



**Western
Bay of Plenty**
District Council



Mā tō tātou takiwā
For our District

Section 42A Report

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

11 August 2023

Contents

Index of Report	3
Glossary.....	4
Executive Summary	5
Introduction	6
Purpose of this report.....	7
Overview of Plan Change 92	7
Statutory Considerations	9
Tāngata Whenua	18
Qualifying Matters	19
Consideration of Submissions	20
Summary of Key Changes	26
Report Structure	27

INDEX OF REPORT

Report Topic
General Matters
Ōmokoroa Zone Maps
Te Puke Zone Maps
Ōmokoroa and Te Puke Medium Density Residential (Section 14A)
Natural Hazard Maps and related provisions
Rural-Residential (Section 16)
Commercial & Commercial Transition (Section 19 & 20)
Industrial (Section 21)
Natural Open Space (Section 24)
Structure Plans (Appendix 7)
Subdivision and Development (Section 12)
Financial Contributions (Section 11)
Other Provisions
Section 4B – Transportation, Access and Parking
Section 4C – Amenity
Sections 5 & 7 – Ecological and Landscape Features
Section 10 – Infrastructure, Network Utilities and Designations
Attachments
Attachment A – Recommended Changes to District Plan Maps
Attachment B – Recommended Changes to District Plan Provisions
Attachment C – Tāngata Whenua Engagement Record
Attachment D – Joint Witness Statement
Attachment E – Memo from Beca – Ōmokoroa Roundabout Performance Metrics and Development Thresholds

GLOSSARY

Acronym	Meaning
CSC	Comprehensive Stormwater Consent
IPI	Intensification Planning Instrument
ISPP	Intensification Streamlined Planning Process
LGA	Local Government Act 2002
MDRS	Medium Density Residential Standards
NoR	Notice of Requirement
NPS-FM	National Policy Statement for Freshwater Management
NPS-HPL	National Policy Statement for Highly Productive Land
NPS-UD	National Policy Statement on Urban Development
NZCPS	New Zealand Coastal Policy Statement
OMURP	Ōmokoroa Mixed Use Residential Precinct
RMA	Resource Management Act
RPS	Bay of Plenty Regional Policy Statement

EXECUTIVE SUMMARY

This report is prepared in accordance with Section 42A of the Resource Management Act 1991 to assist the Independent Hearings Panel to consider the merits of Plan Change 92 to the Western Bay of Plenty District Council Operative District Plan and whether further changes are needed in response to submissions.

Plan Change 92 is an Intensification Planning Instrument under section 80E of the Resource Management Act 1991. The purpose of Plan Change 92 is to:

- a) Incorporate the Medium Density Residential Standards into the District Plan in relevant urban environments Ōmokoroa and Te Puke.
- b) Give effect to Policy 3 of the National Policy Statement on Urban Development 2020
- c) Amend the existing subdivision provisions to provide for subdivision in accordance with the MDRS.
- d) Identify existing and proposed Qualifying Matters.

Given the long term and advanced stage of planning for urbanisation, for Ōmokoroa Plan Change 92 also proposes to:

- e) Introduce new zones across Future Urban zoned land to support the Medium Density Residential Zone, being Industrial, Natural Open Space, and Rural Residential zones;

Plan Change 92 was notified on 18 August 2022 following engagement with tāngata whenua and the Ōmokoroa and Te Puke communities. It is noted that prior to the RMA Amendment Act, structure planning was well advanced for Ōmokoroa.

A total of 63 submissions were received and 13 further submissions were received. A broad range of matters were raised in submissions and these are summarised in terms of the following broad topics, which form the structure for the consideration of submissions through the Section 42A Report:

- Ōmokoroa Zoning
- Te Puke Zoning
- MDRS provisions & other provisions
- Urban Design
- Matters of Discretion for four or more residential units
- Structure Plans
- Subdivision
- Financial contributions
- Natural Hazards

Recommendations on all submission points are set out in in the various Reports and Topic sections. Following consideration and evaluation of the matters raised in submissions the recommended amendments are set out under each Topic, and in full in Attachment A (Maps) and Attachment B (Provisions).

INTRODUCTION

This report and appendices have been prepared in accordance with Section 42A of the Resource Management Act 1991 (RMA) and form the Council's evidence for the hearing. This report considers the merits of Plan Change 92 which is an Intensification Planning Instrument (IPI) under Section 80E of the RMA and seeks to provide advice to the Hearings Panel on all submissions, the key matters outstanding, and recommended amendments to the IPI.

AUTHORS

This Section 42A report has been prepared by Mr Tony Clow along with co-authors Mr Taunu Manihera, Mr Jeff Hextall, Ms Anna Price and Ms Abi Mark. The author is noted at the start of each relevant report.

Mr Clow is the Principal Policy Lead – Environmental Planning at Western Bay of Plenty District Council with 15 years' experience as a policy analyst/environmental planner at Western Bay District Council. He holds the qualifications of a Master of Resource and Environmental Planning (MRP) from Massey University and has been an Intermediate Member of the New Zealand Planning Institute for 15 years. Mr Clow has prepared sections in this report relating to Natural Hazard maps and related provisions, Ecological Feature maps, Financial Contributions, and Medium Density Residential Zone – Activity lists & Standards.

Mr Hextall, Consultant Planner, has been engaged by Council since January 2021 for the Resource Management/ Environmental Planning team working on the preparation of Plan Change 92 Intensification Planning Instrument. Mr Hextall was part of the team that prepared the s32 Report. He also prepared the Notice of Requirement application for the proposed Ōmokoroa Active Reserve. Mr Hextall is a consultant planner with over 30 years experience, based in Tauranga. He holds the qualifications of Bachelor of Resource Planning (Hons)(BRP) from Massey University and has been a Member of the New Zealand Planning Institute since 2008. Mr Hextall has prepared reports on sections relating to Ōmokoroa zoning, Medium Density Residential Zone – Objectives and Policies and Matter of Discretion, Rural-Residential Zone, Omokoroa Industrial Zone and Natural Open Space Zone.

Mr Manihera is a consultant planner with 18 years' experience, based in Tauranga. He holds the qualifications of a Bachelor of Science (REP) from Waikato University and has been a Member of the New Zealand Planning Institute since 2015. Mr Manihera has prepared sections in this report relating to Transportation, Subdivision and Development and Appendix 7 Structure Plans.

Ms Price is a Senior Environmental Planner at Western Bay of Plenty District Council with 14 years' of experience as a consents/environmental planner, 8 of those at Western Bay of Plenty District Council. She holds the qualifications of Masters of Earth Sciences from University of Waikato and has been an associate Member of the New Zealand Planning since 2015. Ms Price has prepared sections in this report relating to Te Puke zoning, Amenity, Commercial Zone, Commercial Transition Zone and Industrial Zone.

Ms Mark is an Environmental Planner at Western Bay of Plenty District Council with 7 years' experience as an Environmental Planner and Compliance Officer. She holds the qualification of Master of Water Resource Management from Lincoln University.

Code of Conduct

The authors confirm that they have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that they have complied with it when preparing this report. Other than when they state that they are relying on the advice of another person, this evidence is within their area of expertise. They have not omitted to consider material facts known to them that might alter or detract from the opinions that they express.

The authors are authorised to give this evidence on the Council's behalf to the Independent Hearing Panel.

Conflict of Interest

The authors confirm that they have no real or perceived conflict of interest in the matters addressed by this report.

PURPOSE OF THIS REPORT

The purpose of this Section 42A Report is to assist the Independent Hearings Panel (IHP) in making recommendations on Plan Change 92 Intensification Planning Instrument by presenting the key themes and associated issues that require consideration by the IHP.

This report identifies key submitters related to each topic, outlines the specific issues related to each topic that are being raised through the submissions, and sets out factors that the IHP will need to consider in their decision making on specific issues.

An overview of the relief sought through submissions is provided, including identification where applicable of any commonality of relief sought.

In preparing this report authors have relied on the Section 32 Evaluation prepared in support of Plan Change 92 and additional expert advice sought from Council specialists on technical matters. The plan change has been reviewed by these experts and their input has been provided on this report to help guide and inform the assessment of Plan Change 92 and the recommendations on the submissions and further submissions.

OVERVIEW OF PLAN CHANGE 92

Background

In December 2021, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ("Amendment Act") came into force, following a fast tracked Parliamentary process.

The Amendment Act required tier 1 territorial authorities (which includes Western Bay of Plenty District Council), see section 2 RMA definition of "tier 1 territorial authority") to notify changes or variations to their District Plans by 20 August 2022 (section 80F(1)(a)).

These changes or variations are IPIs under section 80E of the RMA. Council is required to incorporate the Medium Density Residential Standards (MDRS), and to give effect to Policy 3 of the National Policy Statement – Urban Development 2020 (NPS-UD).

Having progressed through the submission phase it became apparent that further time was required ahead of a hearing to adequately address the issues raised in submissions. On 11 May 2023 Council sought an amendment to the direction for the Intensification Streamlined Planning

Process (for the first tranche of specified Territorial Authorities) to allow further time to notify decisions on the independent hearings panel's recommendations in accordance with clause 102 of Schedule 1 of the RMA. The request was made to extend the timing for decisions beyond 20 August 2023 to 1 March 2024. On 4th August 2023 Council received confirmation from the Minister for the Environment that Councils request has been granted by the Minister. The amended Direction will be published in the New Zealand Gazette.

The Section 32 Report provides detailed background on Plan Change 92, detailing the consultation undertaken in the preparation of the Plan Change, and outlines how the proposed Plan Change 92 provisions were prepared in accordance with sections 80E and 80G of the RMA. This report focuses on the proposed amendments to Plan Change 92 as a result of the submission process and where appropriate refers back to the s32 Report.

Plan Change Scope

Ōmokoroa has been recognised as one of the main growth areas in the western Bay of Plenty sub-region, and has been recognised as suitable for urban development since the 1970s. The Section 32 Report sets out the history of growth and development in Ōmokoroa.

A large part of Ōmokoroa was zoned Future Urban in 2012. Since that time Council, in consultation with the community, had been developing and had well progressed with structure planning for the new growth area (existing Future Urban Zone) and related provisions to provide the framework for the urbanisation of this area. The Council formally applied to the Minister for the Environment (the Minister) in 2021 to undertake the subject plan change utilising the Streamlined Planning Process (SPP). The basis for this was to fast-track the necessary planning process to enable the residential expansion of Ōmokoroa to assist in addressing the significant shortage of housing in the wider Western Bay of Plenty area. The proposed plan change was provided to the Minister in July 2021 with the expectation that the Minister would confirm the approach within three months.

However, in the intervening period the RMA Amendment Act was introduced (October 2021) and came into force (December 2021). Due to the release of the RMA Amendment Act there was a need to redraft the proposed plan change, to incorporate the Te Puke urban area and potentially run duplicate processes (and related efficiency and clarity issues), the decision was made to formally withdraw the SPP application in May 2022.

Plan Change 92 is Council's s 80E RMA IPI, seeking to vary the District Plan as required by the Amendment Act. Key features of Plan Change 92 are identified below.

Te Puke and Ōmokoroa:

- Introduce a new Medium Density Residential Zone across the relevant existing zones (Residential and Future Urban zones);
- Apply the MDRS to the Medium Density Residential Zone
- Amend the existing subdivision provisions to provide for subdivision in accordance with the MDRS.
- Identify existing and proposed Qualifying Matters.

Given the long term and advanced stage of planning for urbanisation, for Ōmokoroa Plan Change 92 also proposes to:

- Introduce new zones across Future Urban zoned land to support the Medium Density Residential Zone, being Industrial, Natural Open Space, and Rural Residential zones;

Implementing the MDRS for Ōmokoroa and Te Puke as required by the Amendment Act includes the related supporting plan changes for Ōmokoroa based on the draft Ōmokoroa Stage 3 Structure Plan and related provisions being well advanced and highly consulted on. For Te Puke, due to the very tight timeframe the introduction of additional residential areas and other wider supporting provisions was limited to either those areas that had effectively had a defacto plan change via a resource consent process or had been the subject of a private plan change process that had been affected by the Amendment Act.

In the context of Ōmokoroa the MDRS are supported by the wider Ōmokoroa urbanisation project which, in addition to providing for residential expansion also encompasses necessary supporting zoning and related activities to provide a well-functioning urban environment that enables people and communities to provide for their social, economic, and cultural wellbeing. The matters are considered in detail in the section 1.3 of the s32 report.

Due to including the work progressed under the draft Ōmokoroa Stage 3 Structure Plan and the need to include new zones and provisions which support the MDRS provisions, the Plan Change appears to be broader in scope than other Council's IPI's, however it has been prepared in accordance with section 80E and the Amendment Act provisions.

Notification

Plan Change 92 and the Notice of Requirement for an Active Reserve in Ōmokoroa (recommendations in the subject of a separate Section 42A Report) were jointly publicly notified on 19 August 2022 with the submission period closing 16 September 2022. In addition to the formal public notice, the notification included:

- Providing a dedicated Plan Change 92 webpage for all notification documentation, submissions, summary of submissions, and additional information on the process and what the implications are of Plan Change 92.
- Providing hard copies to view at Council offices and Service Centres.
- An independent Friend of the Submitter service was provided through the submission periods by the Ministry for the Environment and will continue throughout the hearings process.

STATUTORY CONSIDERATIONS

Resource Management Act 1991(RMA)

Plan Change 92 has been prepared in accordance with the requirements of the RMA, as amended by the Amendment Act, in particular:

- Section 74 (matters to be considered by territorial authorities);
- Section 75 (contents of District Plans);
- Section 77E (local authority may make rule about financial contributions);
- Section 77A-M (additional provisions for regional rules and district rules (A-E), Interpretation of Section 77F to 77T and schedule 3.4 (F), intensification requirements in residential zones (G-M));

- Sections 80E to 80H (intensification planning instruments);
- Schedule 3A (MDRS to be incorporated by specified territorial authorities).

For the avoidance of doubt, it is noted that:

- Plan Change 92 is an intensification planning instrument under section 80E of the RMA;
- Plan Change 92 is not a review under section 79 of the RMA.

As set out in the Section 32 Report there are several higher order planning documents and strategic plans that provide direction for the preparation and content of the IPI. Reference should be made to the section 32 evaluation for full details of the statutory considerations underpinning Plan Change 92 including an overview and analysis of Section 6 (Matters of National Importance); Section 7 (Other Matters); and Section 8 (Treaty of Waitangi (Te Tiriti o Waitangi)).

Section 32AA

Where recommendations are made in this evidence that propose changes to Plan Change 92, evaluation of the change has been undertaken in accordance with section 32AA of the RMA. In particular, section 32AA(1) states that:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section

The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to Plan Change 92 are contained within the assessment of the relief sought in submissions in this report as required by section 32AA(1)(d)(ii) of the Act. These evaluations are contained under the heading 'Section 32AA Evaluation' within relevant sections of this report.

National Policy Statement for Urban Development (NPS-UD)

Policy 3 of the NPS-UD sets out requirements relating to planning for growth and development in urban environments, including the need to provide at least sufficient development capacity to meet expected demand.

Sections 77G and 77N of the RMA require that the specified territorial authority must give effect to Policy 3 in every residential and urban non-residential zone in an urban environment.

Urban Environment as defined in the NPS-UD and set out in section 77F of the RMA reads:

“Urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- (a) is, or is intended to be, predominantly urban in character; and*
- (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people”*

Within the Western Bay of Plenty District, the implementation of Policy 3 is limited to Ōmokoroa and Te Puke as these are the only areas of land that meet the definition of urban environment under the NPS-UD. They are the only areas of land that are predominantly urban in character and are or are intended to be part of a housing and labour market of at least 10,000 people.

Policy 3 of the NPS-UD reads:

Policy 3: In relation to tier 1 urban environments, regional policy statements and district plans enable:

- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and*
- (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and*
- (c) building heights of at least 6 storeys within at least a walkable catchment of the following:*
 - (i) existing and planned rapid transit stops:*
 - (ii) the edge of city centre zones:*
 - (iii) the edge of metropolitan centre zones; and*
- (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.*

After an assessment of Policy 3, (and as detailed in the s32 Report) Council concluded:

- Policy 3(a) is not relevant to the Western Bay of Plenty District as there are no city centres located within the District.
- Policy 3(b) is not relevant as there are no metropolitan areas within the Western Bay of Plenty District.
- Policy 3(c) is not relevant given that there are no city centres or metropolitan areas and no existing or planned rapid transit stops within the Western Bay of Plenty District.

Policy 3(d) is relevant for Plan Change 92. The proposed Plan Change is enabling housing densities to occur that are appropriate to the level of commercial activities and community services existing and proposed in those areas that meet the definition of urban environment (Ōmokoroa and Te Puke).

Ōmokoroa

As part of the early development of the draft plan change, prior to the release of the RMA Amendment Act, Council considered areas in Ōmokoroa for growth in order to reach a population of 13,000 and identified land suitable for higher density residential development (identified as 3C area Figure 1 below). This involved engagement with the community and landowners occurring early in the development of the structure planning work.

Within 3C, the proposed Plan Change enables housing densities (including to a height of 20m and 30 units per hectare) to occur in a mixed use residential precinct. This mixed use precinct is proposed on land which is currently greenfield, adjoining amenity areas such as gullies, is flat or at a suitable contour for higher density and adjacent to the consented town centre and the Natural Open Space Zone.

The Reporting Team have also considered how higher densities could be provided for within the 3C area and believe that providing for a higher building coverage (currently 50%) may be more enabling for this area. This is discussed further in Report 15 – Section 14A – Ōmokoroa and Te Puke Medium Density Residential Zone.

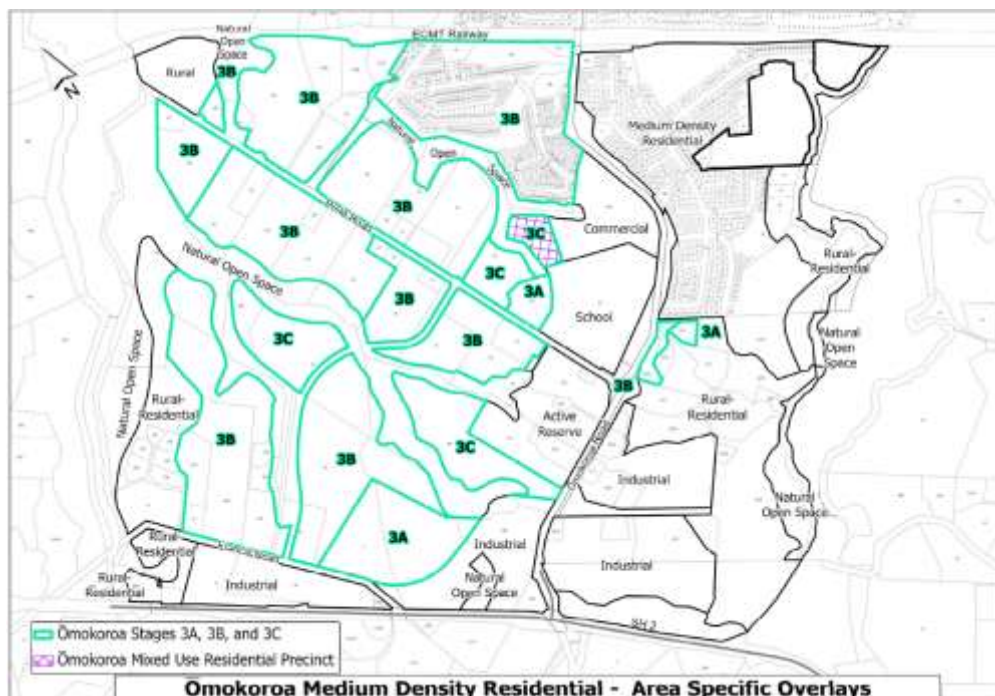


Figure 1: Ōmokoroa Medium Density Residential Area Specific Overlay

Te Puke

During the early development on Plan Change 92 Council considered whether to propose higher density and walkable catchments but decided not to make provision for an area in Te Puke comparable to 3C in Ōmokoroa. This was decided as Council considers that additional time is required to adequately and effectively consult and engage with the Te Puke community. Within Te Puke, the proposed Plan Change therefore only enables housing densities (including to a height to 11m and 20 units per hectare) to occur. This was based on an assessment of each existing lot which concluded that higher density may not be suitable as areas near the town centre were already developed and large-scale re-development may not be feasible. There are also no rapid transit stops identified in the town. This is discussed further in Report 4 – Planning Maps – Te Puke Zoning Maps.

The District Plan Review and proposed Te Puke Spatial Plan are also progressing which would allow the community to fully engage and provide for the outcomes the Te Puke community desire. This provides an opportunity to consider not just the future urban form for Te Puke but also align the provision of commercial facilities and community services commensurate to that. It is considered that the proposed height and density in Te Puke (as in Ōmokoroa) provides for housing densities at a commensurate level to the existing commercial activities and community services. The Te Puke Spatial Plan is being undertaken currently and is due to be completed in 2024.

National Policy Statement for Highly Productive Land 2022

Since the notification of Plan Change 92, the National Policy Statement for Highly Productive Land 2022 (NPS- HPL) was gazetted on 19 September 2022 and came into force on 17 October 2022. Plan Change 92 includes one area of rural zoned land, being an area in north Te Puke of 7.4ha adjoining the Residential Zone at the end of Seddon Street. This property was included in Plan Change 92 as Council had received a Private Plan Change request on the 16th November 2021 for a medium density residential area, and it was decided following the release of the RMA Amendment Act, that it would be appropriate to include this in the IPI rather than proceed as a separate Private Plan Change.

Given the rural zoning of this parcel of land it is important to now consider it against the NPS-HPL. The site is currently classified as LUC Class 2, and sits immediately adjoining the Te Puke urban environment. The property is shown in Figure 2 below



Figure 2: Seddon Street Private Plan Change area

Given the timing of the Plan Change and the release of the NPS-HPL, the 'transitional definition' of HPL in Clause 3.5(7) applies. Clause 3.5(7) states:

- (7) *Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:*
- (a) is
 - (i) *zoned general rural or rural production; and*
 - (ii) *LUC 1, 2, or 3 land; but*
 - (b) is not:
 - (i) *identified for future urban development; or*
 - (ii) *subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.*

While the property is LUC 2, it meets clause b(ii) in that it is subject to a Council initiated plan change (being Plan Change 92) to rezone it from general rural to urban. Accordingly, the land is not considered Highly Productive Land under the transitional provisions of the NPS_HPL.

National Policy Statement for Indigenous Biodiversity 2023

The Government released the new National Policy Statement for Indigenous Biodiversity (NPS-IB) on 7 July 2023 in response to the biodiversity decline in New Zealand. It came into force on 4 August 2023 and directs local authorities to update their plans, policies and strategies to reflect NPS-IB requirements. Some parts, including the preliminary and implementation provisions, objectives and policies, are required to be implemented immediately.

The NPS-IB requires Council (and all territorial authorities) to identify Significant Natural Areas (SNAs) within their district where they are not already known and mapped. Where SNAs have previously been identified, Council will have to demonstrate how their identification meets the requirements of the NPS-IB. Territorial authorities can request regional councils to support with the process of identifying and demonstrating compliance with the NPS-IB.

Council completed comprehensive identification of SNAs in the District in 1994 and finalised these as Significant Ecological Features (SEFs) after an Environment Court Appeal that confirmed levels of significance in 2000. Council will need to comply with clause 3.8(5) of the NPS-IB. Additionally, given the time since the original assessment, with Council commencing a District Plan Review in 2021, SNAs will need to be identified in compliance with clause 3.8 (1) and (2). Council are required within the next 4 years to comply with 3.8 (5) and have 5 years to comply with 3.8 (1) and (2).

As Council currently identify SEFs in the District Plan, there are also rules in relation to these features, including rules around native and exotic vegetation removal, earthworks, building and some small scale activities, subdivision and large scale prohibited activities.

Within Ōmokoroa there are SEFs identified around the harbour margins, and are often already in land identified as local purpose reserve. In terms of Plan Change 92, there will be limited effects on the identified SEFs and any works within these areas are already protected by existing rules in the District Plan. Plan Change 92 also proposes a new Natural Open Space Zone, which along with stormwater management also provides for the ecological, cultural, recreational and amenity values of the Tauranga Harbour coastal margins and inland gully systems. While this area is not yet required to be assessed against the criteria for SNAs, it could in the future provide for improved indigenous biodiversity outcomes in the area.

Within the Te Puke urban environment there are no identified SEFs, there is also no Natural Open Space zone proposed in Te Puke. Viewing aerial maps, there does not appear to be areas which would potentially meet the assessment criteria for a SNA within the Te Puke urban limits. However further work will be undertaken on implementing the NPS-IB as part of the District Plan review.

National Policy Statement for Freshwater 2020

The National Policy Statement for Freshwater Management 2020 (Freshwater NPS 2020) came into force on 3 September 2020. The NPS directs that Council must include objectives, policies and methods in its district plan to promote positive effects, and avoid, remedy or mitigate adverse effects (including cumulative effects) of urban development on the health and wellbeing of water bodies, freshwater ecosystems and receiving environments. The Council has applied to renew the Comprehensive Stormwater Consent that currently applies to Ōmokoroa. The Te Puke comprehensive stormwater consent was granted in 2020 for a 35-year term.

The proposed Plan Change includes the provision of a new Natural Open Space Zone in Ōmokoroa which includes provisions designed to maintain and enhance the natural character, ecological, cultural, recreational and amenity values of the Tauranga Harbour coastal margins and inland gully systems within the area.

Section 10.6 of the section 32 Report addresses the NPS-FM in relation to Plan Change 92.

New Zealand Coastal Policy Statement 2010

The New Zealand Coastal Policy Statement 2010 (NZCPS) guides council's in their day-to-day management of the coastal environment. The Ōmokoroa project area includes some areas that have a direct coastal interface. Accordingly, it is necessary to assess consistency with the NZCPS. The NZCPS is addressed at section 10.5 of the section 32 Report and includes an assessment of Plan Change 92 against the NZCPS Objectives.

National Planning Standards 2019

The National Planning Standards aim to make RMA plans (e.g. policy statements, regional plans, district plans) more consistent with each other, easier to use and faster to make. This is by establishing nationally consistent guidelines for the structure, format, definitions, noise and vibration metrics, electronic functionality, and accessibility of regional policy statements, regional plans, district plans, and combined plans under the RMA.

Council will be implementing the National Planning Standards in a phased manner. Council have initiated a District Plan review and implementation will be phased with rolling Plan Changes within this review.

As the current District Plan has not been converted to comply fully with the National Planning Standards, definitions proposed within submissions to be in line with the National Planning Standards have not been accepted as this will create inconsistencies in definitions between Ōmokoroa and Te Puke and the rest of the District.

Regional Policy Statement

Section 75(3)(c) of the Resource Management Act requires Council to give effect to the Regional Policy Statement and have regard to any proposed Regional Policy Statement.

The Bay of Plenty Regional Policy Statement (BOPRPS) provides an overview of the resource management issues within the region, along with objectives and policies to promote the integrated management of its natural and physical resources within the region. The BOPRPS is addressed throughout the Section 32 Report and an assessment of Plan Change 92 against the BOPRPS Objectives and Policies was provided at Appendix 14 of the s32 Report.

Proposed Change 6 to the Bay of Plenty Regional Policy Statement

Bay of Plenty Regional Council publicly notified Proposed Change 6 on 6 September 2022 to modify the Bay of Plenty Regional Policy Statement (BOPRPS) in order to implement and give effect to the NPS-UD. The specific changes introduced through Proposed Change 6 include:

- a) Amendments to be 'responsive to plan changes that add significantly to development capacity and contribute to well-functioning urban environments'.
- b) Delete the urban limits in the Western Bay sub-region, including policies, Appendices and references relating to urban limits.
- c) Enable increased density in urban environments, in response to relevant district and city councils enabling higher densities. As a consequence, Policy UG 4A (dwelling yield) is deleted.
- d) Planning decisions for urban environments to take into account the principles of the Te Tiriti o Waitangi. The original policy addressing Papakāinga has undergone an expansion, transforming into a "Te Tiriti o Waitangi principles" policy. This revised policy aims to facilitate the development of Māori land. Additionally, the amended policy extends the application of existing policies in the Iwi Resource Management section of the Regional Policy Statement to encompass urban development as well.

The hearing was held on 21 & 22 June 2023 but the Panel have not yet released their decisions.

Emissions Reduction Plan 2022

Since 30 November 2022, section 74(2)(d) of the RMA requires that the Council have regard to an emissions reduction plan when changing the District Plan.

The National Emissions Reduction Plan 2022 (NERP) outlines the roadmap for climate action and the transition to a low-emissions economy over the next 15 years. It establishes targets, budgets, plans, and strategies for reducing emissions, including a long-term goal to support global endeavours in limiting temperature rise.

Action 7.2 under the plan is to support emissions reductions and climate resilience via policy, guidelines, direction and partnerships on housing and urban development²³. This action outlines several key initiatives, including: • Implementation of the National Policy Statement on Urban Development 2020; • Implementation of Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021; • Implementation of MAIHI Ka Ora (the National Māori Housing Strategy).

As outlined in the Section 32 Evaluation Report, PC2 either implements, or contributes towards implementing, each of these matters.

The Reporting Team considers that there are no other actions outlined in the emissions reduction plan that contain specific direction for district plans, such that amendment to PC(N) would be necessary as part of having regard to the emissions reduction plan.

National Adaptation Plan 2022

The National Adaptation Plan 2022 ('NAP'), which became effective following the notification of Plan Change 92 in August 2022, outlines strategies, policies, and proposals led by the government to aid New Zealand in adapting to the evolving climate and its associated impacts. The NAP is scheduled for updates every six years. The NAP assesses the present and future impacts of climate change while outlining our approach to adaptation.

TĀNGATA WHENUA

As set out in the S32 Evaluation Council has at the outset endeavoured to engage meaningfully with tāngata whenua during the development of Plan Change 92. Appendix 7 of the s32 Evaluation contains the record of consultation with iwi/hapu representatives and tāngata whenua in relation to Plan Change 92. Engagement and consultation also occurred with tāngata whenua in the pre-Amendment Act structure planning process for Ōmokoroa Stage 3.

There are no formal Mana Whakahono a Rohe agreements in place with Western Bay of Plenty District Council however there are several key hapu and iwi management plans.

In the Te Puke area Council have plans lodged by Ngāti Whakaue and Tapuika. Waitaha do not have a current iwi management plan lodged with Council (although they do have a plan).

Within Ōmokoroa, Pirirākau have a hapu management plan lodged with Council and there is a joint management plan for Ngāti Ranginui, Ngāti te Rangi and Ngāti Pūkenga.

Council staff acknowledge that some tāngata whenua groups face capability and capacity challenges in engaging in planning processes, including the constrained timeframes imposed on Plan Change 92. This is a wider issue and partly the result of the scale of policy and plan changes underway to implement various national directives. While no submissions were received from any iwi/hapu group, Council have worked with key representatives to ensure submission points which may affect tāngata whenua values are appropriately considered.

As part of the pre-Amendment Act structure planning process Pirirākau have developed an Ōmokoroa Urban Design Cultural Overlay to inform and influence the Ōmokoroa Stage 3 Structure Plan. This was included in Appendix 6 of the Section 32 Report and is discussed in detail in the s32 Report. This document highlights the opportunity for waterways restoration, flora and fauna preservation and enhancement opportunities to strengthen connections to the land and water, and has been used to guide the structure plan process.

The Council has also engaged with other hapū/iwi who have interests in the area and made changes to draft versions to better reflect iwi/hapū aspirations. Specific provisions have been included within the plan change and structure plan and linked initiatives to restore degraded water courses and linked wetlands, earthworks controls and a linked cultural earthworks protocol. As part of the preparation of Plan Change 92 following the Amendment Act, Council wished to support local iwi and hapu to provide input into the Plan Change process (before notification) by engaging an independent planning consultant to review the draft documentation and provide feedback, meet with tangata whenua and prepare a submission to the Plan Change on behalf of iwi authorities' if requested.

The planning consultant meet with Tapuika and Waitaha in late July 2022, followed by a meeting with Council staff on 5th August 2022, meeting notes are included in Attachment C to this report.

In summary neither parties expressed concern with the Plan Change however did raise interest in papakāinga/marae community zonings at Manoeka and Waitangi.

A meeting was also held with Pirirākau on 4th August 2022, meeting notes are included in Attachment C (note these are not confirmed by Pirirākau). In summary the main concerns raised were:

- historic cultural and archaeological sites within Ōmokoroa Stage 3 Structure Plan are protected and preserved,
- access to traditional food gathering areas,
- Urupa needed to be provided,
- the 20m height could have significant impact on cultural viewshafts,
- Pirirākau requested input and a co-management role in reserves.

Despite the above engagement and that further detailed in Appendix 7 of the section 32 Report, no tangata whenua submissions have been received on Plan Change 92.

Following notification of Plan Change 92 other correspondence has been received from Pirirākau by Council staff on matters related to Ōmokoroa. In particular the correspondence discussed the Waipapa Awa (adjacent to the northwestern boundary of Stage 3 area), in particular *“Ōmokoroa Stage 3 Awakeri (gully features), restoration to establish connectivity to Waipapa creating habitat and mahinga kai as per the agreements made within under provision of the Pirirākau cultural overlay”* and Ōmokoroa entrance State Highway 2 Roundabout *“Pirirākau cultural interpretation arts project providing for collaboration with the Ōmokoroa Public Arts Group. Joint design”*.

In response to this correspondence and the earlier discussions with Pirirākau, Plan Change 92 is ensuring that connectivity and protection of the waterways is provided in the Stage 3 area, this is through creating a new Natural Open Space Zone (discussed in detail in Report 20), as well as stormwater matters provided for in Report 13. Cultural values are also further provided for in new section 14A (Ōmokoroa and Te Puke Medium Density Residential), and Earthworks Protocols in relation to protecting cultural heritage and archaeology in Stage 3 is retained within the Ōmokoroa Stage 3 Structure Plan see discussed in Report 21. Council are also engaging with Pirirākau on cultural interpretation arts projects, and the Ōmokoroa Public Art group are also consulting with Pirirākau for guidance on appropriate concepts and designs for this.

To ensure that the voice of tāngata whenua is heard Council are continuing to engage with Pirirākau. Discussion with a representative raised matters relating to stormwater and industrial land. Draft reports and maps have been circulated to representatives for discussion purposes.

QUALIFYING MATTERS

Under the Amendment Act, section 771 enables Council to make the MDRS less enabling of development in areas where there are “qualifying matters”, also referred to as development constraints.

Section 2.5.3 of the 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 of the Plan Change on 20 August 2022, it became 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. Council subsequently prepared an addendum document to Council's earlier s32 Report to clarify Council's intention 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, where existing qualifying matters were more up to date in terms of investigation and analysis (such as natural hazards) these were evaluated and included within the s32 Report as proposed qualifying matters, for relevant residential zones but with no immediate legal effect at notification.

The addendum report dated 5 September 2022 provided an assessment and evaluation on the existing and proposed qualifying matters included in the Plan Change in accordance with section 77K and 77J of the RMA.

Further the Council identified existing and proposed "qualifying matters" through the Addendum several submissions were received seeking changes or proposing new "qualifying matters". These submissions are considered in Report 15 as they relate to Section 14A - Ōmokoroa and Te Puke Medium Density Residential Zone.

As notified, the existing qualifying matters (section 77K RMA) were:

- Section 5 (Natural Environment) and Appendix 1 (Schedule of Identified Significant Ecological Features)
- Section 6 (Landscape) and Appendix 2 – Schedule of Identified Outstanding Landscape Features
- Section 7 (Historic Heritage) and Appendix 3 – Schedule of Identified Significant Historic Heritage Features
- Section 8 (Natural Hazards)
- Section 10 Infrastructure, Network Utilities and Designations & Appendix 5 – Schedule of Designations
- Existing Reserves and Open Spaces within relevant Residential Zones in Ōmokoroa and Te Puke Urban areas

Proposed qualifying matters (section 77J RMA) were:

- Section 8 – Natural Hazards (Flooding, Coastal Inundation, Coastal Erosion, Liquefaction)
- Section 10 – the proposed Active Reserve Notice of Requirement for Ōmokoroa

CONSIDERATION OF SUBMISSIONS

A total of 66 submissions were received. A total of 13 further submissions were received. The closing period for submissions was notified as 4pm on the 16th of September 2022.

Late Submissions

Of the 63 submissions received, 8 are considered late submissions. Four were received after 4pm on the 16 September being Submitter numbers 54, 57, 58 & 59, while 4 were received no later than the 20th September, being Submitter numbers 42, 48, 52 & 65. There were no late further submissions.

Under clause 98(3) of Schedule 1 of the RMA, the Panel may decide to accept or reject any late submission. A separate Late Submission Report has been presented to the Panel for consideration, with a recommendation to accept all late submissions.

Submissions Received

Submission Number	Submitter Name
1	Richard Hewison
2	Lesley Blincoe
3	Lesley Blincoe (merged with submission 2)
4	Robert Hicks
5	Robert Hicks (merged with submission 4)
6	Tim Laing
7	David Marshall
8	Armada Properties Limited
9	Lesley Blincoe (merged with submission 2)
10	Blair Reeve
11	Elles Pearse-Danker
12	Vortac New Zealand Limited
13	Matthew Hardy
14	Peter Musk
15	Western Bay of Plenty District Council
16	Penny Hicks
17	John Wade
18	Fire and Emergency New Zealand
19	Pete Linde
20	Robert Hicks (merged with submission 4)
21	Joshua Marshall
22	Heritage New Zealand Pouhere Taonga
23	Frank and Sandra Hodgson
24	Ara Poutama Aotearoa the Department of Corrections
25	Bay of Plenty Regional Council
26	Classic Group
27	David and Diana Bagley
28	Foodstuffs North Island Limited

29	Kāinga Ora - Homes and Communities
30	KiwiRail Holdings Limited
31	N and M Bruning
32	New Zealand Housing Foundation
33	Powerco
34	Retirement Villages Association of New Zealand Incorporated
35	Ryman Healthcare Limited
36	Susan Phinn
37	Sylvia Oemcke
38	TDD Limited
39	Urban Taskforce for Tauranga
40	Vercoe Holdings Limited
41	Waka Kotahi - The New Zealand Transport Agency
42	Brian Goldstone
43	Jacqueline Field
44	Ken and Raewyn Keyte
45	Ian Yule
46	Summerset Group Holdings Limited
47	The North Twelve Limited Partnership
48	Warren Dohnt
49	Paul and Julie Prior
50	Mike and Sandra Smith
51	Torrey Hilton
52	Maxine Morris
53	Liz Gore
54	Christine Prout
55	Zealandia Trust
56	Ōmokoroa Country Club Ltd
57	Kirsty Mortensen
58	Jace Investments and Kiwi Green New Zealand Limited
59	Jace Orchards Limited and Kiwi Green New Zealand Limited
60	David Crawford
61	Paul and Maria van Veen

62	Angela Yule
63	Dawn Mends
64	Ross List
65	Russel Prout
66	Steve Chalmers

Further Submissions

Submission number	Submitter Name
FS 67	Bay of Plenty Regional Council
FS 68	Classic Group
FS 69	Jace Investments
FS 70	Kāinga Ora - Homes and Communities
FS 71	KiwiRail Holdings Limited
FS 72	Prem Gill
FS 73	New Zealand Housing Foundation
FS 74	Ōmokoroa Country Club Ltd
FS 75	Powerco
FS 76	Retirement Villages Association of New Zealand Incorporated
FS 77	Ryman Healthcare Limited
FS 78	The North Twelve Limited Partnership
FS 79	Waka Kotahi - The New Zealand Transport Agency

Sections with No Submissions

Some Sections of the District Plan were notified with minor or consequential changes, such as updating references, or as in for Section 13, removing reference to Ōmokoroa Stage 3. No submissions have been received on the following list and as a result changes made within these sections are recommended to be retained as notified.

- Sections 1 – Plan Overview
- Section 4A – General
- Section 4D – Signs
- Section 9 – Hazardous Substances
- Section 13 – Residential Zone
- Section 14 – Medium Density Residential
- Section 15 – Future Urban

Submission Scope Matters

Submissions on an IPI are made under clause 6(1) of Schedule 1 to the RMA, and are required to be within the scope of, or “on”, the plan change. Whether a matter is “on” a plan change has been discussed in many cases before the courts, with the two generally accepted tests being:

- a) A submission can only fairly be regarded as being “on” a plan change if it addresses the extent to which the plan change alters the pre-existing status quo; and
- b) If the effect of regarding a submission as “on” a plan change would be to permit a planning instrument to be amended without real opportunity for participation by those potentially affected, this is a powerful consideration against finding that the submission was “on” the plan change (*Clearwater Resort Limited v Christchurch City Council*).

The Reporting Team has identified the following submission points as out of, or potentially out of, the scope of Plan Change 92, for the following reasons:

Submission Point	Submitter Name	Reason
8.1	Armada Properties	Requests new Medium Density Residential Zone on Rural Zone land outside of Plan Change 92 area
18.2, 3, 9 & 10	Fire & Emergency NZ	Requests changes to private way widths, access where changes are not proposed
19.10	Pete Linde	Requests changes to a performance standard relating to public trails where no change are proposed
21.1	Joshua Marshall	Considers all settlements within the Western Bay of Plenty are part of the housing supply and labour market of Tauranga (more than 10,000 people) and are therefore urban environments. This is an incorrect interpretation of the NPS-UD
24.11, 12	Ara Poutama	Requests changes to Commercial and Commercial Transition Zones when limited and consequential changes are proposed. There is no Commercial Transition Zone in Ōmokoroa and Te Puke.
30.4 & 5	KiwiRail	Request new controls in relation to rail noise and vibration not proposed.
34.9	Retirement Villages Association	Requests Katikati and Wāihi Beach Residential Zones be included in the Plan Change, however these do not meet the definition of ‘urban environment’ under the NPS-UD
34.45 - 52	Retirement Villages Association	Requests changes to Commercial and Commercial Transition Zones when limited and consequential changes are proposed. There is no Commercial Transition Zone in Ōmokoroa and Te Puke.

25.2	Bay of Plenty Regional Council	Seek new Natural Open Space Zone outside of Plan Change 92 area.
25.14 & 15	Bay of Plenty Regional Council	Section 12 Objective and Policy change - BOPRC requested changes through direct discussion with submitters which the Reporting Team support but the submissions do not clearly request changes to objective and policies.
40.1	Vercoe Holdings	Requests new Commercial Zone on proposed Medium Density Residential Zone land
50.3	Mike & Sandra Smith	Request changes to ecological feature boundary where no changes are proposed
58.13	Jace Investments and Kiwi Green New Zealand	Requests changes to rules where no changes are proposed
FS 79.1	Waka Kotahi	Supports submission 31.3 but seeks different relief from original submitter.

The Reporting Team's approach in this report has been to note where submission points are potentially out of scope but to also provide information to assist submitters and the IHP.

On a standard plan change progressed under Schedule 1 RMA, the Council or Court can only grant relief within the scope of the submissions made. For an IPI however, the recommendations made by an IHP to Council are not limited to being within the scope of the submissions made on the IPI (s 99 RMA), but must be related to a matter identified by the panel or any other person during the hearing.

Pre-Hearing Dispute Resolution

Following the close of further submissions Council undertook pre-hearing meetings with the majority of submitters either as part of a key topic groups or individually to better understand the submission points and discuss requested decisions.

The key topic groups Council identified from the submissions were:

- S14A – Medium Density Residential Zone
- Prole Road Access
- Urban Design
- Matters of Discretion for 4 or more residential units
- Financial contributions
- Natural Open Space Zone boundary
- Industrial zone

SUMMARY OF KEY CHANGES

Plan Change 92 proposes a range of changes to the Western Bay of Plenty District Plan as required by section 80E of the RMA. The Reporting Team proposes amendments to the notified version of Plan Change 92 in response to submissions received and further discussions with submitters as detailed in the sections of the report below. The table below provides a brief summary of these proposed changes.

Key Change	Issue	Relevant Report
Zone Changes – MDRS, Industrial, Natural Open Space and Rural-Residential	Planning Maps	Reports 3, 4 & 24
Medium Density Residential – Omokoroa and Te Puke	New section in the District Plan, including objectives, policies and rules in relation to this area	Report 15
Ōmokoroa & Te Puke Structure Plan	Structure plans and supporting infrastructure cost schedules, subdivision and development rules and requirements, structure plan maps	Report 13 & 21
Subdivision & Development	Structure Plan, development and access rules	Report 13
Natural Hazards	Planning Maps and rules	Reports 5 & 8
Financial Contributions	Changes to calculating financial contributions	Report 12
Commercial Zone	Amends building height	Report 17
Industrial Zone	New rules to support a new Ōmokoroa Industrial area	Report 19
Rural-Residential Zone	Reduce the minimum lot size in Ōmokoroa Stage 3 Structure Plan	Report 16
Natural Open Space Zone	New zone and section in the District Plan	Report 20
Minor or Consequential Changes		
Transport		Report 8
Amenity		Report 9
Ecological Feature Maps		Report 6

Infrastructure, Network Utilities and Designations		Report 11
--	--	-----------

Expert Conferencing

On 1 August 2023, Expert Conferencing was undertaken in relation to Urban Design, this included; independent peer-review of assessments, matters of discretion for 4 or more residential units, matters of discretion for non-compliance with performance standards and earthworks. A Joint Witness Statement was prepared and is attached as Attachment D. The outcome of this is detailed further in Report 15.

REPORT STRUCTURE

Topics raised are split into individual reports related to each section of the District Plan to allow for ease of flow when considering matters. The Report topics which are most relevant to achieving the outcomes of Plan Change 92 are presented first, following to less substantial topics.

The report is broken into the following parts:

Report Topic
General Matters
Ōmokoroa Zone Maps
Te Puke Zone Maps
Ōmokoroa and Te Puke Medium Density Residential (Section 14A)
Natural Hazard Maps and related provisions
Rural-Residential (Section 16)
Commercial & Commercial Transition (Section 19 & 20)
Industrial (Section 21)
Natural Open Space (Section 24)
Structure Plans (Appendix 7)
Subdivision and Development (Section 12)
Financial Contributions (Section 11)
Other Provisions
Section 4B – Transportation, Access and Parking
Section 4C – Amenity
Sections 5 & 7 – Ecological and Landscape Features

Section 10 – Infrastructure, Network Utilities and Designations
Attachments
Attachment A – Recommended Changes to District Plan Maps
Attachment B – Recommended Changes to District Plan Provisions
Attachment C – Tāngata Whenua Engagement Record
Attachment D – Joint Witness Statement
Attachment E – Memo from Beca – Ōmokoroa Roundabout Performance Metrics and Development Thresholds

Within each Section further Topics are identified based on matters raised by submitters, these are evaluated in the body of this report undertaken under the following sub-headings:

- Background
- Matters raised by submitters
- Options
- Discussion
- Recommendations
- Section 32AA evaluation (where necessary)

Recommendations made in the Section 42A Report are shown as follows:

Existing District Plan text is shown in black.

Proposed changes to District Plan (as notified) text in black underline and ~~strikeout~~

Recommended changes to District Plan (in Section 42A Report) text in response to submissions in red underline and ~~strikeout~~.

Recommendations contain tables identifying the recommendation to accept, reject or accept in part for each submission point along with any amendments to Plan Change 92 as a result of the recommendation.

Appendix A contains “Maps – Recommendations Version” and Appendix B contains the “District Plan – Council Officer Recommendations Version” of Plan Change 92. Where amendments are recommended to Plan Change 92, these are recorded as a track change.