

RMA HEARINGS PANEL REPORT



To: Independent Hearings Panel

From: Damien McGahan, Principal Aurecon and Melissa Needham, Manager,
Aurecon on behalf of the Waipā District Council

Subject: **Addendum (2A) to Section 42A Hearing Report on Proposed Plan Change 26**

Hearing Date: 26 April to 3 May 2023

1. INTRODUCTION

- 1.1.1. This addendum to the Section 42A report for Plan Change 26, Residential Intensification for the Waipā District Council has been prepared to address changes required to rules in PC26 in response to the *Waikanae Land Company Limited v Kapiti Coast District Council* decision¹ (the Waikanae decision).
- 1.1.2. Addendum (2) set out the provisions that are affected by the Waikanae decision and the general approach for updating the provisions. This addendum (2A) provides the recommended updates to the relevant provisions and maps in **Appendix A**. Changes are shown in green.
- 1.1.3. The Waikanae decision clarifies that an IPI cannot be used to reduce the development rights currently provided in the District Plan; it can only modify the heights and densities provided by the Medium Density Residential Standards (MDRS).
- 1.1.4. A distinction between character cluster sites has been made in these amendments. This was outlined in addendum (2) and is demonstrated in the amended provisions and maps in **Appendix A**. Existing character cluster sites in the District Plan are still referred to as character cluster(s). New character cluster sites introduced as part of PC26 are shown as a qualifying matter overlay which has been called the Character Cluster Qualifying Matter Overlay. A qualifying matter overlay has been used to make it clear that the rules within the overlay only apply to additional development on the site that is enabled by the MDRS.
- 1.1.5. It is noted that the secondary dwelling rule from the Residential Zone has been added into the Medium Density Residential Zone provisions, applying to sites in the Character Cluster Qualifying Matter Overlay only so that the existing development rights for these sites are maintained, as required by the Waikanae decision.

2. CONCLUSION AND RECOMMENDATION

- 2.1.1. That the additional information contained in this addendum be taken as an update to the section 42A report dated 17 March 2023 prepared for plan change 26 on behalf of the Wāipā District Council.
- 2.1.2. PC26 should be amended as set out in **Appendix A** of this addendum.

¹ [2023] NZEnvC 056

WAIPA DISTRICT PLAN: PROPOSED PLAN CHANGE 26 – RESIDENTIAL ZONE INTENSIFICATION

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Appendix A Summary of amendments to PC26 text as a result of the Waikanae decision

CHARACTER CLUSTER RULE CHANGES

Rule 2A.4.1.1 Permitted activities

The following activities shall comply with the performance standards of this zone.

- (b) Up to three dwellings per site outside of the:
- (i) Infrastructure Constraint Qualifying Matter Overlay;
And outside of identified character clusters
 - (ii) And outside of the Reverse Sensitivity Qualifying Matter Overlay;
 - (iii) Character clusters.
- (c) Up to two dwellings per site within the:
- (i) Infrastructure Constraint Qualifying Matter Overlay;
 - (ii) Reverse Sensitivity Qualifying Matter Overlay.
- ~~(cA) Up to two dwellings per site within the Reverse Sensitivity Qualifying Matter Overlay.~~
- ~~(cA) One dwelling and one secondary dwelling within the Character Cluster Qualifying Matter Overlay.~~
- (q) Within character clusters and the Character Cluster Qualifying Matter Overlay, the construction of new buildings and alterations or additions to existing buildings, where the work undertaken is single storey and located at the rear of the site.
- (r) Within character clusters and the Character Cluster Qualifying Matter Overlay on sites identified as 'Non-Character Defining', the construction of new buildings and alterations or additions to existing buildings, where the work undertaken is single storey and set back a minimum of 6m from road boundaries.

Rule - Secondary dwelling

2A.4.2.54 The minimum net site area required for the erection of a secondary dwelling shall be 850m² and the secondary dwelling shall:

- (a) Be encompassed within the bulk of the principal dwelling so that the building has the visual appearance of a single dwelling; and
- (b) Not be separated from the principal dwelling by a garage; and
- (c) Be no more than 70m² GFA, excluding garaging.

Provided that:

- (i) Where the principal dwelling is two storeys and the secondary dwelling is to be encompassed within the bulk of a principal dwelling the minimum net site area for the erection of a secondary dwelling shall be 600m².

Advice Note: Both dwellings shall separately comply with the rules in this zone and Parts E and F for dwellings and buildings in Residential Zones including rules in Section 15 Infrastructure, Hazards, Development and Subdivision and Section 16 Transportation. For the avoidance of doubt, the setback requirements apply at the external boundaries of the site and not between the principal dwelling and secondary dwelling on the site.

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

Rule 2A.4.1.3 Restricted discretionary activities

The following activities shall comply with the performance standards of this zone.

(dA) Within the Character Cluster Qualifying Matter Overlay - Construction of a second or subsequent dwelling except where permitted by 2A.4.1.1(cA), (q) and (r).

Discretion will be restricted to the following matters:

- (i) For identified character-defining sites;
 - The extent to which building bulk and design, building materials, and layout maintains a similar style, form, building material and colour to other character defining dwellings within the cluster; and
 - The extent to which buildings maintain and respond to the existing character identified in the cluster as set out in Appendix DG1;
- (ii) For identified non-character defining sites:
 - The extent to which building design is sympathetic to the established character within the cluster in form, proportion, layout and materiality; and
 - The extent to which building scale manages the relationship between adjacent character-defining sites and responds to the streetscape context; and
 - The extent to which buildings are sympathetic to and acknowledge the character values identified in the cluster as set out in Appendix DG1.
- (iii) Solar access; and
- (iv) Where provided, the effects on parking and vehicle manoeuvring; and
- (v) Signs; and
- (vi) Landscaping.

These matters will be considered in accordance with the assessment criteria in Section 21.

Assessment criteria 21.1.2A.4

Character clusters - Construction of new buildings, relocated buildings, and removal or demolition of or alterations or additions to existing buildings and second or subsequent dwellings in the Character Cluster Qualifying Matter Overlay.

- (aa) The extent to which new buildings and relocated buildings are avoided between an existing dwelling and the front boundary of an identified character-defining site.
- (a) For identified character-defining sites;
 - (i) The extent to which building bulk and design, building materials, and layout maintains a similar style, form, building materials and colour to other character defining dwellings within the cluster; and
 - (ii) The extent to which buildings maintain and respond to the existing character identified in the cluster as set out in Appendix DG1;
- (b) For identified non-character defining sites:

- (i) The extent to which building design is sympathetic to the established character within the cluster in form, proportion, layout and materiality;
- (ii) The extent to which building scale manages the relationship between adjacent character-defining sites and responds to the streetscape context;
- (iii) The extent to which buildings are sympathetic to and acknowledge the character values identified in the cluster as set out in Appendix DG1;
- (c) The extent to which solar access is optimised in the development.
- (d) The ability to provide parking (excluding consideration of the number of parking spaces for cars) and manoeuvring space for vehicles to avoid traffic conflict and maintain public safety.

RESERVE AND SNA SETBACK RULE CHANGES

2A.4.2.6 The minimum building setback depth stated in Rule 2A.4.2.4 is modified in the following locations:

- (c) On sites adjoining a reserve, a setback of 4 metres is required along the boundary adjoining the reserve for two or more dwellings;
- (f) On sites adjoining a Significant Natural Area (SNA), setback of 20 metres is required along the boundary of the SNA for two or more dwellings.