

# COMMITTEE REPORT



**To:** The Chairperson and Members of the Strategic Planning and Policy Committee

**From:** District Plan Team Leader, Nicola Holmes

**Subject:** **Scope Plan Change 21 – Housing General Review**

**Meeting Date:** 1 August 2023

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## 1 PURPOSE - TAKE

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The purpose of this report is to seek approval from the Strategic Planning and Policy Committee to proceed with an amended scope for Plan Change 21 – Housing General Review, and for a plan change that solely relates to the introduction of Inclusionary Zoning into the Waipā District Plan.

## 2 EXECUTIVE SUMMARY – WHAKARĀPOPOTOTANGA MATUA

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In July 2022 the Strategic Planning and Policy Committee endorsed the deferral of Draft Plan Change 21 due to the prioritisation of Plan Change 26 – Residential Zone Intensification (PC26). The District Plan team is now in a position to resource Draft Plan Change 21 and as part of this process, are revisiting the scope.

The existing scope of Draft Plan Change 21 (confirmed previously by the Committee) includes:

- Enabling affordable housing including inclusionary zoning.
- Strengthening the urban design provisions in the operative district plan.
- Investigate the rezoning of growth cells T6 and C11 from large lot residential to residential.

A number of other residential related provisions that could benefit from amending have arisen from the PC26 process and also from feedback received internally and externally. As a result, staff are seeking two changes to the existing scope:

- a) It is recommended to include additional matters within the scope of Plan Change 21;
- b) in order to fast track the provisions pertaining to ‘inclusionary zoning’ it is recommended that these provisions form a plan change of their own.

### 3 RECOMMENDATION – TŪTOHU Ā-KAIMAHI

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*That the Strategic Planning and Policy Committee*

- a) **Receives** the report of Nicola Holmes, District Plan Team Leader titled ‘Scope of Plan Change 21 – Housing General Review’ [ECM Number 11056661];
- b) **Endorses** the recommended actions to:
  - i) *increase the scope of Plan Change 21 – Housing General Review to include:*
    - *The rezoning of properties along Golf Road and Kihikihi Road from Rural to Large Lot Residential*
    - *Review of the secondary dwelling provisions in the Residential Zones*
    - *Character Clusters*
    - *Additional controls in relation to development adjoining railway lines*
    - *Commercial corrections facilities*
    - *Ecology provisions*
  - ii) *proceed with a separate plan change for affordable housing/inclusionary zoning.*

### 4 BACKGROUND – KŌRERO WHAIMĀRAMA

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In April 2021, Council approved the scope of Plan Change 21 (PC21) in response to the National Policy Statement for Urban Development (NPSUD) to introduce urban infill and intensification opportunities to the Waipā district.

In July 2022 the Strategic Planning and Policy Committee resolved to defer the notification date for PC21 until early to mid-2023. The delay in notification was due to reduced capacity within the district plan team; the requirement by Central Government to initiate an intensification planning instrument, in the form of PC26; and the collaboration with Hamilton City Council to progress an inclusionary zoning plan change alongside them to align policy framework and provisions, and achieve consistency of approach for the sub-region.

Hamilton City Council have now indicated that they are not in a position to advance inclusionary zoning and rather than defer PC21 further to align with Hamilton City Council it is recommended that Waipā District Council proceed with PC21.

The process for PC26 and internal discussions has also highlighted a number of issues that are outside the scope of PC26 but are recommended to form part of a plan change process. In summary, these include the following:

**a. Rezoning of Properties along Golf Road and Kihikihi Road from Rural to Large Lot Residential**

The rezoning of a section of properties located along the intersection of Golf & Kihikihi Roads from Rural to Large Lot Residential to reflect the existing level of development. The existing rural zoning of these sites is a “zoning anomaly” that was carried over from the last district plan review and never corrected. Given their small size they are unable to be used for rural productive use and given the lack of connection to a public wastewater system, on-site servicing is required and therefore the larger lot sizes within the Large Lot Residential Zone are appropriate in this context.

**b. Reconsideration of Secondary Dwelling Provisions in the Residential and Large Lot Residential Zones**

Council receives a lot of queries in relation to the placement of tiny homes. Plan Change 26 proposes to address the current limit on “secondary” dwellings by removing the 70m<sup>2</sup> maximum size restriction and removing the requirement for secondary dwellings to be ‘visually encompassed’ with the principal dwelling (ie the same roof line). The effect of this is that a second dwelling, of any floor area, and up to 3 stories, would be permitted on all residentially zoned sites under PC26 (except Karapiro Residential Zone), subject to site coverage, setback and outdoor space limits. However accessory buildings such as sleepouts are not bound by any encompassment rule but equally contribute to the “building up” of the District. A review of the provisions for sleepouts is therefore recommended to ensure alignment with the intention of PC26 to enable second dwellings, including tiny homes, as a permitted activity.

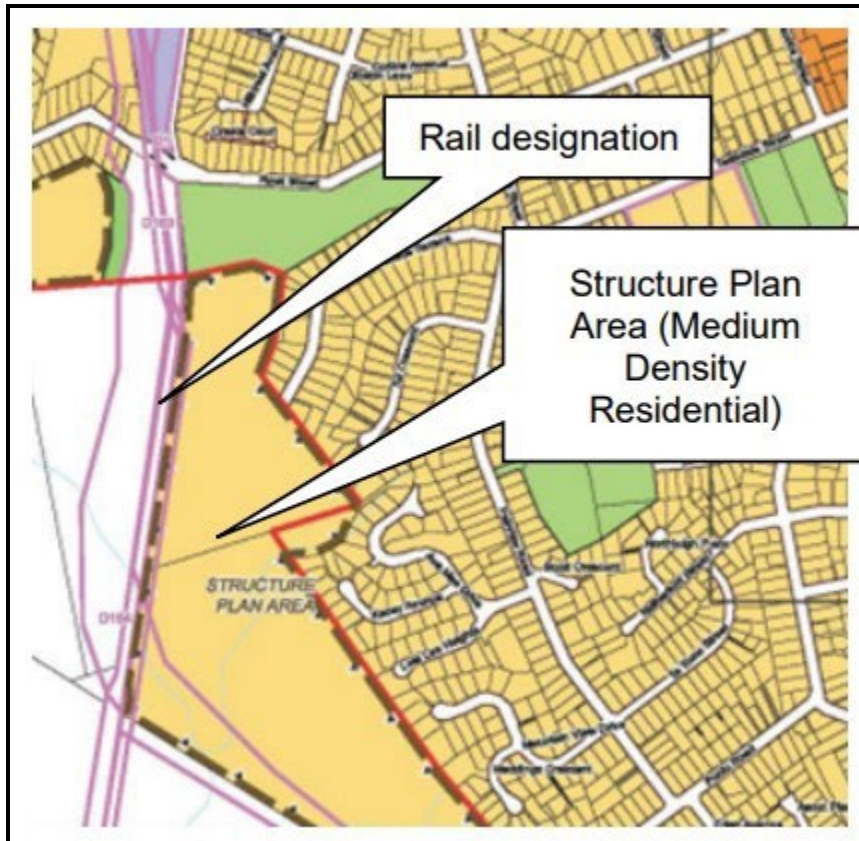
**c. Character Clusters**

The addition of several new residential character areas to the District Plan as a qualifying matter under Proposed Plan Change 26 was ruled out of scope through the substantive hearing process. Assessment, mapping, and draft provisions vis-à-vis these new character areas has already been carried out by a consultant heritage expert. It is recommended that Council amend the District Plan as per the recommendations of the council’s consultant Heritage expert.

**d. Additional controls in relation to development adjoining railway lines in terms of noise and vibration provision.**

Submitting on Proposed Plan Change 26, KiwiRail expressed the need to manage health, amenity, and reverse sensitivity effects potentially arising from the near proximity of rail and residential activities. KiwiRail’s submission included substantial evidence pertaining to these effects as well as draft provisions to address them, including a 5 metre building setback from a rail designation; an extension of the existing acoustic control from 40 metres to 100 metres from the rail corridor; and the introduction of vibration controls of up to 60 metres from

the rail corridor. It is noted that the proposals will affect only a confined area adjacent to the railway designation (43 sites in total), as shown in Figure 1 below.



*Figure 1 – Properties subject to PC26 in proximity to the railway designation*

**e. Commercial Corrections Facilities**

Submitting on Proposed Plan Change 26, the Department of Corrections Ara Poutama sought that a definition of “community corrections activity” be added to the District Plan and provided for as a permitted activity within the Commercial and Industrial zones.

Community corrections activities include non-custodial service centres and community work facilities. Such facilities enable probation, rehabilitation, and reintegration services as well as the implementation of community work programmes. Staff consider these a relatively benign activity, particularly in a Commercial Zone, of which there will be only a very limited number.

It is recommended that Council investigate possibilities of providing for ‘community corrections facilities’ within the District Plan either as a permitted activity, or via another consenting pathway.

**f. Commercial Zoning Framework**

The Commercial zone provisions are the same throughout the district however it is acknowledged that the commercial zones differ in scale and appearance. It is

recommended that Council investigate the need for a zone hierarchy with provisions that reflect the different attributes of the commercial centres, consistent with the National Planning Standards<sup>1</sup> (e.g. separates zones for Town Centre; Neighbourhood Centre; Local Centre; and Commercial).

#### **g. Ecology Provisions**

Submitting on Proposed Plan Change 26, parks and reserves planner Anna McElrea sought a number of amendments to the District Plan which broadly aim to protect and enhance Waipā's indigenous biodiversity; give effect to the National Policy Statement for Indigenous Biodiversity (NPS-IB: effective from 4 August, 2023) as well as to Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River (“Te Ture Whaimana”); and support the creation of well-functioning urban environments with a robust green infrastructure / open space network.

The proposed amendments include the addition of a “River / Gully Overlay” to protect biodiversity corridors; an increased building setback from public open spaces and Significant Natural Areas (SNA); the addition of several new discretionary matters pertaining to a proposal's ecological effects; and an extension of protections for street trees / public plantings beyond those specified in the current District Plan Section 23 – “Protected Trees” (the protection of trees in road corridors and Council reserves is currently covered by Council's “Trees on Council Land Policy”, but this is non-statutory and has no linkage to the District Plan).

It is recommended that Council explore the need for some or all of these provisions, and include new provisions as deemed necessary.

#### **h. Affordable Housing Inclusionary Zoning – Separate Individual Plan Change**

Given the extent of these proposed amendments it is recommended that affordable housing provisions (inclusionary zoning) form part of a separate plan change process to enable this to proceed sooner, and in theory quicker as there will be less potential issues to resolve given the narrow scope of the plan change. Work has also been undertaken by the Waikato Housing Initiative group who have provided a draft set of plan provisions with a new chapter to be introduced to the District Plan that solely addresses inclusionary zoning (refer to appendix 1). At the time of writing this report, the draft provisions had not been reviewed in depth but they are considered to be a good starting point in drafting provisions to the Waipā District Plan. Therefore, it is felt that the drafting on affordable housing inclusionary zoning provisions are already part way ahead of assessing the additional plan changes as noted above and it is considered preferable to continue with this momentum and advance affordable housing inclusionary zoning provisions.

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<sup>1</sup> <https://environment.govt.nz/assets/publications/national-planning-standards-november-2019-updated-2022.pdf>

## 5 SIGNIFICANCE & ENGAGEMENT – KAUPAPA WHAI MANA ME NGĀ MATAPAKINGA

Staff have considered the key considerations under the Significance and Engagement Policy, in particular sections 7 and 8 and have assessed that the matter(s) in this report have a medium level of significance.

## 6 OPTIONS – NGĀ KŌWHIRINGA

Option	Advantages	Disadvantages
<p><b>Option 1:</b> Proceed with Plan Change 21 as per the approved scope</p>	<ul style="list-style-type: none"> <li>▪ <i>Within the existing work programme so resourced in terms of budget and staff</i></li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>Excludes a number of provisions to the sections of the plan as they relate to urban areas.</i></li> </ul>
<p><b>Option 2:</b> Proceed with Plan Change 21 as per the approved scope and include the additional matters as referenced above.</p>	<ul style="list-style-type: none"> <li>▪ <i>Does not require an additional plan change and associated staff resourcing and budget.</i></li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>Affordable housing provisions may take longer to be incorporated into the Plan as the multiple amendments will result in longer reporting, consultation and possibly appeal times.</i></li> <li>▪ <i>Additional resourcing in terms of staff time and budget likely to be required to provide for engagement and reporting.</i></li> </ul>
<p><b>Option 3:</b> Proceed with two separate plan changes – a plan change specifically for the introduction of affordable housing provisions and a separate plan change for the remaining matters as outlined above.</p>	<ul style="list-style-type: none"> <li>▪ <i>Affordable housing provisions likely to be adopted into the Operative Plan quicker.</i></li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>There is no staff time or budget allocated to an additional council led plan change. Prioritisation of plan changes likely required.</i></li> </ul>

The recommended option is Option 3. The reason for this is that it enables Council to implement affordable housing provisions into the District Plan potentially quicker given there is one sole focus for consultation, engagement and reporting. This is particularly critical at present when there is a need for, and focus on providing

affordable housing within Waipā so people can afford to continue living and working within the district.

## **7 OTHER CONSIDERATIONS – HEI WHAIWHAKAARO**

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### **Council’s Vision and Strategic Priorities**

The plan change supports the Council’s Community Outcomes by providing affordable housing to improve the quality of life for current generations.

The proposed changes to the existing provisions will also enable greater development within the urban areas, consistent with the pattern for future growth of the district as outlined within the 2050 District Growth Strategy.

### **Legal and Policy Considerations – Whaiwhakaaro ā-Ture**

Staff confirm that Option 3 complies with Council’s legal and policy requirements.

The legal implications of Option 3 and how these will be addressed are noted below:

As part of this process, we will need to consider how to deliver affordable housing and if the concept of ‘inclusionary zoning’ is the right mechanism. The legality of ‘inclusionary zoning’ is an outstanding question raised by some submitters to the Queenstown Lakes District Council inclusionary zoning plan change, which is likely to be tested through their plan change hearing process. However, we are obtaining legal advice on this matter, to provide certainty before investing resources in preparing an inclusionary zoning plan change, which will be reported back. At the time of writing this report, no legal advice on this matter was received.

### **Financial Considerations – Whaiwhakaaro ā-Pūtea**

The total costs to complete the two plan changes is approximately \$148,000. This amount is budgeted for in the 2023/24 Annual Plan, with \$100,000 allocated to Plan Change 21 and \$48,000 allocation to Plan Change 25 - Flood Hazard Maps. The mapping of the flood hazards is proposed for incorporation into Plan Change 30 and therefore it is recommended that the money set aside for Plan Change 25 is reallocated is used as the source of funding for an additional plan change and will not have an impact on rates.

### **Staff resourcing**

We have reviewed our resourcing and capacity in light of some key staff changes. We confirm there is sufficient staff resourcing to proceed with PC21 as recommended.

### **Risks - Tūraru**

There are no known significant risks associated with the decisions required for this matter.

## 8 NEXT ACTIONS

Action	Responsibility	By When
Obtain legal advice on inclusionary zoning	District Plan Team/Legal	Mid August 2023
Depending on outcome of legal advice and decision of SP&P – draft s32 report for separate Affordable Housing Inclusionary Zoning plan change and proceed with notification (including report-back to SP&P Committee)	District Plan Team	August – Nov 2023
Workshop Issues and Options with Elected Members in relation to additional matters in PC21	District Plan Team	End of August 2023
Finalise Issues and Options and drafting of section 32 report for PC21 and proceed with notification	District Plan Team	Sept – Dec 2023

## 9 APPENDIX - ĀPITITANGA

No:	Appendix Title
1	Inclusionary Housing – Draft Waipā Provisions [ECM 11056653]



Prepared by: Nicola Holmes  
**DISTRICT PLAN TEAM LEADER**



Reviewed by: Tony Quickfall  
**MANAGER DISTRICT PLAN & GROWTH**



Approved by: Wayne Allan  
**GROUP MANAGER DISTRICT GROWTH & REGULATORY SERVICES**



# APPENDIX 1

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Inclusionary Housing – Draft Waipā Provisions (*ECM Number 11056653*)

# The Waipa District Plan

## Draft Inclusionary Housing Amendments

Text in blue are proposed additions/amendments.

### Part B: Definitions

Add the following definitions:

<b>'Lands Trust'</b>	means a registered charity recognised by Council as a suitable entity to hold land in perpetuity for affordable housing.
<b>'Registered Community Housing Provider'</b>	means an entity registered under section 172 of the Public and Community Housing Management Act 1992.

### Part C: Strategic Policy Framework

Add the following objective and policies:

#### Objective – affordable housing choices

- 1.3.7 To ensure affordable housing choices for low to moderate income households are provided in new residential developments so that a diverse and economically resilient community representative of all income groups is maintained into the future.

#### *Policy – Inclusionary housing*

- 1.3.7.1 Ensure that affordable housing choices for low to moderate income households are incorporated into new neighbourhoods and settlements and in redevelopments of existing neighbourhoods.
- 1.3.7.2 Ensure that affordable housing provided in accordance with Policy 1.3.7.1 is retained to meet the long term needs of current and future low to moderate income households.
- 1.3.7.3 Where developers are not incorporating affordable housing choices for low to moderate income households into new residential developments, require from development and subdivision that involves a residential component the transfer of land or money to Council or by agreement to a Lands Trust as a financial contribution towards meeting Objective 1.3.7 and policy 1.3.7.1 and 1.3.7.2, with contributions primarily sourced from residential subdivision and development.

### Part E: District Wide Provisions

Add a new District-wide chapter as follows:

#### Section 18A – Inclusionary Housing

##### 18A.1 Introduction

- 18A.1.1 The purpose of this chapter is to make provision for housing choices for low to moderate income households in new neighbourhoods and in redevelopments of existing neighbourhoods.

18A.1.2 Affordable housing is where a low or moderate income household spends no more than 35% [SUBJECT TO DEFINITION YET] of their gross income on rent or mortgage (principal and interest) payments. In the Waipa District, and for the purposes of these provisions, up to [EXAMPLE] 120% of the District's Median Household Income for the most recent 12 months is used to define a low to moderate income.

18A.1.3 The rules in this chapter apply to most forms of subdivision and development for residential activities. Provision is made for affordable housing by imposing a standard requiring that a development incorporate affordable housing, or that a financial contribution to be made. This chapter sets out the purpose of the financial contribution, and the manner in which the level of contribution (i.e. the amount) is determined. The financial contribution to be provided to the Council is for a different purpose to any development contribution listed in the Council's current contributions policy and is imposed in addition to a development contribution.

18A.1.5 The primary means of implementation of contributions received by the Council will be through a Lands Trust.

## **18A.2 Resource Management Issues**

18A.2.2 The high demand on housing resources, limitations of land supply and the lack of variety in housing stock means that the District's housing market cannot function efficiently. This has long term consequences for low to moderate income households needing access to affordable housing. In turn, this has adverse outcomes for the integrated and sustainable management of natural and physical resources, including pressure for additional urban expansion, displacement of lower income households to outlying settlements, and reduction of social and economic wellbeing. (See especially Objective 1 and Policy 1 of the NPS-UD.)

## **18A.3 Objectives and Policies**

*Please also refer to the objectives and policies of Part C, Part D, and Part E, as relevant.*

### **Objective – Inclusionary housing**

18A.3.1 Provision of affordable housing for low to moderate income households in a way and at a rate that assists with providing a range of house types and prices in different locations so as to support social and economic well-being and manage natural and physical resources, in an integrated way.

#### *Policy – Inclusionary housing*

Target affordable housing contributions to residential subdivisions and developments (including Residential Visitor Accommodation and independent living units in retirement villages) where housing is in high demand and generally close to employment, educational and community services, being land within Urban Limits, or where a plan change or resource consent seeks to establish urban scale development.

18A.3.2 Require residential developments that indirectly influence housing choices for low to moderate income households, such as residential development in the Large Lot Residential and Deferred Large Lot Residential zones to contribute to meeting affordable housing needs.

18A.3.3 Ensure that residential subdivision and development set out in Policy 18A.3.1 and 18A.3.2 either incorporates affordable housing or provides a financial contribution for affordable housing. Avoid subdivision or development for residential activities that does not provide a contribution, or otherwise does not make appropriate provision to help meet the affordable housing needs of the District.

- 18A.3.4 Recognise that the following forms of residential development either provide affordable housing or do not generate pressure on housing resources and should not be subject to the affordable housing contribution:
- a) social or affordable housing delivered by Kāinga Ora, a publicly owned urban regeneration company, the Council or a Registered Community Housing Provider;
  - b) Managed care units in a Retirement Village (as defined by the Retirement Villages Act 2003) or Rest Home (under the Health and Services Disability Act 2001); and
  - c) Secondary dwellings.
- 18A.3.5 Determine the amount of financial contributions in consideration of the following matters:
- a) The longer-term demand and need for affordable housing;
  - b) The impact of a contribution on the commercial feasibility of development at an area-wide scale and over different time periods;
  - c) The differences in commercial feasibility between greenfields and brownfields urban development; and
  - d) Whether the subdivision and development is located inside or outside of Urban Limits.
- 18A.3.6 For larger residential subdivisions within urban limits, contributions in the form of land are preferred over monetary contributions as this helps achieve distribution of affordable houses throughout the District. Contributions in the form of land must be lots located within the subdivision site. Contributions of lots located outside the subdivision site may only occur where this leads to a superior outcome in terms of access by future residents to services and community facilities.
- 18A.3.7 Financial contributions received by Council or by agreement directly to a Lands Trust shall be used for the purposes of providing affordable housing for low to moderate income households.
- 18A.3.8 Provision of affordable housing by means other than a financial contribution to the Council or a Lands Trust (such as direct transfer of land or units to a Registered Community Housing Provider for to a low to moderate income household) may occur where there are appropriate eligibility criteria and retention mechanisms.

## **18A.4 Rules**

### **18A.4.1 Interpreting and Applying the Rules**

- 18A.4.1.1 Contributions of money from a subdivision activity must be paid to the Council or by agreement to a Lands Trust before the issue of a certificate under section 224(c) of the RMA. Where land forms part or all of the provision of affordable housing by the developer, all necessary legal agreements to ensure implementation of such a contribution must be completed and executed before the issue of a certificate under section 224(c) of the RMA.
- 18A.4.1.2 Contributions of money from a land use activity must be paid to the Council or by agreement to a Lands Trust no later than 3 months after the issue of the necessary building consents under the Building Act 2004. If land forms part or all of a contribution, all necessary legal agreements to ensure implementation of such a contribution must be completed and executed before the issue of the necessary building consents under the Building Act 2004.
- 18A.4.1.3 Where a rule specifies a set monetary contribution per square metre of floorspace, this amount shall be adjusted in accordance with the most recent changes to Statistics New Zealand Producer Price Index for Construction Outputs - EE11 Building construction SQUEE1100, with March 2023 as the base year.

18A.4.1.4 For the purposes of this Chapter, residential floorspace is defined as any floorspace in a building that accommodates a residential activity, except the floor area of any garage or carport.

#### 18A.4.2 Activity Status Tables

18A.4.2.1	Permitted activities
(a)	Subdivision or development that is proposed to contain or is capable of containing residential lots or units (including residential visitor accommodation units and independent living units in retirement villages) and provides an affordable housing financial contribution in accordance with standard 18A.4.3.1.
18A.4.2.2	Discretionary Activities
(a)	Subdivision or development that is proposed to contain or is capable of containing residential lots or units (including residential visitor accommodation units and independent living units in retirement villages) which does not provide an affordable housing financial contribution in accordance with standard 18A.4.3.1.

#### 18A.4.3 Performance Standards

##### Rules – Inclusionary housing

18A.4.3.1 An Affordable Housing Financial Contribution shall be provided to Council as follows:

1. Subdivisions:

- a) Residential subdivisions within Urban Limits or other Residential or Deferred Residential Zones outside Urban Limits:
  - i. resulting in more than 1 but less than 20 new lots: a monetary contribution shall be paid to the Council or by agreement to a Lands Trust equal to 5% of the estimated sales value of serviced lots;
  - ii. resulting in 20 or more lots: a contribution of land comprising 5% of serviced lots transferred for no monetary or other consideration to a Lands Trust.
- b) Residential subdivisions within any Large Lot Residential or Deferred Large Lot Residential Zones:
  - i. A monetary contribution shall be paid to Council or by agreement to a Lands Trust equal to 5% of the estimated sales value of the lots created.

2. Development:

- a) Residential floorspace for any new or relocated units on lots that have not been subject to a financial contribution under 18A.4.3.1 above: A monetary contribution shall be paid to Council or by agreement to a Lands Trust equal to the lesser of:

- i. 2.0% of the estimated sales value of the additional units, or
    - ii. \$150 per sqm of the net increase in residential floorspace.
  - b) Residential floorspace for any new or relocated units on lots that have not been subject to a monetary contribution under 1 (b) above: A monetary contribution shall be paid to Council or by agreement to a Lands Trust equal to:
    - i. \$75 per sqm of the net increase in residential floorspace.
  - c) For new residential floorspace on lots that have provided a monetary contribution under 1(a) above, a 'top up' monetary contribution shall be paid to Council or by agreement to a Lands Trust, equal to the formula (A) – (B):

With (A) being the lesser of:

    - 2.0% of the estimated sale value of the additional units, or
    - \$150 per sqm of the net increase in residential floorspace, and

(B) being the per lot contribution paid under 1 a).

### 3. Exemptions:

For the purposes of this standard, the following types of residential activities shall not be counted as contributing to the total number of residential units in a development, nor be counted towards fulfilling the requirement of 18A.4.3.1:

- a) A secondary dwelling;
- b) social or affordable housing delivered by Kāinga Ora, a publicly owned urban regeneration company, the Council or a Registered Community Housing Provider that complies with the requirements of Schedule 18.1, where affordable housing comprises at least 10% of the dwelling units in the development; or
- c) a managed care unit in a Retirement Village or Rest Home (as defined by the Retirement Villages Act 2003 or the Health and Disability Act 2001); or
- d) where previous agreements and affordable housing delivery with Council have satisfied objective 1.3.7 and 18A.3.1 and their associated policies.

### 4. Interpretation:

The estimated sales value of lots, units or residential floorspace shall be determined by a valuation report prepared, at the applicant's expense, by a Registered Valuer (as mutually agreed by the Council and the applicant) within the 3 months prior to the financial contribution being paid. In the event of disagreement, the Council shall appoint a valuer to determine the matter.

18A.4.3.2 Affordable lots provided in accordance with 18A.4.3.1 1 a) ii) shall be located within the development site, serviced and unencumbered.

18A.4.3.3 Where development is to be staged, the affordable housing contribution is to be provided as each stage proceeds, on a proportionate lot basis.

Activities that fail to comply with Rules 18A.4.3.1 to 18A.4.3.3 will require resource consent as a discretionary activity

## 18A.5 Assessment Criteria

### 18A.5.1 Discretionary activities

For discretionary activities Council shall have regard to the assessment criteria in Section 21. The criteria in Section 21 are only a guide to the matters that Council will consider and shall not restrict Council's discretionary powers.

## 18A.6 Schedule 18.1

Where a financial contribution is not provided, and an alternative solution proposed, then the requirements in 18A.4.3.1 must be met by compliance with the following:

### Retention Mechanism

18A.6.1 The lot or floorspace being sold to an eligible buyer with a legally enforceable retention mechanism which is fair, transparent as to its intention and effect and registrable on the title of the property, including, but not limited to, a covenant that preferences the position of a Lands Trust, supported by a memorandum of encumbrance or similar legal arrangement registered on the record of title or consent notice under the RMA, that:

- a) limits ownership and re-sale (including a future residential unit in the case of a vacant site subdivision) to:
  - i. Kāinga Ora, a publicly owned redevelopment agency or a Registered Community Housing Provider, or
  - ii. an occupier who is approved by the Lands Trust as meeting the eligibility criteria below, and
- b) limits rent and resale to an eligible buyer based on a formula that ensures that the lot or dwelling remains affordable into the long term, including a future residential unit in the case of vacant site subdivision; and
- c) prevents circumvention of the retention mechanism and provides for monitoring of the terms of the retention mechanism covenant or consent notice and the process should those terms be breached including where occupiers have defaulted on the mortgage and lenders seek to recover their interests in the property, and
- d) is legally enforceable by the council in perpetuity through the means of an option to purchase in favour of the council or Lands Trust at the price determined in accordance with (e), supported by a caveat.
- e) at the time of resale, requires the reseller to:
  - i. apply the same formula used to determine the price of the original purchase;
  - ii. allows the reseller to recover the cost of capital improvements made subsequent to purchase, approved by the Lands Trust at a value determined by a registered valuer.

### Eligibility

18A.6.2 For the purposes of 18A.6.1 an eligible buyer shall:

- a) Be a household with a total income of no more than 120% [EXAMPLE] of the District's area median household income;

- b) Be a household whose members do not own or have interest in other real estate;
- c) Must not own or be a beneficiary of a business or trust that has adequate income and/or assets that enables the household to enter into home ownership independently;
- d) Will live at the address and not let or sublet the unit to others; and
- e) Have at least one member who is a New Zealand resident or citizen.

**Affordability**

18A.6.3 Affordability means households who have an income of no more than 120% [EXAMPLE] of the district’s median household income and spend no more than 35 per cent [SUBJECT TO DEFINITION YET] of their gross income on rent or mortgage repayments, where:

- a) median household income shall be determined by reference to Statistics New Zealand latest data [OR OTHER AGREED SOURCE SUCH AS INFOMETRICS], and as necessary, adjusted annually by the average wage inflation rate;
- b) in the case of purchase, normal bank lending criteria shall apply. Body Corporate or Resident Society fees may be included in the calculation of purchase costs;
- c) In the case of the sale of a vacant site only, the site is sold at a price such that the resulting dwelling plus the site will meet the criteria set out above.

Amend Section 21 Assessment Criteria as follows:

21.1.27 Inclusionary Housing

Inclusionary Housing Assessment Criteria		
<p><b>Discretionary Activities</b> Refer also to 21.1.1 Assessment Criteria for ALL discretionary activities</p>		
21.1.27.1	The amount of the contribution	<ul style="list-style-type: none"> <li>a) Whether the site or development has unique or unusual characteristics that would mean full provision of the required number of affordable lots or monetary contribution imposes a significant financial burden on the development that would make the development unviable, as demonstrated by a site-specific development feasibility assessment that utilises industry accepted assessment methodologies, and an alternative mix or contribution is appropriate. It is expected that a full assessment of costs will be provided based on an “open book” approach i.e. the developer will be expected to make all of the relevant cost information available.</li> </ul>
21.1.27.2	Land versus monetary contribution	<ul style="list-style-type: none"> <li>a) Whether the contribution is more appropriately provided in the form of money rather than land (lots) due to the location of the lots; their size and/or on-going high costs</li> </ul>



		of upkeep (including resident's society or body corporate fees or similar).
21.1.27.3	Off-site provisions	<p>a) Where lots are required, whether off-site locations may be considered for all or part of the requirement where:</p> <ul style="list-style-type: none"> <li>i. there are exceptional reasons to avoid on-site provision, such as the site being poorly located for affordable housing, and/or</li> <li>ii. the alternative sites are in close proximity to the development (i.e. within 2kms) and offer a superior outcome in terms of improved access to services and transport and or improved mix of dwelling types. Particular consideration will be given to whether the off-site provision will better address priority needs, particularly family housing, and/or</li> <li>iii. the applicant has entered into a legally binding agreement with a Council approved Registered Community Housing Provider or Lands Trust who can demonstrate that on-site provision will not meet their operational requirements and that an off-site location will deliver a superior outcome in terms of the number, mix and/or on-going management of the required retained affordable housing.</li> </ul>
21.1.27.4	Staging of dwellings units and/or lots	<p>a) Deferral of provision of affordable lots or units to subsequent stages should generally not occur.</p> <p>b) Whether delayed delivery of the affordable dwellings or lots can be appropriately secured through a suitable binding agreement with the Council or a by agreement a Lands Trust, the terms of which may include a bond.</p>
21.1.27.5	Alternative forms of contribution	<p>a) Alternative forms of contribution to that specified in 18A.4.3.1 (such as sale of lots or units direct to a Registered Community Housing Provider or a low to moderate income household) should not result in a lesser contribution.</p> <p>b) Transfer of lots or units should involve an appropriate retention mechanism and be subject to eligibility criteria (as specified in Schedule 18.1).</p> <p>c) Alternative forms of contribution should only be considered where exceptional circumstances apply.</p>