

***PC26 Public Notice – Attachment A***

***Accept / Reject Specific Independent Hearings Panel  
recommendations***

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## **Accept/Reject Specific Independent Hearings Panel Recommendations (a)-(o)**

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Note: IHP Recommendations and associated lettering is shown in bold blue text

**a) *The removal of the River/Gully QM overlay from sites within Cambridge and Te Awamutu that are separated from the relevant waterbody by a formed road.***

This recommendation (refer pages 35 to 38, particularly paragraphs 152 and 158 of the IHP report) relates to mapping of the extent of the River / Gully Qualifying Matter Overlay. The effect of the recommendation is to remove sites from the overlay where they are physically separated from a waterbody by a formed road.

This change is practical and ensures that the development of sites is not unnecessarily constrained in relation to site coverage and landscaping requirements where effects on waterbodies / biodiversity corridors will not arise.

**Council Decision:** Recommendation (a) is accepted by Council.

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**b) *Amendments to Policies 2A.3.11.1 and 2A.3.11.2 to more clearly define where the River/Gully QM applies.***

This recommendation (refer pages 35 to 38, particularly paragraphs 153 to 155 and 159 of the IHP report) relates to mapping of the extent of the River / Gully Qualifying Matter Overlay. The notified version of this overlay was mapped based on the legal parcel boundary associated with waterbodies, whereas the IHP have recommended that it should actually from the riverbank (mean annual fullest flow level).

The amendments to the policies relate to removal of reference to the depth of the overlay area and planning map number (now no longer relevant because of the eplan).

The changes remove potential inconsistencies and uncertainty in administration of the rules.

**Council Decision:** Recommendation (b) is accepted by Council

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**c) *The removal of the Bank Street Character Cluster Qualifying Matter Overlay from the planning maps and provisions.***

This recommendation (refer pages 48 – 58, particularly paragraph 240 of the IHP report) relates to removal of the proposed Bank Street Character Cluster Qualifying Matter Overlay in Te Awamutu.

Evidence presented to the IHP proposed inclusion of sites within a Character Cluster QM Overlay based on the presence of 5 set criteria (refer paragraph 218 of the IHP report). This included that a “cluster should encompass both sides of the street unless there is sound historical or visual justification otherwise”.

The IHP recommends removal of the Bank Street Character Cluster on the basis that it does not meet all of the qualifying criteria and that no sound historical or visual justification was provided for departure from the settled qualifying criteria.

Ensuring that the identification and mapping of character clusters is based on agreed and consistent criteria is important from a consenting perspective. Consistent application of qualifying criteria is also important. The IHP recommendation to delete the Bank Street cluster is considered to be both logical and practicable.

**Council Decision:** Recommendation (c) is accepted by Council.

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d) ***The inclusion of “Site Coverage” within the definitions to also mean “building coverage” and a consequential change to the references to “building coverage” in rule 2A.4.2.8.***

The recommendation (refer page 37, paragraph 156 of the IHP report) considers that the use of the terms ‘site coverage’ and ‘building coverage’ creates confusion when they have identical meaning.

The amendment is practical and will serve to ensure that people are aware that references to site coverage and building coverage throughout the district plan are intended to mean the same thing. The change also brings the plan into alignment with terminology used National Planning Standards.

**Council Decision:** Recommendation (d) is accepted by Council.

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e) ***Amendments to the matters of discretion in rule 2A.4.1.3(b), (c), (h), (i), (j) and rule 15.4.1.1 (e) to specifically reference the Urban Design Guidelines that are included in the District Plan.***

This recommendation (refer pages 97 – 100 of IHP report) relates to the extent to which urban design matters can be used to guide decision making on resource consent applications for multiple household units.

Matters of Discretion apply when resource consent is required to be obtained for a restricted discretionary activity. They relate to matters that Council is able to consider in making decisions on resource consent applications and setting conditions that need to be complied with.

The matters of discretion referenced in the recommendations were originally notified as reading either:

- *“Alignment with any relevant Urban Design Guidelines adopted by Council”* or
- *“Alignment with any relevant Urban Design Guidelines approved by Council”*

The IHP found that (at paragraphs 418 to 420 of the IHP report):

1. There is no design guide for the Medium Density Residential Zone;
2. Inclusion of a design guide in the district plan will require a plan change;

3. Reference to design guidance within the rules should only relate to guides that form part of the district plan

The IHP has recommended that these matters of discretion be amended to read either:

- *“Alignment with any relevant Urban Design Guidelines adopted by Council **and included in the District Plan**”* or
- *“Alignment with any relevant Urban Design Guidelines approved by Council **and included in the District Plan**”*

The IHP recommendation is considered to be appropriate, and the amendments proposed will clarify the extent to which urban design matters can be relied on in making decisions on resource consents. It is agreed that for design guides to be relied on to provide statutory guidance they should be developed and formally included in the district plan via the first schedule process.

**Council Decision:** Recommendation **(e)** is accepted by Council.

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**f) *Amendment to the note under heading 2A.4.2 to specifically reference rules 2A.4.2.9 and 2A.4.2.28.***

Rule 2A.4.2 acts as preamble to performance standards set for the Medium Density Residential Zone. As notified the final paragraph makes reference to “*relevant*” performance standards that apply within the River / Gully Overlay but does not specifically identify what these relevant rules are.

The IHP recommendation (pages 35 to 58, particularly paragraph 164, of the IHP report) is to specifically identify the relevant performance standards by amending the paragraph to list the specific rules (being Rules 2A.4.2.9 and 2A.4.2.28). This change is a practical improvement for plan users.

**Council Decision:** Recommendation **(f)** is accepted by Council.

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**g) *Amendment to rule 2A.4.2.6(d) to include reference to Appendix S of the District Plan.***

Rule 2A.4.2.6 provides circumstances where setback standards mandated by MDRS are altered in response to the application of qualifying matters.

Rule 2A.4.2.6(d) relates specifically to setbacks that apply to sites adjoining Te Awa Cycleway. The notified version of this rule referenced “sections of the Te Awa Cycleway identified on structure plan maps”.

The IHP (refer pages 32 and 33, particularly paragraph 134, of the IHP report) have recommended clarification that the structure plan maps referred to are those contained in Appendix S of the district Plan. The amendment is practical and serves to make it clear when Rule 2A.4.2.6(d) is to be applied.

**Council Decision:** Recommendation **(g)** is accepted by Council.

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- h) ***A change to Stormwater QM rule 2A.4.2.8 and its associated matters of discretion to give more direction on how flooding effects and effects on rivers are to be considered, and to signal that avoidance or mitigation needs to be driven by relevant consents or policy guidance.***

### ***Restriction of Discretion***

Rule 2A.4.2.8 provides a reduced site coverage of 40% to address effects of buildings in relation to 100 year flood events and overland stormwater flowpaths.

As notified by PC26 the rule specified a maximum site coverage of 40% within the Stormwater Qualifying Matter overlay, with developments exceeding 40% site coverage requiring resource consent for a restricted discretionary activity.

The IHP recommendation is to delete criteria not relevant to the subject matter of the resource consent trigger (site coverage exceedance) and amend the matters that discretion to read:

- *The flood effects due to displacement of flood water arising from the proposed building development (NEW CRITERIA ADDED).*
- *The impact on rivers and waterbodies and whether any potential adverse effects from a **building** development **are required by relevant consents or guidelines** to be avoided or mitigated (BOLD WORDS ADDED).*
- *An assessment of stormwater disposal and whether this can be accommodated on-site.*

The IHP recommendation (paragraphs 278 and 279, page 65) records the reasons for the changes as:

- *Addition of matter of discretion relating to floodwater displacement arising from proposed building development, as this is the main reason for the overlay; and*
- *Give more direction on how effects are to be considered and to signal that avoidance or mitigation needs to be driven by relevant consents or policy guidance.*

The changes are practicable and serve to strengthen the matters able to be considered in making decisions and to ensure that discretion is restricted to only those matters which are relevant to the non-compliance being assessed (e.g. site coverage of buildings).

### ***Rule Amendments***

The IHP report (pages 58 – 66) considers in detail the Stormwater Constraint Overlay and its associated rules. Of key consideration was whether an exemption for greenfield areas could be built into the rule to enable 50% site coverage in these areas.

The position of Council at the hearing was that no exemption from the Stormwater Constraint Overlay should be provided. The reasons provided for this were:

- (a) Discharge permits may be obtained years in advance of development of individual sites.
- (b) It is difficult to record and implement via a consent notice imposed at the time of subdivision design matters specific to a discharge permit which may enable achievement of 50% site coverage for individual sites.

- (c) Delays between obtaining discharge permit and site development may mean that when development occurs design solutions prescribed by consent notice may be out-of-date.

Council staff did put forward an amendment to Rule 2A.4.2.8 which could be implemented if the IHP were minded to include an exemption for greenfield areas. The IHP have recommended that this exemption be incorporated into the Rule on the basis that:

- “...Council’s concern appears to be related to aspects associated with CSDC’s rather than bespoke regional consents for particular subdivision” (paragraph 276 pg. 65 IHP Report)
- “... exemption from Stormwater Constraint Overlay may be appropriate for greenfield sites provided restrictions are imposed on regional consents for stormwater discharges to ensure flood effects are mitigated...” (paragraph 277 pg. 65 IHP Report)

The IHP has recommended that Rule 2A.4.2.8 be amended (**bold** text added) to read:

*On sites located within the Stormwater Qualifying Matter Overlay, the maximum building coverage must not exceed 40% of the net site area **except for sites that meet the following criteria:***

- (i) **Where a subdivision consent has been approved by Council that includes stormwater management designed for 50% building coverage over the entire site or on specified lots on the site; and***
- (ii) **Any regional discharge consents that are required have been approved and consent notices are in place, where applicable.***
- (iii) **Sites that meet the criteria outlined in 2A.4.2.8 (i) and (ii) will have maximum building coverage as specified under Rule 2A.4.2.7 which will apply either over the entire site or on specified lots on the site***

**Council Decision:**

1. That the IHP recommendation specific to the amendment of Rule 2A.4.2.8 be rejected on the basis that:
  - The amendments as written will apply to all sites within the Medium Density Residential Zone, not just those created by subdivision in greenfield areas.
  - It is unlikely that a regional discharge consent for greenfield subdivision would be in place at the time subdivision consent is lodged
  - There is no corresponding rule in PC26 which allows relaxation of a land use standard as part of a subdivision consent in the absence of a specific development proposal being consented
  - It remains the position of Council staff that the provision of the exemption is not the most appropriate way to achieve the objectives of the Stormwater Constraint Qualifying Matter overlay.
2. Recommendation (h) specific to the matters of discretion to Rule 2A.4.2.8 is accepted.

- i) ***The inclusion of an additional criterion in rule 2A.4.2.8.1 relating to the extent to which increased site coverage adversely affects the ecological integrity and viability of the adjacent biodiversity corridors and the accessibility and amenity of the adjacent esplanade areas.***

This recommendation (at pages 35 to 38, particularly paragraph 161 of the IHP report) relates to a new criterion which has been numbered 2A.4.2.9 in Appendix 5 (not 2A.4.2.8.1 as referenced in the IHP recommendation and report). The rule relates to site coverage requirements on sites within the River / Gully Proximity Qualifying Matter Overlay.

The recommendation is to add a new matter of discretion to enable consideration of the effects of increased site coverage on the integrity, viability and accessibility of biodiversity corridors. This appropriately strengthens the matters able to be considered in making decisions.

**Council Decision:** Recommendation (i) is accepted by Council.

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- j) ***Amendments to assessment criteria 21.1.2A.9(g) and 21.1.2A.8(h) to enable the assessment of the extent of effects (rather than whether there will be effects).***

Rule 21.1.2A.9 provides assessment criteria for development proposals which fail to comply with setback standards. A consistent change in three of the criteria (g), (h) and (j) is recommended by the IHP (at pages 41 to 43, particularly paragraphs 186 and 187, of the IHP report) so that assessment relates to the extent of effects arising from non-compliance, rather than whether there will be an effect. This appropriately focusses the matters able to be considered in making decisions.

**Council Decision:** Recommendation (j) is accepted by Council.

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- k) ***The inclusion of new assessment criteria for rule 21.1.2A.10 which (among other things) strengthens the consideration of stormwater effects on downstream erosion***

*The IHP report (in paragraphs 275 in relation to the Stormwater Qualifying Matter Overlay and paragraph 307 in relation to the Infrastructure Constraints Qualifying Matter Overlay) recommends deletion of the assessment criteria in 21.1.2A.10 and 21.1.2A.11 relating to downstream erosion. This has been incorrectly recorded in the list of recommendations on pages 4 and 111 of the IHP report.*

*Deletion of the assessment criteria relating to downstream erosion is consistent with the findings of the IHP report.*

**Council Decision:** *That the changes to 21.1.2A.10 and 21.1.2A.11 in Appendix 5 are accepted by Council.*

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- l) ***The inclusion of a new (consolidated) assessment criterion (c) for 21.1.2A.11 which encompasses consideration of a range of options for avoiding or minimising discharge of contaminants from buildings and which provides reference to guidance on allowable discharge of contaminants in stormwater***

Rule 21.1.2A.11 provides assessment criteria for development proposals which exceed 40% site coverage in the Stormwater Qualifying Matter Overlay. The new criterion (c) recommended by the IHP relates specifically to stormwater quality effects of increased site coverage (refer paragraph 280, pg 65).

*These changes are in line with what was recommended by Council as part of the hearings process and will enable appropriate assessment of applications for resource consent to exceed 40% site coverage.*

**Council Decision:** Recommendation (l) is accepted by Council.

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- m) ***The replacement of proposed assessment criterion 21.1.2A.11 (e) with a new criterion relating to Te Ture Whaimana.***

Rule 21.1.2A.11 provides assessment criteria for development proposals which exceed 40% site coverage in the Stormwater Qualifying Matter Overlay. The IHP recommended a new criterion (d) (pages 58 to 66, particularly paragraph 282, of the IHP report) to enable consideration of the extent to which measures associated with development proposals give effect to Te Ture Whaimana.

*This appropriately strengthens the matters able to be considered in making decisions and directly relates the assessment criteria to the reasons for the Stormwater Qualifying Matter Overlay.*

**Council Decision:** Recommendation (m) is accepted by Council.

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- n) ***Amendments to assessment criteria in rule 21.1.2A.18 to include reference to esplanade amenity values and provide for off-site mitigation as a method for contributing to biodiversity and esplanade and residential amenity values.***

Rule 21.1.2A.18 provides assessment criteria for proposals which do not provide the minimum required landscaping area. The IHP recommended amendment of existing criteria to account for situations where non-compliance with building coverage or landscaping standards may have little or no effect on biodiversity or esplanade values

*These changes are in line with what was recommended by Council as part of the hearings process and will allow for appropriate assessment of applications for resource consent within the River/Gully Qualifying Matter Overlay.*

**Council Decision:** Recommendation (n) is accepted by Council.

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- o) ***Where we considered it necessary, we have also made consequential minor wording, numbering and formatting changes. These have been reasonably extensive because***



***the opportunity has been taken to correct existing anomalies. We are satisfied that these have no material content significance.***

These changes are in line with what was recommended by Council as part of the hearings process. Additional *changes* were necessary as a result of the IHP recommendations. Some further consequential changes are recommended as minor errors in Appendix 5.

**Council Decision:** Recommendation (o) is accepted by Council.

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