not registered, and ones that are located in Large Lot Residential Zones outside the two main towns.

A review of Council records shows that there has only been one resource consent for keeping beehives in the Residential Zone issued in the last five years. This consent was applied for and granted in 2019.

Taken together, this review has presented a clear picture that the existing rules are ineffective:

- 363 registered beehives in the two main towns;
- 1 Apiary (consisting of two beehives) has resource consent within the Residential Zone; and
- 6 complaints over the last 2 years (most in residential zones).

### 3.3 Current District Plan Provisions

The following provisions of the District Plan have been reviewed:

#### Residential Zone

Policy 2.3.2.18 relating to effects of beekeeping.

Rule 2.4.1.4 which requires discretionary consent for up to 2 beehives (there are no permitted beehives).

#### Large Lot residential Zone

Policy 3.3.5.3 relating to effects of beekeeping.

Rule 3.4.1.3 which requires restricted discretionary consent for any number of beehives (there are no permitted beehives).

### 3.4 Statutory Considerations

The following statutory documents have been considered in developing Proposed Plan Change 18. A discussion of each of the key statutory considerations is provided below. These documents are as follows:

- Resource Management Act 1991 and Local Government Act 2002;
- National Policy Statements;
- National Environmental Standards;
- Various Waikato Treaty Settlement Acts;
- Waikato Regional Policy Statement: Te Tauākī Kaupapahere Te-Rohe O Waikato;
- Future Proof;
- Joint Management Agreements; and
- Iwi Environmental Plans.

#### 3.4.1 Resource Management Act 1991

Section 5 of the Resource Management Act 1991 (the Act) states as its purpose:

- 1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- 2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The purpose of the Act is only achieved when the matters in (a) to (c) have also been adequately provided for within a District Plan. Council has a duty under Section 32 to examine whether a proposed objective and its provisions are the most appropriate way of achieving the purpose of the Act.

In order to achieve the purpose of the Act, Council must enable people and communities to provide for their economic, social, and cultural well-being and for their health and safety.

Overall, Proposed Plan Change 18 seeks to deliver a more practical and appropriate approach to beekeeping activities within Residential Zones, that enables people and



communities to undertake small scale and hobbyist beekeeping activities while providing positive benefits for pollination in these urban areas, which lends to safeguarding life-supporting ecosystems.

In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to the use, development and protection of natural and physical resources, are required to recognise and provide for the matters of national importance identified in Section 6 of the Act. This includes:

- *Preservation of the natural features, landscapes and significant vegetation, enhancement of public access, provision for the relationship of Maori to their ancestral lands and taonga, protection of historic heritage and customary rights, and management of risks from natural hazards.*

In addition to the above assessment, it is important to elevate the relevance of the proposed plan changes under the Resource Management Act. This can begin with Section 3 of the Act, which defines the “meaning of 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.*

The Act also variously describes the scale of effects as being are “minor”; “less than minor”; or “significant”. The Act makes no reference, anywhere, to “nuisance” effect.

### **3.4.2 Local Government Act 2002**

Section 146 of the Local Government Act 2002 (“LGA”), sets out specific bylaw making powers of Councils, including the control of beehives. Section 145 contains general bylaw powers, with the reasons for a bylaw including to “protect the public from nuisance”. The LGA also refers to “nuisance” in other sections.

There is therefore a separation of “adverse effects” (which are managed under the Resource Management Act), and “nuisance effects (which are managed under the LGA).

Despite this separation of effect, the District Plan does contain a number of provisions that seek to control nuisance. These include keeping of animals generally, and dust and odour nuisance. The reason for these controls are the limitations under the LGA for enforcing bylaws. With a few exceptions, enforcement of bylaws requires a prosecution, with associated evidence and court proceedings.

In contrast, the enforcement “tools” under the Resource Management Act are much broader and include:

- Infringement notices (fines);
- Abatement notices (to do something or stop doing something); and
- Prosecution

Advice from Council’s Enforcement Team Leader is that the Resource Management Act provides much more flexibility for practical enforcement than the LGA, with the Resource Management Act being the preferred method of managing “nuisance” effects.

The LGA does not define “nuisance”. In the absence of definition, the legal principle is that general ordinary meaning is applied. In this case, “nuisance” is defined in the online Oxford Dictionary as:

*An act which is harmful or offensive to the public or a member of it and for which there is a legal remedy.*

*See also private nuisance, public nuisance*

*‘The courts tend to approach the question of the existence of a nuisance, whether public or private, as a question of fact.’*

The following is a comparative analysis of the effects arising from beekeeping:

### **Nuisance (LGA)**

Characteristics: Lowest level in terms of effect, may be frequent or recurring. More of an inconvenience than a tangible effect.

Beekeeping contribution: Swarming, droppings on washing and windows, possible restriction on outdoor activities depending on the location of hives and “flight paths”.

Evidential basis: The nature of the complaints received under the existing rules fall under nuisance effects and have all been resolved.

### **Adverse effect as defined in the Resource Management Act**

Characteristics: Ranges from minor impact to significant. More than an inconvenience and tends to give rise to tangible and measurable effect with bigger impact.

Beekeeping contribution: Significant restriction on outdoor activities, possible allergic reaction. Bees and wasps are naturally occurring, and wild beehives and wasp nests can occur anywhere (with paper wasps being relatively common in household areas). The relative extra contribution of beekeeping to adverse effects is therefore negligible. Furthermore, the risk of allergic reaction from the managed beehives is

negligible, as this would require a person to be actively disturbing a beehive, or to be within the immediate vicinity (within 3 metres) of a beehive. Finally, those with allergies will already be self-aware and taking precautions for protection from wild stings.

Evidential basis: Despite there being 363 registered (known) apiaries in urban areas, Council holds no evidence of allergic reactions (including any complaints) arising from the activity of beekeeping in Residential Zones.

Based on this analysis, beekeeping would fall under nuisance effect. While the Resource Management Act doesn't specifically refer to managing nuisance, the Act does not prohibit or restrict the ability for Councils to control nuisance effects in district plans.

### **3.4.3 National Policy Statements**

There are no National Policy Statements that are directly relevant for the purposes of Proposed Plan Change 18.

### **3.4.4 National Environmental Standards**

There are no National Environmental Standards that are directly relevant for the purposes of Proposed Plan Change 18.

### **3.4.5 Waikato Treaty Settlement Acts**

The Waikato Region contains the following Treaty Settlement Acts:

- Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 which seeks to provide direction for planning documents under the Resource Management Act 1991 in order to protect the health and well-being of the Waikato River. Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River, is part of the second schedule to the Settlement Act and is deemed part of the Waikato Regional Policy Statement. Waipā District Council has a duty to give effect to the Vision and Strategy for the Waikato River, through the District Plan and other planning documents.
- Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 (Upper River Act) which recognises the significance of the river to Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi. The legislation recognises Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River, provides for co-management arrangements and grants functions and powers to the Waikato River Authority.
- Nga Wai o Maniapoto (Waipā River) Act 2012 (the Waipā River Act) was enacted to give effect to the Maniapoto Deed which seeks to *“deliver a new era of co-management over the Waipā River with an overarching purpose of restoring and maintaining the quality and integrity of the waters that flow into*

*and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia”.*

None of these acts has direct relevance to the considerations for Proposed Plan Change 18, other than the establishment of the Joint Management Agreements (discussed in a later section).

### **3.4.6 Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River**

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

Te Ture Whaimana o Te Awa o Waikato is not relevant for the consideration of Proposed Plan Change 18.

### **3.4.7 Waikato Regional Policy Statement: Te Tauākī Kaupapahere Te-Rohe O Waikato**

Te Tauākī Kaupapahere Te-Rohe O Waikato (‘the RPS’) provides an overview of the resource management issues in the Waikato Region, and the ways in which integrated management of the Region’s natural and physical resources will be achieved. It provides policies and a range of methods to achieve integrated outcomes for the region across resources, jurisdictional boundaries and agency functions, and guides development of sub-ordinate plans (regional as well as district) and consideration of resource consents. The RPS outlines 27 objectives on key regional issues.

The RPS objectives and policies most relevant to Proposed Plan Change 18 are contained in chapters:

#### *Part A issues and objectives*

- *3.8 ecosystem services (in respect of the positive contribution of bees)*
- *3.10 sustainable and efficient use of resources*
- *3.12 built environment*
- *3.19 ecological integrity and biodiversity*
- *3.21 amenity*

#### *Part B*

- *Chapter 6 built environment*
- *Chapter 11 biodiversity (in respect of the positive contribution of bees)*

The RPS generally seeks to manage effects and enhance ecological integrity and biodiversity.

Proposed Plan Change 18 is aligned with and gives effect to the RPS, particularly in establishing permitted activity status for beehives in residential zones which are not currently permitted.

### **3.4.8 Joint Management Agreements ('JMA')**

#### **3.4.8.1 Waikato Raupatu River Trust**

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

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

Schedule B of the Agreement outlines the anticipated process with regards to Schedule 1 of the Resource Management Act 1991 (the Act), in accordance with section 46(1) and 46(2) of the Act. Council staff corresponded with Waikato-Tainui commencing on 12 October 2020 as part of the pre-notification consultation.

The changes in Proposed Plan Change 18 will not affect the ability of the District Plan to implement the requirements of the Waikato Raupatu Claims Settlement Act 1995.

#### **3.4.8.2 Raukawa Settlement Trust**

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

This agreement covers matters relating to co-management, agreement to embrace new and holistic ways of working together, and the continuation of building a functional and effective long-term partnership. The agreement includes matters relating to the preparation, reviewing, change or variation to Resource Management

Act 1991 documents, pursuant to Section 48 of the Ngati Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.

Section 7 of the agreement outlines the expectations with regard to planning documents. The process for preparing Proposed Plan Change 18 resulted in early and on-going engagement with Raukawa, which is a relevant consideration under the JMA. Council staff corresponded with the Raukawa Settlement Trust commencing on 12 October 2020 prior to the public notification of Proposed Plan Change 18 in accordance with the agreement.

### **3.4.8.3 Maniapoto Māori Trust Board**

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

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

Section 6 of the agreement outlines the expectations with regard to planning documents. Early engagement and the consideration of a Joint Working Party are the relevant considerations with regard to Proposed Plan Change 18. Council staff corresponded with the Maniapoto Māori Trust Board commencing on 12 October 2020 prior to the public notification of Proposed Plan Change 18 in accordance with the agreement.

### **3.4.9 Iwi Environmental Plans**

#### **3.4.9.1 Tai Tumu, Tai Pari, Tai Ao – Waikato Tainui Iwi Environmental Management Plan**

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

Tai Tumu, Tai Pari, Tai Ao contains expectations around consultation, and sets out iwi perspectives around specific environmental areas. Chapter 25 (land use planning) seeks to create positive outcomes while respecting the whenua (land) and managing effects.

Proposed Plan Change 18 is in accordance with Tai Tumu, Tai Pari, Tai Ao.

### **3.4.9.2 Ko Tā Maniapoto Mahere Taiao – Maniapoto Environmental Management Plan**

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

Ko Tā Maniapoto Mahere Taiao promotes protection of natural capital, protection and enhancement of the natural environment and management of infrastructure.

Proposed Plan Change 18 is in accordance with Ko Tā Maniapoto Mahere Taiao.

### **3.4.9.3 Te Rautaki Taiao a Raukawa – Raukawa Environmental Management Plan**

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

Te Rautaki Taiao a Raukawa sets out policy for national resources, cultural landscapes, and taonga.

Proposed Plan Change 18 is in accordance with the principles of Te Rautaki Taiao a Raukawa, particularly as they relate to section 2.6 (indigenous plants and animals) and 2.8 (sustainable living).

### **3.4.9.4 Te Rautaki Tāmata Ao Turoa o Hauā — Ngāti Hauā Environmental Management Plan**

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

Te Rautaki Tāmata Ao Turoa o Hauā sets out a policy framework around natural resources, aspirations, and implementation.

Proposed Plan Change 18 is in accordance with Te Rautaki Tāmata Ao Turoa o Hauā, particularly as it relates to sustainable land use and developing effective use of the whenua (land – e.g. the contribution of bees to orchards).

### **3.4.10 Ngāti Koroki Kahukura**

The ancestral tribal rohe of Ngāti Koroki Kahukura spans from Southern Hamilton City, following the Waikato River to the northern end of Lake Arapuni, inland to western Te Awamutu and through again to southern Hamilton City encompassing Mount Maungatautari and many kāinga settlements. Although Council does not have a Joint Management Agreement in place with Ngāti Koroki Kahukura, they are part of the local tangata whenua.

Council have provided a draft of this Section 32 analysis incorporating the Proposed Plan Change to Ngāti Koroki Kahukura prior to notification.

## **3.5 Other Considerations**

### **3.5.1 Future Proof**

Future Proof was formulated in 2009 and is a combined growth strategy project for three local authorities (Hamilton City, Waikato and Waipā Districts) and Waikato Regional Council. There are no relevant considerations for Proposed Plan Change 18.

### **3.5.2 Waipā 2050 Growth Strategy**

The Waipā 2050 District Growth Strategy is Council's guiding document with regard to the identification and development of growth within the District. To achieve an integrated approach to managing growth the Strategy seeks to:

- Recognise, protect and enhance the features of Waipā that make the district a special place;
- Set a pattern for the future growth of settlements; and
- Integrate growth with infrastructure provision for a more cost-effective approach to development.

There are no relevant considerations for Proposed Plan Change 18.

## **3.6 Development of Proposed Plan Change 18**

The development of Proposed Plan Change 18 has been carried out over a number of months during 2020. The basis of the proposed plan change came from the identification that there are a number of registered beehives within the Residential Zones of the District that are unconsented, thus reflecting that the current rules are ineffective and do not represent the low incidence of complaints and compliance with the rules compared with the number of beehives.

Consultation was undertaken with staff and the Strategic Planning and Policy (SP&P) Committee once the topics had been assessed for priority. A workshop was held with



the SP&P Committee in October 2020 to inform of the issues and options and progress being made on a potential plan change.

A full copy of the Proposed Plan Change 18 document and accompanying draft Section 32 Report was provided to Waikato-Tainui, Maniapoto, Raukawa, Ngati Hauā, and Ngāti Koroki Kahukura on October 2020 for comment. This was both to fulfil Council's obligations pursuant to Clause 4A of the First Schedule of the Act and under the various Joint Management Agreements that Council has with Tangata Whenua in the District.

Council staff identified key stakeholders, including various beekeeping management agencies and associations and other stakeholders whom have interest in this plan change. These key stakeholders were consulted with prior to public notification of Proposed Plan Change 18 and had the opportunity to provide feedback on the proposed options.

This feedback from key stakeholders and iwi was considered by Council staff and incorporated into Proposed Plan Change 18 prior to public notification.

Feedback has been received from a few stakeholders. All agreed change was needed and their preferred options were evenly split between two of the options presented. Council staff have evaluated this feedback and consider that no fundamental changes are required to Proposed Plan Change 18 prior to notification.

## **4 Issues**

### **4.1 Issue: Effectiveness of the current Plan Rules**

A review undertaken by Council staff has determined that the current rules restricting beehives in residential zones are ineffective. This has been confirmed by feedback from beekeepers who have requested that the rules be removed.

## **5 Objectives**

### **5.1 Objective of this Proposed Plan Change 18**

The objective of Proposed Plan Change 18 is:

- To review the District Plan to ensure that any effects from beekeeping are managed in the most efficient and most effective way.

### **5.2 Appropriateness of Proposed Plan Change 18 Objective**

The objective of this proposed plan change is appropriate in respect of the Act (particularly the definition of "effect") and consideration of the most efficient and effective method to manage (nuisance) effects.

Assessment of Appropriateness of Plan Change Objective	Objective: To review the District Plan to ensure that any effects from beekeeping are managed in the most efficient and most effective way.
Relevance	<ul style="list-style-type: none"> <li>This objective is relevant as it relates to the management of effects and the Purpose of the Act</li> </ul>
Usefulness	<ul style="list-style-type: none"> <li>The objective will provide an outcome that is useful, eminently achievable, and is reasonable to implement.</li> </ul>
Achievability	
Reasonable	

The objective of Proposed Plan Change 18 is determined to be an appropriate way to achieve the purpose of the Act pursuant to Section 32(1)(a).

### 5.3 Options to deliver Proposed Plan Change 18 Objective

Section 32(1)(b)(i) of the Act requires this report to identify “*other reasonably practicable options*” to promote sustainable management, including retaining the status quo, non-regulatory methods and plan changes. This part of the report outlines the process undertaken and details the other reasonably practicable options considered to achieve the objectives of Proposed Plan Change 18.

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

The alternatives evaluated for the objective of Proposed Plan Change 18 are discussed below.

#### 5.3.1 Option 1: Do nothing – Status Quo (*unviable*)

This option would retain the rules as they are now in the District Plan. It is considered that the current rules are onerous and ineffective. Only one resource consent has been granted for beekeeping within the Residential Zone in the last five years, indicating that there is a high level of non-compliance with the rules. Furthermore, information received from the American Foulbrood Pest Management Agency (the agency with which all beehives must be registered), shows that there are 363 apiaries (sites) within urban areas of the District. It is noted that these figures include only those beehives that are registered, and it is presumed that there are likely to be more that are not registered.

Option 1 is not a viable option because it would not resolve the issue of the effectiveness of the rules.

### **5.3.2 Option 2: Delete the rule and provide no replacement (*Viable, not recommended*)**

This option would delete the current rules from the District Plan. It would leave Council with no ability to manage nuisance effects, and no recourse for complaints or enforcement other than civil dispute proceedings through the District Court. While there have only been six complaints in two years, relying entirely on civil proceedings is unlikely to reduce complaints or enquires to Council. This option, while viable, is undesirable and not recommended.

Option 2 is not a viable option because it results in no replacement controls and is unlikely to reduce further complaints and enquiries to Council.

### **5.3.3 Option 3: Delete the current rules and replace with a bylaw (*Viable, not recommended*)**

Option 3 would delete the rules from the District Plan and replace them with a bylaw under the Local Government Act. This option retains the ability to manage nuisance effects and provides a clear complaints process and enforcement powers for Council, if required. It falls within Council's powers under the Local Government Act and provides an easier dispute resolution process than relying solely on civil proceedings through the District Courts if the rule was removed and no bylaw was put in place.

Many other Councils manage the nuisance effects of bees (and notably, other animals and livestock activities), through bylaws rather than Resource Management Act District Plans.

While Option 3 is consistent with the practice of many other Councils, it is limited in terms of enforcement, with Court prosecution being the only tool available for low-level infringement.

Option 3 is a viable option but is not recommended due to the limited ability of enforcement and restrictive criteria which cannot be varied.

### **5.3.4 Option 4: Retain a rule that permits beehives with controls (*Viable, recommended*)**

This option would permit beekeeping activities in the Residential Zone and the Large Lot Residential Zone but retain controls (e.g. on the number of beehives and location).

The Resource Management Act provides a wide range of tools for enforcement, with escalation depending on the nature and scale of any non-compliance and the ability to escalate if compliance is not achieved. For beekeeping, the Resource Management Act provides a more flexible enforcement regime than a bylaw.

An additional benefit of this option provides for resource consents to be applied for should a land owner seek to have additional beehives on site, or vary the location of the beehives to something other than permitted under the permitted activity rule. Any application would follow a statutory process to assess notification and effects.

Option 4 is a viable option and is recommended. It provides a wider range of enforcement tools and can provide for some flexibility should a resource consent be applied for where an activity is unable to meet the permitted criteria.

## 5.4 Evaluation of Options

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

In undertaking this analysis, consideration was given to Section 32(2)(b) which specifies: “*if practicable, quantify the benefits and costs*”.

In preparing this proposed plan change, the quantification of the following has informed the options:

- Number of complaints received (6, representing 1.7% of the registered beehives).
- Number of registered beehives (363).
- Number of consented apiaries (1, representing 0.3% of the registered hives).

This quantification applies to all the options and does not require individual quantification of each option. It is noted that any quantification of an increase in beehives or complaints that might arise from Proposed Plan Change 18 would only be speculative.

In addition, the resource management issue that has been identified is relatively minor in nature, and the cost of undertaking a full Cost-Benefit economic analysis for this issue would far outweigh any benefit that might inform options preferences.

For this reason, costs and benefits have not been quantified for each of the options.

Objective: To review the District Plan to ensure that any effects from beekeeping are managed in the most efficient and most effective way.

	Option 1: Status Quo (do nothing)	Option 2: Delete the rule and do not replace	Option 3: Delete the rule and replace with a bylaw	Option 4: Permit beehives with controls
Social cost and Economic cost	<p><u>Environmental:</u> Not permitted beehives is an ecological cost in terms of not promoting ecological benefits. The environmental effects management cost is disproportionate to the effect being managed.</p> <p><u>Economic Cost:</u> The cost of obtaining consent is disproportionate to the effect that is being managed.</p> <p><u>Social Cost:</u> None identified</p> <p><u>Cultural effect:</u> None identified</p>	<p><u>Environmental:</u> This may result in nuisance effects being exacerbated through no controls.</p> <p><u>Economic Cost:</u> The cost of compliance is zero, but there may be an economic cost on neighbours having to follow up civil proceedings in the absence of any other processes being available.</p> <p><u>Social Cost:</u> Having no controls may increase social costs between neighbours.</p> <p><u>Cultural effect:</u> None identified</p>	<p><u>Environmental:</u> None identified.</p> <p><u>Economic Cost:</u> The least cost option in terms of the economic imbalance between permitting and managing. However this is the highest cost option for enforcement. In addition, a bylaw does not allow beekeepers to apply for additional beehives.</p> <p><u>Social Cost:</u> Enforcement requires court prosecution proceedings which would be socially disruptive relative to the issue.</p> <p><u>Cultural effect:</u> None identified</p>	<p><u>Environmental:</u> None identified.</p> <p><u>Economic Cost:</u> Resource consent is still required to exceed the permitted activity status or controls. This is the “least cost” option for both council and beekeepers in terms of enforcement options.</p> <p><u>Social Cost:</u> None identified</p> <p><u>Cultural effect:</u> None identified</p>
Benefits	<p><u>Environmental:</u> None identified.</p> <p><u>Economic:</u> None identified.</p> <p><u>Social:</u> None identified</p> <p><u>Cultural effect:</u> None identified</p>	<p><u>Environmental:</u> Ecological benefits would be realised, but environmental benefits (nuisance effects) would be reduced.</p> <p><u>Economic:</u> This option transfers highest economic benefit to beekeepers and council (no enforcement necessary).</p>	<p><u>Environmental:</u> This option provides a balance between ecological and environmental benefits.</p> <p><u>Economic:</u> The option provides an economic balance between the cost of enforcement and the issue needing enforcing.</p>	<p><u>Environmental:</u> This option provides a balance between ecological and environmental benefits.</p> <p><u>Economic:</u> Economic benefits are distributed, and this option provides the most flexible enforcement regime. It also provides a process for application for</p>

Objective: To review the District Plan to ensure that any effects from beekeeping are managed in the most efficient and most effective way.

	Option 1: Status Quo (do nothing)	Option 2: Delete the rule and do not replace	Option 3: Delete the rule and replace with a bylaw	Option 4: Permit beehives with controls
		<p><u>Social:</u> Potentially the highest social cost, through neighbour disputes requiring civil proceedings.</p> <p><u>Cultural effect:</u> None identified</p>	<p><u>Social:</u> Likely improved social benefits between neighbours</p> <p><u>Cultural effect:</u> None identified</p>	<p>additional beehives and an effects assessment (a bylaw does not have this mechanism).</p> <p><u>Social Cost:</u> None identified</p> <p><u>Cultural effect:</u> None identified</p>
Opportunities for economic growth and employment to be provided or reduced	No change	Increased opportunity at both a hobby and commercial (with no upper limits) level.	Increased opportunity at a hobby beekeeping or “distributed commercial” beekeeping.	Increased opportunity at a hobby beekeeping or “distributed commercial” beekeeping.
Efficiency and Effectiveness of achieving objectives	Shown to be inefficient and ineffective.	Efficient but ineffective in managing nuisance effects.	Efficient but may be ineffective in respect of enforcement (Council would be unlikely to take a prosecution for low level non-compliances)	Most efficient and effective, including enforcement processes.
Risk of acting or not acting if there is insufficient or uncertain information about the subject matter of the provisions	n/a there is sufficient information			
Other considerations	Option 3 (bylaws) is a common and accepted approach to managing beekeeping amongst other councils. However, enforcement tools remain limited and require a court prosecution.			

Objective: To review the District Plan to ensure that any effects from beekeeping are managed in the most efficient and most effective way.

	Option 1: Status Quo (do nothing)	Option 2: Delete the rule and do not replace	Option 3: Delete the rule and replace with a bylaw	Option 4: Permit beehives with controls
Overall appropriateness for achieving objectives	In summary, the status quo has been determined to be inappropriate due to not being efficient or effective and the high costs relative to the issue being managed.	This option is inappropriate as it retains no limits or controls on the number of hives or proximity to sensitive environments.	Option 3 is appropriate but may not be the most efficient or effective given the limited enforcement options.	Option 4 is the most appropriate and is assessed as the most efficient option.
Overall rating	Option 1: Unviable option	Option 2: Viable but with potential negative consequences	Option 3: Viable but not the best option	Option 4: Viable and recommended

## 6 Proposed Provision Assessment

This part of the Section 32 analysis assesses if the proposed provisions are the most appropriate to support the objective of Proposed Plan Change 18. The purpose of this evaluation is to make sure that the amended provisions are the most appropriate way to promote the sustainable management of natural and physical resources.

### 6.1.1 Amendments to the Residential Zone

Deletion of the beekeeping reference in the policy is proposed along with deleting the controls on beekeeping of up to two hives as a discretionary activity.

The effect of Proposed Plan Change 18 in the Residential Zone would be that beekeeping activities would be permitted under the District Plan, and resource consent would no longer be required for beehives provided they meet the following criteria:

- There are no more than two beehives on a site; and
- The beehives are placed at least:
  - 3m from a boundary if there is a solid fence of at least 1.8m on that boundary; or
  - 5m from a boundary if there is no solid fence of at least 1.8m on that boundary; and

- The site does not adjoin a neighbourhood reserve, or any lawfully established school, childcare and pre-school facility, community centre or place of assembly; and
- The site is 500m<sup>2</sup> or greater.

Bees generally, will fly at head height for some distance from their hives unless their surrounding environment directs their flight path upwards. Therefore the proposed rule enables the setback of a beehive from a property boundary to be reduced if a flyway barrier, being at least 1.8m, positioned within 1-2 metres out the front of the hive entrance directs the bees to fly above head height. This mechanism is used to avoid potential on-site amenity and nuisance effects near ground level adjoining the beehive.

These changes implement the plan change objective and the recommended option and are therefore appropriate.

“Nuisance” effects are retained in the proposed policy to enable enforcement for any other unanticipated effects.

### **6.1.2 Amendments to the Large Lot Residential Zone**

Deletion of the beekeeping reference in the explanation and policy is proposed, along with deletion of the controls on beekeeping as a restricted discretionary activity.

This will be replaced with a rule that permits the keeping of up to two beehives where the beehives are located no closer than 5m to any boundary, and where the site does not adjoin a neighbourhood reserve, or any lawfully established school, childcare and pre-school facility, community centre or place of assembly.

The limit on two beehives is derived from the existing rule and is considered a reasonable limit that provides for hobby and distributed commercial beekeeping without impinging on normal residential activities.

“Nuisance” effects are retained to enable enforcement for any other unanticipated effects.

The 5m setback is to achieve a reasonable separation of beehives from sensitive activities in considering the lower density and larger lot sizes that are observed within the Large Lot Residential Zone.

These changes implement the plan change objective and the recommended option and are therefore appropriate.

### **6.1.3 Amendments to Assessment Criteria (Section 21)**

Consequential amendments are required to the assessment criteria for beekeeping activities to clarify reference to more than two beehives, and to clarify the separation



distance and barriers that can be implemented to avoid undue on-site amenity and nuisance effects. This change is a consequential amendment to implement the primary changes to the policy and rules, and is the most appropriate change.

## 7 Implementation of Proposed Plan Change 18

This report must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects anticipated from the implementation of Proposed Plan Change 18. 'Scale' refers to the magnitude of effects, and 'significance' refers to the importance that the wider community places on those effects. The following table outlines the criteria considered to determine the scale and significance of the effects that are anticipated from implementation of Proposed Plan Change 18. An ordinal scale has been used for this assessment.

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

In this instance, the scale and significance of the effects that are anticipated from the implementation of Proposed Plan Change 18 are considered to be low.

## 8 Conclusion

This report presents an evaluation undertaken by Council in accordance with Section 32 of the Act for Proposed Plan Change 18: Beekeeping in Residential Zones. This report outlines the process that was taken to identify the issue and options, and then evaluates the options. The report then evaluates the preferred option in detail. The report concludes with an assessment of the scale and significance of the effects anticipated from Proposed Plan Change 18 and concludes that these are considered to be low.

As such, it is considered appropriate to revise the Waipā District Plan to:

- Remove the controls on beekeeping and beehives in residential zones; and
- Establish a new permitted activity for beekeeping activities limited up to two beehives in the Residential Zone and Large Lot Residential Zone with controls relating to setbacks and adjoining sensitive activities.

