



**Western
Bay of Plenty**
District Council



tātou takiwā For our District

Plan Change 92
Ōmōkoroa and
Te Puke Enabling
Housing Supply
and Other
Supporting Matters

Addendum Report
(Qualifying Matters) to
Section 32 Evaluation Report
5 September 2022

Introduction

Council may make the Medium Density Residential Standards (MDRS) and relevant building height or density requirements under Policy 3 of the National Policy Statement on Urban development 2020 (NPS-UD) less enabling of development only to the extent necessary to accommodate 1 or more qualifying matters as set out in section 77I of the RMA.

Qualifying matters are listed in 77I as:

- a) a matter of national importance that decision makers are required to recognise and provide for under section 6:
- b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:
- c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:
- d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008:
- e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:
- f) open space provided for public use, but only in relation to land that is open space:
- g) 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:
- h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:
- i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:
- j) any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied.

Purpose

Section 2.5.3 of Council's s32 report recognises the requirements relating to the inclusion of qualifying matters in implementing the intensification requirements of the MDRS in relevant residential zones. Following notification it has become apparent that while Council had intended the existing qualifying matters to be treated as existing qualifying matters, because they were not described using that terminology in the IPI there may be some confusion. The purpose of this addendum document to Council's earlier s32 analysis is to clarify Council's intention, through changing the Operative District Plan to incorporate the MDRS and to give effect to Policy 3, that existing qualifying matters (with reference to section 77I(a) to (i)) will continue to be operative and apply even where the MDRS apply to relevant residential zones. In addition to this, where more up to date investigation and analysis of the existing qualifying matters has been evaluated and included within the s32 report on matters such as natural hazards, it is intended these proposed qualifying matters will also apply in these relevant residential zones but with no immediate legal effect at notification.

This addendum to the s32 report seeks to provide further assessment and detail to confirm this intention and offer greater clarity on the existing and proposed qualifying matters included within the IPI.

This addendum to the s32 report provides an assessment and evaluation of:

- existing qualifying matters in accordance with section 77K of the RMA;
- proposed qualifying matters in accordance with section 77J of the RMA.

Existing Qualifying Matters

The existing qualifying matters are summarised as follows:

Operative District Plan Provision	Qualifying matter
Section 5 – Natural Environment	771(a) a matter of national importance that decision makers are required to recognise and provide for under section 6(c) being the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
Section 6 – Landscape	771(a) & 771(b) a matter of national importance that decision makers are required to recognise and provide for under section 6(b) being the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development; and a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010
Section 7 – Historic Heritage	771(a) a matter of national importance that decision makers are required to recognise and provide for under section 6(e) being the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and section 6(f) being the protection of historic heritage from inappropriate subdivision, use, and development

Section 8 – Natural Hazards	771(a) & 771(b) a matter of national importance that decision makers are required to recognise and provide for under section 6(h) being the management of significant risks from natural hazards; and a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010 (with respect to Coastal Hazards)
Section 10 – Infrastructure, Network Utilities and Designations	771(g) 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
Section 12 – Subdivision and Development <ul style="list-style-type: none"> • Proposed Esplanade Reserves, Esplanade Strips and Access Strips 	771(a) a matter of national importance that decision makers are required to recognise and provide for under section 6(a) being the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development and section 6(d) being the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers
Section 13 – residential & 14 – Medium Density Residential Yards – rail corridors	771(e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure

Requirements in relation to evaluation report – Section 77K RMA

Assessment **Table 1** provides an evaluation of the **existing qualifying matters** in accordance with the requirements of section 77K of the RMA for qualifying matters identified in Section 77I(a)-(i) of the RMA. An assessment for each qualifying matter is required, covering the following:

- a) identify by location (for example, by mapping) where an existing qualifying matter applies:
- b) specify the alternative density standards proposed for those areas identified under paragraph (a):
- c) identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to those areas identified under paragraph (a):
- d) describe in general terms for a typical site in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS:
- e) notify the existing qualifying matters in the IPI.

Alternative process for existing qualifying matters – Section 77K RMA

Table 1 - Evaluation of existing qualifying matters under section 77I(a) to (i) in accordance with Section 77K					
District Plan Section Appendix Map	Provision	Location (s77K(a))	Alternative density standard (s77K(b))	Applicable existing qualifying matter (s77K(c))	Level of development prevented compared to the MDRS (s77K(d))
Section 5 (Natural Environment) and Appendix 1 (Schedule of Identified Significant Ecological Features)	<p>5.4.2(h) (Restricted Discretionary Activity)</p> <p><i>Dwellings and accessory buildings including minor dwellings and accessory buildings.</i></p> <p>Appendix 1 - Schedule of Identified Significant Ecological Features.</p>	<p>Appendix 1 of the District Plan and the planning maps identify the 'Identified Significant Ecological Features' which are protected by 5.4.2 (h).</p> <p>The number of these features within Ōmokoroa is limited and mainly confined to harbour edges.</p>	No residential unit will be a permitted activity within a 'Significant Ecological Feature'.	Qualifying matter as the protection of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(c)).	In the instance of an identified Significant Ecological Feature within a Medium Density zone (Ōmokoroa) a proposed residential unit would require resource consent. These may be approved by resource consent subject to appropriate mitigation measures to protect the

		There are no 'Identified Significant Ecological Features' within Te Puke.			ecological feature. The number of these features within Ōmokoroa is limited and mainly confined to harbour edges where very few opportunities for further residential units would be affected.
Section 6 (Landscape) and Appendix 2 – Schedule of Identified Outstanding Landscape Features	6.4.3.1 (b) (Restricted Discretionary Activity) <i>Buildings/structures excluding the Matakana Island Open Coast (S25)</i> Appendix 2 - Schedule of Identified Outstanding Landscape Features	Appendix 2 of the District Plan and the planning maps identify the 'Identified Outstanding Landscape Features' which are protected by 6.4.3.1 (b). The number of these features within Ōmokoroa is limited and	No residential unit will be a permitted activity within an 'Outstanding Landscape Feature'.	Qualifying matter as the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(b)).	In the instance of an identified Outstanding Landscape Feature within a Medium Density zone (Ōmokoroa) a proposed residential unit would require resource consent. These may be approved by resource consent subject to

		<p>mainly confined to harbour edges.</p> <p>There are no 'Identified Outstanding Landscape Features' within Te Puke.</p>			<p>appropriate mitigation measures to protect the landscape feature. The number of these features within Ōmokoroa is limited and mainly confined to harbour edges where very few opportunities for further residential units would be affected.</p>
<p>Section 7 (Historic Heritage) and Appendix 3 – Schedule of Identified Significant Historic Heritage Features</p>	<p>7.3.1 (a) (Permitted Activity)</p> <p><i>Routine maintenance, restoration or repair to the exterior of any scheduled building or object to the same design as and using the same or equivalent materials and appearance to those originally used.</i></p>	<p>Appendix 3 of the District Plan and the planning maps identify the 'Identified Significant Historic Heritage Features' which are protected by the rules in Section 7.</p>	<p>No external alterations to residential units will be permitted unless they comply with the permitted standards in Section 7 and do not require resource consent</p>	<p>Qualifying matter as the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, and the protection of historic heritage</p>	<p>In the instance of an identified Historic Heritage Feature (built) within a Medium Density zone (Ōmokoroa and Te Puke) any external alteration to an existing residential unit would require</p>

	<p>7.3.2 (a) (Controlled Activity)</p> <p><i>External alterations and additions to Category B scheduled buildings not complying with 7.3.1.a.</i></p> <p>7.3.3 (a) (Discretionary Activity)</p> <p><i>Relocation of scheduled buildings and objects (not including scheduled trees).</i></p> <p>7.3.3 (a) (Discretionary Activity)</p> <p><i>Relocation of scheduled buildings and objects (not including scheduled trees).</i></p> <p>7.3.3 (b) (Discretionary Activity)</p> <p><i>External alterations and additions to Category A scheduled buildings not complying with 7.3.1.a.</i></p>		<p>under other rules in Section 7.</p> <p>Residential units will require resource consent if they are to alter or reconstruct a cultural heritage feature.</p>	<p>from inappropriate subdivision, use, and development, are both matters of national importance (RMA Amendment Act s771(a)) (RMA s6(e)(f)).</p>	<p>resource consent if not routine maintenance, restoration or repair. This would prevent a limited number of existing residential units from being able to proceed as a permitted activity in accordance with the density standards.</p> <p>In the instance of an identified Historic Heritage Feature (cultural) within a Medium Density zone (Ōmokoroa), any new or existing residential unit would require resource consent if it was to alter or reconstruct a</p>
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	<p>7.3.3 (e) (Discretionary Activity)</p> <p><i>Alteration or reconstruction of any scheduled cultural heritage feature or excavation, construction, or any other work on or within a 20m radius of any scheduled cultural heritage feature including the use of heavy machinery and the planting of trees on or adjoining any scheduled cultural heritage feature. Land for which historic heritage issues have already been assessed and consent granted shall be exempt from this rule.</i></p> <p>7.3.3 (g) (Discretionary Activity)</p> <p><i>Alteration, reconstruction or removal of, or excavation, construction or any other work on, any part of a built heritage feature which</i></p>				<p>cultural heritage feature. The number of these features within Ōmokoroa is limited and confined to reserve land where residential units are unlikely to be proposed.</p>
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	<i>is not a building/structure or similar but which has been identified as contributing to the significance of that feature.</i>				
Section 8 (Natural Hazards)	<p>8.3.3 (c) (i) (Restricted Discretionary Activity)</p> <p><i>Floodable Areas and Coastal Inundation Areas - Buildings/Structures not within an Approved Building Site - Natural Hazards</i></p> <p>8.3.4 (d) (i) (Discretionary Activity)</p> <p><i>Stability Areas - Landslip and General Buildings/Structures not within an Approved Building Site - Natural Hazards</i></p>	<p>The planning maps identify existing natural hazards maps for flooding (Ōmokoroa and Te Puke) and stability areas – landslide and general (Ōmokoroa only).</p> <p>Also see Figure 10 (p48) and Figure 28 (p90) of the s32 report for the Omokoroa and Te Puke Natural Hazards Maps.</p>	<p>No residential unit will be a permitted activity within a natural hazard except where buildings / structures are in an approved building site or where evidence established that the flooding maps are incorrect.</p>	<p>Qualifying matter as the management of significant risks from natural hazard is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(h)).</p>	<p>In the instance of an identified natural hazard (flooding) within a Medium Density zone (Ōmokoroa and Te Puke) a proposed residential unit would require resource consent. These may be approved by resource consent subject to appropriate mitigation measures to protect people and buildings from the natural hazard. Floodable areas</p>

					<p>are mostly identified in lower-lying areas where residential units have generally been avoided. However, where there are existing residential units, or new units proposed, this would prevent these from being able to proceed as a permitted activity in accordance with the density standards.</p> <p>In the instance of an identified natural hazard (stability) within a Medium Density zone (Ōmokoroa only) a proposed residential unit</p>
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					<p>would require resource consent. These may be approved by resource consent subject to appropriate mitigation measures to protect people and buildings from the natural hazard. Stability areas are mostly identified in cliff and gully areas where land is either reserves or residential units have generally been avoided. However, where there are existing residential units, or new units proposed, this would prevent these from being able to proceed as</p>
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					a permitted activity in accordance with the density standards.
Section 10 Infrastructure, Network Utilities and Designations & Appendix 5 - Schedule of Designations	Designations	Multiple Designations within Ōmokoroa and Te Puke as shown on the Operative Plan maps and within Appendix 5 - Schedule of Designations.	The use of a designated site allows development to proceed for purposes that the approved Notice of Requirement provide for. Residential units would require the approval of a requiring authority to establish on a designated site.	Qualifying matter as needed to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order RMA Amendment Act s77(g)	The effect of designating land is to authorise the use of that land for a particular work/s (e.g. school, police station, electricity <i>substati on</i> , infrastructural services). Residential units would require the approval of the relevant requiring authority to establish on a designated site.

<p>Existing Reserves and Open Spaces within relevant Residential Zones in Ōmokoroa and Te Puke Urban areas * see s32 report assessment pg 170</p>					
<p>Sections 13 & 14 – Residential and Medium Density Residential * see s32 report assessment pg 167</p>					
<p>Section 13 – Residential * see s32 report assessment pg 91</p>					

Proposed Qualifying Matters

The proposed qualifying matters are summarised as follows

Amended District Plan Provisions	Qualifying matter
<p>Section 8 – Natural Hazards</p> <ul style="list-style-type: none"> • Flooding • Coastal Inundation • Coastal Erosion • Liquefaction 	<p>771(a) & 771(b)</p> <p>a matter of national importance that decision makers are required to recognise and provide for under section 6(h) being the management of significant risks from natural hazards</p> <p>and a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010</p>
<p>Section 10 – Infrastructure, Network Utilities and Designations</p>	<p>771(g)</p> <p>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</p>

Requirements in relation to evaluation report – Section 77J RMA

Assessment **Table 2** provides an evaluation of the **proposed qualifying matters** in accordance with the requirements of section 77J of the RMA. Council is required to do the following assessment:

- a) Demonstrate why it considers that the area is subject to a qualifying matter and that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A of the RMA) (s77J(3)(a)).
- b) Assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity (s77J(3)(b)).
- c) Assess the costs and broader impacts of imposing those limits (s77J((3)(c)).

Table 2 - Evaluation of new qualifying matters under section 77J				
Description of qualifying matter and where it applies	Why the qualifying matter is incompatible with the level of development permitted by the MDRS (Schedule 3A, (S77J(3)(a))	Alternative provisions	Impact on development capacity (S77J(3)(b))	Costs and broader impacts of imposing limits (S77J(3)(c))
New flooding (from extreme rainfall) maps for the Ōmokoroa and Te Puke urban areas (based on a 1% AEP in the year 2130 including the effects of climate change)	The new flooding maps identify areas which are susceptible to flooding where there is potential for further development or re-development. There is potentially significant risk to people and property from allowing three residential units on a site as a permitted activity within floodable areas. There is also a possibility that existing ponding areas and flowpaths may be modified and increase flooding risk.	It is proposed to add the new flood maps to the District Plan Maps in Ōmokoroa and Te Puke as identified on the maps entitled “Omokoroa – Natural Hazards Map” and “Te Puke – Natural Hazards Map” and shown in the ePlan under “Proposed Plan Change 92”. There are no other proposed provisions. Instead, existing	The existing provisions would not prevent residential units from being established and achieving the height limits. Resource consents within floodable areas are typically granted if minimum floor levels are met and effects are managed on existing ponding and flowpaths. Therefore, the rules are not expected to impact on development capacity anticipated by the MDRS but will ensure appropriate consideration of the natural hazard risks.	Building within an identified natural hazard will incur financial costs for landowners associated with applying for resource consent and designing the proposal to mitigate the relevant hazard.

		<p>provisions in the District Plan will be used which trigger resource consent for buildings and structures within floodable areas and which allow Council to impose minimum floor levels and to protect existing ponding areas and flowpaths.</p> <p>See: 8.3.3 (c) (i) 8.5.1.3.</p>		
<p>New coastal inundation maps for Ōmokoroa (based on a 1% AEP in the year 2130 including the effects of climate change)</p>	<p>The new coastal inundation maps identify areas which are susceptible to coastal inundation where there is potential for further development or re-development. There is potentially significant risk to people and property from</p>	<p>It is proposed to add the new flood maps to the District Plan Maps in the Ōmokoroa and Te Puke as identified on the map entitled "Omokoroa –</p>	<p>The existing provisions would not prevent residential units from being established and achieving the height limits in the MDRS. Resource consents are typically granted if minimum floor levels are met and effects</p>	<p>Building within an identified natural hazard will incur financial costs for landowners associated with applying for resource consent and designing the proposal to mitigate the relevant hazard.</p>

	<p>allowing three residential units on a site as a permitted activity within coastal inundation areas. There is also a possibility that existing ponding areas and flowpaths may be modified and increase coastal inundation risk.</p>	<p>Natural Hazards Map” and shown in the ePlan under “Proposed Plan Change 92”.</p> <p>There are no other proposed provisions. Instead, existing provisions in the District Plan will be used which trigger resource consent for buildings and structures within coastal inundation areas and which allow Council to impose minimum floor levels and to protect existing ponding areas and flowpaths.</p> <p>See: 8.3.3 (c) (i) 8.5.1.3.</p>	<p>are managed on existing ponding and flowpaths. Therefore, the rules are not expected to impact on the development capacity anticipated by the MDRS but will ensure appropriate consideration of the natural hazard risks.</p>	
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<p>New coastal erosion maps for Ōmokoroa (years 2180 and 2130 including the effects of climate change)</p>	<p>The new coastal erosion maps identify areas which are susceptible to coastal erosion where there is potential for further development or re-development. There is potentially significant risk to people and property from allowing three residential units on a site as a permitted activity within coastal erosion areas.</p>	<p>It is proposed to add the new coastal erosion maps to the District Plan Maps in Ōmokoroa and as identified on the map entitled “Omokoroa – Natural Hazards Map” and shown in the ePlan under “Proposed Plan Change 92”.</p> <p>There are no other proposed provisions. Instead, existing provisions in the District Plan will be used which trigger resource consent for buildings and structures within coastal erosion areas and which require these to be</p>	<p>The existing provisions would prohibit additional residential units (the second onwards on a site) from being established within parts of a site subject to coastal erosion. The existing rules would therefore impact on the development capacity anticipated by the MDRS. However, the coastal erosion areas are often shown on reserves and constrained land, and in cases where residential units are already present, these are typically large units and there is limited opportunity to add further residential units on sites.</p>	<p>Building within an identified natural hazard will incur financial costs for landowners associated with applying for resource consent and designing the proposal to mitigate the relevant hazard. In this case, there would also be financial and other costs associated with losing the ability to construct more than one residential unit on a site.</p>
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		<p>relocatable and limited to one residential unit per site.</p> <p>See: 8.3.3 (a) (i) 8.3.4 (a) (i) 8.3.5 (a) (i) 8.5.1.1 8.5.2 (b)</p>		
<p>New liquefaction maps for Ōmokoroa Stage 3 (liquefaction damage is possible or liquefaction damage is unlikely based on a Level B level of assessment)</p> <p>New liquefaction maps for the remainder of Ōmokoroa and for</p>	<p>Where liquefaction damage is possible or where the liquefaction category is undetermined, there is potential significant risk to people and property from allowing three residential units on a site as a permitted activity.</p>	<p>It is proposed to add the new liquefaction maps to the District Plan Maps in Ōmokoroa and Te Puke as identified on the maps entitled “Ōmokoroa – Natural Hazards Map” and “Te Puke – Natural Hazards Map” and shown in the ePlan under</p>	<p>New provisions are proposed to require resource consent for residential units where liquefaction damage is possible or where the liquefaction category is undetermined.</p>	<p>Building within an identified natural hazard will incur financial costs for landowners associated with applying for resource consent and designing the proposal to mitigate the relevant hazard.</p>

<p>Te Puke (liquefaction damage is possible or liquefaction damage is unlikely or liquefaction category is undetermined based on a Level A level of assessment)</p>		<p>"Proposed Plan Change 92".</p>		
<p>Proposed Active Reserve Notice of Requirement (NoR) Ōmokoroa. The site is located generally at the corner of Ōmokoroa Road and Prole Road extending approximately 340m along Ōmokoroa Road towards State Highway 2.</p>	<p>The proposed active reserve is located on land zoned future urban and proposed to become medium density residential where residential units would have otherwise been possible. Council has identified this land as being the best location for an active reserve including sports fields required to service the expected surrounding residential growth enabled by PC92.</p>	<p>The requiring authority (WBOPDC) is able to serve a notice of requirement on a territorial local authority in respect of land required to be designated for such works.</p> <p>The notice sets out the purpose of the designation.</p>	<p>The use of a designated site allows development to proceed for purposes that the approved Notice of Requirement provides for. Residential units would require the approval of a requiring authority to establish on a designated site.</p>	<p>The proposed active reserve has a total area is 9.4484 ha (more or less). This reduces the land available for residential development in Ōmokoroa. If the land was not set aside for active reserve, residential units at a density of 20 units per hectare may be possible subject to site conditions and provision of associated infrastructure.</p>