

Waipā District

National Policy Statement on Urban Development and Resource Management (Enabling Housing Supply and Other Matters) Amendment Act.

Issues and Options



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1 Summary

Waipā District has to respond to the 2020 National Policy Statement on Urban Development (NPS-UD) and the 2021 Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (or the 'Housing Supply Act').

The NPS-UD seeks more housing capacity within urban areas, particularly in areas close to town centres and public transport services. The Housing Supply Act sets in place a minimum permitted development standard across all 'relevant' residential zones of three, 3 storey units on all sites. The bulk and location of units are subject to specified Medium Density Residential Standards (MDRS).

The Council has to amend the Waipā District Plan so as to incorporate the MDRS and to give effect to the objectives of the NPS-UD.

This Issues and Options report considers the following matters:

- 1) issues arising out of the implementation of the NPS-UD and Housing Supply Act objectives to provide for the more effective use of greenfield land and to reduce barriers to quality intensification of brownfield sites, and possible options to address these issues;
- 2) options to strengthen the existing urban design provisions of the Waipā District Plan to ensure good urban design outcomes from enabling intensification; and
- 3) if possible, address the effects of private covenants on limiting intensification and contribution to housing unaffordability.

At a strategic level, the NPS-UD and MDRS seek to expand housing capacity well above current policy settings. Both instruments encourage built environments that are a significant step up from current patterns of development, both in height and density.

While current district plan settings provide for housing capacity in excess of demand, the NPS-UD and MDRS do offer the opportunity to reset district plan provisions so that they better align with wider, long term growth strategies which support more compact forms of urban growth and greater housing choices.

Recommendations are made in relation to:

1. Investigating the rezoning of selected areas of Large Lot Residential zones as General Residential so as to increase greenfields housing capacity and choices, in particular where large lot zones can provide significant capacity close to services and facilities. Growth Cells T6 in Te Awamutu and C11 in Cambridge should be considered for rezoning to deferred Residential. They will require updated / new structure plans to guide development. Both cells are likely to be long term development areas, given infrastructure issues.
2. Qualifying the application of the MDRS as they apply to the 'Character Clusters' of the district plan, through restricting building height to 9m and limiting development to one unit

per site within these clusters. Wider retention of character area controls which have the effect of maintaining current densities is likely to be seen as running counter to the NPS-UD (that is, the district plan will not give effect to the NPS-UD). However, there may be the ability to retain deeper front yards along key streets (such as 7.5 or 6m, rather than the 1.5m minimum set back of the MRDS) so as to help retain the 'treed' landscape character of these street environments. These matters will require specific investigation of landscape and character values so as to justify their retention;

3. Retaining a number of development standards that currently apply in the residential zone, including the front fencing rule, set back from natural features and impervious area limits on the basis that these controls do not impact on density, but do link to qualifying matters;
4. Investigating the potential application of a '4 storey apartment zone' within a 400m / 5 minute walk of Cambridge and Te Awamutu town centres to help give effect to the NPS-UD;
5. Reviewing controls on residential activities in commercial areas, including more flexibility away from the main street areas, including additional building height (16m) and potential for residential at ground floor – such as flexible live /work spaces;
6. Reviewing urban design assessment criteria that will apply to residential development that does not meet the MDRS standards (such as 4 or more units on a site, or which infringes relevant standards) so that the criteria do not focus on 'retaining character', but rather focus on potential 'spill-over effects' of development on streetscapes, adjacent sites and effects on the functionality of the living environment within sites; and
7. In relation to restrictive covenants, there are no tools available to the Council to remove or rescind covenants that may block smaller, cheaper housing in new subdivisions. This is a matter that Council would need to advocate to Government for changes to legislation.

2 Introduction

2.1 Background

Waipā District is in the process of responding to the 2020 National Policy Statement on Urban Development (NPS-UD) and the 2021 Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (or the 'Housing Supply Act').

The policy statement requires the Council to notify a plan change by August 2022 that implements the objectives of the NPS-UD that seek more housing capacity within urban areas, particularly in areas close to town centres and public transport services. The Housing Supply Act sets in place a minimum permitted development standard across all 'relevant' residential zones of three, 3 storey units. This development standard may be modified in areas where greater density is beneficial (such as the areas identified by the NPS-UD). In certain limited circumstances, the minimum development standards of the Housing Supply Act may be amended to enable less intensive development.

The Council has sought an Issues and Options report that considers a number of elements of the NPS-UD and Housing Supply Act, as follows:

- 4) identify issues arising out of the implementation of the NPS-UD and Housing Supply Act to provide for the more effective use of greenfield land and to reduce barriers to quality intensification of brownfield sites and provide possible solutions;
- 5) if possible, address the effects of private covenants on limiting intensification and contribution to housing unaffordability; and
- 6) strengthen the existing urban design provisions of the Waipā District Plan to ensure good urban design outcomes from enabling intensification.

The scope of the review is the "urban area" of the Waipā District, including all residential and large lot residential zones and all commercial/business and industrial zones (to the extent relevant under the NPS-UD).

2.2 Process

Preparation of the Issues and Options paper has involved the following steps:

- (i) analysis of the legislative requirements of the NPS-UD and Housing Supply Act relating to urban intensification;
- (ii) assessing the current situation (including current Waipā District Plan provisions, strategic and spatial planning);
- (iii) identifying issues arising out of the implementation of the NPS-UD and Housing Supply Act;
- (iv) reviewing possible options to address issues;
- (v) reviewing the extent to which private covenants may limit intensification and contribute to housing unaffordability and options to address including recommended changes to the Waipā District Plan if these are possible; and

- (vi) reviewing a variety of district plans and identifying change(s) to strengthen the existing urban design provisions of the Waipā District Plan to achieve good urban design outcomes associated with intensification.

3 National Policy

The NPS-UD came into effect in 2020. The Statement directs all councils to enable intensification and expansion of urban areas in order to provide for more housing choices. A plan change to the Waipā District Plan is programmed to implement the NPS-UD in August 2022.

The NPS-UD classifies Waipā District Council as a tier 1 local authority, along with neighbouring councils: Waikato Regional Council, Hamilton City Council and Waikato District Council (the Waikato Future Proof Partnership Councils). Tier 1 local authorities face the highest demand for housing, and therefore have greater obligations under the NPS-UD than other urban areas.

The Housing Supply Act, which amends the Resource Management Act 1991 (the RMA), seeks to rapidly accelerate the supply of housing where the demand for housing is high. The Act requires tier 1 territorial authorities to set in place more permissive land use regulations that will enable greater intensification in urban areas by bringing forward and strengthening aspects of the NPS-UD. In particular the Housing Supply Act introduces a mandatory set of Medium Density Residential Standards (MDRS) that enable three, 3 storey units to be built on all residential sites.

3.1 NPS-UD Objectives and Policies

At a very general level, the NPS-UD seeks to ensure that urban areas can grow both “up and out”¹ without being subject to major constraints. The Statement gives particular support to enabling intensification of existing urban areas (as this form of growth often faces the greatest barriers).

Relevant objectives of the NPS-UD cover:

- Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
- Objective 2: Planning decisions improve housing affordability by supporting competitive land and development markets.
- Objective 3: Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply: the area is in or near a centre zone or other area with many employment opportunities the area is well-serviced by existing or planned public transport; there is high demand for housing or for business land in the area, relative to other areas within the urban environment.
- Objective 4: New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

¹ Often referred to as brownfields (up) and greenfields (out) areas

Urban expansion policies

The NPS-UD supports competitive land markets as one way to help address housing affordability issues. That is, the NPS-UD supports 'over zoning' – zoning well in excess of expected demand. This in turn should increase competition between landowners to undertake development, lowering prices.

The Statement also recognises the benefits of 'out-of-sequence' development (such as leap-frog development) that can bring forward extra capacity.

In both contexts, the need for supporting infrastructure is noted. Experience suggests that where supply is plentiful, it is the ability to fund and build new infrastructure networks that controls the rate of urban expansion.

Intensification Policies

A range of policies are set out to implement the objectives. Of particular relevance is Policy 3². Under Policy 3 of the NPS-UD, councils are required to enable housing:

- (a) in city centre zones and their walkable catchment;
- (b) in metropolitan zones and their walkable catchment;
- (c) in the walkable catchments of rapid transit stops;
- (d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and density of urban form commensurate with the level of commercial activities and community services.

Part (d) of Policy 3 is the only mandatory part of the policy that is relevant to Waipā District as there are no city centre or metropolitan zones in the district (as defined in the NPS-UD). While there is no requirement to allow 6 storey buildings in Te Awamutu or Cambridge, this does not preclude Council applying a more enabling approach to intensification, for example close to the respective town centres.

Qualifying matters

Policy 3 is subject to Policy 4. Policy 4 allows for modification of the density requirements of Policy 3 to the extent necessary to accommodate a qualifying matter in that area. Where relevant, Councils must identify, by location, where the qualifying matter applies; and specify the alternate building heights and densities proposed for those areas.

Qualifying matters are listed as:

- a) a matter of national importance that decision-makers are required to recognise and provide for under section 6 of the Act
- b) a matter required in order to give effect to any other National Policy Statement
- c) any matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure
- d) open space provided for public use, but only in relation to the land that is open space

² As amended by Schedule 3B of the Housing Supply Act.

- e) an area subject to a designation or heritage order, but only in relation to the land that is subject to the designation or heritage order
- f) a matter necessary to implement, or ensure consistency with, iwi participation legislation
- g) the requirement to provide sufficient business land suitable for low density uses to meet expected demand under this National Policy Statement
- h) any other matter that makes high density development as directed by Policy 3 inappropriate in an area, but only if the requirements of clause 3.33(3) are met.

Clause 3.33 sets out the requirements if a qualifying matter applies. An evaluation report must be prepared under section 32 of the RMA in relation to the proposed amendment that demonstrates why the territorial authority considers that:

- (i) the area is subject to a qualifying matter; and
- (ii) the qualifying matter is incompatible with the level of development directed by Policy 3 for that area.

The evaluation must assess the impact that limiting development capacity, building height or density (as relevant) will have on the provision of development capacity; and assess the costs and broader impacts of imposing those limits.

In relation to 'other matters' under clause 3.32(1)(h), the evaluation report must also include a site-specific analysis that:

- (i) identifies the site to which the matter relates;
- (ii) evaluates the specific characteristics on a site-specific basis to determine the spatial extent where intensification needs to be compatible with the specific matter; and
- (iii) evaluates an appropriate range of options to achieve the greatest heights and densities directed by Policy 3, while managing the specific characteristics.

Urban design

The NPS-UD does not specify specific urban design principles to be applied. These are matters to be addressed by any plan change. Policy 6 of the NPS-UD is relevant to considerations of amenity and urban design in areas subject to increased density. Under Policy 6, when making planning decisions that affect urban environments, decision-makers must have particular regard to the following matters:

that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

- (i) *may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
- (ii) *are not, of themselves, an adverse effect.*

Having said that, the NPS-UD does not limit the scope of urban design provisions. For example, Objective 1 refers to health and safety, and social wellbeing, while Policy 1 – which sets out elements of well-functioning urban environments – does not provide an exclusive list of elements.

Finally, policy 11 states that in relation to car parking, the district plans of tier 1 territorial authorities cannot set minimum car parking rate requirements, other than for accessible car parks.

3.1.1 Implications of NPS-UD

The Waipā District Plan must 'give effect to' the NPS-UD, as set out in Section 75 of the RMA. Under the NPS-UD the Council has until August 2022 to notify a plan change that will bring the district plan into alignment with the NPS-UD.

The NPS-UD is clear that adjustments to zones and development standards will be required to increase development potential across the urban areas of the district. The nature and extent of rezonings needs to be considered in terms of demand for housing, now and into the future, as well consideration of accessibility to services and activities in a way that support more sustainable patterns of transport and community development.

Council's options to respond to the NPS-UD could involve a substantial reworking of current growth patterns, for example additional greenfields areas or whole new settlements. Equally, the response could be to enable more intensive development of existing urban areas. Two key choices are:

- Adjust zoning on the edge of the settlements to increase capacity, housing choice and competitive pressures, such as relooking at Large Lot zoning
- Allow for additional height and density of development (over and above that enabled by the Housing Supply Act) close to the main town centres.

3.1.2 Housing Supply Act

This Act introduces Medium Density Residential Standards (MDRS) which are to be applied across all *relevant* residential zones of tier one councils. Relevant residential zones do not include large lot residential zones but would include low density and general residential zones (as defined by the National Planning Standard).

The Act requires that District Plans incorporate objectives and policies relating to greater housing choice, such as:

Objective 2: a relevant residential zone provides for a variety of housing types and sizes that respond to:

- *housing needs and demand; and*
- *the neighbourhood's planned urban built character, including 3-storey buildings.*

Policies cover:

Policy 1: enable a variety of housing typologies with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments

Policy 2: apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga)

Policy 5 provide for developments not meeting permitted activity status, while encouraging high-quality developments.

The MDRS to be incorporated into district plans enable up to three storeys and three dwellings per residential site as of right, removing the need for a resource consent, provided development

complies with the MDRS. No minimum site area or density standard applies. The MDRS will enable, (in comparison to standard residential zones):

- more flexible height and height in relation to boundary standards to enable 3 storeys on average-sized sites:
- modest private outlook spaces (space between windows and other buildings) and private outdoor living spaces (for example, balconies):
- narrow side yard setbacks to allow development closer to side boundaries:
- more resource consents (when needed) to proceed on a non-notified basis.

The MDRS standards introduced by the Housing Supply Act compare with the following standards in the district's residential zone.

Table 1: Comparison of standards

Standard	MDRS	Waipā Residential zone
Building height	11m, plus 1m for roof variation	10m
Height in relation to boundary	60° recession plane measured from a point 4 metres vertically above ground level	45 degrees recession plane, measured at 2.7m above ground level
Set backs	Front 1.5 metres Side 1 - metre Rear 1 - metre (excluded on corner sites)	Front – 4 metres (but up to 6 or 7.5m in defined areas) ³ Side and rear - 2 metres
Building coverage	Maximum 50%	Maximum 40%
Outdoor living	20m ² with minimum dimension of 3m – ground floor. Upper floors - 8m ² balcony with minimum dimension of 1.8m	Minimum continuous area of 50m ² at ground level with a minimum dimension of 4m over the entire area.

³ Rule 2.4.2.2: 4m standard set back; 6m along streets marked as character streets, 7.5m on state highways and Hall Street.

Standard	MDRS	Waipā Residential zone
Outlook	Principal living room - 4m x 4m. All other habitable rooms – 1m x 1m	No similar provision
Windows to street	20% of the street-facing façade in glazing	15%
Landscaped area	landscaped area of 20% of site	No similar standard

Infringement of the MDRS standards is a restricted discretionary activity. No guidance is provided in the Housing Supply Act as to how any infringement should be assessed.

The Housing Supply Act acknowledges that the MDRS standards do not cover all of the matters covered by district plans. For example, Waipā specific standards not covered by the MDRS include:

- extent of garaging facing streets
- maximum building length
- front fences
- water bodies and reserves are fronted by either the front or side façade of a dwelling.

In terms of subdivision standards for relevant residential zones, the Housing Supply Act provides scope for district plans to state a minimum site size for a vacant lot. However, if there is existing development or resource consent is being granted simultaneously for a housing development, then there is no minimum site area requirements. Instead, the new lot boundaries will follow the layout of the housing development.

The effect of the Housing Supply Act is to set in place a 'minimum' response to the NPS-UD's requirement for increased capacity in residential areas. The MDRS set the base density for all residential sites.

This density may be increased if the district plan sees benefit in this, and if necessary to give effect to the NPS-UD. In particular, Councils are required to enable building heights and density of urban form commensurate with the level of commercial activities and community services within and adjacent to neighbourhood, local and town centre zones (or equivalent zones). That is, additional density and height may be necessary around town centres, over and above the density enabled by the MDRS.

As with the NPS-UD, councils may make the MDRS less permissive in relation to an area within a relevant residential zone if that change is required to accommodate one or more qualifying matters. The matters listed in the Housing Supply Act are the same as those set out in the NPS-UD.

3.2 Implications of the NPS-UD and Housing Supply Act

Taking the NPS-UD and MDRS together as a package, key questions are:

- Whether there is a need to expand greenfields opportunities to give effect to the NPS-UD?
- Whether there is any need to further adjust current zoning provisions to add further capacity over and above that provided for by MDRS, in-line with the NPS-UD (such as around town centres);
- Whether there are any grounds to limit the extent of application of the MDRS due to qualifying matters?
- Whether additional standards to those of the MRDS should be incorporated into a plan change?
- What provisions should apply to developments that seek to exceed the development standards set out in the MDRS, for example more than 3 units on a site, infringement of the standards or in areas that may allow for additional height?

4 Future housing demands

In considering how to respond to the requirements of the NPS-UD and Housing Supply Act (and in particular whether there is a need to enable more greenfield land and/or more intensive housing options, over and above that provided for by the MDRS, and whether these is scope to retain character areas), it is necessary to consider future housing demands, as set out in the findings of housing assessments required by sub part 5 of the NPS-UD.

The Future Proof partnership has undertaken a range of studies as to housing demands and preferences.

A 2020 study of housing preferences set out the following estimates of demand by housing typology, for Waipā⁴.

Table 2: Housing Preferences – Waipā District

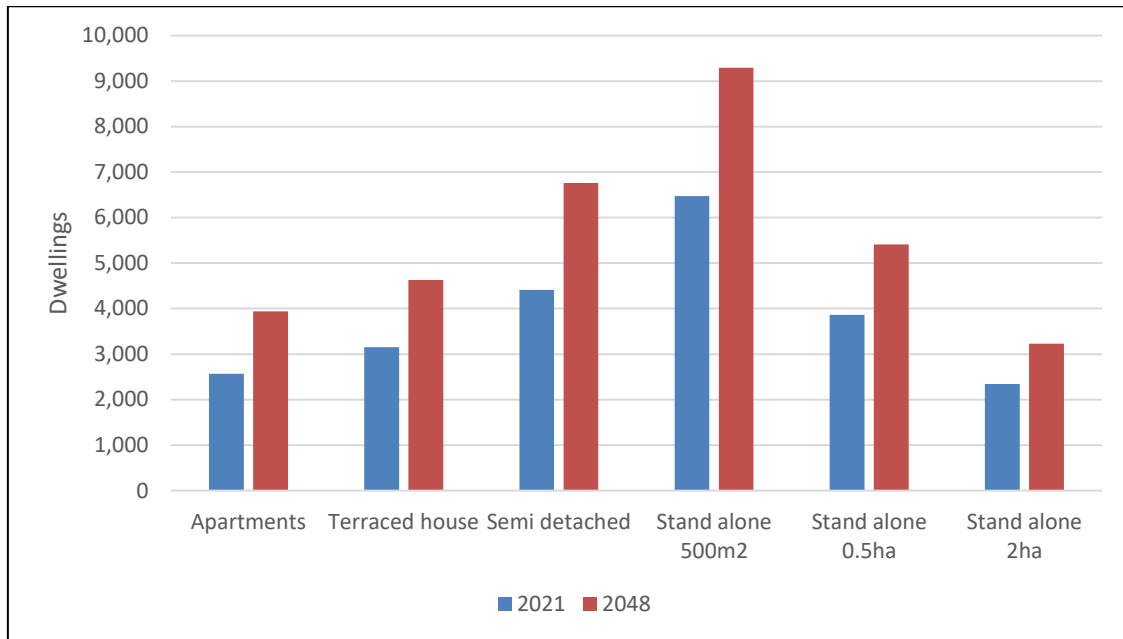
Type of dwelling	2021	2048	Change
Apartments	2,570	3,940	1,370
Terraced house	3,150	4,630	1,480
Semi detached	4,410	6,760	2,350
Stand alone 500m ² section	6,470	9,290	2,820
Stand alone 0.5ha site	3,860	5,410	1,550
Stand alone 2ha site	2,340	3,230	890
Total dwellings	22,800	33,260	10,460

Source: Table 5.9 – HBA

Figure 1 below provides the above data in a graph. The relative importance of stand-alone houses on medium sized sections can be seen.

⁴ Future Proof sub-region Housing Study: Demand Preferences and Supply Matters, 2020

Figure 1: Housing preferences



The study suggests that the biggest demand for housing comes from households looking for a house on a medium sized section, in a stand alone or duplex form. Demand for more intensive forms of housing (terraces and apartments) is evident, with the study suggesting that about 25% of future demand will come from these sectors.

Since the housing preferences study was completed, house and land prices have accelerated. This is likely to have pushed demand more towards smaller sections.

A 2021 Future Proof study has analysed capacity under current and future plans to meet housing needs. Relevant findings from the report (NPS-UD Housing Development Capacity Assessment Future Proof Partners 30 July 2021 – final) are as follows:

- A high share of the projected growth within Waipā District is for urban dwellings, with significant expansion of the main urban centres of Cambridge and Te Awamutu/Kihikihi expected. In the short-term, there is projected demand for an additional 1,100 urban dwellings (+1,300 with the required 'NPS' margin⁵), in the medium-term, an additional 3,100 dwellings (+3,700 with margin), and an additional 8,400 urban dwellings (+9,600 with margin).
- Māori households are projected to grow at a faster rate. They are projected to increase by 48% by 2050 (+650 households).
- Currently high shares (around 91%) of the total demand is for detached dwellings. Under the base case scenario around four-fifths (82%) of the future additional dwelling demand is for detached dwellings. This amounts to around 6,800 additional detached dwellings

⁵ The NPS-UD requires a margin of 20% be applied to future housing demands. The margin is a margin of development capacity, over and above the expected demand that tier 1 and tier 2 local authorities are required to provide, that is required in order to support choice and competitiveness in housing and business land markets.

(excluding the margin) out to 2050. There is a smaller demand (+1,500 dwellings) for attached dwellings.

- A small, modelled preference shift toward attached dwellings shows demand for attached dwellings increasing to around an additional 2,000 dwellings by 2050 (with demand for an additional 6,300 detached dwellings). This would result in a small shift in the overall share of dwellings as detached dwellings to 85% by 2050.

In terms of demand drivers, two forces are noted:

- A significant portion of the development market within Waipā’s main urban areas is driven by retirement demand. This generates demand for higher quality dwellings on sites of at least 600m² to 800m².
- Demand is increasing for smaller dwellings. This is driven by housing affordability issues and is helpful in reducing urban expansion pressures.

Overall, housing capacity exceeds demand, assuming planned release of greenfields areas. Table 3 compares expected medium term demand for housing with current ‘plan enabled’ capacity and what part of this capacity may be realistically brought forward for development over the next 10 years⁶.

Table 3: Housing capacity versus demand – medium term

Settlement	Medium term demand	Plan enabled capacity ⁷	Reasonably realised capacity ⁸
Cambridge	2,300	10,600	2,900
Te Awamutu / Kihikihi	1,300	8,400	2,180

The long term picture (out to 2051) is for plan enabled capacity to remain well excess of demand.

The capacity assessment has found that larger minimum lot sizes combined with higher value demand from outside of the district is likely to result in future potential stock being concentrated into the higher dwelling value bands.

⁶ NPS-UD Housing Development Capacity Assessment Future Proof Partners 30 July 2021 – final, page 6.

⁷ Plan enabled capacity' refers to the total capacity enabled by zoning within the relevant district plan (operative (short to long-term) or proposed (medium to long-term)) or spatial strategy planning document (long-term)

⁸ 'Reasonably realised capacity' refers to capacity that is reasonably expected to be realised – an estimation of the share of commercially feasible, infrastructure served capacity that is reasonably expected to be realised – the amount of feasible capacity is reduced to reflect the level and scale of development which is more likely to be delivered by the market. The assessment recognises that the nature and type of development delivered may not achieve the densities (and therefore capacity) that are enabled by the Plan.

4.1 Urban form and density considerations

The following section briefly discusses Cambridge and Te Awamutu's urban form and density patterns.

4.1.1 Cambridge: Urban form

Figure 2 shows Cambridge's current housing density pattern, as of 2018 census. The density is a gross density (census area divided by number of dwellings). The red areas are the commercial / retail centres.

Figure 2: Cambridge housing density

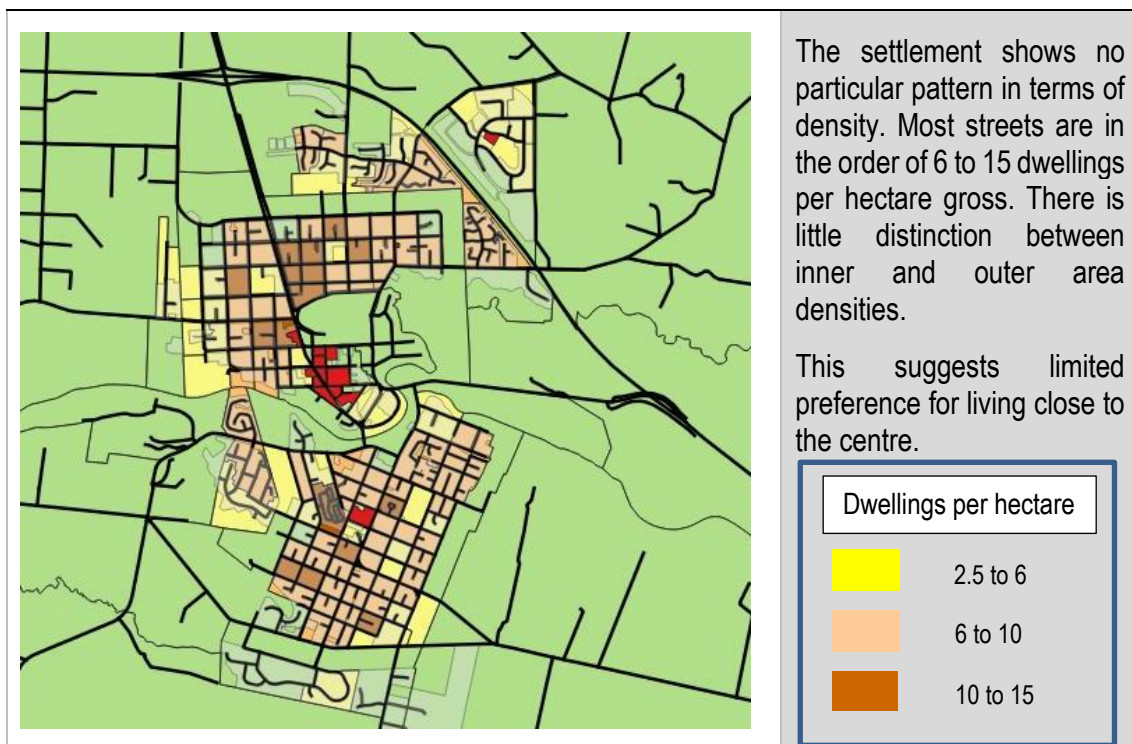
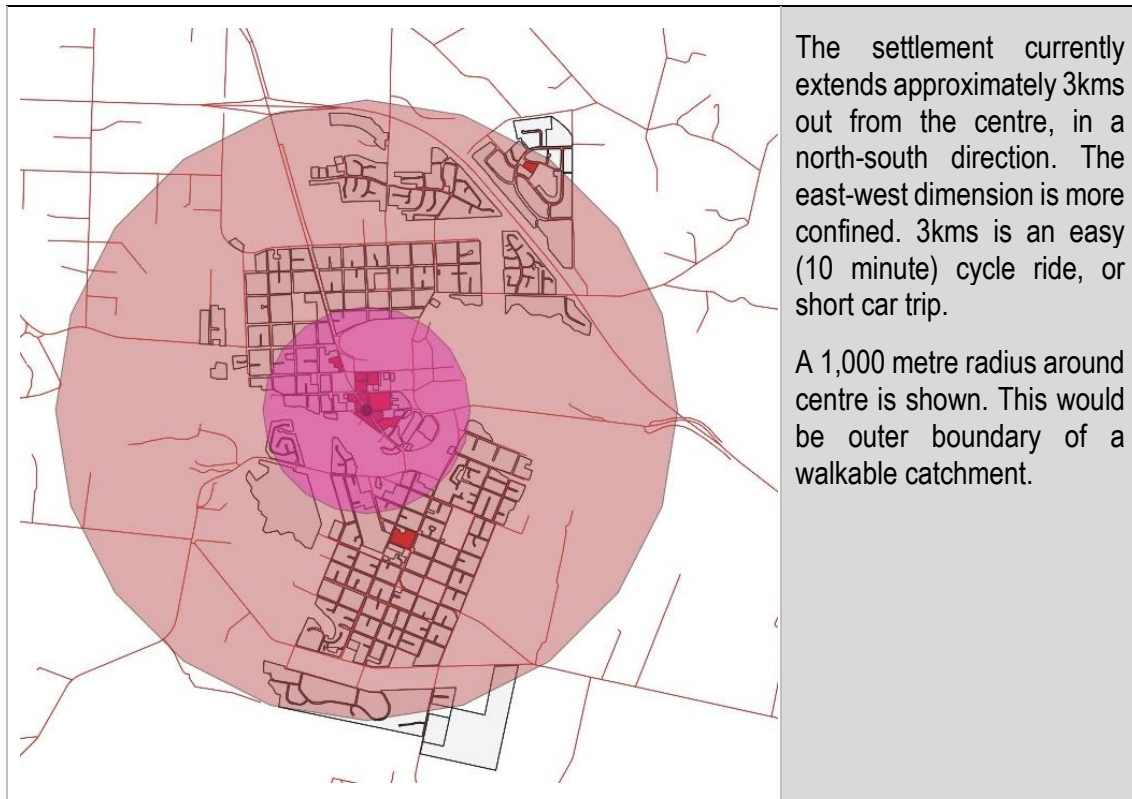


Figure 3 demonstrates the relative accessibility of housing to the centre.

Figure 3: Cambridge accessibility

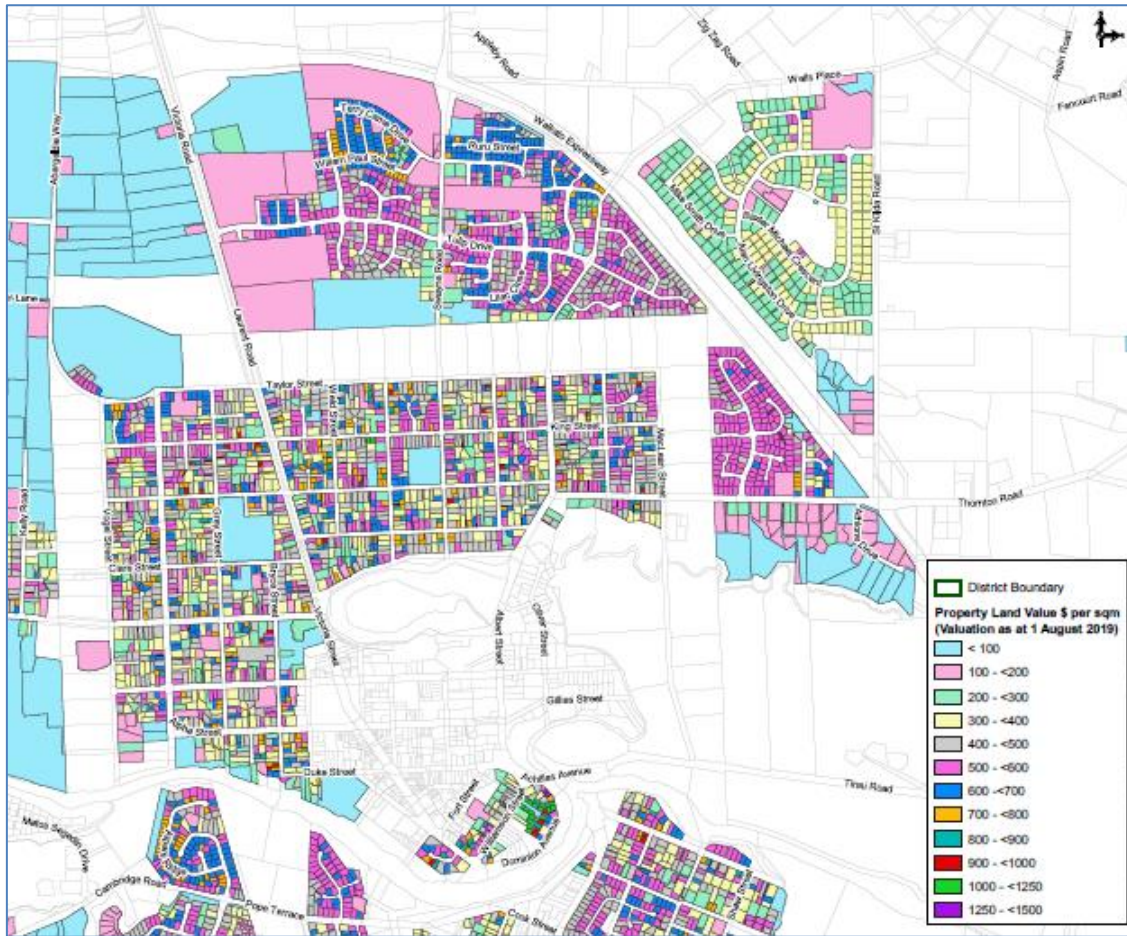


Demand for housing is focused on greenfields areas. Demand for housing within the current urban footprint shows no specific spatial pattern.

Figure 4 below shows land values per square metre, for the northern sector of Cambridge based on 2019 rating valuation data. The current urban area demonstrates a mix of land values in the range of \$300 to \$600 per square metre.

Since 2019, land values would have risen, while valuation data is not the same as sales values. Nevertheless, in terms of broad patterns, the land value data suggests no significant demand for infill type sites close to the centre. That is, there is no significant difference between land values close to the centre and values on the edge of the town.

Figure 4: Cambridge land values (rating valuations)



As noted below, Cambridge has grown faster than Te Awamutu over the past 15 years, suggesting stronger demand and hence greater need for a wider range of housing choices.

4.1.2 Te Awamutu

Figures 6 and 7 contain the same analysis for Te Awamutu.

Figure 5: Te Awamutu housing density (2018)

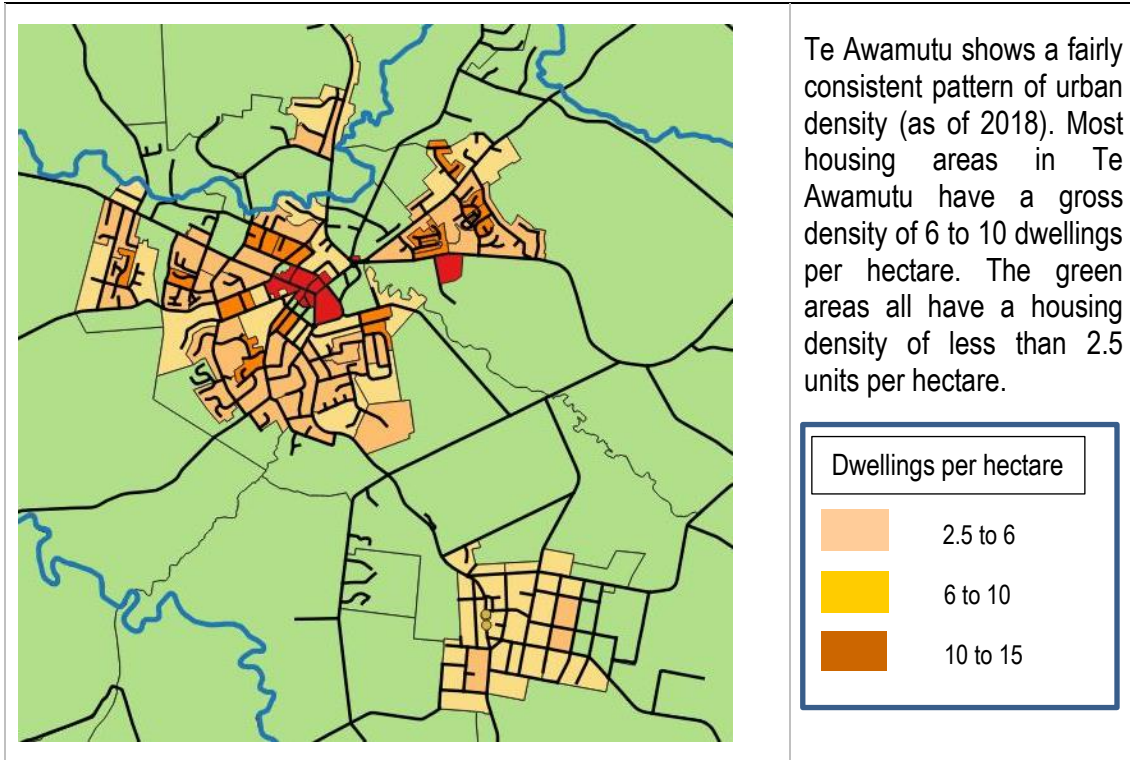
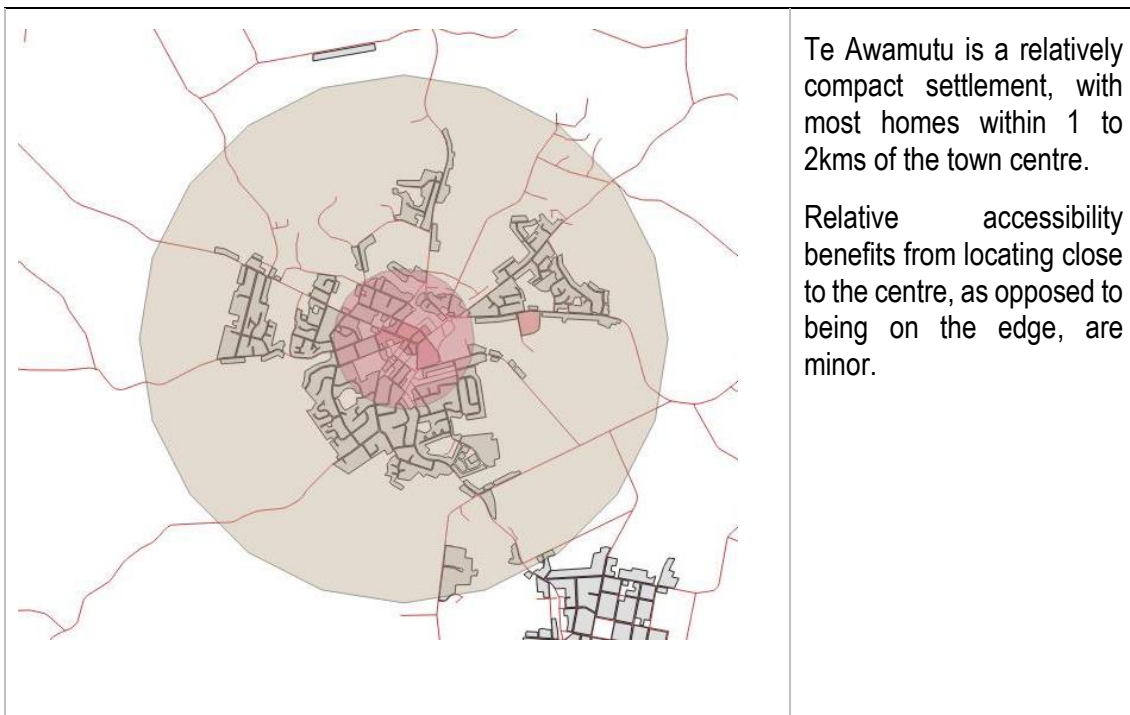
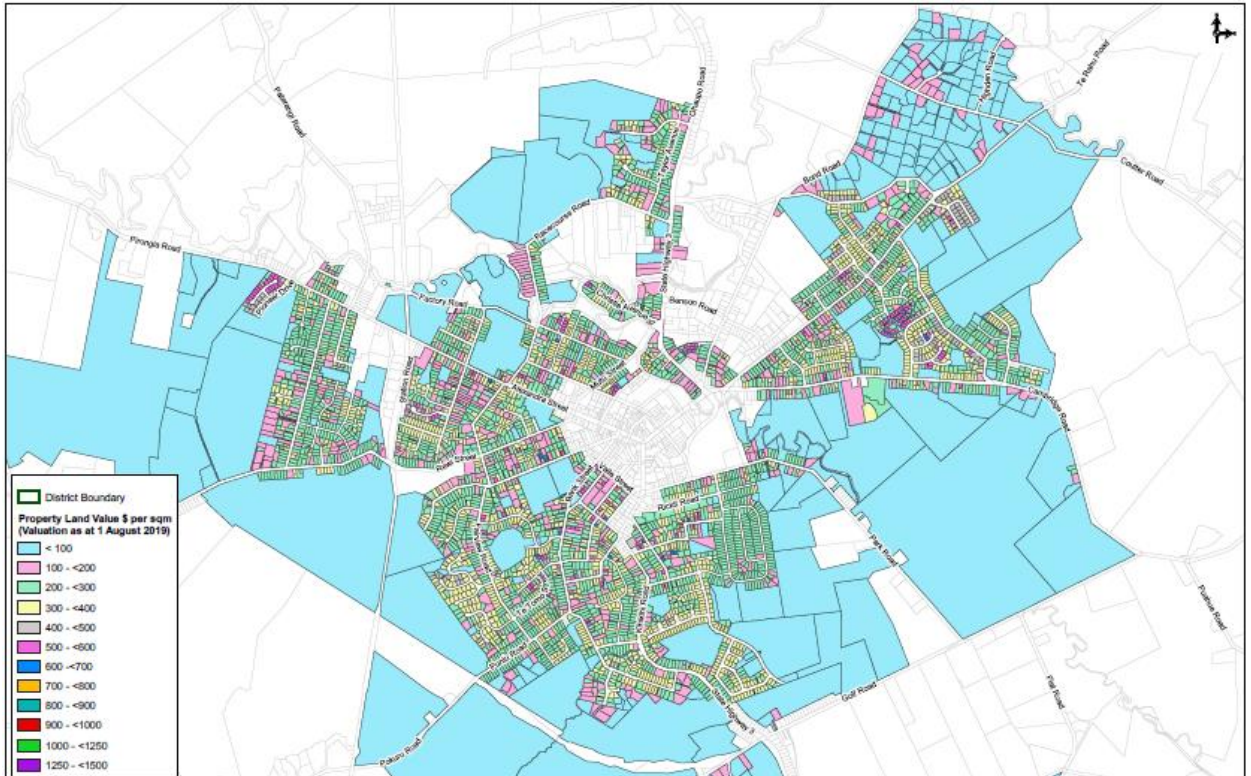


Figure 6: Te Awamutu accessibility



As with Cambridge, there are no strong spatial patterns within Te Awamutu in relation to land values, a factor of the modest size of the township. This suggests that there is currently limited demand for housing close to the town centre, compared to housing on the edge of the urban area.

Figure 7: Te Awamutu land values (rating valuations)



4.2 Potential constraints

The NPS-UD provides scope for listed qualifying matters to modify the policy direction in the NPS-UD to provide additional capacity. The Housing Supply Act has the same list of matters. The qualifying matters listed and if they are likely to be present in the residential zones of the district are set out in Table 4.

Table 4: Potential constraints

Potential Qualifying matter	Possible application
A matter of national importance that decision makers are required to recognise and provide for under section 6 of the RMA	<p>The district plan contains a list of heritage sites and items, including sites of significance to Maori, that are protected by the plan. This list would remain and the specific provisions continue to apply, irrespective of amended zoning or density standards.</p> <p>Flooding (natural hazards) is a Section 6 matter and is a matter that needs to be addressed in structure plans and may</p>

Potential Qualifying matter	Possible application
	be a reason to limit redevelopment of specific sites in the existing urban area due to the flood risks.
A matter required in order to give effect to a national policy statement (other than the NPS-UD)	<p>The Vision and Strategy for the Waikato River -Te Ture Whaimana o Te Awa o Waikato- has the status of a national policy statement.</p> <p>This has implications for stormwater management from more intensively developed sites, as well potential restraints on the uptake of the new development opportunities under the NPS-UD and Housing Supply Act where wastewater infrastructure is constrained</p> <p>No other NPS is directly relevant.</p>
A matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure	The NPS-UD definition of nationally significant infrastructure would include the North Island Main Trunk Rail line which runs through Te Awamutu. A number of National Grid transmission lines traverse the Residential zone of Waipā District. The subdivision, use and development of land is controlled within a defined National Grid Corridor to ensure potential adverse effects are appropriately addressed.
Open space provided for public use, but only in relation to land that is open space	Open space land is zoned for that purpose and is not included in the residential zones.
The need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order	Designations are present and will remain even if land is rezoned. The designations do not modify how land adjacent designated sites may be used.
A matter necessary to implement, or to ensure consistency with, iwi participation legislation	No specific matters are identified
The requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand	The focus of the report is residentially zoned land and land in town centres that may accommodate mixed uses. Industrial land is not included in the analysis of options to respond to the NPS-UD.

Potential Qualifying matter	Possible application
<p>Any other matter that makes higher density as provided for by the MDRS inappropriate in an area, but only if section 771 is satisfied.</p>	<p>Residential areas with special character are identified in the district plan. The district plan notes that in some locations, the need to protect existing character will potentially outweigh the benefits obtained from providing for a range of housing options. Restricted discretionary activities include development in character clusters, such as construction of new buildings, relocated buildings and alterations or additions to existing buildings. Infill housing within the Cambridge Residential Character Area comprising two to six principal dwellings per site with a minimum net site area for each dwelling of 400m² is a discretionary activity. Specific front yard setback requirements apply along particular roads.</p>

5 Current Strategies

The Cambridge urban area (as defined by Statistics New Zealand) has an estimated resident population of 20,000 people, as of 2020. Te Awamutu's population is estimated to be 13,100.

Cambridge has recorded fast growth over the past 10 to 15 years, while Te Awamutu has seen more steady growth. See Figure 10.

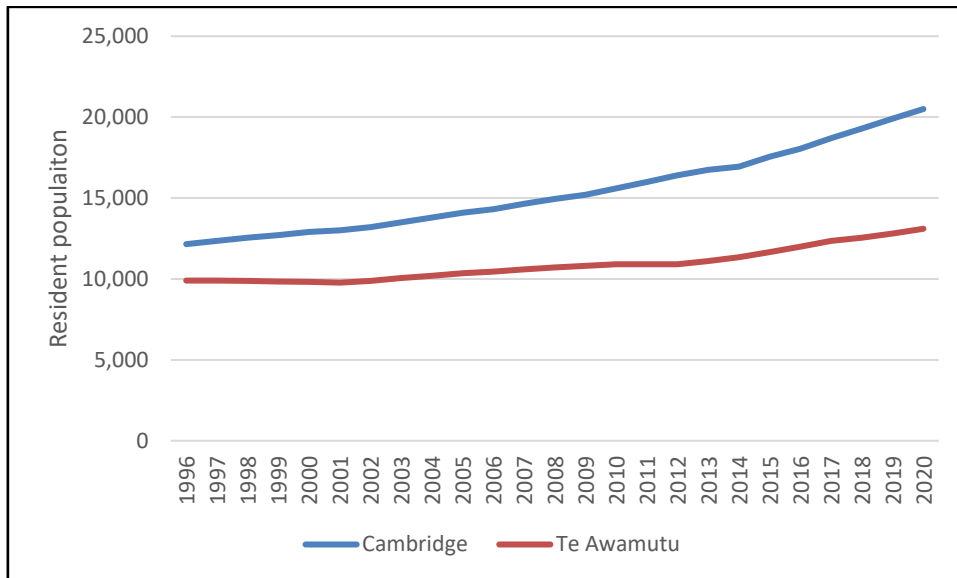


Figure 8: Population growth

The Waipā 2050 District Growth Strategy review adopted in 2017 sought to recognise, protect and enhance the features of Waipā that make the district a special place, set a pattern for the future growth of settlements, and integrate growth with infrastructure provision for a more cost-effective approach to development.

By 2050, the strategy anticipates an additional 25,000 people in Waipā, bringing the population to nearly 75,000. The strategy anticipates growth of 14,000 more people for Cambridge, 5,400 in Te Awamutu and Kihikihi and more than 6,000 additional residents spread around the rest of the district.

5.1 Cambridge

The District Growth Strategy states that Cambridge will be the main area for residential growth in Waipā.

The Strategy identifies a range of greenfield growth cells that can provide significant capacity. Structure plans are being progressively being developed for these growth areas. A recent plan change (PC 13) has proposed that a number of growth cells be brought forward as operative zonings.

A mix of residential and compact residential living is proposed with residential sections between 600-800m² and compact residential houses between 300-400m² per lot. This can include stand-alone houses, semi-detached or terraced housing.

Figure 11 shows the growth cells proposed for Cambridge (as set out in the Decision's version of PC 13). The growth cells earmarked for development up to 2035 make provision for 536 hectares of residential land with a dwelling capacity of approximately 5,900 dwellings.

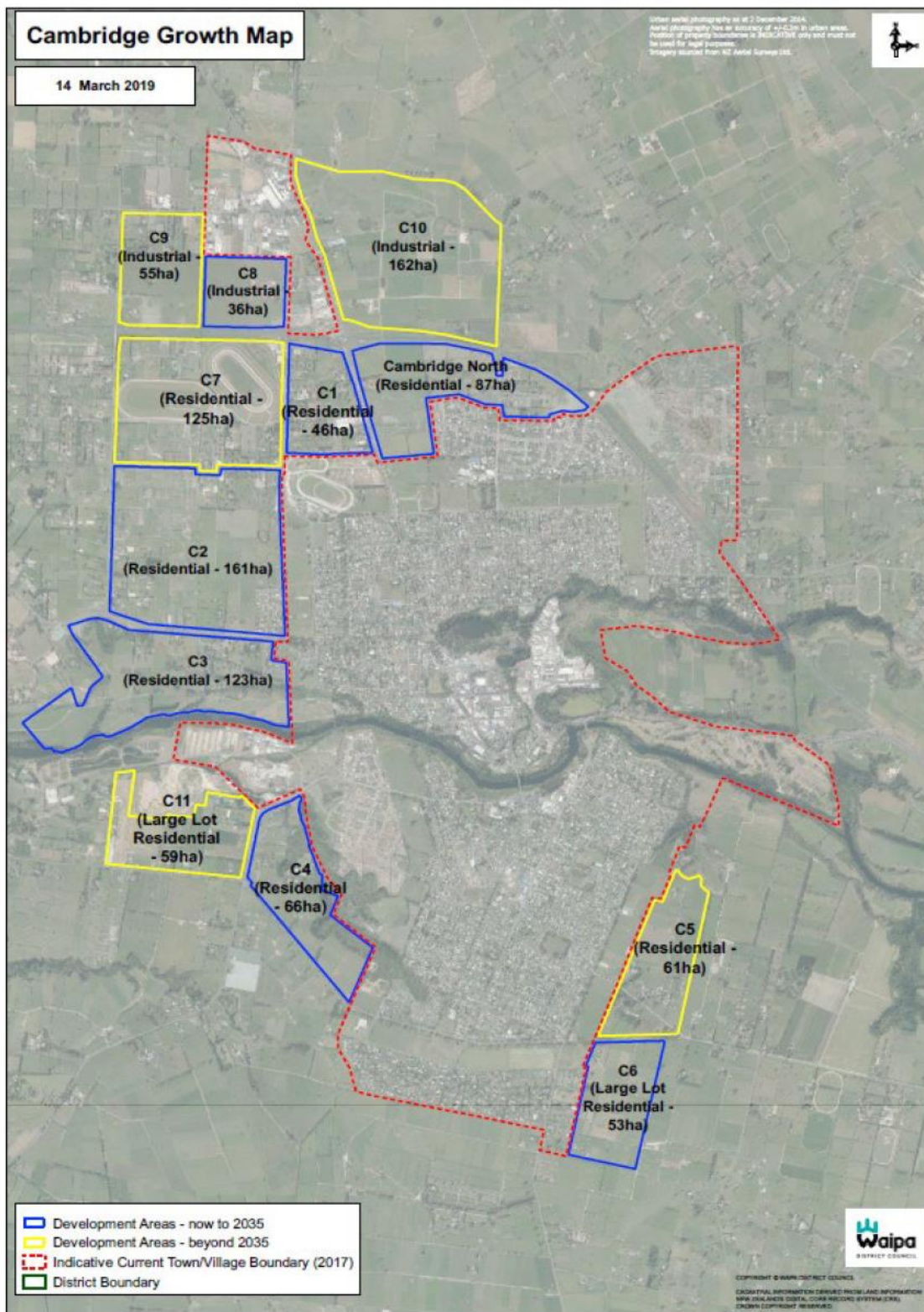


Figure 9: Cambridge growth cells

Infill development (within the existing town boundaries) is currently managed by the minimum lot size requirements of the Waipā District Plan. The Town Concept Plan developed for Cambridge identifies areas within the existing town boundaries which are suitable for redevelopment as well as locations where the existing residential density should be retained (regardless of lot sizes). In particular further apartment and terraced housing developments are anticipated in and around the perimeter of the Cambridge town centre. This form of development is provided for within the Waipā District Plan and will serve to support the vibrancy of the Cambridge town centre.

There are existing large lot residential areas near Cambridge at Fencourt and to the south of Leamington that provide for low density residential development. While these areas are already developed, large lot zones at Rotorangi Road and on Kailali Road will provide for further large lot residential development:

5.2 Te Awamutu

The district growth strategy indicates that between 2021 and 2050, around 104 new houses will need to be built in Te Awamutu and Kihikihi every year to meet demand. The growth strategy proposed to make 286 hectares of residential land available for new housing.

Council has recently reviewed the timing of the growth cells around Te Awamutu via Plan Change 13. The Decisions version of PC 13 makes provision for 375 hectares of residential land, with a dwelling capacity of approximately 2,988 dwellings.

Specific provision for large lot residential development is identified within growth cells T6 and T15. These locations are considered suitable for this land use as it expands on the existing large lot residential area on St Leger Road and provides for some growth between Te Awamutu and Kihikihi, where other land use practices may otherwise not be appropriate.

For Kihikihi, the existing town boundary provides for future growth up to 2050 including opportunity to promote higher density development while still making sure there are key locations where no density should occur.

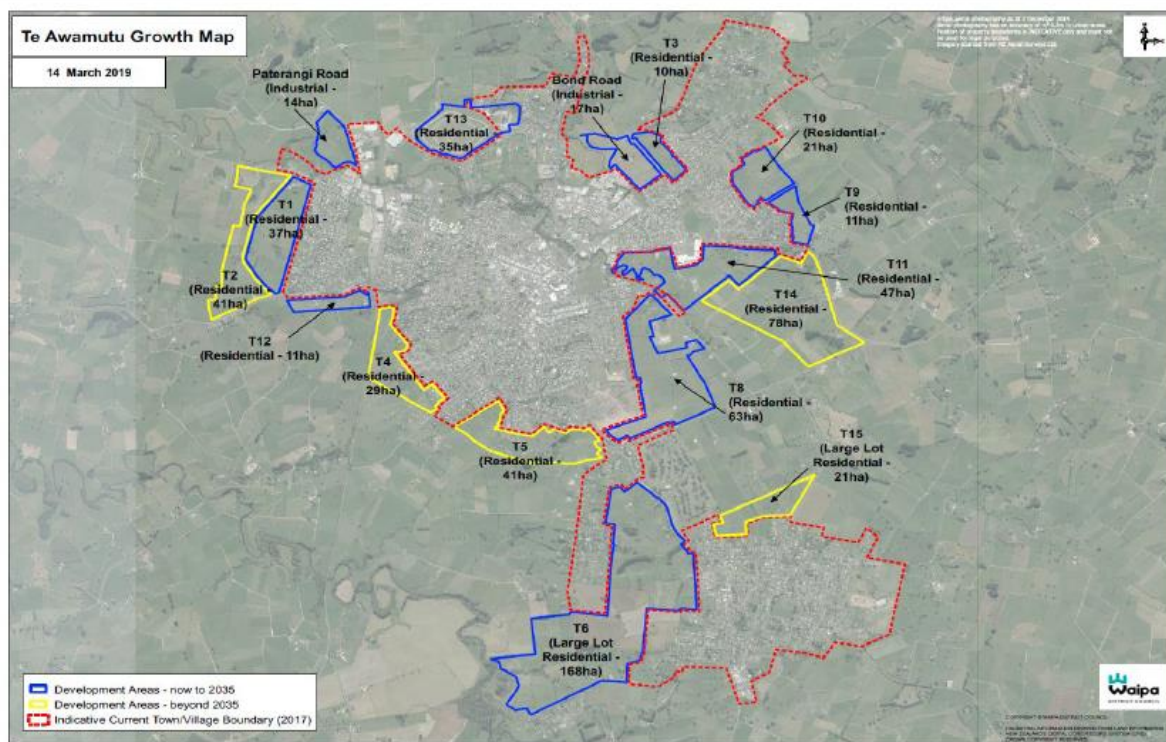


Figure 10: Te Awamutu growth cells

Infill development (within the existing town boundaries) is currently managed by the minimum lot size requirements of the Waipā District Plan. The Town Concept Plan for Te Awamutu and Kihikihi gives greater consideration to higher density development and, in particular, looks at locations within the townships that are suitable for intensified development and locations where no high density should occur. In particular further apartment and terraced housing developments are anticipated in and around the perimeter of the Te Awamutu town centre. This form of development is provided for within the Waipā District Plan.

5.2.1 Other settlements

Other townships in the district include:

- Karapiro has a new growth cell to the north-west of the village once existing areas are full. Under the Lake Karapiro large lot residential structure plan 40 dwellings are provided for;
- Two small development areas will provide housing in Ngahinapouri before 2035 (170 houses); and
- Pirongia has enough land within the current village boundary to provide for future residential growth.

These townships are not affected by the MDRS of the Housing Supply Act, and are not part of the Waipā urban area as defined by the NPS-UD.

5.3 Existing district plan provisions

The Operative Waipā District Plan (OWDP) makes provision for urban type residential development in:

- Large Lot zone
- Residential zone
- Secondary dwellings in Large Lot and Residential zones
- Infill housing in the Residential zone
- Compact housing opportunities
- Commercial centres.

Figures 13 and 14 show current residential zoning patterns for Te Awamutu and Cambridge. The zoning shown does not take into account PC 13 changes.

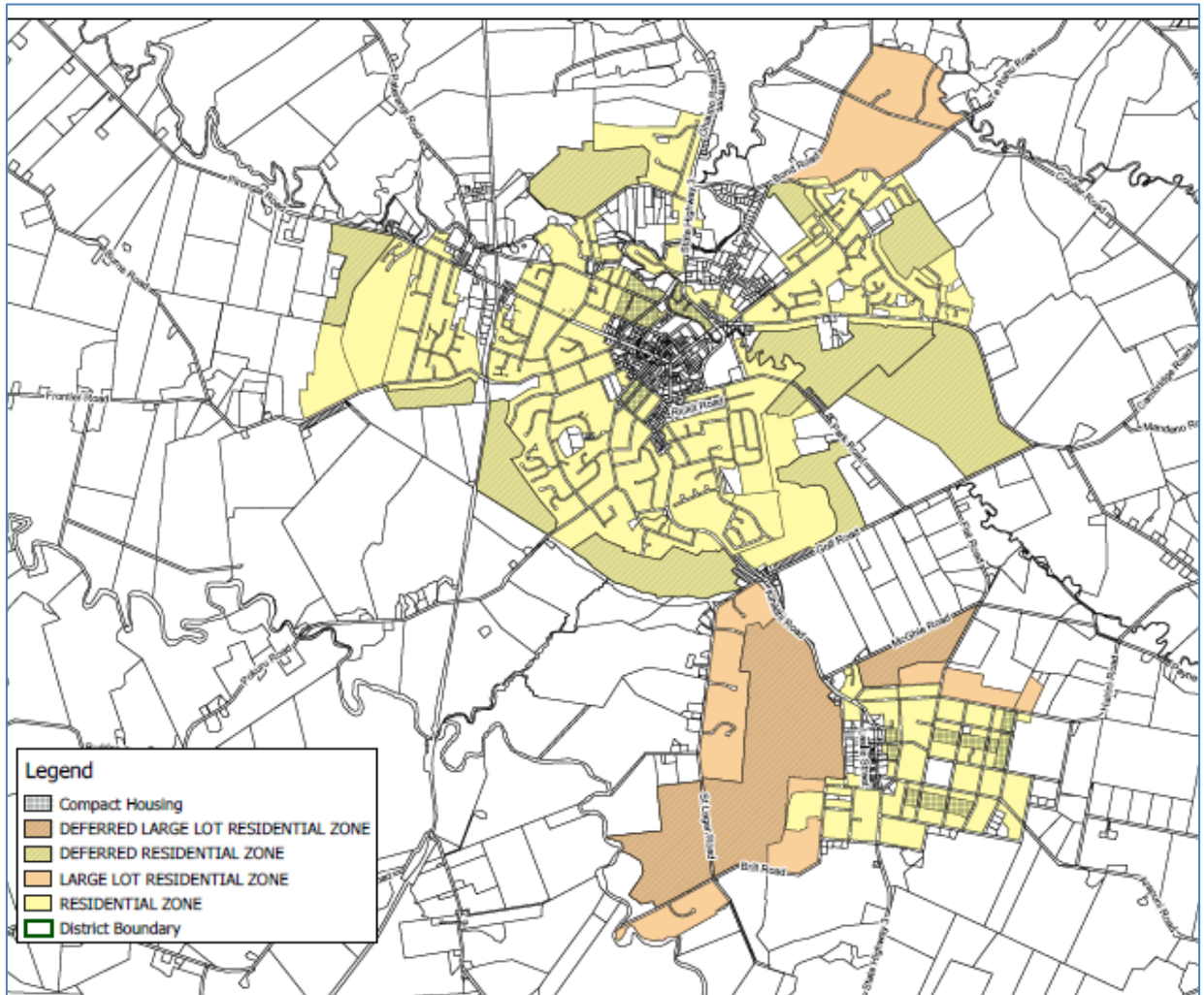


Figure 11: Te Awamutu – Operative District Plan

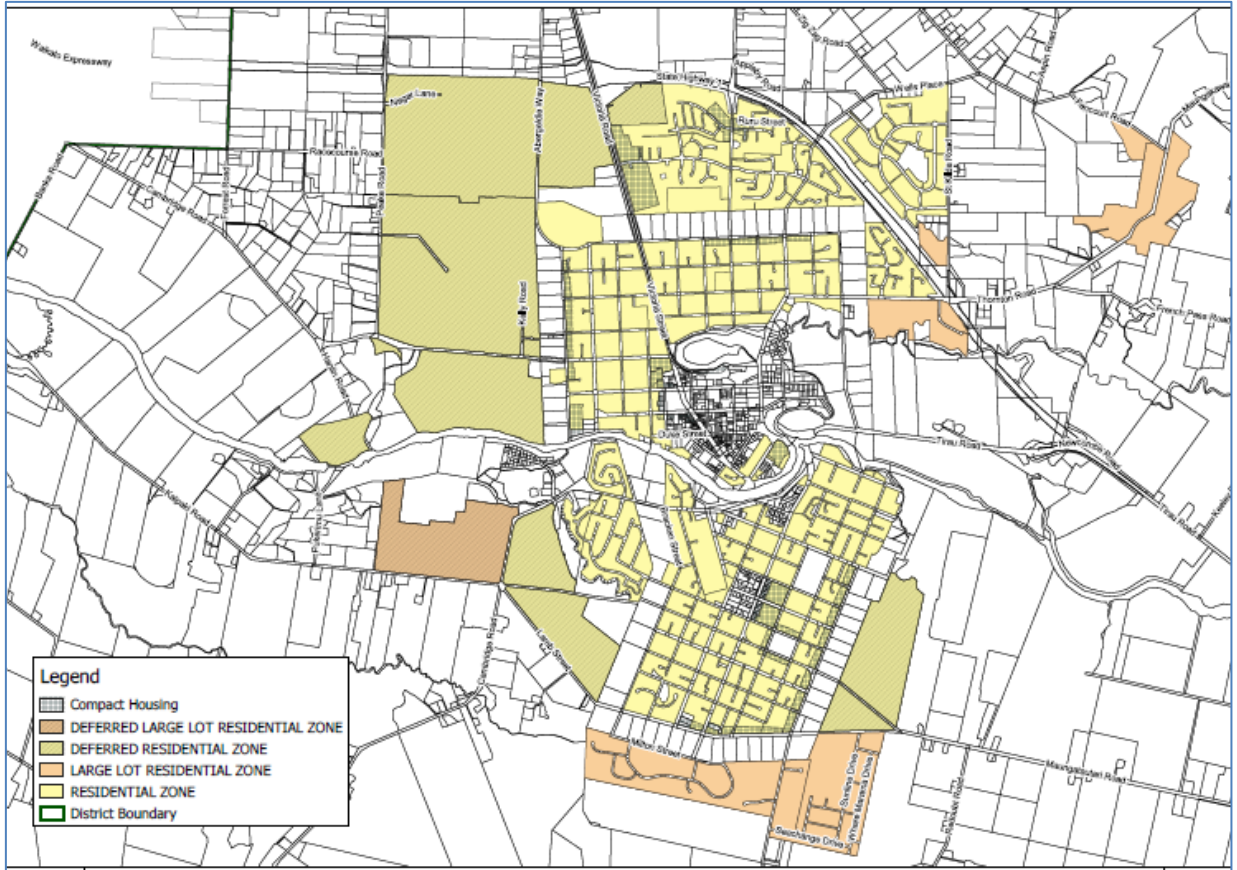


Figure 12: Cambridge zonings – operative district plan

5.3.1 Large lot zone

Objective 3.3.3 of the Large Lot Residential zone is to:

maintain and enhance the key aspects of character within the Large Lot Residential Zone.

Relevant Policies are:

Character: Buildings and activities within the Large Lot Residential Zone are designed, located, scaled and serviced in a manner that does not detract from the character of the area.

In particular, they should maintain the character of open space, low-density residential development with a feeling of spaciousness; connections to the natural landscape; and the absence of Council wastewater services, and lower levels of other infrastructure in comparison to the Residential Zone.

The scale and intensity of development and subdivision within the Large Lot Residential zone is restricted to that which can be serviced by on site non-reticulated wastewater and stormwater networks. Minimum lot sizes are 2,500m². While proprietary on site wastewater systems can be installed on smaller lots, there are landscape and amenity issues associated with more intensive developments.

One secondary dwelling per site where neighbourhood amenity and on-site amenity standards can be met is possible. The secondary dwelling must be encompassed in the bulk of the existing principal dwelling and be no more than 70m² gross floor area, excluding garaging. The minimum net site area required for the erection of a secondary dwelling is:

- (a) In the Large Lot Residential zone of Pirongia 2,000m²
- (b) In all other Large Lot Residential zones 2,500m².

The height of buildings shall not exceed 8m in height. There are a number of other rules that apply such as maximum site coverage, maximum impermeable surface, daylight control and minimum set back controls.

5.3.2 Residential zone

In the Residential zone, one principal dwelling per 500m² of net site area is permitted. Density is enabled by the establishment of secondary dwellings, and providing for infill development, retirement village accommodation and compact housing development options (such as semidetached dwellings, duplexes, terrace housing or low rise apartments). These development options are required to be comprehensively designed, coordinated with infrastructure provision, take into account key elements of character, and address effects on neighbouring properties. The Plan notes that in some locations, the need to protect existing character will potentially outweigh the benefits obtained from providing for a range of housing options.

Policy 2.3.1.2 for Te Awamutu refers to the following qualities:

- (a) Maintaining a road pattern that follows the natural contour of the landform and which provides for the occasional view to the rural hinterland; and*
- (b) Providing for wide grassed road verges that enable sufficient space for mature trees; and*
- (c) Providing for development that is of a low density, one to two storeys, and set back from road frontages to enable sufficient open space for the planting of trees and private gardens; and*
- (d) Providing linkages to the Mangapiko Stream with development actively facing and providing access to the stream; and (e) Recognising the mix of villas, bungalows and art deco housing in parts of Te Awamutu.*

Policy 2.3.1.1 for Cambridge identifies the following elements:

- (a) Maintaining the grid layout that provides long vistas down roads; and*
- (b) Providing for wide grassed road verges that enable sufficient space for mature trees; and*
- (c) Maximising opportunities to provide public access to the town belt; and*
- (d) Maintaining and enhancing public views to the Waikato River and Karāpiro Stream Valley with development actively facing and providing access to the River and the Stream; and*

(e) Providing for development that is of a low density, one to two storeys, and set back from road frontages to enable sufficient open space for the planting of trees and private gardens; and

(f) Maintaining the mix of villa, cottage and bungalow type housing within the identified character clusters.

Policy 2.3.1.3 seeks to maintain and enhance Kihikihī's character by:

(a) Retaining a grid layout with wide grassed verges; and

(b) Maintaining a road pattern that provides for the occasional view to the rural hinterland.

5.3.3 Residential zone provisions

Within the residential zone, residential activity is a permitted activity. One principal dwelling and one secondary dwelling is permitted per site (one principal dwelling per 500m² of net site area and the minimum net site area required for the erection of a secondary dwelling is 850m² except that where the principal dwelling is two storeys, the net site area can be a minimum of 600m²). The secondary dwelling must be encompassed in the bulk of the existing principal dwelling and be no more than 70m² in gross floor area, excluding garaging. More than one secondary dwelling per site is a non-complying activity.

Generally, a 9 metre (2 story) maximum height limit applies. Other standards include a daylight control, maximum site coverage of 40%, and maximum impermeable surface limit which range from 45% (Cambridge North SP area to provide for on-site soakage) to 60% for the remaining residential areas. Outdoor living courts of 50m² (principal dwelling) and 35m² (for secondary dwellings) apply. It is generally a discretionary activity to depart from the height, site coverage and secondary dwelling provisions.

Specific rules apply to the St Kilda Residential Area, Picquet Hill Residential Area, the Cambridge Park Residential area, and the C1 and C2/C3 Structure Plan areas. These areas have particular design outcomes that were developed through structure planning processes and are integral to the overall development of the area.

Infill housing is a restricted discretionary activity comprising three to six principal dwellings per site with a minimum net site area for each dwelling of 350m², provided that the site is not located within the Cambridge Residential Character Area, compact housing development overlay or within a character cluster identified on the Planning Maps. To be eligible to use the infill housing provisions, a subdivision application must be submitted at the same time. (Refer Rule 15.4.1.1(m)).

Each dwelling shall have a minimum gross floor area and outdoor living area as follows.

Table 5 OWDP unit sizes

Dwelling	Minimum floor area of dwelling	Minimum outdoor living area for ground level dwellings	Minimum outdoor living area dimensions for ground level dwellings	Minimum outdoor living area for above ground level dwellings	Minimum outdoor living area dimensions for above ground level dwellings
Studio units and 1 bedroom unit	50m ²	20m ²	4m	10m ²	2m
2 bedroom unit	70m ²	30m ²	4m	12m ²	2m
3 bedroom unit	95m ²	30m ²	4m	14m ²	2m

Assessment of infill housing developments is restricted to the following matters:

- Low impact design, including the disposal of stormwater;
- Access and manoeuvring;
- Solar access;
- Outdoor living;
- Location, form, and materials of the proposed buildings and their relationship to existing buildings in the neighbourhood;
- Visual effects from adjoining properties and the road;
- Landscaping;
- CPTED; and
- Reverse sensitivity effects.

Rule 15.4.1.1(m) provides for visitor accommodation in the Visitor Accommodation Overlay in the C1 and C2/C3 Structure Plan Areas. The use of a dwelling as a Residential Based Visitor Accommodation is permitted as specified in the residential zone.

5.3.4 Compact housing

Policy 2.3.4.5 provides for compact housing in the following locations:

- (a) Areas identified for compact housing on the Planning Maps or on an approved structure plan; or*
- (b) Where the intensive use is off-set by adjoining an area zoned for reserve purposes on the Planning Maps that is greater than 1000m², including the Cambridge town belt; or*
- (c) Within a 400m radius of a Commercial Zone; or*
- (d) Where it is consistent with compact housing provided on neighbouring land.*

Provided that:

(i) In all cases compact housing shall be comprehensively designed and shall incorporate the sustainable design and layout principles (refer to Section 21 – Assessment Criteria and Information Requirements); and

(ii) At the boundaries of the site, compact housing shall be consistent with the predominant height and bulk of development in the neighbourhood; and

(iii) Sites which adjoin a cul-de-sac should be avoided.

Compact housing of seven or more dwellings per site is a restricted discretionary activity located within the:

- compact housing overlay identified on the Planning Maps, or
- as provided for in Rule 2.4.1.3(c)⁹, or
- within the following areas of the C1 and C2/C3 Structure Plan areas:
 - within 200m of an active recreation open space, the Town Belt, a neighbourhood centre or a school; or
 - within 100m of a local centre or local open space; or
 - within a 'compact housing' overlay identified within the structure plan maps.

Compact housing outside these areas is a Discretionary Activity (rule 2.4.1.4 (g)).

Rule 2.4.2.44 sets out a number of performance standards for compact housing:

- compact housing within the compact housing area overlay shall have a minimum site area of 2,000m²
- maximum building height is 10m, with 13m possible in Compact Housing Areas located within C1 and C2/C3 Structure Plan
- the maximum length of unbroken building line parallel to all site boundaries including internal site boundaries shall be 20m. Building lines in excess of this standard shall be broken or stepped to a minimum depth of 2.4m and a minimum length of 3m at least once every 20m in length.
- where there is more than one building on a site, it shall be separated from other buildings on the site by at least 3.5m;
- any dwelling sited within 10m of another dwelling on the same site or parent title prior to subdivision by way of unit title, cross lease or strata title, shall not result in direct line of sight from the main living areas of the dwelling into the main living areas of another dwelling. If a direct line of sight between main living areas cannot be avoided, visual screening shall be constructed or planted to prevent a direct line of sight;
- dwellings shall have a dual aspect with windows being placed so that outlook is obtained to the front and rear of the dwelling, with window sills no more than 1m from floor level; and
- minimum floor areas and outdoor living and communal areas including a number of design rules are required,

⁹ This rule relates to a specific site.

- at least 30% of the net site area of any site or unit site area shall be grassed, planted in trees and/or shrubs or otherwise landscaped in a manner that retains the permeable nature of the surface.
- communal outdoor service area or storage courts are required.
- dwellings that are parallel to or adjoin the road boundary of the site shall have a front door that faces the road.

An advice note states that an urban design assessment may be required. Assessment is restricted to the following matters:

- building location, bulk and design;
- landscaping;
- location of parking areas and vehicle manoeuvring;
- CPTED;
- traffic generation and connectivity;
- noise;
- stormwater disposal; and
- alignment with any relevant Urban Design Guidelines approved by Council.

5.3.5 Commercial zone

The Commercial Zone is located in Te Awamutu and Cambridge and also in Pirongia, Kihikihi and Ōhaupo.

Policy 6.3.2.4 enables residential activities within Commercial Zones provided they are not located at ground level (except for the Cook Street/Shakespeare Street area). Policy 6.3.2.5 states that in the Cook Street/Shakespeare Street area that directly adjoins reserves along the Waikato River, residential activities at ground level are enabled where the residential activity faces and relates to the Waikato River, meets the principles of CPTED, and where practicable provides public access to the Waikato River. Dwellings at ground floor level, except as specified are otherwise a non-complying activity.

Policy 6.3.2.7 seeks to maintain and where possible enhance the existing character elements of the character precinct areas in Cambridge, Te Awamutu, Kihikihi, Pirongia and Ōhaupo, by ensuring that new buildings; additions, or alterations to existing buildings, and signs make a positive contribution to the identified character of these areas, including by having architecturally detailed building frontages that incorporate appropriate designs and architectural features.

Buildings must not exceed 14m in height and must be no more than three floors, except for a number of stated exceptions that apply to particular activities.

There are a number of criteria to be met such as for outdoor living courts and their orientation, location and screening. There are some rules that apply such as daylight control, minimum setbacks, storage and service areas, landscaping and, site layout and fencing screening where a site adjoins the Residential Zone.

Local Centres within the C2/C3 Structure Plan areas also allow for residential activities, limited to above ground floor.

6 Development options

This part of the report considers options to give effect to Policy 3 of the NPS-UD and to respond to the Housing Supply Act. Five areas are reviewed:

- Should large lot zones be rezoned as residential?
- Qualify the application of the MDRS as it relates to character areas?
- Add additional development standards to those set out in the MDRS?
- New 'apartment' zone around town centres?
- Increase options in Commercial areas (including mixed use)?

The large lot zone option seeks to add more greenfields housing capacity, while the last option would increase 'greyfields' options.

The middle three options relate to the new MDRS. As noted, the Housing Supply Act introduces new, baseline residential standards that are to apply across the residential zones of the district (greenfields and brownfields). There is scope for these standards to be made more permissive (such as additional building height) if district plans see this as a positive outcome, or more restrictive if qualifying matters apply.

6.1 Large Lot zone

One opportunity for intensification is the Large Lot Residential (LLR) zone. Currently, both the Waipā District Plan and the Waikato Regional Plan contain regulatory barriers to the intensification of the LLR zone, while the MDRS do not apply to Large Lot zoned land.

However, with increasing pressure for more housing in the Waipā District, there is a case for reviewing the efficiency of retaining the low density provisions in the LLR zone. If infrastructure capacity can be addressed, the LLR zones have the potential to contribute significantly to future land available for urban housing.

The National Planning Standard describes large lot residential zone as follows:

Areas used predominantly for residential activities and buildings such as detached houses on lots larger than those of the low density residential and general residential zones, and where there are particular landscape characteristics, physical limitations or other constraints to more intensive development.

In terms of the national planning standard, if there are no or few physical limitations to development, then there may be limited reasons to retain large lot zones. Having said that, physical limitations are not the only reason for such zoning. The typical reasons for large lot zones cover:

- meet demand for large lot living;
- large lots may help create a 'soft' transition between town and country, rather than a hard transition;
- large lots may reduce pressure to modify landforms and can be tied to revegetation schemes, helping to maintain valued landscapes and increased tree cover; and
- on-site servicing reduces demands on public infrastructure.

Large lot zoning can see fragmentation of land holdings and loss of productive farmland including high class soils. In some cases, large lot zoning can preclude logical, longer term expansion of townships. This is because once subdivided into lots of less than 1 ha in area, site configurations reduce the ability to subdivide land further in an efficient manner. Infrastructure provision becomes problematical and lot shapes and roading patterns are often not suitable for more density (for example there may be a preponderance of rear lots).

Options for the large lot zones include reducing the minimum section sizes (such as down to 1,500m²) or rezoning some areas to residential. The latter option is more in-line with the intentions of the NPS-UD. There is likely to be marginal benefit to capacity from reducing lot sizes, while there will be issues as to how on-site wastewater systems can operate across a range of ground conditions.

To be considered for rezoning, large lot zones would need to be:

- contiguous with an existing urban area, not physically separated;
- be able to be served by extensions of network infrastructure;
- not contain many small lots (fragmented land holdings);
- not contain valued landscapes or other features of note;
- assist in creating a legible 'town edge';
- provide significant additional capacity;
- be close to shops, workplaces and town centres; and
- in accordance with or give effect to national directions relating to intensification.

The T6 and T15 growth cells in Te Awamutu and C6 and C11 in Cambridge have potential to be rezoned (in full or in part) from Large Lot to Residential (and hence be subject to the MDRS). In addition to these planned large lot growth areas, there are also a number of existing large lot areas that could possibly be rezoned.

Infrastructure demands relating to intensification of large lot zones has not been modelled or budgeted for by the Council. If land was to be rezoned, then this would need to be supported by appropriate investigations and analysis of servicing feasibility and costs.

6.1.1 Te Awamutu

The T6 growth cell is a 168ha area of land located to the west of State Highway 3 between Te Awamutu and Kihikihi.



Figure 13: T6 growth cell (hatched area)

The area adjoins an existing enclave of large lot zoned land to the north-west and borders the western edge of Kihikihi township.

T15 growth cell (see Figure 16 below) is 21ha in area on the north-east side of Kihikihi. This growth cell has been identified as a location for non-serviced (water only) large lot residential development in the longer term. The growth cell has a dwelling capacity of approximately 252 dwellings¹⁰.

¹⁰ The 252 dwelling figure is sourced from Appendix SO1 from PC 12, Decisions Version. A more realistic figure may be 80 dwellings (4 dwellings per ha).



Figure 14: T 15 growth cell

In terms of potential capacity, T6 would have the potential to accommodate over 2,000 new dwellings if fully urbanised.

Table 6: Te Awamutu growth cells – large lot capacity

Te Awamutu Large Lot growth cells	Area (ha)	Dwellings (estimated) – Large Lot zoning	Dwellings per ha	Dwellings at average of 12 dwellings per ha (Residential zone)
T6	168	504	3	2016
T15	21	84*	4	252

Note: T15 estimated capacity under a large lot zoning as set out in PC 13 appears to be an overestimation.

In terms of the criteria set out above, Table 7 reviews T6 and T15 in Te Awamutu, at a very high level.

Table 7: Screenng assessment: developing large lot areas

Criteria	Growth Cell T6	T15
Contiguous	Adjacent to Kikikihi township	Contiguous with residential zone
Network extensions	Should be able to expand networks, but will likely require upgrade of trunk line to the wastewater treatment plant. This work has not been budgeted	Extensions likely to be possible due to modest size of the area. Stormwater / flooding may be a constraint

Criteria	Growth Cell T6	T15
Land holdings	Larger land holdings, with some smaller parcels	Large land holdings
Landscape or other features.	Potential for Te Awamutu and Kihikihi to merge over time, loss of 'green wedge' between the two settlements	Does have a role in forming a town edge (transition from rural to urban)
Proximity to community facilities, town centre etc.	Approximately 1km from the town centre, although southern portion is more remote	Approximately 1km from the town centre.
Potential additional capacity	Substantial	Limited

In addition to these growth cells there is the existing zoned Moxham Road large lot zone on the northern side of the township.

Figure 15: Moxham Road large lot zone



This area is already subdivided. The roading pattern is limited.

The following comments can be made in relation to the screening criteria.

Criteria	Moxham Road
Contiguous	Joins the urban area
Network extensions	Should be able to expand networks, closer to wastewater treatment plant than other areas
Land holdings	Smaller land holdings, fragmented ownership
Landscape or other features.	Current zoning would have some value as a transition between town and country
Proximity to community facilities, town centre etc.	Approximately 2kms from the town centre
Potential additional capacity	Limited due to existing subdivision pattern and limited public roading network.

Summary

Growth Cell T6 has potential for some residential intensification but would need to be the subject of revised structure planning (including maintaining a 'green break' between Kihikihi and Te Awamutu and a large lot transition area on the western edge). More detailed investigation of servicing issues is required. In the interim, any development under the Large Lot rules should be undertaken in a way that does not foreclose future intensification options.

6.1.2 Cambridge

For Cambridge, the following large lot areas are possible candidates for rezoning:

- C6 growth cell/Cowley Drive. C6 is a 53ha growth cell that is undergoing large lot residential development (mostly developed) and has a Structure Plan in place. The growth cell has a dwelling capacity of approximately 160 dwellings. It is adjacent to the existing Cowley Drive large lot area. C6 and the Cowley Drive area would need to be considered together due to them being adjacent, and in their combined role as forming the southern edge to the town.



Figure 16: Cowley Drive and C6 Growth Cell

- C11. This 59 ha growth cell is intended for large lot residential development, with a capacity of approximately 258 dwellings. An active quarry sits to the north.

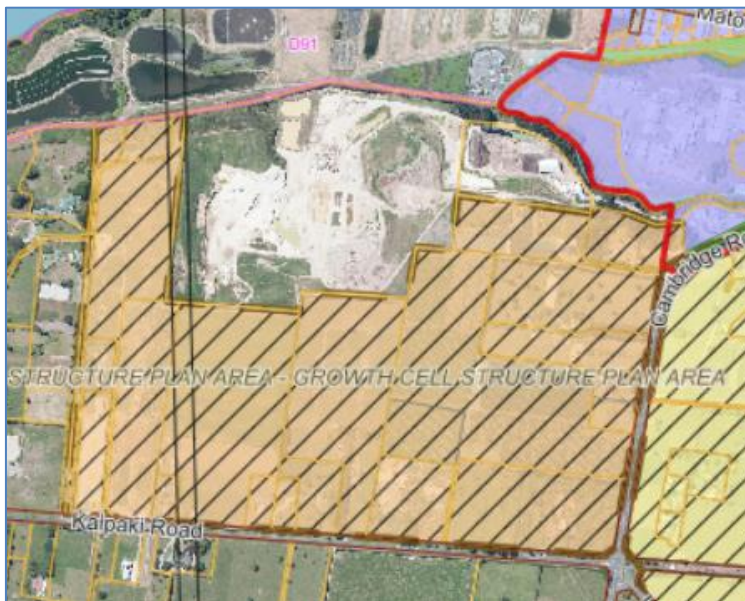


Figure 17: C11 Growth Cell

C11 growth cell would have the potential to accommodate up to 700 dwellings, at 12 dwellings per hectare. The remaining capacity of C6 is harder to judge due to current subdivision and development activity but would be limited.

Table 8: Screening assessment - Cambridge

Criteria	Growth Cell C6 / Cowley Drive	C11
Contiguous	Adjacent to south eastern edge of the settlement	Contiguous with residential zone
Network extensions	Area lies some distance from wastewater treatment plant and the network between the growth area and the treatment plant may need upgrading. This has not been budgeted.	Extensions likely to be possible, proximate to the wastewater treatment plant
Land holdings	Mix of smaller and larger land holdings	Mix of land holdings
Landscape or other features.	Forms part of the southern an eastern edge to the settlement	No landscape features of note. A buffer area around the edge of the quarry would be required
Proximity to services, community facilities	More remote from services and facilities	Nearer to workplaces and facilities
Potential additional capacity	Limited development potential with substantial subdivision already underway or completed. Cowley Drive area contains many rear lots which are not conducive to intensification	Significant development potential

Summary

Growth cell C11 has potential for residential intensification in the future, but development is dependent upon servicing issues and the future operation of the quarry. This is a longer term option.

6.1.3 Other areas

The District contains a number of other large lot zones around existing villages, such as at Ohaupo, Te Pahu, Rukuhia, Te Miro and Ngahinapouri. These are smaller areas with likely significant constraints relating to the cost of extending community services, should more intensive development be contemplated. These areas are unreticulated and wastewater treatment is through individual septic tanks.

Karāpiro is a reticulated village, close to Cambridge. A future large lot area is shown on the northern side of the settlement. It is understood that there are constraints to expansion of current services which preclude this area being rezoned for residential densities in accordance with the MDRS. In

particular expansion of reticulated services is likely to require an upgrade of the 'trunk' connection to the wastewater treatment plant. This would be an expensive project.

Houchens Road large lot area is adjacent to the Hamilton urban area and may be able to be served by extension of Hamilton City services. If that was the case, then there may be a case for a boundary adjustment to incorporate the area into Hamilton City, with a view to residential intensification (noting some topographical constraints).

6.1.4 Potential candidates – large lot zones

Through Waipā 2050 and its growth cells, the Council has identified a large pool of greenfields land that is available for development. In this context there is less strategic need in the short term to rezone large lot areas as residential (and therefore be subject to the MDRS).

Based on the above analysis the two most likely candidates for rezoning or residential intensification (in whole or in part) would be:

- T6 adjacent to Kihikihi. This growth cell has the potential to strengthen the urban form of the township, it is close to service and activities and will likely offer more affordable housing options. The recently prepared structure plan scoping report¹¹ has not noted any significant natural constraints to the development of the land. There may need to be specific treatment of the western edge – such as a large lot buffer area to create an appropriate transition, as well as a green break between Te Awamutu and Kihikihi. Infrastructure issues need to be investigated.
- C11 in Cambridge. This area still retains larger land holdings that will aid in efficient and effective urbanisation. The area is relatively close to workplaces and the town centre. There would need to be an appropriate treatment of the northern edge as it relates to the quarry. A buffer area would be needed to avoid reverse sensitivity issues (e.g. noise, dust etc).

Residential development in the Houchens Road area is dependent upon boundary adjustments with Hamilton City.

6.2 Qualify application of MDRS standards

The existing residential zone of the ODP has a focus on maintaining residential amenity. Within this overall framework, 'gentle' density is already broadly provided for in the District Plan through measures such as provisions for secondary dwellings and infill. Compact housing is possible via consent processes.

The MDRS of the Housing Supply Act replaces this 'gentle' density approach with a much more explicit move towards redevelopment and intensification. The Housing Supply Act provides limited scope to amend (qualify) this approach. In particular, maintaining existing character and amenity are not identified as grounds upon which to reduce the development potential allowed by the MDRS.

¹¹ Te Awamutu T6 Structure Plan Context Report Prepared for Waipa District Council 25 June 2020

The OWDP identifies 'character' as being a particularly important component of amenity. The plan describes character in terms of elements like:

- a low density, one to two storeys,
- buildings set back from road frontages to enable sufficient open space for the planting of trees and private gardens; and
- maintaining the mix of villa, cottage and bungalow type housing within the identified character clusters.

The MDRS introduced by the Housing Supply Act considerably expands development potential, unless a qualifying matter applies. The MDRS will likely see a substantial shift in amenity and character. While the new character that will emerge may not of itself be adverse, the process of redevelopment will see existing, value features no longer retained. Policy 6 of the NPS-UD states that when making planning decisions that affect urban environments, decision-makers must have particular regard to the fact that planned urban built form may involve significant changes to an area, and while those changes may detract from amenity values appreciated by some people (but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types), these changes are not, of themselves, an adverse effect.

While maintaining existing character is not a stated qualifying matter under the MDRS, it is a possible consideration under section 771 of the HSAA (which refers to 'other matters'). Having said that, any reduction in development potential enabled by the MDRS needs to be specifically justified in relation to the national importance of housing supply. In this context, Council has limited options to modify the MDRS. Modifications cannot be made on the basis of maintaining existing amenity across large areas of a town or city.

The plan has four types of 'character' areas:

- Character Streets
- Character Clusters
- Cambridge Residential Character Area
- Character Precinct.

The character areas identified by the district plan cover substantial areas of Cambridge.

Figure 18: Cambridge character areas



Character clusters cover small groups of buildings with notable and distinctive character. Policy 2.3.1.4 describes the methods to protect the character clusters, including avoiding new buildings and relocated buildings between the existing dwelling and the front boundary of the sites; while new buildings or relocated buildings must maintain similar style, form, building materials and colour to other dwellings within the cluster. The District Plan's Appendix DG1 - Character Cluster Statements – describes the qualities of the identified character clusters.

Within the Cambridge Residential Character Area, infill housing comprising two to six principal dwellings per site with a minimum net site area for each dwelling of 400m² is a discretionary activity. The assessment criteria are detailed under 21.1.2.27 and include maintaining or complementing the existing character and amenity. However, there is little justification for, or description of, the outcomes sought for the Cambridge Residential Character Area. The Character area covers a large area of residentially zoned land located from Victoria Street in the west through to Vogel/Hall Street, and Taylor Street to the north and Alpha Street in the south.

A number of streets are identified as character streets in the OWDP. A minimum building setback is specified for these streets of 6 metres (instead of the standard of 4 metres in the Residential zone). Policy 2.3.2.1 and 2 specifies building setbacks to maintain character streets and allow sufficient space for the establishment of gardens and mature trees (except in compact housing areas).

In addition to the residentially-focused character areas and clusters, there are a number of character precincts identified within the Commercial zones of Cambridge, Te Awamutu, Kihikihi, Ohaupo and Pirongia. Resource consent for a restricted discretionary activity is required for the construction, alteration and addition to buildings in these precincts, with assessments based on the character statements and guidelines in Appendix DG2 to DG6, including Appendix DG2-Central Cambridge Character Guidelines and DG3-Central Te Awamutu Character guidelines. The Cambridge Character Area DG2 applies to most of the Cambridge commercial area and is divided into 4 sub areas each with its own identifiable character. The guideline is mainly based on historical development, architectural style, historical function and streetscape character elements. The purpose of the design guide and consent process is to promote development that builds on the existing character.

The Character Precincts applying to the business area are not directly affected by the MDRS, but the NPS-UD has some influence on whether redevelopment should be made more permissive.

6.2.1 Retaining character areas

Retaining residential 'character areas', 'character streets' and/or 'character clusters' would have to be justified as an 'other matter' under Section 77H of the HSAA, and be subject to an evaluation that:

- identifies the specific characteristics that make the level of development provided by the MDRS inappropriate in the area; and
- justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and
- includes a site-specific analysis that:
 - identifies the site to which the matter relates; and

- evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
- evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A) while managing the specific characteristics.

To take forward this, specific analysis would be required of character areas as to their contribution to the identity and character of the settlement (rather than the amenity enjoyed by residents) and geographic extent of them – that is their cohesiveness.

It will be important to determine whether the qualities that the character areas seek to maintain relate to the built environment (types of housing, for example bungalows and villas), or the extent of open space, trees and vegetation around dwellings, for example.

Given that the District Plan identifies the specific qualities of the character clusters, and their spatial allocation is more limited than the character area, there is likely to be justification to retain a modified form of the character cluster.

Changes to the MDRS as they apply to character clusters may involve:

- Lower building height (2 storeys)
- Larger front yards
- More extensive landscape requirements
- Control over demolition / removal of existing dwellings
- New dwellings requiring resource consent.

In relation to the Cambridge Character Area, the qualities that this area seeks to manage would need to be better articulated if the MDRS are to be qualified. A street-by-street analysis would be required of common character elements. One option would be to focus on the public/private interface. For example, retaining the existing 4 to 6m front yard requirements, rather than the 1.5m front yard standard of the MDRS. This would be on the basis that a spacious front yard provides opportunities for substantial trees, which when combined with street trees and grass berms, helps to create high quality streetscapes.

For example, the following yard setbacks could apply:

- In the Cambridge Character Area - 4m
- State Highway / Hall Street – 7.5m
- Character Streets – 6m.

Whether the deeper front yard requirements and character clusters can be retained will require specific analysis of their contribution to the character and identity of the township and extent of development capacity foregone.

6.2.2 Additional Standards

The HSAA states that 'density' standards additional to the MDRS cannot be imposed. The density standards control the bulk and location of buildings on sites, unless a qualifying matter applies.

In subsection (1)(b)(iii) of 80DA of the HSAA, there is scope to add 'related provisions' to the required plan change. Related provisions include:

- district-wide matters
- earthworks
- fencing
- infrastructure
- qualifying matters identified in accordance with section 77G or 77L
- storm water management (including permeability and hydraulic neutrality)
- subdivision of land.

The residential zone of Waipā District contains a number of standards that are aimed at the quality of development, rather than the quantity of development on sites. In particular:

- front fences
- building length
- building set backs from natural features
- impervious area controls
- on site stormwater.

The following points are noted in relation to the potential to roll-over these additional standards and incorporate them into the MDRS.

Front fences

The control of the height of front fences directly relates to one of the policies of the MDRS, namely:

Policy 3: encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.

It would appear reasonable for the current front fence control to be rolled over into the new MDRS as the standard does not affect the density of development.

Building length

The Waipā District Plan has a building length control applying to internal boundaries. This control requires long building facades to be stepped, or visually relieved. Retention of this control could possibly be seen to be a density limiting standard, although compliance is not likely to result in

significant reduction in development potential. The standard only applies to building facades that exceed 23m in length.

It is recommended that building length be a matter that comes into play when 4 or more units are proposed on a site (that is, development is not covered by the MRDS).

Natural features

The OWDP has a number of setbacks applying to natural features. For example, there is the Cambridge Park Structure Plan building setback from an escarpment. A related standard covers interrelationships with streams. These standards should be able to be maintained (as they relate directly to qualifying matters).

Impervious area / on-site stormwater

Impervious area coverage was initially part of the MDRS Bill but was withdrawn through the submission process, with the Select Committee report noting that impervious area controls should be left to the relevant councils to determine.

The MDRS sets building coverage at 50%, with 20% minimum landscaped area. The landscape area only applies to a residential unit at ground floor level. The requirement is not applied to the site as a whole. The landscaped area may be formed by grass or plants and can include the canopy of trees regardless of the ground treatment below them. The standard means that up to 100% could be in hard surfaces (if trees are within planters or tubs)

An impervious area coverage standard could be introduced that sets a maximum impervious area of 70%, meaning at least 30% of the site would need to be in pervious area. This may assist with some stormwater outcomes and see more area retained in green elements.

In addition to impervious area coverage, the Council may also wish to look at on-site stormwater controls to limit the amount of additional stormwater run off from more intensively developed sites. This may be by way of rain tanks, permeable paving and constructed rain gardens.

6.3 Apartment zone

An option, in addition to the MDRS required by the HSAA, would be the introduction of a new, medium to high density residential zoning specifically aimed at mid-rise apartments. Medium density zoning is defined in the National Planning Standards as “areas used predominantly for residential activities with moderate concentration and bulk of buildings, such as detached, semi-detached and terraced housing, low-rise apartments, and other compatible activities”.

With the MDRS in place across residential zones, duplex and terrace housing developments are likely to become more common. In addition to the MDRS, the NPS-UD recognises the benefits of more intensity close to town centres. Even in the absence of the MDRS, consents have been granted for a number of apartment type developments in Cambridge and Te Awamutu, including apartment intensification in the residential zone. This indicates increasing interest and demand for this housing typology.

A new zone could specifically cater for mid-rise apartment developments, where 4 storeys are likely to be a more viable apartment building typology than the 3 storey format of the MDRS. The zone could be applied in the vicinity of town centres or larger areas of open space.

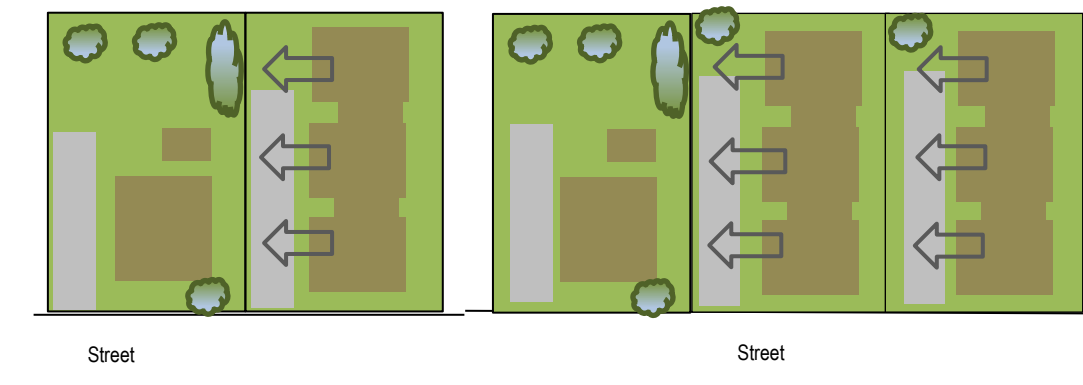
The NPS-UD refers to walkable catchments around town centres as being areas that are suitable for medium density development. Walkable catchments are typically defined on the basis of a 5 or 10 minute walk (roughly 400 or 800m in distance). In the case of Cambridge and Te Awamutu, it would be appropriate to apply the zone to areas within a 5 minute walk of the respective centres. As a starting point, the new zone could be applied to the existing Compact Housing overlay areas identified around Cambridge and Te Awamutu town centres.

In an apartment building environment, there is less reliance on density standards to manage character and amenity outcomes. That is, often no density standard applies. Instead, built form outcomes are driven by relevant built form standards and assessment matters. These tools lead to better outcomes than what can often arise from reliance on a blunt tool like a density standard.

A number of submissions on the MDRS contained in the HSAA Bill pointed out that the MDRS standards tend to reinforce a 'side on' form of infill development that may be acceptable when one to two storey development is involved in a terrace housing format. However, when three to four storey development is proposed and apartments are likely, then the standards may lead to greater impacts on neighbouring sites and poorer outcomes for future residents.

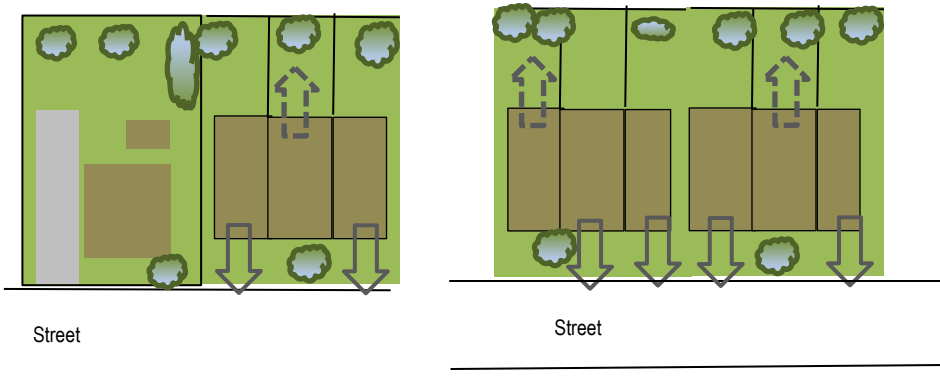
Initial stages of redevelopment may see new, taller development overlook rear yards of existing, lower density development. See Figure 19. Once replicated across a number of sites, this form of development tends to see new development look into the backs of recent developments on the next site and provides limited on-site space for trees and gardens.

Figure 19: Urban design issues - MDRS



An alternative form of development in an apartment zone involves allowing new buildings to span across more of the front of a site (from boundary to boundary), but with larger rear yards retained for trees and vegetation, as well as on-site open space. Outlook from the units is either towards the road, or the rear yard. See Figure 20.

Figure 20: Alternative outcome



This form of development provides a more sustainable long term living environment, but in the short term involves more disruption to neighbours as the development involves greater bulk at the front of adjoining sites.

On-site car parking and garaging is also more complex to manage, given orientation to the street.

Options to lessen these interim impacts include limiting the typology to sites with:

- wider road frontages, such as corner sites, or
- where sites are amalgamated, or
- locations on the fringes of the town centres and along busier main roads where the buildings can help form a transition between the town centre and the busy main road and adjacent residential neighbourhoods.

Possible standards in the revised approach to more compact housing could be as follows:

Table 9: Mid rise apartment zone

Standard	Proposed MDRS	Possible modification to accommodate mid-rise apartments
Building height	11m, plus 1m for roof variation	14m (allows for 4 storeys with higher stud heights – apartments generally have more generous floor to ceiling dimensions)
Height in relation to boundary	60° recession plane measured from a point 4 metres vertically above ground level	First 20m from frontage (as measured from road boundary): N/A Beyond 20m from frontage: 3m high at site boundary + 45°

Standard	Proposed MDRS	Possible modification to accommodate mid-rise apartments
Set backs	Front 1.5 metres Side 1 metre Rear 1 metre (excluded on corner sites)	Front – 4 metres No side yard for first 20m in from street boundary, then 1 metre Rear - 5metres
Building coverage	Maximum 50%	Maximum 50% Corner sites 60%
Outdoor living	20m ² with minimum dimension of 3m – ground floor. Upper floors - 8m ² balcony with minimum dimension of 1.8m	20m ² with minimum dimension of 3m – ground floor. Upper floors - 8m ² balcony with minimum dimension of 1.8m
Outlook	Principal living room - 4m x 4m All other habitable rooms – 1m x 1m	6m by 4m outlook (this reinforces orientation towards street or rear yards)
Windows to street	20% of the street-facing façade in glazing.	30% of the street-facing façade in glazing.
Landscaped area	Landscaped area of 20% of site	At least 50% of front yard landscaped One large tree per unit

While an ‘apartment building zone’ would be a significant step in terms of the current development patterns of Cambridge and Te Awamutu, the step up in density will not so ‘strong’ once the MDRS are in place.

6.4 Commercial areas

Business zoned areas are not directly affected by the MDRS but are relevant to considerations under the NPS-UD policies to promote and provide for residential intensification.

Residential accommodation in the Commercial zone is a permitted activity provided it is located above ground floor (except for the Cook Street/Shakespeare Street area that directly adjoins reserves along the Waikato River where residential activities at ground level are enabled when they meet specified criteria). Residential activities must have appropriate on site amenities and be able to manage the potential impact of locating near commercial activities. Within the Commercial zones there are a number of scheduled heritage buildings listed for protection in the OWDP and there are a number of character precincts identified within the Commercial zones of Cambridge, Te Awamutu, Kihikihi, Ohaupo and Pirongia. These buildings and precincts may reduce opportunities for new apartment buildings but may be suitable places for residential conversions.

The OWDP anticipates most new commercial development will be accommodated within the primary commercial centres of Cambridge and Te Awamutu. Extensive uptake of floorspace potential by residential activities may thwart some commercial activities (such as from higher rental pressures or reverse sensitivity concerns). Nevertheless, a stronger residential component can add vitality to central areas.

Some of the controls that apply to residential activities in commercial areas could be reviewed and potentially relaxed to make it easier to facilitate residential accommodation:

- controls such as the outdoor living courts may not be appropriate in commercial areas or compatible with character /heritage buildings. Reliance could instead be placed on an outlook control (an outlook control ensures that principle living areas have an exterior space that cannot be built out, retaining access to sunlight and daylight).
- the existing height limit of 14m (three storeys) is another control that could be relaxed in appropriate areas away from the main street and subject to other criteria such as being compatible with heritage and character values. Four storey development may provide more incentive to redevelop sites.
- the location of residential above ground floor has a sound basis, particularly in main pedestrian/ retail areas, but could be relaxed away from these areas and provided for as a restricted discretionary activity, for instance. This could include consideration of flexible ground floor spaces that could act as living or work areas (high stud heights, separate entrances to the street etc).

6.5 Summary

In considering options to better meet housing demands and improve housing supply and housing choice in Cambridge and Te Awamutu in line with the requirements of the NPS-UD and the HSAA, the following recommendations are made:

1. Review large lot zoning distribution and rezone as general residential large lot zones contiguous to urban areas where there are no environmental constraints, infrastructure can be provided, and significant capacity can be provided relatively close to services and activities. Growth cells T6 in Te Awamutu and C11 in Cambridge are the two most likely candidates for rezoning. Given current growth capacity, and infrastructure issues, both areas could be 'deferred' to post 2035.

2. Investigate the costs and benefits of retaining the Character Clusters identified in the district plan as a qualifying matter, with commensurate reduction in the MDRS standards relating to building height and density in these areas.
3. Look to retain the current front yard requirements as they apply to Character Streets and the Cambridge Character Area.
4. Retain and roll over existing 'environmental quality standards' – standards that do not alter density possible under the MDRS, but which help to manage the effects of development on the quality of the public realm and the natural environment, including front fence controls, stream setbacks and impervious area limits.
5. Look to introduce a '4 storey apartment building' zone around the 400m/5 minute walkable catchment of the town centres of Cambridge and Te Awamutu, potentially starting with the existing Compact Housing overlay areas.
6. Review controls on residential activities in commercial areas, including more flexibility when located away from the main street areas, such as additional building height and potential for residential at ground floor – such as flexible live /work spaces.

7 Urban Design Matters

This part of the report considers whether, in light of the NPS-UD, HSAA and possible rezonings outlined above, there would be benefit from the Council reviewing the district plan's approach to managing urban design outcomes.

It is generally held that an increase in urban density needs to be accompanied by an increased attention to urban design. As space between buildings shrinks, more effort needs to go into design to ensure appropriate outcomes in terms of street amenity, relationship to neighbouring sites and on-site amenity.

Currently, the Waipā District Plan provides for the consideration of a wide range of matters for the design of infill, compact and comprehensive housing.

With the introduction of the MDRS, a revised approach to urban design assessment is needed. This is because of the expanded 'baseline' created by the standards. Much development will be permitted (up to 3 units on a site). Urban design assessment will only come into play when:

- 4 or more units are proposed on a residential site
- One of the MDRS density standards is infringed.

In addition to the more limited role of urban design assessment, the focus of urban design assessment will need to shift from maintaining character, to effects on well-functioning urban areas.

7.1 Amenity values

Urban design is closely aligned with concepts of urban amenity. In areas subject to intensification, amenity values change. This is recognised by Policy 6 of the NPS-UD. This change does not mean that amenity values are downplayed, rather one set of amenity values is replaced with a different set. Well-functioning urban environments require a graduated response in terms of the design of the built environment.

As areas transition from a suburban to more built up areas, then the built environment elements that make up 'amenity' change. While there is no set, agreed list of urban design / built environment qualities, there are common themes. Urban design considerations can be broken down into three sets of effects that need attention. These are:

- 1) Effects on the street, wider public environment
- 2) Effects on neighbouring sites
- 3) Effects on on-site amenity.

The later set is justified as being a matter for consideration in district plans because of the potential for poor on-site amenity to spill over into effects on neighbouring sites or the wider environment.

These qualities / effects vary between suburban and urban contexts. Table 10 explores these variations.

Table 10: Urban design qualities

Qualities	More suburban	More urban
Street / public environment	<p>Streets framed by buildings set back with open areas between them (grass, trees, fences). Building facades of sufficient width to balance garages with active frontages.</p> <p>Private amenity makes significant contribution to street amenity.</p> <p>Reserves, streams often 'backed onto' by development with high fences</p>	<p>Continuous building frontages to streets, with less space between buildings. Buildings closer to street edges,</p> <p>Lots with narrower frontages mean inactive (blank) frontages can dominate.</p> <p>Greater articulation of street frontages required, along with control over inactive frontages (e.g. garages).</p> <p>More street trees, attention to street design.</p> <p>Reserves and streams fronted by roads and development – adding to amenity.</p>
Balance between open and built space	Buildings with open spaces between them (side and rear yards). Coverage around 30 to 40% of sites	Greater building coverage, smaller landscaped areas, courtyards, balconies provide open space.
Privacy between dwellings	Setbacks from boundaries, use of distance, fencing, landscaping to provide privacy, break direct views from adjoining sites	<p>Secure outlook from main living areas within site (outlook court) or across road or open space.</p> <p>Design of other windows to reduce overlooking such as high sill heights.</p>
Scale (height)	Uniform height (predominantly one to two storey)	Varied, but with transitions (stepping up and down). Variations between mid-block and corners, front and rear sites, main roads and local roads.
Outdoor open space	Large lawn areas / decks	Smaller courtyards, balconies
Neighbourhood	Mostly residential with some community-based activities (schools, places of worship)	More mixed uses, smaller scale workplaces and convenience shops

The current district plan manages urban design issues through a mix of development standards and assessment matters. The assessment matters are set out in Boxes 1 and 2 in Attachment One. These are comprehensive but require amendment to reflect the focus of the NPS-UD on the quality and functionality of the future built environment, rather than the maintenance of existing suburban character.

7.2 Assessment matters: four or more dwellings on a site

The HSAA permits 3 dwellings on a site subject to the MDRS. The District Plan can determine the activity status of developments of more than 3 units and what assessment matters apply.

Various District Plans contain a range of assessment matters for more intensive forms of housing. A range of recent plans and reports have been reviewed as to relevant matters covered, including:

- Auckland Unitary Plan
- Wellington City: Planning for Residential Amenity, Wellington District Plan review, July 2021
- Tauranga City, Plan Change 26, Residential Outcomes Framework.

Assessment matters should assist with the application of relevant policies, they are not a substitute for appropriately worded policies. The MDRS contain the following three policies which must be incorporated into the district plan:

- Policy 3: encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance;
- Policy 4: enable housing to be designed to meet the day-to-day needs of residents;
- Policy 5: provide for developments not meeting permitted activity status, while encouraging high-quality developments.

These policies are helpful but could be refined and extended so that they cover the three sets of effects outlined. For example:

Table 11: Urban design effects -policies

Effects	Policy
Street environment	Support attractive and safe street environments through the design of development including appropriate building set-backs, placement of site vehicle entrances, visibility of building entrances from the street, extent of glazing, façade modulation and landscaping.

Effects	Policy
Neighbours	Require the height, bulk and location of development to maintain a reasonable standard of sunlight access and privacy and to minimise visual dominance effects to adjoining sites.
Occupiers (on-site)	Ensure development delivers private outlook and functional outdoor living opportunities for occupiers and minimises overlooking of units within the same site.

The following is a suggested set of assessment matters, organised around the three themes of:

- Effects on public realm
- Effect on adjacent sites
- Effects on on-site amenity.

Effects on street / public environment

Public Realm Interface

The extent to which the development contributes to a safe and attractive public realm by:

- (i) Establishing a built form and façade design that is varied and interesting when viewed from the road and public places;
- (ii) Breaking up the bulk and mass of buildings to avoid overly dominant and blank facades;
- (iii) Providing a clearly visible pedestrian entrance from the road frontage;
- (iv) Minimising the visual dominance of garaging from the streetscape;
- (v) Optimising front yard landscaping;
- (vi) Avoiding high fences and blank facades adjacent to open space areas and stream corridors.

Movement Networks

The extent to which the development provides clear, convenient and safe access links to and from the site by:

- (i) Ensuring that where off-street parking is provided, it is clearly identifiable and is readily accessible to the dwelling units it services and to the transport network; and
- (ii) Locating vehicle access points to ensure the safety of all road users and the safe and efficient function of the adjacent transport network;
- (iii) Providing clear, convenient and safe pedestrian links through the site to facilitate access to movement networks, communal areas and areas of open space;
- (iv) Managing vehicle speed to provide a safe environment for walking and cycling;
- (v) Providing cycle access and storage space that is efficient, safe and attractive.

Public Safety and Security

The extent to which the development creates safe streets and public spaces by:

- (i) Providing passive surveillance of streets, parks and public walkways through placement of doors, windows and/or balconies facing the street and public open space
- (ii) Ensuring sight lines are not inhibited, and entrapment areas are not created, by fences or landscaping;
- (iii) Clearly delineating public, private and communal private on-site spaces;
- (iv) Locating communal open spaces and carparking (where relevant) so they are overlooked by adjoining independent dwelling units or the public realm.

Effects on amenity of adjacent sites

The extent to which the development does not significantly reduce amenity on adjacent sites by:

- (i) Ensuring the built form does not unreasonably impact sunlight access on adjoining dwellings and in particular their outdoor living areas;
- (ii) Offsetting windows to avoid direct line of sight between indoor and outdoor living areas of adjacent dwelling units;
- (iii) Locating vehicle access, waste management areas and service areas to minimise acoustic effects on adjacent dwelling units;
- (iv) Orientating and screening windows and balconies on upper levels to limit direct overlooking of adjacent independent dwelling units and their outdoor living areas;
- (v) Long, unrelieved building facades should be avoided through modulation of facades, using a variety of building cladding and set backs.

Effects on On-site amenity

The extent to which the development delivers functional on-site amenity by:

- (i) Providing privacy between dwelling units and buildings within the site by carefully positioning balconies or decks to avoid overlooking;
- (ii) When provided at ground level, on site open spaces are located on generally flat land or is otherwise functional, and screened from adjacent outdoor living areas;
- (iii) Ensuring communal on-site outdoor areas (where proposed) are safe, accessible to all abilities, adjoin main circulation routes through the site, and provide a level of amenity that is appropriate for its scale;
- (iv) Orientate and locate windows to encourage natural cross ventilation within the dwelling.

Landscaping

The extent to which site landscaping, including hard and soft elements, are designed and located to enhance amenity on and off the site by:

- i) Assisting to provide privacy between dwelling units and their indoor and outdoor living areas;
- ii) Providing an attractive outlook from dwelling units;

- iii) Providing for winter sun and summer shade;
- iv) Contributing to moderating the scale of large buildings;
- v) Providing lighting on larger developments that contributes to way finding, safety and security on the site.

Service Areas

The extent to which the development provides secure and conveniently accessible storage for the number of dwelling units

- (i) Waste management areas should be:
- (ii) Easily accessible from the independent dwelling units it services;
- (iii) Integrated into the design of the buildings and are not visually dominant when viewed from neighbouring independent dwelling units;
- (iv) Located and designed to allow bins to be moved to waste collection points as conveniently and efficiently as possible. This should not require bins to be transported through independent dwelling units or across unpaved surfaces, stairs or steep gradients.

7.3 Infringement of density standards

The HSAA does not provide any detailed guidance on how applications to infringe the listed MDRS standards should be considered.

The Act requires a restricted discretionary activity application for the construction and use of 1 or more residential units on a site if they do not comply with the building density standards in the district plan. Such applications are not to be publicly notified (but may be limited notified).

As a restricted discretionary activity, the plan will need to state the matters of discretion and may provide assessment matters.

Relevant to the consideration of infringements of the standards is Policy 5 of the Housing Supply Act: *provide for developments not meeting permitted activity status, while encouraging high-quality developments.*

The following table (Table 12) lists the MDRS and possible matters of discretion.

Table 12: Matters for discretion – exceeding standards

Standard	MDRS	Possible matters of discretion if MDRS exceeded
Building height	11m, plus 1m for roof variation	Visual dominance, overlooking, loss of privacy of adjoining sites Reasonable standard of residential amenity for adjoining sites Effects on neighbourhood character

Standard	MDRS	Possible matters of discretion if MDRS exceeded
Height in relation to boundary	60° recession plane measured from a point 4 metres vertically above ground level	Sunlight access to buildings and outdoor living areas, daylight access to dwellings, privacy of adjoining sites
Set backs	Front 1.5 metres Side 1 metre Rear 1 metre (excluded on corner sites)	Maintaining quality street environments Maintain a reasonable standard of residential amenity for adjoining sites;
Building coverage	Maximum 50%	Balance between built and open space on a site and across a neighbourhood
Outdoor living	20m ² with minimum dimension of 3m – ground floor. Upper floors - 8m ² balcony with minimum dimension of 1.8m	On site amenity
Outlook	Principal living room - 4m x 4m All other habitable rooms – 1m x 1m	Privacy between units on adjoining sites
Windows to street	20% of the street-facing façade in glazing.	Street environment
Landscaped area	Landscaped area of 20% of site	Neighbourhood amenity

8 Covenants

This section reviews whether it is possible for the district plan to address the adverse effects of private covenants on intensification options and their contribution to housing unaffordability.

8.1 Background

Many new subdivisions include land covenants which are registered against the titles created. These covenants are effectively private rules that the landowner must abide by. The covenants may cover what building materials may be used, if sections can remain vacant and sometimes, minimum floor areas of residences.

These covenants are often used to provide some certainty to purchasers as to what type of housing may occur on nearby vacant sections. This is particularly so in the early stages of a development. Covenants restricting what can be built in the development can give purchasers confidence that their neighbours' activities will not detract from their own property values.

Unless otherwise stipulated, covenants will remain upon a certificate of title and will continue to bind prospective owners in perpetuity. A covenant can normally only be removed with the consent of the landowner(s) having the benefit of the covenant. Where covenants are registered over a large number of titles, any attempt to vary or discharge a covenant requires the consent of the owners of all affected titles. However, it is reported that it is more common now to see a date (say 10 years) after which certain covenants will no longer apply.

Restrictive covenants may have the consequence of making housing less affordable (for example due to the types of materials to be used) and may limit future redevelopment options.

The nature and extent of private covenants in Waipā is unknown. Also unknown is the extent to which covenants are enforced, especially once development of a subdivision is completed. Enforcement of a restrictive covenant generally involves a neighbour (or perhaps neighbourhood associated) taking action.

Processes to enforce a breach will largely depend on what is written in each individual covenant instrument. Common practice is to give written notice to the party breaching the covenant, specifying the breach, the work to be undertaken, whether contractors or workmen need to enter the land to remedy the breach, and the consequences that will follow should the notice not be adhered to.

Under section 310 of the Property Law Act 2007, the affected party will have 15 working days to respond to the notice. If they do not respond in this timeframe, then it can be treated as them agreeing with what was written.

Should the dispute not be resolved, an application can be made to the court for resolution.

8.2 Previous investigations

The New Zealand Productivity Commission¹² in its inquiry into Land for Housing noted that:

- covenants established in new subdivisions are increasingly common and impose detailed restrictions on purchasers.
- covenants reduce the flexibility of use of land now and in the future and increase the cost of constructing dwellings.
- covenants provide a number of benefits, including encouraging development by reducing risks for buyers and sellers, and allowing landowners to set rules and conditions that reflect their preferences. Regulatory controls on covenants should reflect both the costs and benefits of covenants.

The Commission recommended (R5.12) that the Ministries of Justice and of Business, Innovation and Employment should review the legislative provisions governing covenants with a view to:

- reducing the proportion of landowners required to agree to covenant changes from all to a super-majority; and
- introducing a statutory sunset period on restrictive covenants of 25–30 years.

The Government response agreed that covenants can constrain land use and prevent redevelopment that might otherwise occur. The need for unanimous approval of all covenanters means that covenants can be unresponsive to changes in land use over time. Even where a change in use is in the interests of most parties there can be hold outs. The Government has directed officials to identify the scope of the problem and to consider the merits of a sunset clause, allowing change by super-majority, and other mechanisms that ensure covenants do not unreasonably inhibit the provision of housing. However, no progress appears to have been made on this issue.

The repealed 2008 Affordable Housing Enabling Territorial Act, section 30, provided some private covenants are void:

(1) A covenant over land is void if one of its purposes is to stop the provision of affordable housing or social housing on the land.

(2) Without limiting the covenants that are void under subsection (1), covenants to the following effect are void:

(a) a covenant that the transferee will not directly or indirectly convey the land to Housing New Zealand Corporation, any other central or local government body, or a private body that may facilitate the occupation of housing on the land by persons selected by the corporation or the body:

(b) a covenant that the transferee will not directly or indirectly convey the land to Housing New Zealand Corporation, a subsidiary company of Housing New Zealand Corporation, any other central or local government body, or a private body that provides housing to tenants on a subsidised basis:

¹² <https://www.productivity.govt.nz/assets/Documents/6a110935ad/using-land-for-housing-final-report-v2.pdf>

(c) a covenant that the transferee will not directly or indirectly convey the land to a central or local government body or a private body for the purposes of public or institutional housing.

8.3 Current remedies

Currently, the main avenue for an individual property owner to remove or amend a private covenant is via an application to the district court. Section 317 of the Property Law Act 2007 allows for a court to extinguish or modify an easement or covenant registered on the title for one or more parcels of land. Section 317 sets out a range of circumstances as to when a covenant may be removed or modified. Zoning and district plan changes may be one reason to modify a covenant.

In a recent decision¹³, the Supreme Court noted that there was some dispute about the relevance of zoning changes in this context. The court noted that recent High Court decisions supported the proposition that zoning changes may be relevant under s 317. In the particular case considered by the Supreme Court, the court held that s317(1)(a)(ii) – that the covenant ought to be modified because of a change in the character of the neighbourhood – was relevant due to zoning changes affecting the land subject to the covenant. Similarly, the Court considered that the ground in s317(1)(b) – continuation in force of the covenant would impede the reasonable use of the burdened land in a different way, or to a different extent, from that which could reasonably have been foreseen when the covenant was created – was also relevant. The zoning changes that have occurred in area subject to the case were not reasonably foreseeable when the covenants were entered into.

8.4 Other planning documents

There is no clear authority for an RMA document to overrule a private covenant. The RMA may impose covenants as methods to promote sustainable management (consent notices are a type of covenant/encumbrance on a Title). Consent notice conditions imposed by a Council can be changed or cancelled (by the site owner) by making an application under s221(3) of the Resource Management Act (RMA). However, that power to modify or cancel consent notices would not extend to private covenants

In Australia, relevant planning legislation provides scope for local plans to modify private covenants. For example, Section 3.16 of the New South Wales Environmental Planning and Assessment Act 1979 enables environmental planning instruments to override restrictive covenants where development is to be carried out in accordance with Part 4 of the Act. It relevantly provides:

Suspension of laws etc by environmental planning instruments

(cf previous s 28)

¹³SYNLAIT MILK LTD v NEW ZEALAND INDUSTRIAL PARK LTD (SC 50/2019) [2020] NZSC 157 <https://www.courtsofnz.govt.nz/assets/cases/SC-50-2019-Synlait-press-release.pdf>

(1) In this section, regulatory instrument means any Act (other than this Act), rule, regulation, by-law, ordinance, proclamation, agreement, covenant or instrument by or under whatever authority made.

(2) For the purpose of enabling development to be carried out in accordance with an environmental planning instrument or in accordance with a consent granted under this Act, an environmental planning instrument may provide that, to the extent necessary to serve that purpose, a regulatory instrument specified in that environmental planning instrument shall not apply to any such development or shall apply subject to the modifications specified in that environmental planning instrument.

The grounds upon which covenants may be overridden is detailed in local plans. For example, the City of Sydney Local Environmental Plan 2012 sets out the following:

1.9A Suspension of covenants, agreements and instruments

(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

(2) This clause does not apply—

(a) to a covenant imposed by the Council or that the Council requires to be imposed, or

(b) to any relevant instrument within the meaning of section 13.4 of the Crown Land Management Act 2016, or

(c) to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or

(d) to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or

(e) to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or

(f) to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or

(g) to any planning agreement within the meaning of Subdivision 2 of Division 7.1 of the Act, or

(h) to land in Central Sydney.

In other words, local Councils in Australia have the power to set aside a covenant, with a covenant rendered null and of no effect if Council lawfully approves a development which is contrary to the covenant. Moreover, if the Council didn't ask the developer to create the covenant, the developer (or other landowners subject to the same covenant) can't insist that it be complied with on contractual grounds.

8.5 NPS-UD and HSAA

The NPS-UD makes no mention of the potential for private covenants to thwart the up-zoning sought by the Statement.

Qualifying factors do not include the presence of restrictive covenants.

In order to be sufficient to meet expected demand for housing, the development capacity must be plan-enabled (see clause 3.4(1)); infrastructure-ready (see clause 3.4(3)); and feasible and reasonably expected to be realised (see clause 3.26).

Clause 3.26 does refer to an estimate of the number of feasible dwellings or sites, and the proportion of these that can reasonably be expected to be developed in the short, medium and long term, using information about landowner and developer intentions. The presence of covenants may affect these calculations.

8.6 Way forward

It is unlikely that the RMA would provide scope for similar rules to NSW to be introduced into district plans without specific authorisation in legislation. It is unlikely that the proposed replacement Natural and Built Environment Act will provide legislative support. The Council could advocate that some powers be included in the Act to allow for reconsideration of covenants upon substantial zone changes.

Attachment 1: Current Assessment Criteria

Box 1: OPD assessment criteria – infill

In-fill housing comprising three to six principal dwellings

(a) The degree to which the in-fill housing development is of an appearance, character, bulk and location and design (including colour and materials), that complements the character and amenity of the neighbourhood it is proposed to be located in.

(b) The adequacy of the servicing proposed for the development.

(c) The extent to which the site is suitable for the development.

(d) The extent to which the proposed lot size, shape and configuration will result in a development which provides adequate space for manoeuvring, access and required services and the anticipated level of amenity, particularly in relation to outdoor living and access to sunlight.

(e) The extent to which the development will have an effect on heritage values and archaeology in particular the heritage items listed in Appendix N1 of the Plan.

(f) The extent to which the in-fill housing development achieves the following:

(i) A building design that addresses the road with sufficient glazing to provide opportunities for passive surveillance. Front units should face the road. Accessory buildings including attached garages should be clearly recessive from the road boundary and setback further from any dwelling(s) on the site; and

(ii) A landscaped road boundary setback that is not dominated by vehicle access and manoeuvring space; and

(iv) Provision of passive surveillance to the road and public places; and

(v) Sufficient area on each site to meet the outdoor living needs of each dwelling and for parking (if provided) and vehicle manoeuvring; and (v) Landscaping within the development including the retention of existing trees; and (vi) Mitigates any adverse effects on adjoining sites, in particular, whether the in-fill housing development compromises access to sunlight or privacy.

(g) In circumstances where existing buildings on the site will be retained the following matters also apply:

(i) Whether any existing building(s) on the site will be altered to complement the design of the in-fill housing development; and

(ii) Whether the in-fill housing development results in vehicle access and manoeuvring difficulties for existing dwellings; and

(iii) Whether on-site amenity and privacy is able to be provided for.

Box 2 OPD assessment criteria – compact housing

Compact housing with seven or more dwellings per site located within the Compact Housing Overlay identified on the Planning Maps.

(a) Building design including:

- (i) The extent to which solar potential and good solar aspect is optimized within the development; and
- (ii) Colours; and
- (iii) The materials to be used and how they are to be repeated within the development; and
- (iv) Detail of roof pitches; and
- (v) Details of doorways and the provision of shelter for visitors; and
- (vi) Windows, revetment, balconies and recesses; and
- (vii) Garaging to create visual continuity and cohesion and reflect a residential character; and
- (viii) Whether designs avoid monolithic walls in favour of designs that incorporate smaller scale building elements to promote feelings of interest and diversity.

(b) Visually permeable fences and glazing of façades that provide for surveillance from the dwelling to the street and other public places such as walkways and reserves.

(c) Integration with neighbouring residential development that is responsive to local character in terms of its façade treatment, including building proportions, detailing, materials and landscape treatment.

(d) Outdoor living spaces for independent living units that are private and have good access to sunlight in midwinter and/or have access to a range of communal landscaped outdoor areas that are orientated such that they have good solar aspect.

(e) The location of outdoor storage areas and rubbish and recycling compounds such that the appearance from the street is not adversely affected and on-site amenity, such as the provision of outdoor living spaces is not compromised.

(f) The design of the road boundary setback:

- (i) Street definition - the extent to which units as opposed to garages orient and face the street creating a strong interface between the public and private domains. Designs need to avoid street frontages that are dominated by garages and outdoor storage areas; and
- (ii) Landscaping - the type and nature of the landscaping both within the front yard setback and throughout the development so that it contributes both to the neighbourhood and to on-site amenity; and

(iii) Access way design - the width and proportion of the frontage as well as the landscaping and the materials to be used.

(g) The provision of connections to public walkways/cycleways and the road network.

(h) Open space character including on-site landscaping, retention of mature trees, provision of shared driveways.

(i) Adequate vehicle parking (excluding consideration of the number of parking spaces for cars) and the provision of safe vehicle entrances for pedestrians and vehicles, car parking and manoeuvring and vehicle access to rubbish and recycling compounds, access for emergency vehicles.

(j) The provision of lighting for amenity and crime prevention without being a nuisance to residents.

(k) The extent of effects on the surrounding road network including the function of intersections.

(l) Aural privacy including the noise levels anticipated from onsite and adjacent land uses and the provision of acoustic treatment.

(m) The adequacy of on-site stormwater disposal methods.

(n) The benefits provided to residents from communal facilities being provided on site.

(o) The extent to which compact housing development within the C1 and C2 / C3 structure plan areas:

- (i) Includes 'universal access' design principles within design, maximising accessibility for all users.
- (ii) Provides an internal movement network layout that is legible and enables good connectivity.
- (iii) Maximises safety for pedestrians, by:
 - a. Providing dedicated pedestrian access to dwellings and areas of communal open space, demarcated through materials, colours and/or texture
 - b. Minimises the need for vehicular backing manoeuvres where site size and layout allows, by providing safe turning areas
- (iv) Facilitates an internal movement network that provides for dedicated vehicle access to each dwelling, such as may include:
 - a. Using rear lanes where vehicle access off a public street is difficult or compromises pedestrian and visual amenity
 - b. Providing shared vehicular access layout for larger developments.
- (v) Uses surface treatments to clearly demarcate vehicular entrances.
- (vi) Takes into account safety and accessibility if visitor car parking is provided within the development.
- (vii) Provides clearly visible main pedestrian entries from the street or lane to each dwelling at ground floor level.
- (viii) Maximises the visual relationship between dwellings and adjacent streets, lanes and public open spaces, through provision of windows and balconies at upper levels.

- (ix) Minimises the number of dwellings with internal and outdoor living areas oriented to the south.
- (x) Dwellings are designed to provide private outdoor areas adjacent to living areas.
- (xi)) Orients windows to maximise daylight and outlook, without compromising dwelling privacy or the privacy of neighbouring dwellings. (xii) Provides adequate storage space for each residential unit, including for larger items such as bicycles and outdoor equipment.
- (xii) For apartment style developments, provides communal open spaces with edges that are activated or overlooked by adjacent streets, lanes or dwellings.
- (xiii) Integrates proposed communal open spaces with the development's wider pedestrian network.
- (xiv) Compatibility of the proposed development with the existing and likely future surrounding environment including the residential density (minimum and maximum) of the development.