

## SECTIONS 19 AND 20 – COMMERCIAL AND COMMERCIAL TRANSITION

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### INTRODUCTION

The Commercial and Commercial Transition Zones are existing zones in the Operative District Plan. The Commercial Zone permits a range of activities such as retail, offices, restaurants, medical facilities, government agencies, places of assembly and services such as post offices, hairdressers and laundromats. There are existing Commercial Zones in Ōmokoroa and Te Puke, but no new Commercial Zones are proposed in Plan Change 92. There is a new commercial town centre planned for Ōmokoroa Stage 3 which is subject to an approved resource consent for a Town Centre Master Plan. The Commercial Section has been updated to recognise the existence of this Master Plan and to provide for greater height in this area. Te Puke has an established town centre and is supported by an existing Commercial Transition Zone which provides for medium density housing and a smaller range of commercial activities next to the town centre. There are no changes to the rules in the Commercial or Commercial Transition Sections for Te Puke.

### TOPIC 1 – POLICIES (19.2.2 AND 20.2.2) OF COMMERCIAL AND COMMERCIAL TRANSITION ZONES

#### BACKGROUND

Plan Change 92 has not proposed any changes to the policies in the Commercial Zone (19.2.2) other than a reference update and has not proposed any changes to the policies in the Commercial Transition Zone (20.2.2).

## SUBMISSION POINTS

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

Retirement Villages Association (34.45 and 34.49) recognise that the RMA Amendment Act is not limited to residential zones with councils required to provide for intensification in urban non-residential zones. They consider policy support for retirement villages in the Commercial and Commercial Transition Zones is required and request new policies under 19.2.2 and 20.22 as follows:

### **Provision of housing for an ageing population**

1. Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in [add] zone, such as retirement villages.
2. Recognise the functional and operational needs of retirement villages, including that they:
  - a. May require greater density than the planned urban built character to enable efficient provision of services.
  - b. Have unique layout and internal amenity needs to cater for the requirements of residents as they age.

Delete or amend other Commercial Zone objectives / policies for consistency.

### **Larger sites**

Recognise the intensification opportunities provided by larger sites within the Medium Density Residential Zone by providing for more efficient use of those sites.

### **Density standards**

Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.

## OPTIONS

Option 1 – Status quo – no changes to the policies in 19.2.2 and 20.2.2.

Option 2 – Amend 19.2.2 and 20.2.2 to add specific policies for retirement villages.

## DISCUSSION

Retirement Villages Association has taken the opportunity to request that new policies be provided in the Commercial and Commercial Transition Zones in order to provide for intensification in urban non-residential zones.

It is understood that Retirement Villages Association are referring to Section 77N of the RMA which requires Council to give effect to Policy 3 of the NPS-UD for its urban environments (with respect to urban non-residential zones). Ōmokoroa and Te Puke are the only urban environments in the District. Although these have Commercial Zones, they do not have any Commercial Transition Zones. While Katikati and Waihī Beach do have both Commercial and Commercial Transition Zones, these are not urban environments hence there is no requirement to give effect to Policy 3 in those areas. These submission points are considered outside the scope of Plan Change 92

because no changes are proposed to the policies, and as they relate to the Commercial Transition Zone, there is no zone in Ōmokoroa and Te Puke.

In any case, providing for retirement villages in these zones is not considered appropriate given their purpose. The Commercial Zone is to provide for commercial activities and the Commercial Transition Zone is to provide a gradual transition between Commercial and Residential Zones. There is also no Commercial Transition Zone in Ōmokoroa and Te Puke and the Commercial Zone in Ōmokoroa and Te Puke are relatively small in area. The Ōmokoroa area is mostly covered by existing resource consents and Te Puke is mostly fully developed. Due to the small size of the commercial areas, a retirement village is unlikely to be able to establish, especially given that these zones are either at capacity for development or have a resource consent for development. It is also considered inappropriate to provide for retirement villages as permitted activities as the land should be available for commercial development.

### RECOMMENDATION

That Option 1 be accepted.

Status quo – no changes to the policies in 19.2.2 and 20.2.2.

The following submissions are therefore:

### REJECTED

Submission	Point Number	Name
34	45	Retirement Villages Association
34	49	Retirement Villages Association

### SECTION 32AA ANALYSIS

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

## TOPIC 2 – RULES 19.3.1 AND 20.3.1 – PERMITTED ACTIVITIES IN THE COMMERCIAL AND COMMERCIAL TRANSITION ZONES

### BACKGROUND

Plan Change 92 has not proposed any changes to the list of activities permitted in the Commercial Zone (Rule 19.3.1) or Commercial Transition Zone (Rule 20.3.1).

### SUBMISSION POINTS

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

Ara Poutama (24.11 and 24.12) considers that community corrections activities are essential social infrastructure and play a valuable role in reducing reoffending. They note intensification and population growth in urban areas creates more demand for these types of facilities. They believe it is important that provision is made to enable non-custodial community corrections sites to establish, operate and redevelop, within appropriate areas. The submission requests that

“community corrections activities” be inserted into the permitted activity lists (Rules 19.3.1 and 20.3.1) of the Commercial and Commercial Transition Zones.

Ara Poutama (24.1) also seek a new definition of “Community Corrections Activity” from the National Planning Standards as follows:

“Community Corrections Activity means the use of land and buildings for non-custodial services for safety, welfare and community purposes, including probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, administration, and a meeting point for community works groups.”

Retirement Villages Association (34.46 and 34.50) consider that the Commercial and Commercial Transition Zones should provide for retirement village activities as a permitted activity (with the construction of the retirement village being a restricted discretionary activity). They recognise that retirement villages provide substantial benefit including enabling older people to remain in familiar community environments for longer (close to family and support networks), whilst also freeing up dwellings located in surrounding suburbs. They also oppose wording in Rule 19.3.1 (j) (permitted accommodation facilities) which excludes retirement villages from locating in the Commercial Zone of Ōmokoroa Stage 3.

The submission requests that “Retirement Villages” be inserted into the permitted activity lists (Rules 19.3.1 and 20.3.1) of the Commercial and Commercial Transition Zones. It also requests that Rule 19.3.1(j) be changed to remove the exclusion of retirement villages in the Ōmokoroa Town Centre as shown below.

- j. Accommodation facilities, ~~provided that retirement villages are excluded from locating within the Commercial Zone at Ōmokoroa Structure Plan Area 3.~~

## OPTIONS

Option 1 – Status quo – No changes to existing list of permitted activities in Rules 19.3.1.

Option 2 – Amend Rules 19.3.1 and 20.3.1 to include community corrections activities as a permitted activity.

Option 3 – Amend Rules 19.3.1 and 20.3.1 to include retirement villages as a permitted activity.

Option 4 – Amend Rule 19.3.1(j) (permitted accommodation facilities in the Commercial Zone) by deleting the following:

Accommodation facilities. ~~provided that retirement villages are excluded from locating within the Commercial Zone at Ōmokoroa Structure Plan Area 3.~~

## DISCUSSION

As discussed in Topic 1 above, it is not appropriate to include specific provisions for retirement villages in Commercial and Commercial Transition Zones. In any case, it is also not agreed that retirement villages should be permitted as they are of such a scale that resource consent should be required to address their potential effects (including those related to amenity, traffic and consumption of infrastructure etc).

The request to amend 19.3.1(j) (accommodation facilities) by removing the exclusion of retirement villages from the Commercial Zone of Ōmokoroa Stage 3 has been reviewed. This exclusion was added to the previous District Plan when retirement villages were part of an older definition of accommodation facilities and did not have their own definition. The exclusion was therefore to

make it clear that while accommodation facilities were permitted, the retirement villages component were not. This is because retirement villages will affect the establishment and functionality of a town centre. The Approved Ōmokoroa Town Centre Master Plan in Ōmokoroa Stage 3 has since been approved and does not provide for retirement villages for this reason. The exclusion can now be deleted as it has become unnecessary. However, it is important to note that retirement villages are intentionally not listed in the activity lists to fall to be non-complying under Rule 4A.1.4. It is recommended that this remains.

Regarding community corrections activities as a permitted activity, the existing definition of “commercial services” (shown below) provides for government agencies which includes community corrections activities as Ara Poutama is a government agency. As “commercial services” are a permitted activity in the Commercial Zone, a separate activity for community corrections activities is not required.

*“Commercial Services” means activities that service the community including banks, post offices, insurance offices, government agencies, dry cleaners, laundries, shoe repair, locksmiths, domestic garden appliance repair and the like but does not include motor vehicle servicing and repair.*

## RECOMMENDATION

That Option 4 be accepted.

Amend Rule 19.3.1(j) (permitted accommodation facilities) in the Commercial Zone by deleting the following:

Accommodation facilities, ~~provided that retirement villages are excluded from locating within the Commercial Zone at Ōmokoroa Structure Plan Area 3.~~

The following submissions are therefore:

## ACCEPTED IN PART

Submission	Point Number	Name
24	11	Ara Poutama
24	12	Ara Poutama
34	46	Retirement Villages Association
34	50	Retirement Villages Association

## REJECTED

Submission	Point Number	Name
24	1	Ara Poutama

## SECTION 32AA ANALYSIS

The change proposed is minor as it deletes wording that is no longer necessary. Accordingly, no s32AA analysis is required.

## TOPIC 3 – RULES 19.3.3 AND 20.3.3 – RESTRICTED DISCRETIONARY ACTIVITIES AND MATTERS OF DISCRETION OF THE COMMERCIAL AND COMMERCIAL TRANSITION ZONES

### BACKGROUND

For the Commercial Zone, Plan Change 92 proposes to delete Rule 19.3.3(c) which requires resource consent for certain works within stormwater management reserves and private conservation areas in Ōmokoroa. It also adds a new note to 19.3.3(b) recognising that there is an approved Ōmokoroa Town Centre Master Plan and that these activities are subject to the conditions of the consent. No changes to the associated restricted discretionary matters of discretion were notified.

For the Commercial Transition Zone, Plan Change 92 has not proposed any changes to the restricted discretionary activities or associated matters of discretion. As noted above, there is no Commercial Transition Zone in Ōmokoroa and Te Puke.

### SUBMISSION POINTS

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

Retirement Villages Association (34.47,34.50 and 34.51) considers that the Commercial and Commercial Transition Zones fail to give effect to the NPS-UD. They consider that the “construction of retirement villages” should be restricted discretionary in these zones.

Retirement Villages Association (34.48 and 34.52) consider that the matters of discretion applicable to retirement villages need to appropriately provide for / support the efficient use of larger sites for retirement villages, and the functional and operational needs of the retirement village. They request new matters of discretion (in both zones) along with non-notification clauses (in the Commercial Zone only) for retirement villages under Sections 19.7 and 20.6 as shown below.

Restricted Discretionary Activities – The construction of retirement villages.

- a. The effects arising from exceeding any of the relevant activity standards in 19.4/20.4;
- b. The effects of the retirement village on the safety of adjacent streets or public open spaces;
- c. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;
- d. The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;
- e. When assessing the matters in a – d, consider: i. The need to provide for efficient use of larger sites; and ii. The functional and operational needs of the retirement village;
- f. The positive effects of the construction, development and use of the retirement village. For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a retirement village.

An application for resource consent for a retirement village made in respect of rule 19.3.3 is precluded from being publicly notified.

An application for resource consent for a retirement village made in respect of rule 19.3.3 where compliance is achieved with 19.4.1(a) is precluded from being limited notified.

Jace Investments and Kiwi Green New Zealand (58.4) support Rule 19.3.3(b) on the basis that they consider the rule relates to the classification of a town centre master plan being a restricted discretionary activity.

## OPTIONS

Option 1 – Retain the restricted discretionary activity lists in Rules 19.3.3 and 20.3.3 and matters of discretion 19.7 and 20.6 as notified.

Option 2 – Amend Rules 19.3.3 and 20.3.3 to add “the construction of retirement villages” as a restricted discretionary activity and Rules 19.7 and 20.6 to add associated matters of discretion and non-notification clauses for retirement villages.

## DISCUSSION

As discussed in Topic 1 above, it is not appropriate to include specific provisions for retirement villages in Commercial and Commercial Transition Zones. In this case, the construction of retirement villages should not be provided as a restricted discretionary activity and as such the requested matters of discretion and non-notification clauses are also not required. Retirement villages are intentionally not listed in the activity lists of the Commercial and Commercial Transition Zones to fall to be non-complying under Rule 4A.1.4.

Jace Investments and Kiwi Green New Zealand (58.4) support the classification of a town centre master plan being a restricted discretionary activity in the Commercial Zone. It is noted though that the rule actually provides this status for activities within the Commercial Zone of Ōmokoroa Stage 3 subject to a master plan, rather than providing for a master plan itself.

There is now an Approved Ōmokoroa Town Centre Master Plan and activities are provided for within that consent and this is what the new note under 19.3.3(b) recognises. Activities within the Approved Ōmokoroa Town Centre Master Plan are subject to the conditions of the approved resource consent. Specific activities (including retail, office, civic, supermarket, apartments, hospitality, takeaway foods and childcare) are listed in condition 2 of the resource consent along with the recognition that activities also listed as a permitted under Rule 19.3.1 are also provided for. As these activities have now been consented they would not fall to be restricted discretionary activities under Rule 19.3.3(b) and can be established without further resource consent.

## RECOMMENDATION

That Option 1 be accepted.

Retain the restricted discretionary activity lists in Rules 19.3.3 and 20.3.3 and matters of discretion in 19.7 and 20.6 as notified.

The following submissions are therefore:

## ACCEPTED IN PART

Submission	Point Number	Name
58	4	Jace Investments and Kiwi Green New Zealand

## REJECTED

Submission	Point Number	Name
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34	47	Retirement Villages Association
34	48	Retirement Villages Association
34	50	Retirement Villages Association
34	51	Retirement Villages Association
34	52	Retirement Villages Association

### SECTION 32AA ANALYSIS

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

## TOPIC 4 – RULE 19.4.1(A)(III) – ACTIVITY PERFORMANCE STANDARDS – BUILDING HEIGHT IN THE COMMERCIAL ZONE

### BACKGROUND

The current District Plan provisions are focused on the development of a commercial area master plan within Ōmokoroa. As this has now been developed (there is now an Approved Ōmokoroa Town Centre Master Plan) the provisions are proposed to be amended to recognise this. Also, it is proposed to enable greater height within the town centre as the maximum height is currently very restrictive for commercial zones (11m).

The rule as notified is shown below:

- iii. Ōmokoroa Commercial Zone Stage 2 & 3 Structure Plan Area.

~~The maximum building/structure height in the Ōmokoroa Stage 2 Structure Plan area shall be 11m and no provision is made for additional non-habitable space above the 11m height limit.~~

~~The maximum building/structure height in the Ōmokoroa Stage 3 Structure Plan area shall be 20m, except where buildings locate all parking and servicing requirements enclosed below ground level, in which case the maximum height limit shall be 23m.~~

### SUBMISSION POINT

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

Jace Investments and Kiwi Green New Zealand (58.6) support the rule in part, but request that provision be made to allow for a percentage of parking at ground level. The submission considers some buildings will need service vehicle car parking at grade with the ground floor of the building rather than all underground, which wouldn't be practicable for all activities. They suggest 90% of car parking is provided underground to enable the height bonus. That way the commercial buildings can still function. They request that the proposed wording of Rule 19.4.1(a)(iii) be changed as shown below:

The maximum *building/structure height* in the Ōmokoroa Stage 3 *Structure Plan* area shall be 20m, except where *buildings* locate ~~at~~ 90% of parking and servicing requirements enclosed below ground level, in which case the maximum *height* shall be 23m.



## OPTIONS

Option 1 – Retain Rule 19.4.1(a)(iii) as notified.

Option 2 – Amend Rule 19.4.1(a)(iii) using wording from the submitter as follows:

The maximum building/structure height in the Ōmokoroa Stage 3 Structure Plan area shall be 20m, except where buildings locate 90% of parking below ground level, in which case the maximum height shall be 23m.

Option 3 – Amend Rule 19.4.1(a)(iii) with alternative wording as follows:

The maximum building/structure height in the Ōmokoroa Stage 3 Structure Plan area shall be 20m, except where buildings provide for parking enclosed below ground level in an area which is equal to the gross floor area of the above ground building, in which case the maximum height shall be 23m. In addition, visitor parking, servicing and loading requirements can be provided on-site at ground level in accordance with Section 4B.

For the purposes of this rule:

- Only the ground floor of the above ground building shall be included in the calculation of gross floor area; and
- The calculation of the area for parking enclosed below ground level is inclusive of any areas required for manoeuvring, storage, stairwells, access and ramps.

## DISCUSSION

The context of the submission is the Approved Ōmokoroa Town Centre Master Plan.

The proposed increase in height from 11m to 20m supports apartment living within the Ōmokoroa Stage 3 commercial area and provides a bonus height provision (to 23m) where all parking and servicing requirements are enclosed underground. The proposed height increase also supports Policy 3(d) of the NPS-UD by enabling housing densities at an appropriate level. The previous 11m height limit was established prior to the NPS-UD and prior to the proposed changes which encourage higher density urban living through multi-level development in some parts of the Medium Density Residential Zone. The proposed height (including bonus) in the commercial zone is complementary with the proposed height for these medium density areas including the adjacent undeveloped land (mixed use precinct). Current daylighting provisions will still apply to the interface with residential development.

Option 1, which offers a bonus height of 23m if all associated car parking is underground, would encourage developers to reduce the footprint of on-site carparking to achieve higher density development, particularly where this relates to apartment buildings. This acts to encourage a maximum developable area and less wastage of land for ground level carparking. However, in discussions with the submitter, it is now understood that this rule was intended to provide bonus height if car parking was provided underground as opposed to requiring that any such area would cater for all associated parking.

Option 2 from the submitter, which seeks to trigger the same bonus when only 90% of parking is underground, may also not work as anticipated. As a permitted activity the performance standard would need to be measurable but it would be difficult to know when 90% of parking was underground without further investigation. This option may also not resolve the submitter's actual concern which is to allow for servicing requirements.

As the submission requests that some buildings will need service vehicle car parking at grade with the ground floor, Option 3 would better achieve the desired outcome. The wording also removes the unintended requirement for all parking to be enclosed underground. It instead retains a requirement for a parking area to be enclosed underground as a measurable standard. This is a parking area equal to the above ground building gross floor area, where for the purposes of this rule only the ground floor of the above ground building shall be included in the calculation of gross floor area. The below ground parking area allows for carparking, manoeuvring, ramps, stairwells, storage and other associated basement type areas. It then also allows additional servicing and loading areas to be provided for at ground level in order to provide ease of access for servicing vehicles.

There is also recognition that some visitor parking could be provided for at ground level. This ensures the permitted activity remains measurable in order to determine compliance for a permitted activity.

## RECOMMENDATION

That Option 3 be accepted.

Amend Rule 19.4.1(a)(iii) with alternative wording as follows:

### iii. Ōmokoroa Commercial Zone Stage 2 3 Structure Plan Area

~~The maximum building/structure height in the Ōmokoroa Stage 2 Structure Plan area shall be 11m and no provision is made for additional non-habitable space above the 11m height limit.~~

~~The maximum building/structure height in the Ōmokoroa Stage 3 Structure Plan area shall be 20m, except where buildings locate all parking and servicing requirements enclosed below ground level, in which case the 11m maximum height limit, shall be 23m.~~

~~The maximum *building/structure height* in the Ōmokoroa Stage 3 Structure Plan area shall be 20m, except where *buildings provide for parking enclosed below ground level* in an area which is equal to the gross floor area of the above ground building, in which case the maximum *height* shall be 23m. In addition, *visitor parking, servicing and loading requirements* can be provided on-site at ground level in accordance with [Section 4B](#).~~

~~For the purposes of this rule:~~

- ~~- Only the ground floor of the above ground building shall be included in the calculation of gross floor area; and~~
- ~~- The area for parking enclosed below ground level is inclusive of any areas required for manoeuvring, storage, stairwells, access and ramps.~~

The following submissions are therefore:

## ACCEPTED IN PART

Submission	Point Number	Name
58	6	Jace Investments and Kiwi Green New Zealand

## SECTION 32AA ANALYSIS

The changes proposed to Rule 19.4.1(a)(iii) are minor as they provide clarity for on-site servicing and loading being provided at ground level. Accordingly, no s32AA analysis is required.

## TOPIC 5 – RULE 19.5 – DEVELOPMENT OF COMMERCIAL AREA MASTER PLAN FOR THE ŌMOKOROA STAGE 3 COMMERCIAL ZONE

### BACKGROUND

Rule 19.5 sets out the requirements for the development of a commercial area master plan for Ōmokoroa. Plan Change 92 proposed changes to Rule 19.5 to recognise that there is now an Approved Ōmokoroa Town Centre Master Plan.

### SUBMISSION POINTS

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

Jace Investments and Kiwi Green New Zealand (58.2) support the rule in part, but request that certain criteria are removed as they are inconsistent with the Approved Ōmokoroa Town Centre Master Plan. These include (with rule references in brackets):

- The use of only muted natural or recessive colours (Rule 19.5(a)(iii)).
- Maximum of one connection to Ōmokoroa Road (Rule 19.5(a)(iv)). They note an inconsistency between 19.5 (a)(iv) and 19.5 (b)(iv) and Policy 15.
- No building exceeding 50m in length (Rule 19.5(b)(i)).
- Upper floor area for retail matching ground floor area for retail (Rule 19.5(b)(ii)).
- Screen planting 4m wide along the length of Ōmokoroa Road (Rule 19.5(b)(e)).

Jace Investments and Kiwi Green New Zealand (58.3) oppose the existing explanatory note under Rule 19.5 in relation to failure to comply with 19.5(i) being a non-complying activity. They request that the non-compliance instead falls to discretionary or restricted discretionary. Rule 19.5(i) requires that the maximum site coverage shall be 80% of land area.

### OPTIONS

Option 1 – Retain Rule 19.5 as notified.

Option 2 – Amend Rule 19.5 to remove requirements for muted colours in (a)(iii), connections to Ōmokoroa Road in (a)(iv), building length in (b)(i), upper floor area for retail in (b)(ii) and screen planting in (e).

Option 3 – Amend Rule 19.5 (explanatory note) to change non-compliance with Rule 19.5(i) (maximum coverage of 80%) from a Non-Complying Activity to a Restricted Discretionary or Discretionary Activity. Also amend Matter of Discretion 19.7.4 to add a new matter of discretion as follows:

- h. The ability for the effects of additional stormwater to be mitigated and the capacity of the local stormwater reticulation system to cope with any increase in stormwater discharge.

## DISCUSSION

The context of the submission is the Approved Ōmokoroa Town Centre Master Plan.

While it is acknowledged that this Approved Ōmokoroa Town Centre Master Plan was granted without meeting every applicable requirement of the District Plan, this is typical of an activity that needs consent. It is therefore not necessary to make changes to a District Plan to remove requirements that a consented activity has not met.

In this case, it is understood that a variation to the Approved Ōmokoroa Town Centre Master Plan may be sought by the consent holder, or a new commercial area master plan could be sought. Therefore, it may be helpful from the consent holder's point of view to have changes made, so that a simpler consenting pathway is provided for in the District Plan. However, Rule 19.5 as proposed already acknowledges that there is an Approved Ōmokoroa Town Centre Master Plan.

The Approved Ōmokoroa Town Centre Master Plan is subject to the resource consent and its conditions and can be given effect without any further need to meet 19.5. However, if the Master Plan were to require minor alterations to layout and other parameters such as gross floor area then then it may be open to the consent holder to seek such changes as a variation under s127 of the RMA. The consideration and assessment of the variation in relation to Rule 19.5 would depend on the nature and scale of the proposed changes. A new resource consent for a new commercial area master plan would be required where there is a fundamental change to the activity itself such that it could be considered a different activity. Changes that may result in an increase in adverse effects from the varied proposal to that of the original, may need to be properly considered through a resource consent process.

Option 2 is therefore not supported, as Rule 19.5 is there to protect against any changes to the approved master plan or a future new commercial zone master plan which would require a new resource consent where the activity itself is fundamentally changing from what is currently consented.

In relation to Option 3, there has been no analysis undertaken as to the effects of increasing the maximum site coverage, why restricted discretionary status is suitable and what matters of discretion should be used. Changing the activity status from non-complying to restricted discretionary is therefore not supported. It would also not be consistent with what is being recommended in the part of the Section 42A Report for Section 12 – Subdivision and Development. This recommends discretionary status for not being in accordance with the Ōmokoroa Stage 3 Structure Plan (Rule 12.4.11.5 (c)).

To ensure consistency, it is recommended that non-compliance with Rule 19.5(i) for exceeding the maximum 80% coverage is consistent with the change to discretionary activity status under Rule 12.4.11.5(c) (non-compliance with the Ōmokoroa Stage 3 Structure Plan). This is recommended in the part of the Section 42A Report for Section 12 – Subdivision and Development (Report 13 – Topic 16). An additional matter of discretion has been added to Rule 19.7.4 to provide clarity and certainty for consenting.

## RECOMMENDATION

That Option 3 be accepted.

Amend Rule 19.5 (explanatory note) as follows to include the underlined text:

Non-compliance with activity performance standard i. above will require a resource consent approval for a ~~Non-Complying~~ Discretionary activity.

Also amend Matter of Discretion 19.7.4 to include the underlined text:

h. The ability for the effects of additional stormwater to be mitigated and the capacity of the local stormwater reticulation system to cope with any increase in stormwater discharge.

The following submissions are therefore:

### ACCEPTED

Submission	Point Number	Name
58	3	Jace Investments and Kiwi Green New Zealand

### REJECTED

Submission	Point Number	Name
58	2	Jace Investments and Kiwi Green New Zealand

### SECTION 32AA ANALYSIS

The following provides a further evaluation of the changes made to Plan Change 92 since the original evaluation under Section 32 of the RMA. The level of detail corresponds to the scale and significance of the changes. As a change is recommended to Rules 19.5 and 19.7.4 as a result of submissions a further s32AA analysis is provided below.

<b>Efficiency &amp; Effectiveness in Achieving the Objectives</b>	<b>Change non-compliance with Rule 19.5(i) (maximum of 80% coverage) to a Discretionary Activity and add a new matter of discretion for considering the effects of stormwater to Rule 19.7.4</b>
<p><b>Costs</b></p> <p>Environmental effects</p> <p>Economic effects</p> <p>Social effects</p> <p>Cultural effects</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p><b>Environmental</b></p> <p>No environmental costs from changing non-compliance from non-complying to discretionary. The new matter of discretion ensures that matters related to stormwater effects are able to be considered.</p> <p><b>Economic</b></p> <p>No economic costs from changing non-compliance from non-complying to discretionary. The new matter of discretion ensures that matters related to stormwater effects are able to be considered.</p> <p><b>Social</b></p> <p>No social costs from changing non-compliance from non-complying to discretionary. The new matter of discretion ensures that matters related to stormwater effects are able to be considered.</p> <p><b>Cultural</b></p> <p>No cultural costs from changing non-compliance from non-complying to discretionary. The new matter of discretion ensures that matters related to stormwater effects are able to be considered.</p>
<b>Benefits</b>	<b>Environmental</b>

<p>Environmental</p> <p>Economic</p> <p>Social</p> <p>Cultural</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>No further environmental benefits. Matters related to stormwater management were and still are able to be considered.</p> <p><b>Economic</b></p> <p>A discretionary activity consent has less expensive resource consent application fees than a non-complying activity. It would also be less expensive for an applicant to prepare such a consent application compared to that of a non-complying activity.</p> <p><b>Social</b></p> <p>No further social benefits. Matters related to stormwater effects were and still are able to be considered.</p> <p><b>Cultural</b></p> <p>No further cultural benefits. Matters related to stormwater effects were and still are able to be considered.</p>
<p><b>Quantification</b></p>	<p>Not practicable to quantify.</p>
<p><b>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</b></p>	<p>Sufficient and certain information is available.</p>

## TOPIC 6 – RULE 19.6.2(C) – SUBDIVISION IN THE COMMERCIAL ZONE

### BACKGROUND

Rule 19.6.2 sets out the matters of control for subdivision. Plan Change 92 only proposed a reference update to this. Rule 19.6.2(c) makes failure to comply with the Ōmokoroa Stage 3 Structure Plan a non-complying activity. Failure to comply with this same Structure Plan (Rule 12.4.11.5(c)) is also considered under the part of the Section 42A Report for Section 12 – Subdivision and Development (Report 13- Topic 16).

### SUBMISSION POINT

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

Jace Investments and Kiwi Green New Zealand (58.5) oppose Rule 19.6.2(c) and request that the rule be changed from non-complying to a discretionary or restricted discretionary activity for any failure to comply with the Ōmokoroa Stage 3 Structure Plan.

### OPTIONS

Option 1 – Retain Rule 19.6.2(c) as notified.

Option 2 – Amend Rule 19.6.2(c) to make subdivision in the commercial area of Ōmokoroa Stage 3 a discretionary or restricted discretionary activity for failing to comply with the Ōmokoroa Stage 3 Structure Plan.

## DISCUSSION

Rule 19.6.2(c) relates back to Rule 12.4.11.5 where non-compliance with the Ōmokoroa Stage 3 Structure Plan is a non-complying activity. There were a number of submissions received on that rule and it is recommended that non-compliance be changed to discretionary. It would be a consequential amendment to make the same change to 19.6.2(c).

## RECOMMENDATION

That Option 2 be accepted (with respect to discretionary activity status).

Amend Rule 19.6.2(c) to make subdivision in the commercial area of Ōmokoroa Stage 3 a discretionary or restricted discretionary activity for failing to comply with the Ōmokoroa Stage 3 Structure Plan.

## Matters of Control – Controlled Activities

### Subdivision

- c. Where subdivision occurs in the Commercial Zone at Ōmokoroa Stage 3 the Council will reserve its control over and may set conditions relating to design and compliance with the *Structure Plan*. Failure to comply with the *Structure Plan* will result in the activity being classified as a ~~Non-Complying Activity~~ Discretionary Activity.

The following submission is therefore:

### ACCEPTED

Submission	Point Number	Name
58	5	Jace Investments and Kiwi Green New Zealand

## SECTION 32AA ANALYSIS

The changes proposed are consequential amendments to be consistent with a recommendation in the part of the Section 42A Report for Section 12 – Subdivision and Development (Report 13 – Topic 16). This is to make subdivision in the commercial area of Ōmokoroa Stage 3 a discretionary activity for failing to comply with the Ōmokoroa Stage 3 Structure Plan. Accordingly, no further s32AA analysis is required.

## TOPIC 7 – RULE 19.7.2(A) – MATTERS OF DISCRETION – ŌMOKOROA STAGE 3 STRUCTURE PLAN AREA (RELATING TO THE COMMERCIAL ZONE)

### BACKGROUND

Rule 19.7.2 sets out the matters of discretion for restricted discretionary activities in Ōmokoroa Stage 3. Rule 19.7.2(a) relates to activities in stormwater management reserves and private conservation areas. It allows Council to address matters relating to ecological values, flooding, public amenity values and retaining the integrity of the Ōmokoroa Peninsula Stormwater Management Plan (the latter being Rule 19.7.2(a)(iv)).

## SUBMISSION POINT

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

Bay of Plenty Regional Council (25.21) seek to add "treatment" to the identified matters to achieve stormwater management under Rule 19.7.2(a)(iv). Two further submission points were received in opposition to this (FS 76.45, FS 77.45).

## OPTIONS

Option 1 – Retain Rule 19.7.2(a)(iv) as notified.

Option 2 – Amend Rule 19.7.2(a)(iv) to include the underlined text below:

In the Ōmokoroa Stage 3 Structure Plan area retaining the integrity of the Ōmokoroa Peninsula Stormwater Management Plan including the efficiency and effectiveness of stormwater infiltration, treatment, detention, discharge downstream and discharge to the Tauranga Harbour with particular regard to storm events.

Option 3 – Delete Rule 19.7.2(a) as there are no longer any stormwater management reserves or private conservation areas in the Ōmokoroa Stage 3 Commercial Zone.

## DISCUSSION

Within stormwater management reserves and private conservation areas, activities such as soil disturbance, vegetation removal, diversion of watercourses and construction of fences and other structures are restricted discretionary under Rule 19.3.3(c). This rule is however proposed to be deleted (as notified) as the Ōmokoroa Stage 3 Commercial Zone no longer has stormwater management areas or private conservation areas due to the development of the land under the resource consent, and there is no need to manage these activities within such areas. The associated matters of discretion in 19.7.2(a)(i)-(iv) are therefore no longer required and should also be deleted as a consequential amendment. As a result, the submission from Regional Council to add a reference to "treatment" in this matter of discretion is unable to be supported.

## RECOMMENDATION

That Option 3 be accepted.

Delete Rule 19.7.2(a) as there are no longer any stormwater management reserves or private conservation areas in the Ōmokoroa Stage 3 Commercial Zone.

### ~~a.—General~~

~~In assessing a Restricted Discretionary Activity, Council will limit its discretion to and may set conditions on:~~

~~i.—Avoiding, remedying or mitigating the potential adverse effects on the ecological values of the reserves;~~

~~ii.—Avoiding, remedying or mitigating the potential for natural hazard events such as flooding i.e. natural hazards must not be made more severe as the consequence of a proposal;~~

~~iii.—Avoiding, remedying or mitigating the adverse effects on public amenity values of~~



~~the reserves including public walkway/cycleway functions;~~

- ~~iv. — In the Ōmokoroa Stage 3 Structure Plan area retaining the integrity of the Ōmokoroa Peninsula Stormwater Management Plan (June 2002) including the efficiency and effectiveness of stormwater infiltration, detention, discharge downstream and discharge to the Tauranga Harbour with particular regard to storm events.~~

The following submissions are therefore:

### SUPPORT

Submission	Point Number	Name
FS 76	45	Retirement Villages Association of New Zealand Incorporated
FS 77	45	Ryman Healthcare Limited

### REJECTED

Submission	Point Number	Name
25	21	Bay of Plenty Regional Council

### SECTION 32AA ANALYSIS

The change proposed to delete the matters of discretion in Rule 19.7.2(a) is a consequential amendment to the proposed removal of Rule 19.3.3(c) which required restricted discretionary resource consent for activities within stormwater management areas or private conservation areas. Accordingly, no s32AA analysis is required.