

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**STATEMENT OF EVIDENCE OF ANNA MARIE MCELREA**

**Dated: 24 March 2023**

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## 1. INTRODUCTION

1.1 My full name is Anna Marie M<sup>c</sup>Elrea and I am a senior consultant at Xyst Ltd. I previously worked for 28 months as the Senior Reserves Planner at Waipā District Council (the “Council”).

1.2 My qualifications and experience are:

- (a) I hold the qualifications of Bachelor of Science, Double Major in Ecology and Geography (Otago University) and Master of Resource and Environmental Planning, First Class Honours (Massey University);
- (b) I am an intermediate member of the New Zealand Planning Institute and a member of Recreation Aotearoa and New Zealand Parks Agencies Leaders Forum;
- (c) I have been working in the field of parks and reserves planning since 2006 and through my planning career I have variously been employed at team leader and senior planning levels for one regional council (Auckland), one unitary council (Auckland) and several district councils (Franklin and Waipā); and
- (d) I have experience in the full range and scope of reserves planning including but not limited to:
  - (i) assessing resource consent applications, designations and plan changes at various scales for councils;
  - (ii) presenting planning evidence as an expert to hearings;
  - (iii) drafting and project managing various plans to guide decisions on parks and reserves, including reserve management plans, master plans, concept plans and development plans;

- (iv) mana whenua engagement and collaboration at various levels;
- (v) assessing reserve acquisition and disposal proposals; and
- (vi) assessing concession requests.

1.3 The Council contracted Xyst Ltd to provide technical advice on the green infrastructure needs and constraints for Council's Intensification Planning Instrument ("IPI", Proposed Plan Change 26 – "PC26") and submissions received on PC26 related to green infrastructure.

1.4 I prepared the technical report entitled '*Green Infrastructure/Public Open Space Network Assessment*' which forms Appendix 7 to the Section 32 Report for PC26.

## 2. **CODE OF CONDUCT**

2.1 I have read the Environment Court Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2023 and agree to comply with it. I confirm that the opinions expressed in this statement are within my area of expertise except where I state that I have relied on the evidence of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

## 3. **SCOPE OF EVIDENCE**

3.1 My evidence provides the following:

- (a) a brief description of Waipā's green infrastructure / open space network within the three towns affected by PC26;

- (b) a brief description of the key components of PC26 to protect, expand and enhance the land-based open space network and rationale for this as set out in the Section 32 Report; and
- (c) analysis of key submissions points related to the PC26 land-based open space network rules and my recommended amendments to PC26.

#### 4. EXECUTIVE SUMMARY

- 4.1 PC26 is Council's required amendment to the Operative Waipā District Plan ("District Plan") to incorporate new Medium Density Residential Standards ("MDRS") that will apply to all relevant residential zones within the Waipā District.
- 4.2 PC26, together with the unmodified District Plan provisions, provide a framework to address the impacts of intensification on the green infrastructure / open space network.
- 4.3 Submissions were received on PC26 in support of, and in opposition to, the open space network related provisions. In response to these I have recommended a range of amendments to PC26 (see Attachment 1 which is appended to my evidence). Largely, I support the PC26 provisions with the amendments proposed in Council's submission and other minor amendments to enable a fuller assessment of any potential effects on the open space network.
- 4.4 The focus of my evidence is on ensuring the intensification envisaged through the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ("the Amendment Act") to respond to the national significance of Aotearoa / New Zealand's housing crisis is implemented in Waipā District in a way that:
  - (a) protects and enhances Waipā's indigenous biodiversity;

- (b) gives effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River (“Te Ture Whaimana”); and
- (c) creates well-functioning urban environments with accessible, functional and high quality open spaces that support thriving communities.

## 5. THE WAIPĀ CONTEXT

- 5.1 As set out in my technical report<sup>1</sup>, the open space networks within Cambridge, Te Awamutu and Kihikihi include a range of parks and reserves, the Waikato River, Karāpiro Stream, Mangapiko Stream, Mangaohoi Stream and Lake Te Koo Utu, protected trees, street trees and significant natural areas. These networks are defining features for these towns and are highly valued by mana whenua, residents and visitors. They contain critical remnant habitats, critically endangered and at risk species, sport and recreation facilities, archaeological sites and sites of significance to mana whenua. They also provide space and protection for protected trees, street trees and trees within parks and reserves to grow to maturity and contribute to Waipā’s biodiversity, water quality, carbon sequestration, air quality, cultural heritage, visual amenity and place making aspirations.
- 5.2 Council and its partners have a wide range of open space acquisitions, developments and programmes to extend, restore and enhance these open space networks, improve levels of service, protect and restore native species populations, habitats and waterways and renew and maintain existing assets.
- 5.3 The National Policy Statement on Urban Development 2020 (“NPS-UD”), the National Policy Statement – Freshwater Management 2020 (“NPS-FM”), the draft National Policy Statement – Indigenous Biodiversity

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<sup>1</sup> XYST Ltd, “Green Infrastructure/Public Open Space Network Assessment”, 5 August 2022 at section 3.

(“NPS-IB”), the COP 15 United Nations Biodiversity Summit Kunming-Montreal Global Biodiversity Framework’s goals and targets agreed in late 2022<sup>2</sup>, the Parliamentary Commissioner for the Environment’s March 2023 Report titled *‘Are we building harder, hotter cities? The vital importance of urban green spaces’*<sup>3</sup>, and Environment Court decisions such as *Weston Lea Limited v Hamilton City Council*<sup>4</sup> have highlighted the importance of open space network values and councils’ requirements to protect, restore and enhance these values.

- 5.4 Recent residential expansion in growth cells identified in Council’s District Growth Strategy<sup>5</sup>, intensification of brownfield areas in the three main centres and industrial growth in Cambridge have highlighted the challenges and opportunities that growth presents in relation to identifying, protecting, restoring and/or enhancing open space values; including biodiversity, mana whenua, historic heritage, recreation and amenity values. It has highlighted the importance of a strong planning framework to achieve Council’s desired open space network outcomes and meet its responsibilities under Te Ture Whaimana and national policy statements.
- 5.5 The Amendment Act<sup>6</sup> sets out that the MDRS can be amended to be less enabling of development to protect a range of open space values, including but not limited to:
- (a) Te Ture Whaimana;
  - (b) natural character of rivers and their margins;

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<sup>2</sup> <https://www.cbd.int/article/cop15-cbd-press-release-final-19dec2022>

<sup>3</sup> <https://pce.parliament.nz/media/2punadfp/are-we-building-harder-hotter-cities-the-vital-importance-of-urban-green-spaces.pdf>

<sup>4</sup> [2021] NZEnvC 149.

<sup>5</sup> Waipā District Council Growth Strategy 2017.

<sup>6</sup> Section 77I of the Amendment Act.

- (c) protection of areas of significant indigenous vegetation and significant fauna;
- (d) maintenance and enhancement of public access to and along rivers; and
- (e) protection of historic heritage.

5.6 The intensification provided for through the MDRS introduced by the Amendment Act presents a range of potential cumulative and long-term adverse effects on the open space networks of Cambridge, Te Awamutu and Kihikihi. These effects and my assessment of Council's response to manage these through PC26 and submissions received on these provisions, are set out in the next section.

## 6. **PC26 PROVISIONS TO PROTECT AND ENHANCE THE LAND BASED OPEN SPACE NETWORK**

6.1 A summary of the qualifying matters proposed in PC26 to protect and enhance the land based open space network are set out below. The specific wording of the relevant rules and assessment criteria are included in Appendix 2 along with my recommended amendments in response to submissions.

### **River/Gully Proximity Qualifying Matter Overlay**

#### *Overview of qualifying matter and PC26 provisions*

6.2 The biodiversity corridors along the Waikato River and its tributaries are defining ecological features of Waipā. They are critical to Council, mana whenua, key stakeholder and community aspirations to protect and restore Waipā's biodiversity. They improve the integrity, connectivity and resilience of ecosystems within Cambridge and Te Awamutu. They also contribute to urban form and place making and support the public use and enjoyment of esplanade areas.

- 6.3 The District Plan identifies the Waikato River (Cambridge town), Karāpiro Stream (Cambridge, Carter’s Flat), Mangapiko Stream (Te Awamutu town) and the Mangaohoi Stream (Te Awamutu South-East) as biodiversity corridors<sup>7</sup> (Planning Map 49). The District Plan states that these biodiversity corridors *‘are considered to have potential significance to indigenous biodiversity values due to the desirability of improving connectivity between wetlands and areas of indigenous vegetation’*. Removal of indigenous vegetation for any purpose other than a restricted range of largely conservation, cultural and track maintenance activities within the biodiversity corridors is a controlled activity where clearance is less than 1ha and a restricted discretionary activity where clearance is greater than 1ha (Rule 24.4.1.1(n)). Additionally, Rule 26.4.2.1 generally prohibits, amongst other things, vegetation clearance, earthworks and building associated with residential developments within 23m of the edge of any water body as measured at its maximum annual water level.
- 6.4 The importance of these biodiversity corridors has been emphasised through numerous ecological impact assessments submitted with resource consent applications that have identified many of them as important habitat, foraging areas and flyways for species such as pekapeka tou roa/long-tailed bats. Additionally, recently Central Government approved funding towards Taiea te Taiao Mā Mangapiko, mai i Maungatautari ki Pirongia ahu ake<sup>8</sup> – a project focused on restoring the Mangapiko biodiversity corridor.
- 6.5 The District Plan also identifies all of these rivers and streams (and their riparian margins) as cultural landscape areas with policies and rules to protect these areas and has policies related to maintaining and restoring the natural character of the Waikato River. Policy 25.3.4.4 requires that

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<sup>7</sup> Waikato River has a 750m corridor, Karāpiro Stream and Mangapiko Stream have a 500m corridor and the Mangaohoi Stream has a 250m corridor.

<sup>8</sup> Maungatautari to Pirongia Ecological Corridor Project recently received \$800,000 of Ministry for the Environment funding to improve riparian margins, create wetland habitat, reduce predators and increase biodiversity along the Mangapiko Stream (<https://landcare.org.nz/project/maungatautari-to-pirongia-maunga-ecological-corridor/>).



vegetation removal should be avoided and buildings carefully located to maintain the amenity and values of the river environs.

- 6.6 Te Ture Whaimana covers the entirety of the Waipā District, and all rivers and catchments in the District. Te Ture Whaimana outlines that an integrated, holistic and co-ordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River will be pursued. My understanding is that the objectives outlined in Te Ture Whaimana apply to the biodiversity corridors along these waterways because it would be impossible to achieve the vision for the Waikato River without thriving biodiversity corridors along their margins. This was part of the rationale for the Waikato River Authority funding Council received to undertake significant weed control and restoration planting on its reserve land within the Karāpiro Stream gully in Cambridge.
- 6.7 In my technical advice<sup>9</sup>, I identified that urban intensification along the margins of these rivers and streams has the potential to create adverse effects on the waterways themselves and the associated biodiversity corridors.
- 6.8 While the District Plan contains a number of objectives, policies and rules that relate to protecting the biodiversity and natural character along the waterways (refer to Appendix 3 of the PC26 Section 32 Report), I consider the level of intensification arising from the MDRS is incompatible with the natural character values and the protection and restoration of these biodiversity corridors.
- 6.9 The key effects of intensification are:
- (a) the direct and indirect effects of the cumulative loss of existing vegetation used for habitat, commuting and foraging that also provides green infrastructure services such as water filtration and

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<sup>9</sup> Xyst Ltd, "Green Infrastructure/Public Open Space Network Assessment", 5 August 2022 at Appendix 7 of the PC26 Section 32 Report.

slope stabilisation likely to result from the increased building coverage threshold (from 40% of the net site area to 50% of the net site area);

- (b) the inability of the significantly reduced landscaping requirements (from 40% to 20%) to contribute to the District Plan's biodiversity corridors;
- (c) the indirect effects on species such as pekapeka-tour-roa/long-tailed bats that utilise the biodiversity corridors arising from higher noise, light and activity levels associated with increased densities; and
- (d) the impact of the higher building coverage, reduced setbacks and limited landscaping requirements on the natural character of the waterways.

6.10 I recommended retention of the current District Plan site coverage rule and a minimum of 30% landscaping with native vegetation on either properties directly adjoining the waterways or esplanade reserves along the waterways or on properties within logical catchments within the District Plan identified biodiversity corridors.

6.11 Council considered the most efficient, effective and appropriate method for avoiding and mitigating these effects was through an overlay which reduced the maximum site coverage under the MDRS. This River/Gully Proximity Qualifying Matter Overlay ("River / Gully Overlay"), reduces the MDRS permitted site coverage on the margins of those rivers from 50% to 40% (retaining the current site coverage requirement) within a 120m setback from the Waikato River, Karāpiro Stream, Mangapiko Stream and Mangaohoi Stream. The 120m was taken from the edge of the water body, that is, the boundary of the cadastral parcels with the intent 'Hydro'. The extent of the River / Gully Overlay is identified on Map 56 –

Qualifying Matters – Cambridge and Map 57 – Qualifying Matters – Te Awamutu/Kihikihi.

- 6.12 PC26 identifies that activities that fail to comply with this rule (Rule 2A.4.2.8) will require a resource consent for a restricted discretionary activity with the matters of discretion restricted to: building location, bulk and design; on-site amenity; outlook for adjoining neighbours; effects on existing trees; landscaping; the impact on rivers and waterbodies and whether any potential adverse effects from a development can be avoided or mitigated; the impact of the development on indigenous flora and fauna and the ability to avoid, remedy or mitigate any adverse effects on these; and an assessment of stormwater disposal and whether this can be accommodated on-site. These matters must be considered in accordance with the assessment criteria in Section 21 of the District Plan.
- 6.13 I consider the River / Gully Overlay, along with the retention of the District Plan rules in Sections 21, 24 and 26 relating to setbacks and protection of indigenous biodiversity within the biodiversity corridors, necessary to address the following matters:
- (a) the preservation of the natural character of rivers and their margins (section 77l(a));
  - (b) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (section 77l(a));
  - (c) the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers (section 77l(a)); and
  - (d) Te Ture Whaimana (section 77l(c)).

*Overview of submissions*

- 6.14 I have reviewed submissions relating to the River / Gully Overlay and provide my assessment below.
- 6.15 Waikato-Tainui was supportive of the River / Gully Overlay.
- 6.16 Submissions opposing the River / Gully Overlay overview were received from Kāinga Ora, Cogswell, Ryman and RVANZ Inc. Their submissions on the River / Gully Overlay were as follows:
- (a) Kāinga Ora submitted that the implications of this overlay have not been sufficiently assessed or justified in accordance with sections 77J and 77L of the RMA Amendment Act and its purpose.
  - (b) Kāinga Ora, Ryman and RVANZ Inc sought deletion of the River / Gully Overlay (including their spatial application and associated provisions).
  - (c) Cogswell Surveying Ltd sought either the removal of Rule 2A.4.2.8 or an amendment to Rule 2A.4.2.8 to apply the rule to 'impermeable area' rather than 'building coverage' and set this at a 50% threshold maximum. They also sought an amendment to the matters of discretion to only cover the impact on rivers and waterbodies and whether any potential adverse effects from a development can be avoided or mitigated; and an assessment of stormwater disposal and whether this can be accommodated on-site.
- 6.17 Council's submission identified that there is a need to provide an objective and policies to support the River / Gully Overlay and that in order to achieve the desired outcomes for this qualifying matter, there should be an increase in the landscaping requirements from 20% to 30% and that all plants should be required to be native.

*Assessment and recommendations*

- 6.18 I support Council's submission that there needs to be an objective and policies to support the River / Gully Overlay to provide context and rationale for the related rules and a framework for decision-makers. I have proposed an objective and policies in Attachment 1.
- 6.19 As set out in Appendix 3 of the PC26 Section 32 Report, the 120m extent for this reduced site coverage was decided on a precautionary basis, with the overall outcome of the River / Gully Overlay being the retention of the values associated with these river margins. I support the extent of the overlay as it captures the key locations identified in my technical advice<sup>10</sup> where I recommended retention of the District Plan building coverage threshold of 40%.
- 6.20 I support Council's submission to introduce a 30% landscaping with native only requirement on the River / Gully Overlay as this is aligned to my original advice. I believe this will contribute to the biodiversity corridor in terms of habitat and food source protection and restoration, mitigation of the negative indirect effects of higher densities on several indigenous species and reduction of pest plant and weed reintroduction into restored areas on Council's reserves. I note that the Section 42A Report (and Appendix A) proposes a new rule to address this landscaping requirement (Rule 2A.4.2.25).
- 6.21 While the greatest impact on the biodiversity values of Council's esplanade areas and the natural character preservation of the waterways will be on the building coverage rules applying to the residential properties directly adjoining the waterways or esplanade areas; my view is that the wider application of the 40% building coverage rule and the 30% landscaping with native only rule, will increase the likelihood of the biodiversity corridors successfully acting as 'pathways' for species

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<sup>10</sup> Xyst Ltd, "Green Infrastructure/Public Open Space Network Assessment", 5 August 2022 at section 8.9.

traversing Cambridge and Te Awamutu. It will likely also create a stronger assessment and management framework in terms of the frequent requests for non-complying activities within 23m of the waterways, indigenous vegetation clearance within the biodiversity corridor and esplanade area reductions.

- 6.22 The impact of the River / Gully Overlay, which is narrower than the narrowest biodiversity corridor, is relatively minor on the densities desired to be achieved under the MDRS as it only reduces the building coverage by 10%.
- 6.23 I note that in many areas the River / Gully Overlay coincides with the Stormwater Overlay, however it is important that a separate rule (and criteria) apply to applications in these areas as they are both restricted discretionary activities with criteria that are focussed on different potential effects. This separation is also important to ensure the retention of the rules to protect the biodiversity corridors if the Stormwater Overlay is modified in response to future stormwater infrastructure improvements. I support the proposed separation of the River / Gully Overlay and Stormwater Overlay rules set out in the Section 42A Report (and Appendix A) to specify the relevant separate criteria for each overlay.
- 6.24 For these reasons, I strongly support the retention of the River / Gully Overlay provisions and spatial application with the amendments set out in Council's submission; particularly the change to the landscaping requirement and also the inclusion of an objective and policies relating to the River / Gully Overlay. These amendments will provide important clarification of the intent of the River / Gully Overlay and provide for developments that support the protection and restoration of these biodiversity corridors, and ultimately the reversal of the devastating decline in Waipā's biodiversity. Such provisions will also create a planning framework that contributes to giving effect to Te Ture Whaimana.

6.25 I note what I believe to be an error in the matters of discretion under Rule 2A.4.2.24 in terms of the rules it relates to. I recommend separating the matters that relate to the roof pitch rule (Rules 2A.4.2.22) and the rules relating to landscaping (2A.4.2.23 and the proposed new rule setting the 30% landscaping requirement for the River / Gully Overlay) to make it clear that activities that fail to comply with these landscaping rules will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- (a) Protection of existing mature vegetation;
- (b) Landscaping; and
- (c) Off-site mitigation.

6.26 I support in part Kāinga Ora's submission point related to the Assessment Criteria – Landscaped Area, that generous landscaping will not be possible given it applies to activities that fail to comply with the 20% landscaping rule. I therefore recommend amendments to this criteria, as specified in Attachment 1, to focus the assessment on effects of non-compliance on the retention and protection of mature vegetation, above ground landscaping alternatives and off-site mitigation.

### **Significant Natural Areas and Reserves Qualifying Matters**

#### *Overview of qualifying matter and PC26 provisions*

6.27 An increase in residential housing density directly adjoining parks and reserves with high biodiversity values, including but not limited to identified Significant Natural Areas ("SNAs"), has the potential to create several adverse direct and indirect effects; in respect of indigenous vegetation and significant habitats of indigenous fauna (qualifying matter sub-section 771(a)). These include:

- (a) potential direct effects through the removal of vegetation and damage to habitat on adjoining land;
- (b) potential indirect effects through degradation of SNA integrity and habit quality caused by the cumulative loss of mature trees and native plants directly adjoining SNAs and increased and closer noise, light and activity levels associated with residential developments; and
- (c) reduced ability for the Council to require buffers to mitigate the effects of adjoining development on the SNA and support the restoration of these remnant bush areas.

6.28 Intensification also has potential to create several adverse effects in respect to the functionality and amenity of parks and reserves and street trees (qualifying matters sub-sections 771(a)) and 771(j)), including but not limited to:

- (a) loss of natural character as well as a loss of the viewshafts to and from the Waikato River and Karāpiro Stream;
- (b) loss of amenity and usable space as a result of visual dominance of adjoining buildings and increased overland flows from adjoining developments;
- (c) restrictions on activities and development on parks and reserves as a result of reverse sensitivities; and
- (d) negative impacts on the health of large specimen trees within reserves and streets.

6.29 In order to address these effects on open spaces in terms of amenity, functionality and significant vegetation, and to achieve a range of other objectives such as the protection of historic heritage, PC26 proposed the following setbacks in Rule 2A.4.2.6:



- (a) Along boundaries adjoining a state highway, a setback of 7.5m is required;
- (b) On sites adjoining a road where the Character Street Policy Overlay Area applies, a front yard setback of 6m is required;
- (c) On sites adjoining a reserve, a building setback of 4m is required along the boundary of the site adjoining the reserve;
- (d) On sites adjoining arterial roads, a setback of 4m is required along the boundary adjoining the arterial road; and
- (e) On sites adjoining a SNA, a setback of 20m is required along the boundary of the site adjoining the SNA.

6.30 Activities that fail to comply with these setbacks are proposed to be restricted discretionary activities with the matters to which discretion is restricted specified in the rule.

#### *Overview of submissions*

6.31 Submissions in support of the proposed setbacks and assessment criteria discussed above in paragraphs 6.29 and 6.30 were received from Heritage New Zealand and several individual submitters in order to protect the open space network values.

6.32 Submissions opposing some or all of the setbacks were received from Kāinga Ora, Cogswell and an individual submitter. The key concerns raised by these submitters were:

- (a) a 4m setback to reserves will push dwellings further back from public space and reduce effectiveness of any passive surveillance and interface with the reserve (Cogswell);

- (b) proposed setbacks 2A.4.2.6 (a) - (e) are overly restrictive for environments that would benefit from streetscape presence, activation and overlooking and are not sufficiently justified under S77J-L of the RMA Amendment Act (Kāinga Ora); and
- (c) the Medium Density Residential Zone will not include generous areas of open space and garden plantings as required under Assessment Criteria 21.1.2A.15 (Kāinga Ora).

6.33 The relief sought by submitters related to the concerns identified above included:

- (a) reduce setbacks to a state highway from 7.5m to 4m (Cogswell);
- (b) reduce setback to a Character Street from 6m to 4m (Cogswell and Kevin Honiss);
- (c) delete 'Character Street' related provisions, identification and scheduling of any trees that are determined to be the defining aspect of the 'street' character (Kāinga Ora);
- (d) reduce 4m reserve setback to be consistent with internal boundary setback, that is, 1.5m (Cogswell);
- (e) delete 2A.4.2.6(b) - (d), matters of discretion for restricted discretionary activities relating to effects on function and associated amenity values of adjacent reserves and Te Awa Cycleway, and Assessment Criteria 21.1.2A.15 (Kāinga Ora); and
- (f) reduce setback to SNAs to from 20m to 10m to be consistent with rural zone (Cogswell).

6.34 Council's own submission identified the need to provide more justification and context to the SNA setback rule and to extend the matters of discretion for Rule 2A.4.2.6.

*Assessment and recommendations*

- 6.35 I strongly support the retention of the setbacks in PC26 with the amendments outlined in Council's submission and some other minor amendments for the reasons outlined below.
- 6.36 While not the primary reason for the proposed setbacks from state highways, character streets and arterial roads, these setbacks will support the ability for the existing 6000 street trees and new street trees to grow to maturity and not be negatively impacted by adjoining residential development. Council's arborist, Chris Brocklebank, has confirmed that any reduction in the District Plan current 4m front yard setback would likely have a significantly detrimental effect on the street tree network. Many existing trees extend beyond the road corridor and would likely require significant pruning to enable buildings to be built to a 1.5m setback. This would also, in many cases, result in earthworks that would negatively affect the health of these trees. I therefore recommend a minor amendment to the matters of discretion and associated assessment criteria to enable assessment of effects on existing and planned street trees to address these concerns. These are outlined in Attachment 1.
- 6.37 Setbacks of 4m from reserves will ensure the adjoining reserves provide maximum benefit to the public through reducing visual dominance and the risk of reverse sensitivities restricting the use of these reserves for sport and recreation. The 4m setback will not negatively impact passive surveillance if developments include building design that orientates glazing, living spaces and outdoor living areas towards adjoining reserves and includes compliant landscaping and boundary fencing.
- 6.38 The draft NPS-IB includes a target for indigenous biodiversity cover of at least 10% for urban environments. Waipā will face significant challenges responding to these targets given the current low to non-existent indigenous biodiversity cover. Cambridge is the only town covered by

PC26 with identified SNAs and these represent less than 1% of the urban area. While the District Plan<sup>11</sup> identifies these SNAs as locally significant, they are known to provide habitat, food source and flyways for the threatened, nationally critical pekapeka-tou-roa (long-tailed bat) and other native fauna such as kārearea (New Zealand falcon).

- 6.39 The relatively small sizes, configuration and proximity to residential activities of these SNAs reduces their ability to successfully function as habitats because of the impact of cumulative edge effects. While I am not an ecologist, my assessment is that a 20m buffer is necessary because, unlike rural SNAs, these urban SNAs will potentially have the entire length of at least one boundary fronted by medium density developments. This level of development will result in noise, light and movement levels which are likely to adversely impact native fauna and include removal of existing mature trees and native bush on the development site. Without a high level of control over adjoining activities, there is a risk that the SNAs ecological and biodiversity values will be damaged or irreparably lost. Given that the “protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna” are section 6 matters of national importance, a precautionary approach should be taken to development adjoining SNAs. This was emphasised in the *Weston Lea Limited v Hamilton City Council* discussed above at paragraph 5.13 and the Director-General of Conservation’s submission to Hamilton City Council’s Proposed Plan Change 12.
- 6.40 I note that there are a relatively small number of residential sites that will be affected by the SNA setback (see Attachment 2 which is appended to my evidence) and that developers may, with a supporting ecological impact assessment, seek approval to reduce this setback as a restricted discretionary activity.

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<sup>11</sup> Operative Waipā District Plan, Appendix N5.

6.41 The retention of the District Plan 5m setback along the Te Awa Cycleway together with low visually permeable fencing will protect the visual amenity of this nationally significant bike trail along the Waikato River, and sight lines at a number of bends, that are important to reduce the risk of user collisions. It is on this basis I recommend minor amendments to the Objectives – MDRS, the matters of discretion for Rule 2A.4.2.6 and the Activity Status Table 15.4.1.1(e) to enable Council to assess the effects of non-compliance on the safe functioning of the cycleway. These are outlined in Attachment 1.

## 7. **CONCLUSION**

7.1 Reversing the devastating decline in our biodiversity and water quality and protecting and restoring Te Oranga o Te Taiao and Te Mana o te Wai are two of the most critical urban challenges that government agencies, councils, the development community and landowners must, along with mana whenua and the multitudes of committed volunteers, respond to.

7.2 Protecting the accessibility, amenity and functionality of our urban reserves and protecting our urban tree canopy are also critical factors in creating well-functioning urban environments for Waipā's current and future residents. The future reduction in private green space combined with the land availability and affordability challenges to secure additional land within urban limits to meet open space requirements to respond to the effects of intensification and population growth amplifies the importance of protecting the public open spaces and tree canopy that we have.

6.43 I believe that PC26, with my recommended amendments, creates a planning framework that enables residential intensification and the protection and restoration of Waipā's open space network.

**Anna McElrea**

**Dated 24 March 2023**

### Attachment 1: Overview of Notified PPC26 Green Infrastructure / Open Space Provisions and Recommendations

Green infrastructure / open space provisions	PC26	Recommendations
<p>River/Gully Proximity Qualifying Matter Overlay</p>	<p><b>Rules – Building Coverage</b></p> <p>2A.4.2.8 On sites within the Stormwater Qualifying Matter and the River / Gully Proximity Qualifying Matter Overlays, the maximum building coverage must not exceed 40% of the net site area.</p> <p>Activities that fail to comply with this Rule 2A.4.2.7 to 2A.4.2.8 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>▪ Building location, bulk and design; and</li> <li>▪ On-site amenity; and</li> <li>▪ Outlook for adjoining neighbours; and</li> <li>▪ Effects on existing trees; and</li> <li>▪ Landscaping; and</li> <li>▪ The impact on rivers and water bodies and whether any potential adverse effects from a development can be avoided or mitigated; and</li> <li>▪ The impact of development on indigenous flora and fauna and the ability to avoid, remedy or mitigate any adverse effects on these; and</li> <li>▪ An assessment of stormwater disposal and whether this can be accommodated on-site.</li> </ul> <p>These matters will be considered in accordance with the assessment criteria in Section 21.</p> <p><b>Assessment criteria – Building coverage</b></p> <p>21.1.2A.9 Assessment criteria for building coverage:</p>	<p>Retain rule 2A.4.2.8, assessment criteria 21.1.2A.9 and Maps 56 and 57.</p> <p>Amend PC26 in line with the following Council submission points:</p> <p>(1) Insert an additional rule under the heading “Rules – Landscaped area” as a new Rule 2A.4.2.25 (with consequential renumbering of rules that follow) for sites within the River / Gully Proximity Qualifying Matter Overlay to require an increased provision of landscaped area, together with a requirement for that landscaping to be native species, as follows:  <u>“Within the River / Gully Proximity Qualifying Matter Overlay, a residential dwelling at ground floor level must have a landscaped area of a minimum of 30% of a developed site with native plants, and can include the canopy of trees regardless of the ground treatment below them.”</u></p> <p>(2) Amend 2A.1 to clarify that the MDRS have been modified where necessary to protect the biodiversity corridors, to accommodate matters of national importance under sections 6(a), (c) and (d). Add 2A.1.18B:  <u>“The biodiversity corridors along the Waikato River and its tributaries are defining ecological features of Waipā. They are critical to Council, mana whenua, key stakeholder and community aspirations to protect and restore Waipā’s biodiversity. They improve the integrity, connectivity and resilience of ecosystems within Cambridge and Te Awamutu.</u></p>

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	<p>(a) The extent to which the site will remain characterised by generous areas of open space and garden plantings, rather than buildings.</p> <p>(b) The ability to provide adequate opportunity for garden and mature tree plantings around buildings.</p> <p>(c) The extent to which any proposed buildings will be compatible with the scale of other buildings in the surrounding area and will not result in visual domination that is out of character with the surrounding environment.</p> <p>(d) The ability to provide adequate on site vehicle parking and manoeuvring.</p> <p>(e) The extent to which increased site coverage would adversely affect adjoining properties in terms of dominance of buildings, loss of privacy, access to sunlight and daylight.</p> <p>(f) The extent to which any increase in the level of site coverage will effect or has the potential to result in stormwater run-off to adjoining properties.</p> <p>(g) The ability to provide adequate outdoor space on the site for all outdoor activities associated with residential and other activities permitted on the site.</p> <p>Map 56 – Qualifying Matters – Cambridge Map 57 – Qualifying Matters – Te Awamutu/Kihikihi</p>	<p><u>They also contribute to urban form and place making and support the public use and enjoyment of esplanade areas. Section 24 of the District Plan includes objectives, policies and methods for the maintenance and enhancement of indigenous vegetation within these biodiversity corridors. The MDRS have been modified to the extent necessary to accommodate the protection of the biodiversity corridors along the Waikato River (Cambridge town), Karāpiro Stream (Cambridge, Carter’s Flat), Mangapiko Stream (Te Awamutu town) and the Mangaohoi Stream (Te Awamutu South-East) ”</u></p> <p>(3) Add a new objective and policies relating to the outcomes to be achieved by River / Gully Proximity Qualifying Matter Overlay rules as follows, or alternative wording to achieve the same or similar meaning:  <u>“Objective – River / Gully Proximity Overlay. To reduce the likelihood of buildings and activities adversely affecting the ecological integrity and viability of biodiversity corridors and the accessibility and amenity of esplanade areas along the Waikato River, Karāpiro Stream, Mangapiko Stream (and the Mangaohoi Stream.”</u>  <u>“Policy - Adverse effects of adjoining development on biodiversity corridors and esplanade areas will be managed through reducing the maximum building coverage within 120m of waterways.”</u>  <u>“Policy – To increase landscaped area requirements and require native planting within 120m of waterways to maintain and enhance the biodiversity corridors identified on Planning Map 49 through Cambridge and Te Awamutu.</u></p>



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<p>Significant Natural Areas and Reserves Qualifying Matter</p>	<p><b>Rules – Setbacks</b></p> <p>2A.4.2.6 The minimum building setback depth listed above is modified in the following locations:</p> <p>(a) Along boundaries adjoining a state highway, a setback of 7.5 metres is required;</p> <p>(b) On sites adjoining a road where the Character Street policy overlay area applies, a front yard setback of 6 metres is required;</p> <p>(c) On sites adjoining a reserve, a setback of 4 metres is required along the boundary adjoining the reserve;</p> <p>(d) On sites adjoining the Te Awa Cycleway, a setback of 5 metres is required along the boundary of the site adjoining the cycleway;</p> <p>(e) On sites adjoining arterial roads, a setback of 4 metres is required along the boundary adjoining the arterial road; and</p> <p>(f) On sites adjoining a Significant Natural Area (SNA), setback of 20 metres is required along the boundary of the SNA.</p> <p>Activities that fail to comply with Rules 2A.4.2.4 to 2A.4.2.6 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>▪ Building location, bulk and design; and</li> <li>▪ Visual and aural privacy; and</li> <li>▪ Reverse sensitivity effects; and</li> <li>▪ Outlook for adjoining neighbours; and</li> <li>▪ Effects on existing trees; and</li> <li>▪ Landscaping; and</li> <li>▪ Vehicle access to the rear of the site; and</li> <li>▪ Effects on the safe and efficient operation of the state highway network, where applicable; and</li> </ul>	<p>Retain rules with amendments set out in Council’s submission points:</p> <p>(1) Add a new objective and policy relating to the outcomes to be achieved by setbacks from the boundary of significant natural areas and reserve zones as follows, or alternative wording to achieve the same or similar meaning:  <u>“Objective – Significant Natural Areas. To ensure that buildings and activities at the interface of residential zones with significant natural areas do not adversely affect the ecological values of those areas.”</u>  <u>“Policy - Adverse effects of adjoining development on significant natural areas will be managed through requiring the setback of buildings from the boundary.”</u></p> <p>(2) Amend 2A.1 to clarify that the MDRS have been modified where necessary to protect significant natural areas, to accommodate a matter of national importance under s 6(c). Add to 2A.1:  <u>“Qualifying Matter – Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Section 24 of the District Plan includes objectives, policies and methods for the protection of indigenous vegetation and significant habitats of indigenous fauna, and such protection is a matter of national importance under s 6(c) of the Act. The objective to maintain and enhance the existing level of biodiversity within the District is given effect to by methods that include the identification of significant natural areas (SNA). Reserves Zones are also used, in some cases, for the purpose of protecting and preserving indigenous flora and fauna, the intrinsic worth, and for scientific study and ecological associations. The MDRS have been modified to the</u></p>

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	<ul style="list-style-type: none"> <li>▪ Consistency of front yard building setback and effects on established character along the identified Character Street, where applicable; and</li> <li>▪ Effects on the function and associated amenity values of the adjacent reserve, where applicable; and</li> <li>▪ Effects on the amenity values of the Te Awa Cycleway, where applicable.</li> </ul> <p><b>Assessment criteria – Setbacks</b></p> <p>(a) The extent to which the road boundary setback is appropriate in the location, particularly where located adjoining a Character Street.</p> <p>(b) The extent to which the road boundary setback affects the safe and efficient operation of the road network.</p> <p>(c) The extent to which the development provides for the visual and aural privacy of occupants and neighbours.</p> <p>(d) The degree to which there is a loss of privacy, daylight, sunlight or outlook in adjacent sites.</p> <p>(e) Whether the building affects existing trees on the site.</p> <p>(f) The extent to which existing vegetation is retained and landscaping adds to the amenity of the development.</p> <p>(g) Whether the development will affect the perception of spaciousness on and between sites when viewed from the street.</p> <p>(h) Whether the proposed activity will have reverse sensitivity effects on adjacent activities or zones.</p> <p>(i) The extent to which the building precludes the ability to access the rear of the site or dwelling.</p> <p>(j) Whether the development will impact on the amenity or function of any adjacent reserve or the Te Awa cycleway.</p>	<p><u>extent necessary to accommodate the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna."</u></p> <p>(3) Amend 2A.1.9 (e) by deleting the words 'and significant natural areas' and insert a new subclause in 2A.1.9: <u>'Where it is necessary to protect significant natural areas and public open spaces that provide significant habitats of indigenous fauna and include areas of significant indigenous vegetation'</u>.</p> <p>(4) Add additional matters for discretion to Rule 2A.4.2.6 to address the effects of buildings within 20m of a significant natural area, by adding the following wording or alternative wording to achieve the same or similar meaning: <u>Activities that fail to comply with Rules 2A.4.2.4 to 2A.4.2.6 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</u> <u>... Effects on ecological values, vegetation, biodiversity, soil, stormwater runoff and groundwater levels within a significant natural area, where applicable; and Effects of artificial lighting on native species within a significant natural area, where applicable; and Effects on the existing health and function of a significant natural area's vegetation and biodiversity.</u></p> <p>(4) Make consequential amendments to the related assessment criteria in Section 21.</p> <p>(5) Amend Activity Status Table 15.4.1.1(e). Matters over which Council reserves its control in relation to subdivision in MDRZ: to include</p> <p style="padding-left: 40px;">(d) <u>significant indigenous vegetation and significant habitats of indigenous fauna</u></p>

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<p>Significant Natural Areas and Reserves Qualifying Matter</p>	<p><b><u>Qualifying Matters – Introduction</u></b>            2A.1.9 (e) The Medium Density Residential Standards have been modified to accommodate qualifying matters in the Waipā District in the following circumstances: (e) Where it is necessary to protect public open spaces and significant natural areas to ensure that there are public and open green spaces available for use by communities to meet their needs</p> <p><b><u>Rules – Setbacks</u></b>            2A.4.2.6 The minimum building setback depth listed above is modified in the following locations:            (a) Along boundaries adjoining a state highway, a setback of 7.5 metres is required;            (b) On sites adjoining a road where the Character Street policy overlay area applies, a front yard setback of 6 metres is required;            (c) On sites adjoining a reserve, a setback of 4 metres is required along the boundary adjoining the reserve;            (d) On sites adjoining the Te Awa Cycleway, a setback of 5 metres is required along the boundary of the site adjoining the cycleway;            (e) On sites adjoining arterial roads, a setback of 4 metres is required along the boundary adjoining the arterial road; and            (f) On sites adjoining a Significant Natural Area (SNA), setback of 20 metres is required along the boundary of the SNA.</p> <p>Activities that fail to comply with Rules 2A.4.2.4 to 2A.4.2.6 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>▪ Building location, bulk and design; and</li> <li>▪ Visual and aural privacy; and</li> </ul>	<p>Retain Rule 2A.4.2.6(c) and (d) with minor amendment to matters of discretion as follows: ‘effects on the <u>function</u> and amenity values of the Te Awa Cycleway.</p> <p>Amend 2A.3.2.5 as follows “To encourage development to achieve attractive, <u>functional</u> and safe streets and a high quality and functional public open space network outcomes to be achieved by setbacks from the boundary of reserve zones and Te Awa Cycleway.</p> <p>Amend Activity Status Table 15.4.1.1(e). Matters over which Council reserves its control in relation to subdivision in MDRZ: to include “<u>Public access to and use and enjoyment of the public open space network and amenity values and function of adjoining public open space network.</u>”</p>

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	<ul style="list-style-type: none"> <li>▪ Reverse sensitivity effects; and</li> <li>▪ Outlook for adjoining neighbours; and</li> <li>▪ Effects on existing trees; and</li> <li>▪ Landscaping; and</li> <li>▪ Vehicle access to the rear of the site; and</li> <li>▪ Effects on the safe and efficient operation of the state highway network, where applicable; and</li> <li>▪ Consistency of front yard building setback and effects on established character along the identified Character Street, where applicable; and</li> <li>▪ Effects on the function and associated amenity values of the adjacent reserve, where applicable; and</li> <li>▪ Effects on the amenity values of the Te Awa Cycleway, where applicable.</li> </ul> <p><b>Assessment criteria – Setbacks</b></p> <p>(a) The extent to which the road boundary setback is appropriate in the location, particularly where located adjoining a Character Street.</p> <p>(b) The extent to which the road boundary setback affects the safe and efficient operation of the road network.</p> <p>(c) The extent to which the development provides for the visual and aural privacy of occupants and neighbours.</p> <p>(d) The degree to which there is a loss of privacy, daylight, sunlight or outlook in adjacent sites.</p> <p>(e) Whether the building affects existing trees on the site.</p> <p>(f) The extent to which existing vegetation is retained and landscaping adds to the amenity of the development.</p> <p>(g) Whether the development will affect the perception of spaciousness on and between sites when viewed from the street.</p>	

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	<p>(h) Whether the proposed activity will have reverse sensitivity effects on adjacent activities or zones.</p> <p>(i) The extent to which the building precludes the ability to access the rear of the site or dwelling.</p> <p>(j) Whether the development will impact on the amenity or function of any adjacent reserve or the Te Awa cycleway.</p>	
<p>Other Qualifying Matters: State Highways, Character Streets and Arterial Roads</p>	<p><b>Rules – Setbacks</b></p> <p>2A.4.2.6 The minimum building setback depth listed above is modified in the following locations:</p> <p>(a) Along boundaries adjoining a state highway, a setback of 7.5 metres is required;</p> <p>(b) On sites adjoining a road where the Character Street policy overlay area applies, a front yard setback of 6 metres is required;</p> <p>(c) On sites adjoining a reserve, a setback of 4 metres is required along the boundary adjoining the reserve;</p> <p>(d) On sites adjoining the Te Awa Cycleway, a setback of 5 metres is required along the boundary of the site adjoining the cycleway;</p> <p>(e) On sites adjoining arterial roads, a setback of 4 metres is required along the boundary adjoining the arterial road; and</p> <p>(f) On sites adjoining a Significant Natural Area (SNA), setback of 20 metres is required along the boundary of the SNA.</p> <p>Activities that fail to comply with Rules 2A.4.2.4 to 2A.4.2.6 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>▪ Building location, bulk and design; and</li> <li>▪ Visual and aural privacy; and</li> <li>▪ Reverse sensitivity effects; and</li> </ul>	<p>Retain Rule 2A.4.2.6(a), (b) and (e) with minor amendment to matters of discretion as follows: ‘effects on existing trees <u>and street trees required through rule 15.4.2.27</u>’</p> <p>Amend 21.1.2A.8(h) assessment criteria to include: <u>‘Whether the development will adversely effect street trees adjoining the site’</u></p>

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	<ul style="list-style-type: none"> <li>▪ Outlook for adjoining neighbours; and</li> <li>▪ Effects on existing trees; and</li> <li>▪ Landscaping; and</li> <li>▪ Vehicle access to the rear of the site; and</li> <li>▪ Effects on the safe and efficient operation of the state highway network, where applicable; and</li> <li>▪ Consistency of front yard building setback and effects on established character along the identified Character Street, where applicable; and</li> <li>▪ Effects on the function and associated amenity values of the adjacent reserve, where applicable; and</li> <li>▪ Effects on the amenity values of the Te Awa Cycleway, where applicable.</li> </ul> <p><b>Assessment criteria – Setbacks</b></p> <p>(a) The extent to which the road boundary setback is appropriate in the location, particularly where located adjoining a Character Street.</p> <p>(b) The extent to which the road boundary setback affects the safe and efficient operation of the road network.</p> <p>(c) The extent to which the development provides for the visual and aural privacy of occupants and neighbours.</p> <p>(d) The degree to which there is a loss of privacy, daylight, sunlight or outlook in adjacent sites.</p> <p>(e) Whether the building affects existing trees on the site.</p> <p>(f) The extent to which existing vegetation is retained and landscaping adds to the amenity of the development.</p> <p>(g) Whether the development will affect the perception of spaciousness on and between sites when viewed from the street.</p>	

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	<p>(h) Whether the proposed activity will have reverse sensitivity effects on adjacent activities or zones.</p> <p>(i) The extent to which the building precludes the ability to access the rear of the site or dwelling.</p> <p>(j) Whether the development will impact on the amenity or function of any adjacent reserve or the Te Awa cycleway.</p>	
<p>Qualifying Matter Open Spaces and Significant Indigenous Vegetation - Vegetation on private land</p>	<p><b>Rules – Landscaped area</b></p> <p>2A.4.2.23 A residential dwelling at ground floor level must have a landscaped area of a minimum of 20% of a developed site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.</p> <p>2A.4.2.24 The landscaped area may be located on any part of the development site, and does not need to be associated with each residential dwelling.</p> <p>Activities that fail to comply with Rules 2A.4.2.22 and 2A.4.2.24 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>▪ Building location, bulk and design; and</li> <li>▪ Landscaping; and</li> <li>▪ On-site amenity.</li> </ul> <p>These matters will be considered in accordance with the assessment criteria in Section 21.</p> <p><b>Assessment criteria – Landscaped Area</b></p> <p>21.1.2A.15</p>	<p>Amend the River / Gully Proximity Overlay as set out in the first row of this table.</p> <p>Amend the matters of discretion under Rule 2A.4.2.24 to separate the matters that relate to the roof pitch rule (Rules 2A.4.2.22) and the rules relating to landscaping (2A.4.2.23 and the proposed new rule setting the 30% landscaping requirement for the River/Gully Proximity Overlay to make it clear that activities that fail to comply with these landscaping rules will require a resource consent for a restricted discretionary activity with the discretion being restricted over:</p> <ul style="list-style-type: none"> <li>(e) Protection of existing mature vegetation,</li> <li>(f) Landscaping, and</li> <li>(g) Off-site mitigation.</li> </ul> <p>Amend 21.1.2A.15 by:</p> <ul style="list-style-type: none"> <li>(h) deleting (a) and (c)</li> <li>(i) amending (b) to read: <u>The extent to which mature vegetation, that has biodiversity, heritage and/or character values, is retained and protected</u></li> <li>(j) add new criterion – <u>The extent to which new the development provides for alternative landscaping options above ground level such as green roofs and green walls</u></li> </ul>

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	<p>(a) The extent to which the site will be characterised by generous areas of open space and garden plantings, rather than buildings.</p> <p>(b) The extent to which existing vegetation is retained and landscaping adds to the amenity of the development.</p> <p>(c) The extent to which the type and nature of the landscaping throughout the development contributes both to the neighbourhood and to on-site amenity.</p> <p><b>Assessment criteria – Setbacks</b> 21.1.2A.8(f) The extent to which existing vegetation is retained and landscaping adds to the amenity of the development.</p>	<p>(k) add new criterion – <u>The extent to which the development contributes to the biodiversity and residential amenity values through off-site mitigation over and above any required financial contributions.</u></p>



### Attachment 2: Extent of PC26 Significant Natural Area (SNA) Setback

