SECTION 14A – ŌMOKOROA AND TE PUKE MEDIUM DENSITY RESIDENTIAL

PART 2 – DEFINITIONS, ACTIVITY LISTS & ACTIVITY PERFORMANCE STANDARDS

AUTHOR: TONY CLOW

CONTENTS

INTRODUCTION

This part of the report focuses on the specific activities which are proposed to be provided for in the Medium Density Residential Zones of Ōmokoroa and Te Puke and the activity performance standards which they are required to meet. It also addresses submission points on the definitions which are used to support the understanding and application of these rules.

Plan Change 92 has introduced a number of new or amended definitions from the National Planning Standards as required to incorporate the MDRS. In addition, Council has proposed other new definitions for showhomes, comprehensive mixed use development, developable area, front boundary and impervious surfaces to incorporate other proposed new rules.

Submission points on definitions relating to Section 14A are addressed as follows:

In the next three topics, where definitions relate to multiple rules:

- Incorporating the MDRS (Topic 1)
- Qualifying matter (Topic 2)
- Residential unit, residential activity and retirement villages (Topic 3)

In other topics, where definitions relate to a specific rule:

- Papakāinga development (Topic 4 for permitted activities)
- Front boundary (Topic 12 for setbacks)
- Building footprint (Topic 13 for building coverage)
- Developable area (Topics 19 and 21 for residential unit yield / lot yield)
- Impervious surfaces (Topic 21 for impervious surfaces)
- Net site area (Topic 21 for impervious surfaces).

TOPIC 1 – DEFINITIONS – INCORPORATING THE MDRS

BACKGROUND

Plan Change 92 is required to introduce definitions from the National Planning Standards to the extent needed to incorporate the MDRS. This is because Schedule 3A(1)(3) of the RMA which contains the MDRS states that terms used in that schedule have the same meaning as in the National Planning Standards.

Prior to Plan Change 92, the District Plan had not incorporated any of the definitions from the National Planning Standards. This is not required until May 2026.

The definitions from the National Planning Standards that must be used for the MDRS, and therefore included in the District Plan, are building, building coverage, building footprint, ground

level, height, height in relation to boundary, net site area, outdoor living space, residential activity, residential unit, and site. The term construction is also defined and used in the MDRS.

However, the MDRS is only required to be introduced for "relevant residential zones" and hence is only introduced for the Medium Density Residential Zones in Ōmokoroa and Te Puke. For the rest of the District, the existing definitions continue to apply.

As an outcome, some of the terms above are now to be defined twice in the District Plan and will therefore have different meanings in the Medium Density Residential Zones in Ōmokoroa and Te Puke when compared to the rest of the District. Exact duplications include building, building coverage, construction, ground level and height. An indirect duplication is the use of residential unit instead of dwelling.

The duplications have been dealt with in Section 3 - Definitions by adding an "except that" note at the end of each relevant definition to explain that it has a different meaning when used in relation to the Ōmokoroa and Te Puke Medium Density Residential Zones.

SUBMISSION POINTS

One submission point and one further submission point was received. The submission points on this topic are summarised as follows:

Kāinga Ora (29.7) supported by Kiwirail (FS 71.4) submit that repetitive definitions be deleted or that all definitions specific to Section 14A – Ōmokoroa and Te Puke Medium Density Residential be shifted to that section. This is until Council gives full effect to the National Planning Standards (including all definitions).

OPTIONS

Option 1 – As proposed – All definitions are contained within Section 3 – Definitions and an "except that" note is provided for each duplicated definition to explain that it has a different meaning in the Medium Density Residential Zones of Ōmokoroa and Te Puke.

Option 2 – Delete repetitive definitions or shift any definitions that relate only to Section 14A (Ōmokoroa and Te Puke Medium Density Residential) to that section.

DISCUSSION

Although it is not ideal to have some terms (e.g. building) defined in one way for the Ōmokoroa and Te Puke Medium Density Residential Zones and in another way for the rest of the District, this was difficult to avoid for the reasons explained in the background.

Alternatives were considered when preparing the Plan Change.

One option was to bring forward the requirement to incorporate all definitions from the National Planning Standards into the whole District Plan. This would have avoided any duplication of definitions (as now requested by the submitters). It is important to note however that this is not a straight-forward 'replace with' exercise. It would likely require a number of consequential amendments to connected provisions that would no longer be applicable or make sense. The time constraints of the RMA Amendment Act meant there was no capacity to do this at the same time as responding to the requirement to prepare this Plan Change.

Another option was to hold all definitions related to the zone separately within Section 14A (also now requested by the submitter). However, this would be confusing in practice. It would leave landowners needing to determine what their activity was defined as for the purpose of Section

14A and then again for the purpose of all other 'district-wide rules'. For example, a house would be a "residential unit" for the provisions of Section 14A and a "dwelling" (which has a different meaning) for all other applicable 'district-wide' rules.

The favoured option is what was proposed, which is to use Section 3 – Definitions as the place to hold definitions. The ePlan allows plan readers to click on defined terms and immediately see what they mean so there is no need to hold them elsewhere. The exceptions, for now, make it clear that the Medium Density Residential Zones of Ōmokoroa and Te Puke have their own definitions for some terms. This will soon be resolved by meeting the requirements of the National Planning Standards. Implementation of these is underway outside of this Plan Change process.

RECOMMENDATION

That Option 1 be accepted.

As proposed – All definitions are contained within Section 3 – Definitions and an "except that" note is provided for each duplicated definition to explain that it has a different meaning in the Medium Density Residential Zones of Ōmokoroa and Te Puke.

The following submissions are therefore:

REJECTED

Submission	Point Number	Name
29	7	Kāinga Ora
FS 71	5	Kiwirail

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 2 – DEFINITIONS - QUALIFYING MATTER

BACKGROUND

Council may make the MDRS and relevant building height or density requirements under Policy 3 of the 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. Council's Addendum Report (Qualifying Matters) to the Section 32 Report identified the existing and proposed qualifying matters. A definition of qualifying matter was not proposed with the Plan Change.

SUBMISSION POINTS

One submission point was received. Five further submission points were received. The submission points on this topic are summarised as follows:

Western Bay of Plenty District Council (15.1) requests that a definition of qualifying matter is added so that when the Plan Change is operative plan users will know in which circumstances the MDRS are less enabling of development due to a qualifying matter. This is as provided for in Policy 2 (Schedule 3A of the RMA and within Section 14A of Proposed Plan Change 92) which reads:

Apply the MDRS 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.

The requested definition is:

"Qualifying matter" means one or more of the following:

- *Ecological features listed in Appendix 1 (Schedule of Identified Significant Ecological Features) and identified on the District Plan Maps.*
- *Natural features and landscapes listed in Appendix 2 (Schedule of Identified Significant Ecological Features) and identified on the District Plan Maps.*
- *Cultural and built heritage features listed in Appendix 3 (Schedule of Identified Significant Historic Heritage Features) and identified on the District Plan Maps.*
- *Proposed Esplanade Reserves, Esplanade Strips and Access Strips identified in Appendix 4 (Schedule of Proposed Esplanade Reserves and Strips) and identified on the District Plan Maps.*
- *Designations listed in Appendix 5 – Schedule of Designations and identified on the District Plan Maps.*
- *Reserves identified on the District Plan Maps.*
- *Stability Areas – Landslip and General identified on the District Plan Maps.*
- *Floodable Areas identified on the District Plan Maps.*
- *Coastal Inundation Areas identified on the District Plan Maps.*
- *Coastal Erosion Areas – Primary Risk and Secondary Risk identified on the District Plan Maps.*
- *Land within 10m of a railway corridor or designation for railway purposes (for sites created by way of an application for subdivision consent approved after 1 January 2010).*
- *Lot 601 DP 560118 and Lot 603 DP 560118 (Harbour Ridge) for new sites created from these which adjoin the esplanade reserve (directly south of the railway line in Ōmokoroa).*

The North Twelve Limited Partnership (FS 78.9) support the new qualifying matter definition.

Bay of Plenty Regional Council (FS 67.45) support the definition but also request that Outstanding Natural Features/Landscapes (ONFLs) are identified.

Powerco (FS 75.1) support the definition but request the addition of "The overhead electricity distribution networks identified on the [non-statutory] planning maps".

Waka Kotahi (FS 79.4) support the inclusion of designations with regard to their Designation D181 described in Appendix 5 – Designations as "Road purposes – State Highway 2 (Four Laning)" and "State Highway 2 from Ōmokoroa Road to Loop Road".

KiwiRail (FS 71.1) support the definition and seek that it be accepted to the extent that it is consistent with the relief sought in their submission such as setbacks from the rail corridor and noise and vibration controls.

New Zealand Housing Foundation (FS 73.7) opposes the proposed amendment in relation to the railway corridor as it is inconsistent with their own primary submission (32.9). They also seek that

the definition for a qualifying matter is amended to exclude "*Land within 10m of a railway corridor or designation for railway purposes (for sites created by way of an application for subdivision consent approved after 1 January 2010).*"

OPTIONS

Option 1 – Add the definition of qualifying matter as requested in the Western Bay of Plenty District Council's submission.

Option 2 – Add "Outstanding Natural Features/Landscapes (ONFLs)" to the definition.

Option 3 – Add "The overhead electricity distribution networks identified on the [non-statutory] planning maps" to the definition.

Option 4 – Add further wording to reflect the relief sought by KiwiRail in relation to setbacks and controls for noise and vibration.

DISCUSSION

With respect to the Bay of Plenty Regional Council request, it is acknowledged that Section 77I(a) of the RMA identifies that a matter of national importance (such as an ONFL) can be a qualifying matter. Council has therefore already identified its own existing landscape features (Appendix 2 of the District Plan) so that those features and associated rules continue to have legal effect and make the MDRS less enabling of development. As a result, it is not considered necessary to add a general reference to ONFLs. While the Regional Council may be intending to ensure protection for a wider feature this would not be identified in the District Plan or protected by rules in the District Plan. Council therefore has no current ability to manage subdivision and development in these additional areas for this purpose.

Powerco's full submission explains in detail their case for why their overhead electricity lines are a qualifying matter. Whether this is confirmed or not, Council staff do not support their requested rule changes to make the MDRS less enabling by triggering resource consent for non-compliance within an Electrical Code of Practice. Therefore, it is not recommended to add the overhead electricity distribution network to the definition of qualifying matter for this reason. This is discussed further in Topic 29 further below.

Kiwirail's submission is accepted in part as the reference to land within 10m of a railway corridor or designation for railway purposes should be retained. However, their requests to add new rules for noise and vibration are recommended to be declined in the part of the Section 42A Report - Section 4C – Amenity. No further changes to the definition of qualifying matter are therefore recommended in relation to the rail corridor.

RECOMMENDATION

That Option 1 be accepted.

Add the definition of qualifying matter as requested in the Western Bay of Plenty District Council's submission.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name

15	1	Western Bay of Plenty District Council
FS 78	9	The North Twelve Limited Partnership
FS 79	4	Waka Kotahi

ACCEPTED IN PART

Submission	Point Number	Name
FS 73	7	New Zealand Housing Foundation

REJECTED

Submission	Point Number	Name
FS 67	45	Bay of Plenty Regional Council
FS 71	1	Kiwirail
FS 75	1	Powerco

TOPIC 3 – DEFINITIONS – RESIDENTIAL UNIT, RESIDENTIAL ACTIVITY, RETIREMENT VILLAGE, RETIREMENT VILLAGE DWELLING AND RETIREMENT VILLAGE INDEPENDENT APARTMENT

BACKGROUND

The term "residential unit" is used widely throughout Section 14A. This includes rules relating to:

- Number of residential units per site
- Building and structure height
- Height in relation to boundary
- Outdoor living space
- Outlook space
- Windows to street
- Landscape area
- Residential unit yield
- Residential unit typology
- Streetscape
- Subdivision for the purpose of the construction and use of residential units

It was intentional in the drafting of Plan Change 92 that the existing definitions of "retirement village dwelling" and "retirement village independent apartment" would carry the same meaning as "residential unit" so that these would be subject to the same rules. This is also because the definition of "residential unit" in Schedule 3A of the RMA captures retirement village dwellings and independent apartments because they are used for a residential activity, are self-contained and include sleeping, cooking, bathing and toilet facilities.

The following definitions are relevant to this topic.

"Residential Unit" *when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) or when "dwelling" shall instead mean "residential unit" as described in the definition of "dwelling" means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities. To be used for a residential activity exclusively by one household means the residential unit is to be self contained.*

Note: Within Section 11 (Financial Contributions) and Section 14A (Ōmokoroa and Te Puke Medium Density Residential) any use of the term "residential unit" shall also mean "retirement village dwelling" and "retirement village independent apartment".

"Residential Activity" *within the definition of "residential unit" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the use of land and building(s) for people's living accommodation.*

"Retirement Village" *means a complex containing retirement village dwellings and/or retirement village independent apartments for the purpose of housing people predominantly in their retirement, and may provide services for the care and benefit of the residents (including rest homes and hospitals), including an activities pavilion and/or other recreational facilities or meeting places for the use of the residents of that complex and visitors of residents.*

"Retirement Village Dwelling" *means a self contained residential unit and includes detached, semi-detached and attached houses within a retirement village.*

"Retirement Village Independent Apartment" *means a self contained residential unit that is part of a block containing multiple apartments (usually multi-level) within a retirement village.*

SUBMISSION POINTS

Eight submission points were received. Four further submission points were received. The submission points on this topic are summarised as follows:

Residential unit

Retirement Villages Association (34.2) seeks a consequential amendment to the definition of 'Residential Unit' so that it does not incorporate 'Retirement Unit'.

Ara Poutama (24.4) request that the definition of "residential unit" is retained.

Retirement Villages Association (FS 76.1) and Ryman Healthcare (FS 77.1) oppose the relief sought by Ara Poutama to the extent that it is inconsistent with their primary submissions seeking that "retirement units" be removed from the definition of "residential unit".

Ara Poutama (24.2) notes that the definition of "residential unit" (as well as the definition of "dwelling" in the Operative District Plan) refers to a "household" which is not defined in the Operative District Plan, nor Plan Change 92. Ara Poutama seeks that a new definition be added, to clarify that a household is not necessarily limited to a family unit or a flatting arrangement (which are more commonly perceived household situations) as follows:

"Household" means a person or group of people who live together as a unit whether or not:

a. any or all of them are members of the same family; or
b. one or more members of the group (whether or not they are paid) provides day-to-day care, support and supervision to any other member(s) of the group.

Residential activity

Ara Poutama (24.3) request that the definition of "residential activity" is retained.

Retirement villages

Ōmokoroa Country Club (56.2) find the definitions around the use of retirement related terms unclear. They note that it appears that Plan Change 92 proposes to remove the definitions of "retirement village", "retirement village dwelling" and "retirement village independent apartment", while Chapter 14A continues to use the term "retirement village" (e.g., Rule 14A.3.3). Therefore, they request keeping these separate definitions.

Retirement Villages Association (34.3) supported by Ōmokoroa Country Club (FS 74.16) seek the definition of retirement village be amended to comply with the National Planning Standards:

> Retirement village means a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities.

Retirement Villages Association (34.4) supports the distinction from general residential dwellings provided by the 'retirement village dwelling' definition. The submitter considers that a 'retirement unit' definition is required in the District Plan as a result of its submission to acknowledge the differences from typical residential activities in terms of layout and amenity needs. The submitter requests to replace the definition of 'retirement village dwelling' with the following 'retirement unit' definition to the District Plan:

> Retirement Unit means any unit within a retirement village that is used or designed to be used for a residential activity (whether or not it includes cooking, bathing, and toilet facilities). A retirement unit is not a residential unit.

Ōmokoroa Country Club (FS 74.17) support Retirement Villages Association's suggestion to delete 'Retirement Village Dwelling' and replace it with 'Retirement Unit'. If Ōmokoroa Country Club's point (56.2) is not accepted, they request that Retirement Villages Association's relief be adopted.

Retirement Villages Association (34.5) supported by Ōmokoroa Country Club (FS 74.18) state that the proposed definition for Retirement Unit encapsulates the Retirement Village Independent Apartment activity, and accordingly, this definition can be deleted.

OPTIONS

Option 1 – Retain the definitions of residential unit, residential activity, retirement village, retirement village dwelling and retirement village independent apartment.

Option 2 – Add a new definition of household to support the definition of residential unit.

Option 3 – Clarify that residential units do not include retirement units. Also delete the existing definitions of retirement village, retirement village dwelling and retirement village independent apartment and replace these with the definition of retirement villages from the National Planning Standards and a new definition of retirement unit.

DISCUSSION

Residential unit – request to add a supporting definition of household

Council staff understand that Ara Poutama are seeking to add a definition of household to recognise that these are not limited to a family unit and so that residential units can be used for supported and transitional accommodation activities such as those provided by Ara Poutama. This means people living in a residential situation subject to support and/or supervision.

It is agreed that those living together as a unit, although not being a family, are still a household. However, it is considered that a definition is not needed to make this clear. The term "household" in the existing definition of "dwelling" has been referred to many times over the years with no problems previously being raised. This is other than one query regarding whether RSE workers were a household to which the answer was yes.

The concern is understood to be that those living together under the supervision of Ara Poutama may not be perceived by some members of the public as a household. However, it is not considered that a new definition of "household" is needed to resolve that. Council staff are also hesitant to introduce new definitions on the basis that one party would prefer to have absolute certainty on a matter. Further, the requested definition may introduce confusion for plan users that hasn't previously existed.

The suggested definition is also open in that an unlimited number of people, including most notably support staff, could live under one roof as a household. While it is agreed that a residential unit can be utilised by those under the support and/or supervision of Ara Poutama, any purpose built facilities for a larger number of people including staff would no longer clearly be the use of a residential unit. The scale and nature of these larger activities may be different to that of the use of a residential unit. It is preferable to avoid a definition of "household" which implies that larger purpose built facilities are residential units. These purpose built facilities may fit better within the definition of another activity (for example an accommodation facility).

Council staff are also concerned that part (b) of Ara Poutama's suggested definition of household could inadvertently permit other activities that should have otherwise required consent.

Ara Poutama raised in discussions that a number of other definitions in the Operative District Plan and Plan Change 92 refer to "household" and would benefit from a definition of household. In response, Council staff noted that the definitions of accessory building and household equivalent have also been in the District Plan for many years without needing a definition of household. Further, the new definitions of residential unit and showhome are essentially the same as dwelling, so it is not anticipated that issues will arise for these definitions either.

In summary, Council staff concluded that there should not be any issues for Ara Poutama if residential units are to be used for genuine residential purposes in line with the definitions of "dwellings" and "residential units".

Retirement villages – request to retain definitions

In their primary submission, Ōmokoroa Country Club have opposed the deletion of the existing definitions of retirement village, retirement village dwelling and retirement village independent apartment. This is despite there being no proposal to remove these definitions. The confusion arises from a note below these definitions which reads as:

The existing definition … ceases to have legal effect under Section 86BA (2) of the RMA. This is only to the extent that it would be inconsistent with a rule authorising as a permitted activity

a residential unit in accordance with the density standards in Rule 14A.4.1 on a site which was zoned residential or medium density residential prior to Plan Change 92 being notified.

These notes were added because the existing definition of retirement village would technically capture 1-3 residential units on a site if they were for housing people predominantly in their retirement. Because there is a rule requiring retirement villages to seek resource consent in all cases, this would prevent 1-3 units being a permitted activity. As such, this rule and associated definition must cease to have legal effect but only to the extent needed to allow 1-3 units as a permitted activity. These notes will be deleted when the Plan Change is operative.

Retirement villages – request to change definitions

Retirement Villages Association seek the definition of retirement village to be amended to comply with the National Planning Standards. Amendments to definitions are however not required until May 2026 unless through notification of a District Plan Review (but not a Plan Change). This Plan Change has therefore only added definitions from the National Planning Standards where necessary to incorporate the MDRS in Ōmokoroa and Te Puke. This has already caused an unwanted complexity in the District Plan of having a number of duplicating definitions as discussed earlier. If the submitter's intent is to introduce the new definition district-wide, this is also not preferable as this Plan Change is not intending to make changes for other areas.

Retirement Villages Association are also seeking a new definition of "retirement unit". This is suggested as an alternative to the definition of "residential unit" which currently only captures their self-contained units but overlooks those that are not. Based on their submission, units that would not be self-contained appear to include "serviced apartments" and "care rooms". They request for this term "retirement unit" to be used throughout the rules with the main purpose being to provide exemptions from the MDRS. This reflects their submission which *considers the development standards for retirement villages should reflect the MDRS, except where amendments are necessary to reflect the particular characteristics of retirement villages*.

For the self-contained units, these are already provided for in the definition of "residential unit" and Council staff view this as being sufficient without any further need to re-define them. It was also intentional to use this definition to ensure that self-contained units in retirement villages would meet the same standards as like units within other developments. Excluding retirement units from the definition of "residential unit" would mean that some standards will cease to apply to these. This includes being able to have three units as a permitted activity (which the submitter supports) and needing to achieve a minimum number of units per hectare which is important for enabling housing supply. It was intended that these standards and others do apply.

For the serviced apartments and care rooms, it is not entirely clear why the submitter is seeking to have these included in a definition of "retirement unit" and made subject to the density standards for outdoor living space, outlook space, windows to street or landscaped area. This would volunteer these units for restrictions that are not intended by the MDRS, or proposed by the Plan Change, and would remove the flexibility that villages currently have to deliver the "unique internal amenity needs" that are sought to be provided for by the submission. The request is also unusual as the submitter has then sought exemptions from these same standards on the basis that they are difficult to meet, not relevant or in one case "simply not needed".

The intent of the Retirement Village Association submission is to provide a set of rules that are suitable for retirement villages. Further, they wish to avoid "an expectation from council officers that the internal amenity controls used for transitional housing typologies (e.g. outlook, sunlight, privacy, outdoor living spaces, landscaping and the like) are appropriate for retirement villages".

The exemptions sought for self-contained units (which need to meet such standards) would align with this. However, volunteering to apply the same standards to serviced apartments and care rooms, when there are no existing or proposed rules requiring this, appears to be a less suitable option for retirement village providers.

For the reasons above, Council staff do not support using the new definitions requested.

RECOMMENDATION

That Option 1 is accepted

Retain the definitions of residential unit, residential activity, retirement village, retirement village dwelling and retirement village independent apartment.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
24	3, 4	Ara Poutama
56	2	Ōmokoroa Country Club

REJECTED

Submission	Point Number	Name
24	2	Ara Poutama
34	2, 3, 4, 5	Retirement Villages Association
FS 74	16, 17, 18	Ōmokoroa Country Club
FS 76	1	Retirement Villages Association
FS 77	1	Ryman Healthcare

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 4 – RULE 14A.3.1 - PERMITTED ACTIVITIES

BACKGROUND

Rule 14A.3.1 (a)-(l) lists permitted activities. This includes three residential units on a site, showhomes, small accommodation and education facilities, home enterprises, activities in reserves, certain network utilities, buildings accessory to the foregoing and earthworks. It also includes activities within the Ōmokoroa Mixed Use Residential Precinct which occupy less than 150m^2 in gross floor area such as retail, restaurants offices and medical and scientific facilities.

SUBMISSION POINTS

Five submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.34) supports the permitted activity list.

Ara Poutama Department of Corrections (24.9-24.10) support the permitted activity status for residential units in the context of the establishment and operation of supported and transitional accommodation activities.

Kāinga Ora (29.37) supports up to three residential units on a site as a permitted activity. Additionally, they request that provision is made for a permitted level of papakāinga development similar to that of general residential developments i.e. up to three units. The submitter suggests a note at the end of Rule 14A.3.1 (b) to explain that it applies to papakāinga.

Kāinga Ora (29.37) also request that marae and cultural activities in association with papakāinga housing be provided for as a restricted discretionary activity.

To support these requests, a definition for "papakāinga development" is sought to be included within the definitions of the District Plan as shown below:

"Papakāinga development": A development by tangata whenua established to be occupied by tangata whenua for residential activities and ancillary social, cultural, economic, conservation and/or recreation activities to support the cultural, environmental, and economic wellbeing of tangata whenua.

Kāinga Ora (29.38) also supports, in part, a maximum gross floor area for non-residential activities within the Ōmokoroa Mixed Use Residential Precinct to ensure there is no economic impact on the neighbouring commercial zone. However, they highlight it is not clear whether this limit applies per development, per precinct, or per activity.

The submitter requests the addition of wording to clarify that it is per activity:

In the Ōmokoroa Mixed Use Residential Precinct only, the following activities where they occupy less than 150m^2 in gross floor area per activity:

OPTIONS

Option 1 – Retain Rule 14A.3.1 (permitted activities) as notified.

Option 2 – Amend Rule 14A.3.1 (b)(up to three residential units per site) by adding a note to confirm that this standard also applies to papakāinga with a supporting definition.

Option 3 – Amend Rule 14A.3.1(g) (maximum gross floor area for non-residential activities in the Ōmokoroa Mixed Use Residential Precinct) so it is clear that it applies "per activity".

DISCUSSION

The support from Ara Poutama Department of Corrections is because residential units by definition would include anyone living together in a household situation including those under the supervision of Ara Poutama.

Kāinga Ora's request for the permitted activity status for up to three residential units to apply to papakāinga is also noted. However, this is already the case. Any development (including papakāinga) which has residential units will be allowed up to three on a site as a permitted activity. While a note may assist in making it more obvious, it may also bring into doubt why other

development types are not also mentioned. The explanatory statement already explains that residential units will be provided for in many developments including papakāinga. Marae and cultural activities associated with papakāinga housing are also already provided for as discretionary activities as "Places of Assembly".

Council is considering a specific Plan Change for papakāinga development for the whole of the District in the near future. Therefore, it would be more appropriate to review the provisions of the District Plan in consultation with tangata whenua through this process rather than in response to a submission on Plan Change 92. This future Plan Change would present the opportunity to address how to provide for papakāinga housing, marae and cultural activities as well as how to define papakāinga development.

With respect to the maximum gross floor area for non-residential activities in the Ōmokoroa Mixed Use Residential Precinct, it is acknowledged that this may not be explicit as to whether the limit applies per development, precinct, or activity. It is intended to be per individual activity. Using offices as an example, it would allow for any number of offices provided they were each less than 150m^2. The suggested wording from Kāinga Ora would make this clearer if there was doubt.

RECOMMENDATION

That Option 3 is accepted

Amend Rule 14A.3.1 (g) (maximum gross floor area for non-residential activities in the Ōmokoroa Mixed Use Residential Precinct) so it is clear that it applies "per activity":

14A.3.1 Permitted Activities

g. In the Ōmokoroa Mixed Use Residential Precinct only, the following activities where they occupy less than 150m^2 in gross floor area per activity:

a. Offices
b. Retailing (ground floor only)
c. Restaurants and other eating places and taverns (ground floor only)
d. Commercial services (ground floor only)
e. Places of assembly (excluding places of worship, marae, halls, theatres and taverns)
f. Medical or scientific facilities.

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
24	9	Ara Poutama
24	10	Ara Poutama
29	38	Kāinga Ora

ACCEPTED IN PART

Submission	Point Number	Name

47	34	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
29	37	Kāinga Ora

SECTION 32AA ANALYSIS

The changes proposed are minor. Accordingly, no s32AA analysis is required.

TOPIC 5 – RULE 14A.3.2 - CONTROLLED ACTIVITIES

BACKGROUND

Rule 14A.3.2 (a)-(d) lists controlled activities. This includes subdivision for the purpose of the construction and use of residential units as provided for by the MDRS, which requires landowners to consider subdivision and land use at the same time. Also provided for is the subdivision of sites of less than 1,400m^2 to create one or two additional lots not for the purpose of the construction and use of residential units (intended to mean the creation of vacant lots). Certain network utilities are also controlled activities.

SUBMISSION POINTS

Two submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

North Twelve Limited Partnership (47.35) supports the controlled activity list.

Kāinga Ora (29.39) opposes locating subdivision specific standards within the residential standards. To align with the National Planning Standards, they suggest that 14A.3.2(a)-(c) and 14A.3.4 (i) be moved to the 'district-wide' provisions in Section 12 – Subdivision and Development.

OPTIONS

Option 1 – Retain Rule 14A.3.1(b) (controlled activities) as notified.

Option 2 – Delete the subdivision specific activity statuses in 14A.3.2(a)-(c) and 14A.3.4 (i) and move these to the 'district-wide' provisions in Section 12 – Subdivision and Development.

DISCUSSION

Council is aware of the direction in the National Planning Standards to contain any technical subdivision requirements in a subdivision chapter. Implementation of the National Planning Standards is underway outside of this Plan Change process. For now, the subdivision activity statuses are to be included in Section 14A – Ōmokoroa and Te Puke Medium Density Residential. This is consistent with other zones using the existing District Plan layout. It is also noted that the National Planning Standards only direct that technical requirements (from Part 10 of the RMA) are added to a subdivision chapter. An activity status is not necessarily a technical requirement.

RECOMMENDATION

That Option 1 be accepted.

Retain Rule 14A.3.1(b) (controlled activities) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	35	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
29	39	Kāinga Ora

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 6 – RULE 14A.3.3 - RESTRICTED DISCRETIONARY ACTIVITIES

BACKGROUND

Rule 14A.3.3 (a)-(f) lists restricted discretionary activities. This includes four or more residential units on a site, comprehensive mixed use development, retirement villages, rest homes and certain network utilities.

SUBMISSION POINTS

Six submission points were received. Six further submission points were received. The submission points on this topic are summarised as follows:

North Twelve Limited Partnership (47.36) supports the restricted discretionary activity list.

Classic Group (26.27), Vercoe Holdings (40.12) and Urban Task Force (39.20) supported by Ōmokoroa Country Club (FS 74.8, 74.30 and 74.32) seek to have retirement villages removed as a restricted discretionary activity and instead provide for them as a controlled activity.

Retirement Villages Association (34.31) supported by Ōmokoroa Country Club (FS 74.25) seek to exclude the construction of retirement villages from Rule 14A.3.3(a) and to instead incorporate the construction of retirement villages into Rule 14A.3.3(d). Their requested changes are below.

a. Permitted and Controlled land use activities (excluding the construction of retirement villages) that do not comply with the density standards or other standards in Rules 14A.4.1 and 14A.4.2.

b. The construction of retirement villages ~~(except for residential units which are permitted by complying with the density standards).~~ including those that do not comply with the density standards in Rule 14A.4.1.

Retirement Villages Association (34.32) supported by Ōmokoroa Country Club (FS 74.26) oppose Rule 14A.3.3 (d) as it does not recognise that retirement villages are residential activities that are encouraged and anticipated in residential zones. They seek to delete Rule 14A.3.3(d) and request a new rule to provide for retirement villages (as a land use activity) as a permitted activity.

Kāinga Ora (FS 70.21 and FS 70.23) opposes Retirement Villages Association's submission and considers it appropriate that retirement villages should remain as a restricted discretionary activity in line with other larger scale residential development (which is proposed as restricted discretionary).

OPTIONS

Option 1 – Retain Rule 14A.3.3 (restricted discretionary activities) as notified.

Option 2 – Amend 14A.3.3 to provide for the construction of retirement villages as a restricted discretionary activity and for retirement villages (as a land use activity) as a permitted activity.

Option 3 – Amend 14A.3.3 to provide for retirement villages as a controlled activity.

DISCUSSION

The District Plan currently defines a retirement village as:

"Retirement Village" *means a complex containing retirement village dwellings and/or retirement village independent apartments for the purpose of housing people predominantly in their retirement, and may provide services for the care and benefit of the residents (including rest homes and hospitals), including an activities pavilion and/or other recreational facilities or meeting places for the use of the residents of that complex and visitors of residents.*

The requested changes from Retirement Villages Association intend to separate retirement villages into two distinct activities. These being the (temporary) construction of a village and the (permanent) establishment of the land use. The wording changes seek that the construction be treated with more caution (restricted discretionary) but that the land use be permitted.

Although retirement villages enable housing and are anticipated within residential zones, this does not mean that retirement villages therefore need to be a permitted activity. Within the District's Residential and Medium Density Residential Zones, resource consent is required for more than one unit per site. The MDRS still requires resource consent (restricted discretionary) for four or more units on a site within Ōmokoroa and Te Puke. It would be at odds with this to provide for large-scale housing developments such as retirement villages as permitted. It is also considered that retirement villages will have "residential units" and if they have four or more of these, Council is required to ensure that they seek resource consent.

Retirement villages are usually of such a scale that they should require resource consent to address their potential effects (not just construction but also other effects relating to amenity, traffic and consumption of infrastructure etc). Retirement villages also contain non-residential activities as part of the complex which are for the use of the residents and their visitors. These non-residential activities are also not appropriate as permitted activities in a residential zone.

The Reporting Team considers that Council should have the discretion to consider the effects of a proposed retirement village on a case-by-case and site-by-site basis. This will in part ensure that the proposed retirement village is consistent with the objectives and policies of the zone as they relate to the matters of discretion. As such a restricted discretionary pathway would allow for the most appropriate consideration for a resource consent for a retirement village.

In the reverse, Retirement Villages Association are seeking restricted discretionary activity status for the construction of retirement villages when the District Plan does not specifically require resource consent for this. It is not clear whether this is intentional or an oversight. The District Plan generally recognises that construction is temporary and an integral part of establishing activities which are either permitted or granted resource consent. Noise associated with construction activities and complying with NZS 6803:1999 Acoustics – Construction Noise is permitted under Rule 4C.1.3.1. For those activities, noise does not need to comply with the more stringent limits otherwise within the District Plan.

Other submitters have sought that retirement villages (land use) be controlled activities. This is understood to be on the basis that retirement villages are currently provided for as controlled activities in the District's Residential Zones. This rule was introduced into the District Plan in 2012 and the activity status was to align with the controlled activity status provided for more than one dwelling per lot at that time. The activity status for four or more units on a site is now proposed to be restricted discretionary as required by the MDRS so aligning with this is now more appropriate.

A submitter has highlighted that Section 77G(6) of the RMA may prevent Council from moving from controlled to restricted discretionary status. Section 77G(6) sets out that Council may make the requirements in Schedule 3A of the RMA (MDRS) and Policy 3 (NPS-UD) less enabling through a qualifying matter. However, neither Schedule 3A nor Policy 3 offer a specific activity status for retirement villages that Council could seek to make less enabling whether a qualifying matter was applicable or not. Schedule 3A does however require four or more units on a site to be restricted discretionary, as mentioned earlier.

It is therefore recommended that the proposed rules are retained as notified which provide for retirement villages (land use) as a restricted discretionary activity and which do not specifically require resource consent for construction of retirement villages.

RECOMMENDATION

That Option 1 be accepted.

Retain Rule 14A.3.3 (restricted discretionary activities) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	36	The North Twelve Limited Partnership
FS 70	21	Kāinga Ora

REJECTED

Submission	Point Number	Name
26	27	Classic Group
34	31	Retirement Villages Association
34	32	Retirement Villages Association
39	2	Urban Task Force

40	12	Vercoe Holdings
FS 74	8, 25, 26, 30, 32	Ōmokoroa Country Club

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 7 – RULES 14A.3.4 AND 14A.3.5 - DISCRETIONARY & NON-COMPLYING ACTIVITIES

BACKGROUND

Rule 14A.3.4 lists discretionary activities. This includes places of assembly, larger accommodation facilities and education facilities, medical and scientific facilities, dairies, new urupa and certain network utilities. Rule 14A.3.4 (i) includes subdivision (not for the purpose of the construction and use of residential units) when creating three or more new lots or on sites over 1400m^2.

Rule 14A.3.5 lists one non-complying activity being subdivision (not for the purpose of the construction and use of residential units) which fails to meet the subdivision standards for discretionary activities. These are minimum lot yield per hectare and minimum shape factor.

SUBMISSION POINTS

Five submission points were received. Three further submission points were received. The submission points on this topic are summarised as follows:

Clarification of the purpose of discretionary subdivision <u>not</u> for the purpose of the construction and use of residential units

The North Twelve Limited Partnership (47.37 and 47.38) generally supports the discretionary activity list however request clarity around the intention of 14A.3.4(i) relating to subdivision.

Request to change non-complying subdivision to discretionary

The North Twelve Limited Partnership (47.39) oppose the non-complying activity status under 14A.3.4(a) for subdivision and submit that a discretionary activity status is adequate to cater for not meeting the required yield standards and will give Council the full discretion to approve or decline a consent application. Therefore, they request that Rule 14A.3.4 is removed.

Request for discretionary activity status for emergency service activities

Fire and Emergency New Zealand (18.20) note that emergency service facilities and activities are not provided for in the Medium Density Residential Zone and are therefore a non-complying activity. The submitter requests that emergency service activities be added to the list of discretionary activities. They also seek a new related definition for "emergency service activities" to support this activity. This is shown below.

<u>"Emergency Services Activities</u>

<u>Those activities and associated facilities that respond to emergency call-outs, including police, fire, civil defence and ambulance services, but excluding health care facilities and hospitals."</u>

Request for non-complying activity status for subdivision and development to manage effects on the Ōmokoroa Road / State Highway 2 intersection

Waka Kotahi (41.3) are supportive of the rezoning of Ōmokoroa Stage 3 Structure Plan but seek provision for the management of adverse traffic safety and efficiency effects that development will have on the intersection of Ōmokoroa Road / State Highway 2 and on the wider state highway network. They request a non-complying activity status for subdivision and development within Stage 3:

- Prior to the construction of an interim roundabout; and
- Once the interim roundabout has reached capacity and before such time that a grade separated interchange has been constructed.

Waka Kotahi's request is opposed by Jace Investments (FS 69.5), Kāinga Ora (FS 70.25) and Ōmokoroa Country Club (FS 74.33). Jace Investments note that government funding for the intersection improvements and temporary management of traffic during construction will enable traffic management and safety on the State Highway and Ōmokoroa Rd intersection. Kāinga Ora is concerned around a 'blanket' approach to resource consent triggers as not all subdivision and development may result in adverse effects on the capacity and demand of the transport network to the extent that large scale infrastructure is required. Kāinga Ora also have concerns around the ability to monitor such a rule and the timing of the rule in respect to the roundabout or interchange being 'operational'.

OPTIONS

Option 1 – Retain Rule 14A.3.4 (discretionary activities) and Rule 14A.3.5 (non-complying activities) as notified.

Option 2 – Clarify the intention of discretionary subdivision under Rule 14A.3.4(i) and delete the non-complying activity status for subdivision under Rule 14A.3.5(a).

Option 3 – Amend Rule 14A.3.4 to make emergency services activities a discretionary activity.

Option 4 – Amend Rule 14A.3.5 to provide a non-complying activity status for subdivision and development in Ōmokoroa Stage 3 Structure Plan to manage traffic effects on the State Highway 2 intersection.

DISCUSSION

Clarification of the purpose of discretionary subdivision <u>not</u> for the purpose of the construction and use of residential units

The North Twelve Limited Partnership have sought clarification of the purpose of this rule. As briefly mentioned in Topic 5 above, this rule is intended for the creation of vacant lots. Discretionary activity status in this case is to encourage developers to avoid large subdivisions of this nature and to instead apply for subdivision for the purpose of residential units under the MDRS which provides for better urban design outcomes.

Requiring a discretionary activity resource consent is intended to avoid a common situation where subdivision and bulk cut and fill earthworks (including for building platforms and retaining walls) are undertaken first followed by the residential units and urban design later. Once the subdivision and earthworks are already complete it is often too late to achieve good urban design outcomes for the site. Discretionary status allows Council to address matters such as earthworks

and the orientation and configuration of lots for good urban design outcomes. Discretionary activity status is also dependent on providing a minimum number of lots per hectare and providing a suitable sized area (shape factor) on each lot for a house site. This is to make sure that the land can still be used to meet minimum densities (for residential units) in the future.

While the rule is intended for the creation of vacant lots, the term was not used because it can carry different meanings and may need to be defined. For example, it is generally understood to mean a lot which does not yet have a residential unit physically constructed. Whereas, in the context of Schedule 3A of the RMA, the term "vacant allotments" is understood to mean lots that are not demonstrated at the time of subdivision to be for the purpose of the construction of residential units. The RMA wording is the reason why the proposed rule is worded to refer to lots "not for the purpose of the construction and use of residential units".

Request to change non-complying subdivision to discretionary

Non-complying activity status was proposed for instances where discretionary subdivisions (as explained above) would fail to meet the minimum lot yield and shape factor. The North Twelve Limited Partnership have sought this to be changed to discretionary. It is agreed that discretionary activity status is adequate for being able to approve or decline an application to ensure yield outcomes are met. Non-complying activity status is therefore not required.

Request for discretionary activity status for emergency service activities

There is currently a presence of fire, ambulance and police services in Ōmokoroa and Te Puke. Ōmokoroa has the Ōmokoroa Volunteer Fire Brigade first response team which incorporates St Johns Ambulance and the New Zealand Fire Service. Te Puke is supported by existing police, fire and ambulance stations. Although further emergency services may be needed as growth occurs in these settlements, Council staff do not consider that this necessarily needs to be provided for in the Medium Density Residential Zone.

It is more appropriate for emergency activities to establish in Commercial and Industrial Zones. Ōmokoroa and Te Puke both have these zones in close proximity of residential areas. These zones would be better placed for emergency activities to avoid the loss of usable residential land and effects on residents and landowners. Police stations, fire stations and St Johns Ambulance stations are permitted in Industrial Zones. Police stations are also permitted in Commercial Zones.

Emergency services activities, if not listed as discretionary in the Medium Density Residential Zone, could still be considered as non-complying (under Rule 4A.1.4) as noted by the submitter. This would allow for these activities to be considered on a case-by-case basis where appropriate.

Request for non-complying activity status for subdivision and development to manage effects on the Ōmokoroa Road / State Highway 2 intersection

Ōmokoroa is anticipated to grow to a maximum of 13,000 people in the next 30 years. The current population is estimated at 5,427. Ōmokoroa Stage 3 Structure Plan is a greenfield area being rezoned though this Plan Change from Future Urban to Medium Density Residential to deliver the remaining growth for the peninsula. It is expected to provide for a further 2580 residential units or approximately 6,708 people.

Waka Kotahi's submission explains that the current intersection at Ōmokoroa Road / State Highway 2 has existing safety and capacity issues and that it will not have the capacity to safely or efficiently accommodate growth planned by Plan Change 92. Council has received $38 million from Kāinga Ora's Infrastructure Acceleration Fund (IAF) to construct a temporary roundabout to allow for further growth in Ōmokoroa. Waka Kotahi will contribute $5 million plus a further $1.49

million and Council will part fund also. At the time of Plan Change 92 being notified, it was not clear when the roundabout would be constructed. In their submission, Waka Kotahi noted that this may commence as early as 2022/2023 and be finished by 2025.

Council staff have met with Waka Kotahi and Kāinga Ora to discuss Waka Kotahi's submission point. Initially, Waka Kotahi were seeking non-complying activity status for all applications for subdivision and four or more units prior to roundabout construction. This was due to their uncertainty about when construction would begin. Council officers and Kāinga Ora did not agree with non-complying activity status for subdivision and development prior to the roundabout given that Plan Change 92 is a response to the RMA Amendment Act to enable housing supply. Solutions were discussed including allowing landowners to proceed with applying for subdivision and land use consents subject to measures that would prevent the completion of the process until the roundabout was operational e.g. conditions on subdivisions to withhold s224 certificate.

Waka Kotahi have since confirmed that they no longer wish to proceed with restrictions on subdivision and development prior to the roundabout. This is because Council is planning to begin construction of the roundabout in October 2023. Also, Waka Kotahi's concerns have been lessened by the operative date of the Plan Change now to occur later than originally anticipated. However, they still wish to proceed with their request for a non-complying status for subdivision and four or more units after the roundabout exceeds capacity and before a grade-separated interchange is in place. The capacity of the roundabout is currently being determined by Council and Waka Kotahi but initial estimates suggest that the roundabout will have sufficient capacity until 2048. This would allow the majority of Ōmokoroa Stage 3 Structure Plan to develop.

At the time of writing this report, no agreement has been reached between the three parties on whether to proceed with a rule and what activity status would be appropriate.

As explained in the introduction of the Plan Change Ōmokoroa Stage 3 Structure Plan has been an identified growth area for the wider western Bay of Plenty sub-region for some time. This has been included in all Smart Growth documents which Waka Kotahi is a member of. The Council has already made significant investments in infrastructure including the wastewater pipeline to Tauranga ($30m), roading upgrades, stormwater management systems, water supply and recreation and social facilities. This significant investment in infrastructure was committed by Council on the basis that the State Highway 2 safety and efficiency issues would be resolved in accordance with the Designation providing for four laning and an interchange. The inclusion of the Takitimu Northern Link (including the Ōmokoroa intersection) into the 2020 New Zealand Upgrade Programme, gave Council confidence to continue with the growth plans for Ōmokoroa.

The existing designation held by the Waka Kotahi (D181) provides for the four laning of State Highway 2 from Ōmokoroa Road to Loop Road. An alteration to the designation is expected to be lodged in the near future which will also provide for the interim round-about and related works. As the Requiring Authority Waka Kotahi have the control and statutory responsibility to provide a safe and efficient connection to Ōmokoroa from State Highway 2.

As part of the on-going discussions with Waka Kotahi additional traffic modelling has been undertaken. The findings of the modelling include level of service assessments based on the interim round-about construction and anticipated growth. [Letter - Ōmokoroa Roundabout Performance Metrics and Development Threshold – Beca 4 August 2023]. Refer to Attachment E

Based on this analysis the intersection between Ōmokoroa Road and State Highway 2 is anticipated to operate at an acceptable level of service until approximately 2048. Considering

that the District Plan will be subject to a number of reviews within the next 25 years if required, specific development constraints could be developed at the appropriate time. Noting the time period, programmed future work and potential for significant changes in transportation modal splits in the period and the purpose of the Amendment Act is to enable more housing any restriction on residential development in regard to the Ōmokoroa Road and State Highway 2 is not recommended.

As no agreement has been reached between Waka Kotahi and Council, and there are ongoing meetings regarding this point no recommendation has been made at the time of this report.

RECOMMENDATION

That Option 2 be accepted.

Clarify the intention of discretionary subdivision under Rule 14A.3.4(i) and delete the non-complying activity status for subdivision under Rule 14A.3.5(a).

This would require changes as follows:

~~**14A.3.5 Non-Complying Activities**~~

~~Subdivision provided for as a discretionary activity in 14A.3.4 (i) above which fails to comply with the subdivision standards in 14A.4.3 (c).~~

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
47	37, 38, 39	The North Twelve Limited Partnership
FS 69	5	Jace Investments
FS 70	25	Kāinga Ora
FS 74	33	Ōmokoroa County Club

REJECTED

Submission	Point Number	Name
18	20	Fire and Emergency New Zealand

DECISION OUTSTANDING

Submission	Point Number	Name
41	3	Waka Kotahi

SECTION 32AA ANALYSIS

The changes proposed are minor. Accordingly, no s32AA analysis is required.

TOPIC 8 – RULE 14A.4.1 – DENSITY STANDARDS - GENERAL

BACKGROUND

Rule 14A.4.1 contains the density standards from Schedule 3A of the RMA that Council is required to insert into its Plan.

SUBMISSION POINTS

General

Armadale Properties Limited (8.2) support the inclusion of the MDRS as notified (with the exception of the earthworks rules).

Kāinga Ora (29.21) supports the inclusion of the prescribed Medium Density Residential Standards (MDRS) as required by the Housing Supply Act into the District Plan.

Ōmokoroa Country Club (56.8) request an amendment to 14A.4 so that it only applies to permitted and controlled activities and question the reason for the wording "any other activity that fails to comply with any of these standards shall retain the same activity status".

Quality built outcomes

Ōmokoroa Country Club (56.8) also request that Council to develop more nuanced rules for restricted discretionary activities, where the matters over which discretion is reserved are clearly directed toward quality built outcomes.

Retirement villages

Ōmokoroa Country Club (56.5) note that Section 14A states (e.g., Objective 3) that it provides for a variety of housing developments including retirement villages. However, they feel the provisions (particularly when combined with Chapter 11) do not do this. They request the following: Amend Section 14A to include provisions specific to retirement development with less density, higher amenity, and shared facilities. Make further provision within Section 14A to incentivise developers to deliver high quality-built form. For example, provide more permissive activity status where developments have been through a robust urban design peer review process, or require this to have occurred for developments to be processed on a non-notified basis.

Retirement Villages Association (FS 76.12) and Ryman Healthcare (FS 77.12) support the above point except for the part of the request relating to urban design.

Use of the term "structures"

Kāinga Ora (29.36) opposes the use of "structure" within the proposed rule framework for the following reason given:

The definition of "structure" in section 3 cross references to the existing "building/structure" definition, albeit a proposed amendment to include a "building" definition specific for section 14A. This creates unnecessary ambiguity for plan users and can have unintended consequences in a rule framework pertaining to the control of "buildings" on a residential site.

KiwiRail (FS 71.8) is concerned to ensure that any amendments to the definition does not erode or impact the provisions sought in its primary submission, including as the terms buildings and structures are used in the building setbacks relating to the rail corridor. They request that the Kāinga Ora submission point is rejected.

Retirement Villages Association (76.14) and Ryman healthcare (77.14) support part of the relief sought in this submission point for the reasons outlined by the submitter and as it better provides for the benefits of retirement villages or recognises their functional and operational needs.

OPTIONS

Option 1 – Retain Rule 14A.4.1 as proposed (except where recommended in other topics).

Option 2 – Provide more nuanced rules for retirement villages.

Option 3 – Delete all references to "structures".

DISCUSSION

Retirement villages

This submission point is accepted in part as the matters raised have been considered in greater detail where the submitter has raised specific submission points in relation to retirement villages, and urban design.

Quality built outcomes

The proposed rules (discussed in the Topic below) and matters of discretion (discussed in Section 42A Report – Section 14A Part 3 will ensure that quality built outcomes are achieved.

Use of the term "structures"

The RMA Amendment Act requires that Council applies to the MRDS to buildings. However, it overlooks "structures" which should also need to comply with standards such as height, height in relation to boundary and setbacks. Therefore, references to "structures" need to be retained. The Operative District Plan contains similar rules for structures in other zones.

RECOMMENDATION

That Option 1 be accepted

Option 1 – Retain Rule 14A.4.1 as proposed (except where recommended in other topics).

ACCEPTED

Submission	Point Number	Name
56	8	Ōmokoroa Country Club
29	21	Kāinga Ora
FS71	8	KiwiRail

ACCEPTED IN PART

Submission	Point Number	Name
8	2	Armadale Properties Ltd
56	5	Ōmokoroa Country Club
FS 76	12	Retirement Villages Association
FS 77	12	Ryman Healthcare

REJECTED

Submission	Point Number	Name
29	36	Kāinga Ora
76	14	Retirement Villages Association
77	14	Ryman Healthcare

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 9 – RULE 14A.4.1 (A) – DENSITY STANDARDS – NUMBER OF RESIDENTIAL UNITS

BACKGROUND

Rule 14A.4.1(a) is a density standard from Schedule 3A of the RMA that Council is required to insert into its Plan. This rule allows 1-3 units on a site as a permitted activity provided that they also meet the other density standards. This rule is to enable housing supply more readily by removing the need for resource consents. It is required to be applied to existing residential zones. In addition, Council has also chosen to apply this to greenfield areas in Ōmokoroa and Te Puke to further enable housing supply.

SUBMISSION POINTS

Five submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

Retirement Villages Association (34.33) support this rule as it aligns with the number of residential units per site standard of the MDRS.

The North Twelve Limited Partnership (47.40) supports allowing for three dwellings per site as a permitted activity as it enables greater opportunity for multiple dwellings per site.

Lesley Blincoe (2.1) opposes the rule due to concerns about roads full of parked cars, issues for wider vehicles such as buses and rubbish trucks, capacity of power lines and increased rates. The submitter prefers for Council to encourage the higher densities in new subdivisions and only allow it in older areas of Ōmokoroa on a discretionary basis.

John Wade (17.1) is opposed to the increase in density in brownfield areas on the basis that Te Puke's existing roading, parking, sport and recreation, police and welfare infrastructure is not adequate to support higher densities. It is requested that the MDRS are rejected within existing neighbourhoods in Te Puke and neighbouring properties should have to give written consent. They believe higher density is better placed in new subdivisions where it can be well planned for.

Liz Gore (53.1) is opposed to higher density in Te Puke due to concerns surrounding water, sewage and roading infrastructure, increasing rates, loss of business within town and lack of police.

OPTIONS

Option 1 – Retain Rule 14A.4.1(a) (number of residential units per site) as notified.

DISCUSSION

The concerns of the submitters are appreciated as the rule may lead to effects on neighbours or a change in the character of an area that wasn't anticipated. However, Council as a tier 1 territorial authority is required to include this rule in its District Plan for existing residential zones (brownfield). There is no ability for Council to have discretion over new developments or to require written consent from neighbours if the density standards are complied with.

Council anticipates that over time, growth will occur in the older residential areas of Ōmokoroa and Te Puke due to the MDRS and are aware of the potential on-street parking issues and pressure on infrastructure services. This is prepared for through funding generated by land development via the payment of financial contributions. Council use these contributions to fund upgrades for service capacity issues over time such as increasing pipe capacity via larger diameters, widening pavement widths and providing more recreation and leisure areas. Council's roading standards for widths are also designed to accommodate larger vehicles such as buses and rubbish trucks considering that these types of vehicle movements are infrequent. Growth will also require other organisations to respond to meet the needs of the community such as providing adequate power or improving or providing new community services and facilities.

RECOMMENDATION

That Option 1 be accepted

Retain Rule 14A.4.1(a) (number of residential units per site) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
34	33	Retirement Villages Association
47	40	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
2	1	Lesley Blincoe
17	1	John Wade
53	1	Liz Gore

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 10 – RULE 14A.4.1(B) – DENSITY STANDARDS - BUILDING AND STRUCTURE HEIGHT

BACKGROUND

Rule 14A.4.1(b) is a density standard from Schedule 3A of the RMA. This rule limits buildings to a height of 11m. Council also added structures to this rule. A number of exceptions are provided for Ōmokoroa Stage 3 Structure Plan which is a greenfield area proposed to be rezoned from Future Urban to Medium Density Residential. These exceptions provide for greater heights (20m) in Ōmokoroa 3C and a further additional height of 23m in the Ōmokoroa Mixed Use Residential Precinct (also part of 3C).

SUBMISSION POINTS

Six submission points were received. Three further submission points were received. The submission points on this topic are summarised as follows:

Retirement Villages Association (34.34) and The North Twelve Limited Partnership (47.41) support this rule as it aligns with the building height standard of the MDRS.

Lesley Blincoe (2.2) opposes the height allowed for buildings in Plan Change 92 due to concerns around daylighting and no ability to object to developments. The submitter requests that all applications to build on existing steep and sloping residential streets and sites in the older part of Ōmokoroa be subject to a lower height restriction.

Penny Hicks (16.6) is opposed to the 20m building height allowed for within the Ōmokoroa 3C Medium Density Residential Zone as it is out of character for the area. The submitter requests a reduction in building height in this area.

Robert Hicks (4.3) opposes building height above 11m and requests removal of the 2-23m height limit.

Jace Investments (FS 69.11) request the submission made by Penny Hicks is rejected as the additional height for buildings is required to meet the densities sought by the Plan Change.

Paul and Maria Van Veen (61.2 and 61.3) oppose the height (20m) and bonus height (23m) allowances in the Ōmokoroa Mixed Use Residential Precinct as it is out of character for the area.

Jace Investments (FS 69.12 and FS 69.13) oppose Paul and Maria Van Veen's submission point as the height is required to enhance the legibility and vitality of the Ōmokoroa Town Centre.

OPTIONS

Option 1 – Retain Rule 14A.4.1(b) (building and structure height) as notified.

Option 2 – Amend Rule 14A.4.1(b)(ii) to reduce the buildings heights for Ōmokoroa 3C (20m) and the Ōmokoroa Mixed Use Residential Precinct (20m with a bonus height of 23m).

DISCUSSION

The MDRS are mandatory and there is no ability to reduce the maximum height from that as prescribed in Schedule 3A of the Amendment Act unless there was a specific "qualifying matter" that supported a less enabling provision. In regard to the latter there are no applicable qualifying matters that allow for a reduced maximum height except for two specific lots. The Act does however in clause 77H(1)(b) provide for the provision of more lenient rules to enable a greater level of development.

The Medium Density Residential Zone includes the identification of areas having specific density requirements. These are identified as an Area Specific Overlay. These range from a minimum yield of 15 residential units per hectare of developable area to a minimum of 30. The latter areas represent land with attributes that supported increased density. This area is labelled as Ōmokoroa 3C. An increase in the maximum height of buildings facilitates a higher density of development.

The areas have been selected as they will provide good connectivity to commercial, school and reserves, are located adjacent greenbelt (Natural Open Space Zone) areas that provide a visual backdrop and have related, high amenity values and a degree of separation from other residential areas. The general topography of these areas is favourable for higher density residential development.

Although a different housing typology than currently seen in Ōmokoroa the policy direction from Government is to enable a variety of housing responses. Policy 6 of the NPS-UD states that:

"When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

.....

(b) 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."

The proposed maximum height performance standards are considered to be appropriate taking into account the requirements of the Amendment Act and the specific attributes of the land where a greater height is being permitted.

RECOMMENDATION

That Option 1 be accepted

Retain Rule 14A.4.1(b) (building and structure height) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
34	34	Retirement Villages Association
47	41	The North Twelve Limited Partnership
FS 69	11, 12, 13	Jace Investments

REJECTED

Submission	Point Number	Name
2	2	Lesley Blincoe
4	3	Robert Hicks

16	6	Penny Hicks
61	2, 3	Paul and Maria van Veen

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 11 – RULE 14A.4.1(C) – DENSITY STANDARDS - HEIGHT IN RELATION TO BOUNDARY

BACKGROUND

Rule 14A.4.1(c) is a density standard from Schedule 3A of the RMA. This rule requires that buildings must not project beyond a 60° recession plane measured from a point 4 metres vertically above ground level along all boundaries. Council also added structures to this rule. This standard is to protect landowners from overshadowing. It is also known as daylighting.

SUBMISSION POINTS

Four submission points were received. One further submission point was received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.42) support the rule as notified.

Peter Musk (14.3) opposes this rule due to negative impacts on current property owners' sunlight and views and requests that current rules are retained.

Retirement Villages Association (34.35) support the height in relation to boundary provisions in principle but seek a further exclusion for "boundaries adjoining open space and recreation zones, commercial and mixed use zones, and special purpose zones".

Jace investments (FS 69.14) opposes the Retirement Village Association submission as the mixed use areas and town centre are also seeking good design outcomes and access to natural light and open space.

New Zealand Housing Foundation (32.8) supports in part the rule but requests an exemption where a property adjoins "a boundary with a stormwater pond with no physical public access".

OPTIONS

Option 1 – Retain Rule 14A.4.1(c) (height in relation to boundary) as notified.

Option 2 – Add a new exemption for boundaries adjoining a stormwater pond with no physical public access.

Option 3 – Add a new exemption for boundaries adjoining open space and recreation zones, commercial and mixed use zones, and special purpose zones.

DISCUSSION

Council as a tier 1 territorial authority is required to include this rule in its District Plan for existing residential zones. The more permissive recession plane may have effects on neighbours' sunlight but there is no option available to return to the existing rules. It is only when a landowner

encroaches through the recession plane that Council can consider effects regarding loss of light and other matters such as visual dominance and loss of privacy.

The rule also has a number of exemptions that would allow landowners to build through the recession plane when there was no need for a control. For instance, at a boundary with a road.

The Retirement Villages Association submission requests that an additional exclusion should be added to the provision to reflect that some developments may occur adjacent to less sensitive zones such as open space, recreation, commercial and mixed use zones. This would allow buildings adjacent to these areas to infringe the recession plane as a permitted activity.

It is not agreed that this should be a permitted activity. Ōmokoroa will have Natural Open Space Zones, Commercial Zones, a Mixed Use Residential Precinct and areas of active reserve. Te Puke has similar areas for open space and recreation as well as Commercial Zones. It is not appropriate to allow an infringement without an assessment of the potential overshadowing effects on the potentially affected properties/activities adjacent to the buildings.

It is recommended however that an additional matter of discretion could instead be added to 14A.7.3 to allow assessment when there were unusual site characteristics such as being next to open space and reserves. The same would not be needed with respect to the Commercial Zones and the Mixed Use Residential Precinct as these are already adequately covered in the matters in Rule 14A.7.3 as the existing wording refers to "other / adjoining properties" and "neighbours" which would capture these.

With respect to New Zealand Housing Foundation, they have a resource consent application lodged for a development at 75 Kayelene Place in Ōmokoroa. This land adjoins a Council stormwater pond which is anticipated to be the reason for the specific request to be able to encroach through the recession plane when adjoining a stormwater pond with no physical public access. Creating a new rule in the District Plan to address a site-specific issue that is in the process of being resolved through a resource consent is not considered necessary.

RECOMMENDATION

That Option 1 be accepted

Retain Rule 14A.4.1(c) (height in relation to boundary) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	42	The North Twelve Limited Partnership
FS 69	13	Jace investments

ACCEPTED IN PART

Submission	Point Number	Name
34	35	Retirement Villages Association

REJECTED

Submission	Point Number	Name
14	3	Peter Musk
32	8	New Zealand Housing Foundation

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 12 – RULE 14A.4.1(D) – DENSITY STANDARDS - SETBACKS

BACKGROUND

Rule 14A.4.1(d) is a density standard from Schedule 3A of the RMA. This rule requires that buildings/structures must be set back at least 1.5m from front boundaries and 1m from side and rear boundaries.

Except that Rule 14A.4.1(d)(ii) explains that these setbacks do not apply to:

a. Site boundaries where there is a common wall between buildings (no setback)
b. Site boundaries with a railway corridor (10m)
c. Units adjoining each other in a unit plan subdivision (no setback)
d. New sites in Harbour Ridge (Ōmokoroa) adjoining the esplanade reserve (5m)
e. Where written approval is obtained from a neighbour (lesser setback)

SUBMISSION POINTS

Ten submission points were received. Ten further submission points were received. The submission points on this topic are summarised as follows:

General

Retirement Villages Association (34.36) and The North Twelve Limited Partnership (47.43) support the setback rules and seek that these be retained as notified.

Railway corridor

KiwiRail (30.1) supports the identification of the rail corridor as a qualifying matter and the related 10m setback from the rail corridor. It is requested that this is retained.

Kāinga Ora (FS 70.12) opposes the relief sought by KiwiRail. Kāinga Ora does not consider the acoustic and vibration controls sought from Kiwirail to be a qualifying matter.

New Zealand Housing Foundation (FS 73.2) also opposes KiwiRail's submission point (30.2) as it is inconsistent with their primary submission (32.9) below.

New Zealand Housing Foundation (32.9) supported by Kāinga Ora (FS 70.18) opposes clause (b) as it is considered to have no evidential basis, is greater than what KiwiRail have identified elsewhere, and because there are no objectives, policies, matters for discretion or assessment criteria pertaining to effects on the railway corridor.

Kiwirail (FS 71.11) opposes the New Zealand Housing Foundation (32.9) submission point and considers that setbacks from the railway corridor is one of several essential planning tools (the others being noise and vibration controls) available for managing the interface between urban development and nationally significant infrastructure.

Harbour Ridge (Ōmokoroa)

KiwiRail (30.2) supports clause (d) relating to the rail corridor.

Kāinga Ora (FS 70.13) opposes this submission point as they do not consider the acoustic and vibration controls to be a qualifying matter.

Written approval

Western Bay of Plenty District Council (15.11) supported by Ōmokoroa Country Club (FS 74.2) request that the rule allowing written approval from neighbours should be redrafted to only apply to side and rear yards and not to the front (road) boundary.

Kāinga Ora (29.40) opposes clause (e) as this is a duplication of s87BA of the RMA. It is requested that clause (e) and any reference to it is deleted.

Advice note on the Building Code

Fire and Emergency New Zealand (18.21) supported by Ōmokoroa Country Club (FS 74.3) request an advice note directing plan users to the requirements of the Building Code.

> Advice note: Building setback requirements are further controlled by the Building Code. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage.

Retirement Villages Association (FS 76.27) and Ryman Healthcare (FS 77.27) oppose the advice note because referring to other legislation is unnecessary and redundant.

Definition of front boundary (to be read in conjunction with definition of front yard)

Classic Group (26.2) supported by The North Twelve Limited Partnership (FS 78.3) oppose the inclusion of access lots in the definition of front boundary as it is inconsistent with other councils. The submitters request that the definition be the same regardless of whether a property has another frontage or not. They request that access lots be removed from the definition.

> "Front Boundary" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) and within the definition of "Front Yard" means all of the following:
>
> - Road boundary (including the boundary of any structure plan road or designated road or paper road);
> - Privateway boundary (for a privateway that serves three or more sites);
> - ~~Access lot boundary (for an access lot that serves three or more sites).~~
>
> Except that:
>
> Where a site has a road boundary, any other boundary of that site which is adjacent to any privateway or ~~access lot~~ shall be a side or rear boundary.

OPTIONS

Option 1 – Retain Rule 14A.4.1(d) as notified.

Option 2 – Amend Rule 14A.4.1(d)(ii)(b) to delete the 10m setback from the railway corridor.

Option 3 – Amend Rule 14A.4.1(d)(ii)(e) so that written approval does not apply to front yards.

Option 4 – Delete Rule 14A.4.1(d)(ii)(e) relating to written approval.

Option 5 – Amend Rule 14A.4.1(d) to add an advice note referring to setback requirements in the Building Code.

Option 6 – Amend the definition of front boundary to exclude access lots as being considered part of the road boundary.

DISCUSSION

Railway corridor

The East Coast Main Trunk (ECMT) railway line passes through both the Ōmokoroa and Te Puke urban areas. The 10m setback from the railway corridor is an existing rule in Section 13 - Residential of the District Plan.

Council's Section 32 Addendum Report identifies the rail corridor as an existing qualifying matter in the context of the 10m setback. This is deemed "a matter required for the purpose of the safe or efficient operation of nationally significant infrastructure" under Section 77I(e) of the RMA. Council's submission on Plan Change 92 also seeks to include this in a definition for qualifying matter as "Land within 10m of a railway corridor or designation for railway purposes (for sites created by way of an application for subdivision consent approved after 1 January 2010)".

Kāinga Ora's opposition to the 10m setback is based on a view that acoustic and vibration controls are not a qualifying matter. No reason is provided. KiwiRail's submission appears to suggest that this 10m setback is not about managing noise and vibration but is instead to ensure that buildings and structures are able to be used and maintained without needing access on or over the rail corridor. Noise and vibration controls are sought elsewhere in KiwiRail's submission.

Housing New Zealand's opposition is based on not seeing evidence from KiwiRail that the 10m setback is needed and because there are no other supporting provisions. KiwiRail's submission does provide some understanding of the effects they are concerned about (as noted in the paragraph above) but it is agreed that no evidence is provided.

Because the rule is part of the existing District Plan and is proposed to be retained by Plan Change 92, it is recommended that this rule is retained as notified. The submitters in opposition would need to provide evidence justifying why the 10m setback should no longer be applied.

Harbour Ridge (Ōmokoroa)

KiwiRail appear to support a 5m setback from an esplanade reserve for buildings in this subdivision. For clarity, this is not a setback from the railway corridor. The rule mentions the railway corridor to help explain where the esplanade reserve is.

Written approval

Rules allowing setbacks to be reduced as a permitted activity if written approval is received from neighbours have been in the District Plan for many years. Kāinga Ora have pointed out that the RMA now provides a similar clause allowing permitted activity status for boundary infringements. However, this clause is more stringent than the District Plan. The RMA still requires the consent authority to issue a notice to the landowner causing the infringement (which can be charged as

a consent fee) whereas the proposed District Plan rule does not require the landowner to obtain or pay for approval. It is considered fairer for landowners if the District Plan rule is retained.

The rule should however be amended to ensure that written approvals are only for side and rear yards. Resource consent should still be required for front yard encroachments to address a wider range of matters than just the effects on the adjoining landowner (Council in its capacity as road owner). For example, this could include urban design matters.

Advice note on the Building Code

It is not considered that the District Plan needs to include an advice note directing people to the Building Code. This is because Council under its regulatory function and those designing residential units are already required to adhere to the Building Code.

Definition of front boundary

The definition of 'front boundary" has links with performance standards. The inclusion of access lots and privateways that serve three or more sites within this definition was due to a concern that the interface between privateway/access lots was often poorly designed when effectively this was similar with a front boundary road front interface. The definition included the following diagram.

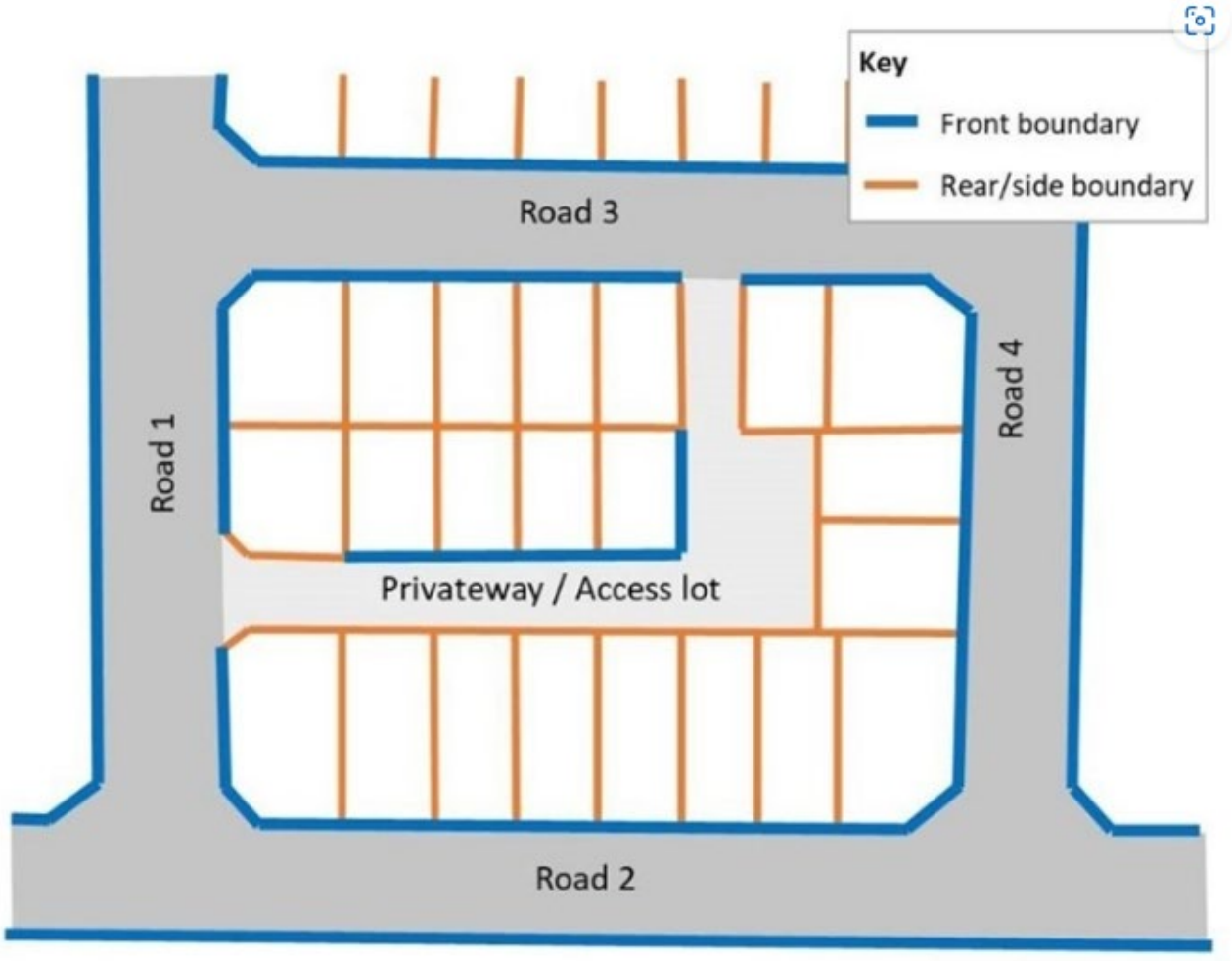


Figure 1: Front boundary diagram – Definitions Proposed Plan Change

With the reduced yard setback provisions than previously applied with a front yard now having a minimum depth of 1.5m and a side or rear yard 1m, the actual difference is of a small scale. From a building perspective there is limited influence on a positive interface effect. The only matter of

significant effect that may result in the removing of the reference to access lots is in regard to fencing height restrictions where under the proposed plan there is a maximum fence height of 1.2m along a front boundary with allowance up to 2m subject to permeability requirements. There are no other District Plan performance standards limiting the height of fences other than when the fence is deemed a structure and a maximum height of 2m apply.

The erection of fences to the maximum height along privateway/access lots can result in poor living environments, lack of visibility and linked safety concerns, reduced opportunity for neighbourhood engagement and a neglected common area.

It is agreed that as much as possible consistency across territorial boundaries should be sought. The interface in question is private and it is it is open to developers to control such matters as internal fencing and landscaping. There are often covenants that control such matters. Taking the above into account and further noting that good design can be promoted outside of the District Plan the specific reference to access lots within the font boundary definition can be removed. It is noted however that the privateway definition is effectively the same as the access lot definition so accordingly references to privateways should also be removed.

RECOMMENDATION

That Option 3 be accepted

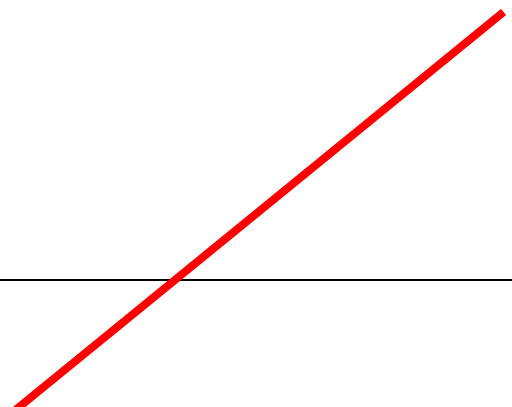
Amend Rule 14A.4.1(d)(ii)(e) so that written approval does not apply to front yards.

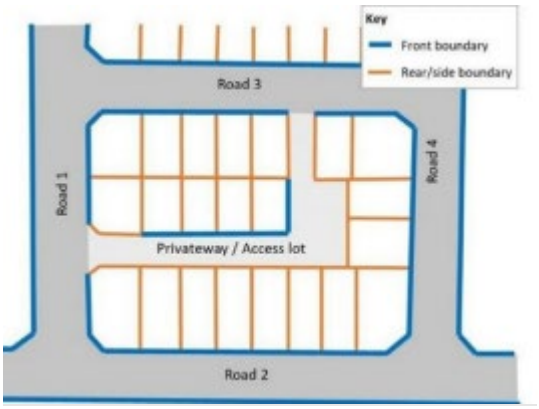
That Option 6 (as amended) be accepted

Amend the definition of front boundary to exclude access lots and private ways as being considered part of the road boundary.

Amend the proposed plan change as follows:

> "Front Boundary" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) and within the definition of "Front Yard" means all of the following:
>
> - Road boundary (including the boundary of any structure plan road or designated road or paper road);
> - ~~Privateway boundary (for a privateway that serves three or more sites);~~
> - ~~Access lot boundary (for an access lot that serves three or more sites).~~
>
> Except that:
>
> Where a *site* has a road boundary, any other boundary of that *site* which is adjacent to any *privateway* or *access lot* shall be a side or rear boundary ~~(see the figure below).~~
>
> Delete following diagram:





The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
15	11	Western Bay of Plenty District Council
26	2	Classic Group
30	1	Kiwirail
30	2	Kiwirail
FS 71	11	Kiwirail
FS 74	2	Ōmokoroa Country Club
FS 76	27	Retirement Villages Association
FS 77	27	Ryman Healthcare
FS 78	3	The North Twelve Limited Partnership

ACCEPTED IN PART

Submission	Point Number	Name
34	36	Retirement Villages Association
47	43	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
18	21	Fire and Emergency New Zealand
29	40	Kāinga Ora
32	9	New Zealand Housing Foundation

FS 70	12	Kāinga Ora
FS 70	13	Kāinga Ora
FS 70	18	Kāinga Ora
FS 73	2	New Zealand Housing Foundation
FS 74	3	Ōmokoroa Country Club

SECTION 32AA ANALYSIS

The changes proposed are minor as they resolve a drafting error to an existing rule. Accordingly, no s32AA analysis is required.

TOPIC 13 – RULE 14A.4.1(E) – DENSITY STANDARDS - BUILDING COVERAGE

BACKGROUND

Rule 14A.4.1(e) is a density standard from Schedule 3A of the RMA that Council has been required to insert into its Plan. This rule provides that the maximum building coverage must not exceed 50% of the net site area.

The following definitions are relevant:

"Building Coverage" *when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the percentage of the net site area covered by the building footprint.*

"Building Footprint" *within the definition of "building coverage" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the total area of buildings at ground floor level together with the area of any section of any of those buildings that extends out beyond the ground floor level limits of the building and overhangs the ground.*

SUBMISSION POINTS

Five submission points were received. Two further submission points were received. The submission points on this topic are summarised as follows:

Retirement Villages Association (34.37) and The North Twelve Limited Partnership (47.44) support the building coverage standard.

Kāinga Ora (29.5) have requested a new high density zone/section for Ōmokoroa 3C and areas in Te Puke within a 400m walkable catchment of the town centre. In support, they have requested an increased building coverage of 70%.

Kāinga Ora (29.41) also supports, in part, the maximum building coverage of 50% of the net site area as prescribed. However, they believe that the image to explain the rule is misleading insofar as it only demonstrates one residential unit per site - whereas the permitted number of residential units per site is three. It is requested that the illustration provided is deleted and replaced with an illustration demonstrating three residential units per site with a 50% maximum building coverage.

New Zealand Housing Foundation (32.4) supported by Kāinga Ora (FS 70.17) and The North Twelve Limited Partnership (FS 78.1) submit that to be consistent with the existing definition of "building coverage", the definition of "building footprint" should allow for the same exclusions:

> "Building Footprint" within the definition of "building coverage" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the total area of buildings at ground floor level together with the area of any section of any of those buildings that extends out beyond the ground floor level limits of the building and overhangs the ground but excludes eaves or entrance canopies less than 1m wide."

OPTIONS

Option 1 – Retain Rule 14A.4.1(e) as notified.

Option 2 – Amend Rule 14A.4.1(e) to increase building coverage in Ōmokoroa 3C.

Option 3 - Retain Rule 14A.4.1(e) as notified but update the diagram to show the permitted numbers of residential units and percentage of building coverage.

Option 4 – Amend the definition of building footprint to exclude eaves and entrance canopies less than 1m wide.

DISCUSSION

Building coverage standard

A high density zone/section for Ōmokoroa 3C and Te Puke is recommended to be rejected in the parts of the Section 42A Report - Ōmokoroa Zoning Maps and Section 42A Report - Te Puke Zoning maps. However, with respect to building coverage, Kāinga Ora's request to increase the maximum in Ōmokoroa Stage 3 Structure Plan is supported in part. This is because the area is planned for a minimum of 30 units per hectare and providing for a higher building coverage as a permitted activity will provide more flexibility to achieve the target yields in this area. It is recommended that this is only increased to 60% and not to 70% as requested by Kāinga Ora.

The diagram being referred to by Kāinga Ora sits below a number of performance standards (including this one) to illustrate the relationship between building coverage, impervious surfaces and outdoor living areas. It also shows vehicle crossings. Changing the diagram may be useful to show the allowance for more than one residential unit on a site, despite this not being the purpose. The request to add a reference to the maximum 50% building coverage is not supported. This diagram does not intend to provide all related specifications and if so would also need to show many others too. The specifications should be obvious to readers by reading each relevant rule. Showing the maximum as 50% also wouldn't match what Kāinga Ora have requested.

Definition of building footprint

Due to the need to use the National Planning Standards the definition of building coverage "means the percentage of the net site area covered by the building footprint". This is different than how coverage is assessed elsewhere in the plan which is considered unhelpful.

As the coverage standard is a MDRS if any changes are more lenient then there is an opportunity to alter the definition. The general intent of the submissions is deemed more lenient so it follows that it is open to amend this definition. To be consistent with the District Plan it is recommended to amend the definition using the existing exclusions in the Plan.

Accordingly, it is recommended that the definition be amended as follows:

"Building Footprint" within the definition of "building coverage" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the total area of buildings at ground floor level together with the area of any section of any of those buildings that extends out beyond the ground floor level limits of the building and overhangs the ground but excludes eaves less than 1m wide, pergolas or similar structure of a substantially open nature, uncovered decks, uncovered terraces, uncovered steps, and swimming pools.

RECOMMENDATION

That Options 2, 3 (in part), 4 (as amended) be accepted

Amend Rule 14A.4.1(e) to increase building coverage (to 60%) in Ōmokoroa 3C

Retain Rule 14A.4.1(e) as notified but update the diagram to show the permitted numbers of residential units (but not a percentage for building coverage).

This would require the following changes:

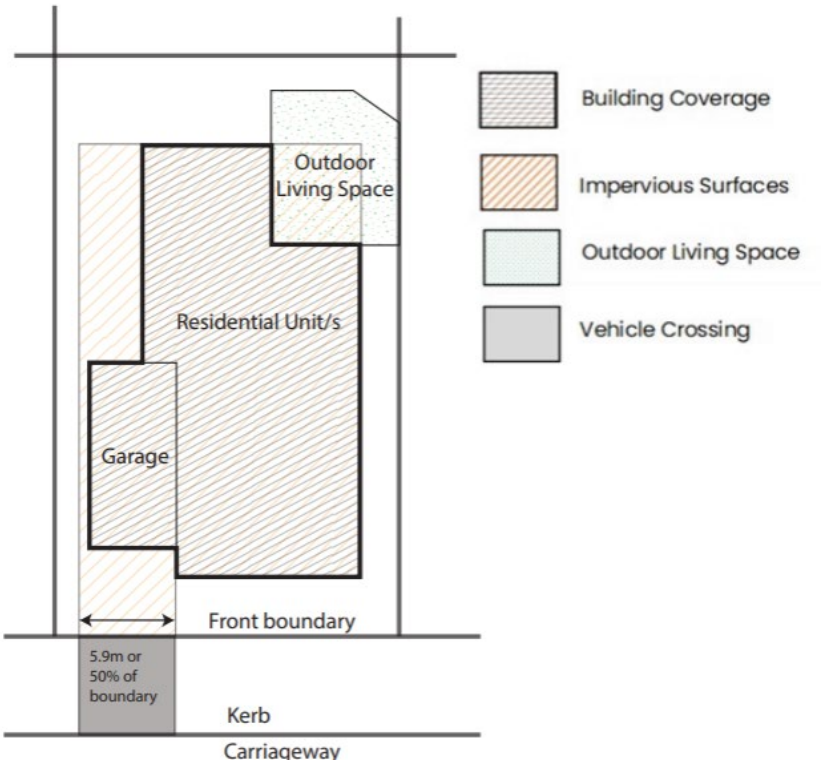
e. Building Coverage

The maximum building coverage must not exceed 50% of the net site area.

Except that:

Within Ōmokoroa Stage 3C, the maximum building coverage must not exceed 60% of the net site area.

Building coverage is illustrated in the diagram below.



Amend the definition of "Building Footprint" as follows:

"Building Footprint" within the definition of "building coverage" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the total area of buildings at ground

floor level together with the area of any section of any of those buildings that extends out beyond the ground floor level limits of the building and overhangs the ground but excludes eaves less than 1m wide, pergolas or similar structure of a substantially open nature, uncovered decks, uncovered terraces, uncovered steps, and swimming pools.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
34	37	Retirement Villages Association
47	44	The North Twelve Limited Partnership

ACCEPTED IN PART

Submission	Point Number	Name
29	41	Kāinga Ora
32	4	New Zealand Housing Foundation
FS 70	17	Kāinga Ora
FS78	1	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

The changes proposed are to enable greater development which is provided for Section 77H of the RMA. Accordingly, no s32AA analysis is required.

TOPIC 14 – RULE 14A.4.1(F) – DENSITY STANDARDS - OUTDOOR LIVING SPACE

BACKGROUND

Rule 14A.4.1(f) is a density standard from Schedule 3A of the RMA that Council is required to insert into its Plan. This rule is to ensure that residential units have sufficient outdoor living areas. Residential units at ground floor are required to have an outdoor living space of 20m^2 and those located above ground floor are required to have 8m^2. All outdoor living areas must be accessible from the unit and may be grouped cumulatively in one communally accessible location instead of per unit.

SUBMISSION POINTS

Three submission points were received. Two further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.45) support 14A.4.1(f) as notified.

Retirement villages

Retirement Villages Association (34.38) support the outdoor living space provisions in principle. However, they seek to amend it to enable the communal outdoor living spaces and indoor living areas of retirement villages to count towards compliance, using the following exemptions:

> iii. For retirement units, clauses i and ii apply with the following modifications:
>
> > a. the outdoor living space may be in whole or in part grouped cumulatively in 1 or more communally accessible location(s) and/or located directly adjacent to each retirement unit; and
> >
> > b. a retirement village may provide indoor living spaces in one or more communally accessible locations in lieu of up to 50% of the required outdoor living space.

Advice note on the Building Code

Fire and Emergency New Zealand (18.22) support the provision of an outdoor living space on the premise that it may provide access for emergency services and space for emergency egress. It is requested that an advice note is included directing plan users to the requirements of the Building Code as shown below:

> Site layout requirements are further controlled by the Building Code. This includes the provision for firefighter access to buildings and egress from buildings. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage.

Retirement Villages Association (FS 76.28) and Ryman Healthcare (FS 77.28) oppose the submission point from Fire and Emergency New Zealand as they see advice notes referring to other legislation as being unnecessary and redundant.

OPTIONS

Option 1 – Retain Rule 14A.4.2(f) (outdoor living space) as notified.

Option 2 – Amend Rule 14A.4.2(f) to allow communal outdoor living spaces and indoor living areas provided for "retirement units" to count towards meeting the standard.

Option 3 - Amend Rule 14A.4.2(f) to allow communal outdoor living spaces in "retirement units" to count towards meeting the standard.

Option 4 - Add an advice note to Rule 14A.4.2(f) referring to site layout requirements in the Building Code.

DISCUSSION

Retirement villages

The Retirement Villages Association's request to allow multiple communal outdoor living areas in retirement villages to be counted towards meeting this standard is accepted. It would appear to be an oversight in the drafting of the rule that it only allows one communally accessible location to be counted. The Reporting Team therefore agree that the standard should be changed to better reflect how outdoor living areas are provided for "residential units" in a retirement village. This would be more enabling which is provided for in the RMA Amendment Act. It is not agreed that indoor living areas should be counted, as the purpose of this rule is specifically to ensure outdoor living space.

In terms of drafting the agreed change, it is recommended to avoid using the term "retirement unit" as this definition is not supported for a number of reasons as explained in Topic 3 earlier.

In the context of this rule, Council officers understand that the submitter is seeking that serviced apartments and care rooms be added to the requirement to provide outdoor living spaces (of certain sizes, dimensions and locations) as these would be a "retirement unit". This is despite the submission point suggesting that this may not be suitable. While the requested exemptions would then provide an alternative, the submitter's concerns would appear to be better addressed by not seeking to add these types of units to the restrictions.

It is not considered that the District Plan needs to include an advice note directing people to the Building Code. This is because Council under its regulatory function and those designing residential units are already required to adhere to the Building Code. Also, this rule is about outdoor living rather than to ensure space is provided on-site for emergency egress.

RECOMMENDATION

That Option 3 be accepted

Amend Rule 14A.4.1(f) to allow only communal outdoor living spaces to count towards meeting the standard.

This would require the following change:

(i) "A residential unit … must have an outdoor living space … that:

(d) may be –

(i) Grouped cumulatively by area in 1 communally accessible location (or in the case of retirement villages grouped cumulatively by area in 1 or more communally accessible location/s); or"

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
FS 76	28	Retirement Villages Association
FS 77	28	Ryman Healthcare

ACCEPTED IN PART

Submission	Point Number	Name
34	38	Retirement Villages Association
47	45	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
18	22	Fire and Emergency New Zealand

SECTION 32AA ANALYSIS

The changes proposed are minor as they seek to correct a possible oversight in the rule that prevents retirement village from being able to provide outdoor living space across more than one communally accessible area. Accordingly, no s32AA analysis is required.

TOPIC 15 – RULE 14A.4.1(G) – DENSITY STANDARDS - OUTLOOK SPACE (PER UNIT)

BACKGROUND

Rule 14A.4.1(g) is a density standard from Schedule 3A of the RMA. This rule is to provide those living in residential units with views out windows to open areas. Principal living rooms must provide an outlook space with minimum dimensions of 4m x 4m and all other habitable rooms are required to have an outlook space of at least 1m x 1m.

SUBMISSION POINTS

Two submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.46) supports the rule as notified.

Retirement Villages Association (34.39) supports the outlook space provisions in principle however consider that in a retirement village the standard is not directly relevant, either not being workable for all units across a comprehensive site, or not needed. They note that residents of a village have other 'living rooms' in communal areas with an outlook into a large and attractive outdoor space. The submitter seeks to amend the rule as follows to provide for outlook space requirements that are appropriate for retirement villages:

> 14A.4.1(g) Outlook space (per unit) …
>
> x. For retirement units, clauses i – ix apply with the following modification: The minimum dimensions for a required outlook space are 1 metre in depth and 1 metre in width for a principal living room and all other habitable rooms.

OPTIONS

Option 1 – Retain Rule 14A.4.2(g) (outlook space) as notified.

Option 2 – Amend Rule 14A.4.2(g) to set the minimum dimensions at 1m x 1m for all rooms in "retirement units".

DISCUSSION

The Retirement Villages Association's request to set minimum dimensions at 1m x 1m for all rooms in "retirement units" is not supported. This is because the definition is not supported for a number of reasons as explained in Topic 3 earlier but also because of the intent of the changes.

The submission notes that the standard is not workable for all units across a comprehensive site but it's not apparent why this would necessitate fixing a low standard for principal living rooms in all circumstances. People living in "residential units" within a village (i.e. self-contained dwellings or independent apartments) should be able to expect the same outlook as people living in similar units in other developments. Comprehensive design should be used to deliver such outcomes

rather than to prevent it. There are already retirement villages established or consented in the District and these typically do provide for sufficient outlook space from such units. This is in addition to outlook spaces from other facilities, rather than instead of.

Other non self-contained units such as serviced apartments and care rooms are not subject to this rule as they are not "residential units". By seeking the exemption to apply to "retirement units" the submitter would be introducing the outlook space requirements for these non self-contained units despite suggesting these controls were unnecessary. The submitter's concerns may be better addressed by not seeking to add these types of units to the rules.

RECOMMENDATION

That Option 1 be accepted

Retain Rule 14A.4.2(g) (outlook space) as notified.

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
47	46	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
34	39	Retirement Villages Association

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 16 – RULE 14A.4.1(H) - DENSITY STANDARDS – WINDOWS TO STREET

BACKGROUND

Rule 14A.4.1(h) is a density standard from Schedule 3A of the RMA. This rule seeks good urban design outcomes by ensuring that any "residential unit" facing the street must have a minimum of 20% of the street facing facade in glazing. This avoids blank walls fronting the street and allows for passive surveillance.

SUBMISSION POINTS

Three submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.47) supports the proposed rule as notified.

Classic Group (26.28) submit that further definition and a diagram would provide clarification to the definition. They seek to add the detail from the FAQ section of Plan Change 92:

> Any form of glazing is acceptable as the level of transparency is not specified in the standard. The National Planning Standards define both a residential unit and an accessory building i.e. a garage. As long as no part of the accessory building contains a residential unit, the glazing standard would not apply. This is regardless of whether the accessory building is attached to the residential unit or standalone.

Retirement Villages Association (34.40) support the windows to street provisions in principle however seek to amend it as follows to provide for retirement units:

> Any residential unit or retirement unit facing ~~the~~ a public street must have a minimum of 20% of the street-facing façade in glazing. This can be in the form of windows or doors.

OPTIONS

Option 1 – Retain Rule 14A.4.2(h) (windows to street) as notified.

Option 2 – Amend Rule 14A.4.2(h) to apply also to "retirement units" and to clarify that the requirement only applies to a public street.

Option 3 - Amend Rule 14A.4.2(h) with a further definition and diagram to explain that any form of glazing is acceptable and that the requirement does not apply to accessory buildings i.e. garages.

DISCUSSION

The Retirement Villages Association request to apply the windows to street rule to "retirement units" is not supported. This is because the definition is not supported for a number of reasons as explained in Topic 3 earlier. Also, it is not clear whether the change is intended to require each care room (as an individual "retirement unit") to meet this requirement or whether it was intended for the wider building that the care rooms are within. Council staff also do not consider it necessary to update the wording to "a public" street as the wording is directly from the MDRS and cannot be changed. Also, a street is generally considered to be a public street so does not need this clarification. This means that Council will not need to control the internal roads in a retirement village or any other development.

Classic Group do not request a change to the rule but seek that an explanation of the rule be included in the District Plan. This explanation was provided by Council on its website when Plan Change 92 was notified because the rule was seen to be ambiguous and had also resulted in another council reading the rule differently. While it may be helpful to include an explanation in the District Plan, this rule is a mandatory standard from the RMA and will be included in other district plans. It may therefore be subject to further national guidance or case law in the future. It is preferable to avoid locking an explanation to the District Plan for that reason. Instead, the better place would be on Council's website and this way it could be updated if needed.

RECOMMENDATION

That Option 3 be accepted

Retain Rule 14A.4.2(h) (windows to street) as notified.

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name

47	46	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
26	28	Classic Group
34	40	Retirement Villages Association

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 17 – RULE 14A.4.1(I) - DENSITY STANDARDS – LANDSCAPED AREA

BACKGROUND

Rule 14A.4.1(i) is a density standard from Schedule 3A of the RMA. This provides for landscaping on-site in the form of grass, plants, or trees. The requirement is for each residential unit to have a landscaped area of 20% of the development site.

SUBMISSION POINTS

Two submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.48) support the rule as notified.

Retirement Villages Association (34.41) support the landscaped area provisions in principle, however request to amend it to provide for retirement units.

OPTIONS

Option 1 – Retain Rule 14A.4.1(i) as notified.

Option 2 – Amend Rule 14A.4.1(i) to also apply specifically to "retirement units".

DISCUSSION

The Retirement Villages Association request to apply the landscaped area rule to "retirement units" is not supported. This is because the definition is not supported for a number of reasons as explained in Topic 3 earlier.

RECOMMENDATION

That Option 1 be accepted

Retain Rule 14A.4.1(i) as notified.

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
47	48	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
34	41	Retirement Villages Association

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 18 – RULE 14A.4.2 - OTHER STANDARDS – GENERAL

BACKGROUND

In addition to the density standards, there are a number of other standards proposed in Rule 14A.4.2(a)–(y). These other standards include yield, typology, impervious surfaces, vehicle crossing and access, earthworks and fences, accommodation facilities, home enterprises, and cross references to other sections with 'district-wide' requirements.

SUBMISSION POINTS

One submission point was received. No further submissions were received. The submission point on this topic is summarised as follows:

Retirement Villages Association (34.42) seek the deletion of the other standards because the MDRS do not include these standards and because a number are not directly applicable for retirement villages.

OPTIONS

Option 1 – Retain the other standards in Rule 14A.4.2 as notified.

Option 2 – Delete the other standards in Rule 14A.4.2.

DISCUSSION

Section 80E (1)(a)(i) of the RMA requires that councils must incorporate the MDRS. This includes the nine density standards proposed in Rule 14A.4.1. The submitter suggests that no other standards are able to be introduced. However, this is not agreed. Many of the standards proposed to be introduced are existing in the District Plan.

For clarity, Schedule 3A(2)(2) of the RMA states that "there must be no other density standards included in a district plan additional to those set out in Part 2 of this schedule relating to a permitted activity for a residential unit or building". This does not preclude the inclusion of other standards in other circumstances.

Further, Section 80E (1)(b) specifically allows councils to include related provisions that support or are consequential on the MDRS. Section 80(2) states that related provisions can include district-wide matters, earthworks, fencing, infrastructure, qualifying matters, stormwater management and subdivision of land.

The other matters in 14A.4.2 are proposed on this basis. They include standards such as residential yield and typology for four or more units (i.e. not in relation to a permitted activity for a residential unit or building). They also include limits on associated activities such as impervious surfaces, vehicle crossings, earthworks and fencing. There are also a number of cross references to other sections of the District Plan with 'district-wide' rules. For example, transport, amenity, signs, landscape, heritage, natural hazards, financial contributions and subdivision and development.

For any specific concerns about the other standards, including in relation to their applicability to retirement villages, these will be addressed in the further topics below.

RECOMMENDATION

That Option 1 be accepted

Retain the other standards in Rule 14A.4.2 as notified.

The following submissions are therefore

REJECTED

Submission	Point Number	Name
34	42	Retirement Villages Association

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 19 – RULE 14A.4.2(A) - OTHER STANDARDS – RESIDENTIAL UNIT YIELD

BACKGROUND

Rule 14A.4.2(a) is a new standard proposed to require minimum yields of residential units to be achieved per hectare (for developments of four or more units only). This is to ensure that land is used efficiently and effectively to deliver density targets and to provide for anticipated population growth. It is also to assist Council in collecting a level of financial contributions that will recover the costs of providing infrastructure to service the expected growth.

The requirements are summarised in the table below:

Area	**Minimum unit yield** **Per hectare of developable area**
Ōmokoroa Stage 3A	15
Ōmokoroa Stage 3B	20
Ōmokoroa (Outside of Stage 3)	20

Te Puke	20
Ōmokoroa Stage 3C	30
Ōmokoroa Mixed Use Residential Precinct	30

A proposed definition of developable area is included in Section 3 – Definitions. In summary, it means all land zoned Medium Density Residential except for the following:

- Ōmokoroa Road, Prole Road and Francis Road (all within Ōmokoroa)
- Structure plan link road between Prole Road and Francis Road
- Structure plan active reserve in Ōmokoroa
- Areas not suitable for residential units due to:
    - Geotechnical constraints
    - Stormwater management being the primary function
    - Natural hazards

The definition also ends with a note explaining that other areas in Ōmokoroa which are unsuitable for the construction of residential units have already been excluded through the creation of a Natural Open Space Zone.

SUBMISSION POINTS

Four submission points were received. Four further submission points were received. The submission points on this topic are summarised as follows:

New Zealand Housing Foundation (32.10) supports the minimum density standard and the removal of the maximum density provision identified in the earlier draft.

The North Twelve Limited Partnership (47.49) support in part the minimum of 20 dwellings per hectare but highlight that not all land can achieve this density due to various factors such as, but not limited to, ground conditions and natural hazards. They seek lower densities to be permitted where land is not suitable to achieve the minimum density. The submitter requests that 14A.4.2(a) is approved as notified subject to further clarification.

Kāinga Ora (29.42) supported by New Zealand Housing Foundation (FS 73.1) oppose the proposed residential unit yield requirements which they believe are not conducive to achieving medium or high density residential land use. They request higher minimum densities as shown below:

~~Four or more residential~~ Residential units on a site are subject to the following requirements:

Area	**Minimum unit yield** **Per hectare of developable area**
~~Ōmokoroa Stage 3A~~	~~15~~
Ōmokoroa Stage 3A	35
Ōmokoroa Stage 3B	~~20~~ 35
Ōmokoroa (Outside of Stage 3)	~~20~~ 35
Te Puke	~~20~~ 35

Ōmokoroa High Density ~~Stage 3C~~	~~30~~ 50
Ōmokoroa Mixed Use Residential Precinct	~~30~~ 50
Te Puke High Density	~~30~~ 50

Jace Investments (FS 69.16) and Ōmokoroa Country Club (FS 74.14) oppose Kāinga Ora's submission, submitting that 50 units per hectare is too high for a minimum standard. Ōmokoroa Country Club request the proposed yields are retained or reduced.

Paul and Maria Van Veen (61.1) oppose the high density of Ōmokoroa 3C. The submitter requests that minimum yield of this area is reduced or if lower density cannot be achieved within the last remaining areas of Ōmokoroa then housing yields per hectare could at least be more evenly distributed across the whole of Stage 3 to provide lower average minimum residential unit yields than proposed for 3C, but over a larger area.

Jace Investments (FS 69.15) oppose Paul and Maria Van Veen (61.1) and submit that additional density is required in this area to enhance the legibility and vitality of the Ōmokoroa Town Centre.

Pete Linde (19.19) has sought that the supporting definition of developable area be amended to remove the following note which presumes that land areas are unsuitable for residential units by being zoned Natural Open Space. He believes this is not accurate or appropriate.

~~Note: Other areas in Ōmokoroa unsuitable for the construction of residential units have already been excluded through the creation of a Natural Open Space Zone.~~

OPTIONS

Option 1 – Retain Rule 14A.4.2(a) (residential unit yield) as notified.

Option 2 – Amend Rule 14A.4.2(a) to increase the minimum yield requirements as requested.

Option 3 – Amend Rule 14A.4.2(a) to permit lower densities where land is not suitable to achieve the minimum density.

Option 4 – Amend the definition of "developable area" to remove the note saying that the Natural Open Space Zone is unsuitable for the construction of residential units.

DISCUSSION

Residential unit yield

Subdivision and development in the existing Residential Zones of Ōmokoroa and Te Puke had traditionally delivered 12-15 lots/residential units per hectare. These densities have been steadily increasing in recent years and many developments are now providing more than 20 lots/residential units per hectare. In response to the NPS-UD and RMA Amendment Act, Council is now proposing to rezone large areas of Ōmokoroa and Te Puke to Medium Density Residential and setting minimum targets per hectare that reflect the higher densities that are now capable of being delivered. The minimum yield of 15 lots/units per hectare is for areas with geographical and topographical constraints. The minimum yield of 30 is proposed for Ōmokoroa only and is to enable greater density in proximity to the town centre or areas with amenity such as the Natural Open Space Zone or active reserve. A minimum yield of 20 was applied to all other areas.

New Zealand Housing Foundation support the rule.

Kāinga Ora believe however that these minimum densities are too low for medium or high density housing. Their suggested minimums are substantially higher than what was proposed and would require at least 35 lots/units per hectare. They request a minimum of 50 lots/units per hectare in areas of Ōmokoroa which are already identified for higher density plus additional areas in Te Puke within a 400m walkable catchment of its town centre. This is opposed by Jace Investments and Ōmokoroa Country Club. General feedback from other developers is also that these densities are likely unachievable.

In a meeting with submitters on this topic, Kāinga Ora noted that these suggested densities were based on an understanding that developable area would exclude roads and reserves. However, Council's proposed definition of "developable area" does include these. Taking into account that roads and reserves would generally be assumed to account for 25% of a 'gross' hectare, Kāinga Ora's figures would re-adjust to approximately 25 and 35 lots/units per hectare respectively.

These adjusted densities are still higher than what has been proposed by Council but not significantly higher. The notified densities of 15, 20 and 30 lots/units per hectare are still considered by the Reporting Team to be the most appropriate for the reasons they were originally chosen based on topography and proximity to certain amenities. Also, because they are commensurate with the level of commercial activity and community services in these 'smaller' towns. Another key issue for Council is the capacity of wastewater infrastructure in Ōmokoroa. There is no treatment plant and the wastewater pipe to Tauranga City only has capacity for around 13,000 people.

The North Twelve Limited Partnership seek lower densities to be permitted where land is not suitable to achieve the minimum density. The submitter's point acknowledges that Council has already removed some constrained land from the calculation of developable area e.g. where residential units cannot be constructed due to natural hazards or geotechnical issues. Land required for stormwater management as a primary purpose is also excluded from the calculation. It is not clear what other constraints they are referring to or how a permitted rule should be drafted. Four or more units on a site requires a resource consent in any case and therefore any genuine need for lower densities can be addressed through this process.

The request from Paul and Maria Van Veen is noted. Council already has an understanding of how many new residential units may occur in the remaining areas of Ōmokoroa. This is based on some larger lots still being available for development and some opportunities for re-development in the existing village area where there are older houses. More recent areas of development are unlikely to be further developed. Ultimately, the existing areas will only deliver a limited number of new houses. The remaining growth will need to be provided in Ōmokoroa Stage 3 Structure Plan as planned.

The overall recommendation is therefore that the minimum densities be retained as notified and that there is no provision for lower densities as a permitted activity.

Definition of developable area

The point from Pete Linde is recommended to be approved. The purpose of the note was to inform readers that a Natural Open Space Zone had been created and would not be taken into account when requiring the meeting of density targets. It is now accepted though that some areas within the Natural Open Space Zone may be suitable for development. The reasons are in the parts of the Section 42A Report - Ōmokoroa Zoning Maps and Section 42A Report for Section 24 – Natural Open Space.

RECOMMENDATION

That Options 1 and 4 be accepted

Retain Rule 14A.4.2(a) (residential unit yield) as notified.

Amend the definition of "developable area" to remove the note saying that the Natural Open Space Zone is unsuitable for the construction of residential units.

This deletion would be as follows:

~~Note: Other areas in Ōmokoroa unsuitable for the construction of residential units have already been excluded through the creation of a Natural Open Space Zone.~~

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
32	10	New Zealand Housing Foundation
FS 69	15	Jace Investments
FS 69	16	Jace Investments

ACCEPTED IN PART

Submission	Point Number	Name
FS 74	14	Ōmokoroa Country Club

REJECTED

Submission	Point Number	Name
29	42	Kāinga Ora
47	49	The North Twelve Limited Partnership
61	1	Paul and Maria Van Veen
FS 73	1	New Zealand Housing Foundation

SECTION 32AA ANALYSIS

As the deletion of a note is the only change proposed, no s32AA evaluation is necessary.

TOPIC 20 – RULE 14A.4.2(B) - OTHER STANDARDS – RESIDENTIAL UNIT TYPOLOGY

BACKGROUND

Rule 14A.4.2(b) is a new standard proposed to ensure that a range of housing options are provided to meet the various needs of residents including affordability. It relates only to developments of six or more units per site. The rule restricts the number of stand-alone (detached) residential units

in a development to 50%. The remainder of the units are therefore required to be of other typologies such as duplexes, terraced housing and apartments.

The following objective and policy from Schedule 3A of the RMA is relevant to this topic:

Objective 2

A relevant residential zone provides for a variety of housing types and sizes that respond to … housing needs and demand.

Policy 1

Enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.

SUBMISSION POINTS

Seven submission points were received. Three further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.50) supported by Jace Investments FS 69.18) oppose the rule and submit that requiring specific unit typology for greater than six dwellings does not allow a response to market demand to be provided and/or provide for the specific characteristics of a site or area.

Kāinga Ora (29.43), Classic Group (26.29), Vercoe Holdings (40.13), Brian Goldstone (42.9) and Urban Task Force (39.21) supported by Jace Investments (FS 69.17) oppose a control on residential unit typology when six or more residential units are located on a site as this is not consistent with Policy 1(a) of the NPS-UD nor Objective 2 and Policy 1 of Section 14A. They wish to delete standard 14A.4.2(b) and any references to it.

Ōmokoroa Country Club (FS 74.34) opposes the deletion of the residential unit typologies as this is likely to lead to poor urban design outcomes and request the rule is retained.

New Zealand Housing Foundation (32.11) supports the maximum for detached dwellings. It is submitted that the provision will allow for variety and diversity of housing typologies allowing for efficient use of land, housing choice and affordability.

OPTIONS

Option 1 – Retain Rule 14A.4.2(b) (residential unit typology) as notified.

Option 2 – Delete Rule 14A.4.2(b).

DISCUSSION

Developments in the District have traditionally offered stand-alone housing (the majority being 3 or more bedrooms) and not provided a range of other housing typologies. It has only been within the last five years where this trend has started to change. Feedback from Council staff suggests that this has mainly been due to developers being encouraged by staff to provide these options. However, there are also instances where developers are providing other typologies anyway.

The Reporting Team met with the submitters on this topic to better understand their views. The feedback received was that a rule was not necessary to force developers to limit the number of stand-alone houses and to provide other typologies. Their view was that the market would determine what typologies should be provided. Submitters also noted that the objectives and

policies of Schedule 3A of the RMA did not require a range of housing types but instead only required Council to enable this. Further, it was noted that the RMA Amendment Act did not include a rule on housing typology and instead had enabled a range of housing options with the more flexible standards relating to height, height in relation to boundary, setbacks and building coverage.

The views of the submitters are acknowledged and as such the recommendation is to remove the proposed rule that would limit stand-alone housing to a maximum of 50% of a development. The urban design matters of discretion for four or more units are however recommended to be retained to require an assessment of how housing choice has been provided for.

RECOMMENDATION

That Option 2 be accepted

Delete Rule 14A.4.2(b) (residential unit typology).

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
26	29	Classic Group
29	43	Kāinga Ora
39	21	Urban Task Force
40	13	Vercoe Holdings
42	9	Brian Goldstone
47	50	The North Twelve Limited Partnership
FS 69	17, 18	Jace Investments

REJECTED

Submission	Point Number	Name
32	11	New Zealand Housing Foundation
FS 74	34	Ōmokoroa Country Club

SECTION 32AA ANALYSIS

The following provides a further evaluation of the changes made to the Plan Change / Proposal since the original evaluation under Section 32 of the RMA. The level of detail corresponds to the scale and significance of the changes.

Efficiency & Effectiveness in Achieving the Objectives	**Delete Rule 14A.4.2(b) for residential unit typology**
Costs	**Environmental**

Environmental effects Economic effects Social effects Cultural effects Including opportunities for: (i) economic growth that are anticipated to be provided or reduced; and (ii) employment that are anticipated to be provided or reduced	No environmental costs. **Economic** No economic costs. **Social** May lead to a continuation of developments that provide large 3-4 bedroom stand-alone homes and which do not provide a range of housing options to cater for differing ages, family sizes, cultural needs and levels of affordability. **Cultural** May lead to a continuation of developments that provide large 3-4 bedroom stand-alone homes and which do not provide a range of housing options to cater for differing ages, family sizes, cultural needs and levels of affordability.
Benefits Environmental Economic Social Cultural Including opportunities for: (i) economic growth that are anticipated to be provided or reduced; and (ii) employment that are anticipated to be provided or reduced	**Environmental** No environmental benefits. **Economic** Removes a financial risk for developers as a prescribed typology rule may have prevented meeting market demand. **Social** Developers are still enabled to provide a range of housing options to cater for differing ages, family sizes, cultural needs and levels of affordability. **Cultural** Developers are still enabled to provide a range of housing options to cater for differing ages, family sizes, cultural needs and levels of affordability.
Quantification	Not practicable to quantify.
Risks of Acting / Not Acting if there is uncertain or insufficient information about the subject matter	Sufficient and certain information is available.

TOPIC 21 – RULE 14A.4.2(D) - OTHER STANDARDS – IMPERVIOUS SURFACES

BACKGROUND

Rule 14A.4.2(d) is a new standard proposed to limit the amount of impervious surfaces on a site. This is to manage the effects of stormwater runoff. The limit has been set at 70% in all areas of Ōmokoroa and in the greenfield area of Te Puke. Existing developed areas of Te Puke are however

proposed to be subject to a more restrictive limit of 50%. This is because the current stormwater network for these areas is expected to exceed capacity beyond this point and in turn will also affect the Regional Council's flood protection scheme downstream of Te Puke.

Two key definitions support this rule.

"Impervious Surfaces" *when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means an area with a surface which prevents the infiltration of rainfall into the ground and includes*:

a. *Roofs (whether fixed or retractable);*
b. *Paved areas including paths, driveways, and sealed/compacted metal parking areas;*
c. *Patios;*
d. *Swimming pools; and*
e. *Soil layers engineered to be impervious such as compacted clay.*

For the purposes of this definition impervious surfaces excludes:

a. *Any natural surface;*
b. *Grass and bush areas;*
c. *Gardens and other vegetated areas;*
d. *Porous or permeable paving and living roofs;*
e. *Permeable artificial surfaces, fields or lawns;*
f. *Slatted decks; and*
g. *Stormwater management devices.*

"Net Site Area" *when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) and within the definition of "building coverage" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the total area of the site, but excludes*:

a. *any part of the site that provides legal access to another site;*
b. *any part of a rear site that provides legal access to that site;*
c. *any part of the site subject to a designation that may be taken or acquired under the Public Works Act 1981.*

SUBMISSION POINTS

Thirteen submission points were received. Ten further submission points were received. The submission points on this topic are summarised as follows:

Standard for impervious surfaces

Bay of Plenty Regional Council (25.45) submit that restricting surface runoff from the intensification existing levels will have a minimal effect on downstream flood protection assets. If the definition of 'net site area' is not amended, they ask for the reference to 'net site area' to be removed so that all impervious surfaces (including accessways) within a site are considered.

The North Twelve Limited Partnership (47.51) request the rule is approved in relation to the 70% provision and request that the 50% limit in the Te Puke Stormwater Management Area is removed.

Bay of Plenty Regional Council (FS 67.29) oppose the relief sought by The North Twelve Limited Partnership (47.51) and request that the 50% provision is retained as notified.

Classic Group (26.30), Urban Task Force (39.22), Vercoe Holdings (40.14) and Brian Goldstone (42.10) do not support the impervious surface requirements on the basis that these are not supported by MDRS provisions (which only relate to landscaping and building coverage) and are inconsistent with the NPS-UD. They seek deletion of the rules relating to impervious surfaces.

Bay of Plenty Regional Council (FS 67.25 – 67.28) oppose relief sought by these submitters because of the reasons outlined in Bay of Plenty Regional Council's submission points.

Definition of Impervious surfaces

Pete Linde (19.16) supported by The North Twelve Limited Partnership (FS 78.6) considers that the definition of "impervious surface" is too broad and the diagram misleading especially in relation to clause (e). The submitter would like consistency with the Tauranga City Council definition. The submitter has provided a new diagram and requested that the exclusion in clause (g) be reworded to say, "Stormwater management devices <u>not located beneath sealed or compacted surfaces".</u>

Classic Group (26.3) supported by The North Twelve Limited Partnership (FS 78.5) submit that the swimming pools should be excluded from the definition of impervious surfaces as they provide storage volume. They also believe that compacted clay areas are too difficult to assess/monitor and that new technology such as permeable paving should be recognised. The submitter requests the following amendment:

> b. Paved areas including paths, driveways, and sealed/compacted metal parking areas; <u>unless these are specifically designed to allow the penetration of stormwater</u>
>
> ~~d. Swimming pools; and~~
>
> ~~e. Soil layers engineered to be impervious such as compacted clay.~~

Urban Taskforce for Tauranga (39.4) and Vercoe Holdings Limited (40.3) supported by The North Twelve Limited Partnership (FS 78.4) also request the removal of swimming pools and soil layers engineered to be impervious such as compacted clay.

Definition of net site area

Bay of Plenty Regional Council (25.31) note that for infill areas, driveways can form a significant part of the impervious area on a site, especially when accessing rear sites. The submitter is concerned that additional impervious surfaces from infill developments could lead to cumulative effects on the stormwater network and compromise existing levels of service if not mitigated. It is therefore requested that the exclusions (items a, b and c) be removed from the definition for 'net site area' in relation to its use as an activity standard to determine the impervious surface percentage limit within the net site area.

The North Twelve Limited Partnership (78.7) oppose the submission point above.

Pete Linde (19.15) and Classic Group (26.4) supported by The North Twelve Limited Partnership (FS 78.8) submit that there should be consistency of definitions used by neighbouring councils and suggest including a note beside a diagram advising readers to check corresponding definitions. The submitter requests that the proposed definition for net site area is deleted and instead more closely adopts the definition being used in the Tauranga City Plan (including illustrative diagram).

> "Net Site Area" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) and within the definition of "building coverage" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) ~~means the total area of the site, but~~

~~excludes:~~ means the area of a site less any area of that site that is solely for the purpose of providing access to the site, and for clarity also excludes:

~~a. any part of the site that provides legal access to another site;~~

~~b. any part of a rear site that provides legal access to that site;~~

~~c. any part of the site subject to a designation that may be taken or acquired under the Public Works Act 1981.~~

a. An entrance strip owned in common with the owners of other sites;

b. Any area in a cross-lease, company lease or unit title subdivision that is not covered by an independent dwelling unit, the accessory buildings of that independent dwelling unit, or other area set aside for the exclusive use of the occupants of that independent dwelling unit.

Bay of Plenty Regional Council (FS 67.1) opposes this relief sought because of the reasons outlined in their above submission point (25.31).

OPTIONS

Option 1 – Retain Rule 14A.4.2(d) and definitions of impervious surfaces / net site area as notified.

Option 2 – Amend Rule 14A.4.2(d) to remove the definition of net site area being used.

Option 3 – Amend Rule 14A.4.2(d) to remove the 50% impervious surfaces limit for the Te Puke Stormwater Management Area.

Option 4 – Delete Rule 14A.4.2(d).

Option 5 – Amend the definition of impervious surfaces to remove paved areas (which are designed to be permeable), swimming pools, soil layers engineered to be impervious and stormwater management devices not located beneath sealed or compacted surfaces.

Option 6 – Amend the definition of net site area to align with Tauranga City's definition.

DISCUSSION

Standard for impervious surfaces

Because Ōmokoroa and Te Puke are now planned to become medium density areas, there is greater potential for stormwater runoff from impervious surfaces. Council introduced building coverage rules under the previous District Plan Review (notified in 2009 and made operative in 2012) to manage the effects of stormwater runoff but also for amenity reasons. This set the permitted limit at 40% and matters of discretion were introduced to allow Council to consider effects on its stormwater reticulation systems and to require on-site mitigation measure such as detention tanks. This limit will now increase to 50% in accordance with the MDRS. However, there is still a need to manage other impervious areas which can contribute to runoff. Introducing a new rule to manage all impervious surfaces will allow Council to better utilise its stormwater network and protect landowners from flooding that would not have otherwise been anticipated.

A limit of 70% still provides flexibility for landowners to utilise the building coverage rules whilst also being able to provide additional areas for paths, driveways and carparking. In the case of Te Puke, the rule is also in response to a request from the Bay of Plenty Regional Council to avoid effects on its flood protection scheme downstream of the township. Within existing areas of development, identified as the Te Puke Stormwater Management Area, this limit is proposed to be

50%. This was selected based on a modelling exercise which indicated that mitigation would be required to address impacts on Council's stormwater network beyond this point. It is recommended that this limit of 50% is therefore retained as notified.

Section 80E(2) of the RMA gives Council the ability to include related provisions that support or are consequential to the MDRS, which specifically includes "stormwater management (including permeability and hydraulic neutrality)". Submissions requesting that the rule be deleted on the basis that impervious surfaces rules are not part of the MDRS are therefore not supported.

Standard for impervious surfaces – reference to net site area

The request from Bay of Plenty Regional Council to remove the reference to "net site area" from the impervious surfaces rule is supported. "Net site area" is not the correct definition to use for the control of impervious surfaces because it excludes land for legal access whereas the intent of the rule is to capture driveways in the calculation of impervious surfaces. The impervious surfaces rule should instead be re-worded to apply to a "site".

Definition of impervious surfaces

The definition of impervious surfaces has been developed in conjunction with the Council stormwater management team. Some submitters sought that the Tauranga City Plan proposed definition be used.

As publicly notified the definition reads as follows:

"Impervious Surfaces" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means an area with a surface which prevents the infiltration of rainfall into the ground and includes:

a. Roofs (whether fixed or retractable);

b. Paved areas including paths, driveways, and sealed/compacted metal parking areas;

c. Patios;

d. Swimming pools; and

e. Soil layers engineered to be impervious such as compacted clay.

For the purposes of this definition impervious surfaces excludes:

a. Any natural surface;

b. Grass and bush areas;

c. Gardens and other vegetated areas;

d. Porous or permeable paving and living roofs;

e. Permeable artificial surfaces, fields or lawns;

f. Slatted decks; and

g. Stormwater management devices.

The above definition is considered appropriate and has been used by Council staff with no interpretation issues. The proposed Tauranga City Plan definition is of a similar nature and includes as impervious surfaces:

- roofs;
- paved areas including driveways and sealed/compacted unsealed parking areas;

- swimming pools;
- sealed and compacted unsealed roads; and
- soil layers engineered to be impervious such as compacted clay.

The exclusions are as follows:

- any natural surface;
- grass and bush areas;
- gardens and other vegetated areas;
- porous or permeable paving and living roofs;
- permeable artificial surfaces, fields or lawns;
- slatted decks; and
- stormwater management devices not located beneath sealed or compacted surfaces.

The key differences between the two definitions are that WBoPDC have added patios for inclusions and have not included sealed and compacted unsealed roads. As this performance standard is in regard to Medium Density Residential Zone on-site impervious surface controls the Tauranga City inclusion of roads is not applicable. Although consistency between territorial authorities is desirable this does not mean that WBoPDC should automatically follow Tauranga City Council. In the context of this provision the definition as proposed in the plan change is assessed as being the most appropriate.

Swimming pools when empty have water storage capacity but when full this is very limited. Stormwater attenuation devices provide storage by controlling the release of stormwater following a rain event. For swimming pools to satisfy this definition and to provide storage pools would need to be lowered prior to a storm event and council would have no instrument to enforce this. Accordingly, It is not practicable having a definition that is subject to whether a pool is empty or full and it is appropriate for swimming pools to be classified as an impervious surface. It is noted that the impervious surfaces definition that is proposed by Tauranga City Plan also identifies swimming pools as an impervious surface.

As highlighted in the Classic Group submission there are always changing technologies which may make a product more or less impervious. There may be specific design solutions that can be used however this can be assessed as a matter of discretion if the performance standard for impervious surfaces is breached. The proposed definition is concluded as addressing most situations and is not recommended to be amended.

In regard to the diagrams included in the proposed plan these are indicative only and if required more detailed diagrams explicitly for impervious surfaces can be developed outside of the District Plan to assist in interpretation.

Definition of net site area

No changes are recommended to the definition of "net site area" as this definition is from the National Planning Standards as required to administer the building coverage rule from the MDRS.

RECOMMENDATION

That Option 2 be accepted.

Amend Rule 14A.4.2(d) to remove the definition of net site area being used.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
25	45	Bay of Plenty Regional Council
FS 67	1, 25, 26, 27, 28, 29	Bay of Plenty Regional Council

REJECTED

Submission	Point Number	Name
19	15	Pete Linde
19	16	Pete Linde
25	31	Bay of Plenty Regional Council
26	3	Classic Group
26	4, 30	Classic Group
39	3	Urban Taskforce for Tauranga
39	22	Urban Task Force
40	3	Vercoe Holdings Limited
40	4	Vercoe Holdings
42	10	Brian Goldstone
47	51	The North Twelve Limited Partnership
FS 78	4	The North Twelve Limited Partnership
FS 78	5	The North Twelve Limited Partnership
FS 78	6	The North Twelve Limited Partnership
FS 78	7, 8	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

As the only changes are minor, no s32AA evaluation is necessary.

TOPIC 22 – RULE 14A.4.2(E) - OTHER STANDARDS – VEHICLE CROSSING AND ACCESS

BACKGROUND

Rule 14A.4.2(e) is a new standard proposed to avoid vehicle crossings dominating the front boundary as viewed from the street. Rule 14A.4.2(e) requires vehicle crossings to not exceed 5.4m in width or cover more than 40% of the length of the front boundary.

SUBMISSION POINTS

Three submission points were received. Two further submission points were received. The submission points on this topic are summarised as follows:

Fire and Emergency New Zealand (18.23) oppose Rule 14A.4.2 as it does not prescribe the minimum vehicle crossing requirements that would ensure well-functioning and resilient communities. The submitter requests that this provision is relocated to 12.4.4 Transportation and Property Access where minimum carriageway widths are located in Table 1 for consistency and to start to align with the National Planning Standards. It is requested that Rule 14A.4.2 is amended as follows:

> e. Vehicle crossing and access
>
> i. For a site with a front boundary the vehicle crossing shall be no less than 3.5m in width and not exceed 5.4m in width (as measured along the front boundary) or cover more than 40% of the length of the front boundary as shown in the diagram below. A clear passageway of no less than 4.0m in height at site entrances.

Retirement Villages Association (FS 76.29) and Ryman Healthcare (FS 77.29) oppose the relief sought by Fire and Emergency New Zealand as the standards as notified are considered appropriate and the relief sought does not provide for the functional or operational needs of retirement villages.

Classic Group (26.31) submit that 40% is too restrictive for narrow sites and note that the definition drawing also appears to be inconsistent with the WBOPDC Development Code 2009 (W435) drawing (attached to their full submission). The submitter requests that this be changed to 50%.

Kāinga Ora (29.44) opposes the vehicle crossing and access controls and request deletion.

OPTIONS

Option 1 – Retain Rule 14A.4.2(e) as notified.

Option 2 - Amend Rule 14A.4.2(e) to allow vehicle crossings to cover 50% of the front boundary.

Option 3 – Amend Rule 14A.4.2(e) to require a minimum vehicle crossing width of 3.5m and a clear passageway of no less than 4.0m in height at site entrances.

DISCUSSION

In order to achieve medium density it may be necessary for narrow sites to be created as part of residential development. This could result in vehicle crossings not meeting this particular performance standard. It is agreed with Classic Group that restricting a vehicle crossing to 40% of a site's width could be too restrictive for those narrow sites and would mean that if a double garage (and double vehicle crossing) was to be provided the narrowest site would need to be 14m for the vehicle crossing to remain a permitted activity. Increasing the width to 50% of the front boundary continues to ensure that vehicle crossings do not dominate the streetscape, while allowing for more flexibility in providing narrower sites within a development.

In regard to widths for emergency access, the vehicle crossing standard in the Development Code (drawing W435) for any urban vehicle crossing (to serve privateways or single dwelling access) already requires a minimum 3.5m formation width at the boundary. As the Development Code standard is required to be met, and because this minimum privateway width of 3.5m is also specified in Rule 12.4.4.2 (to serve 3 – 6 units), it is not considered necessary for a 3.5m minimum width requirement in Rule 14A.4.2(e). Further, it is noted that the focus of Rule 14A.4.2(e)

is about enabling good urban design by ensuring that vehicle entrances do not dominate a street frontage as opposed to being about access or emergency access.

In regard to clear passageways for emergency services, the Development Code and the District Plan do not currently limit a clear passage of height at the site entrance. In terms of buildings and structures this is met by the development standards in the District Plan for setbacks and height in relation to boundary ensuring a building will not infringe on a site entrance. Council only controls the buildings/structures on a property. If a tree or other feature infringes the site entrance this is to be managed by the property owner. Therefore, it is considered unnecessary to include a requirement for a clear passage of height at the site entrance in Rule 14A.4.2(e).

RECOMMENDATION

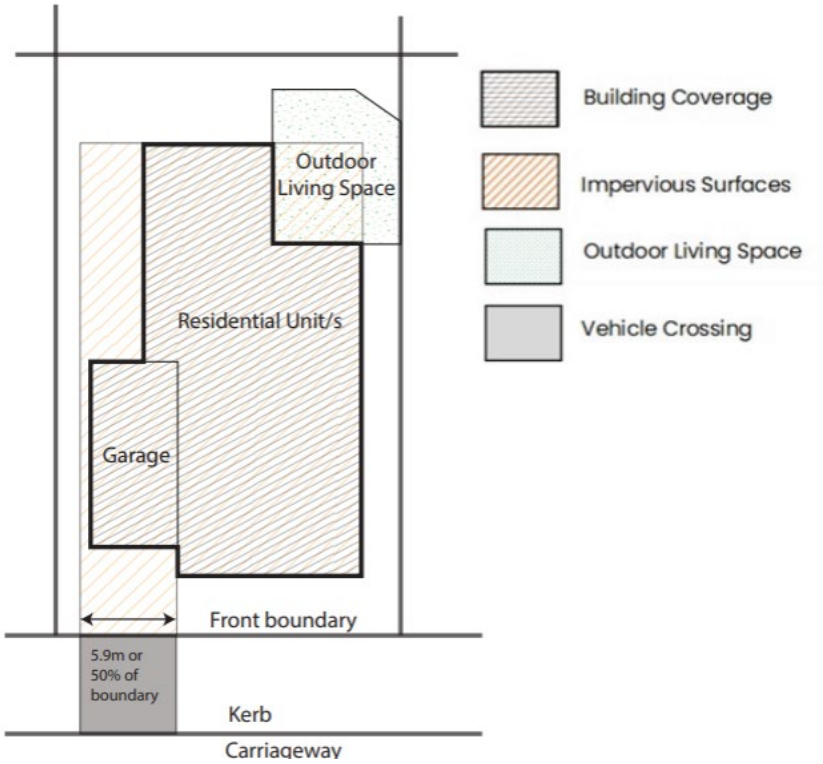
That Option 2 be accepted

Amend Rule 14A.4.2(e) to allow vehicle crossings to cover 50% of the front boundary

This would require that Rule 14A.4.2(e) be amended as follows:

i. For a site with a front boundary the vehicle crossing shall not exceed 5.4m in width (as measured along the front boundary) or cover more than ~~40%~~ 50% of the length of the front boundary as shown in the diagram below.

It would also require an amendment to the accompanying diagram as follows:



The following submissions are therefore

ACCEPTED

Submission	Point Number	Name

26	31	Classic Group
FS 76	29	Retirement Villages Association
FS 77	29	Ryman Healthcare

REJECTED

Submission	Point Number	Name
18	23	Fire and Emergency New Zealand
29	44	Kāinga Ora

SECTION 32AA ANALYSIS

The changes proposed are needed to allow the rule to be practicably applied. They also ensure consistency with the Development Code. Accordingly, no s32AA analysis is required.

TOPIC 23 – RULE 14A.4.2(F) - OTHER STANDARDS – STREETSCAPE

BACKGROUND

Rule 14A.4.2(f) is a new standard proposed to minimise the visual dominance of garages and other buildings (which are not residential units) as seen from the street.

SUBMISSION POINTS

Three submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (29.45) supports 14A.4.2(f) as notified.

Kāinga Ora (29.45) supports, in part, a control on the percentage of the total width of the building frontage that can be occupied by a garage. However, they submit that there is an absence of a specific objective, policy, and assessment criteria framework to support the rule, noting there are various references to streetscape landscaping in the Ōmokoroa and Te Puke Structure Plans. The submitter requests that the rule is retained only if a suitable policy and associated assessment criteria is inserted into the District Plan.

Classic Group (26.32) request the rule is amended as follows:

> Garages as measured at the façade of the dwelling (whether attached to or detached from a residential unit), and other buildings (except residential units), shall not cumulatively occupy more than 50% of the total width of the building frontage facing the front boundary.

OPTIONS

Option 1 – Retain Rule 14A.4.2(f) (streetscape) as notified.

Option 2 – Retain Rule 14A.4.2(f) as notified but only subject to a suitable policy and associated assessment criteria being inserted into the District Plan.

Option 3 – Amend Rule 14A.4.2(f) to clarify that garage width is to be measured at the façade of the dwelling.

DISCUSSION

This rule was proposed as part of a number of changes that sought to minimise the visual dominance of non-residential components of buildings along the street frontage to provide an active frontage interface. Other rules include matters of discretion that allow Council to consider bulk and dominance when height, height in relation to boundary, setback and building coverage rules are not complied with.

In response to Kāinga Ora, the rule is supported generally by the objectives and policies without specifically mentioning garages. Objective 4 includes an urban form providing public amenity outcomes and Policy 10 seeks to ensure a positive interface between development and public boundaries by avoiding or mitigating the visual dominance of buildings other than residential units. Further, there are specific assessment criteria (matters of discretion) when failing to comply with the streetscape rule. This specifically includes avoiding the building frontage being dominated by garage doors, carparks and blank facades.

Classic Group have suggested a change to the streetscape rule to assist with interpretation, which is that garages are measured at the façade of the residential unit. While this and a diagram

would be helpful, it brings into question how the other buildings in the rule should be measured and how either would be measured if there was no residential unit at or near the front boundary.

The use of façade is considered useful as the common meaning of façade is face of building towards the street which addresses the matter in question. It is considered that the standard could be reworded as follows:

Garages (whether attached to or detached from a residential unit), and other buildings (except residential units), as measured at the façade shall not cumulatively occupy more than 50% of the total width of the building frontage facing the front boundary.

RECOMMENDATION

That Option 3 (amended) be accepted.

Amend Rule 14A.4.2(f)as follows:

Garages (whether attached to or detached from a residential unit), and other buildings (except residential units), as measured at the façade shall not cumulatively occupy more than 50% of the total width of the building frontage facing the front boundary.

The following submissions are therefore:

ACCEPTED IN PART

Submission	Point Number	Name
26	32	Classic Group
29	45	Kāinga Ora
47	52	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

The proposed changes are minor and accordingly, no s32AA analysis is required.

TOPIC 24 – RULE 14A.4.2(G) - OTHER STANDARDS – EARTHWORKS

BACKGROUND

Rule 14A.4.2(g)(i) requires that earthworks (cut and fill) shall only increase or decrease the existing ground level by a maximum of 1m. The s32 report describes how this rule was proposed to limit amenity effects of large cuts and changes to landform, and assist in limiting retaining walls to 2m in height. Rule 14A.4.2(g)(ii) allows earthworks up to 750m^3. The intent is to allow and support the construction of 1-3 units on a site as a permitted activity but require resource consent for any bulk earthworks. These bulk earthworks were identified as an issue because subdivision and earthworks consents often proceed without taking into account how this may affect the ability to deliver good urban design outcomes when the land use application follows.

SUBMISSION POINTS

Eight submission points were received. Five further submission points were received. The submission points on this topic are summarised as follows:

Armadale Properties Limited (8.3) oppose the rule as there is already adequate provision in the District Plan for Council to assess excessive retaining walls on or near the boundary and request removal of the proposed earthworks provisions (and any other consequential provisions).

Kāinga Ora (29.46) opposes locating earthworks specific standards within the residential standards. It is requested that in accordance with the National Planning Standards, earthworks specific standards should be located to the 'district-wide' provisions in Section 4A.5 (General - Earthworks) of the District Plan.

Urban Task Force (39. 23), Vercoe Holdings (40.15), Brian Goldstone (42.11), Classic Group (26.33) (FS 68.3, FS 68.6 and FS 68.5) and Jace Investments and Kiwi Green New Zealand (FS 69.19) oppose the new earthworks rules. They submit that the provisions will limit yield and are therefore inconsistent with the NPS-UD and have not been properly assessed in the Section 32 Report.

The North Twelve Limited Partnership (47.53) submit that the earthworks provisions should only apply to infill or individual site development as bulk earthworks in greenfield areas are covered by the Bay of Plenty Regional Council consent process.

Jace Investments and Kiwi Green New Zealand (58.25) supported by Classic Group (FS 68.4) oppose the earthworks limits saying that they are too stringent. They request more flexibility in the rules particularly regarding height of cut and fill.

OPTIONS

Option 1 – Retain Rule 14A.4.2(g) (earthworks) as notified.

Option 2 - Amend Rule 14A.4.2(g) to apply only to infill or individual site development.

Option 3 – Delete Rule 14A.4.2(g).

DISCUSSION

Proposing to limit cut and fill to a maximum increase or decrease of 1m compared with existing ground level is a specific response to issues seen in the recent development of Ōmokoroa. Because the District Plan currently has very few controls on earthworks, Council was unable to prevent some poor outcomes such as high retaining walls and the removal of features in the landform that were of value to tangata whenua.

Although this was not explicit in the s 32 report, in addition to the amenity values cited the proposed '1m rule' aims to provide for cultural values associated with the Ōmokoroa landform. The restricted discretionary activity criteria notified with the '1m rule' requires consideration of cultural values associated with the existing natural landform and that works be notified to hapū.

The proposed '1m rule' is intended to prevent significant changes in landform to restrict the height of retaining walls to 2m and to minimise impacts on the cultural landscape. The rule was also extended to Te Puke for consistency but without the same specific concerns having been identified.

Submitters have explained to Council staff that it would be extremely difficult to comply with this rule even with minimal earthworks. They also question why the Plan Change seeks to deliver medium density housing, including at required minimum densities, without allowing the required

earthworks. These points are acknowledged. Further, it is the view of Council staff that this rule would be difficult to enforce as a permitted activity. The rule relies on Plan users knowing the "ground level" which by its definition would mean the finished ground level at the time of the most recent subdivision, or if there was no subdivision, what the existing ground level is observed to be. Keeping track of existing ground level and whether further changes to it are less than 1m is likely to be difficult and confusing for landowners and Council.

The proposed earthworks volume limit of 750m^3 is intended to avoid situations where developers first obtain bulk earthworks consent (including for building platforms and retaining walls) from the Bay of Plenty Regional Council and then proceed to apply for land use consent for the residential units later. The functions of the Regional Council would only allow them to impose conditions relating to matters such as erosion and sedimentation. However, other matters such as amenity, urban design and cultural values are also important and Council proposed the new rule to be able to address these. It is acknowledged however that a permitted activity threshold is not the only way for Council to address these matters.

The earthworks standards in 14A discussed above should be considered in conjunction with an existing rule in Section 12 – Subdivision that relates to the protection of cultural sites in Ōmokoroa Stages 2 and 3. Rule 12.4.1 (j) requires resource consent as a controlled activity for earthworks over 300m^3 in any six month period with matters of control over adequate prior notice being given to hapū and the monitoring of earthworks in Appendix 7 – Structure Plans. These existing rules in Section 12 and Appendix 7 are recommended to be retained.

RECOMMENDATION

The Reporting Team circulated a position paper to all registered attendees prior to the expert conferencing for urban design held on 1 August. This indicated an intention to recommend that the proposed earthworks performance standards in Section 14A could be deleted. However, the Reporting Team also made it clear that such a recommendation would only be on the basis that matters of discretion for earthworks could be added to the consideration of applications for subdivision and four or more units, specifically including wording relating to cultural values.

At this time, no tangata whenua parties have made a submission on Plan Change 92. As noted in the introduction part of this report, Council is continuing to seek to engage with Pirirakau. The reporting team will seek to discuss the proposed matters of control and discretion relating to cultural values associated with earthworks in Ōmokoroa and may provide an update to the Panel before or at the hearing.

That Option 3 be accepted

Delete Rule 14A.4.2(g) for earthworks.

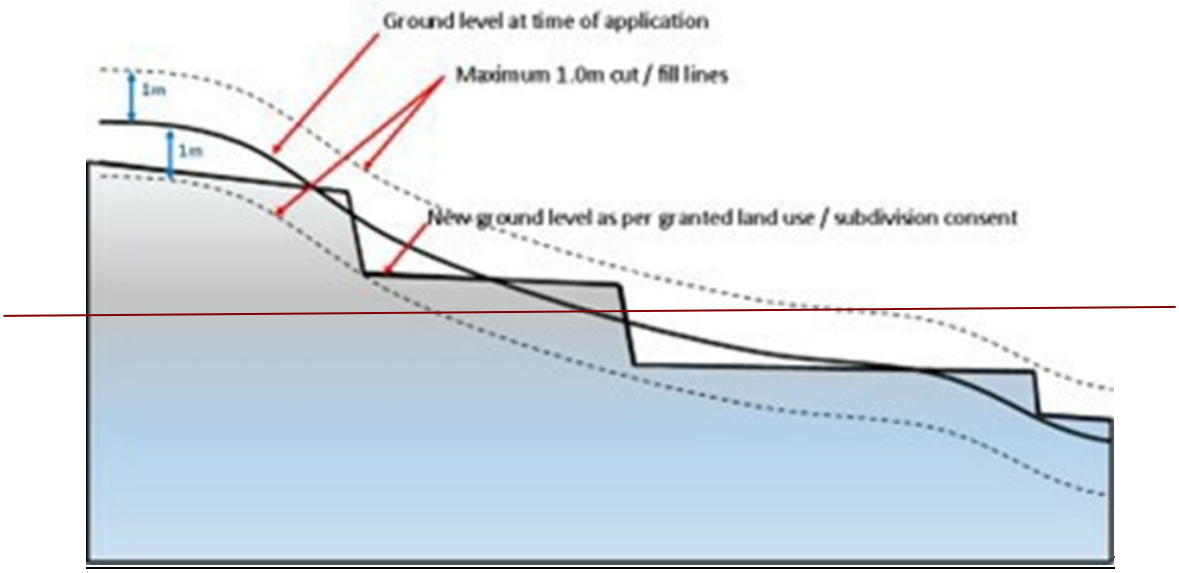
This would require the following changes:

14A.3.1 Permitted Activities

~~(l) *Earthworks*~~

~~**14A.4.2.(g) Earthworks**~~

~~*(i) Earthworks* (cut and fill) shall only increase the *ground level* by a maximum of 1m vertically and/or decrease the *ground level* by a maximum of 1m vertically as shown on the diagram below.~~



~~(ii) Earthworks shall not exceed a volume of 750m3 per site.~~

12.4.1 Site Suitability

(j) Controlled *Earthworks* Ōmokoroa Stage 2 and Stage 3 *Structure Plan* Areas ~~(except as provided for in Section 14A (Ōmokoroa and Te Puke Medium Density Residential).~~

Earthworks within the Stage 2 and Stage 3 *Structure Plan* ~~area~~ areas that exceed the following standard shall be Controlled Activities:

- Maximum area of earth disturbed in any six monthly period - 300m^2.

  Council shall exercise its control over the extent to which conditions ensure:

  i. Adequate prior notice is given to hapū prior TO excavation commencement; and
  ii. The monitoring of *earthworks* and land disturbance by hapū is provided for. See Appendix 7 4.9.

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name
8	3	Armadale Properties Limited
26	33	Classic Group
39	23	Urban Task Force
40	15	Vercoe Holdings
42	11	Brian Goldstone

58	25	Jace Investments and Kiwi Green New Zealand
FS 68	3, 4, 5, 6	Classic Group
FS 69	19	Jace Investments and Kiwi Green New Zealand

ACCEPTED IN PART

Submission	Point Number	Name
29	46	Kāinga Ora
47	53	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

The changes proposed are minor as they seek to correct a possible oversight in the rule that prevents retirement village from being able to provide outdoor living space across more than one communally accessible area. Accordingly, no s32AA analysis is required.

Efficiency & Effectiveness in Achieving the Objectives	**Delete Rule 14A.4.2(g) for earthworks.**
Costs Environmental effects Economic effects Social effects Cultural effects Including opportunities for: (i) economic growth that are anticipated to be provided or reduced; and (ii) employment that are anticipated to be provided or reduced	**Environmental** No environmental costs. Regional Council would still be able to address matters such as erosion and sedimentation in bulk earthworks resource consents that they process. **Economic** There will remain compliance costs for developers if matters of control and discretion for earthworks are put in place for subdivision and four or more units instead of standards. **Social** No social costs provided that appropriate matters of control and discretion are in place for subdivision and four or more units. **Cultural** No cultural costs provided that matters of control and discretion are in place for subdivision and four or more units to allow assessment of effects on the cultural landscape. Other rules in Section 12 – Subdivision will ensure the protection of cultural sites in Ōmokoroa Stage 2 and 3.
Benefits Environmental Economic Social	**Environmental** No environment benefits as the direct result of deleting the standard. Regional Council would still be able to address matters such as erosion and sedimentation in bulk earthworks resource consents that they process.

Cultural Including opportunities for: (i) economic growth that are anticipated to be provided or reduced; and (ii) employment that are anticipated to be provided or reduced	**Economic** Compliance costs to developers will be reduced through not needing to meet the restrictive standards. Removing the standards will also allow developers to undertake the earthworks needed to deliver medium density housing and make developments more feasible. **Social** Removing the standards will also allow developers more flexibility to undertake the earthworks needed to deliver medium density housing for the community. **Cultural** No cultural benefits as the direct result of deleting the standard. However, having matters of control and discretion are in place for subdivision and four or more units would still allow assessment of effects on the cultural landscape. Other rules in Section 12 – Subdivision will ensure the protection of cultural sites in Ōmokoroa Stage 2 and 3.
Quantification	Not practicable to quantify.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	Sufficient and certain information is available.

TOPIC 25 – RULE 14A.4.2(H) - OTHER STANDARDS – HEIGHT OF FENCES, WALLS AND RETAINING WALLS

BACKGROUND

Rule 14A.4.2(h) permits fences, walls and retaining walls subject to meeting the specific height standards. Within side and rear yards, fences and walls are limited to 2m, and retaining walls are limited to 1.5m plus a safety fence no greater than 1m. Where these adjoin reserves, the limit is 1.2m with the extra height needing to be visually permeable. Within front yards, fences and walls are limited to 1.2m with the extra height needing to be visually permeable.

SUBMISSION POINTS

One submission point was received. No further submission points were received. The submission point on this topic is summarised as follows:

The North Twelve Limited Partnership (47.54) support these standards and request that they be approved as notified.

OPTIONS

Option 1 – Retain Rule 14A.4.2 (h) (heights for fences, walls and retaining walls) as notified.

DISCUSSION

The submitter supports the standards.

RECOMMENDATION

That Option 1 be accepted.

Retain Rule 14A.4.2 (h) (heights for fences, walls and retaining walls) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	54	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 26 – RULE 14A.4.2(J) - OTHER STANDARDS – ACCOMMODATION FACILITIES

BACKGROUND

Rule 14A.4.2(j) permits accommodation facilities for a maximum of five people and up to a maximum gross floor area of 60m^2 for the exclusive use of the occupiers. These must not have a kitchen or otherwise be self-contained. This allows landowners to establish smaller scale accommodation such as bed and breakfasts and sleepouts without unnecessary restriction. This same rule applies in many of the zones in the District.

SUBMISSION POINTS

One submission point was received. One further submission was received. The submission points on this topic are summarised as follows:

Kāinga Ora (29.47) have asked for the deletion of the standard which requires that accommodation facilities must not have a kitchen facility or otherwise be self-contained. They highlight that the majority of accommodation facilities (including hotels, camping grounds and motels) would require a kitchen.

Jace Investments (FS 69.20) have supported this submission point explaining that kitchens are needed for accommodation facilities to make them economically viable.

OPTIONS

Option 1 – Retain Rule 14A.4.2(j) (accommodation facilities) as notified.

Option 2 – Amend Rule 14A.4.2(j) to amend the standard requiring that accommodation facilities must not have a kitchen facility or otherwise be self-contained.

DISCUSSION

The standards for accommodation facilities are to limit permitted activities to smaller scale activities such as bed and breakfasts and sleepouts. The standard preventing kitchen facilities is to ensure that these smaller accommodation facilities do not become self-contained and hence residential units (these are provided for separately).

Larger accommodation facilities such as hotels, camping grounds and motels are provided for as discretionary activities. It is known that these larger accommodation facilities will require kitchen facilities and as such these are provided for in granted resource consents. Discretionary status is to allow Council to manage the effects of these larger activities such as noise and traffic, not to assess whether a kitchen facility is needed or not.

RECOMMENDATION

That Option 1 be accepted.

Retain Rule 14A.4.2(j) (accommodation facilities) as notified.

The following submissions are therefore:

REJECTED

Submission	Point Number	Name
29	47	Kāinga Ora
FS 69	20	Jace Investments

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 27 – RULE 14A.4.2 (K) - OTHER STANDARDS – HOME ENTERPRISES

BACKGROUND

Rule 14A.4.2(k) provides for home enterprises as a permitted activity subject to meeting certain standards. This includes being carried out by a maximum of three persons (who must reside on-site) within an area not exceeding 25m^2. This allows landowners to establish smaller scale businesses such as a shop, hair salon or small office. These standards are proposed to apply cumulatively per "site" to avoid multiple small businesses being established in a way that exceeds the standards e.g., two businesses with six staff in total. This same rule applies in many of the zones in the District. The following definition is relevant to the topic:

"Site" *when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means*:

a. *an area of land comprised in a single record of title under the Land Transfer Act 2017; or*
b. *an area of land which comprises two or more adjoining legally defined allotments in such a way that the*
   allotments cannot be dealt with separately without the prior consent of the Council; or
c. *the land comprised in a single allotment or balance area on an approved survey plan of*

subdivision for which a separate record of title under the Land Transfer Act 2017 could be issued without further consent of the Council; or

d. *despite paragraphs (a) to (c), in the case of land subdivided under the Unit Titles Act 1972 or the Unit Titles Act 2010 or a cross lease system, is the whole of the land subject to the unit development or cross lease.*

SUBMISSION POINTS

One submission point was received. No further submission points were received. The submission point on this topic is summarised as follows:

Kāinga Ora (29.48) oppose the standards being applied cumulatively per "site" on the basis that it may preclude home enterprises from occurring in more than one unit of a multi-unit and/or apartment building. Their solution is to delete the following note at the end of the rule:

~~Note: The above activity performance standards shall apply cumulatively to all home enterprises per site.~~

OPTIONS

Option 1 – Retain Rule 14A.4.2(k) (home enterprises) as notified.

Option 2 – Amend Rule 14A.4.2(k) to allow home enterprises to occur in more than one unit of a multi-unit and/or apartment building.

DISCUSSION

The existing wording of the home enterprise rule in the Operative District Plan relies on the word "lot" when explaining that the standards apply cumulatively. The definition of "lot" means a parcel of land held in a separate certificate of title. This would mean that every unit title within a unit plan and each cross lease title would be afforded the ability to have its own home enterprise.

The term "site" is defined in the National Planning Standards. This definition is introduced by Plan Change 92 to apply to Section 14A to give effect to the MDRS but is also being used for other rules for consistency. It is acknowledged that in the context of the home enterprise rule, the word "site" has resulted in an outcome that isn't consistent with the Operative District Plan. This is because the definition of site includes the whole of the land subject to the unit development or cross lease.

Kāinga Ora's suggestion to delete the note explaining that the standards apply cumulatively per site goes beyond resolving the issue. The entire sentence does not need to be deleted. Rather, the reference to "site" needs to be re-considered. It is recommended that that word "site" be retained as it is the correct use for most circumstances, but with further wording added to clarify that each unit title and cross lease title can have its own home enterprise.

RECOMMENDATION

That Option 2 be accepted.

Amend Rule 14A.4.2(k) to allow home enterprises to occur in more than one unit of a multi-unit and/or apartment building.

This would require the following change:

Note: The above activity performance standards shall apply cumulatively to all home enterprises per site. Except that in the case of land subdivided under the Unit Titles Act 1972 or the Unit Titles

Act 2010 or a cross lease system, the above activity performance standards shall apply cumulatively to all home enterprises per individual unit title or cross lease title.

The following submissions are therefore:

ACCEPTED IN PART

Submission	Point Number	Name
29	48	Kāinga Ora

SECTION 32AA ANALYSIS

As only minor clarification changes are proposed, no s32AA evaluation is necessary.

TOPIC 28 – RULES 14A.4.2(L)-(Y) - OTHER STANDARDS – REFERENCES TO OTHER SECTIONS

BACKGROUND

The list of other standards includes cross references to other sections of the District Plan which have rules that apply 'district-wide'.

SUBMISSION POINTS

Four submission points were received. The submission points on this topic are summarised as follows:

Western Bay of Plenty District Council (15.12) note that a reference to Section 12 - Subdivision and Development should be added because it also applies to land use.

Fire and Emergency New Zealand (18.24 and 18.25) support the references to Section 4B - Transportation, Access, Parking and Loading and Section 8 - Natural Hazards.

Heritage New Zealand Pouhere Taonga (22.1) support the reference to Section 7 - Historic Heritage.

OPTIONS

Option 1 – Retain cross references to other sections of the District Plan as notified.

Option 2 - Retain cross references to other sections of the District Plan as notified and add a new reference to Section 12 – Subdivision and Development.

RECOMMENDATION

That Option 2 be accepted

Retain cross references to other sections of the District Plan as notified and add a new reference to Section 12 – Subdivision and Development.

The following submissions are therefore

ACCEPTED

Submission	Point Number	Name

15	12	Western Bay of Plenty District Council
18	24, 25	Fire and Emergency New Zealand
22	1	Heritage New Zealand Pouhere Taonga

SECTION 32AA ANALYSIS

The changes proposed are minor and confirm requirements that would have applied in any case. Accordingly, no s32AA analysis is required.

TOPIC 29 – REQUEST FOR NEW RULE - OTHER STANDARDS – OVERHEAD ELECTRICITY LINES

BACKGROUND

Plan Change 92 as proposed did not identify the electricity distribution network as a qualifying matter nor seek to protect development from overhead electricity lines.

SUBMISSION POINTS

One submission point was received. One further submission point was received. The submission points on this topic are summarised as follows:

Powerco (33.1) submits that the distribution network should be recognised as a new qualifying matter. It is requested that non statutory maps could be included in the District Plan that identify existing overhead electricity networks in the area and a new standard could be inserted into Section 14A.4.2 (Other Standards) of the District Plan worded along the lines of the following:

> Where a site contains or adjoins (e.g. on legal road) an overhead electricity line identified on the [nonstatutory] planning maps, an assessment of the building(s) against the provisions of the New Zealand Electrical Code of Practice for Electrical Safe Distances - NZECP 34:2001 (ECP34) must be undertaken by a suitably qualified person with the report approved by the asset owner. If no report is provided, or a breach of ECP34 is identified, then resource consent is required for the development as a Restricted Discretionary Activity with the asset owner identified as an affected person..

Kāinga Ora (FS 70.19) opposes this submission point on the basis that it is not a qualifying matter and should not be identified as a qualifying matter in the Plan Change.

OPTIONS

Option 1 – Status quo.

Option 2 – Add non-statutory maps of overhead electricity lines to the District Plan and a rule which triggers resource consent as a restricted discretionary activity for failure to comply with or provide an assessment of compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances - NZECP 34:2001 (ECP34).

Option 3 – Add non-statutory maps of overhead electricity lines to the District Plan and advice notes informing readers of the New Zealand Electrical Code of Practice for Electrical Safe Distances - NZECP 34:2001 (ECP34).

DISCUSSION

The purpose of the Code of Practice is explained within it as follows:

This Electrical Code of Practice (Code) sets minimum safe electrical distance requirements for overhead electric line installations and other works associated with the supply of electricity from generating stations to end users.

The minimum safe distances have been set primarily to protect persons, property, vehicles and mobile plant from harm or damage from electrical hazards. The minimum distances are also a guide for the design of electrical works within substations, generating stations or similar areas where electrical equipment and fittings have to be operated and maintained.

Powerco's full submission explains in detail their case for why their overhead electricity lines are a qualifying matter and therefore why the suggested rule can be considered as a way of making the MDRS less enabling of development. Kāinga Ora have opposed this request but have not explained further.

Whether it is confirmed as a qualifying matter or not, and despite the importance of Code of Practice, Council staff do not believe it is appropriate to use the District Plan to trigger resource consent for non-compliances with its requirements. Firstly, it is not Council's role to administer this Code of Practice and it is legally required to be met without Council introducing it into the District Plan. Secondly, any introduction of such a rule into the District Plan would bring extra costs and time delays to those seeking to proceed with a residential unit or building that would otherwise be a permitted activity. Council would also become responsible for informing landowners of the need to meet this standard, requiring them to engage the services of an expert to prepare an assessment and dealing with disputes.

Adding non-statutory maps to the District Plan is however supported. The ePlan contains a set of non-statutory maps and these can be added to if information is provided by Powerco.

Further, an advice note can be added to the District Plan to inform users of the need to comply with the Code of Practice. The Tauranga City Plan has a note at the commencement of Table 10A.1 Activity Status for Network Utilities which reads:

Note: While only transmission and key electric lines are identified on the Planning Maps, works in close proximity to all electric lines can be dangerous. Compliance with the New Zealand Electrical Code of Practice 34:2001 is mandatory for buildings, earthworks and mobile plants within close proximity to all electric lines.

Similar wording could be added to 10.3 Activity Table for Infrastructure and Network Utilities of the Western Bay of Plenty District Plan, with the exclusion of the reference to key electric lines as these are not shown on the planning maps. Only transmission lines are shown on the planning maps.

A note could also be added at the start of the density standards in Rule 14A.4.1. This would be more responsive to the submitter's concerns being the need to inform those constructing residential units and buildings to be aware of the Code of Practice. The Activity Table for Infrastructure and Network Utilities would typically only be seen by those wishing to provide infrastructure.

RECOMMENDATION

That Option 3 be accepted

Add non-statutory maps of overhead electricity lines to the District Plan and advice notes informing readers of the New Zealand Electrical Code of Practice for Electrical Safe Distances.

10.3 Activity Table for Infrastructure and Network Utilities

Note: While only transmission lines are identified on the Planning Maps, works in close proximity to all electric lines can be dangerous. Compliance with the New Zealand Electrical Code of Practice 34:2001 is mandatory for buildings, earthworks and mobile plants within close proximity to all electric lines.

14A.4.1 Density Standards

Note: Works in close proximity to all electric lines can be dangerous. Compliance with the New Zealand Electrical Code of Practice 34:2001 is mandatory for buildings, earthworks and mobile plants within close proximity to all electric lines.

The following submissions are therefore

ACCEPTED IN PART

Submission	Point Number	Name
33	1	Powerco
FS 70	91	Kāinga Ora

SECTION 32AA ANALYSIS

The changes proposed involve showing new information on the non-statutory maps in the ePlan and the addition of advice notes to inform District Plan users of the need to comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances - NZECP 34:2001 (ECP34). Accordingly, no s32AA analysis is required.

TOPIC 30 – RULE 14A.4.3 - SUBDIVISION STANDARDS

BACKGROUND

Rule 14A.4.3 sets out subdivision standards for various subdivision activity statuses.

These standards are summarised under the headings below:

a. Controlled subdivision for the purpose of the construction and use of residential units

- All lots must be for the purpose of the construction and use of residential units and the application shall be submitted with information demonstrating that:
  - It is practicable to construct a permitted residential unit on each lot; or
  - The residential units have resource consent for not meeting density standards; or
  - A concurrent land use application is submitted for the residential units.

b. Controlled subdivision for sites of less than 1,400m2 to create one or two additional lots <u>not</u> for the purpose of the construction and use of residential units (rule is to allow vacant lots)

- All lots must have minimum shape factor of 10x 15m.

c. Discretionary subdivision not for the purpose of the construction and use of residential units (rule is to allow vacant lots but for larger subdivisions)

- All lots must have minimum shape factor of 10x 15m.
- A requirement to achieve a minimum number of lots per hectare of developable area:

Area	**Minimum lot yield** **Per hectare of developable area**
Ōmokoroa Stage 3A	15
Ōmokoroa Stage 3B	20
Ōmokoroa (Outside of Stage 3)	20
Te Puke	20
Ōmokoroa Stage 3C	30
Ōmokoroa Mixed Use Residential Precinct	30

A proposed definition of developable area is included in Section 3 – Definitions. In summary, it means all land zoned Medium Density Residential except for the following:

- Ōmokoroa Road, Prole Road and Francis Road (all within Ōmokoroa)
- Structure plan link road between Prole Road and Francis Road
- Structure plan active reserve in Ōmokoroa
- Areas not suitable for residential units due to:
    - Geotechnical constraints
    - Stormwater management being the primary function
    - Natural hazards

SUBMISSION POINTS

Seven submission points were received. Three further submission points were received. The submission points on this topic are summarised as follows:

Location of standards

Kāinga Ora (29.49) opposes locating subdivision specific standards within the residential standards as it is not in accordance with the National Planning Standards. It is requested that these standards are removed from Section 14A and inserted into Section 12.

Controlled subdivision for the purpose of the construction and use of residential units

The North Twelve Limited Partnership (47.55) support these subdivision standards.

Controlled subdivision for sites of less than 1,400m2 to create one or two additional lots not for the purpose of the construction and use of residential units - shape factor

Kāinga Ora (29.51) supported by Jace Investments (FS 69.21) oppose the size of the shape factor and request a minimum shape factor standard of 8m x 15m instead of 10m x 15m. This is to be consistent with Tauranga City Council.

The North Twelve Limited Partnership (47.56) request that this rule is approved as notified but to amend shape factor to 8m x 15m. They submit that the current requirement of 10 x 15m does not provide flexibility for smaller dwelling typologies and increased density.

Discretionary subdivision not for the purpose of the construction and use of residential units – shape factor, minimum lot yield and activity status

Kāinga Ora (29.51) oppose the size of the shape factor and request a minimum shape factor standard of 8m x 15m instead of 10m x 15m. This is to be consistent with Tauranga City Council.

Kāinga Ora (29.52) opposes discretionary activity status and consider a restricted discretionary activity status is more appropriate. Changes to the yield requirements are also requested

Area	**Minimum lot yield** **Per hectare of developable area**
~~Ōmokoroa Stage 3A~~	~~15~~
Ōmokoroa Stage 3A	35
Ōmokoroa Stage 3B	~~20~~ 35
Ōmokoroa (Outside of Stage 3)	~~20~~ 35
Te Puke	~~20~~ 35
Ōmokoroa High Density ~~Stage 3C~~	~~30~~ 50
Ōmokoroa Mixed Use Residential Precinct	~~30~~ 50
Te Puke High Density	~~30~~ 50

Jace Investments (FS 69.22) support Kāinga Ora's request for restricted discretionary activity classification but oppose 50 lots per hectare as a minimum density.

Classic Group (FS 68.7) submit that the density requirement is forcing the market to do something it is not ready for and that and once it makes financial sense to do so, density will naturally increase. The submitter requests that the amendment sought by Kāinga Ora is declined.

The North Twelve Limited Partnership (47.57) oppose Rule 14A.3.3(c) and submit that provided the relevant shape factor and density is met this should remain as a controlled activity.

Request for new subdivision activity status and standards for approved land use consents

Kāinga Ora (29.50) seeks the provision of subdivision in accordance with an approved land use consent as a Controlled Activity as follows:

> c. Subdivision in accordance with an approved land use consent.
>
> Any subdivision in accordance with an approved land use resource consent must comply with that resource consent. Council's control shall be reserved to any of the following matters:
>
> (i) Subdivision layout;
> (ii) Compliance with the approved land use consent; and
> (iii) Provision of infrastructure.

OPTIONS

Option 1 – Retain Rule 14A.4.3 (subdivision standards) as notified.

Option 2 – Delete Rule 14A.4.3 and move the subdivision standards to the 'district-wide' provisions in Section 12 – Subdivision and Development.

Option 3 – Amend Rules 14A.4.3(b)-(c) to reduce the shape factor from 10 x 15m to 8m x 15m.

Option 4 – Amend Rule 14A.4.2(a) to increase the minimum yield requirements as requested.

Option 5 – Change the status of discretionary subdivision (not for the purpose of the construction and use of residential units) to restricted discretionary or controlled.

Option 6 – Add a new rule allowing subdivision in accordance with an approved land use consent as a Controlled Activity (with associated standards).

DISCUSSION

Location of standards

Council is aware of the direction in the National Planning Standards to contain any technical subdivision requirements in a subdivision chapter. Implementation of the National Planning Standards is underway outside of this Plan Change process. Until that work has been undertaken, having the subdivision activity statuses included in Section 14A – Ōmokoroa and Te Puke Medium Density Residential is consistent with other zones using the existing District Plan layout.

Controlled subdivision for sites of less than 1,400m2 to create one or two additional lots <u>not</u> for the purpose of the construction and use of residential units - shape factor

This is Rule 14A.4.3(b). Its purpose is to allow the creation of vacant lots for small infill subdivisions as further explained in Topic 5.

The submission points seeking a reduction in shape factor to 8m x 15m are accepted. This provides for smaller typologies which Plan Change 92 is seeking to encourage and is also consistent with the Tauranga City Plan.

Discretionary subdivision <u>not</u> for the purpose of the construction and use of residential units – shape factor, minimum lot yield and activity status

This is Rule 14A.4.3(c). It provides for larger vacant lot subdivisions subject to an assessment of how subdivision design may affect the ability to achieve good urban design outcomes for development as further explained in Topic 7 for discretionary and non-complying activities.

As above, the submission point seeking a reduction in shape factor to 8m x 15m is accepted.

The request for increased minimum yields are not recommended to be accepted. The reasons for this are the same as discussed in Topic 19 for residential unit yield.

The activity statuses have also been discussed in Topic 7. It is recommended to delete the non-complying activity status for failing to comply with minimum lot yield so that larger vacant lot subdivisions will remain discretionary. A discretionary activity status is considered appropriate in the circumstances where landowners can take advantage of the controlled activity status in the MRDS for subdivision for the purpose of the construction and use of residential units, which would ensure better urban design outcomes.

Request for new subdivision activity status and standards for approved land use consents

The Plan Change includes as controlled activities the following:

a. Subdivision for the purpose of the construction and use of residential units which comply with the density standards in Rule 14A.4.1.

b. Subdivision for the purpose of the construction and use of residential units which do not comply with the density standards in Rule 14A.4.1 where restricted discretionary consent has been granted or is sought concurrently for the residential units.

c. For sites less than 1,400m2, subdivison to create one or two additional lots which are not for the purpose of the construction and use of residential units under Rules 14A.3.2 (a) or (b) above.

d. Works and network utilities as provided for as a controlled activity in Section 10.

The above provides for a range of scenarios where subdivision can occur which includes subdivision for the purpose of the construction and use of residential units which do not comply with the density standards in Rule 14A.4.1 where restricted discretionary consent has been granted or is sought concurrently for the residential units.

Kāinga Ora's submission seeks the provision of subdivision in accordance with an approved land use consent as a Controlled Activity which as above is already provided for in regard to residential units. The only scenario where an activity would not be a controlled activity would be for in regard to applications for sites 1,400m2 and over to create additional lots which are not for the purpose of the construction and use of residential units.

In that situation not being a residential activity, it is considered appropriate that the consent authority can maintain the ability to refuse consent if the situation warrants this. Any development of that size that is not residential in nature in the Medium Density Residential Zone will generate resource consent requirements and any subdivision proposed can be considered at that point in time concurrently. It is not considered necessary to include a specific additional matter in this regard.

RECOMMENDATION

That Option 3 be accepted.

Amend Rules 14A.4.3(b)-(c) to reduce the shape factor from 10 x 15m to 8m x 15m.

This would require the following changes:

14A.4.3 (a) Controlled activity subdivision for sites of less than 1,400m2 to create one or two additional lots not for the purpose of the construction and use of residential units

An application for a controlled activity subdivision under Rule 14A.3.2 (c) is subject to the following requirements:

i. Shape factor:

All *lots* shall be capable of accommodating a rectangle of ~~10m~~ 8m X 15m exclusive of *yard* requirements.

14A.4.3 (c) Discretionary activity subdivision not for the purpose of the construction and use of residential units

An application for a discretionary activity subdivision under Rule 14A.3.4 (i) is subject to the following requirements:

ii. Shape factor:

All *lots* shall be capable of accommodating a rectangle of ~~10m~~ 8m X 15m exclusive of *yard* requirements.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
29	49, 51	Kāinga Ora
47	55, 56	The North Twelve Limited Partnership
FS 68	7	Classic Group
FS 69	21	Jace Investments

ACCEPTED IN PART

Submission	Point Number	Name
FS 69	22	Jace Investments

REJECTED

Submission	Point Number	Name
29	50	Kāinga Ora
29	52	Kāinga Ora
47	57	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

The changes proposed are minor and are to align with the shape factor used by Tauranga City Council. Accordingly, no s32AA analysis is required.

TOPIC 31 – RULE 14A.5 - NOTIFICATION

BACKGROUND

Clause 5 of Schedule 3A of the RMA sets out "certain notification requirements precluded" with respect to the residential unit and subdivision provisions of the MDRS.

In summary, the RMA states that Council cannot require:

- Public notification for one to three residential units that do not comply with the density standards (except the standard for the number of units).

- Public or limited notification for four or more residential units that comply with the density standards (except the standard for the number of units).
- Public or limited notification for subdivision associated with an application for residential units.

These requirements were replicated in proposed Rule 14A.5 to make the requirements more obvious to readers of the District Plan.

SUBMISSION POINTS

Eleven submission points were received. Four further submission points were received. The submission points on this topic are summarised as follows:

General

The North Twelve Limited Partnership (47.58) submit that the relevant notification provisions are supported to ensure certainty for developers.

Urban Task Force (39.24 – 39.25) and Classic Group (26.34 – 26.35) submit that the provisions are unnecessary and repeat those provisions set out in Section 95 of the RMA.

Kāinga Ora (29.54) seeks to clarify the references to 'Section 4A' and 'Rule 4A.4.7.1'. It is submitted that it is not clear what provisions these are referring to.

Requests to preclude public or limited notification in other circumstances

New Zealand Housing Foundation (32.12) submit that non-notification should be provided for if all other standards are complied with.

Jace Investments and Kiwi Green New Zealand (58.27) request a provision is added confirming comprehensive mixed use developments meeting the permitted activity standards would be processed as non-notified.

Kāinga Ora (29.53) supported by Retirement Villages Association (FS 76.30) and Ryman Healthcare (FS 77.30) seek to preclude:

- Public notification for one to three units that do not comply with the other standards.
- Public or limited notification for four or more units that do comply with the other standards.
- Public or limited notification for four or more units that do not comply with one or more of the density standards (except for the standard for the number of residential units or the other standards but which comply with the standards for height and building coverage).

KiwiRail (FS 71.10) opposes the inclusion of new Rule 14A.5.1(b)(iii) (third bullet above) requested by Kāinga Ora. KiwiRail does not consider it is appropriate for public or limited notification to be precluded for high density developments that do not comply with the prescribed density standards. It is requested that the amendment sought be rejected.

Retirement Villages Association (34.43) seek to preclude:

- Public notification if the application is for the construction of a retirement village.
- Limited notification if the application is for the construction of a retirement village that complies with density standards 14A.4.1(b)–(e).

Ōmokoroa Country Club (FS 74.27) support the amendment to exclude retirement villages from public notification. However, request that the same apply to limited notification regardless of whether the construction of the retirement village complies with density standards or not.

Ōmokoroa Country Club (56.9) in their own submission request non-notification, or limited notification, of retirement villages and rest home activities.

OPTIONS

Option 1 – Retain Rule 14A.5 (notification requirements) as notified.

Option 2 – Retain Rule 14A.5 subject to amendments.

Option 3 – Delete Rule 14A.5.

DISCUSSION

The RMA sets out the specific circumstances where public and limited notification is to be precluded in relation to the MDRS. These were included in the District Plan to be more obvious to readers. However, it is now agreed with Urban Task Force and Classic Group that these notification requirements do not need to be repeated in the District Plan.

The specific requests for further preclusions are not considered appropriate because they attempt to do one or more of the following:

- Remove Council's ability under the RMA to determine when public or limited notification is required in other circumstances (if the RMA had sought to remove the ability for Council to make a notification decision those circumstances would have been included).
- Change the notification requirements in Schedule 3A of the RMA by adding further preclusions in relation to four or more units that were not intended.
- Confuse the notification requirements in Schedule 3A of the RMA by seeking specific preclusions for retirement villages that do not align with what has already been provided for with respect to their residential units.
- Confirm that limited notification will not be required when it's already apparent that an activity has met performance standards (including other standards).
- Make the notification requirements overly complex and difficult to understand.

While submitters may want to take an opportunity to protect their own developments, potentially affected landowners may have also wanted to protect themselves from non-notification clauses had they anticipated the need to. Discussions with many of these submitters suggest that they do not have issues with the notification clauses of the RMA but rather how they have been used by councils. A common concern was that limited notification would be required for not meeting 'internal' standards such as providing outdoor living areas or outlook space for residents within a development. However, Council staff should ultimately be trusted to make informed decisions and not have these abilities removed because of potentially undue concerns.

RECOMMENDATION

That Option 3 be accepted.

Delete the notification requirements.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
26	34	Classic Group
26	35	Classic Group
39	24	Urban Task Force
39	25	Urban Task Force
FS 71	10	Kiwirail

ACCEPTED IN PART

Submission	Point Number	Name
47	58	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
29	53	Kāinga Ora
29	54	Kāinga Ora
32	12	New Zealand Housing Foundation
34	43	Retirement Villages Association
56	9	Ōmokoroa Country Club
58	27	Jace Investments and Kiwi Green New Zealand
FS 74	27	Ōmokoroa Country Club
FS 76	30	Retirement Villages Association
FS 77	30	Ryman Healthcare

SECTION 32AA ANALYSIS

The changes proposed are minor because although the requirements will be removed form the District Plan, they will still be in Schedule 3A of the RMA. Accordingly, no s32AA analysis is required.