

Before the Independent Hearings Panel  
Western Bay of Plenty District Council

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*under:* the Resource Management Act 1991

*in the matter of:* Submissions and further submissions in relation to  
Proposed Plan Change 92 to the Western Bay of Plenty  
District Plan

*and:* **Retirement Villages Association of New Zealand  
Incorporated**

*Submitter 34*

*and:* **Ryman Healthcare Limited**

*Submitter 35*

Statement of Evidence of **Nicola Marie Williams** on behalf of the  
Retirement Villages Association of New Zealand Incorporated and  
Ryman Healthcare Limited

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Dated: 25 August 2023

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**STATEMENT OF EVIDENCE OF NICOLA MARIE WILLIAMS ON BEHALF  
OF THE RETIREMENT VILLAGES ASSOCIATION OF NEW ZEALAND  
INCORPORATED AND RYMAN HEALTHCARE LIMITED**

**INTRODUCTION**

- 1 My full name is Nicola Marie Williams and I am an Associate with Mitchell Daysh Limited. Mitchell Daysh Limited is a specialist environmental consulting practice with offices in Auckland, Hamilton, Tauranga, Napier, Nelson and Dunedin.
- 2 I hold a Bachelor of Regional Planning from Massey University (1988) and I am a member of the New Zealand Planning Institute and the Resource Management Law Association. I have worked as a consultant and in local government and I have had approximately 30 years of experience as a resource management adviser including 20 years' local government experience including plan preparation, policy planning work and resource consents.
- 3 Prior to joining Mitchell Daysh Limited I was the Manager for Research, Policy and Planning with Kāpiti Coast District Council and I had the primary responsibility for the Proposed District Plan and leading three variations to the Proposed District Plan:
  - 3.1 Variation 2: Waikanae Beach & Beach Character Setback;
  - 3.2 Variation 3: County Road, Otaki Low Density Precinct; and
  - 3.3 Variation 4 (A-H) Miscellaneous Changes and Corrections.
- 4 I was also previously the Principal Planner with Thames Coromandel District Council responsible for the resource consent team and involved as a member of planning project teams in a range of policy planning projects including:
  - 4.1 Peer review of the Thames Coromandel Draft District Plan;
  - 4.2 Plan Change 21 Whitianga Town Centre;
  - 4.3 Whitianga Waterways Structure Plan; and
  - 4.4 Variation 2 – Whitianga Airfield.
- 5 I am an accredited Hearings Commissioner (with a Chair's endorsement) under the Ministry for the Environment's 'Making Good Decisions' course and have acted as a Hearings Commissioner on a number of occasions most recently as an Independent Hearings Commissioner for Auckland Council.
- 6 I have been involved in the preparation of a number of applications for new retirement villages in Wellington, Christchurch and Auckland and in various applications for variations to existing villages across New Zealand.

- 7 I have prepared this statement of evidence at the request of the Retirement Villages Association (RVA) and Ryman Healthcare Limited (Ryman).
- 8 In preparing this statement of evidence, I have reviewed:
- 8.1 The National Policy Statement on Urban Development 2020 (NPSUD);
  - 8.2 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Enabling Housing Act);
  - 8.3 The Operative Western Bay of Plenty District Plan (District Plan);
  - 8.4 Relevant sections of the accompanying Section 32 Report on Proposed Plan Change 92 (PC92);
  - 8.5 The RVA and Ryman's submissions and further submission on PC92;
  - 8.6 The section 42A report and appendices on PC92;
  - 8.7 The Bay of Plenty Regional Policy Statement (RPS); and
  - 8.8 The evidence of Mr John Collyns, Mr Matthew Brown, Professor Ngaire Kearse and Mr Gregory Akehurst for the RVA and Ryman.

#### **EXPERT WITNESS CODE OF CONDUCT**

- 9 I have read the Environment Court's Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note 2023 and I agree to comply with it. My qualifications as an expert are set out above. I am satisfied that the matters which I address in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

#### **SCOPE OF EVIDENCE**

- 10 My evidence will:
- 10.1 For context, provide an overview of the submissions made by the RVA and Ryman;
  - 10.2 Comment on the overall planning framework that applies to PC92, including the requirements under section 32 of the Resource Management Act 1991 (RMA) and the relevant provisions of the NPSUD, the Enabling Housing Act, and the RPS;

10.3 Comment on the specific planning matters raised in the submissions, and provide my response to the recommendations in the section 42A report; and

10.4 Set out my conclusions.

### **EXECUTIVE SUMMARY**

11 The submissions by the RVA and Ryman seek to ensure that PC92 meets the housing intensification requirements of the Enabling Housing Act and NPSUD, in particular by:

11.1 recognising and responding to the growing under supply of appropriate housing for the increasing ageing population in the Western Bay of Plenty District; and

11.2 providing for retirement village activities through provisions that address the functional and operational characteristics of villages and their day to day residential needs. The provisions also seek to encourage high quality development, along with attractive and safe streets and public open spaces.

12 More broadly, the submitters are seeking a consistent planning regime across New Zealand (including all 'Tier 1' councils). In my view, a reasonable degree of consistency between councils will better enable common approaches to consent applications to be developed over time. These approaches will support and increase efficiency, ultimately speeding up the provision of housing.

13 Section 80E of the RMA requires the MDRS provisions to be incorporated into relevant residential zones. The MDRS provisions include objectives and policies that require territorial authorities to enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety.<sup>1</sup> Relevant residential zones must provide for a variety of housing types and sizes that respond to housing needs and demand.<sup>2</sup> District Plans must also enable housing to be designed to meet the day to day needs of residents.<sup>3</sup> And, they must provide for developments not meeting permitted activity status, while encouraging high-quality developments.<sup>4</sup>

14 The MDRS provisions also address mandatory planning conventions for activities that do not meet the MDRS density standards. These activities include the construction and use of one or more residential

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<sup>1</sup> Objective 1, MDRS, Schedule 3A RMA.

<sup>2</sup> Objective 2, MDRS, Schedule 3A RMA.

<sup>3</sup> Policy 4, MDRS, Schedule 3A RMA.

<sup>4</sup> Policy 5, MDRS, Schedule 3A RMA.

units on a site if they do not comply with the building density standards in the district plan.<sup>5</sup> Such activities include the categories of:

- 14.1 "Four or more" residential units per site; and
  - 14.2 Residential units that do not meet other MDRS building density standards (e.g. height, height in relation to boundary, setbacks).
- 15 Certain notification requirements are precluded for these activities.<sup>6</sup>
- 16 Section 80E provides discretion for intensification planning instruments to include related provisions - objectives, policies, rules, standards, and zones - that support or are consequential on the MDRS provisions.<sup>7</sup>
- 17 The RVA and Ryman submit, and I agree, that retirement villages are a type of "four or more" residential unit development. That said, retirement villages are not "typical" residential developments. They provide a broad range of housing and associated amenities for residents and their guests. Housing units range from independent living such as townhouses and / or apartments through to assisted living and higher care options. As explained by Professor Kerse<sup>8</sup> there is both a shortfall of assisted living and higher care options for vulnerable older people. Retirement villages are crucial providers of new developments providing for these higher care needs.
- 18 Villages also have different designs and layouts, particularly internally, to meet the specialist day to day living needs of residents. Amenities for residents and their guests include internal and external communal spaces for recreation and services such as resident cafes, reflection areas, swimming pools and gyms. In my view, all such activities in retirement villages are residential in nature. The RVA and Ryman's evidence supports this view.
- 19 As the RVA and Ryman's evidence also outlines, it is important that people have opportunities to 'age in place' as they grow older. As I understand it, sites for retirement villages in existing urban areas are rare. The ageing population is growing quickly. These issues, as well as delays in consenting retirement villages, are contributing to the growing shortfall of available housing and care options for older people.
- 20 As such, in my opinion, it is important that the specific needs of the ageing population are recognised and provided for in the District Plan through PC92.

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<sup>5</sup> Clause 4, MDRS, Schedule 3A RMA.

<sup>6</sup> Clause 5, MDRS, Schedule 3A RMA.

<sup>7</sup> Section 80E(1)(b)(iii) RMA.

<sup>8</sup> See the statement of evidence of Professor Kerse at paragraph 40.

- 21 To address these matters, the RVA and Ryman have used the MDRS as a “base case” for the relief they seek. They have adapted it to ensure it accounts for the unique needs and features of retirement villages and their residents. These provisions would sit alongside and be read together with other objectives and policies of the District Plan which seek to enable housing developments and manage effects.
- 22 The key amendments to the Ōmokoroa and Te Puke Medium Density Residential Zone (*Ōmokoroa and Te Puke Zone*) provisions I support are as follows.

**Objectives and policies**

- 23 Related to, and supporting of, objectives 1 and 2 of the MDRS, a new ‘ageing population’ objective within the Ōmokoroa and Te Puke Zone:

**Objective 14A.2.1 Ox: Ageing population**

Recognise and enable the housing and care needs of the ageing population.

- 24 To achieve those objectives and support related policies 1, 3 4 and 5 of the MDRS, a specific policy within the Ōmokoroa and Te Puke Zone is proposed as set out below. As discussed later in this evidence, this policy has been updated from the version in the original submissions to better reflect both the enabling of retirement villages and to align with the planned urban character of the Ōmokoroa and Te Puke Zone:

**Policy 14A.2.2 Px: Provision of housing for an ageing population**

1. Enable retirement villages that:
  - a. Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities and / facilities, and affordability and the efficient provision of assisted living and care services.
  - b. Provide good quality on site amenity, recognising the unique layout, internal amenity and other day-to-day needs of residents as they age.
2. Encourage the scale and design of the retirement villages to:
  - a. Be of a high-quality and be aligned with the planned urban character of the zone.
  - b. Achieve attractive and safe streets and public open spaces, including by providing for passive surveillance; and

- c. Achieve an appropriate level of residential amenity at neighbouring properties where relevant built form standards are exceeded.

- 25 I recommend that the same policy be inserted into the Commercial Zone chapter.
- 26 I also support the wider policies sought in the RVA and Ryman submissions to assist in achieving objectives 1 and 2 of the MDRS:

**Policy 14A.2.2 Px: Larger sites**

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

**Policy 14A.2.2 Px: Role of density standards**

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

**Policy 14A.2.2 Px: Changing communities**

To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the Ōmokoroa and Te Puke Medium Density Residential Zone will change over time to enable a variety of housing types with a mix of densities.

**Rules and standards**

***Activity status***

- 27 I support the submissions of the RVA and Ryman that sought the 'land use' component of a retirement village (the activity of retirement living) be provided for as a **permitted activity** in the Ōmokoroa and Te Puke Zone, whilst the development and built form aspects (both the construction and physical built component of a village) be assessed as a **restricted discretionary activity**, including where there are breaches of the MDRS density standards.
- 28 However, to better integrate with the current structure and drafting of the Ōmokoroa and Te Puke Zone, I recommend that 'up to three retirement units on a site' are provided for as a **permitted activity** in the same manner as other residential activities.<sup>9</sup> In my view, this approach will reduce potential debate about whether retirement villages are an appropriate land use in residential zones. In accordance with other residential activities, the provision of 'four or more retirement units on a site' would therefore be a **restricted discretionary activity**, including where there are breaches of the MDRS density standards. As noted, I understand that this planning approach is consistent with the RMA Schedule 3A statutory

<sup>9</sup> For example, Rule 14A.3.1(b).

requirements. Restricted discretionary activity status will enable retirement village developments. And, it will also appropriately manage potential adverse effects and ensure high quality development outcomes, as appropriate for the scale of development proposed.

- 29 I also note that other district plan controls which manage operational and construction matters, such as earthworks, traffic and noise should in my view continue to apply to retirement villages.

**Standards**

- 30 I propose that retirement villages generally be subject to the MDRS density standards. However, I propose adding new provisions to the MDRS density standards that address outdoor living space and outlook space for dwelling units within a retirement village. In my view, these changes are consequential on the MDRS because:

30.1 The MDRS definition of “residential unit” does not currently capture all residential unit types within a retirement village, particularly higher care units that do not have kitchens. The section 42A report notes that a) self-contained units are intentionally captured under the “residential unit” definition, and b) higher care units are not covered by the “residential unit” definition. I consider this situation creates a disconnect in the regime, which will cause interpretation issues if not addressed.

30.2 As is highlighted in the RVA and Ryman’s evidence, the current MDRS outdoor living space and outlook space controls are not appropriate for retirement villages. This is because of the different unit types and internal communal amenities provided. If new provisions are not added, retirement villages may generally be expected to comply with these controls, which would result in unnecessary restrictions and would add unnecessary complexity to retirement village consenting processes.

- 31 To support these additions, I propose a new ‘retirement unit’ definition as follows:<sup>10</sup>

**‘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.

- 32 The definition is modelled off the MDRS ‘residential unit’ definition, but ensures cooking, bathing, and toilet facilities are not required to qualify as a unit.

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<sup>10</sup> Page 24 – Retirement Villages Association of New Zealand Submission on PC92 to the Western Bay of Plenty District Council.



33 I note that other consequential changes are needed to ensure that all MDRS density standards that refer to 'residential units' also apply to retirement units. The specific changes are outlined later.

34 To avoid unintended consequential effects on parts of the Plan that are not subject to the Enabling Housing Act requirements, I propose that the definition only apply in the applicable zones, noting that future plan changes to ensure consistency would be beneficial.

***Notification presumptions***

35 For reasons outlined later, I consider public notification of an application for resource consent should be precluded. Limited notification should also be precluded where the density standards are met. The plan should also be explicit about these presumptions, rather than relying on Schedule 3A of the RMA, which will create interpretation issues. I address this point later in response to the s42A report.

***Matters of discretion***

36 I support retirement villages having their own matters of discretion instead of being grouped with four or more residential units and comprehensive mixed use developments. This approach will ensure the matters of discretion focus on the management of effects of relevance to retirement villages, allow the functional and operational need of retirement villages to be taken into account and ensure positive effects are able to be considered. The proposed matters of discretion are set out in the track change provisions in **Appendix A**.

***Katikati and Waihi Beach***

37 I note that the RVA and Ryman submissions also requested that the MDRS apply to the Katikati and Waihi Beach Medium Density Residential Zones. I understand that Ryman and the RVA are not pursuing those submissions, which I note I did not support.

***Commercial Zone***

38 I acknowledge at the outset that the MDRS are not required by Section 80E of the RMA to be incorporated into commercial zones. Section 80E requires IPIS to "give effect to" Policy 3 of the NPSUD. The national policy direction in these zones is about enabling building heights and density of urban form relative to the type of centre and access to existing and planned rapid transit stops. To achieve that outcome, PC92 will need to enable the activities that will result in that urban form. Policy 3 of the NPSUD also sits within the wider suite of NPSUD provisions, which I understand continue to be relevant in this process.

39 This policy situation enables a potentially different approach to residential intensification in commercial zones than in residential zones.

40 For reasons explained more fully later in this evidence, I consider that commercial zones are part of the solution to the housing intensification objectives of the current process. It is expected that

more people will live within and close to centres. Housing for older people is no exception. I understand from the evidence of Mr Collyns and Mr Brown that opportunities for retirement village developments in and around centres are important. Enabling provisions for the “urban form” of retirement villages in commercial zones will help:

- 40.1 Support ‘ageing in place’;
  - 40.2 Address the shortage of sites available for retirement villages; and
  - 40.3 Alleviate the growing shortfall of available housing and care options for older people.
- 41 I also consider it will be clearer and more efficient to seek to apply similar provisions in commercial zones as for the relevant residential zones (i.e. the Ōmokoroa and Te Puke Zone). That said, I acknowledge there are differences between the zones which justify a different planning approach. A key example is the need to manage ground floor activities to ensure commercial zones are not absorbed by non-commercial activities, impacting on their ongoing viability. Design controls in centres / commercial zones may also be different to reflect the different character and functionality expectations of these environments.
- 42 With those main points in mind, the key features of the provisions I support as giving effect to Policy 3 and the wider NPSUD provisions are as follows:
- 42.1 Insert one new policy within the Commercial Zone – being the ‘Provision of housing for an ageing population’;<sup>11</sup>
  - 42.2 Amend the restricted discretionary activity rules within the Commercial Zone to integrate a new rule for retirement villages (to better align with the treatment other residential activities in the zone);
  - 42.3 Apply similar non-notification presumptions as for the Ōmokoroa and Te Puke Zone; and
  - 42.4 Provide specific matters of discretion to manage the external effects of a retirement village on the wider environment and ensure positive benefits are considered in decision-making.
- 43 The RVA and Ryman submissions sought that the above provisions also apply in the Commercial Transition Zone, however, as discussed later this zone is outside the scope of PC92.

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<sup>11</sup> Pages 45-46 and 51-52 – Retirement Villages Association of New Zealand Submission on PC92 to the Western Bay of Plenty District Council.

### **Officer's report**

- 44 While the section 42A report acknowledges several of the RVA and Ryman submission points in principle, the report writer recommends rejecting the majority of them. This recommendation is based on the premise that:
- 44.1 The provisions in PC92 appropriately provide for retirement villages and reflect the scale and complexity often associated with them;
  - 44.2 Many of the requests to amend and add new retirement villages provisions are too specific to retirement villages, and are unnecessary or inappropriate; and
  - 44.3 The requests to amend and add new retirement village provisions in the Residential Zone, Medium Density Residential Zone and Commercial Transition Zone are beyond the scope of PC92.
- 45 I note that the analysis in the section 32 report for PC92 contains very little detail on the housing needs and requirements of the ageing population in the local Western Bay of Plenty retirement village context, or costs, benefits and the effects of retirement villages. In that regard, the evidence of Mr Collyns<sup>12</sup> and Professor Kerse<sup>13</sup> explains that the demand for retirement village accommodation is outstripping supply in many areas of the country, including the Western Bay of Plenty District. Mr Collyns, Mr Brown and Professor Kerse also highlight throughout their evidence the health, disability and wellbeing issues faced by older people in our communities. They set out how those factors translate to housing and care needs that differ from the general population. Mr Brown and Mr Collyns have also outlined the unique characteristics of retirement villages and how they are different from typical residential development.
- 46 In that context, in my view, responding to the issues associated with the ageing population and provision of suitable housing and care for this demographic is critical to ensuring the wellbeing of people and communities in the Western Bay of Plenty District in accordance with Objective 1 of the NPSUD. In that respect, I consider the council section 32 and section 42A reporting is misaligned with the NPSUD and MDRS objectives and policies. Objectives 1 of the NPSUD and MDRS include clear directives to provide more intensification opportunities to address health and wellbeing. Those and the other applicable provisions also direct the enablement of a mix of housing opportunities for all ages, stages and day to day living needs.
- 47 While the section 42A writer acknowledges that retirement villages enable housing and are anticipated within residential zones,<sup>14</sup> the

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<sup>12</sup> See the statement of evidence of Mr Collyns at paragraph 9.

<sup>13</sup> See the statement of evidence of Professor Kerse at paragraphs 32-33, 39-40.

<sup>14</sup> Page 17 – Section 42A Report, Plan Change 92 - Ōmokoroa and Te Puke Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

Reporting Officer does not support the planning framework proposed and considers that retirement villages contain non-residential activities and the effects of a proposed retirement village should be considered on a case-by case basis.<sup>15</sup> As such I respectfully consider that the Reporting Officer has misunderstood both the nature of retirement villages as a specific type of residential housing and the RVA and Ryman's proposed planning changes. That said, I acknowledge that the Officer has not yet sited the detailed evidence I rely on to support my planning assessment.

- 48 Overall, the submissions by the RVA and Ryman seek to ensure that the Proposed Plan provides a consistent and enabling regulatory framework for the establishment of retirement villages within the Western Bay of Plenty District. They do this by acknowledging the need to actively address the ageing population's housing need through a key objective and policy. This is then achieved by acknowledging retirement villages are a legitimate residential use that can be developed in an appropriate manner within suitable residential and commercial zones.

### **BACKGROUND**

- 49 As explained in the evidence of Mr Collyns, Mr Brown and Professor Kerse, rapidly changing demographics are resulting in major pressures on social and health services for older New Zealanders, including the provision of housing. That evidence explains in detail the growth of the wider Bay of Plenty region's ageing population. Put simply, the population of people living in the Western Bay of Plenty District over the age of 65 is continuing to increase and is projected to continue to increase for the foreseeable future. As the evidence of Mr Collyns<sup>16</sup> and Professor Kerse<sup>17</sup> notes, the 75+ age bracket is a particularly vulnerable demographic due to relative frailty and the increase of heightened care needs. The demand for retirement living and a range of care options, including dementia care and assisted living options, is growing.
- 50 A key overarching point raised in the submissions by the RVA and Ryman is that PC92 represents an opportunity to better enable the provision of a diverse range of housing options, including retirement villages, in the Western Bay of Plenty District. Based on the RVA and Ryman evidence, statistics provided within the submissions, and the Council's analysis, I consider that from a planning perspective, PC92 needs to enable the housing and care provided by retirement villages, particularly in the District's residential areas. In my experience and supported by the evidence of Mr Brown and Mr Collyns, a key barrier to meeting the increasing demand for retirement living is the

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<sup>15</sup> Page 17 – Section 42A Report, Plan Change 92 - Ōmokoroa and Te Puke Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

<sup>16</sup> See the statement of evidence of Mr Collyns at paragraph 10.

<sup>17</sup> See the statement of evidence of Professor Kerse at paragraph 40.

timeframes and complexities associated with consenting these types of housing developments.

- 51 Finding suitable sites for the development of new retirement villages is challenging. This is partly due to the size of the sites that are typically required (which generally need to be large to provide a range of living and care options, as well as on-site amenities), and the desire of prospective residents to remain close to their families and existing communities. This challenge is also discussed in the RVA submission<sup>18</sup> and by Mr Brown.<sup>19</sup> As identified in the Smart Growth Housing Development Capacity Assessment 2022<sup>20</sup> there is a strong shift towards smaller and older households in the Western Bay of Plenty District, with the ageing population expected to have a significant impact on the housing demography. In particular, around 30% of households will be associated with households aged 75 and over by 2050, an increase from 13% in 2020.
- 52 In my opinion, responding to the specific issues associated with an ageing population and the provision of suitable housing to meet the needs of the elderly is critical. Suitable provision for this specific type of housing needs to be made within residential and commercial areas within the Western Bay of Plenty District. As suggested above, this outcome will also ensure the social, economic, and cultural wellbeing of people and communities in the wider Bay of Plenty region in accordance with Objective 1 of the Enabling Housing Act.<sup>21</sup>
- 53 In this regard, the requirements of the NPSUD and the Enabling Housing Act have, in my opinion, fundamentally altered the expectations for development in and around the residential and commercial zones particularly in the urban environments of Tier 1 local authorities. There are significantly greater expectations for bulk and density in residential zones, and an associated recognition of the consequential changes of neighbourhood character and private residential amenity. I explain this further below.

## **OVERVIEW OF THE PLANNING FRAMEWORK**

### **National Policy Statement on Urban Development 2020 and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021**

- 54 The NPSUD directs local authorities to enable greater land supply for urban development. It also directs that planning is responsive to changes in demand, and that new development capacity enabled by local authorities is of a form, and in locations, that meet the diverse needs of communities. It encourages well-functioning, liveable urban

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<sup>18</sup> Page 13 – Retirement Villages Association of New Zealand Submission on PC92 to the Western Bay of Plenty District Council.

<sup>19</sup> See the statement of evidence of Mr Brown at paragraphs 63 & 64.

<sup>20</sup> Smart Growth Housing and Business Capacity Assessment 2022, Phizacklea Consulting.

<sup>21</sup> Schedule 3A, cl 6(1)(a), Objective 1, Enabling Housing Act.

environments. It also requires local authorities to remove overly restrictive rules that affect urban development outcomes in cities.<sup>22</sup>

- 55 In my opinion, the section 42A report does not attach sufficient weight to the following explicit directives of the NPSUD when assessing the merits of the submissions by the RVA and Ryman:
- 55.1 Planning decisions ensure that urban environments provide for the needs of all demographics in the community, including by enabling a variety of dwelling types and price points;<sup>23</sup>
  - 55.2 Planning decisions improve housing affordability by supporting competitive land and development markets;<sup>24</sup>
  - 55.3 Policy Statements and District Plans within Tier 1 urban environments enable intensification in areas where there is a high demand for housing;<sup>25</sup> and
  - 55.4 Urban environments, including their amenity values, will develop and change over time in response to the diverse and changing needs of people and communities, and future generations.<sup>26</sup>
- 56 The clear intent of the NPSUD is to be enabling of both commercial and residential development in urban environments through the provision of opportunity, choice, variety and flexibility of land supply for housing, subject to maintaining an appropriate level of residential amenity. As I discuss later in my evidence, I consider PC92 needs to expressly recognise the diversity of housing stock that will be needed in residential and commercial zones of the Western Bay of Plenty District to give effect to the NPSUD.
- 57 The Enabling Housing Act directs<sup>27</sup> the incorporation of MDRS for Tier 1 local authorities through Schedule 3A of the RMA. Amongst other directions, the MDRS requires that a variety of housing types and sizes are provided for, which respond to housing needs and demand and the neighbourhood's planned urban built character (including three-storey buildings).<sup>28</sup>
- 58 The Enabling Housing Act has also altered the scale / scope of residential development that can occur as a permitted activity in the Ōmokoroa and Te Puke Zone and Commercial Zone. These new provisions essentially narrow the consideration of density effects in

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<sup>22</sup> Objective 1, 3 and 6 and Policies 1, 2, 3 and 5 of the NPSUD.

<sup>23</sup> Objective 1 and Policy 1 of the NPSUD.

<sup>24</sup> Objective 2 of the NPSUD.

<sup>25</sup> Objective 3 and Policy 3 of the NPSUD.

<sup>26</sup> Objective 4 and Policy 6 of the NPSUD.

<sup>27</sup> Section 77G of the Enabling Housing Act.

<sup>28</sup> Objective 4 and Policy 1 of the NPSUD.

relation to on-site amenity and effects on the surrounding environment (when compared to existing district plans).

- 59 From a planning perspective, the clear direction is that the built form of the Western Bay of Plenty District will need to change in order to provide for the housing demands of a range of demographics. In my opinion, PC92 needs to be amended to clearly reflect this, particularly to have proper regard to the specific evolving housing needs of our ageing population.

**Bay of Plenty Regional Policy Statement**

- 60 The RPS provides direction regarding the use, development and protection of natural resources in the Bay of Plenty region. PC92 is required to give effect to the RPS.
- 61 The RPS includes objectives and policies relating to maintaining and enhancing a compact and well-designed urban form,<sup>29</sup> and identifies that this urban form is necessary to cater for an ageing population.
- 62 The section 42A report acknowledges that the Western Bay of Plenty District Council must give effect to the RPS and have regard to any proposed RPS, noting an assessment of PC92 against the objectives and policies of the RPS is provided in the section 32 report. The section 32 report concludes that the RPS contains a number of provisions that are of relevance to PC92, in particular related to urban and rural growth management, and that PC92 is consistent with the RPS.
- 63 Whilst I agree the RPS contains provisions of relevance, Proposed Plan Change 6 to the RPS was publicly notified in September 2022 to modify the RPS to implement and give effect to the NPSUD. This includes changes to enable increased density in urban environments. Accordingly, I note that the operative RPS has not yet been updated to give effect to the NPSUD.

**SPECIFIC PROVISION FOR RETIREMENT VILLAGES IN PC92**

- 41 As detailed in the RVA and Ryman submissions, retirement villages are different from typical residential dwellings (in terms of design and layout). They therefore do not necessarily fit in with the typical controls imposed on other residential developments. I agree with the submitters that fit for purpose planning provisions for retirement villages are required. In my view, this framework comprises:
- 41.1 Appropriate retirement village activity status;
  - 41.2 Identified matters of discretion (to manage the external effects of the development);
  - 41.3 Notification presumptions; and

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<sup>29</sup> Objective 23, RPS.

- 41.4 Clear, targeted and appropriate development standards to guide the notification and planning assessment of these bespoke retirement village developments.
- 42 I acknowledge that retirement villages have some elements in common with medium density residential development (such as the residential use and the bulk and scale of the development) and that they are a form of 'four or more' residential unit development. However, the specific design and layout of retirement villages is fundamentally different from typical medium density housing development for the following main reasons:
- 42.1 Retirement villages provide most, if not all, of the required resident amenities on-site so there is less need for residents to have access to external community infrastructure and open spaces;
- 42.2 Retirement village buildings and layouts are carefully designed with resident needs in mind. In many modern retirement villages, there is often a central building that contains accommodation for people that need higher levels of care and a range of communal village amenities. Access to that building for other village residents must be convenient, safe and sheltered from weather. This central building can often be bulkier and of a different height to surrounding residential activities to enable these functional and operational requirements;
- 42.3 Unit types vary from relatively typical independent townhouses or apartments, through to serviced care suites, hospital care beds and areas for people with dementia. The size and amenity requirements of these units vary substantially from more typical housing typologies;
- 42.4 Older residents have a lesser degree of interaction with the surrounding neighbourhood on a day-to-day basis compared to those of a conventional residential apartment or residential subdivision. This is because the majority of retirement village residents are generally far less mobile and therefore have significantly reduced traffic generation requirements and requirements for access to public transport infrastructure and parking;
- 42.5 Because of the frailty and vulnerability of older people, retirement villages need to be safe and secure. In practice, that means having restricted access and, as a general proposition, not having public roads running through the sites; and
- 42.6 Data collected over many years shows that retirement villages place lesser demand on the water, wastewater and transport networks, noting that these systems are always



comprehensively designed on-site to cater for the required demand.

- 43 The above factors combine to mean that retirement villages are generally large format activities. Whilst not dissimilar to the medium density residential developments in terms of purpose and scale, they can have a different look and feel to standard housing. Applying conventional planning approaches used for standard housing to retirement villages has, in my experience, led to substantial consenting delays, complexities and risks for operators.
- 44 I agree with the submissions made by the RVA and Ryman that further refinement of the existing retirement village regime within PC92 is required. In my view, the current planning regime is unnecessarily complex and unclear. It relies on drawing together a broad range of objectives and policies. None of these clearly acknowledge the ageing population issues of the District and the different needs in terms of accommodating and caring for that population. The Plan also relies on multiple overlapping definitions, which are not fit for purpose for the nature of modern retirement villages, and the relevant consenting rules contain wide discretions and no guidance on notification matters for retirement villages. The resulting complexity and uncertainty will need to be resolved in consenting processes, which will present significant challenges and debates.
- 45 The Section 42A report writers consider 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*”.<sup>30</sup> While I generally support that proposition, I consider that the Plan can and should be much clearer to reduce uncertainty and avoid ad hoc and inconsistent decision-making. Applicants and decision-makers should have as much guidance as possible on the plan’s expected outcomes.
- 46 Accordingly I support an activity-specific policy and a nuanced rule framework, however the framework would necessarily not fully ‘standalone’. The existing objectives and policies which guide the assessment of effects on built form would remain relevant. However the greater specificity I recommend would more clearly enable retirement villages in both the Ōmokoroa and Te Puke Zone and the Commercial Zone.
- 47 The section 42A report does not recommend including the policy and rule framework proposed in the submissions by the RVA and Ryman for several reasons. These include that:
- 47.1 It is not appropriate to create a policy set for one particular activity (i.e. retirement villages); and

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<sup>30</sup> Page 17 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

47.2 The requested policies either do not improve policy direction or are unclear or unnecessary.

- 48 Regarding the Commercial Zone, the proposed amendments are not recommended given the purpose of the zone is to provide for, and make land available for, commercial activities. On this basis, the section 42A report recommends the rejection of the RVA and Ryman submissions in both the Ōmokoroa and Te Puke Zone and the Commercial Zone.
- 49 As outlined in the evidence of Mr Collyns and Mr Brown<sup>31</sup> retirement villages are considered by residents and their family and friends to be their home and are part of the residential environment. In addition, the villages are generally developed with careful consideration of the relevant planning standards and compliance with the relevant development standards including setbacks and height.
- 50 In my opinion, PC92 is required to include provisions to better enable all people and the community to provide for their social, economic and cultural wellbeing and in particular the health and safety of older people.<sup>32</sup> Moreover, it provides the opportunity to improve housing affordability,<sup>33</sup> including for older people. Suitably targeted Plan provisions will assist to enable older people to continue to reside in their existing communities, close to family and established social contacts.
- 51 I set out in **Appendix B**, a table identifying in greater detail the connection between the NPSUD, the MDRS provisions and the policy and rule framework for the ageing population recommended in my evidence.
- 52 I also consider that the NPSUD and Enabling Housing Act are not limited to residential zones. It is my understanding that councils are required to ensure district plans provide for residential intensification (including retirement villages) in appropriate non-residential urban zones. Policy 3 of the NPSUD seeks to enable residential intensification in centre zones and walkable catchments within all Tier 1 urban environments, including the Western Bay of Plenty District. As I discuss later in my evidence, it is anticipated that the form and layout of retirement villages in the residential and commercial zones would vary to appropriately integrate into its location and context.
- 53 I will now set out the specific recommendations I consider necessary to give appropriate effect to the NPSUD and MDRS provisions.

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<sup>31</sup> See the statement of evidence of Mr Collyns at paragraph 46 and Mr Brown at paragraphs 68-72.

<sup>32</sup> Objective 1 of the NPSUD.

<sup>33</sup> Objective 2 of the NPSUD.

## APPLICATION OF MDRS STANDARDS

- 54 I note that the RVA and Ryman sought that the MDRS provisions be applied to the Residential and Medium Density Residential Zoned areas at Katikati and Waihi Beach, so that these areas be re-zoned as the Ōmokoroa and Te Puke Zone (with the same amendments to that zone as sought in the primary submission). The submissions also sought that the provisions for retirement villages in the Commercial Zone (policies, activity status and matters of discretion) also apply in the Commercial Transition Zone.
- 55 Following a review of the section 42A report and the section 32 report, I now understand that Ōmokoroa and Te Puke are the only urban areas in the district that meet the definition of relevant residential zones in the RMA,<sup>34</sup> and do not contain any Residential, Medium Density Residential or Commercial Transition zoned land. In light of this, I concur with the Reporting Officer that imposing both the MDRS provisions, and the planning framework proposed by the RVA and Ryman into these zones is not appropriate as the zones are outside the scope of PC92.

## SECTION 3 – DEFINITIONS

### *RVA and Ryman Submissions*

- 56 As identified earlier, the RVA and Ryman sought to delete the District Plan's definition of 'retirement village' and replace it with the National Planning Standards definition for a 'retirement village'.
- 57 The submissions also sought a new definition of 'retirement unit' be included within PC92. The proposed 'retirement unit' definition was developed as a subset of the 'residential unit' definition in the MDRS. The purpose of the definition is to enable the PC92 provisions to acknowledge the differences between a retirement village development and typical multi-residential development in terms of layout and amenity needs. The definition ensures efficient implementation of the MDRS for retirement villages is achieved by resolving potential interpretation issues on whether retirement villages fit within the MDRS, which I address further below. Mr Brown and Mr Collyns<sup>35</sup> set out the features of retirement units that differ from typical residential units, including that some units in retirement villages are designed for higher care and do not have the likes of kitchens.

### *Section 42A Report*

- 58 The section 42A report recommends rejecting the RVA and Ryman submission point seeking the inclusion of the National Planning Standards definition of 'retirement village' on the basis that PC92:

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<sup>34</sup> Page 3 – Section 42A Report, Plan Change 92 - Ōmokoroa and Te Puke Enabling Housing Supply and Other Supporting Matters, dated 11 August 2023.

<sup>35</sup> See the statement of evidence of Mr Collyns at paragraphs 49-55 and Mr Brown at paragraphs 50-61.

- 58.1 Has only added definitions from the National Planning Standards where necessary to incorporate the MDRS, and the inclusion of additional definitions would cause further unwanted complexity by having a number of duplicated definitions; and
- 58.2 Does not intend to make changes to district-wide definitions.<sup>36</sup>
- 59 The section 42A report also recommends rejecting the new definition of 'retirement unit' for the following reasons:
- 59.1 Self-contained units within retirement villages are intentionally provided for in the definition of 'residential unit' to ensure they meet the same standards as units within other developments; and
- 59.2 Higher care units (such as serviced apartments and care rooms) are not subject to several density standards<sup>37</sup> and the inclusion of this definition would volunteer these units for restrictions that are not intended by the MDRS or proposed by PC92.<sup>38</sup>

**Response**

- 60 The Reporting Officer considers updating the 'retirement village' definition would require consequential changes across the District Plan that were not envisaged as part of PC92. While I recognise that including the updated definition of 'retirement village' would lead to some consequential changes, councils are required to update their District Plans in line with the National Planning Standards without undue delay and PC92 provides that opportunity. Given the extent of change to the overall management regime applying to retirement villages under PC92, I consider the necessary amendments could be considered a consequential change. Overall, I see PC92 as an effective and efficient means to bring the District Plan in line with the National Planning Standards outside of the often costly and time-consuming schedule 1 plan process of the RMA.
- 61 Further, the current definition does not reflect my understanding of village uses. For example, it refers to hospitals and rest homes in villages as "services". These areas of the villages are in fact people's homes, which have close access to services, as Professor Kerse, Mr Brown and Mr Collyns outline.<sup>39</sup> The current definition also notes some

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<sup>36</sup> Page 11 – Section 42A Report, Section 14A – Ōmokoroa and Te Puke Medium Density Residential, Part 2 (Definitions, Activity Lists & Activity Performance Standards), dated 11 August 2023.

<sup>37</sup> Outdoor living space, outlook space, windows to street or landscaped area.

<sup>38</sup> Page 11 – Section 42A Report, Section 14A – Ōmokoroa and Te Puke Medium Density Residential, Part 2 (Definitions, Activity Lists & Activity Performance Standards), dated 11 August 2023.

<sup>39</sup> See the statement of evidence of Professor Kerse at paragraph 102, Mr Collyns at paragraph 46 and Mr Brown at paragraphs 68-72.

narrow examples of other services in villages. The NPS definition on the other hand is more comprehensive and accurate in my view.

62 I therefore support the definition proposed by the RVA and Ryman:

**'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.

63 With respect to the 'retirement unit' definition, I consider that the unique characteristics of a retirement unit need to be recognised through a separate definition.

64 If such a definition is not provided, I anticipate consenting complexities will arise. Currently, there are three potentially applicable definitions, being "residential units", "retirement village dwelling" and "retirement village independent apartment". There is no definition for accommodation units in villages that do not have a kitchen or bathroom.

65 This situation is problematic and will lead to confusion as:

65.1 Some retirement village units may be assessed as 'residential units' – and therefore subject to the relevant density standards;

65.2 Other retirement village units may not be considered 'residential units' – and therefore *not* subject to the density standards; and

65.3 There is a reasonable likelihood of debate as to which unit falls into which category more generally and therefore which rules and matters of discretion apply.

66 It is possible that some retirement villages would be argued to be described as "innominate activities" or that the discrete activities within a village should be assessed as separate activities. In my view, this will lead to considerable consenting complexity and inefficiency. I consider the use of a 'retirement unit' definition to cover all units within a retirement village will provide greater clarity and less complexity to retirement village consenting processes.

67 Accordingly, I support the definition proposed by the RVA and Ryman:

**'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.

## **SECTION 14A – ŌMOKOROĀ AND TE PUKE MEDIUM DENSITY RESIDENTIAL ZONE**

### **Objectives and Policies**

#### ***RVA and Ryman Submissions***

68 By way of summary, the submissions sought to ensure that the objectives and policies of the Ōmokoroa and Te Puke Zone:

- 68.1 Better reflect the intentions of the NPSUD;
- 68.2 Meet the requirements of the Enabling Housing Act; and
- 68.3 Recognise the unique features of retirement villages such as the layout and internal amenity needs.

69 In addition, the submissions sought to insert four new policies in the Ōmokoroa and Te Puke Zone, as set out below:

#### **Policy 14A.2.2 Px: Provision of housing for an ageing population**

*a. Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in residential zones, such as retirement villages.*

*b. Recognise the functional and operational needs of retirement villages, including that they:*

*i. May require greater density than the planned urban built character to enable efficient provision of services.*

*ii. Have unique layout and internal amenity needs to cater for the requirements of residents as they age.*

#### **Policy 14A.2.2 Px: Larger sites**

*Recognise that intensification opportunities provided by larger sites within the Ōmokoroa and Te Puke Medium Density Residential Zone by providing for more efficient use of those sites.*

#### **Policy 14A.2.2 Px: Role of density standards**

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

#### **Policy 14A.2.2 Px: Changing communities**

*To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the Ōmokoroa and Te Puke Medium Density Residential Zone will change over time to enable a variety of housing types with a mix of densities.*

70 In summary, the submissions highlighted that housing and caring for the ageing population is an important resource management issue for the District. Further, because retirement villages are a critical and expected component of residential areas, it is important that they are expressly acknowledged in the policies. Doing so ensures that the “planned urban built environment” within Western Bay of Plenty District is clearly understood at consent stage. Otherwise, officers and the community will default to expectations of typical residential activities, as has been the case in the past.

71 The more general policies for ‘changing communities’, ‘larger sites’ and ‘role of density standards’ respond to wider NPSUD and MDRS objectives, as noted earlier.

### **Section 42A Report**

72 Whilst the Reporting Officer has proposed amendments to some of the objectives and policies, they have generally recommended that the RVA and Ryman submissions be rejected, for the following reasons:

72.1 Medium density residential developments are more complex than conventional stand-alone dwelling developments, and therefore require a greater range of considerations such as transport and stormwater design;<sup>40</sup>

72.2 The policies are not “inconsistent with what would be considered good design outcomes for any form of residential development including retirement villages”;<sup>41</sup> and

72.3 The policies relate to “base urban design elements that contribute to a well-functioning urban environment in a residential context”.<sup>42</sup>

73 Regarding the four new policies proposed by the RVA and Ryman, the Reporting Officer has recommended that these be rejected on the basis that:

73.1 The requested policies are generally variations of the proposed policies in PC92 and do not add greater policy direction than those proposed in the notified plan;

73.2 The creation of a policy set for a particular land use is inconsistent with the objective and policy framework and plan structure of PC92, and retirement villages are specifically provided for in Policy 6 along with other development typologies;

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<sup>40</sup> Page 25 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 1 (Section Labelling, Statement, Objectives, Policies), dated 11 August 2023.

<sup>41</sup> Page 29 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 1 (Section Labelling, Statement, Objectives, Policies), dated 11 August 2023.

<sup>42</sup> Page 31 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 1 (Section Labelling, Statement, Objectives, Policies), dated 11 August 2023.

73.3 The intent of the 'larger sites' policy is unclear; and

73.4 The 'role of density standards' policy is a resource consent application matter and provides no benefit.<sup>43</sup>

**Response**

74 I agree with the RVA and Ryman submissions. I consider that as currently drafted, the objectives and policies in PC92 do not adequately provide for the enablement of retirement villages, as a subset of a four or more residential unit development, nor do they recognise or address the unique features of these housing types.

75 As such, having reflected on the submissions further and reviewing the section 42A report I recommend inserting a new objective within the Ōmokoroa and Te Puke Zone that recognises the ageing population and which relates to and is supporting of, objectives 1 and 2 of the MDRS.

**Objective 14A.2.1 Ox: Ageing population**

*Recognise and enable the housing and care needs of the ageing population.*

76 In my view, the proposed new objective and policies appropriately recognise the functional and operational needs of retirement villages (through more enabling language such as 'provide for' and 'may require') and provide for a variety of housing types for all people.<sup>44</sup> I consider that a retirement village-specific policy needs to be a key component of the regime in order to explicitly provide for housing for the ageing population within the Ōmokoroa and Te Puke Zone. As outlined in the evidence of Mr Collens, the growth of 75 + age bracket in the Western Bay of Plenty is greater than the national average. I consider the benefits of providing a standalone policy for retirement villages that provides for both the enabling of retirement villages, and also better provides a clear link between the provisions for retirement villages as a restricted discretionary activity and the relevant matters of discretion, is appropriate.

77 In my view, such a policy:

77.1 Would provide greater clarity regarding the considerations applying to the development of retirement villages. For example, the fact that they have atypical elements compared to conventional housing, such as hospital level care and resident amenities. However, the policy would also ensure that externalities arising from building form are appropriately managed to fit into their neighbourhoods; and

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<sup>43</sup> Pages 39-40 – Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 1 (Section Labelling, Statement, Objectives, Policies), dated 11 August 2023.

<sup>44</sup> Policy 1 of the NPSUD.



77.2 Can be drafted to avoid any unintended consequences of the current RVA / Ryman policies being interpreted as too enabling and confusion arising.

78 As such, set out below is an amended policy which I consider better reflects both the enablement of retirement villages, but also the need to align with the planned urban character of the Ōmokoroa and Te Puke Zone.

### **Retirement Villages**

#### *1. Enable retirement villages that:*

- a. Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities and / facilities, and affordability and the efficient provision of assisted living and care services.*
- b. Provide good quality on site amenity, recognising the unique layout, internal amenity and other day-to-day needs of residents as they age.*

#### *2. Encourage the scale and design of the retirement villages to:*

- a. be of a high-quality and be aligned with the planned urban character of the zone;*
- b. achieve attractive and safe streets and public open spaces, including by providing for passive surveillance; and*
- c. Achieve an appropriate level of residential amenity at neighbouring properties where relevant built form standards are exceeded.*

79 I note in response to the Reporting Officer, that policy 6 is insufficiently directive as it simply lists anticipated activities. The other more general policies also do not clarify the needs of the ageing population or the specific features of retirement villages. I disagree that to be consistent there would be a need for multiple policies to reflect the variations of housing typologies and their particular nuances. The evidence of the RVA and Ryman has established a specific housing issue in the district affecting a large portion of the community, which will potentially worsen over time given long term demographic trends. In my view, this evidence justifies a materially different planning response to other housing typologies.

80 Further, in my opinion this policy should also be preferred as it is consistent with the policy direction being sought by the RVA and Ryman around the country.

- 81 The section 42A report writer does not support the inclusions of the broader policies sought within the submissions. I consider that the inclusion of the policies relating to 'changing communities', 'larger sites', and 'role of density standards' will assist to reduce uncertainty during the consenting process by providing greater clarity on these matters.
- 82 I also consider that the inclusion of the 'larger sites' policy would provide a much clearer and stronger policy framework (with greater vertical integration between Plan provisions) for retirement villages (and other forms of development) in the District Plan. This policy will better enable the efficient use of the larger sites that the RVA's members often need to utilise.
- 83 I consider that the 'role of density' policy provides some further context in relation to the NPS-UD to enable more density providing for intensification relative to the housing demand. In particular having a specific policy provides a baseline for assessment when assessing the effects of retirement village, to ensure the focus is primarily on the effects of breaches of standards and to ensure an efficient consenting process.
- 84 The objective and policies proposed by the RVA and Ryman do not seek to exempt retirement villages from the wider package of objectives and policies in the District Plan and PC92. I note that considerations such as transport and stormwater design are important, but are already addressed in other parts of the plan. Instead, they are designed to provide specific provisions that recognize the unique requirements of retirement villages. In my opinion, doing so aligns with the NPSUD and Enabling Housing Act expectations and responds to the ageing population issues outlined in the evidence.
- 85 Likewise, while the submissions of the RVA and Ryman proposed a number of amendments / deletions to the policies on reflection having reviewed the section 42A report I consider that they are generally appropriate, particularly if the specific relief for a 'retirement unit' is accepted by the Panel. However, I have suggested some amended wording for Policy 10 to better clarify the effects that the policy seeks to address relating to the repetition of built form. In addition, I note that Policy 11 for example, does not take into account the unique characteristics of a retirement village such as where the security of residents is a priority over connectivity considerations to public spaces.<sup>45</sup>
- 86 I have addressed the matter of whether the provisions support or are consequential on the MDRS and give effect to Policy 3 comprehensively earlier. As I have observed above, the Reporting Officer concludes that the objective and policies of MDRS provisions are encompassing of a regime that provides housing for the older population. In my opinion, the issue is more about the merits of including these

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<sup>45</sup> Schedule 3A, cl 6(2)(e), Policy 5, Enabling Act.

additional provisions to clarify existing MDRS provisions. In my view there is merit as the MDRS provisions are too general.

- 87 I also agree with the RVA and Ryman submissions that several of the policies are not fit for purpose for retirement villages, and do not take into account the unique functional and operational needs of villages.

**Activity Status, Notification and Matters of Discretion**

- 88 The RVA and Ryman submissions also sought a number of amendments to the rules, notification clauses and matters of discretion within the Ōmokoroa and Te Puke Zone chapter.

- 89 The key aspects of the submission points related to:

- 89.1 The deletion of rule 14A.3.3(d) and the integration of a new rule 14A.3.1(m) to provide for the use of retirement villages as a permitted activity;
- 89.2 An amended restricted discretionary activity rule 14A.3.3 for the construction of retirement village buildings in the Ōmokoroa and Te Puke Zone;
- 89.3 The inclusion of retirement village-specific matters of discretion focussing on managing the external effects of a village on the wider environment in the Ōmokoroa and Te Puke Zone; and
- 89.4 A presumption of non-notification for retirement villages that meet the relevant density standards and a public notification preclusion for other retirement villages.

**Section 42A Report**

- 90 The Reporting Officer has recommended rejecting the submission points in relation to the proposed activity status amendments in the Ōmokoroa and Te Puke Zone for the following reasons:

- 90.1 The provision of retirement villages as a permitted activity is at odds with the MDRS, which requires a restricted discretionary activity status for four or more units;
- 90.2 Retirement villages are usually of a scale that should require resource consent to address potential effects (e.g. construction, amenity, transport, infrastructure), and council should have the discretion to consider the effects of retirement villages on a case-by-case basis; and
- 90.3 Retirement villages contain non-residential activities which are not appropriate as permitted activities in a residential zone.<sup>46</sup>

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<sup>46</sup> Page 17 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

- 91 Likewise, while the Reporting Officer acknowledges that “retirement villages have elements that differentiate themselves from other residential development”<sup>47</sup> they recommend rejecting the retirement village specific matters of discretion as:
- 91.1 They are not necessary as retirement villages are still a form of comprehensive residential development;
  - 91.2 They focus on the interface with the public realm and building dominance, and not the interface with adjacent development;
  - 91.3 They relate to effects rather than seeking to achieve positive outcomes; and
  - 91.4 Positive effects can instead be considered through the resource consent process, consideration of larger sites is unclear as the site coverage rules for the zone apply, and the consideration of operational and functional needs is unclear particularly as the matters relate to the interface with streets and public open space.<sup>48</sup>

**Response**

- 92 The section 42A report writer appears to consider that retirement villages are not solely a residential activity. I disagree with this inference. In my view, retirement villages are fundamentally a residential activity, as confirmed in the definition of retirement villages in the National Planning Standards 2019 which states:
- “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”.*
- 93 The services and amenities within a retirement village are “for the residents”. The RVA and Ryman evidence confirms that all aspects of the villages are associated with the overall residential use.
- 94 However, as discussed above retirement villages are not typical residential developments. It is important that the specific needs of older people that reside in these villages are recognised and provided for via a bespoke and nuanced planning regime.<sup>49</sup>
- 95 The purpose of separating the land use of a retirement village from its construction was to enable retirement villages as a residential activity

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<sup>47</sup> Page 11 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 3 (Matters of Discretion), dated 11 August 2023.

<sup>48</sup> Page 11 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 3 (Matters of Discretion), dated 11 August 2023.

<sup>49</sup> See also the statements of evidence of Professor Kerse at paragraphs 102-118, Mr Collyns at paragraphs 88-96 and Mr Brown at paragraphs 53-55.

in the same manner as residential units. Having reviewed the section 42A report, I suggest some further minor amendments to the activity list to be consistent with residential units and recommend that 'up to three retirement units on a site' are a **permitted activity** in the same manner as residential units, with four or more retirement units provided for as a **restricted discretionary activity**.

- 96 I agree with the RVA and Ryman submission that retirement villages should have specific and tailored matters for discretion to ensure the scale, design and layout of the development can be appropriately managed. The changes sought by the RVA and Ryman in this respect are focussed on providing clarity in terms of the matters for discretion which are triggered during the resource consent process to focus on the external effects of the development. The matters are proportionate for the scale of the works, whilst enabling council to assess potential effects on a case-by-case basis.
- 97 I consider these retirement village specific matters of discretion should apply to any 'four or more retirement unit development' including the construction of retirement village buildings that infringe one or more performance standard. The proposed tracked provisions I propose are set out in **Appendix A**.
- 98 Having reviewed the section 42A report writer's comments I propose some amendments to the matters of discretion in order to appropriately manage the potential effects of retirement village development on the wider environment, whilst fitting in with the existing rule regime in the Ōmokoroa and Te Puke Zone. I consider that these amendments will also address the concerns expressed by the section 42A report writer. I also note I do not agree that the existing list of matters of discretion for four or more residential units are all necessary or aligned with the intention to speed up housing intensification and reduce planning restrictions. The matters of discretion I propose for retirement villages are in my view, better aligned with the MDRS and broader NPSUD intentions, as well as being better suited for retirement villages. Overall, I consider that this approach outlined above will appropriately achieve the desired outcomes of the RVA and Ryman whilst also better fitting into the structure of PC92.
- 99 The proposed amendments to activity status and matters of discretion in the Ōmokoroa and Te Puke Zone are set out in tracked change provisions in **Appendix A**.

***Notification presumptions***

- 100 With respect to the matter of limited or public notification for the Ōmokoroa and Te Puke Zone, in my view, ultimately, if a proposed development is able to comply with the rule requirements that apply to its boundary interface, there is no resource management reason for notifying neighbours of the application. If there is a breach of the permitted activity standard, then limited notification may be appropriate, but not full public notification.

101 This approach is required by the mandatory MDRS regime and also adopted in other district plans around New Zealand (including Christchurch and Auckland). As such, I consider PC92 needs to provide clear direction regarding the non-notification and limited notification of resource consent applications for retirement villages in the manner set out in the submissions by the RVA and Ryman. The regime should not rely on Schedule 3A of the RMA as the Council Officer Report suggests, as this creates uncertainty particularly with regard to how retirement villages would be treated. I note most if not all other IPIs I have been involved in to date have included the specific notification presumptions from Schedule 3A in the Plan which I support.

102 I also note the evidence of Mr Collyns and Mr Brown regarding the significant time and effort and consenting complexities that arise from notified consent processes compared to non-notified processes. Providing appropriate non-notification presumptions will in my view substantially assist in speeding up housing intensification projects as well as providing investment certainty.

**Summary**

103 In summary, I consider that in order to simplify how PC92 deals with retirement village development, and to better align it with the directives of the NPSUD and Enabling Housing Act, it needs to;

103.1 Recognise and provide for retirement villages under the relevant residential activity rules within the Ōmokoroa and Te Puke Zone;

103.2 Provide tailored matters of discretion; and

103.3 Include presumptions for notification specifically related to these activities and aligned with the MDRS regime. I therefore support the amendments sought in the RVA and Ryman submissions.

**Built Form Standards**

***RVA and Ryman Submissions***

104 The RVA and Ryman submitted on various standards for the Ōmokoroa and Te Puke Zone. While the RVA and Ryman were generally in support of the notified requirements where they reflect the MDRS, they sought to amend those standards which are not directly relevant to retirement villages or where the standard was more restrictive than the MDRS. The RVA and Ryman also sought to include consequential provisions as a result of the inclusion of the 'retirement unit' definition and to delete standards that are not included in the MDRS.

***Section 42A Report***

105 The section 42A report writer has addressed all the RVA and Ryman submission points relating to the performance and density standards, which are summarised below.

- 106 The submission points on the height in relation to boundary and outdoor living space density standards are recommended to be accepted in part as follows:
- 106.1 While the Reporting Officer agrees outdoor living space can be provided communally, they do not agree that indoor living areas should be able to count towards outdoor living space requirements;<sup>50</sup> and
  - 106.2 Although the Reporting Officer does not support the height in relation to boundary exclusion for development adjacent to less sensitive spaces, they have proposed an additional matter of discretion to consider any unusual site characteristics (e.g. open space and reserves).<sup>51</sup>
- 107 The section 42A report writer has recommended that all other amendments to density standards be rejected for the following reasons:
- 107.1 Regarding outlook space, people living in 'residential units' within a retirement village "should be able to expect the same outlook as people living in similar units in other developments" and there are other established or consented retirement villages in the district that have been able to provide sufficient outlook space from residential units;<sup>52</sup>
  - 107.2 Regarding windows to street, the requested changes are not necessary as the term 'street' only relates to a public street, and the council do not intend on controlling internal roads within developments;<sup>53</sup>
  - 107.3 As previously discussed, the Reporting Officer does not support the consequential amendments to various density standards to provide for 'retirement units', and has expressed confusion as to why the submitters are seeking an exclusion for higher care units that were not subject to the standard in the first place; and
  - 107.4 Section 80E of the RMA allows for the inclusion of standards beyond the density standards of the MDRS, provided they a) don't relate to a permitted activity for a residential unit or

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<sup>50</sup> Page 31 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

<sup>51</sup> Pages 42-43 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

<sup>52</sup> Pages 44-45 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

<sup>53</sup> Page 46 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.

building, and b) are in support or are consequential to the MDRS.<sup>54</sup>

**Response**

- 108 As I have set out earlier, the evidence of Mr Brown and Mr Collyns highlights the unique characteristics of retirement villages and how they are different from typical residential developments, particularly regarding their unique layout and internal amenity needs. This consequently requires a slightly modified set of rule requirements for internal amenity from those of typical residential development (which I have discussed earlier in the context of the proposed new "retirement unit" definition). I therefore consider the amendments by the RVA and Ryman appropriately recognise that retirement villages have different functional and operational needs than conventional housing types, better enable the achievement of key objectives within the NPSUD and should therefore be adopted in this case.
- 109 In particular, I disagree with the section 42A report writer regarding the outdoor living space standard. Retirement villages are different to typical residential developments, and I understand that internal communal areas are often favoured by residents due to vulnerability and frailty of many of the residents. I note the amended standard proposed by the submitters only allows up to 50% of the required outdoor living space to be provided as indoor living space, and in my view, this strikes an appropriate and reasonable balance.
- 110 As explained above, I consider that it is appropriate to include the 'retirement unit' definition in order to clearly enable the distinction between 'residential units' and 'retirement units' to alleviate both potential plan interpretation issues and consenting complexities.
- 111 However, I concur with the section 42A recommendations in relation to the height in relation to boundary standard. I consider the additional matter of discretion to consider 'unusual site characteristics' will strike an appropriate balance between considering the potential overshadowing effects on adjacent potentially affected properties / activities, and enabling development in line with the intent of the NPSUD and Enabling Housing Act.
- 112 In addition, following my review of the s42A report, I also acknowledge the insertion of 'public' is not necessary in the windows to street density standard.
- 113 In terms of the additional standards that are consequential to the MDRS (i.e. other standards a-x), I acknowledge that many of these standards relate to the matters that are explicitly provided for in section 80E(2) of the RMA, such as district-wide matters, fencing, infrastructure and stormwater management. However, I consider that several standards are not fit for purpose for retirement units, including

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<sup>54</sup> Pages 48-49 - Section 42A Report, Section 14A – Ōmokoroa and Te Puke, Part 2 (Definitions, Activity Lists and Standards), dated 11 August 2023.



the residential unit yield and vehicle crossing standards.<sup>55</sup> In my view, these standards should provide an exclusion for retirement units in order to recognise the functional and operational needs of retirement villages.

- 114 These amended standards are set out in **Appendix A**.

## **SECTION 19 – COMMERCIAL ZONE**

### **Objectives and Policies**

#### ***RVA and Ryman Submissions***

- 110 The submissions sought to include three new policies within the Commercial Zone (being the 'ageing population', 'larger sites' and 'role of density standards' policies set out previously). However, upon further consideration I understand the submitters are now only seeking to include the 'ageing population' policy.
- 111 As previously discussed, the NPSUD is not limited to residential zones and councils are required to ensure district plans provide for intensification in urban non-residential zones. The above noted policy support will sufficiently enable retirement villages within the Commercial Zone.

#### ***Section 42A Report***

- 112 The section 42A report writer has recommended rejecting the submission points in relation to the Commercial Zone in Ōmokoroa and Te Puke for the following reasons:
- 112.1 The purpose of the zone is to provide for commercial activities and land should be made for available for commercial development; and
- 112.2 Retirement villages are unlikely to be established in the Commercial Zone as the zone is relatively small, and is largely developed or has a resource consent for development.<sup>56</sup>

#### ***Response***

- 113 I agree with the RVA and Ryman submissions as I consider that the proposed new policy appropriately recognise the functional and operational needs of retirement villages and better reflect the intent of Policy 3 of the NPSUD to provide for greater intensification of urban non-residential areas.
- 114 I also consider that the inclusion of the proposed policy would provide a much clearer and stronger policy framework (with greater vertical integration between Plan provisions) for retirement villages (and other forms of development) in PC92.

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<sup>55</sup> Standard 14A.4.2(a) and (e).

<sup>56</sup> Page 3 - Section 42A Report, Section 19 and 20 – Commercial and Commercial Transition, dated 11 August 2023.

- 115 Furthermore, the extent to which a site is currently developed or is subject to an existing resource consent are not relevant considerations when drafting high-level plan provisions such as objectives and policies. The NPSUD provides clear direction that urban environments may change and develop over time.<sup>57</sup> In my opinion, it is not appropriate to enshrine the current or anticipated land use (based on existing unimplemented consents) in the objectives and policies for the Commercial Zone.

**Activity Status, Notification and Matters of Discretion  
RVA and Ryman Submissions**

- 116 The RVA and Ryman submissions sought several amendments to the rules, notification clauses and matters of discretion within the Commercial Zone chapter.
- 117 The key aspects of the submission points related to:
- 117.1 Insertion of a new permitted activity rule for retirement villages in the Commercial Zone;
  - 117.2 The deletion of an exclusion for retirement villages (from locating within the Commercial Zone at Ōmokoroa Structure Plan Area 3) from Rule 19.3.1(j);
  - 117.3 An amended restricted discretionary activity rule for the construction of retirement village buildings in the Commercial Zone, with specific matters of discretion limited to managing the external effects of a village on the wider environment; and
  - 117.4 The presumption of non-notification for retirement villages that meet the relevant building controls.

**Section 42A Report**

- 118 The section 42A report author has recommended rejecting the submission points, and is of the view retirement villages should continue to be provided for as non-complying activities, as:
- 118.1 The inclusion of specific provisions for retirement villages is not appropriate, and retirement villages should not be permitted activities as land should be made available for commercial development; and
  - 118.2 Retirement villages are of a scale that resource consent should be required to address their potential effects (such as amenity, traffic and infrastructure servicing needs).<sup>58</sup>

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<sup>57</sup> Objective 4 & Policy 6 of the NPSUD.

<sup>58</sup> Pages 4-5 - Section 42A Report, Section 19 and 20 – Commercial and Commercial Transition, dated 11 August 2023.

**Response**

- 119 I disagree with the section 42A report writer that the nature and scale of retirement villages warrants a non-complying activity status in the Commercial Zone for the following reasons:
- 119.1 I agree with the submissions of the RVA and Ryman that the Enabling Housing Act is not limited to residential zones. It is my understanding that councils are also required to ensure district plans provide for intensification within urban non-residential zones. In addition, Policy 3 of the NPSUD seeks to enable residential intensification in centre zones and walkable catchments within all tier 1 urban environments. The NPSUD therefore changes the way that centre and commercial zones are to provide for residential activities, by enabling housing for all people (including the ageing population) in both residential and commercial zones to a far greater extent than previously provided for in the District Plan.
- 119.2 Given the directives of the NPSUD, it can be reasonably expected that residential activities will occupy a larger proportion of commercial zones compared to that experienced historically. However, the form and layout of retirement villages can vary substantially to fit the requirements of its location / context, including via a more compact built form, increased density and tailored amenities. In other words, the retirement villages in the Commercial Zone are unlikely to contain the typical low-rise retirement village developments often provided in conventional "residential areas". Further, the ground floor restrictions that currently apply to residential activities would also apply to retirement villages, which will assist in managing the concerns of the section 42A report.
- 120 In summary, I consider that the requirements of the Enabling Housing Act and the NPSUD provide a clear directive for councils to enable residential intensification in the Commercial Zone and therefore provide a clear consenting pathway for retirement villages in the zone.
- 121 I consider that retirement villages should be treated in a similar manner to other multi-unit development (as a subset of the four or more residential unit development), and that it is appropriate to protect the viability of the Commercial Zone and the related commercial activities.
- 122 Based on the above, and in order to better integrate with the current structure of the District Plan, I recommend that retirement villages be provided for as a **restricted discretionary activity** with retirement village specific matters of discretion. In my mind, these specific and tailored matters for discretion will ensure the scale, design and layout of the development can be appropriately managed without defaulting to a more restrictive activity status when rule requirements are not met. This will ensure that any potential external effects associated with retirement village developments can be appropriately addressed.

- 123 This revised drafting of the retirement village activity status and matters of discretion has been illustrated within the tracked changes in **Appendix A**.

## **SECTION 11 – FINANCIAL CONTRIBUTIONS**

### ***RVA and Ryman Submissions***

- 124 The RVA and Ryman sought to amend the financial contribution provisions to provide a retirement village specific regime. They sought that the lower demand profile of retirement villages, compared to standard residential developments, be factored in. They also sought to ensure the calculation methodology takes into account the cost of works undertaken as part of development.

### ***Section 42A Report***

- 125 The Reporting Officer notes that while a per hectare charge may encourage more efficient land use and help council recover its costs, this approach is not recommended for retirement villages. As such, the Reporting Officer recommends retaining the existing rules as follows:

125.1 Revert back to the existing rules for retirement villages which charge 0.5 of a household equivalent (*HHE*) for dwellings and independent apartments and allow a special assessment for other facilities.<sup>59</sup>

### ***Response***

- 126 I agree with the recommendation of the Reporting Officer that it is inappropriate to use the per hectare charge. However as Mr Akehurst<sup>60</sup> explains financial contributions based solely on levels of occupancy (0.5 HHE) do not reflect the reduced load retirement villages place on Council infrastructure. The evidence of Mr Akehurst, Mr Collyns and Mr Brown<sup>61</sup> address the demand created by retirement villages for council infrastructure and over charging based on the reduced demand on services. I consider PC92 provides an opportunity to ensure financial contributions are proportionate to the demand created by retirement villages and clear and certain. Appendix A contains suggested changes to the Financial Contributions provision to address Mr Akehurst's evidence.

## **CONCLUSION**

- 127 Western Bay of Plenty District's ageing population is increasing in demand for medium to high density housing options, noting the growth of the 75 + age bracket in the Bay of Plenty is greater than the national average. This is particularly evident in the demand being

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<sup>59</sup> Section 42A report – Section 11- Financial Contributions pages 13-15.

<sup>60</sup> See statement of evidence of Mr Collyns at paragraph 40.

<sup>61</sup> See statements of evidence of Mr Collyns at paragraph 70.4 & 88 and Mr Akehurst at paragraphs 37-40.

experienced by the RVA members for their retirement village developments.

- 128 As noted within my evidence, the submissions by the RVA and Ryman are seeking to ensure that PC92 provides a consistent and enabling regulatory framework for the establishment of retirement villages within Western Bay of Plenty District.
- 129 In my opinion, the Ōmokoroa and Te Puke Zone and Commercial Zone require amendments to appropriately enable retirement villages as a residential use in order to meet needs of the older population. I support the rule framework proposed by the RVA and Ryman to provide for retirement villages in a similar way as other residential development. This framework would provide a consistent approach throughout the country to ensure efficient, clear and appropriately focused assessments of effects and consenting of retirement villages. I provide a section 32AA assessment of the amendments in **Appendix C**.
- 130 Overall, I agree with the submissions by Ryman and the RVA that further amendments to PC92 are warranted in order to provide a planning framework that appropriately gives effect to the NPSUD, responds to the retirement housing and care shortage, and enables a consistent approach across the country.

**Nicola Williams**

25 August 2023

This section contains provisions that have immediate legal effect and provisions that cease to have legal effect. See the advisory notes below each relevant provision.

Explanatory note for the purpose of the IPI and to be removed upon completion of the process:

Proposed additional definitions are shown in green underline.

Red underline or ~~red strikethrough~~ reflect the changes recommended within the section 42A report.

Blue underline or ~~blue strikethrough~~ reflect the changes proposed by the RVA and Ryman.

## Section Contents

Definitions

### Definitions

**“Access Lot”** means a *lot* owned in common in undivided shares by the owners of two or more *lots* in a subdivision for the principal purpose of providing access from all or any of the other *allotments* in the subdivision and to an existing road or street where the interests in the access lot are recorded in the certificate of title for the *lots* having the benefit of the access lot.

**“Accessory Building”/“Buildings Accessory to”** means a *building* that is incidental or ancillary to any Permitted Activity but does not include facilities which when combined with an *Accommodation Facility* as defined hereunder would then comprise a *self contained dwelling* or stand alone household unit.

**“Accommodation Facility”** means any form of residential accommodation that is accessory to a primary *dwelling*, forms part of a primary *dwelling*, or is a stand alone facility, that does not comply with the definition of *dwelling*, *minor dwelling*, or *accessory building*. Included within this definition is; home-stays, farm-stays, bed and breakfast, boarding houses, hotels, motels, hostels and camping grounds. Excluded from this definition are *Retirement Villages* and *Rest Homes*. Occupancy is based on one person per single bed and two per double bed.

**Note:** Where the Accommodation Facility will solely be for the purpose of accommodating able bodied workers, an application may be made to *Council* to be exempt from providing disabled facilities when applying for a Building Consent, this is on a case by case basis and is dependent on approval by *Council’s* Building Department.

**“Aerial”** means the part of a radio communication facility or telecommunication facility used for transmission or reception including the aerial mountings but not any supporting *mast* or similar *structure*. Without limitation this definition excludes *antennas*, dishes and earthmats, but includes lighting rods.

**“All Terrain Park Activities”** means recreational activities and includes the following incidental or ancillary activities directly associated with recreational activities or with the operation and management of the Park:

- *Places of assembly*, including club *buildings/structures*;
- *Accommodation facilities*, including for Park workers;
- *Education facilities*;
- *Infrastructure*, including carparks, toilets, access tracks and *signs*;
- Park works depot;
- Park information/visitors *buildings/structures*;
- Observation towers;
- *Buildings* accessory to the foregoing.

**“Animal Saleyard”** means land or *buildings/structures* used for the sale of farm animals.

**“Annual Plan”** means as defined by the Local Government Act 2002 and amendments.

“**Antenna**” means any device, including any dish or panel that receives or transmits radio communication or telecommunication signals. Without limitation this includes any mounting (including any head arrangement but not the *mast*) and any shroud, but does not include either an earthmat or a *mast*.

“**Approved Building Site – Natural Hazards**” means a site that has been approved in conjunction with a resource consent application under the *RMA* and has been approved in accordance with any natural hazard requirements contained in Section 8 (Natural Hazards) and any specific technical report to the satisfaction of *Council*.

It does not include sites for which consent conditions require further investigation, sites not approved in the resource consent, and sites for which technical assessments have not been previously obtained.

**“Approved Ōmokoroa Town Centre Master Plan”** means the town centre master plan approved pursuant to resource consent RC11997L dated 10 May 2021 or otherwise approved by subsequent resource consent.

**Note:** Refer to Appendix 7 for the Ōmokoroa Town Centre Concept Master Plan.

“**Aquaculture**” means the breeding, hatching, cultivating, rearing, or on-growing of fish, aquatic life, or seaweed in confined areas within natural water bodies or on land (whether in *buildings/structures*, constructed ponds or other artificial water bodies), and includes ancillary activities.

“**Artificial Crop Protection**” means *structures* of cloth used to protect crops and/or enhance growth.

“**Base Land**” means the parcel of land that is to be subdivided into a unit title development by *unit plan*.

“**Building/Structure**” notwithstanding specific exemptions identified under the Building Act 2004, means any building/structure, or part of a building/structure, and in addition to its ordinary and usual meaning shall include the following:

- a. Any retaining wall or breastwork exceeding 1.5m in *wall height* (whether above or below *ground level*);
- b. Any fence or *wall* exceeding 2m in *height*;
- c. Any vehicle, caravan or structure whether movable or immovable used as a place of permanent residence or business or for assembly or storage purposes;
- d. Any *mast*, pole or radio or television *aerial* which exceeds 7m in *height* above the point of attachment or its base support;
- e. Any permanent tent or marquee, shade-sail or air supported canopy;
- f. Any part of a deck, or terrace, platform or bridge which is more than 1.5m above natural *ground level*; but does not include any fence or *wall*;
- g. Any pool or tank exceeding 1m in *height* above natural *ground level* as measured directly below the building/structure, (including, without limitation any retention tank, swimming pool, spa pool, swirl pool, plunge pool or hot tub);
- h. Any guttering;
- i. Pergolas;
- j. Carports;
- k. Any other building/structure requiring building consent that will infringe daylighting and/or *yard* rules in the District Plan.

Excluded from this definition are;

- Crop support *structures*
- *Artificial Crop Protection Structures* (excluding plastic-clad shadehouses/ glasshouses) █

Except that:

**“Building”** when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) or in Sections 3-12 as applicable to the Ōmokoroa and Te Puke Medium Density Residential Zones means a temporary or permanent movable or immovable physical *construction* that is: (a) partially or fully roofed; and (b) fixed or located on or in land; but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

“**Building and Construction Wholesalers and Retailers**” means the wholesaling and/or *retailing* of goods and materials used in the *construction*, repair, alteration, improvement and renovation of *buildings* and other *structures*

and may include home and building display centres and garden centres.

“**Building Coverage**” means that proportion of the net site area which may be covered by *buildings*. For this purpose ‘buildings’ includes *accessory buildings*, overhangs and those parts of eaves that are more than 1m from an outside *wall*, 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.

Except that:

**“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.

The proposed definition of building coverage has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

The existing definition of building coverage 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**“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 proposed definition of building footprint has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Cabinet**” means a casing around equipment that is necessary to operate *infrastructure and network utilities*.

“**Candela**” is the basic unit for measuring luminous intensity from a light source in a given direction.

“**Capacity Consumption**” means the consumption of the available capacity of the road at the agreed Level of Service. Where the width of the road is inadequate, then the additional theoretical width shall be included in the consumption calculation.

“**Cleanfill**” means material consisting of natural components, such as clay, soil and rock and other materials such as concrete, brick or similar demolition products (excluding asphalt), which are free of combustible and organic materials, free of voids and which are not subject to biological or chemical breakdown and shall not be capable of leaching chemicals or toxins into the environment.

“**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.

“**Commercial Sexual Service**” means sexual services that –

- a. involve physical participation by a person in sexual acts with, and for the gratification of, another person, whether those acts are a minor or major part of their business; and
- b. are provided for payment or other reward (irrespective of whether the reward is given to the person providing the



services or another person).

“**Common Property**” means all the land and fixtures, in the unit title development except the *principal unit* and accessory units.

“**Community Facilities on Māori Land**” means *buildings* and outside areas and *structures* used directly in association with *buildings* on *Māori land* used for temporary *accommodation facilities*, *educational facilities*, *places of assembly*, health related activities, any Permitted Activities in the Rural Zone, and administration facilities, and activities directly associated with each of these foregoing uses.

**"Comprehensive Mixed Use Development"** means a comprehensively planned and designed *development with a mixture of commercial and residential activities within a two storey or multi-storey purpose built building*.

“**Conservation Forestry**” means the planting and management of trees for water and soil conservation, shelter belts, and for recreational, aesthetic or scientific purposes but excludes *production forestry*.

“**Construction**” means any work in connection with the construction, erection, installation, carrying out, repair, *maintenance*, cleaning, painting, renewal, alteration, dismantling, removal or demolition of:

- any *building*, erection, edifice, *structure*, *wall*, fence or chimney, whether constructed wholly or partly above or below ground;
- any road, motorway, harbour works, railway, cableway, tramway, canal, or airfield;
- any drainage, irrigation, or river control work;
- any bridge, viaduct, dam, reservoir, *earthworks*, pipeline, aqueduct, culvert, drive, shaft, tunnel or reclamation;
- any scaffolding or falsework.

Except that:

**"Construction"** when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the *construction and conversion, and additions and alterations to an existing building*.

The proposed definition of construction has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Council**” means the Western Bay of Plenty District Council.

“**Dairy**” means a shop selling food and beverages and deriving the majority of its trade from the retail sale of milk, bread, and other day to day food requirements.

“**Depot**” means transport, tradespersons or contractors depots and includes land and *buildings/structures* which are used for the receipt, delivery, transit, and storage of goods and machinery (including mail sorting distribution centres and hire centres) and as a terminal for passenger transport services and may include the care, housing or parking of commercial vehicles in association with the operation.

**"Developable Area"** when used in ~~Section 11 (Financial Contributions)~~ and Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means all land zoned Medium Density Residential except for the following:

- Road reserves of Ōmokoroa Road, Prole Road and Francis Road (including its extension to Ōmokoroa Road);
- Identified *structure plan* link road between Prole Road and Francis Road;
- Identified *structure plan* active reserve.
- As part of a resource consent, areas identified as unsuitable for the construction of a *residential unit* by a suitably qualified and experienced:
  - ◊ geotechnical engineer or equivalent, or
  - ◊ stormwater engineer or equivalent due to the land having stormwater management as its primary function, or
  - ◊ natural hazards engineer or equivalent due to the land being subject to one or more natural hazards.

~~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.

“**Development/Land Use Development**” means any work that involves the disturbance and/or an excavation of the land surface and/or the provision of services for the purposes of compliance with Resource Consent approvals or as required to fulfill the obligations of a Permitted Activity, but excludes day to day *farming* activities such as fencing, cultivation, maintenance of farm tracks, and orchard activities such as shelterbelt and tree removal and root ripping.

It also may include the land use development process which can incorporate a multitude of activities which can be social, residential, commercial or industrial in nature and can also include building and civil *construction* activities.

“**District**” means the Western Bay of Plenty District.

“**Drain**” means an artificial watercourse used for land drainage purposes.

“**Drip Line**” means the line formed when a vertical line from the outmost extent of a tree’s branches or canopy meets the ground.

“**Dwelling**” means one *self contained* residential unit designed for or occupied exclusively by one household and includes apartments, semi-detached and detached houses, home units, town houses and similar forms of residential development. A dwelling may only contain one *Kitchen Facility* and one *Kitchenette*.

Except that:

“**Dwelling**” when used in Sections 3-12 shall instead mean the definition of “*residential unit*” for the Ōmokoroa and Te Puke Medium Density Residential Zones.

The existing definition of dwelling 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Dwelling envelope**” means the area of land (m<sup>2</sup>) occupied by the *dwelling* and the outdoor living area of the *dwelling*. The dwelling envelope shall not be smaller than the applicable minimum *lot* size and shall include at least:

- *Buildings/structures* associated with the *dwelling* (e.g. garage, driveway and garden shed).
- The minimum *yard* requirements associated with the *dwelling* and *buildings/structures* associated with the *dwelling*.
- Any area of occupation for exclusive use by the occupants of the *dwelling*.

“**Earthworks**” means the alteration of land contours on any site including, without limitation: deposition, disturbance of land by moving, removing, placing or replacing soil by excavating, cutting, filling or backfilling and recompacting of existing ground, but does not include domestic and reserve gardening, *quarrying* and normal agricultural and horticultural practices.

“**Educational Facilities**” means land and/or *buildings/structures* used to provide regular instruction or training and includes pre-schools, schools, tertiary education institutions, work skills training centres, outdoor education centres and sports training establishments and facilities for the care of children under the age of five, such as daycare facilities.

“**Effluent Aerosols**” means particles of effluent that are small enough to become airborne and carry significant distances.

“**Electrical Line**” means the wire, cable or conduction that transmits electricity and includes the poles, towers and pylons for supporting the lines and insulators and casings necessary for their functioning.

“**Equipment Shelter**” means a casing or *building/structure* located around equipment that is necessary to operate a telecommunication or radio communication network.

“**Existing Urupā**” means Māori burial places existing at 2 July 1994 and includes expansion of such places at their existing sites.

“**Extensive Pig Farming**” means the keeping of pigs outdoors at a stock density which ensures groundcover is maintained in accordance with best farming practices, including any relevant industry codes of practice, and where no fixed *buildings/structures* are used for the continuous housing of animals.

“**Farming**” means and includes agriculture, pastoral farming (including *extensive pig farming*), horticulture, and floriculture (including the growing of plants or vegetative matter in greenhouses or other *buildings/structures*), beekeeping, the keeping of not more than 25 poultry birds, and the keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary within *buildings/structures* or outdoors in enclosed *yards* where groundcover is not continuously maintained. Excluded from this definition are *intensive farming activities* and *aquaculture*.

“**Formed Road**” means legal road developed with a formed carriageway and identified on *Council’s* RAMM database. Such a road may include activities or equipment associated with the safe and efficient movement of vehicles and pedestrians and includes footpaths, pedestrian and traffic *signs*, speed cameras, landscaping, traffic signals, lights, letter boxes, roadway markings and information boards. Such a road may include ancillary activities such as travellers’ rest areas and heavy vehicle weigh stations.

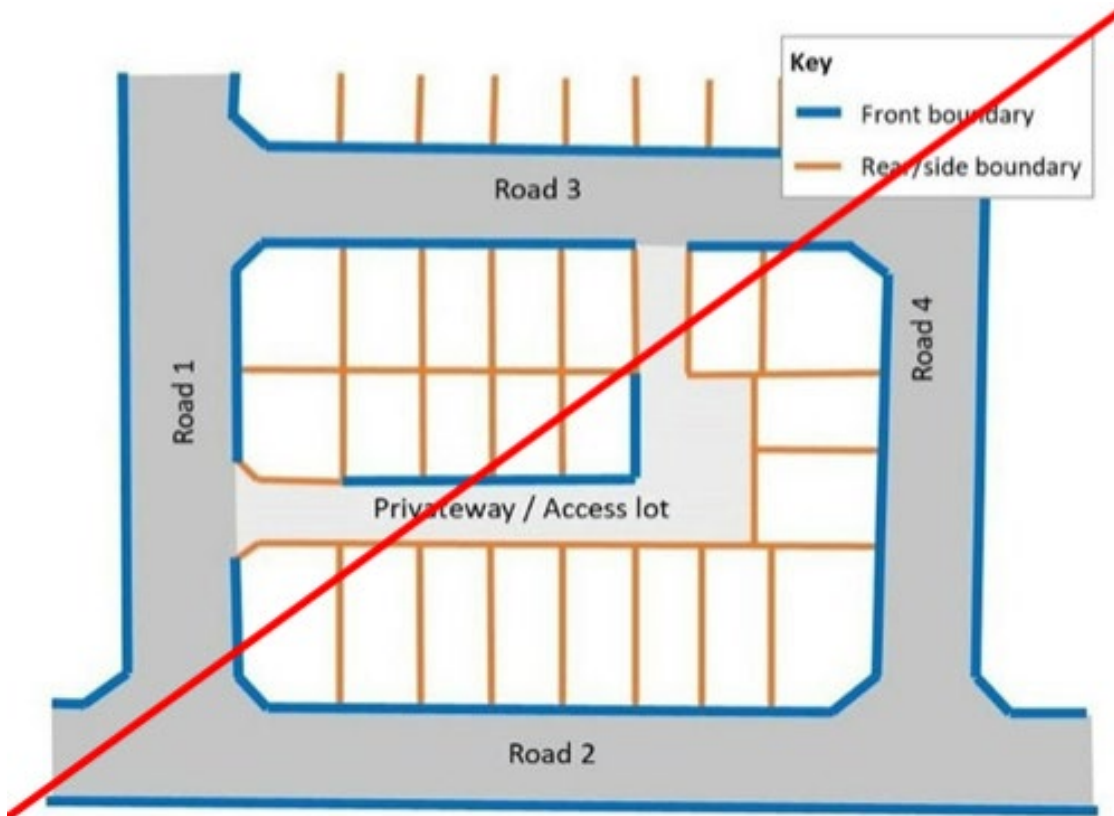
“**Fresh Surface Water**” means freshwater in a river, lake (including pond), stream, and open *drain* but excludes *wetland*.

**“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).



“**Greenlane**” means (in relation to the Minden Lifestyle Structure Plan Area) any one or more of the following features:

- Walkway;
- Walkway/Cycleway.

“**Gross Floor Area**” means the sum of the area of all floors of a *building* measured either from the exterior faces of the exterior *walls*, or from the centre line of *walls* separating two tenancies, as the circumstances may require.

#### “**Ground**”

“**Ground Level**” means the finished level of the ground at the time of the completion of the most recent subdivision in which additional *lots* were created, except that where no such subdivision has occurred, ground level shall be deemed to be the existing level of the ground. *Council* may require a survey to determine existing ground levels.

#### Except that:

“**Ground Level**” when used in the standards for *height* and *height in relation to boundary* in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means:

- the actual finished surface level of the ground after the most recent subdivision that created at least one additional *allotment* was completed (when the record of title is created);
- if the *ground level* cannot be identified under paragraph (a), the existing surface level of the ground;
- if, in any case under paragraph (a) or (b), a retaining wall or retaining *structure* is located on the boundary, the level on the exterior surface of the retaining wall or retaining *structure* where it intersects the boundary.

The proposed definition of ground level has immediate legal effect under Section 86BA (1) of the RMA. This is only

to the extent that it is used to authorise 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.

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The existing definition of ground level 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Habitable Space**” means a space used for activities normally associated with domestic living but excludes any bathroom, laundry, water-closet, pantry, walk-in wardrobe, corridor, hallway, lobby, clothes-drying room, or other space of a specialised nature occupied neither frequently nor for extended periods.

“**Hazardous Facility**” means any activity involving *hazardous substances* and their sites where *hazardous substances* are used, stored, handled or disposed of, and any installation or vehicles parked on site that contain *hazardous substances* but excludes vehicles or applicators being used to apply diluted agrichemical substances in a manner consistent with their intended use.

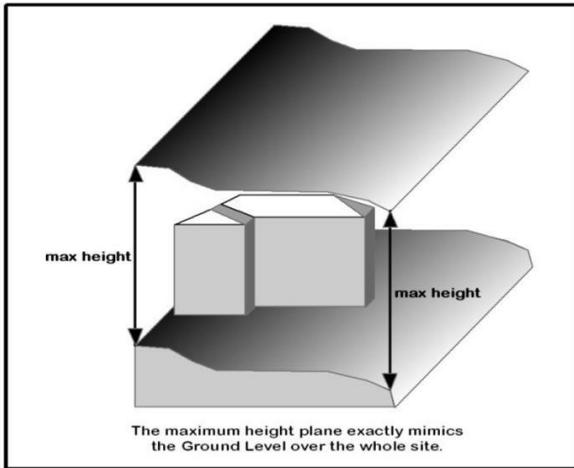
“**Hazardous Substance**” means substances with one or more of the following intrinsic properties:

- An explosive nature;
- An oxidising nature;
- A corrosive nature;
- Flammability;
- Acute and chronic toxicity;
- Ecotoxicity with or without bioaccumulation.
- Has one or more of the above properties on contact with air or water.

“**Hedge**” means a fence or boundary made up of contiguous plantings of dense bushes or shrubs.

“**Height**” in relation to *buildings/structures* means the vertical distance between the *ground level* at any point and the highest part of the *building/structure* directly above that point (or whichever part of the *building/structure* directly above that point is being measured) to be measured from the external envelope of the *building/structure*. Areas of cut or fill which have resulted or will result from work undertaken as part of the *construction* of a *building/structure* shall be excluded from the calculation of height.

In all cases for the purpose of calculating height account shall be taken of parapets, satellite and microwave dishes. Also any chimney, flue or other projection greater than 1m<sup>2</sup> in area and projecting more than 2m above maximum permitted height shall be included in the calculation of height. See the figure below.

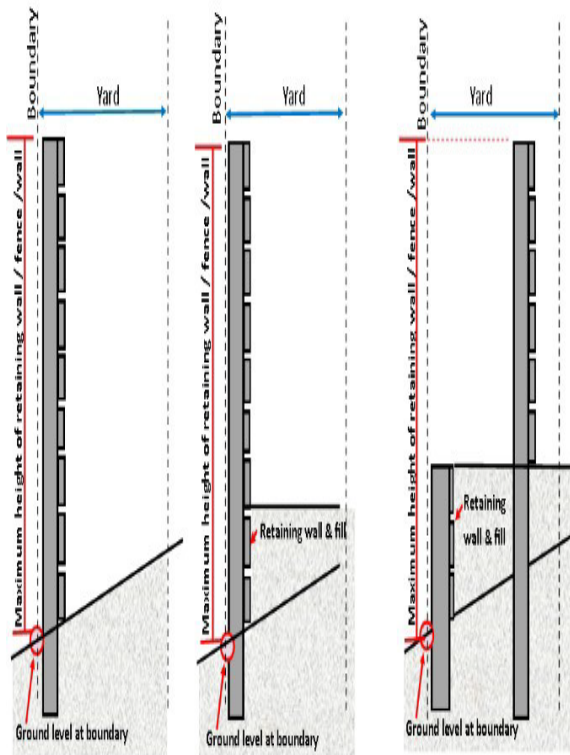


Except that:

**“Height”** when used in the standards for *building* and *structure* height and *height in relation to boundary* in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the vertical distance between a specified reference point and the highest part of any feature, *structure* or *building* above that point.

Note: The specified reference point is *ground level*.

**“Height”** when used in the standards for fences, *walls* and retaining walls in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the vertical distance between the *ground level* at the relevant boundary and the highest part of any fence, *wall* or retaining wall above that point to be measured from the external envelope of the fence, *wall* or retaining wall. Areas of cut or fill which have resulted or will result from work undertaken as part of the *construction of a building/structure* shall be excluded from the calculation of height. See the figure below.



The proposed definition of height when used in the standards for building and structure height and height in relation to boundary has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

The existing definition of height 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

"Height in Relation to Boundary" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means the *height of a structure, building or feature*, relative to its distance from either the boundary of: (a) a *site*; or (b) another specified reference point.

The proposed definition of height in relation to boundary has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

"Home Enterprise" means the use of a site for an activity which is secondary and incidental to the use of the site for residential purposes for an occupation, excluding occupations already provided as Permitted, Controlled or Discretionary Activities in the zone, which is carried out by at least one person who resides permanently on the subject site, or in the case of the Ōmokoroa and Te Puke Medium Density Residential Zones which is carried out only by people who reside permanently on the subject site.

Provided that:

"Home Enterprise" does not include *kennels/catteries*, beekeeping or *medical or scientific facilities* in the Residential Zone or Medium Density Residential Zone.

"Hotspot" means areas of high concentrations of persistent chemicals such as spills, sheep and cattle dips, spray pads or sheds, spray equipment wash down areas, bulk fuel storage, uncontrolled dumping of chemical containers, glasshouses, bio-solid sites, farm dumps, sumps, implement and fertilizer sheds and offal pits.

"Household Equivalent (HHE)" means the impact on existing *infrastructure* generated by a typical household:

From the 2006 census the average household in the *District* is 2.7 persons per occupied *dwelling*.

#### Household Equivalent

Infrastructure	Household Equivalent
Water	0.6m <sup>3</sup> per day
Waste Water	0.5m <sup>3</sup> per day
Transportation	10 vehicle movements per day

#### Notes:

Water is based on usage of 220 litres/person/day and 2.7 persons per household, 1 household equivalent equates to 0.6m<sup>3</sup>/day.

Waste water is calculated as 0.85 of the water usage equating to 0.5m<sup>3</sup>.

As well as average use of services, equivalence may be assessed on peak demands at the *Council's* discretion.

“**Identified Significant Feature**” means the whole of any area identified as being of ecological, historic heritage or landscape significance in Appendices 1, 2 or 3 of the District Plan and as shown on the Planning Maps.

“**Illuminance**” means the level (or amount) of light measured on a plane e.g. vertical or horizontal, and is expressed in *lux*.

“**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.

“**Industry**” means and includes manufacturing, processing, packaging or dismantling activities and engineering workshops (including panelbeaters and spray painters).

“**Infrastructure and Network Utilities**” include activities relating to:

- a. Distribution or transmission by pipeline of natural or manufactured gas, petroleum, or geothermal energy.
- b. Telecommunication and radio communications as defined in Section 5 of the Telecommunications Act 2001 or Section 2(1) of the Radiocommunications Act 1989.
- c. Transformation, transmission, or distribution (including reticulation) of electricity, including lines and associated support *structures*.
- d. The distribution of water for supply/reticulation including irrigation.
- e. Drainage or sewerage system or reticulation.
- f. The generation of electricity.
- g. *Construction*, operation and *maintenance* of roads and railway lines.
- h. *Construction*, operation and *maintenance* of an airport as defined by the Airport Authorities Act 1966, including the provision of any approach control service within the meaning of the Civil Aviation Act 1990.
- i. Undertaking a project or work described as a ‘network utility operation’ by regulations made under the *RMA*.
- j. Lighthouses, navigation aids and beacons, metrological services and ancillary *structures*.
- k. Structures for transport on land by cycleways, rail, roads, walkways, or any other means.
- l. Any incidental activity in relation to the infra utility including without limitation, the operation, *maintenance* and *upgrading* of the network utility.

“**Integrated Transportation Assessment (ITA)**” means a comprehensive review of all the potential transport impacts of a development proposal. Its purpose is to identify appropriate transport information necessary to better align land use and multi-modal transport and to provide information on how the proposed development will function in terms of accessibility. A key feature of an ITA is the bringing together of all affected parties at the beginning of a development project to discuss and resolve issues.

“**Intensive Farming Activities**” means agricultural production activities which have no dependency on the quality of the soils occurring naturally on the site and which are either:

- a. carried out within the confines of *buildings/structures* or pens or yards enclosed by fences or *walls*; or
- b. undertaken in a manner which precludes the continuous *maintenance* of pasture or other groundcover.

Included in this definition are:

- Mushroom farming;
- Intensive livestock farming;



- Poultry farming involving the keeping of more than 25 birds (whether outdoors or indoors);
- Piggeries;
- *Aquaculture*
- Rabbit farming;
- Mustelid farming;
- Excluded from this definition are:
- The growing of plants or other vegetative matter in greenhouses or other covered *buildings/structures*;
- Temporary uses or practices which are ancillary to a principal *farming* activity, such as the wintering of stock in *buildings/structures* and calf-rearing;
- The keeping of not more than 25 poultry birds;
- *Extensive pig farming*;
- The keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary within *buildings/structures* or outdoors without groundcover being continuously maintained.

“**Kennels/Catteries**” means land and *buildings/structures* used for the commercial accommodation and/or care of cats, dogs and other domestic pets.

“**Kitchenette**” means a space which may contain a sink and is generally used for the purpose of tea and coffee making, a drinks bar and/or the rinsing of utensils or tools etc but does not otherwise meet the definition of *kitchen facility*.

“**Kitchen Facilities**”/“**Kitchen**” means a room or area equipped for the preparation and/or cooking of food; this may include but not be limited to a sink, bench top or oven/ extractor unit”.

“**Kitchen Facility**” means any space, facility or surface for the storage, preparation and/or cooking of food, the washing of utensils and the disposal of waste water, including a food preparation bench, sink, oven, stove, hotplate or separate hob, refrigerator, dish-washer and other *kitchen* appliance. This definition includes kitchenettes and tea and coffee making facilities.

“**kV**” means one thousand volts.

“**Line**” means a wire or a conductor of any other kind (including fibre optic cable) used or intended to be used for the transmission or reception of *signs*, signals, impulses, writing, images, sounds, instruction, information or intelligence by means of electromagnetic system; and includes:

- a. Any pole, insulator, casing, fixture, tunnel, or other equipment or material used or intended to be used for supporting, enclosing, surrounding, or protecting any of those wire conductors; and
- b. Any part of a line.

“**L<sub>Amax</sub>**” means the highest noise level that is allowed to occur from a single noise event.

“**L<sub>Aeq</sub>**” means the average continuous noise level.

“**Lot**”/“**Allotment**” means a parcel of land held in a separate Certificate of Title (or two or more titles required to be held in one ownership) or multiple owned *Māori land* not necessarily held in a separate Certificate of Title and which complies with the minimum standards for a proposed new lot as set out in Section 12 but does not include a parcel of land which has been or may be disposed of separately as a *public reserve* or for other public purposes or which is to be amalgamated with existing land.

“**LTP**” means Long Term Plan as defined in the Local Government Act 2002 and amendments.

“**Luminaire**” means a complete lighting unit consisting of a lamp or lamps together with the housing designed to distribute the light, position and protect the lamps and connect the lamps to the power supply.

“**Luminance**” means the physical measure of the sensation of brightness expressed in candelas per metre squared (cd/m<sup>2</sup>).

“**Lux**” (luminous flux) means the International System of Units (SI) unit of measure for *illuminance* and is equivalent

to one lumen per square meter.

“**Māori Land**” means Maori Land as defined by Te Ture Whenua Māori/Māori Land Act 1993.

“**Mast**” means any pole, tower or similar *structure*, which is fixed to the ground and is designed to carry *aerials*, antennae or other utility network apparatus and includes a mast which forms part of a radio transmission *aerial* system but not an earthmat.

“**Maintenance**” means any work or activity necessary to continue the operation and/or functioning of an existing *network utility* and/or *infrastructure*, and shall include the *replacement* of an existing line, *building*, *structure* or other facility with another of the same or similar *height*, *size* and *scale*, within the same or similar position and for the same or similar purpose. It shall also include erosion and flood control, weed and sediment control, the maintenance of access and the monitoring of operations.

“**Maximum Average**” in relation to subdivision means the average size of all the *lots* within a subdivision plan or stage which cannot be exceeded.

In relation to more than one *dwelling* per *lot*, means the average *net land area* per *dwelling* within a single *lot* which cannot be exceeded.

“**Mean High Water Spring (MHWS)**” means the average line of spring high tide.

“**Medical or Scientific Facilities**” means professional facilities for medical or scientific activities and includes medical centres, consulting rooms, and diagnostic and other laboratories.

“**Minerals Exploration**” means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of one or more minerals; and includes any drilling, dredging, or excavations (whether surface or sub-surface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence.

“**Minerals Prospecting**” means any activity undertaken for the purpose of identifying land likely to contain exploitable mineral deposits or occurrences; and includes aerial, geological, geochemical, and geophysical surveys; except that the taking of samples is restricted to by hand or hand held methods.

“**Ministry for the Environment Contaminated Land Management Guidelines**” means guidelines produced by the Ministry for the Environment and includes the following publications:

- Contaminated Land Management Guideline No. 1 - Reporting on contaminated sites in New Zealand (October 2003);
- Contaminated Land Management Guidelines No. 2 – Hierarchy and Application in New Zealand of Environmental Guideline Values (November 2003);
- Contaminated Land Management Guidelines No. 3 – Risk screening system (February 2004);
- Contaminated Land Management Guidelines No. 4 – Classification and information management protocols (August 2006);
- Contaminated Land Management Guidelines No. 5 - Site Investigation and Analysis of Soils

“**Minor Dwelling**” means a *dwelling* of not more than 60m<sup>2</sup> *gross floor area* plus any proposed attached or detached garage or carport (for the purpose of vehicle storage, general storage and laundry facilities). The garage area shall not be used for living accommodation.

Except that:

“**Minor Dwelling**” when used in Sections 3-12 shall not be applicable to the Ōmokoroa and Te Puke Medium Density Residential Zones. See “*residential unit*” definition.

The existing definition of minor dwelling 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Minor Upgrading**” in relation to existing electricity lines means an increase in carrying capacity, efficiency or security of electricity and associated telecommunication lines, utilising the existing support *structures* or *structures* of a similar character, size and scale, and includes:

- a. The addition of circuits and conductors.
- b. The reconductoring of the *line* with higher capacity conductors.
- c. The resagging of conductors.
- d. The bonding of conductors.
- e. The addition of longer or more efficient insulators.
- f. The addition of earthwires which may contain telecommunication lines, earthpeaks and lightning rods.
- g. The addition of electrical fittings.
- h. Tower *replacement* in the same location or within the existing alignment of the transmission line.
- i. The *replacement* of existing cross arms with cross arms of an alternative design but of a similar dimensions and scale.
- j. An increase in tower *height* required to comply with the New Zealand Electrical Code of Practice 34:2001 (NZECP 34:2001).
- k. *Replacement* of overhead electrical lines with another *electrical line* of similar character and scale.
- l. Other *maintenance* and *replacement* activities.

“**National Grid Electricity Transmission Buffer**” means an area of 12m from the outer edge of the support *structures*, and 12m of the centreline of the Te Matai Transmission Line (i.e. the HAI-TMI A and OKE-TMI A) or 12m of the centreline of the Kaitemako Transmission Line (i.e. the HAI-TRK A) shown on the Planning Maps while the Transmission Lines are owned or operated by Transpower New Zealand Ltd.

“**Net Lot Area**” or “**Net Land Area**” means that part of an existing or proposed new *lot* which is available for *development* of the principal intended use and excludes any area available solely for access or any area providing access to other *lots* or to more than one *dwelling*.

The existing definition of net lot area or net land area 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**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.

The proposed definition of net site area has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Network Utilities**” refer to “*Infrastructure and Network Utilities*”.

“**Notional Boundary**” is as defined in New Zealand Standard NZS 6801:2008 Measurement of Sound and is a line 20m from any side of a *dwelling*, or the legal boundary of the property on which the *dwelling* is located, whichever point is closer to the *dwelling*.

“**Offices**” means professional administrative and commercial offices and includes real estate offices, travel agents

and banks.

“**Official Signs**” include all regulatory, traffic and official signs approved by either a road controlling authority or under any legislation and which are erected on a legal road or motorway.

“**Optimised Depreciated Replacement Cost**” means the current gross replacement cost less allowances for physical deterioration, and optimised for obsolescence and relevant surplus capacity.

“**Outdoor Living Space**” when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means an area of open space for the use of the occupants of the *residential unit* or units to which the space is allocated.

The proposed definition of outdoor living space has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Park and Ride Facility**” means an area including *buildings/structures* that is used for transfer of people from one mode of transit to another and may include parking for private vehicles, car pooling meeting places, public and private bus transfers and rail transfers. Also known as ‘Urban Transit Stations’.

“**Passenger Car Equivalent (PCE)**” means the combined number of *vehicle movements* equated to the equivalent effect of a number of passenger cars. *Vehicle movements* are converted to PCE using the following factors as the default, unless alternative evidence is provided:

Light vehicles = 1 PCE

Rigid truck and semi trailer (HCV) = 5 PCE

Truck and trailer (B train) = 10 PCE

**Note:**

The foregoing conversion factors are derived from the “Australia Mainroads Overtaking Lanes Guide”, May 2010, which is based on section 13 of Austroads “Rural Road Design – Guide to the Geometric Design of Rural Roads 2003”.

“**Persistent Chemical Residues**” means trace metals and pesticides. Of particular concern is Arsenic, Copper, Lead and DDT and its derivatives. However other trace metals such as Cadmium, Nickel, Zinc and Chromium are of interest as are Endosulphans (Total), Gamma-BHC (Lindane), Dieldrin, Hexachlorobenzene, and Metolachlor.

“**Pest Species**” means organisms such as plants and animals that are not native to New Zealand but which have become established here and are a threat to people’s health, indigenous plants and animals, heritage and the economy. See the *Regional Council* for further details on the identification of these species.

“**Places of Assembly**” means land, *buildings, structures*, or uses on the surface of water, that involve the congregation of people for such purposes as deliberation, entertainment, cultural, recreation or similar purposes and includes places of worship, marae, halls, funeral chapels, clubrooms, taverns, restaurants, art galleries, theatres, sports fields, facilities for recreation activities and tourist facilities.

“**Post Harvest Facilities**” is specific to only those facilities zoned Post Harvest and includes packhouses, coolstores, accessory office space, *seasonal worker accommodation* and servicing (such as storage and catering facilities) directly associated with the post harvest operations of horticultural crops.

“**Principal Unit/s**” means a unit or units shown as a principal unit on a *unit plan* that is designed for use as a place of residence or business.

“**Privateway**” has the same meaning as in Section 315 of the Local Government Act 1974 and amendments.

“**Production Forestry**” means the management of land for commercial wood production including the extraction of

timber therefrom and the replanting of trees but does not include the milling or processing of timber.

**“Productive Crop”** means a specific permanent horticultural crop that has for the previous three years produced the industry average or above for that particular crop.

**“Public Reserves”** means all reserves held under the Reserves Act 1977, Wildlife Act 1953, Conservation Act 1981 and National Parks Act 1980 and includes all reserves, wildlife refuges, wildlife management reserves and wildlife sanctuaries, marginal strips, stewardship areas, conservation areas, ecological areas, sanctuary areas and national parks.

**“Public Trail”** means a path either on or off road for the purpose of public recreational or commuter cycle or pedestrian transport or can be a bridle trail or similar. Public trail includes activities associated with creating the path, which includes pathways, bridging, boardwalks, walkways and steps, and includes related *signage* and *maintenance* activities, but excludes public trail support *infrastructure* such as public toilets and carparks.

**“Quarry Effects Management Area (QEMA)”** means an area of land surrounding the Cameron Quarry site at Otamarakau to manage *reverse sensitivity* effects relating to noise and other effects from the quarry operation.

**“Quarrying”** may include the excavation of overburden, rock, sand and clay; blasting processing (crushing, screening, washing, and blending); the storage, importation, distribution and sale of minerals including aggregate; ancillary *earthworks*; deposition of overburden; treatment of wastewater; landscaping and rehabilitation works including clean filling; and ancillary *buildings* and *structures*.

**“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).~~

**“Reflectivity”** means the reflectance value of a material or colour and is determined by the amount of light they will reflect and is indicative of their likely visibility in the landscape. For example, white has a reflectance value of 100% whereas black has a reflectance value of 0%.

**“Regenerating Forest”** means secondary forest that has developed following earlier clearance of primary forest (see definition of *Tall Forest*), and is dominated by species such as kānuka, kamahi (*Weinmannia racemosa*), rewarewa, treeferns (*Cyathea* and *Dicksonia* species) or mixtures of these and other species.

**“Regional Council”** means the Bay of Plenty Regional Council.

**“Replacement”** means improvement, repair and/or replacement of worn or technically deficient aspects provided the replacement is to a similar character, size and scale.

**“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.

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The proposed definition of residential activity has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**"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 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*".~~

The proposed definition of residential unit has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**“Restaurants and other eating places”** means any land and/or *buildings/structures* on or in which food and/or beverages are sold to the public generally for consumption on the premises, and may include premises licensed under the Sale of Liquor Act 1999. Part of the trade of the premises may be derived from the sale of food for consumption off the premises.

**“Rest Home”** means a facility that provides residential based health care with on-site (usually 24 hour) support to residents requiring nursing care or significant support with the activities of daily living. This may include a rest home or *retirement village* based hospital specialising in geriatric care.

**“Retailing”** means any activity on land and/or within a *building/structure* or part of a *building/structure* whereby goods and services are sold, exposed or offered for sale to the public, but does not include the sale of fuel for motor vehicles, vehicle, machinery and automotive parts sales, restaurants, warehouses, *building and construction wholesalers and retailers*, the sale of goods provided for within Rule 18.4.1 p. ii. in respect to *Rural Contractors Depots* or the storage, distribution or assembly of goods.

**“Reticulated Infrastructure”** means a communal or community inter-connected piped, collection, distribution, and treatment system for water supply, stormwater and wastewater systems, including any associated pumping station, treatment works and other ancillary equipment or facilities.

**“Reticulated Infrastructure of Adequate Capacity”** means an inter-connected piped, collection, distribution, and treatment system for water supply, wastewater and stormwater, and in addition for wastewater and stormwater, a disposal system where the pipes and other components of the system are of sufficient size and capacity to meet the peak demands of a proposed subdivision, *development* or land use activity, and in general accordance with the *Council’s* Development Code.

**“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.~~ 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.

The existing definition of retirement village 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

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

The existing definition of retirement village dwelling 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**“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.

The existing definition of retirement village independent apartment ceases to have legal effect under Section 86BA

**“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.

(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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**“Reverse Sensitivity”** means the vulnerability of an existing lawfully established activity to other activities in the vicinity which are sensitive to adverse environmental effects that may be generated by such existing activity, thereby creating the potential for the operation of such existing activity to be constrained.

**“Riparian Area or Riparian Margin”** means a strip of land of varying width adjacent to the bed of a stream, river, lake or wetland, which contributes or may contribute to the maintenance and enhancement of the natural functioning, quality and character of the stream, river, lake or wetland; and the natural character of the margins of streams, rivers, lakes and wetlands. For the purposes of the District Plan, the definition does not include land adjacent to artificial watercourses, artificial waterbodies, and ephemeral flowpaths.

**“RMA”** means the Resource Management Act 1991 and Amendments.

**“Road Capacity”** means the volume of traffic using the width of roadway defined in tables contained in Rule 12.4.4.2. This does not mean the absolute maximum volume, but is the Level of Service for that width of roadway and as agreed with the community.

**“Road Hierarchy”** means the hierarchy of roads making up the transport network which comprise the following:

Type of Road		Primary Function/Generalised Description	Definition
1	Motorway	To provide for the movement of regional or inter-regional traffic. Access limited to intersecting roads.	All roads declared to be motorways.
2	Expressway		All roads managed as expressways.
3	Primary Arterial	Main roads other than motorways and expressways joining significant centres of population and/or providing for national and inter-regional traffic flow.	Means those roads that form part of a network of nationally or regionally important arterial roads. Nationally important routes are managed as State Highways, whereas other primary arterial roads may be managed by territorial authorities. These routes predominantly carry through traffic, and carry the major traffic movements in and out of the District. The primary function of the road is traffic movement with access limited.
4	Secondary Arterial	Roads joining smaller centres of population, joining larger centres of population to nearby primary arterials or linking between primary arterials.	Means those roads that cater for traffic movement between the major areas of the District. The primary function of the road is traffic movement. Access may be limited to ensure the safe and efficient operation of the roading network.
5	Collector	Roads providing direct access for residential and other areas of development in urban areas, with more than one intersection to other local or collector roads.	Means those roads that are principally collecting and distributing traffic to and from the arterial road network, but may act as links between two arterial roads (being Primary Arterial Roads and/or Secondary Arterial Roads). These roads also act as local main roads supplementing Secondary Arterial Roads.



6	Local	Local through-traffic generally makes up a high proportion of traffic flow but these roads are not intended to cater for large numbers of national, regional or <i>District</i> through-traffic movements because of likely effects on the adjoining road environment and amenities, and the limited physical capabilities of such roads relative to Primary Arterial Roads and Secondary Arterial Roads. Cul-de-sacs are local roads with intersections to other local roads at one end only. Access may be controlled to ensure the safe and efficient function of the roading network.	Means those roads that are intended to principally provide direct access to adjoining properties. Many local roads, except cul-de-sacs, also collect and distribute traffic to and from other roads within the <i>District</i> . Traffic flows are usually low, and these roads are intended to cater for only minimal through or extraneous traffic because of effects on the adjoining road environment and amenities, and the limited physical capabilities of such roads.
7	Service Lanes	Land vested as Road for the purpose of providing access, generally, but not limited to, to commercial and industrial activities. The service lane provides an access function only and does not provide for frontage in the case of subdivision.	Means any lane laid out or constructed for the purpose of providing the public with a side or rear access for vehicular traffic to any land. This can also apply to residential areas, for example with rear laneways.

**“Road Reserve”** means:

- a. A formed legal road and the land, if there is any, right next to it up to the legal boundary of the adjacent land.
- b. Land which is a State Highway or motorway as defined in Section 2(1) of the Government Roding Powers Act 1989, and the land, if any, right next to it up to the legal boundary of the adjacent land.

**“Rural Contractors Depot”** means land and/or *buildings/structures* used for the purpose of storing equipment and goods associated with a rural contracting business which wholly serves the *farming* industry.

**“Rural Selling Place”** means a retail activity in a rural location for plants and garden accessories, arts and crafts and unprocessed agricultural produce that are produced locally within the *District*.

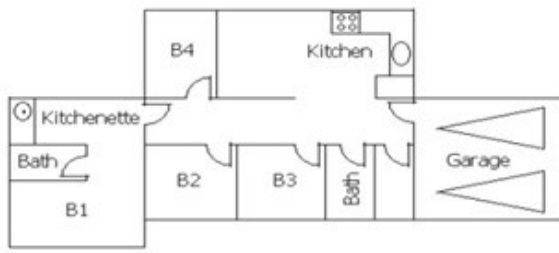
**“Seasonal Worker Accommodation”** is specific to *post harvest facilities* and means accommodation directly associated with the seasonal labour requirements of the horticultural industry and includes detached *buildings* (lodges, *dwellings*, relocatable modular *structures*, caravans, mobile homes and house buses) and space within or attached to a post harvest *building* or combination thereof.

**“Secondary Shrub Land”** means woody vegetation in which the cover of shrubs and low-growing trees in the canopy is >80% and in which shrub cover exceeds that of trees (cf forest). Shrubs are woody plants <10cm dbh. Trees are woody plants >10 cm dbh. Secondary shrubland is dominated by indigenous species such as kānuka, mānuka (*Leptospermum scoparium*), karamu (*Coprosma robusta*), and treeferns.

**“SEL”** means the Sound Exposure Level, the A-weighted sound pressure level which, if maintained constant for a period of one second, would convey the same sound energy to the receiver as is actually received from a given noise event (refer to NZS 6802:2008 Acoustics – Environmental Noise).

**“Self Contained”** is where a *building/dwelling* contains a *kitchen* and/or *kitchenette*, a bathroom and a living area and/or bedroom and is separated from any other self contained area by being in another *building*, or where within the same *building*, by a door, a *wall* or a garage.

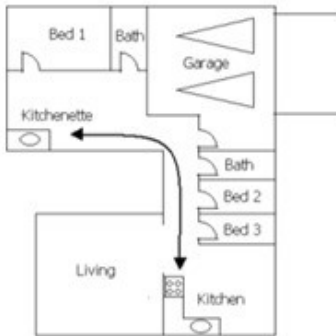
**For example:**



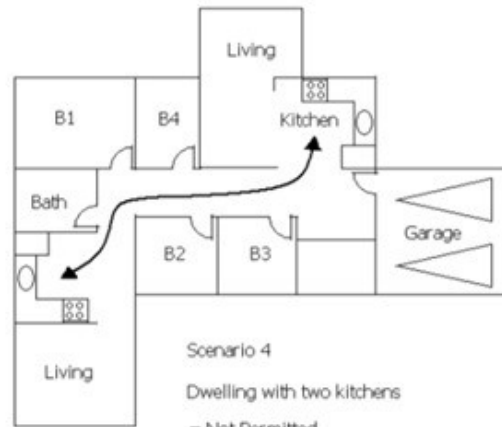
Scenario 3  
Dwelling with a KITCHEN and KITCHENETTE but a door between the main dwelling and kitchenette area  
= NOT permitted



Scenario 1  
Dwelling with a KITCHEN and a KITCHENETTE but access is through the garage  
= NOT Permitted



Scenario 2  
Dwelling with a KITCHEN and KITCHENETTE with clear access through the dwelling  
= Permitted



Scenario 4  
Dwelling with two kitchens  
= Not Permitted

“**Sensitive Site**” means a site that is either a school, licensed early childhood centre, a place of worship, marae or public playground.

“**Service Station**” means any site used for the retail sale of fuel and lubricating oils for motor vehicles and includes the sale of kerosene, diesel fuel, petrol, CNG, LPG, tyres, batteries and other accessories normally associated with motor vehicles and the sale of convenience goods and shall include premises solely or principally for the repair and servicing of vehicles provided that the repairs undertaken on the premises shall be confined to the repair of motors, motor vehicles and domestic garden equipment and shall exclude panelbeating, spray painting and heavy engineering such as engine reboring and crankshaft grinding.

“**Sewered Lot**” means a lot served by a reticulated wastewater system owned and operated by or specifically approved by Council.

“**Shelter Belt**” means a line of vegetation in one or more rows established to provide shelter from wind.

“**Showhome**” when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means a building that is constructed to be used as a residential unit but which is not occupied by a household and is used to display and advertise that type of residential unit and may include relocatable signs.

“**Sign/Signage**” means any name, figure, character, outline, display, notice, placard, delineation, poster, handbill, advertising device or appliance or any other things of similar nature to attract attention for advertising or information purposes, and shall include all parts, portions, units and materials composing the same, together with the frame,

background, *structure* and support or anchorage thereof, and shall also include any of the foregoing things when displayed on a stationary vehicle but shall exclude all traffic signs as detailed in the Fourth Schedule of the Traffic Regulations 1976.

For the purpose of the provisions within Section 4D, the definition of Sign is further divided into the three following types.

Low Intensity Signs	Signs which are painted or similar and have no illumination and low reflectivity.
Medium Intensity Signs	Signs which incorporate a static illuminated sign, device or symbol.
High Intensity Signs	Active signs which incorporate illumination which has a flashing or moving component.

“**Soils Engineer**” means a geotechnical engineer or engineering geologist who has particular training, qualification and relevant local experience with the soil conditions of the *District* and who has been subjected to an interview by an independent expert geotechnical panel to ensure they have the necessary training and qualifications, competency, professionalism and experience to undertake geotechnical assessments.

Note: *Council* holds a current list of persons who meet this definition.

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

- an area of land comprised in a single record of title under the Land Transfer Act 2017; or
- 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
- 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
- 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.

The proposed definition of site has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

“**Spill Light**” means artificial light that falls outside of the area intended to be lighted.

“**Stall**” means a retail outlet for the sale of produce or goods grown or manufactured on site and which:

- does not have frontage to or access within 30m of a State Highway;
- occurs on a *gross floor area* not exceeding 20m<sup>2</sup>;
- provides for any parking of motor vehicles off the *formed road* and adjacent to the stall; and
- complies with the provisions of Section 4D relating to *signs*.

“**Strategic Road Network**” means that part of the *transport network* comprising secondary arterial roads, primary arterial roads, expressways and motorways.

“**Structure**” – refer to “Building/Structure”.

“**Structure Plan**” means a plan for an area that identifies new areas for growth and which may also include an existing developed or zoned area. Such a plan shows proposals for *infrastructure* (roading, water supply, wastewater disposal, stormwater and recreation) that may be used as the basis for assessing the costs of *development* and any associated financial contributions.

“**Substation**” means those parts of works or electrical installations, being a *building*, *structure*, or enclosure, incorporating fittings that are used for the purposes of the control of the transformation, transmission, or distribution of electricity.

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**“Sustainable Transport Network” or “Sustainable Land Transportation Network”** means one which recognises that the capacity of the *transport network* is a limited resource and that methods and techniques are required to be implemented in an integrated manner to ensure that the resource is able to meet the reasonably foreseeable needs of future generations.

**“Takeaway Food Outlets”** means premises where food is prepared and retailed for consumption off the premises.

**“Tall Forest”** means relatively large trees dominated by species such as tawa (*Beilschmiedia tawa*) and may have other tall canopy trees such as hīnau (*Elaeocarpus dentatus*) and emergent rewarewa (*Knightia excelsa*) and podocarps such as rimu (*Dacrydium cupressinum*). Forest is woody vegetation in which the cover of trees and shrubs in the canopy is >80% and in which tree cover exceeds that of shrubs. Trees are woody plants >10 cm dbh. Shrubs are woody plants < 10cm dbh.

**“Temporary Military Training”** means an activity undertaken for defence purposes in accordance with the Defence Act 1990.

**“Transport Network” or “Transportation Network”** means the land, air and sea networks that enable the public to travel to and from their residence, or for the movement of goods and people as they need to fulfill their daily private and business needs.

**“Travel Management Plan”** means a plan for the provision of the movement of people and goods to and from a proposed *development* or land use activity.

**“Unit Plan”** means a plan that is intended to be deposited under the Land Transfer Act 1952 in accordance with the Unit Titles Act 1972 (or replacement legislation).

**“Upgrading/Development”** means structural improvement, repair and *replacement* of work or technically deficient parts of the power house, hydro dams, separation plants, switchyards, intake, control and diversion *structures*, wells, pipes, tunnels, cables, other equipment and *accessory buildings* and *structures* of similar character and scale, and includes associated drilling, *earthworks* and vegetation removal. Also includes the extension to existing *buildings* and *structures*, and the erection of new *buildings* and *structures* up to 100m<sup>2</sup> in *gross floor area* and not exceeding the maximum *height* permitted activity standards for the zone in which they are located.

**“Urban Growth Areas”** means Waihi Beach (including Athenree, Bowentown and Island View), Katikati, Ōmokoroa and Te Puke.

**“Vehicle and Machinery Sales”** means any land and/or *buildings/structures* in which motor vehicles, caravans, boats, trailers, and farm machinery are offered for sale, lease or hire or in which the abovementioned are stored awaiting sale.

**“Vehicle Movement (VM)”** means one trip either to or from a property. For example, one passenger car visiting and then leaving the property is deemed to have generated two vehicle movements. Vehicle movements can also be expressed as ‘vehicle movements per day’ (VMPD).

**“Versatile Land”** is land categorized under the New Zealand Land Use Capability Classification System as being Classes I, II and III.

**“Viewshaft”** means a view from a Strategic Road or identified public lookout to a landscape of outstanding visual quality and of significance to the *District*.

**“Visually Permeable”** means a *structure* which will not obscure vision or light penetration beyond the percentage identified. For example visual permeability of 70% means that the *structure* has gaps that are transparent and the gaps cover at least 70% of the vertical surface of the *structure*.

**“Wall”** means vertical *structures* made of wood, steel, brick or stone or like material which are used to enclose or screen an area.

**“Warehousing and Storage”** means land and/or *buildings/structures* used for the receipt, storage, handling and distribution of materials, articles or goods destined for a retail outlet, trader or manufacturer. Includes the direct collection of materials, articles or goods by traders but does not include a retail premise, transport depot or bulk store.

**“Western Bay of Plenty Sub-Region” or “Sub-Region”** means the area comprising Western Bay of Plenty District and Tauranga City.

**“Wetlands”** includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

For the avoidance of doubt, the term ‘wetland’ applies to both water bodies and intermittently wet areas. The term does not apply to dry land that does not support a natural ecosystem of plants and animals that are adapted to wet conditions, and that occurs within an area commonly referred to in its entirety as a wetland.

For the purposes of this District Plan, ‘wetland’ excludes:

- a. Wetted pasture and pasture with patches of rushes.
- b. Oxidation ponds.
- c. Artificial waterbodies used for wastewater or stormwater treatment. This includes wetlands that have been developed primarily for effluent or stormwater treatment or disposal, but are managed to appear ‘natural’.
- d. Artificial farm dams and detention dams.
- e. Land drainage canals and drains.
- f. Artificial reservoirs for firefighting, domestic or municipal water supply.
- g. Temporary ponded rainfall over areas that would not otherwise be considered a wetland.
- h. Artificial waterbodies that are not in the bed of a stream, river or lake; and are not degraded natural wetlands that have been modified. This includes artificial waterbodies that are managed to appear ‘natural’.
- i. Artificial watercourses associated with hydroelectric power schemes.

The edge of a wetland (i.e. where a wetland becomes land) should be determined by a person with appropriate expertise.

## **“Yard”**

### **All Yards**

- a. Yards are to relate to the one *site* only and shall be measured from the title boundaries or the inner surveyed edge of the easement over a shared driveway.
- b. Where land for a *service lane* or road widening is provided, the *yard* requirements shall diminish accordingly.
- c. Notwithstanding the provisions in the above rules, the following activities are permitted in yards:
  - i. Open fire escapes in side or rear yards;
  - ii. Parking of vehicles;
  - iii. Barbecues and fencing not being *buildings/structures*;
  - iv. Playground equipment unless it meets the definition of a *building/structure*;
  - v. *Signs*.

For the purpose of this definition the *yard* shall be measured horizontally from the closest point of the *building/structure* to the boundary.

**Front Yard** means an area of land between the road boundary (including the boundary of any *Structure Plan* road or designated road or paper road) and a line parallel thereto, extending across the full width of the *lot*.

Except that:

where **Where** any building line is shown on the Planning Maps this line shall be substituted for the existing road boundary.

Except that:

**Front Yard** when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means an area of land between the *front boundary* and a line parallel thereto, extending across the full width of the *lot*.

**Rear Yard** means an area of land in any *lot* other than a corner *lot*, such area of land being bounded by the rear boundary of the *lot* and a line extending across the full width of the *lot*.

Except that:

a rear yard in respect of any rear *lot* means a yard which, except for any portion of the *lot* comprised in a front yard, lies between the full length of all boundaries of the *lot* and a line parallel thereto.

**Side Yard** means an area of land which, except for any portion of the *lot* comprised in a front or rear yard, lies between the full length of a side boundary and a line parallel thereto.

Except that:

in respect of a corner *lot* every boundary not being a road frontage shall be deemed a side boundary.

This section contains provisions that have immediate legal effect. See the advisory notes below each relevant provision.

## Section Contents

### Financial Contributions

- 11 Financial Contributions Explanatory Statement
  - 11.1 Significant Issues
  - 11.2 Objectives and Policies
  - 11.3 Application of Financial Contributions
  - 11.4 The calculation of Financial Contributions as included in Council's Fees and Charges
  - 11.5 Calculation of Financial Contributions for ~~dwellings~~ Subdivision, Additional Dwellings, Additional Residential Units, Minor Dwellings and minor dwellings Retirement Villages
  - 11.6 Subdivision and land use consent in the Commercial, Commercial Transition and Industrial Zones
  - 11.7 Financial Contributions and Infrastructure works for Discretionary and Non-complying Land Use Activities
  - 11.8 Additional financial contributions that apply to specific Structure Plan Areas

## Financial Contributions

### 10. Financial Contributions Explanatory Statement

Growth in the *District* needs to be supported by *infrastructure* provided at appropriate levels of service. If growth is not managed in an integrated manner, including the provision of *infrastructure*, the levels of service may fall short of the needs of growth or *Council* funds may need to be spent in an unplanned, ad hoc and inefficient manner.

Integration of the *Council's* funding strategy with growth management is critical to make certain that funds are spent in the most effective manner possible. Part of the funding strategy is to also ensure that those who require the expenditure pay accordingly. Financial contributions from *development* are seen as a key part of that strategy to make sure that new *development* is not subsidised by existing ratepayers.

While it is acknowledged that *development* in the *District* has positive effects, it also has the potential to adversely affect the environment (including people and communities) in a number of ways. Some of these effects cannot be adequately avoided or mitigated on a site by site basis. Rather, they need to be addressed through the provision of new or improved *infrastructure*. In some parts of the *District*, the community has already provided *infrastructure* ahead of *development*, and measures to avoid or mitigate future effects are thus already in place.

The types of adverse effects on the environment associated with new *development* that are best addressed through integrated provision of *infrastructure* include:

1. Wastewater – effects on the environment including property, people and their health, amenity, social and cultural values through pollution of soil, ground and surface water, and the coastal area including beaches and seafood; and through odour.
2. Stormwater – effects on property, human life and health, and amenity and cultural values through flooding, siltation, erosion, and pollution of waterways and coastal water.

3. Water Supply – effects on health, fire safety, amenity, economic and cultural wellbeing through adequacy and quality of supply.
4. Transportation - effects on access, mobility and safety, and social, cultural and economic wellbeing through inadequate standards for the level of use.
5. Recreation – effects on wellbeing of people and communities and cultural and amenity values through inadequate or inappropriate provision of open space and facilities.

New *development* may also have adverse effects on indigenous vegetation and habitats of indigenous fauna through inadequate protection of and provision for biodiversity.

*Infrastructure* financial contributions are calculated in accordance with approved development programmes. For some these will be established through *structure plans* which include schedules of works that list work to be undertaken, timing, and funding (particularly developer versus *Council*). These schedules are contained in Appendix 7. For areas not covered by *structure plans*, there are schedules of works for the respective *infrastructure* and these are contained in the respective Asset Management Plans and *Annual Plan* and/or *LTP* including development projects on the State Highways. The relevant details from the schedules are the inputs to the formulae contained in the District Plan to calculate the financial contributions.

The financial contributions for ecological protection are figures which can only be reviewed through a change to the District Plan.

Other financial contributions are calculated in accordance with formulae set out in the District Plan. The schedules of works, and hence the actual amounts payable, are able to be updated each year through the *LTP* and/or *Annual Plan* process under the Local Government Act. This is to reflect up-to-date costs, including actual expenditure, and any necessary changes in timing due to actual changes in the timing or patterns of growth. Financial contributions can also be reviewed through a plan change under the *RMA*.

A financial contribution can be imposed as a condition of a resource consent or through the building consent process in the case of one or two additional residential units in the Ōmokoroa and Te Puke Medium Density Residential Zones. The rules specify the level of financial contribution based on a residential or rural *lot* or *dwelling*. For other activities requiring consents, the *Council* may require that a financial contribution be paid as a specific condition of consent. The basis for determining the appropriate level of contribution will generally be the '*household equivalent*'. *Household equivalent* is a derived figure for the purposes of calculating financial contributions. It is based on a 'typical' *dwelling* and what impact it will have on *infrastructure* requirements such as water use and *vehicle movements* per day. For Commercial and Industrial Zones it is based on a typical *lot* size.

Financial contributions imposed as a condition of consent at the time that a resource consent for a subdivision, *development* or new activity is granted are paid directly to the *Council* as the relevant condition of consent provides. Financial contributions imposed through the building consent process for one or two additional residential units in the Ōmokoroa and Te Puke Medium Density Residential Zones are paid directly to Council before uplifting building consent. The potential for a time-lag between the imposition of a financial contribution condition and the payment of the contribution (up to eight years for a subdivision) can mean a significant reduction of the actual amount of the contribution because of the effect of inflation and cost escalations on the value of land and the schedules of works, unless the amount is able to be adjusted to reflect actual values and costs at the time of payment.

It is the time of giving effect to the resource consent that is relevant to *Council* as this is the time when the consented activity has an impact on the *infrastructure*. To ensure that the financial contributions collected reflect the actual costs of *infrastructure* provision, contributions which are not paid in full within two years from the commencement of the consent will be adjusted in accordance with current values and the updated schedules of works. This is to reflect the actual

inputs to the formulae for financial contributions applicable at the time of payment, and will be those as stipulated in the *Annual Plan* current at the time of payment.

*Council* is aware that financial contributions may cumulatively impact on the community because the levy(s) may be so high as to act as a disincentive to growth. Whilst *Council's* funding policy is based on cost recovery, there needs to be flexibility to cater for situations where the pursuit of such policy is clearly not in the wider community interest and where application of the funding policy is shown not to be fair or reasonable in particular circumstances.

To provide flexibility in dealing with such situations, as part of its *Annual Plan* process the *Council* may resolve to reduce or waive any particular financial contribution that would normally be charged during that year. Similarly *Council* may use the plan change process under the *RMA*. Challenges to the application of the formulae (such as the applicability of the *household equivalent*, *passenger car equivalent* or *capacity consumption* calculation to a particular application) will be addressed through the resource *relevant* consent process. Challenges of a philosophical nature need to be directed to *Council* as a matter of policy (such as an affordable housing development). Applicants have the ability under the former to lodge an objection under the *RMA*, and on the latter to approach the appropriate policy committee of *Council*.

~~Policy UG 4A of the Bay of Plenty Regional Policy Statement states that greenfield development in urban growth areas shall achieve an average net yield of 12 dwellings or more per hectare from 1 July 2012, rising progressively to 15 dwellings or more per hectare by 1 July 2037. Within the District, Waihi Beach (including Athenree, Bowentown and Island View), Katikati, Ōmokoroa, and Te Puke are defined as *urban growth areas*. The *infrastructure* to accommodate the required yield is funded through financial contributions. The method of assessing developable land to calculate net yield is defined in the Regional Policy Statement.~~

## 10.1 Significant Issues

1. Subdivision and the associated intensification of *development* and land use activity have the potential to adversely affect the environment. This can be particularly significant when cumulative adverse effects are created over time.
2. Growth in the form of new *development* and new activities creates the need for the provision of new or upgraded *infrastructure*.
3. The potential exists for the costs of providing new or upgraded *infrastructure* to be allocated in a manner disproportionate to the benefits received by the existing community and new end users.
4. Full cost recovery of *infrastructure* may act as a disincentive to growth in a manner detrimental to existing communities.
5. There may be pressure for *development* to occur ahead of the *Council's* ability to provide *infrastructure*.
6. Delays in the payment of financial contributions set through the resource consent process can impact on the funding of *infrastructure*.
7. ~~*Council* may not achieve the required average net yield of 12 dwellings per hectare.~~
87. *Council* may not recover *infrastructure* costs in *urban growth areas* if ~~an average the~~ planned net yield of 12 dwellings per hectare is not achieved.



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## 10.2 Objectives and Policies

### 11.2.1 Objectives

1. Protection of the natural and physical environment and the social, economic and cultural wellbeing of people and communities from the potential adverse effects of new or intensified *development*.
2. The provision of adequate funding for and efficient utilisation of the *District's infrastructure*.
3. A financial contributions strategy which ensures that financial contributions are charged on the basis of covering the community's costs of providing *infrastructure*.
4. A financial contributions strategy which is responsive to the social, environmental and economic needs of the community.
5. Timing of *development* commensurate with the ability to make appropriate provision for *infrastructure*.

### 11.2.2 Policies

1. Actual or potential adverse effects on the natural and physical environment which would otherwise be created by new or intensified *development* should be avoided, remedied or mitigated through the use of financial contributions and other appropriate measures.
2. The effects of new and intensified *development* on *infrastructure* in the *District* should be mitigated through expenditure of financial contributions.
3. The costs of *infrastructure* should be allocated in an equitable manner over both existing and new users so as to ensure that such costs are not borne unfairly by the wider community.
4. Calculations to assess *infrastructure* requirements should be based on the level of service needed to meet peak demand.
5. Calculations shall not seek to do more than recoup costs actually incurred in respect of expenditure to provide *infrastructure* to deal with the effects of growth including, where appropriate, the costs of financing such *infrastructure* over time.
6. Where appropriate, contributions should be levied differentially to reflect the particular circumstances applying to different parts of the *District*.
7. Provision should be made for the updating of inputs to the calculation of financial contributions through the consent and *Annual Plan* and/or *LTP* process to reflect actual and up-to-date estimated costs of the provision of *infrastructure*.
8. The actual or potential effects of applying financial contributions should be regularly reviewed and where an identified wider community detriment or a detriment to a particular sector of the community would be created, the particular financial contribution that would otherwise be payable should be reduced or waived (as appropriate).

9. Where appropriate, financial contributions that would otherwise be payable should be reduced or waived in recognition of specific environmental protection or enhancement measures proposed to be undertaken.
10. Where appropriate, consideration will be given to the reduction or waiver of financial contributions for recreation and leisure that would otherwise be payable in recognition of a historic oversupply of recreation and leisure land.
11. Provide a mechanism whereby a financial contribution can be taken to address or offset localised effects outside any approved development programme, or in lieu of works that would otherwise be undertaken by a consent-holder.
12. The full costs of required *infrastructure* and services should be paid when subdivision and *development* requires such provision outside an approved development programme.
13. Developers who fund *infrastructure* ahead of time in an approved development programme should be refunded only at the time that development funds become available.

### 10.3 Application of Financial Contributions

- a. Financial contributions shall not apply in the following circumstances:
  - i. where the need for the activity to obtain a resource consent arises solely from the provisions of Sections 5, 6 and 7 of the District Plan.
  - ii. where the subdivision or *development* of an *infrastructure* or *network utility* site will not create any effects on *Council's infrastructure* networks and do not require connection to *Council's* wastewater, stormwater or water supply;
  - iii. where there is no ability to connect (in accordance with *Council's* Development Code 2009) to a specific *infrastructure* (excluding roading) and the provision for such *infrastructure* is not included in any relevant *structure plan* or *LTP*.
  - iv. where financial contributions have already been paid:
    - in the Residential Zones of Waihi Beach (including Bowentown, Island View and Athenree) and Katikati during a previous subdivision or land use consent based on a per net developable hectare as per Rule 11.5.2 and a density of 15 *dwelling*s per hectare (in the Residential Zone) is not exceeded, or
    - for stormwater in the Commercial and Industrial Zones as per Rule 11.6.4.
- b. Unless specified otherwise in the rule to which a particular contribution relates, financial contributions will be charged in respect of:
  - i. Additional *lots* created by subdivision which will qualify for the erection of a *dwelling*, as per Rule 11.5.  
All additional *dwelling*s or additional *residential units* created will be charged as per the calculations included in Rule 11.5.

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The proposed change to Rule 11.3 (b) (ii) has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

- ii. Additional *lots* created by subdivision within Commercial or Industrial Zones and all additional activities created will be charged as per the calculations included in Rule 11.6.
  - iii. A land use consent application for an additional or significant expansion of an existing consented land use activity that will impact on existing *infrastructure* (significant expansion is an increase of more 0.5 of a *household equivalent* for services). Financial contributions will be assessed using *household equivalents*. Specific formulae are contained in Rules 11.4, 11.5 and 11.6.
  - iv. Land use consent applications for discretionary or non-complying land use activities where it is more appropriate to charge a financial contribution for:
    - water, wastewater, stormwater and recreation and leisure based on a specific assessment;
    - for transportation that is based on *passenger car equivalents (PCEs)* or specific assessments.Specific formulae are contained in Rule 11.7.
  - v. Boundary adjustments (under Rule 12.3.3) deemed to create an independently usable title which did not previously exist or to significantly increase the usability of an existing title.
  - vi. Land use consent applications for significant expansions in the Post Harvest Zone.
- c. With regard to any resource consent which is granted subject to a condition imposing a financial contribution, that condition shall provide for the amount of any financial contribution to be set as follows:
- i. The resource consent condition, shall specify a financial contribution amount in dollars that may be paid in full within two years of the date of commencement of the consent;  
Provided that:  
Contributions not paid in full within two years of the consent commencing shall be subject to Rule 11.3.c.ii. below.
  - ii. Any financial contribution which is not paid in full within two years from the date of commencement of the consent shall be adjusted so that the amount of the financial contribution required by the ~~resource~~ consent shall be the amount calculated in accordance with the relevant formulae in Rules 11.4, 11.5 and 11.6 and the updated inputs to those formulae as set out in *Council's Annual Plan* current at the date of payment.
- d. For a financial contribution required under the District Plan, and levied through the building consent process, for one or two additional *residential units* in the *Ōmokoroa and Te Puke Medium Density Residential Zones*, the financial contribution is payable immediately prior to the issue of that consent.

Proposed Rule 11.3 (d) has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

de. Reductions and waivers

- i. In accordance with Objective 11.2.1.4 and Policies 11.2.2.8, 11.2.2.9 and 11.2.2.10, *Council* may reduce or waive in part or in whole for a specified period or for a particular activity, any financial contribution (including a particular part(s) of the formula contained in Rules 11.4, 11.5 and 11.6) that would otherwise be charged in order to avoid or mitigate an identified detriment to the wider community or an identified detriment to a particular sector of the community that warrants attention in the better fulfilment of the *RMA*'s purpose.

Assessment criteria include:

- The quantum of the contribution(s) and the market's ability to pay;
- Significant increases in the contribution(s) from one period to the next (or through the introduction of a new or revised financial contribution) that may create inequities or hardship;
- The extent that any specific environmental protection or enhancement measure requires recognition, including measures under Rule 11.4.3.

Any such reduction or waiver shall be implemented through the *Annual Plan* process or the plan change process under the *RMA*.

- ii. With regard to specific applications for resource consent for additional *dwelling*s on multiple owned *Māori land*, consideration will be given to the following criteria in addition to those listed in i. above with respect to the recreation and leisure financial contribution:

- Size and cost of the *dwelling* being constructed;
- Location of the property and the associated land value, extent of previous undertakings, or gifting of land or other tangible assets;
- Applicability of the *LTP* outcomes.

- iii. With regard to specific applications for resource consent where: A

financial contribution for recreation and leisure is payable under Rule 11.4, and an historic oversupply of reserve land is shown by the applicant to have occurred in relation to the same applicant or their successor in title, consideration shall be given to a reduction or waiver of the financial contribution as assessed having regard to the following criteria:

- The suitability of the excess land contributed for meeting *Council's* current recreation and leisure requirements for the catchment;
- The land value of the excess recreational and leisure land calculated at the time of granting the resource consent;

- The quantity of financial contributions for recreation and leisure assessed under Rule 11.4 at the time of granting the resource consent.

Provided that:

This discretion shall only be considered where:

- a. The applicant supplies conclusive evidence that:
  - They are the successor in title in respect of the parent land contributing the excess land;
  - The amount of excess land contributed for recreation and leisure purposes exceeds 1ha as assessed at the time of the application.
- b. The application is made within ten years of the commencement of the initial consent that created the excess.
- iv. Reductions may be considered where the application of the *household equivalent* or *passenger car equivalent* methods of calculation are considered to be inappropriate.

Such consideration will be through the resource consent process on a case by case basis.

## 10.4 The calculation of Financial Contributions as included in Council's Fees and Charges

### 10.4.1 Determining a Household Equivalent

- a. Financial contributions are based on a *household equivalent*.
- b. During the *Annual Plan* and/or *LTP* process, *Council* uses the formula in Rule 11.4.1.c. to set the;
  - catchment financial contribution amounts;
  - values applied to the variables within the formula;
  - timing of the capital projects.
- c. The formula used to determine the *household equivalent (HHE)* for Recreation and Leisure, Transportation, Water Supply, Wastewater, and Stormwater financial contributions for all zones (as appropriate) is as follows:

$$\frac{(CP-S) - (EP-S) + I}{L} = \text{financial contribution per household equivalent}$$

Where:

CP = value of development projects for capital works within a specific catchment, including land, required to meet the needs of the existing and future community during the planning period;

EP = value of development projects within a specific catchment for that portion of the capital works required to meet the existing level of service for existing ratepayers;

S = the subsidies to be received for the specific *infrastructure* within the planning period; L

= *dwelling*s and *household equivalents* estimated during the planning period;

I = Interest cost based on capital expenditure less revenue from financial contributions.

**Explanatory Note:**

The inputs to the formula will be updated annually through the *Annual Plan* and/or *LTP* process to reflect changes in costs and timing. Any financial contribution that is not paid in full within two years of the commencement of the resource consent shall be subject to adjustment under Rule 11.3.c.ii.

## 10.4.2 Council's infrastructure network to which financial contributions apply

### a. Transportation

- i. Except for the activities included in Rule 11.6.1, these contributions shall be levied on subdivision and land use consents as may be applicable and through the building consent process for one or two additional residential units in the Ōmokoroa and Te Puke Medium Density Residential Zones. The contribution is applied on the basis of the following catchments in the *District*:
- Rural and minor settlements - this is a single catchment and includes the Rural and Lifestyle Zones and all minor settlements not classified as urban catchments below.
  - Urban catchments - there are separate catchments for the urban zoned areas of Waihi Beach, Katikati, Ōmokoroa (including ~~the whole of the Stage 2 Structure Plan area~~ Rural-Residential Zones), and Te Puke.
  - Strategic Transportation - this is *District-wide*.

The proposed change to the opening paragraph of Rule 11.4.2 (a) (i) has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

### b. Water and Wastewater

- i. These contributions shall be per connection and shall be levied on any subdivision or land use consent or through the building consent process for one or two additional residential units in the Ōmokoroa and Te Puke Medium Density Residential Zones that is in a catchment served by *Council* water and wastewater systems or future water and wastewater *infrastructure* identified in a *structure plan*.

The proposed change to Rule 11.4.2 (b) (i) has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

- ii. Except in the Commercial and Industrial zones, where the *household equivalent* for water is based on the connection size (see Rule 11.6.2),

- the *household equivalent* for water is measured at 0.6m<sup>3</sup> per day.
- iii. The *household equivalent* for wastewater is measured at 0.5m<sup>3</sup> per day, which is calculated at a factor of 0.85 of the water usage.
- iv. The *household equivalent* for water and wastewater is equal to one (1) except for the following activities where the number of *household equivalents* will be determined by specific assessment:
- *Service stations* with car wash facilities;
  - *Accommodation facilities* and recreational facilities including hotels, motels, community centres and Marae;
  - Process manufacturing including coolstores and packhouses;
  - Garden centres and nurseries;
  - Butcheries;
  - Drycleaners and laundromats;
  - *Education facilities*;
  - Hospitals and laboratories;
  - Crematoriums and mortuaries;
  - Concrete plants and yards;
  - Any development in the Rural Zone that requires a water connection to a *lot* that exceeds 20mm;
  - Waste handling facilities.
- v. *Household equivalents* are assessed on the basis of peak demands rather than average use.
- vi. The determination of the number of *household equivalents* for *accommodation facilities* will be based on the capacity of the facility.

**c. Stormwater**

- i. These contributions shall be levied on a subdivision and/or land use consent or through the building consent process for one or two additional residential units in the Ōmokoroa and Te Puke Medium Density Residential Zones that is in a catchment served by a *Council* stormwater system or future stormwater *infrastructure* identified in a *structure plan* or the LTP.

The proposed change to Rule 11.4.2 (c) (i) has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

- ii. Financial contributions may be reduced taking into account pre-development stormwater levels and the extent to which stormwater is managed on-site. The on-site management proposal has to be approved

through the resource consent process.

- iii. Financial contributions may be increased through the resource consent process by means of a special assessment where the:
  - average *lot* size is less than the minimum *lot* size provided in 13.4.2, or
  - *net land area per dwelling* is less than that included in 13.3.2.a..
- iv. Financial contributions will not be charged where the activity is ~~not using~~ outside of a stormwater management catchment served by public stormwater infrastructure, including (including any open watercourses).

**d. Recreation and leisure**

- i. Financial contributions for recreation and leisure apply to all subdivision and land use consents that enable the development of *dwelling*s, *minor dwelling*s and *accommodation facilities* and all building consents for one or two additional residential units in the Ōmokoroa and Te Puke Medium Density Residential Zones

The proposed change to Rule 11.4.2 (d) (i) has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

- ii. Except for the development of *dwelling*s, *minor dwelling*s and *accommodation facilities*, development in the Commercial and Industrial Zones shall not pay a financial contribution for recreation and leisure as per Rule 11.6.5.
- iii. With a land use consent for *accommodation facilities*, the financial contribution will be one *household equivalent* per facility.
- iv. Activities in the Post Harvest Zone shall not pay a financial contribution for recreation and leisure.
- v. Financial contribution for recreation and leisure shall be a land or monetary contribution or combination thereof. The *Council* shall retain full discretion as to whether to accept money or land as payment of the required financial contribution.
- vi. The *Council* shall consider a Māori Reservation set aside under Sections 338 and 440 of the Māori Land Act 1993 (Te Ture Whenua Māori) in lieu of a reserves contribution.

**10.4.3 Ecological protection**

- a. Financial contributions for ecological protection shall be charged on;
  - subdivisions in the Rural, Rural Residential, Lifestyle, Future Urban, Residential and Medium Density Residential Zones;
  - land use consents for additional *dwelling*s or *minor dwelling*s
  - building consents for one or two additional residential units in the Ōmokoroa and Te Puke Medium Density Residential Zones.



The proposed change to Rule 11.4.3 (a) has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

- b. Financial contributions for ecological protection and or enhancement shall be a monetary contribution of \$501 + GST (2015/16) per *lot* or *dwelling* as determined by the circumstances set out hereunder, such contribution to be adjusted annually in accordance with the Consumer Price Index through *Council's Annual Plan* and Budget:

Except that:

The ecological financial contribution shall be doubled for a subdivision or land use consent within the Park Road East Esplanade in Katikati.

- c. *Council* may consider the reduction or waiver of these financial contributions where legally binding environmental protection or enhancement measures have already been or are proposed to be undertaken on the property concerned in conjunction with the principal activity. In such cases the principal activity (subdivision or land use) shall be deemed to be a Restricted Discretionary Activity in respect of the environmental protection or enhancement measures concerned. Such measures shall be the subject of a report and recommendations from an appropriately qualified independent person acceptable to *Council*.

## 10.5 **Calculation of Financial Contributions for dwellings Subdivision, Additional Dwellings, Additional Residential Units, Minor Dwellings and minor dwellings Retirement Villages**

- i. The rules included in 11.5 do not apply to *dwellings* in the Commercial and Industrial Zones that are above ground floor. See Rule 11.6 for the calculation for these activities.
- ii. The rules included in 11.5 apply to the Rural, Rural Residential, Lifestyle, Future Urban, Residential, Medium Density Residential and Commercial Transition Zones. The specific rules for activities in these zones are set out under 11.5.1 - 11.5.7 below.
- ii. ~~The rules included in 11.5 apply to the Rural, Rural Residential, Lifestyle, Future Urban, Residential, Medium Density Residential and Commercial Transition Zones and relate to:~~
  - ~~Subdivision;~~
  - ~~Land use consents for additional *dwellings* or *minor dwellings*.~~
- iii. Financial contributions are based on a *household equivalent*.
- iv. ~~One *household equivalent* is equal to one additional *lot* or *dwelling*.~~

### 10.5.1 **Subdivision or additional dwellings outside urban growth areas**

- i. The rules in this section apply to a subdivision or land use consent for an additional *dwelling* in the following zones:
- Rural
  - Future Urban
  - Rural-Residential

- Lifestyle
  - Residential, except in the urban growth areas of Waihi Beach, Katikati, Ōmokoroa, and Te Puke.
- ii. Financial contributions for recreation and leisure, transportation, water supply, wastewater, stormwater and ecological protection will be charged in respect of:
- a. Additional lots created by subdivision which will qualify for the erection of a *dwelling*.
  - b. A land use consent for an additional *dwelling* or *minor dwelling*.
- iii. Each additional *lot* or *dwelling* shall be charged one *household equivalent*.

### 10.5.2 Subdivision or additional dwellings inside identified urban growth areas of Katikati and Waihi Beach (including Bowentown, Island View and Athenree)

#### Explanatory Notes:

- a. For the purpose of calculating average *lot* size to determine financial contributions, the following area(s) shall be excluded from the *lot* size calculations; provided that no *dwelling* is constructed in the area:
- i. area(s) that are within a natural hazard identified in Section 8 of the District Plan, or
  - ii. as part of a resource consent, areas identified as unsuitable for the construction of a *dwelling* by a suitably qualified and experienced geotechnical engineer or equivalent.
- b. Where a balance *lot* is created for future subdivision or residential development, a financial contribution equal to one *household equivalent* only will be charged at this time. A financial contribution based on an average *net lot area* of 625m<sup>2</sup> will only be applied to that *lot* once future subdivision or land use consent is applied for.
- i. The rules in this section apply to a subdivision or land use consent for an additional *dwelling* in the following zones;
    - Residential
    - Medium Density Residential
    - Commercial Transition

within the following urban growth areas:

    - Waihi Beach
    - Katikati
    - Ōmokoroa-Ōmokoroa
    - Te Puke-Te Puke
  - ii. Each additional *lot* or additional dwelling shall be charged a financial contribution for ecological protection equal to one *household equivalent*.
  - iii. The financial contribution calculations for recreation and leisure, transportation, water supply, wastewater, and stormwater in urban growth areas are based on an average net lot area size or dwelling envelope. One household equivalent is equal to a net lot area of 625m<sup>2</sup>, or dwelling envelope (as specified in the table below) and all additional lots and dwellings will pay a financial contribution proportional to this

figure.

- iv. ~~A density of 15 lots or dwellings per hectare equates to an average net lot area or dwelling envelope of 500m<sup>2</sup>.~~ In the Residential Zone and Medium Density Residential Zone, financial contributions for a subdivision or *development* with an average *net lot area* or *dwelling envelope* smaller than ~~that specified in the table below 500m<sup>2</sup>~~ shall be determined by a special assessment.
- v. ~~The financial contribution for a land use consent for an additional dwelling is based on the size of the dwelling envelope. As in the case of a subdivision, one household equivalent is equal to a dwelling envelope of 625m<sup>2</sup>.~~ In the Residential Zone, the *dwelling envelope* shall not have a minimum average less than 500m<sup>2</sup>.
- vi. The minimum financial contributions for an additional *lot* or additional *dwelling* in the Residential, Medium Density Residential and Commercial Transition Zones are 0.5 of a *household equivalent*.

Area	Average net lot area and dwelling envelope (1 HHE)	Average net lot area and dwelling envelope (0.8 of an HHE)	Average net lot area and dwelling envelope for which a special assessment is required
<u>Waihi Beach and Katikati</u>	625m <sup>2</sup>	500m <sup>2</sup>	<500m <sup>2</sup>
<u>Ōmokoroa Stage 3A</u>	500m <sup>2</sup>	400m <sup>2</sup>	<400m <sup>2</sup>
<u>Ōmokoroa Stage 3B</u>	375m <sup>2</sup>	300m <sup>2</sup>	<300m <sup>2</sup>
<u>Ōmokoroa (Outside of Stage 3)</u>	375m <sup>2</sup>	300m <sup>2</sup>	<300m <sup>2</sup>
<u>Te Puke</u>	375m <sup>2</sup>	300m <sup>2</sup>	<300m <sup>2</sup>
<u>Ōmokoroa Stage 3C</u>	250m <sup>2</sup>	200m <sup>2</sup>	<200m <sup>2</sup>
<u>Ōmokoroa Mixed Use Residential Precinct</u>	250m <sup>2</sup>	200m <sup>2</sup>	<200m <sup>2</sup>

### 10.5.3 One or two additional residential units on a site in the Ōmokoroa and Te Puke Medium Density Residential Zones

- a. For clarity, these rules do not apply to:
- i. ~~The first residential unit on a site (these shall be exempt from financial contributions);~~
  - ii. One or two additional residential units on a site where a subdivision consent has been granted subject to a condition of consent imposing financial contributions for that site under Rule 11.5.5 (except for any balance lots under 11.5.5 (e)).
- b. The following rules shall apply where an application for building consent is lodged for one or two additional residential units on a site:
- i. Each additional residential unit shall be charged a financial contribution for ecological protection, recreation and leisure, transportation, water supply and wastewater based on the gross floor area of each residential unit (excluding garage);
  - ii. Each additional unit shall be charged a financial contribution for

stormwater based on the building footprint of each residential unit (including garage);

For this rule, building footprint means the total area of the buildings (residential unit and garage) 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 those buildings and overhangs the ground.

- iii. One household equivalent for a residential unit is equal to a gross floor area of 150m<sup>2</sup> (excluding any garage) or building footprint of 150m<sup>2</sup> (including any garage) in the case of stormwater;
- iv. An additional residential unit with a gross floor area or building footprint exceeding 150m<sup>2</sup> shall not pay more than one household equivalent;
- v. Each additional residential unit with a gross floor area or building footprint less than 150m<sup>2</sup> shall pay a reduced financial contribution that is proportional to 150m<sup>2</sup>;
- vi. The minimum contribution to be paid for an additional residential unit shall be 0.5 of a household equivalent;
- ~~vii. Financial contributions shall be assessed and imposed through the building consent application process;~~
- ~~viii. The financial contribution required through the building consent application process is payable immediately prior to the issue of that consent.~~

Proposed Rule 11.5.3 has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

~~**10.5.4 One or two additional lots not for the purpose of the construction and use of residential units from sites of less than 1,400m<sup>2</sup> in the Ōmōkoroa and Te Puke Medium Density Residential Zones**~~

- ~~a. Each additional lot shall be charged a financial contribution for ecological protection, recreation and leisure, transportation, water supply, wastewater and stormwater equal to one household equivalent.~~

~~**10.5.5 All other subdivision and four or more residential units on a site in the Ōmōkoroa and Te Puke Medium Density Residential Zones**~~

- ~~a. Each additional lot or additional residential unit shall be charged a financial contribution for ecological protection, recreation and leisure, transportation, water supply, wastewater and stormwater based on the number of lots / residential units per hectare of developable area:~~
- ~~b. The following number of household equivalents that shall be paid per hectare (10,000m<sup>2</sup>) of developable area:~~

<u>Area</u>	<u>Household equivalents per hectare of developable area</u>
<u>Ōmōkoroa Stage 3A</u>	<u>15</u>
<u>Ōmōkoroa Stage 3B</u>	<u>20</u>

<del>Ōmokoroa (Outside of Stage 3)</del>	<del>20</del>
<del>Te Puke</del>	<del>20</del>
<del>Ōmokoroa Stage 3C</del>	<del>30</del>
<del>Ōmokoroa Mixed Use Residential Precinct</del>	<del>30</del>

~~c. The number of household equivalents to be paid shall be proportional to the number of hectares of developable area.~~

~~For example, in Ōmokoroa Stage 3B:~~

- ~~• 0.5 hectares x 20 = 10 household equivalents~~
- ~~• 1 hectare x 20 = 20 household equivalents~~
- ~~• 1.5 hectares x 20 = 30 household equivalents~~

~~d. If the number of lots / residential units per hectare of developable area is less than or exceeds the number of household equivalents required to be paid per hectare of developable area, there shall be no change to the number of household equivalents required to be paid per hectare of developable area as set out in the table in (b) above.~~

~~Therefore:~~

- ~~i. Where the number of lots / residential units per hectare of developable area is less than the number of household equivalents required to be paid per hectare of developable area, each additional lot or additional residential unit shall pay an increased financial contribution greater than one household equivalent;~~
- ~~ii. Where the number of lots / residential units per hectare of developable area exceeds the number of household equivalents required to be paid per hectare of developable area, each additional lot or additional residential unit shall pay a reduced financial contribution. The minimum financial contribution to be paid for an additional lot or additional residential unit shall be 0.5 of a household equivalent.~~

~~For example, in Ōmokoroa Stage 3B where the number of household equivalents required to be paid per hectare of developable area is 20:~~

- ~~• 10 additional lots / units = 2.0 household equivalents each~~
- ~~• 20 additional lots / units = 1.0 household equivalents each~~
- ~~• 40 additional lots / units = 0.5 household equivalents each~~

~~e. Where one or more balance lots are proposed for future subdivision or residential development, a financial contribution equal to one household equivalent will be charged for each balance lot. A financial contribution based on the number of household equivalents per hectare of developable area will only apply to a balance lot during a future subdivision or land use consent for additional residential units.~~

~~For this rule, balance lot shall mean any proposed lot which is 1,400m<sup>2</sup> or greater and which is not demonstrated to be for the purpose of the construction and use of residential units under Rules 14A.3.2 (a) – (b);~~

~~f. The financial contributions shall be determined at subdivision or land use consent stage and shall be paid as per the consent conditions~~

**11.5.3.6 Land use consent for a minor dwelling Minor dwellings**

~~Except for the Medium Density Residential Zones in Ōmokoroa and Te Puke (see 11.5.3 and 11.5.5 above):~~

This proposed change to Rule 11.5.6 has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

~~i. Minor dwellings in all zones shall be charged a financial contribution for recreation and leisure, transportation, water supply, wastewater, stormwater and ecological protection equal to 0.5 of a household equivalent.~~

Minor dwellings in all zones shall be charged a financial contribution for recreation and leisure, transportation, water supply, wastewater, stormwater and ecological protection equal to 0.5 of a household equivalent.

This rule shall also apply to residential units of 60m<sup>2</sup> or less in the Medium Density Residential Zones in Ōmokoroa and Te Puke.

**11.5.4.7 Land use consent for a retirement village Retirement villages**

~~Except for Medium Density Residential Zones in Ōmokoroa and Te Puke (see 11.5.3 and 11.5.5 above):~~

The proposed change to Rule 11.5.7 has immediate legal effect under Section 86D of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

i. Retirement villages and retirement village independent apartments shall be charged a financial contribution for recreation and leisure, transportation, water supply, wastewater, stormwater and ecological protection equal to 0.5 of a household equivalent for 1 and 2 bedroomed dwellings/apartments. the following ratios within the table below.

ii.

<u>FC Category</u>	<u>Retirement Units that have full kitchen and bathroom facilities and are able to be occupied by more than 1 person (eg independent apartments and dwellings)</u>	<u>Other Retirement Units (eg, assisted living suites, care rooms, hospital and dementia beds)</u>
<u>Recreation and Leisure; including for Parks, Reserves, Open Spaces, Public Aeminity, &amp; other social infrastructure</u>	<u>0.05</u>	<u>0.01</u>
<u>Traffic and Transport</u>	<u>0.27</u>	<u>0.24</u>
<u>Water / Wastewater</u>	<u>0.40</u>	<u>0.30</u>

Stormwater	Based on onsite offsetting/design
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iii. \_\_\_\_\_

~~This rule shall also apply to 1-2 bedroomed residential units within retirement villages in the Medium Density Residential Zones in Ōmokoroa and Te Puke.~~

iv. \_\_\_\_\_

~~The financial contributions for facilities other than retirement village dwellings or retirement village independent apartments shall be done by specific assessment.~~

## 10.6 Subdivision and land use consent in the Commercial, Commercial Transition and Industrial Zones

This section deals with the calculation of financial contributions for transportation, stormwater, wastewater, water and recreation and leisure in:

- Commercial Zones
- Industrial Zones,
- Activities other than a *dwelling* in the Commercial Transition Zone (see Section 11.5.2 for *dwellings* in the Commercial Transition Zone).

### 10.6.1 Transportation

- i. Financial contributions as calculated by *household equivalent* apply to transportation in the Te Puna Business Park Zone, except for the following activities where the number of *household equivalents* will be determined by an *Integrated Transport Assessment*:
  - *Warehousing and storage*
  - *Building and construction wholesalers and retailers*
  - *Depots*
- ii. All other activities in the Commercial, Commercial Transition and Industrial Zones are exempted, except for the following activities where the number of *household equivalents* will be determined by an *Integrated Transport Assessment*:
  - *Warehousing and storage*
  - *Building and construction wholesalers and retailers that exceeds a gross floor area of 2,500m<sup>2</sup>.*
  - *Depots*
  - *Service stations*
  - *Coolstores and packhouses*
  - *Accommodation facilities*
- iii. The comprehensiveness of the *Integrated Transport Assessment* shall reflect the scale and effects of the proposed activity and address the following:
  - The existing traffic environment;
  - How the activity will impact on that environment;
  - Any proposed mitigation measures.

### 10.6.2 Water Supply

- i. Except for activities listed in Rule 11.4.2.b.iv., the financial contribution in the Commercial, Commercial Transition and Industrial Zones shall be based on the size of the water connection.
- ii. The relationship between connection size and *household equivalent* are as follows:

Connection size(mm)	Household Equivalent
20	1
25	1.56
40	4
50	6.25
100	25
150	56.25

### 10.6.3 Wastewater

- i. Except for *dwellings* and activities listed in Rule 11.4.b.iv., financial contributions on wastewater for all activities in the Commercial, Commercial Transition and Industrial Zones, are calculated as follows:

One (1) *household equivalent* is equal to:



- A *lot* size or *gross floor area* of 600m<sup>2</sup> in the Commercial Zone.
  - A *lot* size or *gross floor area* of 1,800m<sup>2</sup> in the Industrial Zone.
- ii. Wastewater financial contributions for a *dwelling* in the Commercial and Industrial Zones are calculated as follows:
- 0.5 of a *household equivalent* for a *dwelling* with a *gross floor area* of not more than 60m<sup>2</sup>.
  - 0.75 of a *household equivalent* for a *dwelling* with a *gross floor area* of more than 60m<sup>2</sup> and less than 95m<sup>2</sup>.
  - One *household equivalent* for a *dwelling* with a *gross floor area* that exceeds 95m<sup>2</sup>.
- iii. The financial contributions for the activities listed in Rule 11.4.b.iv. shall be determined by specific assessment.

**Explanatory Note:**

These activities may operate seasonally or operate for a variable part of the week or year. For such activities the operational time (OTF) needs to be specifically reported on and assessed.

OTF is the proportion of a full year that any enterprise may operate and is calculated as follows:

$$\frac{\text{Actual operating days per year}}{365} \times 100$$

**10.6.4 Stormwater**

- i. In the Commercial, Commercial Transition and Industrial Zones, one *household equivalent* is equal to 300m<sup>2</sup> of developable land (developable land is any land that has potential to be used for building, hard stand and parking or access purposes for that activity).

**10.6.5 Recreation and leisure**

- i. Financial contributions for recreation and leisure only apply to *dwellings* and *accommodation facilities* in the Commercial and Industrial Zones.
- ii. The financial contributions for *dwellings* are calculated as follows:
- 0.5 of a *household equivalent* for *dwellings* with a *gross floor area* of not more than 60m<sup>2</sup>.
  - 0.75 of a *household equivalent* for *dwellings* with a *gross floor area* of more than 60m<sup>2</sup> and less than 95m<sup>2</sup>.
  - One *household equivalent* for *dwellings* with a *gross floor area* that exceeds 95m<sup>2</sup>.
- iii. With a land use consent for *accommodation facilities*, the number of *household equivalents* will be determined by specific assessment

**10.7 Financial Contributions and Infrastructure works for Discretionary and Non-complying Land Use Activities**

- 10.7.1 An assessment of capacity, adequacy of pavement, and safety shall be made of the actual impact

of the activity on the specific *infrastructure*. The impact shall be remedied or mitigated by one or more of the following:

- a. Where existing spare capacity is available to accommodate the proposed activity, a financial contribution shall be payable based on the amount of capacity to be used (see 11.7.2).
- b. Where the existing *infrastructure* is inadequate in terms of capacity and safety for the proposed activity, the *infrastructure* shall be upgraded by the applicant at their cost to accommodate the expected demand. This will be imposed as a condition on any resource consent granted.
- c. Where the activity will consume all of the currently available spare capacity as well as require an upgrade of the existing *infrastructure*, both a. and b. above shall apply.

Except that:

A contribution shall not be payable under a. where any *upgrading* required under clause b. above results in the existing level of spare capacity being maintained or exceeded.

- d. Where a required *infrastructure* upgrade will provide a greater level of capacity than that needed to accommodate the proposed activity, the following shall apply:
  - i. If the upgrade is included in the *LTP*, the cost of the spare capacity created will be refunded to the consent holder at the time stipulated in the *LTP*;
  - ii. If the upgrade is not included in the *LTP*, there shall be no refund.

10.7.2 For 11.7.1.a., c., and d. the impact shall be converted into *household equivalents* and applied in accordance with the following:

a. **Recreation and Leisure**

This will be charged in accordance with Rules 11.4.2.d. and 11.5 for *dwelling*s, *minor dwelling*s, *retirement villages* and *accommodation facilities* excluding *seasonal worker accommodation*.

b. **Transportation**

- i. Capacity consumption

**Explanatory Notes:**

1. This rule shall apply to the specific roads that provide access from the State Highway to the activity.
2. The width of the existing road is to be determined by actual measurement or by reference to *Council's* RAMM (Road Assessment and Maintenance Management) database.
3. The average annual daily traffic volume (AADT) for the existing road is to be determined by actual measurement or by reference to *Council's* RAMM database. For the purposes of converting the AADT into *PCE VM's*, where actual figures are not available it shall be assumed that 10% of the volume comprises heavy commercial vehicles (HCV's). The proposed road activity shall be converted to daily *PCEs*.
4. Road width and *road capacity* (existing and required) is to be determined by reference to the relevant table in rule 12.4.4.2. The

- capacity of the road is represented by the upper limit traffic volume for a road of the applicable standard (carriageway width and length).
5. The current cost of 1m<sup>2</sup> of rural road pavement' will be set annually through *Council's LTP* and *Annual Plan* processes under the Local Government Act 2002.

#### Calculation methodology

- a. Determine the proposed route from the subject site to the nearest State highway (or *District* boundary).
- b. Determine the capacity of the existing road (in terms of daily *PCE VM's*), given its current standard of construction. This is "A".
- c. Determine the standard of road (width) required to accommodate both existing and proposed daily *PCE VM's*. This is "B".

A sliding scale shall be used to assess the theoretical width required.

- d. Determine the value of the length of affected road. This is calculated from the depreciated replacement cost for the existing road (and deductions made for any subsidies received) This is "C".
- e. Determine the proportion (%age) of the capacity of the road consumed by the proposal's predicted traffic volume.

This is calculated as (the number of *PCEs* as proposed by the applicant)/(the capacity (*PCE*) of the existing road). This is "D".

- f. Applicable financial contribution for *Capacity Consumption* = \$(C x D).

#### ii. Pavement Consumption

The purpose of the following calculation is to determine the effect of additional HCV's generated by the proposed new activity on the life of the existing road pavement. The calculation shall be undertaken by a Chartered Professional Engineer (CPEng) or other suitably qualified person specifically approved by *Council*.

- a. Collect all available data for the road on which the proposed out of zone activity will take place. Base data can be found in RAMM and dTIMs (dTIMS is a software package developed by Deighton Associates Ltd, and used by Road Controlling Authorities for the predictive modelling of pavement deterioration).
- b. Assess existing pavement design, and determine its residual life. The effective residual life of the existing pavement can be obtained from the dTIMs pavement deterioration model output, or back calculation from existing pavement data. This data will be produced annually.
- c. Determine the design axle loads for the existing pavement.
- d. Calculate the additional axle loads as a result of the proposed activity. Determine the effect of the additional axle loads on the existing pavement, by determining the year when the existing pavement will reach the end of its design life, i.e. when the life of the pavement is consumed.
- e. Determine the reduction in life (number of years) of the existing

pavement caused by the additional axle loads.

- f. Assess the current cost of renewing the pavement, given both the existing and new traffic loadings.
- g. Assess the incremental cost of bringing the pavement renewal works forward. (Complete a net present value calculation, using the cost of finance provided annually in *Council's Annual Plan*).

This is the financial contribution payable for Pavement Consumption.

- iii. Strategic Transportation

One *household equivalent* shall be paid for each activity.

c. **Water Supply and Wastewater**

- i. Financial contributions for water supply and wastewater shall be charged in accordance with Rule 11.4.2.b.
- ii. In the Commercial and Industrial Zones financial contributions shall be charged in accordance with Rules 11.6.2 and 11.6.3.
- iii. For all other zones, a specific assessment shall be made.

d. **Stormwater**

The financial contributions for stormwater in all zones shall be determined by specific assessment.

e. **Ecological Protection**

The financial contributions for ecological protection shall be in accordance with Rule 11.4.3.

## 10.8 Additional financial contributions that apply to specific Structure Plan Areas

**a. Rangioru Business Park**

The equitable provision and funding of *infrastructure* and the need for full recovery of *infrastructure* costs (as set out in the financial contributions schedules) is a key driver for the Rangioru Business Park. For Rangioru Business Park the *infrastructure* required is anticipated to be built and funded by private developers as opposed to *Council*. Accordingly, full recovery of financial contributions by *Council* to refund the entities which build/fund that work (in order of construction) is appropriate.

Financial contributions will be calculated on the basis of available areas able to be developed as opposed to actual site utilisation or building area, and notwithstanding that different activities place different actual demand on *infrastructure* networks. The *infrastructure* costs contained in Appendix 7 are able to be updated annually through the *Annual Plan* and/or *LTP* as set out below.

As outlined in Chapter 12, *infrastructure* for the Rangioru Business Park will be constructed generally in accordance with the designs specified in Appendix 7. Where *Council* identifies a more cost effective means of delivering future *infrastructure* for the park, the future *infrastructure* cost for that line item may be used as replacement *infrastructure*. Where the cost of *infrastructure* is lower than the anticipated cost, only

the lower amount can be recovered.

Developers wishing to occupy land within these areas must make their decisions on location in full awareness that financial contributions are payable on the basis of site area without refinements for specific proposals.

- i. As set out below, financial contributions shall be payable for subdivision and *development* in the Rangioru Business Park to pay for trunk *infrastructure* as identified in the *Structure Plans* and the associated financial contribution schedule in Appendix 7;

Where any circumstances exist that mean these provisions are inconsistent with the general provisions then this section shall prevail.

- ii. With regard to any resource consent which is granted subject to a condition imposing a financial contribution for Rangioru Business Park, that condition shall provide for the amount of any financial contributions.
- iii. Any financial contribution which is not paid in full within two years from the date of commencement of the consent or any subsequent two year period shall be adjusted so that the amount of the financial contribution required by the resource consent shall be the per square metre amounts as set out in the Rangioru Financial Contributions Schedule in Appendix 7 using the inputs to that schedule as updated annually through the *Annual Plan* and/or the *LTP* process, as detailed below.
- iv. The financial contribution shall be in accordance with the Rangioru financial contribution schedule in Appendix 7 (specified dollar amount per square metre of site area so used), adjusted annually to reflect updated construction cost estimates or completed actual construction costs, and the financing costs (based on the New Zealand Official Cash Rate plus 1.5%).
- v. The financing costs are to be charged quarterly in arrear on the last day of March, June, September and December in each year on the actual capital expenditure at the start of the quarter as approved in the Rangioru financial contribution schedule less the financial contributions received during the quarter.
- vi. The costs in the financial contribution schedule in Appendix 7 including the financing costs are indicative only as they are based on [August] 2015 costs and will be updated annually through the *Annual Plan* and/or *LTP* process to reflect up-to-date estimated costs (based on the rate of movement of the Cost of Construction Index) and/or actual costs of the provision of *infrastructure* and the financing costs (based on the New Zealand Official Cash Rate plus 1.5%).
- vii. The actual financial contributions payable will reflect the completed actual construction costs and the financing costs (based on the New Zealand Official Cash Rate plus 1.5%) to be determined at the time resource consents commence, as listed in the financial contributions schedule in Appendix 7 and updated through the *Council's Annual Plan* and/or *LTP*.
- viii. Actual financial contributions may also be payable based on updated construction cost estimates in order to fairly contribute towards the

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funding of trunk *infrastructure* as identified in the *Structure Plans* and the associated Rangioru financial contribution in Appendix 7 (for example, part funding of trunk *infrastructure* identified as part of a future stage).

- ix. If any developed or agency elects not to recover the cost of trunk *infrastructure* which has been identified in the *Structure Plans* and the associated financial contribution schedule in Appendix 7, it may notify the Council accordingly and the relevant line item in the financial contribution schedule will be updated to reflect the lower amount to be recovered through the *Annual Plan* and/or *LTP* process.
- x. Discretionary and non-complying activities shall pay financial contributions on a full per square metre basis as set out on Appendix 7.

xi. 'Site area':

- Excludes the areas set aside for trunk *infrastructure* as identified on the *Structure Plan*, such as local purpose reserves (stormwater), local purpose reserves (amenity), pedestrian/cycle access, collector and entrance roads, areas for treatment of water and/or wastewater and the Tauranga Eastern Link interchange.
- Includes the area of all local and private roads and other *infrastructure* not specifically required by the *Structure Plans*.
- The total net developable area is 148ha.

In respect of *development*, 'site area' relates to the total area of the *lot* or the total area of the tenancy area in which the *development* is located.

For the Seeka site being Lots 1 and 2 DPS 3521 the sites are excluded from the developable area.

- xii. The financial contribution is payable at the time of subdivision or *development*, whichever happens first. Where a financial contribution has already been paid at the time of subdivision in respect of the total area of the *lot*, there shall be no further contributions payable at the time of *development*. Where a financial contribution has already been paid at the time of *development* in respect of any land, there shall be no further contributions payable for the same land at the time of any subsequent subdivision;
- xiii. Financial contributions at the time of subdivision are payable at subdivision completion stage (i.e. Section 224 application). Financial contributions at the time of *development* are payable at building consent stage or at the time land is used for Rangioru Business Park purposes;
- xiv. In respect of the Rangioru Business Park, where *Council* does not expect to be able to fund much of the trunk *infrastructure* needs for the foreseeable future, financial contributions from developers or agencies shall be collected by *Council* and paid directly to any prior developer or agency (in the order of investment) which has funded trunk *infrastructure* services in accordance with the financial contribution schedule and the *Structure Plans*.

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**b. Te Puke West Industrial Area**

- i. In addition to the financial contributions payable pursuant to Rule 11.6, excluding stormwater, financial contributions shall be payable for subdivision and development in the Te Puke West Industrial Area to pay for *infrastructure* as identified in the Te Puke West Schedule of Financial Contributions contained in Appendix 7;
- ii. The Te Puke West financial contribution shall be in accordance with the Schedule (specified dollar amount per square metre of site area), adjusted annually to reflect updated construction cost estimates or completed project costs, and the financing costs (based on the 90 day bank rate [BKBM FRA rate] plus 2%);
- iii. The financing costs are to be charged quarterly in arrear on the last day of March, June, September and December in each year on the actual capital expenditure at the start of the quarter as approved in the schedule less the financial contributions received during the quarter;
- iv. In addition further financing costs based on the 90 day bank rate (BKBN FRA rate) plus 2% resulting from the assumed average delay of three years between the setting of financial contributions and their receipt are to be charged annually on 1 July on:
  - The capital expenditure as approved in the
  - Schedule; And the financing costscalculated as in ii. and iii. above.
- v. Where, in lieu of payment of financial contributions, a developer constructs any of the *infrastructure* referred to in the Te Puke West Industrial Area Financial Contributions Schedule and that constructed *infrastructure* will also serve land within the Te Puke West Industrial Area beyond the land under *development* at the time, Council will collect financial contributions from subsequent developers benefiting from such previously established *infrastructure* in accordance with the Te Puke West Industrial Area Financial Contributions schedule contained in Appendix 7. The contributions collected shall then be paid directly to the prior developer concerned.

This section contains provisions that have immediate legal effect. See the advisory notes below each relevant provision.

*Explanatory note for the purpose of the IPI and to be removed upon completion of the process:*

Proposed additional definitions are shown in green underline.

Red underline or ~~red strikethrough~~ reflect the changes recommended within the section 42A report.

Blue underline or ~~blue strikethrough~~ reflect the changes proposed by the RVA and Ryman.

## Section Contents

### Ōmokoroa and Te Puke Medium Density Residential

14A Ōmokoroa and Te Puke Medium Density Residential

Explanatory Statement

14A.1 Significant Issues

14A.2 Objectives and Policies

14A.3 Activity Lists

14A.4 Activity and Performance Standards

14A.5 Notification

14A.6 Matters of Control

14A.7 Matters of Discretion

## Ōmokoroa and Te Puke Medium Density Residential

### 14A. Ōmokoroa and Te Puke Medium Density Residential

#### Explanatory Statement

Ōmokoroa and Te Puke are identified in the Bay of Plenty Regional Policy Statement as priority residential growth areas for the wider western Bay of Plenty sub-region. Amendments to the RMA resulted in Council changing the District Plan in regard to Ōmokoroa and Te Puke to give effect to medium density residential standards (MDRS). This Section incorporates specific provisions (including the MDRS) to guide the growth of these urban areas.

The MDRS enable greater housing supply by permitting medium density developments of up to three residential units on a site subject to meeting more flexible density standards for height, height in relation to boundary, setbacks and building coverage than has existed historically. The MDRS also ensure that residents have sufficient outdoor living space, views from indoor areas to outdoor spaces and streets as well as appropriate landscaping.

Four or more residential units on a site can be applied for through resource consent. These larger medium density developments must be designed comprehensively to achieve high quality and well-functioning urban environments that take into account ~~including consistency with~~ activity performance standards ~~structure plans and good urban design outcomes~~.

To cater for the varying needs of the community a range of building types and housing developments need to be provided. This can include different building styles such as single detached residential units and attached residential units including duplexes, terraced housing and apartments. These can be provided within varying housing development types which could include infill development, comprehensive residential developments, retirement villages, papakāinga and ~~poeket neighbourhood~~ other community based housing typologies with a variety of different tenures.

There are a number of area specific overlays that provide direction on specific requirements including residential yield requirements to ensure that the land resource is used effectively and efficiently. This includes providing for higher density (minimum of 30 residential units per hectare) in Ōmokoroa Stage 3C and the Ōmokoroa Mixed Use Residential Precinct. These locations have particular attributes such as proximity to high amenity areas, transportation routes and the new planned commercial centre. The Ōmokoroa Mixed Use Residential Precinct provides for medium to high density residential development with commercial activities primarily at street level. It anticipates denser development with taller buildings to deliver a planned character of a vibrant, complementary mixed-use destination adjacent to the town centre which is able to connect to surrounding natural features (gullies

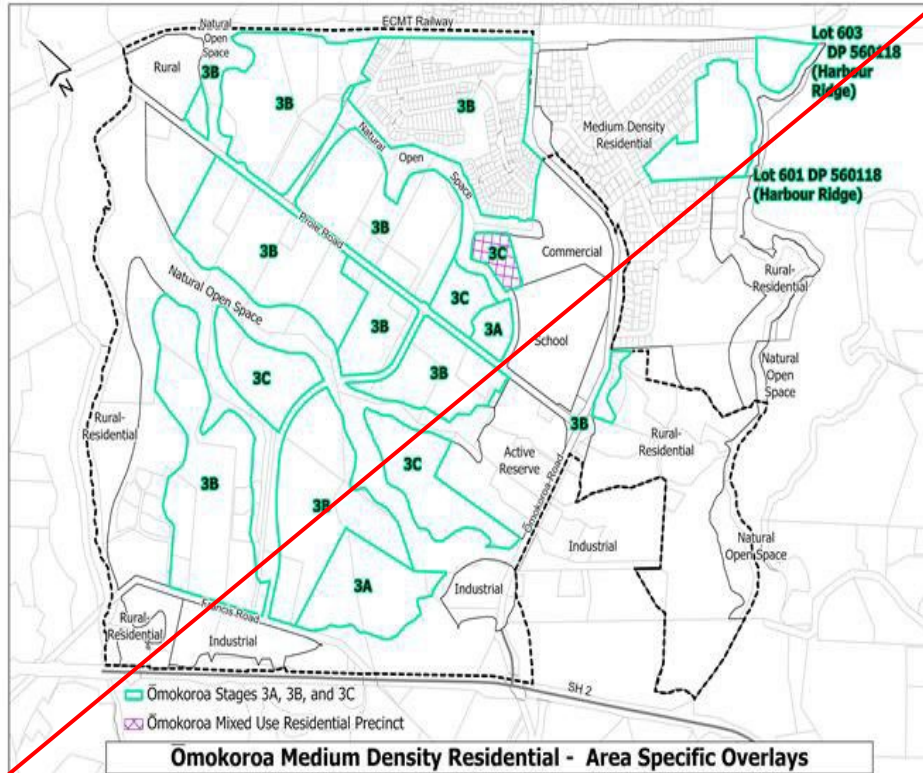


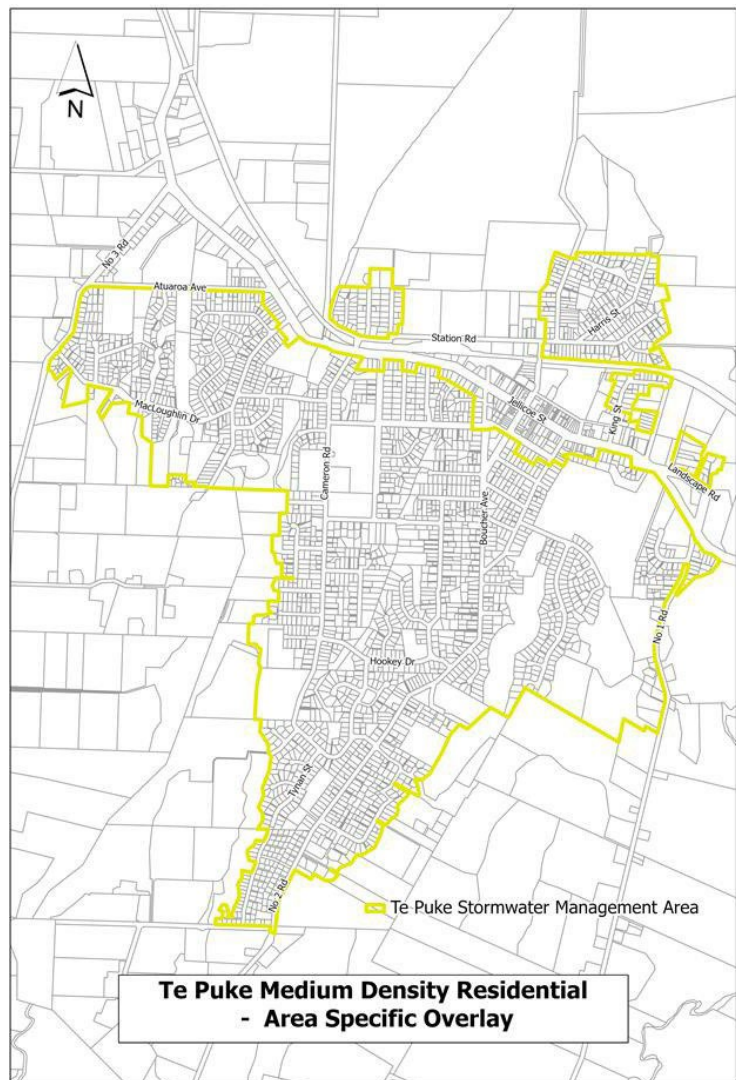
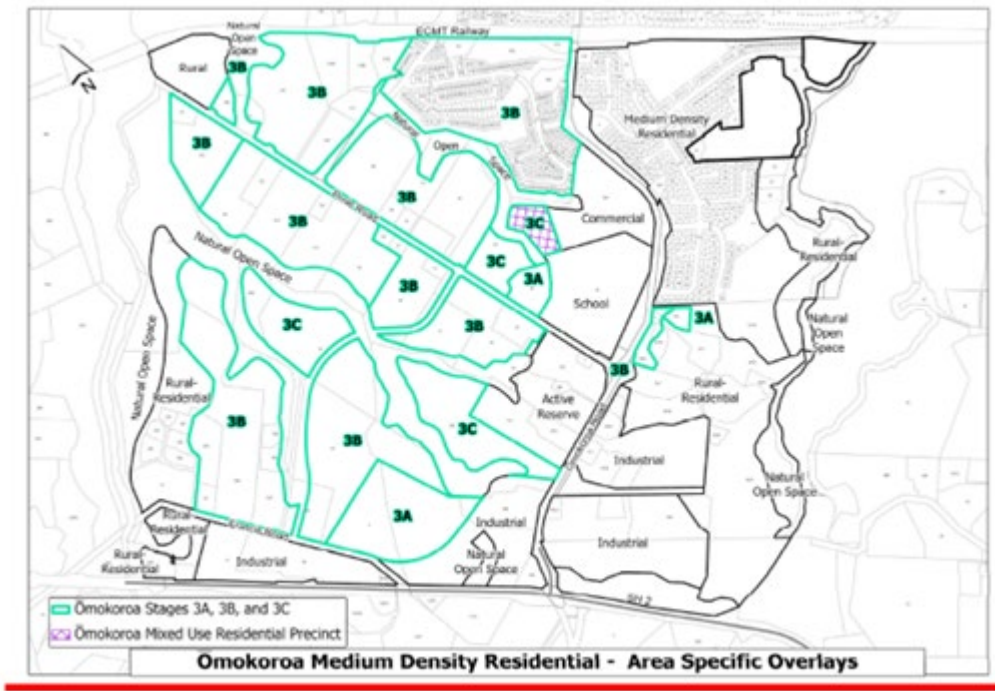
and streams) and planned active transport routes.

Structure plans exist for 'greenfield' medium density development areas in Ōmokoroa (Stage 3) and Te Puke (Macleoughlin Drive South and Seddon Street East) to provide further guidance for subdivision and development in these areas. These structure plans ensure appropriate scale infrastructure is provided including roads, walkways, cycleways, three waters infrastructure and reserves.

In support of the provisions of this Section, the Medium Density Residential (Section 14) explanatory statement, issues, objectives and policies still remain applicable. In addition, this Section (14A) also contains more specific objectives for Ōmokoroa and Te Puke. Where there are any inconsistencies in objectives and policies, those specific to Ōmokoroa and Te Puke in this Section (14A) take precedence.

The area specific overlays that provide direction on a number of specific requirements within this Section (14A) are shown on the maps below.





## 14A.1 Significant Issues

See the Significant Issues in Section 14.1 – Medium Density Residential.

1. Providing sufficient land in a timely manner to enable efficient and effective urbanisation to meet the needs of all sections of the community by creating a highly liveable urban environment.
2. Land, and especially land with high productive values, is of limited supply. Land needs to be used in an efficient manner to maintain as much land as possible in production. To make urban expansion cost effective and to support the public amenities a more compact form of urban development is required.
3. The location and design of buildings and other structures, as well as the layout of subdivisions and associated infrastructure, can adversely affect the health and wellbeing of people and the safe and efficient movement of pedestrians, cyclists and vehicles.
4. Higher density residential development can be opposed by parties who prefer the status quo leading to either higher costs establishing higher density developments and/or a lack of developable land within the existing urban form.
5. A lack of housing diversity and choice limits the range of available lifestyle options for both current and future generations. Development controls within the District Plan can limit the range and diversity of such lifestyle options.
6. Urban development creates large areas of impermeable surfaces increasing stormwater run-off that can lead to flooding and the carrying of pollutants. The modification of the landform can adversely affect natural processes and the cultural values of the land.
7. Urban development needs to be located in areas where the exposure to risk from natural hazards can be avoided, remedied or minimised.
8. Over reliance on and use of private vehicles can cause traffic congestion resulting in adverse environmental and economic effects and related safety issues. The lack of provision of alternative transportation methods and associated networks results in the perpetuation of the overuse of private motor vehicles. A lack in the ability to interact and connect on foot, bicycle and other non-motorised transport with surrounding compatible land uses and internal community facilities can result in a less desirable place to live and a decrease in the health and safety of the community.
9. Non-residential activities at an inappropriate scale can result in additional noise, on-street parking and/or traffic congestion. In turn, this can result in a detraction to the planned residential character.
10. The establishment of non-residential activities that have no functional relationship with the Medium Density Residential Zone has the potential to undermine the viability of zones where such activities are specifically provided for.
11. Ad-hoc development can result in sub-optimal location of activities and related infrastructure causing inefficiency, increased cost, inadequate connectivity, and a poorly functioning urban environment.

## 14A.2 Objectives and Policies

### 14A.2.1 Objectives

1. A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

This is a provision which incorporates the objectives in clause 6 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

2. Provide for a variety of housing types and sizes that respond to housing needs and demand and the neighbourhood's planned urban built character, including three-storey buildings.

This is a provision which incorporates the objectives in clause 6 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

3. Provide for a variety of housing *developments* including infill *development*, comprehensive residential *developments*, retirement villages, papakāinga and ~~pocket neighbourhood~~ other community-based housing typologies with a variety of different tenures.
4. An urban form providing positive private and public amenity outcomes.
5. Increased density of *development* to provide a more compact urban settlement pattern supporting integrated and connected community facilities, *infrastructure* and public transport including higher density *development* within Ōmokoroa Stage 3C and the Ōmokoroa Mixed Use Residential Precinct.

6. Minimisation of the adverse effects of earthworks and retaining walls on the existing natural landform and associated cultural and amenity values as well as on the stability of land and the safety of buildings and structures.
7. Maintenance and enhancement of the stormwater management functions of both the natural and built stormwater network.
8. A well-functioning high quality residential-led mixed use area within the Ōmokoroa Mixed Use Residential Precinct that actively and positively integrates and engages with the surrounding environment and is complementary to the function, viability and vitality of the neighbouring Commercial Zone, comprising daytime and night-time activities compatible with residential uses.
9. Recognise and enable the housing and care needs of the ageing population.

## **Policies**

1. Enable a variety of housing types with a mix of densities within the zone, including three-storey attached and detached residential units, and low-rise apartments.

This is a provision which incorporates the policies in clause 6 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

2. 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).

This is a provision which incorporates the policies in clause 6 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

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

This is a provision which incorporates the policies in clause 6 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

4. Enable housing to be designed to meet the day-to-day needs of residents.

This is a provision which incorporates the policies in clause 6 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

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

This is a provision which incorporates the policies in clause 6 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

6. Enable a variety of housing developments such as infill development, comprehensive residential development, retirement villages, papakāinga and pocket neighbourhoods other community based housing in a manner which responds to the specific needs of the community which they are designed for.
7. Require proposals of four or more residential units on a site to provide integrated assessments which fully assess how the land is to be used effectively and efficiently, how the relevant requirements of the structure plan are met including provision of infrastructure and how high quality urban design outcomes are being achieved.
8. Require proposals of four or more residential units on a site to achieve the minimum number of residential units per hectare of developable area unless it can be clearly demonstrated that any

- adverse effects can be adequately mitigated.
9. Ensure that residential development achieves good private amenity outcomes by utilising the orientation of the site/s for solar access and by providing for on-site privacy, outdoor living spaces, landscaping, outlook space ~~and surveillance to and from public spaces.~~
  10. Ensure that the interface between residential development and public boundaries is positive by ~~avoiding or mitigating the visual dominance of buildings other than residential units, minimising repetition of building form,~~ considering the extent to which the articulation, modulation and materiality addresses adverse visual dominance effects associated with building length and limiting the heights of solid fences and by providing appropriate landscaping.
  11. Provide connections from subdivisions and developments to reserves, open spaces and/or commercial centres that have a high level of public amenity and in accordance with any relevant ~~structure plans,~~ reserve management plans and recreation and open space activity plans.
  12. Limit non-residential activities, ~~accommodation facilities and home enterprises~~ to being undertaken only where any potential adverse effects on residential amenity values and ~~on the transportation network including vehicle parking congestion the functioning of the residential environment~~ are able to be avoided or mitigated.
  13. ~~Ensure~~ Encourage subdivision and ~~development is to be~~ designed to utilise the existing natural landform ~~where practicable~~ to limit the ~~need for earthworks and retaining walls.~~
  14. The maximum limit for ~~impervious surfaces~~ should not be exceeded unless any additional stormwater runoff can be mitigated on-site and prevented or delayed (as required) from entering ~~Council's stormwater network or the receiving environment.~~
  15. Retain existing overland flowpaths are to be retained or if modified shall maintain or enhance their existing function and not result in additional stormwater runoff onto neighbouring properties.
  16. The permitted ~~gross floor area~~ of non-residential uses within the Ōmokoroa Mixed Use Residential Precinct should not be exceeded unless it can be demonstrated ~~through economic impact assessment~~ that the ~~economic~~ viability and associated vitality of use of the neighbouring ~~Commercial Zone~~ would not be significantly affected.
  17. Ensure ~~developments~~ in the Ōmokoroa Mixed Use Residential Precinct are designed to integrate positively with surrounding land uses, public spaces and natural features ~~holistically with respect to surrounding land uses, buildings and contour changes, positively connect with and contribute to the quality of public spaces~~ and provide a density of development to promote ~~of use of land to deliver the planned character of~~ a vibrant, complementary mixed-use destination that compliments and supports ~~adjacent to~~ the town centre.
  18. Avoid, remedy or mitigate adverse effects on residential uses from non-residential uses in the Ōmokoroa Mixed Use Residential Precinct.

#### New Policy X – Provision of Housing for an Ageing Population

- XX. Enable retirement villages that:
- a. Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities and / facilities, and affordability and the efficient provision of assisted living and care services.
  - b. Provide good quality on site amenity, recognising the unique layout, internal amenity and other day-to-day needs of residents as they age.
- XX. Encourage the scale and design of the retirement villages to:
- a. Be of a high-quality and be aligned with the planned urban character of the zone;
  - b. Achieve attractive and safe streets and public open spaces, including by providing for passive surveillance; and.
  - c. Achieve an appropriate level of residential amenity at neighbouring properties where relevant built form standards are exceeded.

New Policy X – Changing Communities

XX. To provide for the diverse and changing residential needs of communities and recognise that the existing character and amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities:

New Policy X – Larger Sites

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

New Policy X – Role of Density Standards

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

**14A.3 Activity Lists****14A.3.1 Permitted Activities**

The following land uses are Permitted Activities subject to meeting all relevant activity performance standards (density standards and other standards).

a. Construction or use of buildings and structures within this list.

Rule 14A.3.1 (a) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

b. Up to three residential units on a site.

Rule 14A.3.1 (b) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

c. Showhomes.

d. Accommodation facilities for a combined maximum of five persons (excluding staff).

e. Education facilities for a combined maximum of four persons (excluding staff).

f. Home enterprises.

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

i. Offices

ii. Retailing (ground floor only)

iii. Restaurants and other eating places and taverns (ground floor only)

iv. Commercial services (ground floor only)

v. Places of assembly (excluding places of worship, marae, halls, theatres and taverns)

vi. Medical or scientific facilities.

- h. Activities approved in a reserve management plan or reserve concept plan prepared under the Reserves Act 1977 or Local Government Act 2002.
- i. Works and network utilities as provided for as a permitted activity in Section 10.
- j. Buildings accessory to, and structures accessory to, the foregoing.
- k. Existing urupā
- ~~l. Earthworks.~~
- m. Up to three retirement units on a site.

#### **14A.3.2** **Controlled Activities**

- 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 1,400m<sup>2</sup>, 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.

#### **14A.3.3** **Restricted Discretionary Activities**

- a. Permitted and controlled land use activities that do not comply with the density standards or other standards in Rules 14A.4.1 and 14A.4.2.
- b. Four or more residential units on a site.
- c. Comprehensive mixed use development within the Ōmokoroa Mixed Use Residential Precinct (except for residential units which are permitted by complying with the density standards).
- d. Four or more retirement units on a site. Retirement villages (except for residential units which are permitted by complying with the density standards).
- e. Rest homes.
- f. Works and network utilities as provided for as a restricted discretionary activity in Section 10.

#### **14A.3.4** **Discretionary Activities**

- a. Places of assembly.
- b. Accommodation facilities not complying with 14A.4.2 (j).
- c. Education facilities for more than four people (excluding staff).
- d. Medical or scientific facilities.
- e. Dairies no greater than 60m<sup>2</sup> gross floor area.
- f. In the Ōmokoroa Mixed Use Residential Precinct, activities not complying with the permitted gross floor area in Rule 14A.3.1(g).
- g. Urupā (new sites).

- h. Works and network utilities as provided for as a discretionary activity in Section 10.
- i. Subdivision which is not for the purpose of the construction and use of residential units under Rules 14A.3.2 (a) or (b) and which does not qualify as a controlled activity under 14A.3.2 (c).

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

- ~~a. 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 (e).~~

## **14A.4 Activity Performance Standards**

### **14A.4.1 Density Standards**

Rule 14A.4.1 incorporates the density standards in Part 2 of Schedule 3A of the RMA.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

The following performance standards shall be met by all activities.

Any Permitted or Controlled Activity that fails to comply with any of these standards shall be a Restricted Discretionary Activity and Council's discretion shall be restricted to any particular non-compliances. Any other activity that fails to comply with any of these standards shall retain the same activity status.

#### **a. Number of residential units per site**

There must be no more than three residential units per site.

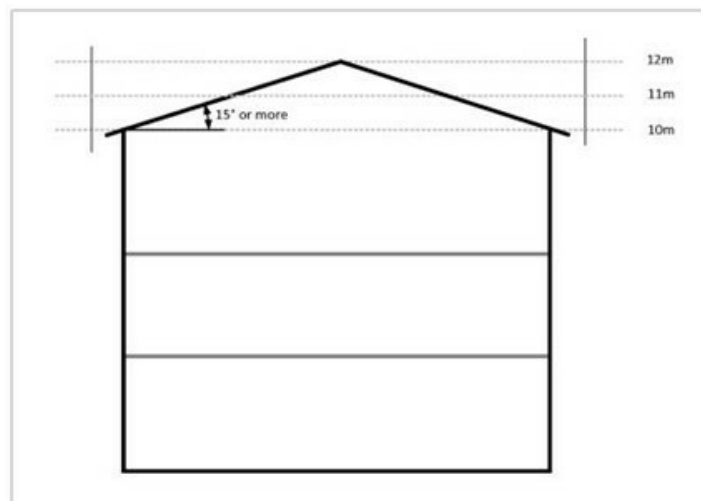
Note: Works in close proximity to all electric lines can be dangerous. Compliance with the New Zealand Electrical Code of Practice 34:2001 is mandatory for buildings, earthworks and mobile plants within close proximity to all electric lines.

Rule 14A.4.1 (a) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

#### **b. Building and structure height**

- i. Buildings and structures must not exceed 11 metres in height, except that 50% of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1 metre, where the entire roof slopes 15° or more, as shown on the following diagram:





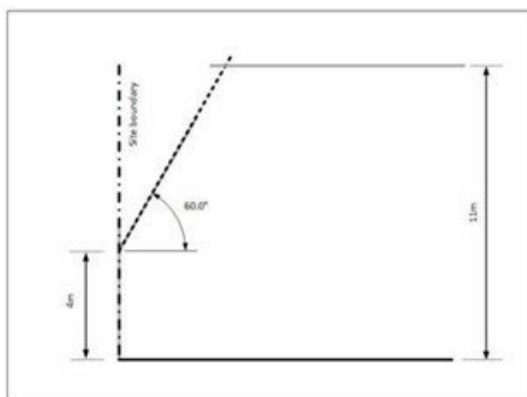
- ii. This standard does not apply to:
- a. Ōmokoroa Stage 3C where the maximum *height* for *residential units*, *retirement villages* and *rest homes* shall be 20 metres.
  - b. Ōmokoroa Mixed Use Residential Precinct where the maximum *height* for *buildings* shall be 20 metres.
  - c. Ōmokoroa Mixed Use Residential Precinct where *buildings* locate all parking and servicing requirements enclosed below *ground level*, in which case the maximum *height* shall be 23 metres.
  - d. 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) where *building height* shall be a maximum of 6m except that a chimney may be at a *height* of 7.5m.

Rule 14A.4.1 (b) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**c. Height in relation to boundary**

- i. *Buildings and structures* must not project beyond a 60° recession plane measured from a point 4 metres vertically above *ground level* along all boundaries, as shown on the following diagram. Where the boundary forms part of a legal right of way, entrance strip, access *site*, or pedestrian access way, the *height* in relation to boundary applies from the farthest boundary of that legal right of way, entrance strip, access *site*, or pedestrian access way.



- ii. This standard does not apply to:
- a. a boundary with a road:
  - b. existing or proposed internal boundaries within a *site*:
  - c. *site* boundaries where there is an existing common wall between two *buildings* on adjacent sites or where a common wall is proposed:
  - d. where a subdivision is proposed between *residential units* that share a common wall (in this case it will not apply along the length of the common wall).

- e. subdivision (by unit plan) to the extent that the recession plane above shall only apply to buildings on the base land in their relationship to the base land external site boundaries and shall not apply between the internal boundaries of the principal units within the unit plan, nor between the principal units and their internal boundary with any common property.
- f. where the written approval of the owner(s) of the immediately adjoining property to the specific encroachment is obtained.

Rule 14A.4.1 (c) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**d. Setbacks**

- i. Buildings and structures must be set back from the relevant boundary by the minimum depth listed in the yards table below:

<u>Yard</u>	<u>Minimum depth</u>
<u>Front</u>	<u>1.5 metres</u>
<u>Side</u>	<u>1 metre</u>
<u>Rear</u>	<u>1 metre (excluded on corner sites)</u>

- ii. This standard does not apply to:
- a. site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.
- b. site boundaries with a railway corridor or designation for railway purposes (for sites created by way of an application for subdivision consent approved after 1 January 2010) in which case all yards shall be 10m.
- c. subdivision (by unit plan) to the extent that the yards above shall only apply to buildings on the base land in their relationship to the base land external site boundaries and shall not apply between the internal boundaries of the principal units within the unit plan, nor between the principal units and their internal boundary with any common property.
- d. 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) where all side yards shall be a minimum of 5m.
- e. Except for a front yard, where the written approval of the owner(s) of the immediately adjoining property to a specified lesser distance is obtained.

Rule 14A.4.1 (d) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

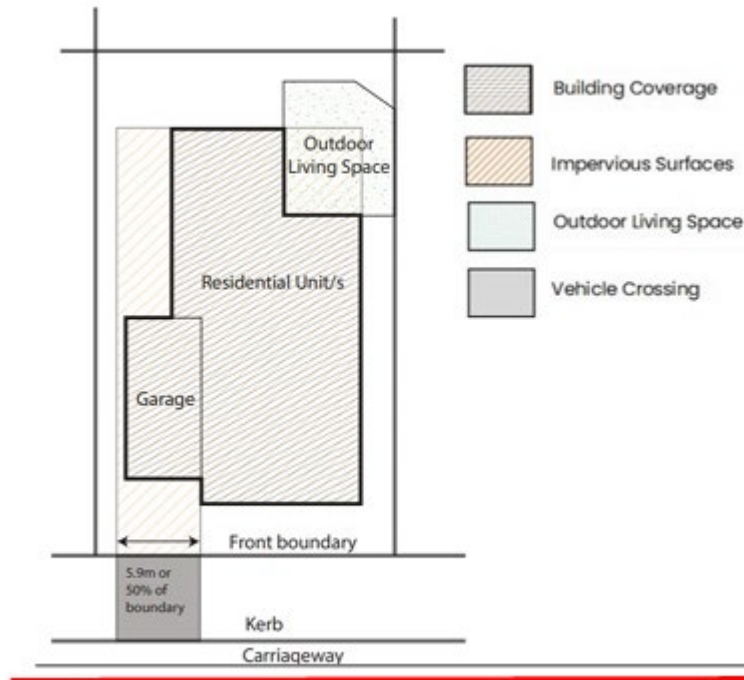
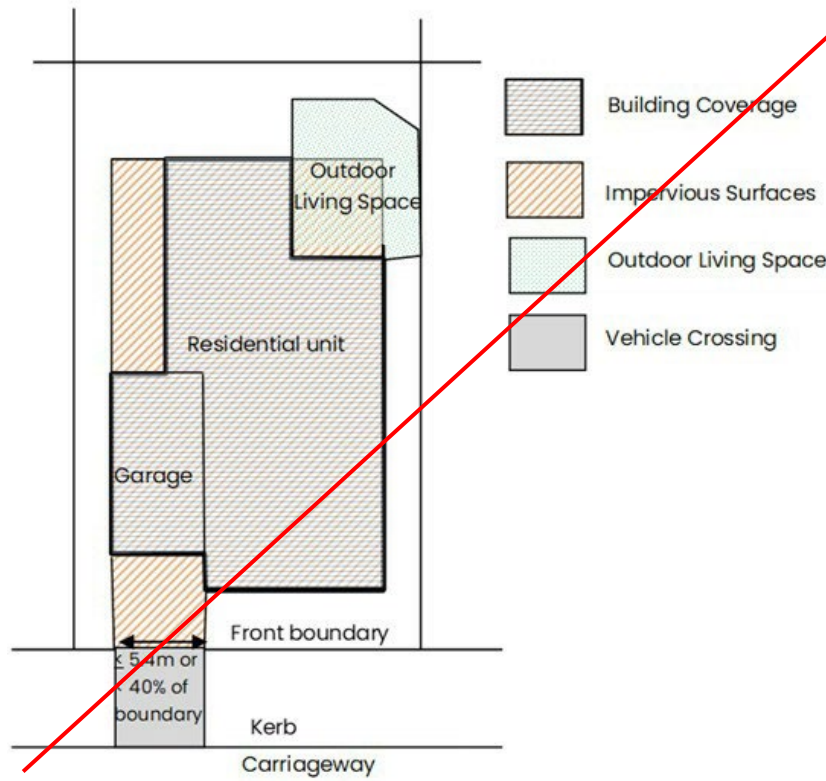
This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**e. Building coverage**

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

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

Building coverage is illustrated in the diagram below.



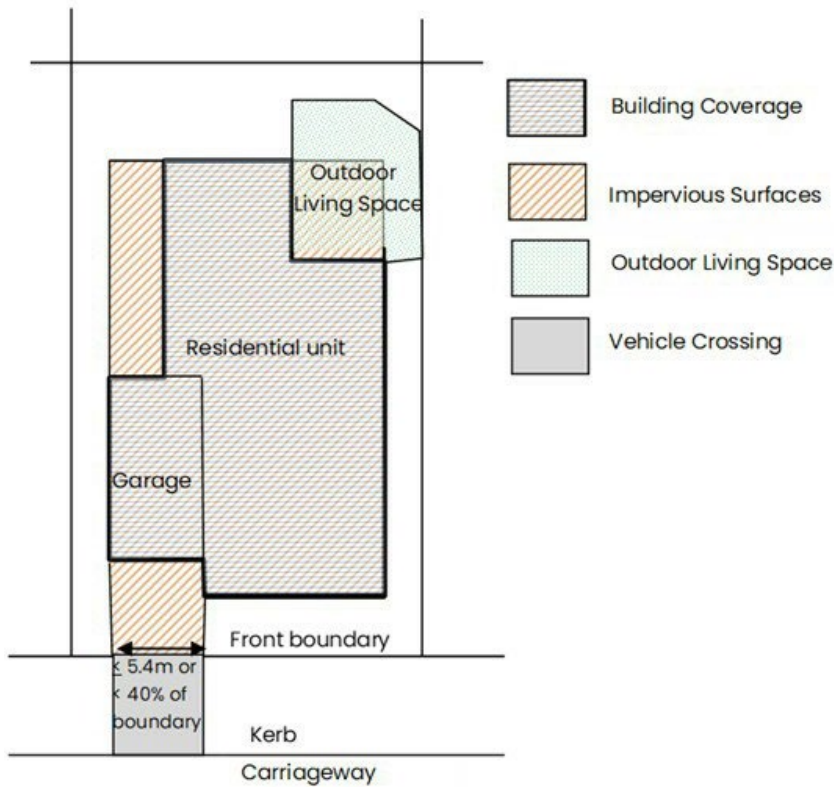
Rule 14A.4.1 (e) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise as a permitted activity a residential unit in accordance with the density standards in Rule 14A.4.1 on a site which was zoned residential or medium density residential prior to Plan Change 92 being notified.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**f. Outdoor living space (per unit)**

- i. A residential unit at ground floor level must have an outdoor living space that is at least 20 square metres and that comprises ground floor, balcony, patio, or roof terrace space that:
- where located at *ground level*, has no dimension less than 3 metres; and
  - where provided in the form of a balcony, patio, or roof terrace, is at least 8 square metres and has a minimum dimension of 1.8 metres; and
  - is accessible from the residential unit; and
  - may be —
    - 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
    - in the case of retirement villages, up to 50% may be communal indoor spaces;
    - located directly adjacent to the unit; and
    - is free of buildings, parking spaces, and servicing and manoeuvring areas.
- ii. A residential unit located above ground floor level must have an outdoor living space in the form of a balcony, patio, or roof terrace that—
- is at least 8 square metres and has a minimum dimension of 1.8 metres; and
  - is accessible from the residential unit; and
  - may be —
    - grouped cumulatively by area in 1 communally accessible location, in which case it may be located at *ground level* (or in the case of retirement villages grouped cumulatively by area in 1 or more communally accessible location/s); or
    - in the case of retirement villages, up to 50% may be communal indoor spaces; or
    - located directly adjacent to the unit.

Outdoor living space is illustrated in the diagram below.

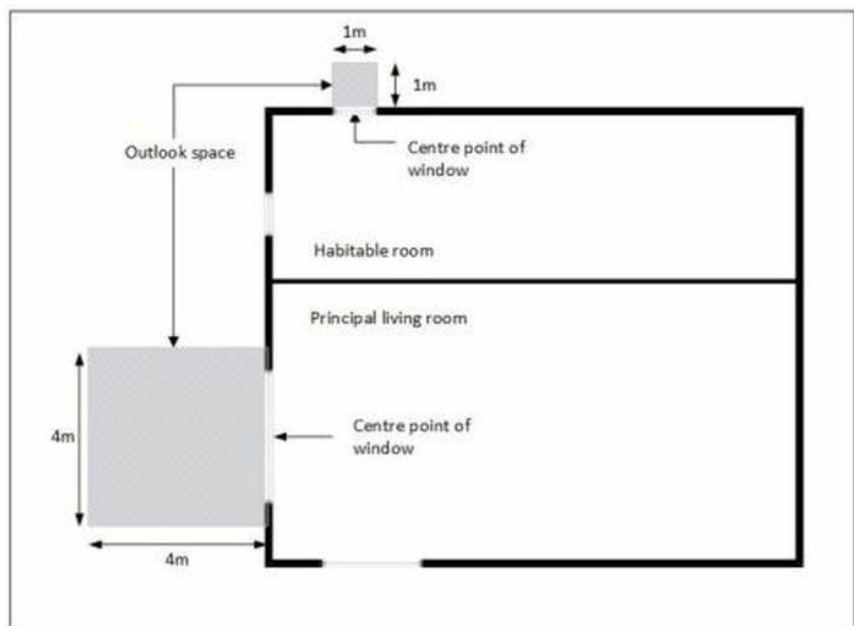


Rule 14A.4.1 (f) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise as a permitted activity a residential unit in accordance with the density standards in Rule 14A.4.1 on a site which was zoned residential or medium density residential prior to Plan Change 92 being notified.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

**g. Outlook space (per unit)**

- i. An outlook space must be provided for each residential unit as specified in this clause.
- ii. An outlook space must be provided from the habitable room windows as shown in the diagram below:



- iii. The minimum dimensions for a required outlook space are as follows:
  - a. a principal living room must have an outlook space with a minimum dimension of 4 metres in depth and 4 metres in width; and
  - b. all other habitable rooms must have an outlook space with a minimum dimension of 1 metre in depth and 1 metre in width.
- iv. The width of the outlook space is measured from the centre point of the largest window on the *building* face to which it applies.
- v. Outlook spaces may be over driveways and footpaths within the *site* or over a public street or other public open space.
- vi. Outlook spaces may overlap where they are on the same *wall* plane in the case of a multi-storey *building*.
- vii. Outlook spaces may be under or over a balcony.
- viii. Outlook spaces required from different rooms within the same *building* may overlap.
- ix. Outlook spaces must —
  - a. be clear and unobstructed by *buildings*; and
  - b. not extend over an outlook space or *outdoor living space* required by another *residential 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.

Rule 14A.4.1 (g) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

#### **h. Windows to street**

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

Rule 14A.4.1 (h) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

#### **i. Landscaped area**

- i. A *residential unit* or *retirement unit* at ground floor level must have a landscaped area of a minimum of 20% of a developed *site* with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.
- ii. The landscaped area may be located on any part of the development site, and does not need to be associated with each residential unit or *retirement unit*.

Rule 14A.4.1 (i) has immediate legal effect under Section 86BA (1) of the RMA. This is only to the extent that it is used to authorise 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.

This note does not form part of Plan Change 92 and will be removed when Plan Change 92 becomes operative.

#### **14A.4.2 Other standards**

The following performance standards shall be met by all activities.

Any Permitted or Controlled Activity that fails to comply with any of these standards shall be a Restricted Discretionary Activity and Council's discretion shall be restricted to any particular non-compliances. Any other activity that fails to comply with any of these standards shall retain the same activity status (except where otherwise specified in the activity lists).

##### **a. Residential unit yield**

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

<b>Area</b>	<b>Yield Requirements</b>
<u>Ōmokoroa Stage 3A</u>	<u>Minimum yield of 15 residential units per hectare of developable area</u>
<u>Ōmokoroa Stage 3B</u> <u>Ōmokoroa (Outside of Stage 3)</u> <u>Te Puke</u>	<u>Minimum yield of 20 residential units per hectare of developable area</u>
<u>Ōmokoroa Stage 3C</u> <u>Ōmokoroa Mixed Use Residential Precinct</u>	<u>Minimum yield of 30 residential units per hectare of developable area</u>

##### **Note:**

Every 2.5 rest home bedrooms will be counted as one residential unit for the purpose of this rule.

For the avoidance of doubt, any retirement units on a site are not subject to any of the requirements in this standard.

##### **~~b. Residential unit typology~~**

~~i. Six or more residential units on a site:~~

~~A maximum of 50% of the total number of residential units on the site may be physically detached from any other residential units.~~

##### **c. Minimum storey requirements**

Within the Ōmokoroa Mixed Use Residential Precinct, buildings shall be a minimum of two storeys (except for residential units which are permitted by complying with the density standards).

Retirement units are exempt from the requirements of this standard.

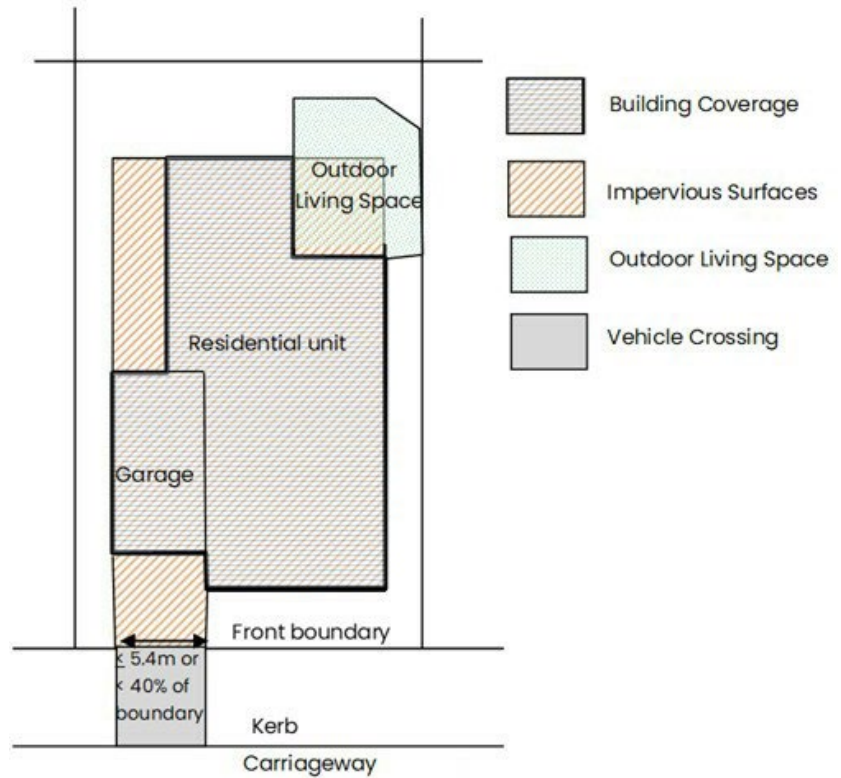
##### **d. Impervious surfaces**

i. Impervious surfaces shall not exceed 70% of net site area.

Except that:

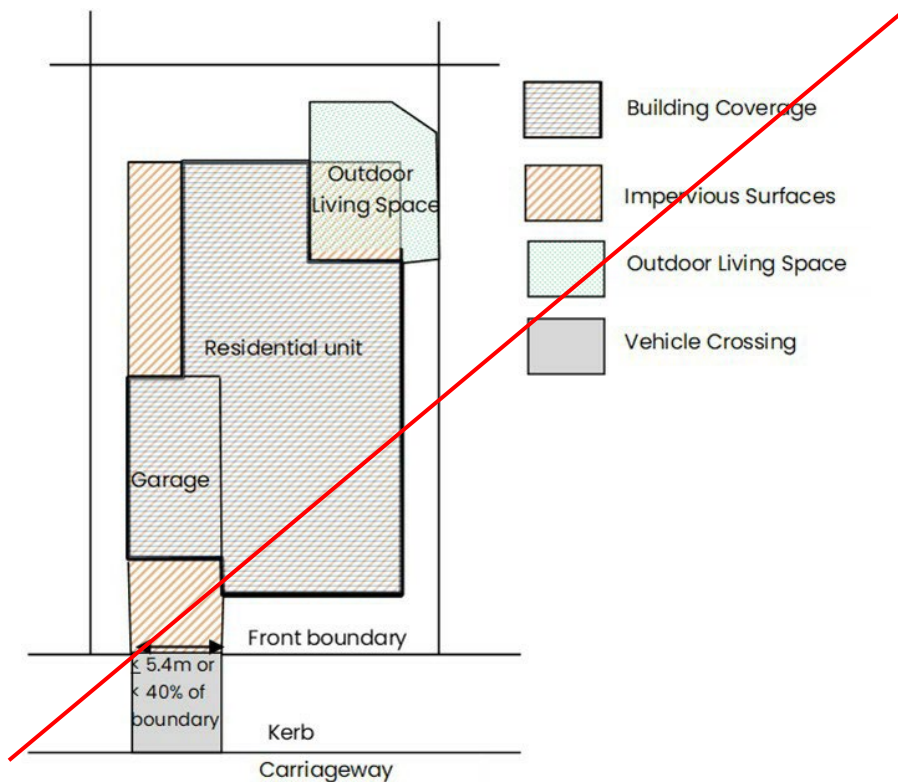
- a. Within the Te Puke Storm Water Management area, Impervious surfaces shall not exceed 50% of net site area.
- b. For subdivision by unit plan, this rule shall only apply to base land, and not to each individual principal unit within the unit plan, nor to any common property.

*Impervious surfaces are illustrated in the diagram below.*

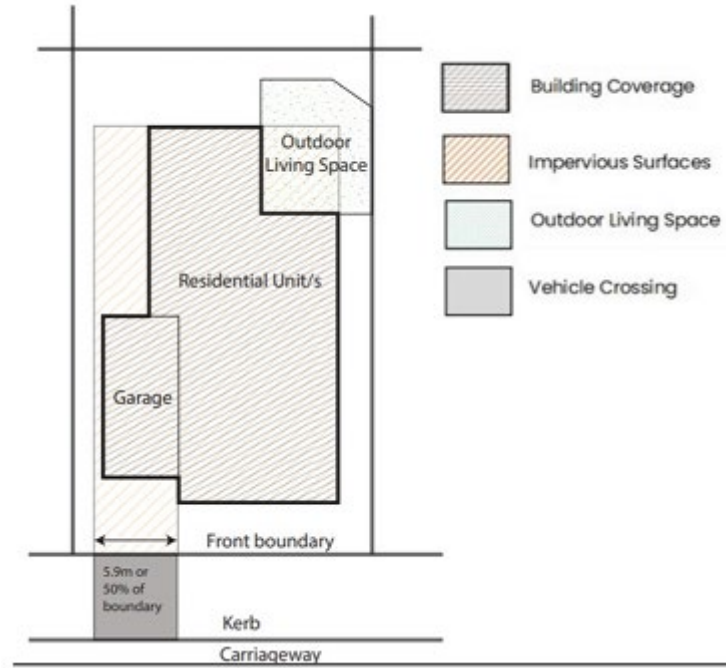


**e. Vehicle crossing and access**

- 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.*







Note:

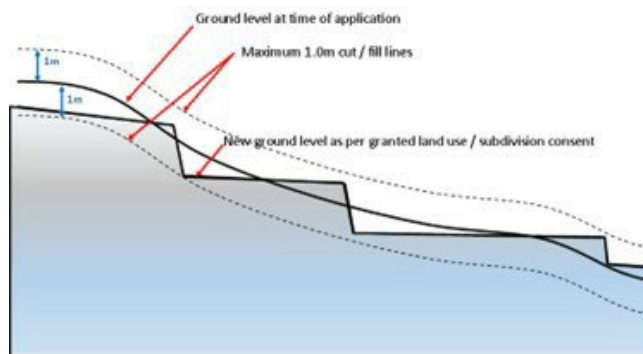
*Any site which contains a retirement village is exempt from the requirements of this standard.*

**f. Streetscape**

**i.** Garages (whether attached to or detached from a residential unit) and other buildings (except residential units and retirement 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.

**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 750m<sup>3</sup> per site.

**h. Height of fences, wall and retaining walls**

**i.** Within a side or rear yard (including on a side or rear boundary)

The maximum height above the ground level of the relevant boundary shall be as follows:

- Fence – 2m
- Wall – 2m
- Retaining wall – 1.5m (plus a safety fence if required by the Building Code of no greater than 1m above the highest point of the retaining wall)

Except that:

Where the relevant boundary is with a public reserve or walkway, the height shall not exceed 1.2m unless the portion that is above 1.2m has a visual permeability of at least 60%.

In all cases where a safety fence exceeds a height of 2m the portion that is above 2m must have a visual permeability of at least 60%.

ii.

Within a front yard (including on a front boundary)

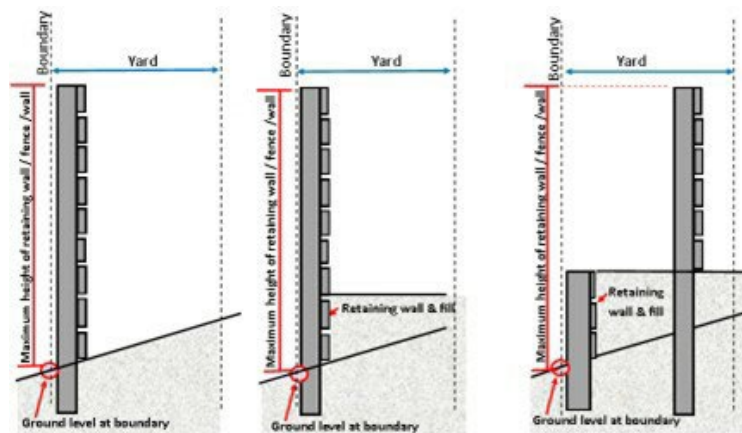
The maximum height above the ground level of the relevant boundary shall be as follows:

- Fence – 1.2m
- Wall – 1.2m
- Retaining wall – 1.2m (plus a safety fence if required by the Building Code of no greater than 1m above the highest point of the retaining wall)

Except that:

The height may exceed 1.2m up to a height of 2m (or 2.2m in the case of a safety fence on a retaining wall) provided that the portion that is above 1.2m has a visual permeability of at least 60%.

The maximum height of a fence, wall or retaining wall within a yard (including on the boundary) is measured above the “ground level at boundary” as illustrated in the examples in the diagram below.



#### i. Specific Requirements for Lot 601 DP 560118 and Lot 603 DP 560118 (Ōmokoroa)

The following specific requirements apply to 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):

##### i. Reflectivity:

All external surfaces of buildings (excluding glazing) shall comply with the following reflectivity standards:

Walls – 35%

Roofs – 25%

Note: The above shall be in accordance with British Standard BS 5252 Reflectance Value.

##### ii. No mirrored glass shall be used.

**j. Accommodation Facilities**

- i. Have maximum occupancy of five persons at any one time (excluding staff);
- ii. The total area available for exclusive use for the occupiers be no greater than  $60\text{m}^2$  gross floor area;
- iii. Must not contain a kitchen facility or otherwise be self contained;
- iv. For Discretionary accommodation facilities, information is to be provided in accordance with 4A.6.2.

**k. Home Enterprises**

- i. Shall only be conducted within a building.
- ii. Shall be conducted within a gross floor area not exceeding  $25\text{m}^2$ . Carparks shall be excluded from the maximum area calculation of the activity.
- iii. Is carried out by a maximum of three persons.
- iv. Any goods sold must be:
  - a. goods produced onsite; and/or
  - b. goods that are ordered by the customer by telephone, mail or electronic transaction
  - c. and redistributed to them by post, courier, or electronically; and/or
  - d. goods ancillary and related to a service provided by the home enterprise.
- v. Any advertising shall comply with Section 4D.3.2.1.

**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.

**l. Transportation, Access, Parking and Loading – See Section 4B.****m. Noise and Vibration – See Section 4C.1.****n. Storage and Disposal of Solid Waste – See Section 4C.2.****o. Lighting and Welding – See Section 4C.3.****p. Offensive Odours, Effluent Aerosols and Spray Drift – See Section 4C.4.****q. Offensive Odours in the Ōmokoroa Mixed Use Residential Precinct**

In addition to Section 4C.4: External air ventilation or extraction outlets, ducting or pipework serving non-residential uses in the Ōmokoroa Mixed Use Residential Precinct shall be located at least two metres from any window, deck or terrace balustrade of any residential unit.

For this rule, non-residential uses means offices, retailing (ground floor only), restaurants and other eating places (ground floor only), commercial services (ground floor only), places of assembly (excluding places of worship, marae, halls and theatres) and Medical or scientific facilities.

**r. Screening – See Section 4C.5.****s. Signs – See Section 4D.**

- t. **Natural Environment** – See Section 5.
- u. **Landscape** – See Section 6.
- v. **Historic Heritage** – See Section 7.
- w. **Natural Hazards** – See Section 8.
- x. **Hazardous Substances** – See Section 9.
- y. **Financial Contributions** – See Section 11.
- z. **Subdivision and Development** – See Section 12.

### 14A.4.3 **Subdivision Standards**

The following performance standards shall be met by subdivision.

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

An application for a controlled activity subdivision under Rules 14A.3.2 (a)-(b) shall demonstrate that all lots are for the purpose of the construction and use of a residential unit or units and shall be submitted with one or more of the following (as applicable):

- i. Information demonstrating that it is practicable to construct on every lot within the proposed subdivision, as a permitted activity, a residential unit that meets the density standards;
- ii. Information demonstrating that the residential units have been granted land use consent for not meeting one or more of the density standards;
- iii. A concurrent land use consent application for residential units which do not meet one or more of the density standards and which have not previously been granted land use consent under (ii).

**b. Controlled activity subdivision for sites of less than 1,400m<sup>2</sup> 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.

**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:

- i. Yield requirements

Area	Yield Requirements
Ōmokoroa Stage 3A	Minimum yield of 15 lots per hectare of developable area

Ōmokoroa Stage 3B Ōmokoroa (Outside of Stage 3) Te Puke	Minimum yield of 20 lots per hectare of <i>developable area</i>
Ōmokoroa Stage 3C Ōmokoroa Mixed Use Residential Precinct	Minimum yield of 30 lots per hectare of <i>developable area</i>

**Note:**

Where one or more balance *lots* are proposed, these will be excluded from calculations of *developable area* and minimum yield of lots per hectare of *developable area*. For this rule, balance *lot* shall mean any proposed *lot* which is 1,400m<sup>2</sup> or greater and

which is not demonstrated to be for the purpose of the *construction* and use of *residential units* under Rules 14A.3.2 (a) – (b).

i. **Shape factor:**

All *lots* shall be capable of accommodating a rectangle of 40m 8m X 15m exclusive of *yard* requirements.

d. **Specific Requirements for Lot 601 DP 560118 and Lot 603 DP 560118 (Ōmokoroa)**

The following specific requirements apply to 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):

i. All *sites* shall have a minimum width of 30m:

## ii. That a minimum landscape strip of 5m from the esplanade reserve shall be provided that will provide a sustainable long term indigenous vegetation cover.

e. **Subdivision and Development – See Section 12.****14A.5 Notification****14A.5.1 Requirements**

a. ~~Council may require public or limited notification of resource consent applications except as listed in (b) below:~~

b. ~~Council shall not require:~~

i. ~~Public notification if the application is for the construction and use of one, two or three residential units that do not comply with one or more of the density standards in Rule 14A.4.1 (except for the standard in 14A.4.1 (a)).~~

ii. ~~Public or limited notification if the application is for the construction and use of four or more residential units that comply with the density standards in Rule 14A.4.1 (except for the standard in 14A.4.1 (a)).~~

iii. ~~Public or limited notification if the application is for a subdivision associated with an application for the construction and use of residential units described in subclause (i) and (ii) above.~~

iv. ~~Notification for a controlled activity as specified in Section 4A – General in Rule 4A.4.7.1.~~

**14A.5 Notification****14A.5.1 Requirements**

Council shall not require:

- a. Public notification if the application is for the four or more retirement units.
- b. Limited notification of the application is for four or more retirement units that comply with density standards 14A.4.1(b) – (e).

## **14A.6 Matters of Control**

### **14A.6.1 Subdivision for the purpose of the construction and use of residential units**

In considering an application for the subdivision of land for the purpose of the *construction* and use of *residential units* as provided for in Rules 14A.3.2 (a)-(b), *Council* reserves control over the following:

- a. Providing required active reserves as identified on the *structure plan* including location, area and aspect requirements.
- b. Providing walkways and cycleways identified on the *structure plan*.
- c. Providing required roading in accordance with the layout identified on the *structure plan* and demonstrating linkages to adjacent sites as applicable including “future roads”.
- d. Providing infrastructure as identified on the *structure plan* that is in compliance with the Development Code or an approved alternative design.
- e. The location of roads, footpaths, walkways and cycleways and the orientation of *lots* to road boundaries to ensure good urban design outcomes.
- ~~f. Design of services which provides for the extension of services to other properties as applicable to provide effective and efficient servicing of the whole urban area.~~
- g. The effects of access to and within the subdivision.
- h. The effect of additional driveways on public safety ~~and amenity along footpaths.~~
- i. *Lot* designs that provide ~~as much as practicable~~ areas orientated towards the sun.
- j. The application of financial contributions (for new *lots* and/or *residential units*) as per Section 11 – Financial Contributions.
- ~~k. Whether the design and layout of development recognises and is sensitive to natural landform and topography.~~
- ~~l. The extent to which any required earthworks minimises the need for retaining walls that are of a scale and location that adversely affects the visual qualities of the area.~~
- ~~m. Whether earthworks and any subsequent retaining walls lead to a loss of privacy between the subject site and surrounding sites due to creating higher building sites than the predevelopment land form.~~
- ~~n. Cultural values associated with the existing natural landform.~~
- ~~o. The extent to which any resource consent/s previously granted for earthworks have already addressed (j) to (m) above.~~

## **14A.7 Matters of Discretion**

### **14A.7.1 Restricted Discretionary Activities – Four or More Residential Units on a Site, Comprehensive Mixed Use Developments, Retirement Villages and Rest Homes**

In considering an application for four or more *residential units* on a *site*, *comprehensive mixed use developments*, *retirement villages* or *rest homes*, *Council* shall consider the following ~~to assess the overall contribution of the development to deliver a high quality and well-functioning urban environment.~~

~~Objectives and policies~~

a. ~~Whether the proposal is consistent with the objectives and policies.~~

### **Activity performance standards**

b. ~~In addition to the above, w~~Whether the proposal meets the following activity performance standards:

#### Density Standards

- Height, height in relation to boundary, setbacks, building coverage, outdoor living space (per unit), outlook space (per unit), windows to street and landscaped area.

#### Other standards

- Residential unit yield, residential unit typology, minimum storey requirements, impervious surfaces, vehicle crossing and access, streetscape, earthworks, height of fences, walls and retaining walls and specific requirements for Lot 601 DP 560118 and Lot 603 DP 560118 (Ōmokoroa).

### **Relevant Structure Plan**

Whether the proposal:

- c. Meets any staging requirements (if applicable).
- d. Provides required active reserves as identified on the structure plan including location, area and aspect requirements.
- e. Provides walkways and cycleways identified on the structure plan.
- f. Provides required roading in accordance with the layout identified on the structure plan and demonstrating linkages to adjacent sites as applicable including "future roads".
- g. Provides service infrastructure as identified on the structure plan that is in compliance with the Development Code or approved alternative design.

### **Urban Design**

Whether the proposal achieves a positive urban design residential outcome by addressing the following matters demonstrating the following qualities:

~~**Note:** Council's adopted Residential Design Outcomes illustrates recognised high quality urban design principles and provides direction on how to achieve these through good design. To aid delivery of high quality outcomes the Residential Design Outcomes should be referred to. Council may require an independent review of the assessment provided in regard to the matters addressed in (h) to (k) which follow. The extent and detail of this review will be commensurate with the scale and intensity of the proposed development.~~

~~An urban design assessment is to be provided with the application prepared by a suitably qualified person(s). The extent and detail of this assessment will be commensurate with the scale and intensity of the proposed development.~~

~~Advice note: Council's Residential Design Outcomes document provides guidance to assist with addressing the matters of discretion.~~

h. Development Layout

Whether the design and layout of the development:

- i. Responds positively to the planned urban form of the neighbourhood, including any relevant Structure Plan.
  - ii. Provides for a level of density that supports town centres and public transport routes.
  - iii. Provides for a range of housing choice.
  - iv. Minimises the visual impact of retaining walls/structures.
- i. Integrated multi-modal network
- The establishment of an integrated multi-modal network that is designed to:
- i. Provide connectivity within the development and to the surrounding area.

- 
- ii. Provide an inclusive and accessible urban environment.
  - iii. Provide for public transport, pedestrians, cyclists and alternate transport modes.
  - iv. Provide efficient access for emergency and service vehicles.
  - j. Public Interface  
Whether the development contributes to a safe and attractive interface with public spaces by:
    - i. Providing passive surveillance between housing and public spaces, reserves and accessways.
    - ii. Providing a clear and visible residential entrance from the street.
    - iii. Providing building recesses, varied architectural treatment and landscaping to break up the visual appearance of the built form.
    - iv. Retaining mature trees and providing on-site landscaping.
    - v. Comprehensively designing roadscape and front yard private landscaping to achieve an integrated frontage outcome.
  - k. Residential Amenity and Privacy  
Whether the development provides a high level of onsite amenity and privacy by:
    - i. Building design that provides living areas orientated towards the sun.
    - ii. Locating windows, balconies, outdoor living spaces and communal living areas to maintain privacy for adjacent properties/residential units.
  - l. Service Areas  
Whether the development provides:
    - i. Adequate service areas for waste management and other utilities so that they do not cause adverse odour and are screened from public interfaces.
  - m. Integrated Stormwater Management Design
    - i. Providing water sensitive urban design including the retention of permeable areas and the treatment of stormwater.
    - ii. The management of stormwater collection, discharge and overland flowpaths to enable on-site treatment of stormwater and ensure attenuation is the same or better than pre-development levels.
    - iii. The management of stormwater collection, discharge and overland flowpaths to minimise flooding to properties and to protect people and buildings from flooding.
  - n. Earthworks
    - i. Whether the design and layout of development recognises and is sensitive to natural landform and topography.
    - ii. The extent to which any required earthworks minimises the need for retaining walls that are of a scale and location that adversely affects the visual qualities of the area.
    - iii. Whether earthworks and any subsequent retaining walls lead to a loss of privacy between the subject site and surrounding sites due to creating higher building sites than the pre-development land form.
    - iv. Cultural values associated with the existing natural landform.
    - v. The extent to which any resource consent/s previously granted for earthworks have already addressed (i) to (iv) above.
  - g. Development Layout
    - i. A design and development outcome that utilises the existing natural landform, landscape values and transportation network unless the earthworks are required as a result of a comprehensive mixed use development plan or reflect a structure plan outcome.
    - ii. The design and establishment of a place with its own identity (look and feel).
    - iii. Good linkages for people of all ages and abilities to the surrounding open space and movement networks.
  - h. Site and Building Design
-



- i. ~~A range of housing characteristics including a variety in:
 
    - ~~residential unit size (floor area)~~
    - ~~bedroom numbers~~
    - ~~storeys~~
    - ~~typology (stand alone, duplex, terrace or apartment)~~
    - ~~affordability options~~~~
  - ii. ~~Providing private land with a strong interface between both roads and privateways/access lots serving three or more sites, through use of integrated fencing, landscaping and building design.~~
  - iii. ~~Providing open space character including on-site landscaping, retention of mature trees, provision of shared driveways and streetscape/access way design.~~
  - iv. ~~Building designs that provide privacy and areas orientated towards the sun.~~
  - v. ~~Maximising permeable areas by providing multi-level residential developments.~~
  - vi. ~~Providing for wider community interaction and integration by ensuring public linkages and connected developments.~~
  - vii. ~~Where proposed buildings are attached, how the design of the buildings (or other means) provides for a variation in the visual appearance of built form. This includes using methods such as landscaping, recesses, projections and variations in colour and materials to mitigate adverse visual effects.~~
  - viii. ~~Locating windows, balconies, outdoor living spaces and communal living areas as to maintain privacy for adjacent properties/residential units.~~
  - ix. ~~Providing passive surveillance of roads, parks, walkways, other public spaces and privateways/access lots serving three or more sites.~~
  - x. ~~Providing adequate service areas for waste management and other utilities so that they do not cause adverse odour, and are screened from roads and privateways/access lots serving three or more sites.~~
  - xi. ~~Providing water sensitive urban design including the retention of permeable areas and the treatment of stormwater.~~
  - xii. ~~If the development includes a balance area, the ability of the balance area to meet all design outcomes in a complementary manner to the preceding development including yield and infrastructure requirements and any proposed conditions of consent or other legal mechanism to ensure these outcomes are delivered.~~
  - xiii. ~~For comprehensive mixed use buildings, a legible residential entrance at ground floor that can be accessible for all users. This entrance should either face or be visible from the street.~~
  - xiv. ~~For comprehensive mixed use buildings, all services including water, wastewater, stormwater, ventilation, power, and telecommunication ducting/pipework from the roof to ground being incorporated into the architectural design of the building so not to be visible when viewed from the public realm, unless specifically required to be located externally and visible for their function.~~
- i. ~~Public Space Integration~~
- i. ~~The location of reserves so that they are centrally located, highly accessible, highly visible, generally level, have a sunny aspect and are of a size sufficient to ensure functionality and the provision of landscaping including trees.~~
  - ii. ~~Integration of residential development with adjoining reserves that are included in the structure plan, including stormwater reserves, walkways and cycleways.~~
  - iii. ~~A development that provides a safe environment for people of all ages and abilities.~~
  - iv. ~~An attractive and safe landscape in public areas that provides for trees and other plants that support the local ecosystem.~~

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j. ~~People Movement~~

- i. ~~An integrated multi-modal people-centric network that provides connectivity within the development and with the surrounding area and wider neighbourhood.~~
- ii. ~~An inclusive urban environment which avoids exclusive use areas that provide a barrier for community wider interaction.~~
- iii. ~~A development that links with the road, walkway, cycleway and reserves~~
- iv. ~~(recreation, local-purpose) network.~~
- v. ~~Providing vehicle crossings and any on-street parking in a manner that safeguards pedestrians, cyclists and other non-vehicular modes of movement. On-street parking in this case means on roads and private ways/access lots serving three or more sites.~~
- vi. ~~Designing roads and private ways/access lots serving three or more sites in a manner that re-enforces the liveability of the area by facilitating and encouraging human engagement and minimising dominance of motorised vehicles.~~
- vii. ~~The development and surrounding area having enough population density to support public transport and minimise reliance on private motor vehicles.~~
- viii. ~~Providing efficient access for emergency vehicles and service vehicles.~~

k. ~~Other Infrastructure~~

- i. ~~The effective and efficient location of services to enable functionality and maintenance, including any required easements.~~
- ii. ~~Design of services which provides for the extension of services to other properties as applicable to provide effective and efficient servicing of the whole urban area.~~
- iii. ~~Paying financial contributions to ensure that the costs of development are appropriately allocated and/or providing innovation and alternative design that leads to an increased lifecycle for infrastructure and improved environmental outcome.~~
- iv. ~~The management of stormwater collection, discharge and overland flowpaths to enable on-site treatment of stormwater and ensure attenuation is the same or better than pre-development levels.~~
- v. ~~The management of stormwater collection, discharge and overland flowpaths to minimise flooding to properties and to protect people and buildings from flooding.~~

#### **14A.7.2 Restricted Discretionary Activities – Non-Compliance with Building and Structure Height**

In considering an application that does not comply with Activity Performance Standard 14A.4.1 (b) *Buildings and Structure Height*, Council shall consider the following:

- a. ~~The extent and scale of the additional *height*.~~
- b. ~~The visual dominance of the *building/structure*.~~
- c. ~~Whether the *height* of the *building/structure* supports a positive relationship with the road or other public areas.~~
- d. ~~Any specific design features that add architectural value and contribute positively to the area's built form.~~
- e. ~~Any loss of privacy to neighbours.~~

#### **14A.7.3 Restricted Discretionary Activities – Non-Compliance with Height in Relation to Boundary**

In considering an application that does not comply with Activity Performance Standard 14A.4.1 (c) *Height in Relation to Boundary*, Council shall consider the following:

- 
- a. The extent and scale of the non-compliance.
  - b. How the non-compliance combines with the overall building bulk to create an increased visual dominance on other properties.
  - c. Overshadowing (loss of direct or indirect/ambient sunlight) on the adjoining properties and how this may adversely impact on the amenity values of these properties.
  - d. Any loss of privacy to neighbours.
  - e. Any unusual site characteristics that may justify a height to boundary infringement.

#### **14A.7.4 Restricted Discretionary Activities – Non-Compliance with Setbacks**

In considering an application that does not comply with Activity Performance Standard 14A.4.1 (d) Setbacks, Council shall consider the following:

##### Front yard

- a. Avoiding the building frontage (facing the *front boundary*) being visually dominated by garage doors, carparks, blank facades or any other *buildings/structures* other than *residential units*.
- ~~b. The *residential unit* design enabling a visual connection between the *residential unit* and the road. Whether the non-compliance is internalised within a development and provides a more efficient use of land and related improved amenity outcomes.~~
- c. Avoiding the establishment of a non-complying fence or *wall* to achieve privacy or to reduce potential traffic noise.

##### Side and rear yards

- d. Visual effects of building bulk and dominance from lack of separation of built form.
- e. Any loss of privacy to neighbours.

#### **14A.7.5 Restricted Discretionary Activities – Non-Compliance with Building Coverage**

In considering an application that does not comply with Activity Performance Standard 14A.5.1 (e) - *Building Coverage*, Council shall consider the following:

- a. The dominance of built form and how the building bulk is visually reduced by design.
- ~~b. Whether the proposal complies with activity performance standards for setbacks, landscaped area and outdoor living space (per unit), and if not, whether compliance with these standards could be used to mitigate adverse effects of the building bulk. Whether the effects of additional coverage are off-set by additional landscaping and increased setbacks from boundaries.~~
- ~~c. Whether the *building coverage* can be reduced by providing an additional storey.~~

#### **14A.7.6 Restricted Discretionary Activities – Non-Compliance with Outdoor Living Space (Per Unit)**

In considering an application that does not comply with Activity Performance Standard 14A.4.1 (f) - *Outdoor Living Space* (Per Unit), Council shall consider the following:

- a. Demonstration of sunlight to be received within the *outdoor living space* and the time of day when the sunlight is to be received.
- b. The shape, size, privacy and practicality of the *outdoor living space*.
- c. Accessibility of other outdoor facilities on the *site* or *other sites*.
- d. Accessibility of other outdoor facilities in close proximity to the *site* that are available to the public or

as part of the development.

#### **14A.7.7 Restricted Discretionary Activities – Non-Compliance with Outlook Space (Per Unit)**

In considering an application that does not comply with Activity Performance Standard 14.4.1 (g) Outlook Space (Per Unit), Council shall consider the following:

- a. The quality and privacy of the non-complying outlook space.
- b. Where the outlook space does not comply with width, the extent to which additional depth has been provided to increase the size and/or quality of the outlook space.
- c. Whether there are any other outlook spaces provided from the same room and the quality and privacy of these outlook spaces.

#### **14A.7.8 Restricted Discretionary Activities – Non-Compliance with Windows to Street**

In considering an application that does not comply with Activity Performance Standard 14A.4.1 (h) Windows to Street, Council shall consider the following:

- a. The height and length of any blank wall (including garage door) facing the street and the visual amenity effects it may have on people travelling along the street or footpath.
- b. The extent to which other architectural features and landscaping are provided to improve visual amenity along the street frontage.
- c. The ability to overlook the street from the residential unit.

#### **14A.7.9 Restricted Discretionary Activities – Non-Compliance with Landscaped Area**

In considering an application that does not comply with Activity Performance Standard 14A.4.1 (i) - Landscaped Area, Council shall consider the following:

- a. The design (including the variety of plants) of the landscaped area between the buildings on the development site and its boundary.
- b. How any reduced landscaped area is still able to provide for visual open space and vegetation and limit visual domination of the built form and hard surfaces.
- c. The presence of other trees on the site and how this compensates for a reduced landscaped area.
- d. The likelihood and subsequent adverse effects of using the landscaped area for on-site parking and manoeuvring.
- ~~e. The potential adverse effects on stormwater infrastructure and overland flowpaths.~~

#### **14A.7.10 Restricted Discretionary Activities – Non-Compliance with Residential Unit Yield**

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (a) Residential Unit Yield, Council shall consider the following:

- a. Any geotechnical or topographical reasons for why the yield requirements cannot be met.
- b. Whether residential units which fail to meet the yield requirements can meet all other relevant activity performance standards.
- c. The extent to which the proposed yield is in response to meeting the specific living requirements of the community that the housing development type is designed for including any need for ancillary non-residential buildings.
- d. Demonstration that the land being developed will retain the potential to comply with the required yield

in the future e.g. if there is a balance area proposed. This can be achieved by providing an indicative future additional *residential unit* layout. A consent notice or other legal mechanism may be applied to ensure future *development* meets the required yield requirements.

- e. ~~How the proposal provides for private space taking into account the size, orientation and shape of the space.~~
- f. The distance and accessibility to public facilities (e.g. schools, commercial areas, reserves and public transport routes).
- g. Adverse effects on existing *infrastructure*, including stormwater overland flowpaths.
- h. *Infrastructure* capacity within the subject catchment in relation to the anticipated stormwater, water, wastewater and transport demands generated by the proposed activity.
- i. ~~How the proposal provides *infrastructure* services on site in accordance with the Development Code or approved alternative.~~
- j. ~~How the proposal utilises water sensitive urban design principles for stormwater management and ensures that attenuation is the same or better than pre-development levels.~~
- k. ~~Whether combined vehicle crossings have been utilised to avoid the need to create separate vehicle crossings.~~
- l. ~~Whether the distance between separate vehicle crossings would adversely affect pedestrian safety or the ability to accommodate street trees.~~
- m. ~~How any shortfall in financial contributions is to be mitigated.~~

#### **14A.7.11 Restricted Discretionary Activities – Non-Compliance with Residential Unit Typology**

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (b) *Residential Unit Typology*, *Council* shall consider the following:

- a. ~~The extent of and reasons for the non-compliance.~~
- b. ~~Whether and to what extent a variety of different housing typologies has been proposed such as duplex, terraced housing or apartments.~~
- c. ~~Whether and to what extent a variety of *residential unit* sizes, bedroom numbers and levels / storeys are proposed.~~

#### **14A.7.12 Restricted Discretionary Activities – Non-Compliance with Minimum Storey Requirements in the Ōmokoroa Mixed Use Residential Precinct**

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (c) Minimum Storey Requirements, *Council* shall consider the following:

- a. The extent to which the proposal delivers medium to high density and an efficient use of land (including whether the proposal meets the activity performance standard for *residential unit* yield).
- b. ~~The extent to which the proposal is consistent with the planned character of the Ōmokoroa Mixed Use Residential Precinct.~~
- c. Whether the scale and density of the proposed uses and *development* deliver vibrancy and optimise the unique location characteristics of the Ōmokoroa Mixed Use Residential Precinct.
- d. How well the *development* integrates with the surrounding *development*, land use and planned character of the Ōmokoroa Mixed-Use Precinct.

#### **14A.7.13 Restricted Discretionary Activities – Non-Compliance with Impervious Surfaces**

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (d) *Impervious Surfaces*, Council shall consider the following:

- a. Whether the *site-not-covered-in-impervious-surfaces* can hold, treat and drain stormwater to the required standard.
- ~~b. Whether the amount of *impervious surfaces* can be reduced by providing an additional storey.~~
- ~~c. Any innovations to better store and treat stormwater on-site that requires a reduced permeable area.~~
- ~~d. The potential adverse effects on Council's stormwater infrastructure and network (including capacity).~~
- ~~e. How additional stormwater runoff from exceeding the maximum limit of *impervious surfaces* is to be mitigated.~~
- f. Whether a *development* proposal as a whole can be demonstrated to comply with the maximum limit of *impervious surfaces* despite any non-compliance from an individual *lot* or *lots*.
- ~~g. Compliance with the *Ōmokoroa and Te Puke Comprehensive Stormwater Management Plans*.~~

#### **14A.7.14 Restricted Discretionary Activities – Non-Compliance with Vehicle Crossing and Access**

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (e) - *Vehicle Crossing and Access*, Council shall consider the following:

- a. The safety of people when using the *road reserve* and *privateways/access lots* serving three or more *sites*.
- b. Whether the positioning of street trees is able maintain or improve sightlines for vehicles exiting onto the *road reserve* or onto *privateways/access lots* serving three or more *sites*.
- c. The extent to which any extra width for a vehicle crossing was required to provide for alternative housing typologies.

#### **14A.7.15 Restricted Discretionary Activities – Non-Compliance with Streetscape**

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (f) - *Streetscape*, Council shall consider the following:

- a. Avoiding the *building* frontage (facing the *front boundary*) being visually dominated by garage doors, carparks, blank facades or any other *buildings/structures* other than *residential units*.

#### **~~14A.7.16 Restricted Discretionary Activities – Non-Compliance with Earthworks~~**

~~In considering an application that does not comply with Activity Performance Standard 14A.4.2 (g) - *Earthworks*, Council shall consider the following:~~

- ~~a. The alteration to existing *ground levels* and the degree to which the resultant levels are compatible with the surrounding environment and natural landform.~~
- ~~b. The potential adverse effects on land stability.~~
- ~~c. The potential adverse effects on any *building/structure, network utility* or *tree* which is on another *site* or *road reserve*.~~
- ~~d. The ability to repair or replace a retaining wall associated with the *earthworks* over time without adversely affecting any *residential unit* or *underground services*.~~

- ~~e. Whether earthworks and subsequent retaining walls lead to a loss of privacy between the subject site and surrounding sites.~~
- ~~f. Amenity values associated with the shape and appearance of the existing natural landform as viewed from other sites and public places such as roads, footpaths and reserves.~~
- ~~g. Cultural values associated with the existing natural landform.~~
- ~~h. Ensuring that adequate prior notice is given to hapū prior to excavation commencement.~~
- ~~i. For Ōmokoroa, whether the monitoring of earthworks and land disturbance is provided for. See Appendix 7.4.9.~~
- ~~j. The necessity of the earthworks as demonstrated as part of a comprehensive development or to give effect to structure plan requirements.~~
- ~~k. The extent to which any resource consent/s previously granted for earthworks have already addressed the matters in (g) – (i) above.~~
- ~~l. The ability to manage stormwater runoff and the extent to which the location, speed, volume and direction of overland flowpaths at or within close proximity to a neighbouring boundary is maintained.~~

#### **14A.7.17 Restricted Discretionary Activities – Non-Compliance with Height of Fences, Walls and Retaining Walls**

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (h) – *Height of Fences, Walls and Retaining Walls*, Council shall consider the following:

- a. The amenity value of the interface between the *residential unit* and any road, or between the *residential unit* and any *privateway/access lot* serving three or more *sites*, as viewed from the road or *privateway/access lot*.
- b. How the proposed fence/wall provides for surveillance of public areas (including roads) and *privateways/access lots* serving three or more *sites*.
- c. Ensuring adequate sightlines for vehicles exiting the property and the safety of people when using the *road reserve* and *privateways/access lots* serving three or more *sites*.
- d. Provision of landscaping to soften the effects of the fence, wall or retaining wall, and the ongoing costs to maintain the landscaping and the accessibility of the landscape strip for maintenance.

#### **14A.7.18 Restricted Discretionary Activities - Non-Compliance with Offensive Odour in the Ōmokoroa Mixed Use Residential Precinct**

In considering an application that does not comply with 14A.4.2 (q) – *Offensive Odours in the Ōmokoroa Mixed Use Residential Precinct*, Council shall consider the following:

- a. The potential adverse effects on residential activities within the Ōmokoroa Mixed Use Residential Precinct.
- b. The practicality of using reasonable mitigation measures such as odour reduction and filtration, appropriate fixing of external *infrastructure to buildings*, appropriate locating and screening/enclosing of fixed plant to mitigate noise, vibration and odour effects upon occupants of *residential units* within the Ōmokoroa Mixed Use Residential Precinct.

#### **14A.7.X Restricted Discretionary Activities – Four or more Retirement Units on a Site**

In considering an application for four or more retirement units on a site, Council shall consider the following:

- a. The effects arising from exceeding the following activity performance standards:
  - i) Density Standards *Height, height in relation to boundary, setbacks, building coverage, outdoor living space (per unit), outlook space (per unit), windows to street and landscaped area*.
  - ii) Other standards *impervious surfaces, streetscape, earthworks, height of fences, walls and retaining*.

- iii) [walls and specific requirements for Lot 601 DP 560118 and Lot 603 DP 560118 \(Ōmokoroa\); and Other Standards 14A.4.2 l – z.](#)
- 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.](#)

### **14A.7.19 Discretionary and Non-Complying Activities – General**

[In considering an application for a Discretionary or Non-Complying Activity, Council's assessment shall include but is not limited to the following:](#)

- a. ~~[Relevant objectives and policies.](#)~~
- b. [The extent of non-compliance with the activity performance standards and the actual and potential effects on the environment.](#)
- c. [The matters of discretion in 14A.7.1 – 14A.7.17.](#)
- d. ~~[How well the development integrates with the surrounding development, land use and zoning.](#)~~
- e. ~~[Consistency with the Ngā tohutohu hoahoa ā motu mō te wharenoho mātoru-waenga National medium density design guide.](#)~~
- f. ~~[Consistency with Council's "Residential Design Outcomes – How to Achieve Quality Residential Developments".](#)~~
- g. ~~[What provision is made for pedestrian and vehicular access.](#)~~
- h. ~~[The adverse effects on the amenity values of residential and reserve land.](#)~~
- i. [In the Ōmokoroa Mixed Use Residential Precinct, the impacts of commercial activities exceeding the permitted gross floor area upon the economic viability and vitality of the neighbouring Ōmokoroa Town Centre](#)





Explanatory note for the purpose of the IPI and to be removed upon completion of the process:

Proposed additional definitions are shown in green underline.

Red underline or ~~red strikethrough~~ reflect the changes recommended within the section 42A report.

Blue underline or ~~blue strikethrough~~ reflect the changes proposed by the RVA and Ryman

## Section Contents

### Commercial

- 2. Commercial
  - Explanatory Statement
  - 2.1 Significant Issues
  - 2.2 Objectives and Policies
  - 2.3 Activity Lists
  - 2.4 Activity Performance Standards
  - 2.5 Development of a Commercial Area Master Plan for the Commercial Zone - Ōmokoroa Stage 23  
Structure Plan Area
  - 2.6 Matters of Control - Controlled Activities
  - 2.7 Matters of Discretion
  - 2.8 Other Methods

## Commercial

### 19. Commercial

#### Explanatory Statement

The commercial centres of towns form the heart of the town and outlying districts. They are a key element in providing a sense of identity and belonging to individuals and the community in general. There is often considerable community investment in the town centre. It is the focal point of social, economic and cultural activities. The sustainable management of these areas is seen as being a key aspect in enabling people and communities to provide for their social, economic and cultural wellbeing.

The Western Bay of Plenty District has established town centres at Te Puke, Katikati and Waihi Beach. A new town centre has been planned at Ōmokoroa to support its existing and future planned population of ~~12,000 people~~ as well as the surrounding rural catchment. Smaller beach and rural communities exist at Pukehina, Paengaroa, Maketu, Te Puna and Whakamaramara that have small commercial areas to service their immediate catchments.

*Council* has a Built Environment Strategy to assist in achieving good urban design outcomes in line with the New Zealand Urban Design Protocol and to promote the principles embodied within the Crime Prevention through Environmental Design national standard.

*Council* has developed Town Centre Plans to deliver these urban design outcomes and meet each community's vision. There is an Approved Ōmokoroa Town Centre Master Plan that was approved through a resource consent process and is subject to the conditions of that consent. The Commercial Zone objectives, policies and rules seek to deliver these outcomes by providing a framework for future *development*. Non regulatory methods are also promoted such as *Council's* 'Package of Plans' approach which seeks to provide *Council* advice and guidance at the conceptual stage to assist *development* projects to achieve positive design outcomes for the community now and in the future. There are a number of other community plans that *Council* will have regard to as part of the resource consent process.

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Important issues for the Commercial Zone include the containment of the Commercial Zone and also ensuring that activities within the Zone are managed so not to adversely affect adjacent residential areas. It is also important to ensure that residential activities in the Commercial Zone do not detract from the viable operation of the commercial area. Special provisions are included in the Commercial Zone to avoid *reverse sensitivity* effects.

Although the efficient operation of the Te Puke Highway which currently bisects Te Puke, and State Highway 2 which currently bisects Katikati, is important, these roads should not detract from the efficient operation of the towns they bisect.

## 19.1 Significant Issues

1. The decline of town centres may have an adverse effect on the community's social, economic and cultural wellbeing.
2. Commercial creep into non-commercial zones and the establishment of out of zone large format retail activities have the potential to detract from the viability and efficient operation of commercial centres.
3. Poorly designed and constructed commercial centres can adversely affect people's enjoyment of the centre and nearby public places and can affect the safety and efficiency of the adjacent road network and amenity, enjoyment and vitality of entire communities.
4. The adverse effects on visual amenity resulting from large and/or badly designed *buildings/structures* and including potential adverse effects from lighting and inappropriate *signage*.
5. Commercial activities attract large numbers of people resulting in a large number of traffic movements, generating adverse effects such as pedestrian/vehicle conflict, noise, dust, fumes, odour, and a large concentration of people which can lead to noise, privacy and behaviour issues affecting the amenity of the area.
6. The adverse effects of commercial activities such as rubbish generation, smell and noise.
7. Non-commercial activities such as *dwellings* have the potential to improve the vibrancy of town centres and improve safety outside normal retail hours provided they are appropriately located and designed.
8. The loss of heritage buildings through the lack of protection or incentives for retention of facades of heritage value.
9. The adverse effects of heavy transport travelling through commercial centres especially pedestrian/vehicle conflict and associated noise/dust/odour problems.
10. There is a need to integrate pedestrian and cycleways both to and within commercial centres to minimise reliance on motorised transport.

## 19.2 Objectives and Policies

### 19.2.1 Objectives

1. Consolidated commercial centres that are vibrant commercial environments that encourage social and cultural interaction.
  2. Well designed commercial centres which reflect accepted urban design principles.
-

3. Convenient and safe commercial centres.
4. Commercial *development* of a scale that is appropriate for the location.
5. Public, civic and private space that relate well to each other.
6. Commercial centres that have a high level of amenity.
7. Commercial Zones in which commercial activities can operate effectively and efficiently, without undue restraint from non-commercial uses which may require higher amenity values.
8. Important heritage buildings and landscape features are retained.
9. An efficient network of road, cycle and pedestrian linkages connecting the *District's* commercial centres to surrounding urban areas.
10. The *development* of commercial centres and associated *transportation networks* that enhance social, economic and cultural activity through attention to design detail and the integration of the public, civic and private places nearby and therein.
11. The *development* of town centres that complement adopted documents compiled with the respective communities such as town centre plans and comprehensive development plans.

### **19.2.2 Policies**

1. Provide for the comprehensive *development* of commercial areas, including the redevelopment of multiple commercial sites by:
  - a. Encouraging the aggregation of land titles in accordance with the relevant town centre plan.
  - b. Providing incentives to off-set the acquisition of land required to achieve relevant town centre plan design outcomes.
2. New *development* or redevelopment of commercial centres is consistent with the design elements of the relevant adopted town centre plans.
3. Limit the establishment of commercial activities in non-commercial zones.
4. Ensure *buildings/structures* in Commercial Zones:
  - a. Provide sufficient shelter for pedestrians so as to protect them from the natural elements.
  - b. Do not compromise pedestrian access unless the characteristics of the locality of the site or the site itself are such that verandas or other forms of pedestrian shelter are not required.
  - c. Support the *development* of areas that encourage social interaction.
5. Encourage alternative routes for heavy transport so as to avoid adverse effects such as danger to pedestrians, dust, noise and odour associated with such movements through commercial centres.

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6. Ensure noise levels are such as to maintain a reasonable quality commercial environment.
  7. Locate residential activities so they do not conflict with the integrity of the Zone and are designed and located so as to avoid *reverse sensitivity* effects such as noise.
  8. Prevent non-commercial activities that conflict with or detract from the integrity of the Commercial Zone.
  9. Apply financial contributions and other consent conditions to assist in avoiding or mitigating potential adverse effects of future subdivision and *development*.
  10. Identify and protect Significant Heritage and Landscape Features.
  11. Apply *height* limits that are appropriate for the location of the Commercial Zone especially in relation to smaller communities such as Maketu, Pukehina and Paengaroa where large commercial *buildings/structures* could detract from the amenity of the area.
  12. Promote pedestrian and cycle accessibility by controlling the location and design of accessways.
  13. Require retail frontages to be orientated towards streets and other public areas, such as public walkways and parking areas.
  14. Ensure that *development* in Commercial Zones is designed and constructed to be consistent with the New Zealand Urban Design Protocol and National Guidelines for Crime Prevention through Environmental Design.
  15. Commercial *development* within the Ōmokoroa Stage 23 *Structure Plan* area shall be comprehensively designed to include:
    - a. Mixed use areas.
    - b. Visually broken building facades of a human scale.
    - c. Muted natural or recessive colours.
    - d. A maximum of one connection to Ōmokoroa Road thereby preserving that road's primary function as a transport corridor.
    - e. Landscaped car parking (where car parking is provided) and set back from Ōmokoroa Road.
    - f. Functional and alternative mixed use (including residential) on upper floors.
    - g. An outlook and amenities that relate to the adjoining gully system.
    - h. The provision of residential accommodation to promote vibrancy in the commercial area.

## New Policy XX – Provision of Housing for an Ageing Population

- XX.            Enable retirement villages that:
- a.            Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities and / facilities, and affordability and the efficient provision of assisted living and care services.
  - b.            Provide good quality on site amenity, recognising the unique layout, internal amenity and other day-to-day needs of residents as they age.
- XX.            Encourage the scale and design of the retirement villages to:
- a.            Be of a high-quality and be aligned with the planned urban character of the zone.
  - b.            Achieve attractive and safe streets and public open spaces, including by providing for passive surveillance; and
  - c.            Achieve an appropriate level of residential amenity at neighbouring properties where relevant built form standards are exceeded.

## 19.3 Activity Lists

### 19.3.1 Permitted Activities

Except where specified as a Controlled, Restricted Discretionary or Discretionary Activity, the following are Permitted Activities:

- a.            *Retailing.*
- b.            *Commercial services.*
- c.            *Offices.*
- d.            *Places of assembly.*
- e.            *Takeaway food outlets.*
- f.            *Medical or scientific facilities.*
- g.            *Restaurants and other eating places.*
- h.            Activities on reserves as provided for in the Reserves Act 1977.
- i.            Works and *network utilities* as provided for in Section 10.
- j.            ~~*Accommodation facilities, provided that retirement villages are excluded from locating within the Commercial Zone at Ōmokoroa Structure Plan Area 23.*~~
- k.            Police stations.
- l.            *Commercial sexual services.*

- m. *Building and construction wholesalers and retailers* with a maximum gross area of 2500m<sup>2</sup>.
- n. *Educational facilities* for a maximum of four persons (excluding staff).

### 19.3.2 Controlled Activities

- a. Subdivision.
- b. *Dwellings* provided they are located above ground floor level.
- c. Works and *network utilities* as provided for in Section 10.
- d. With respect to financial contributions only:
  - i. The erection or undertaking of one or more commercial activities other than the first such activity on a site or significant expansion of an existing activity (significant expansion is an increase of more than 0.5 of a *household equivalent* for services);
  - ii. Any activity in 19.3.1 which has a *household equivalent* for water and wastewater greater than one as listed in Rule 11.4.2 b.

### 19.3.3 Restricted Discretionary Activities

- a. Any Permitted or Controlled Activity that fails to comply with the activity performance standards listed in Rule 19.4.
- b. Within the Commercial Zone shown on the Ōmokoroa Stage 2<sup>3</sup> *Structure Plan* all activities other than a *dwelling* shall be a Restricted Discretionary Activity subject to the development of a commercial area master plan and activity performance standards listed in 19.5.

Note: If a commercial area master plan has been approved by resource consent, all activities applicable to that consent shall be subject to the conditions of that consent.

- c. [Retirement villages.](#)
- c. ~~Within stormwater management reserves and private conservation areas in Ōmokoroa Stage 2, regardless of whether they are designated, the following are Restricted Discretionary Activities:~~
  - i. ~~The disturbance of soil, natural ground cover and vegetation, or the deposition of refuse, solid or liquid waste, fill or any material;~~
  - ii. ~~The diversion or modification of any natural watercourses;~~
  - iii. ~~The construction of fences or other barriers, dams, ponds and other stormwater treatment facilities, bridges, sports facilities, *dwellings* or *buildings/structures*, playgrounds, pump stations, sewers, culverts and roadways;~~
  - iv. ~~Walkways/cycleways.~~

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Except that:

Disturbance of soil, natural ground cover and vegetation associated with activities approved in a stormwater catchment plan, *structure plan*, comprehensive stormwater consent and reserve management plan prepared under the Reserves Act 1977 or Local Government Act 2002 shall be exempt from this requirement.

### 19.3.4 Discretionary Activities

- a. *Service stations* and garages.
- b. *Depots* (except in Ōmokoroa, where they are Non-Complying).
- c. *Vehicle and machinery sales* (except in Ōmokoroa, where they are Non-Complying).
- d. Works and *network utilities* as provided for in Section 10.
- e. *Building and construction wholesalers and retailers* that exceed a gross area of 2,500m<sup>2</sup>.
- f. *Education facilities* for more than four persons (excluding staff).
- g. *Buildings/structures* in the Waihi Beach Town Centre that exceed the permitted *height* of 9m to a maximum *height* of 10.5m.

## 19.4 Activity Performance Standards

### 19.4.1 General

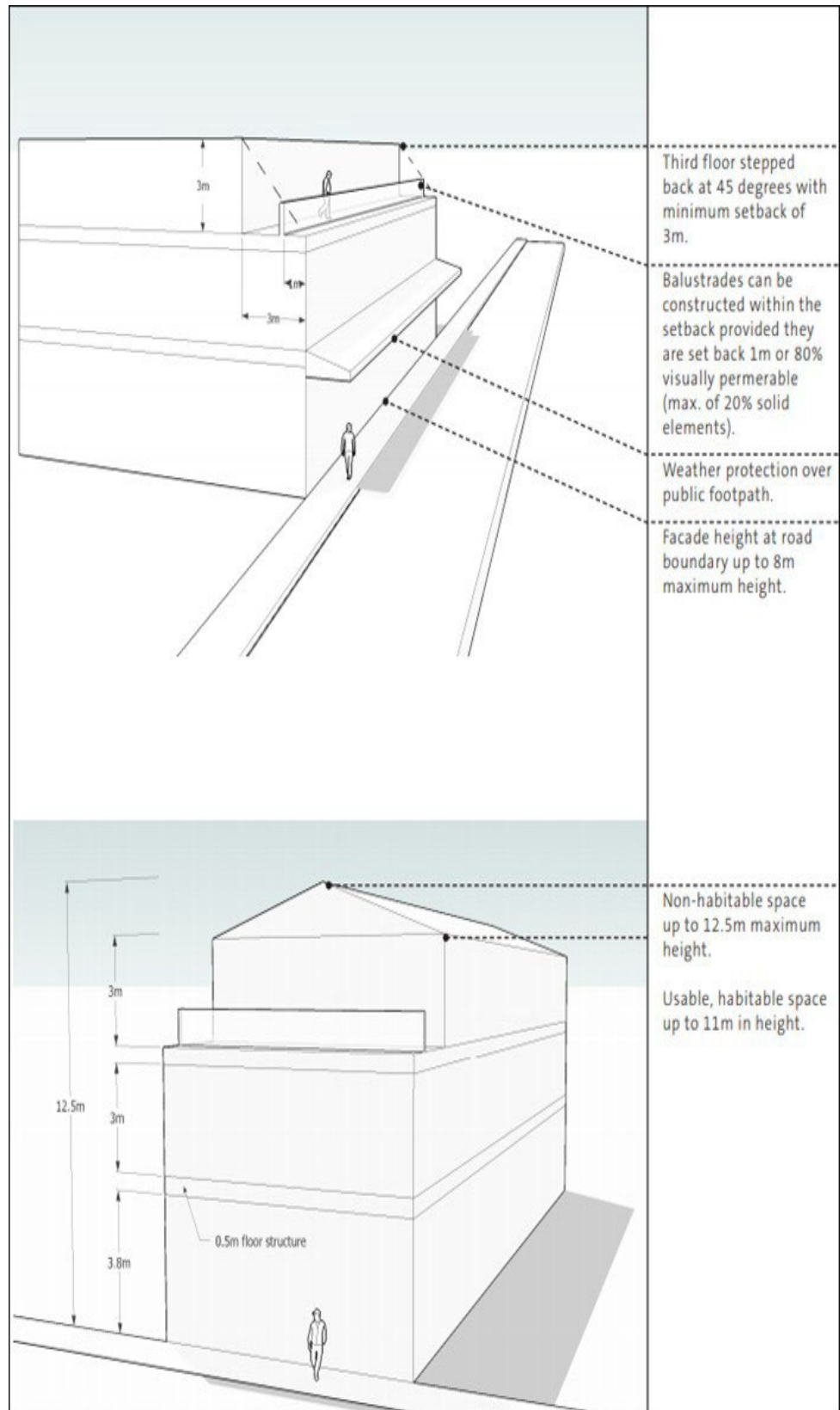
The following performance standards shall be met by all Permitted and Controlled Activities and shall be used as a guide for the assessment of all other activities. Any Permitted Activity that fails to comply with any of these standards will be a Restricted Discretionary Activity for the particular non-compliance.



**a. Building height, setback, alignment and design**

- i. All *buildings* shall be provided with a veranda not less than 2m wide, 3m above street level, 0.3m back from the kerb line and not more than 0.4m thick;
- ii. Te Puke and Katikati town centres
- Overall *building/structure height* shall not exceed 12.5m and retain a maximum two storey character (not exceeding 8.0m) facing the street;
- The *habitable space* of any *building* shall be limited to the first 11m;
- Any three storey *building* shall have its third storey set back in accordance with Diagram 1 following;
- iii. Ōmokoroa Commercial Zone Stage 2~~3~~ Structure Plan Area
- ~~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.
- iv. Te Puna Springs Structure Plan Area
- The maximum *height of buildings/structures* shall be 12m except that in the existing commercial area as shown on the Structure Plan map it shall be 9m.
- v. Comvita Campus Structure Plan Area
- The maximum *building/structure height* in the Comvita Campus Structure Plan area shall be 12.0m.
- vi. All other areas including spot Commercial Zones
- The maximum *height* shall be limited to two storeys and 9m and no provision is made for additional non-*habitable space* above the 9m *height* limit;

**Diagram 1 – Commercial Zone heights and setback standards**



Third floor stepped back at 45 degrees with minimum setback of 3m.

Balustrades can be constructed within the setback provided they are set back 1m or 80% visually permeable (max. of 20% solid elements).

Weather protection over public footpath.

Facade height at road boundary up to 8m maximum height.

Non-habitable space up to 12.5m maximum height.

Usable, habitable space up to 11m in height.

vii. Any balustrade servicing a third floor (not in the Ōmokoroa Stage 2 Structure Plan Area) shall be either set back in accordance with Diagram 1 below or be 80% visually permeable.

viii. Continuous retail frontage – *Development* in the Commercial Zone shall

be constructed up to the road boundary except for vehicle access up to 6m wide per site. Each *building* shall have clear windows on the ground floor that must cover at least 50% of the *building's* frontage to a main street and at least 25% for all other streets and public areas, such as walkways and public parking areas.

- viii. No car parking, other than underground parking, shall be located within 10m of any street boundary.

**b. Daylight**

All site boundaries adjoining Residential and Rural Zones:

No part of any *building/structure* shall exceed a *height* equal to 2m *height* above *ground level* at all boundaries and an angle of 45° into the site from that point. Except where the site boundary is with a road in which case this rule shall not apply in respect to that boundary.

Provided that:

A *building/structure* may encroach through the above daylighting plane where the written approval of the owner(s) of the immediately adjoining property to the specific encroachment is obtained.

**c. Offices**

The floor area utilised for *office* purposes on the ground floor is not to exceed 20% of the total *gross floor area* of the ground floor of the *building*.

**Explanatory Note:**

This rule does not apply to *Commercial Service* activities.

**d. Yards**

All *buildings/structures*

Minimum 3m where a property adjoins a Residential, Rural-Residential, Future Urban, Rural Zone or reserve boundary.

Provided that:

A *building/structure* may be located within a side or rear *yard* and up to a side or rear boundary where the adjoining property is a road or where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

Except that:

Where any *yard* adjoins:

- A Strategic Road or a designation for a Strategic Road (except in the Commercial Zones in Katikati and Te Puke), it shall be a minimum of 10m;
- A railway corridor or designation for railway purposes, it shall be a minimum of 10m.

Provided that:

On Secondary Arterial Roads, and any railway corridor or designation for railway purposes, *lots* created by way of an application for subdivision consent approved prior to 1 January 2010 will be exempt.

**e. Dwellings**

Commercial Zone rules shall apply, except as specified below:

- i. Any habitable room in new residential activities established in the Commercial Zone shall be designed to meet an internal *L<sub>Aeq</sub>* noise level of 45dB at all times;
 

An acoustic design report from a suitably qualified acoustic engineer will be required to show that the required noise standards will be met;
  - ii. All *dwelling*s [and retirement units](#) shall be located above ground floor.
- f. Commercial sexual service**
- No *commercial sexual service* shall be located within 150m of the main entrance of a *sensitive site*.
- g. Transportation, Access, Parking and Loading** - See Section 4B.
- h. Noise and Vibration** - See Section 4C.1.
- i. Storage and Disposal of Solid Waste** - See Section 4C.2.
- j. Lighting and Welding** - See Section 4C.3.
- k. Offensive Odours, Effluent Aerosols and Spray Drift** - See Section 4C.4.
- l. Screening** - See Section 4C.5.
- m. Signs** - See Section 4D.
- n. Natural Environment** - See Section 5.
- o. Landscape**- See Section 6.
- p. Historic Heritage** - See Section 7.
- q. Natural Hazards** - See Section 8.
- r. Hazardous Substances** – See Section 9.
- s. Financial Contributions** - See Section 11.
- t. Ōmokoroa Commercial Zones** (Stage [23](#)).

*Development* shall be in accordance with the adopted *structure plan*.

#### **19.4.2 Katikati: Standards for development in the Katikati Commercial Zone along the State Highway, between the entrance to the Haiku Walkway and Donegal Place.**

- a. *Yards*
  - i. Front *Yards* shall be no less than 4m.
  - ii. 3m where a property adjoins a Residential Zone or reserve boundary.

- b. Within this area, there is no requirement for a verandah that protrudes over the footpath.
- c. Maximum *building/structure height* shall be limited to two storeys and 9.0m.
- d. Provisions for parking and loading shall be on-site as per 4B.4.7.
- e. A continuous retail frontage is not required.
- f. Each *building* shall have clear windows on the ground floor that cover at least 50% of the *building's* street front.
- g. Car parking may be located within the front *yard*.

### 19.4.3 Activity Performance Standards for Activities in the Waihi Beach Town Centre

In addition to the Activity Performance Standards included in 19.4.1 General, the following apply to the Waihi Beach town centre, situated in Wilson Road between the intersection with Citrus Avenue on the western side and Snell Crescent and Dillon Street on the eastern side.

- a. To retain the village feel and character of the Waihi Beach Town Centre along Wilson Road, commercial *buildings* in the town centre should:
  - i. Have a continuous shop frontage;
  - ii. Have commercial/retail activities with displays facing the street and/or Two Mile Creek;
  - iii. Have a variety of cladding materials and limit glass surfaces to not more than 60%;
  - iv. *Buildings* should not have advertising displays above a level of 4.5m above street level;
  - v. All new *development* should have some form of pitched roof with large overhangs to make the roof appear light and reduce the impact of bulk of the *building*;

Except that:

These rules do not apply to existing *buildings* having minor alterations or extensions provided the *gross floor area* does not increase in scale by more than 10%.

For the purpose of the exemption above “existing” shall mean the existing *building* as approved by way of the most recent building consent for which an application was lodged prior to 19 December 2015.

- b. Access provision
  - i. Vehicle access to properties zoned Commercial in the Waihi Beach Town Centre that front onto Wilson Road should either:
    - Be shared between two adjoining properties; or
    - Be obtained from an adjoining service lane; or
    - Be from a road other than Wilson Road, excluding the public parking area situated on 24 Wilson Road.

- ii. To enable Commercial Zoned land (adjoining Dillon Street) to be developed in compliance with the Access, Parking and Loading requirements of the District Plan Lot 4 DP 37326 and/or Lot 6 DP 37326 shall provide for legal and practical access to Lot 5 DP 37326.
- c. All *buildings* and permanent *structures* shall have a setback of at least 7.5m from the centre line of Two Mile Creek measured at building consent stage irrespective of whether or not the centre line of the creek is within the subject property.

## 19.5 Development of a Commercial Area Master Plan for the Commercial Zone - Ōmokoroa Stage 2<sub>3</sub> Structure Plan Area

- a. A There is an Approved Ōmokoroa Town Centre Master Plan that was approved through a resource consent process and is subject to the conditions of that consent. In the event of any new commercial area master plan for being proposed the Ōmokoroa Stage2 Structure Plan area following shall be prepared by Council prior to development of individual titles apply:

This plan shall define the compliance with the performance standards and criteria listed below and the location of *buildings/structures*, traffic and pedestrian cycle paths and any parking areas and shall specify integration with the Commercial Zone and to the Industrial Zone and *public reserve*.

The comprehensive development plan shall include:

- i. Mixed use areas;
  - ii. Visually broken building facades of a human scale;
  - iii. Muted natural or recessive colours;
  - iv. A maximum of one connection to Ōmokoroa Road thereby preserving that road's primary function as a transport corridor;
  - v. Landscaped carparking (where car parking is provided) and set back from Ōmokoroa Road;
  - vi. Functional and alternative mixed use (including residential) on upper floors;
  - vii. An outlook and amenities that relate to the adjoining gully system;
  - viii. The provision of residential accommodation to promote vibrancy in the commercial area.
- b. In addition to the standards in 19.4.1 the following performance standards shall apply:
    - i. No *building* shall exceed 50m in length across any continuous dimension and the commercial *development* is to provide a minimum 200m<sup>2</sup> pedestrian court/plaza to act as a point of focus and physical congregation within the centre;
    - ii. For every square metre of ground floor retail there shall be an equivalent

upper floor area provided for other Permitted or Controlled Activities;

- iii. A portion of the car parking (where car parking is provided) is to be provided along the commercial/reserve boundary to facilitate shared use;
- iv. Access to Ōmokoroa Road shall be by way of a roundabout as shown in the *Structure Plan* and from ~~the additional controlled intersection from the Industrial Zone~~ access roads approved by Council.
- c. Any habitable room in new residential activities shall meet an internal *LAeq* noise level of 45dB at all times. An acoustic design report from a suitably qualified acoustic engineer will be required at the time of building consent application to show that the required noise standards will be met.
- d. Covered walkways of at least 3m in width are to be provided along the frontage of all *buildings* and a network of uncovered walkways/cycleways to connect the commercial area to the car parking, ~~light industrial~~, reserves and residential lands. The uncovered walkways are to be a minimum of 1.5m wide constructed of asphalt, exposed aggregate or similar materials.
- e. Amenity planting and fencing at 1.8m high of service yards shall be provided incorporating a minimum width of 4m of vegetative planting achieving 4m in *height*. The Ōmokoroa Road boundary is also to be screen planted, with trees at a minimum *height* of 1.2m at the time of planting, to a minimum depth of 4m achieving a minimum 4m in *height*.
- f. Lights within the Zone are to be no higher than 5m and be either standard or bollard design.
- g. Daylighting - Measured at the boundary, no part of any *building/structure* shall exceed a *height* equal to 2m plus the shortest horizontal distance between that part of the *building/structure* and the commercial/reserve boundary and the boundary with Ōmokoroa Road.
- h. Any car parking is to provide maximum convenience for the public using commercial or reserve facilities. Any such parking is to be screen planted along Ōmokoroa Road and all parking areas for more than ten cars are to include specimen trees to provide shade to 30% of the car parking areas in summer.
- i. The maximum coverage shall be 80% of land area.

**Explanatory Notes:**

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

A Restricted Discretionary Activity that complies with the activity performance standards above will not be publicly notified and will not require serving on people who may be considered affected.

## 19.X Notification

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

19.x.x 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.

## **19.6 Matters of Control - Controlled Activities**

### **19.6.1 Financial Contributions**

*Council* will impose conditions with respect to the payment of financial contributions where these are triggered in Section 11 of the District Plan or identified in the Controlled Activity list.

### **19.6.2 Subdivision** (refer also to Section 12)



- a. No minimum *lot* size.
- b. *Council* may impose conditions regarding access to and from the existing and newly created *lots*.
- c. Where subdivision occurs in the Commercial Zone at Ōmokoroa Stage 23 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.

## 19.7 Matters of Discretion

### 19.7.1 Restricted Discretionary Activities – Non-Compliance with Activity Performance Standards

- a. *Council's* discretion is restricted to the actual or potential adverse effects arising from the particular non-compliance, having regard to the extent and nature of the non-compliance.
- b. *Council* will also restrict its discretion to the overall community benefit resulting from a *development* proposal that is aligned with the design outcomes in adopted town centre plans.

### 19.7.2 Restricted Discretionary Activities – Ōmokoroa Stage 23 Structure Plan Area

#### ~~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.~~

#### b. Commercial activities

In assessing a Restricted Discretionary Activity, *Council* will restrict its discretion to a consideration of, and may set conditions related to:

- i. The extent to which *development* provides for mixed use and provides for ingress and egress of residents without impinging on downstairs commercial operations, and the extent to which upper stories are dimensioned and designed so as to provide functional and attractive

accommodation for residents;

- ii. The extent to which the *development* provides a central pedestrian plaza court;
- iii. How well the *development* integrates with walkways/cycleways to parking and nearby reserve land, civic centre facilities, civic activities, *park and ride facilities*, school sites and other public amenities;
- iv. The *height* and setback of *buildings/structures* and plants and their current and future effects on daylight to other sites;
- v. The overall design and location of *buildings/structures* and their compatibility with safe traffic and pedestrian flows from the Ōmokoroa Road roundabout to the access road into the light industrial area in the north;
- vi. Visual impacts of the proposal and, in particular, visual amenity when viewed from Ōmokoroa Road and the adjoining reserve;
- vii. The overall design and appearance of *buildings/structures* including the extent to which building facades are visually broken up and sympathetic to a human scale. This may include variation in roof profiles and pitches, modulation of walling, and the use of layered roofing, walling, verandas, windows, structural supports and other building elements to give building facades a layered, three dimensional character. This may also include the use of extensive glazing at ground level to create strong visual interaction between the external and internal components of the commercial area and to further avoid walling appearing overly extensive and devoid of visual relief/variety;
- viii. The extent to which proposed colours are muted, natural or recessive and are compatible with nearby residential *development* and reserves - particularly so in relation to walling next to service courts and along rear/side *walls* potentially exposed to residential/reserve areas;
- ix. The safety and efficiency of traffic flows on Ōmokoroa Road.
- x. The extent to which the proposal is consistent with objectives and policies of the District Plan; and with the activity performance standards listed in 19.4.
- xi. The extent to which planting and other measures provide for amenity and create safe environments.
- xii. For any amendments to the Approved Ōmokoroa Town Centre Master Plan, the extent to which the revised master plan continues to achieve key design outcomes required for the Ōmokoroa Commercial Town Centre as specified in Rule 19.5. The extent and type of changes proposed to the Approved Ōmokoroa Town Centre Master Plan (see Appendix 7) will be considered while recognising the positive effects of achieving a well-connected and designed urban environment. An urban design report may be necessary to identify and assess the extent of change from the approved town centre plan and comment on whether the changes result in acceptable urban design outcomes taking into account (i) to (xi) above.

## **19.7.X      Restricted Discretionary Activities - Retirement Villages**

In assessing a Restricted Discretionary Activity, Council will restrict its discretion to consideration of and may set conditions related to:

- a.            the actual or potential adverse effects arising from the particular non-compliance, having regard to the extent and nature of the non-compliance. The effects arising from exceeding any of the relevant activity standards in 19.4;
- 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.

## **19.7.3      Discretionary Activity – Relaxation of Building Height in the Waihi Beach Town**

### **Centre**

*Building height* of commercially zoned properties in the Waihi Beach Town Centre may be relaxed to a maximum *height* of 10.5m, provided that:

- a.            The *development* covers more than one section or a developer can prove to *Council* that an agreement exists with an adjoining Wilson Road land owner regarding the *development* of a shared access way and onsite parking arrangement (in cases where onsite parking is provided).
- b.            Continuous shop front is retained.
- c.            Underground or semi-underground parking is provided (in cases where parking is provided).
- d.            The ground floor of the proposed *building* has a minimum stud height of 2.9m.
- e.            The *building* has a setback of at least 7.5m from the centre line of Two Mile Creek to allow for a public walkway along the Creek.
- f.            The *building* has no overshadowing impact on properties to the south between 11am and 2pm as a result of the increase in *height*.
- g.            The third floor has a set back of 3m from the street boundary and the proposed walkway along Two Mile Creek.

- h. The *building* has a pitched roof (mono or double pitched gable roof).
- i. The top 1m (between 9.5m and 10.5m) should not be habitable.

#### 19.7.4 Discretionary and Non-Complying Activities – Matters of Discretion and Assessment Criteria

In considering an application for a Discretionary or Non-Complying Activity *Council* shall consider:

- a. The extent of non-compliance with the Permitted Activity performance standards and the actual and potential effects on the environment.
- b. How well the *development* integrates with existing commercial *development* and its orientation to public space.
- c. How the *development* meets the design outcomes of adopted town centre plans, approved town centre master plans and the Built Environment Strategy.
- d. Any national standards for urban design.
- e. What provision is made for pedestrian and vehicular access.
- f. The effect on the amenity values of adjoining residential and reserve land.
- g. Consideration of the extent to which rural production activities will be adversely affected by the development, including any reverse sensitivity effects.
- 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.

### 19.8 Other Methods

- 19.8.1 The Built Environment Strategy establishes a non regulatory approach to assist developers to engage in a free design process. This is called the 'Package of Plans approach' which promotes the development community presenting concept plans to *Council* at an early stage and refining these before lodging applications for building and/or resource consent. This is identified in Figure 2 of the Built Environment Strategy.

## Appendix B

### How provisions support or are consequential to the MDRS and / or give effect to the NPSUD

Note:

- Provisions that are marked with an \* have been amended as part of the s42A recommended changes to the text; and
- Provisions that are directly from the MDRS, but are closely aligned with policies in the MDRS (largely Objective 2 and Policy 1) have been included in *italics*.

This table addresses the recommended amendments to the Ōmokoroa and Te Puke Medium Density Residential Zone provisions. For the equivalent amendments recommended in the Commercial Zone and Commercial Transition Zone, the analysis relating to the NPS-UD provisions applies.

RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<b>Ōmokoroa and Te Puke Medium Density Residential Zone</b>			
<p><b><u>Objective 14A.2.1 Ox – Ageing population</u></b></p> <p><u>Recognise and enable the housing and care needs of the ageing population.</u></p> <p><b><u>Policy 14A.2.2 Px - Provision of housing for an ageing population</u></b></p> <p>1. <u>Enable retirement villages that:</u></p>	<p><u>14A.2.1 Objective 2</u></p> <p>Provide for a variety of housing types and sizes that respond to housing needs and demand and the neighbourhood’s planned urban built character, including three-storey buildings.</p> <p><u>14A.2.1 Objective 3</u></p> <p>Provide for a variety of housing developments including infill development, comprehensive residential developments, retirement villages, papakāinga</p>	<p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p> <p>(i) meet the needs, in terms of type, price, and</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>• Will better enable a variety of housing types for all people, given the growing demand for the retirement village typology.</li> <li>• Will help realise the benefits of urban development and contribute to a well-</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p>a. <u>Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities and / facilities, and affordability and the efficient provision of assisted living and care services.</u></p> <p>b. <u>Provide good quality on site amenity, recognising the unique layout, internal amenity and other day-to-day needs of residents as they age.</u></p> <p>2. <u>Encourage the scale and design of the retirement villages to:</u></p> <p>a. <u>Be of a high-quality and be aligned with the planned urban character of the zone.</u></p> <p>b. <u>Achieve attractive and safe streets and public open spaces, including by</u></p>	<p>and pocket neighbourhood typologies with a variety of different tenures.</p> <p><u>14A.2.2 Policy 1</u></p> <p>Enable a variety of housing types with a mix of densities within the zone, including three-storey attached and detached residential units, and low-rise apartments.</p> <p><u>14A.2.2 Policy 3</u></p> <p>Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</p> <p><u>14A.2.2 Policy 4</u></p> <p>Enable housing to be designed to meet the day-to-day needs of residents.</p> <p><u>14A.2.2 Policy 5</u></p>	<p>location, of different households;</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1).</p> <p>Policy 8: Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments ...</p>	<p>functioning urban environment.</p> <ul style="list-style-type: none"> <li>• Will help add significantly to development capacity for a particular demographic in need of housing and care.</li> <li>• Provides further specificity on the day to day living needs of retirement village residents.</li> <li>• Provides for retirement villages, which are not a permitted residential development, and ensures high quality outcomes that are compatible with planned urban character and neighbouring properties.</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p><u>providing for passive surveillance; and</u></p> <p>c. <u>Achieve an appropriate level of residential amenity at neighbouring properties where relevant built form standards are exceeded.</u></p>	<p>Provide for developments not meeting permitted activity status, while encouraging high-quality developments.</p> <p><u>14A.2.2 Policy 6</u></p> <p>Enable a variety of housing developments such as infill development, comprehensive residential development, retirement villages, papakāinga and pocket neighbourhoods in a manner which responds to the specific needs of the community which they are designed for.</p>		
<p><b><u>Policy 14A.2.2 Px - Changing communities</u></b></p> <p><u>To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the Ōmokoroa and Te Puke Medium Density Residential Zone will change over time to enable a</u></p>	<p><u>14A.2.2 Policy 1</u></p> <p>Enable a variety of housing types with a mix of densities within the zone, including three-storey attached and detached residential units, and low-rise apartments.</p> <p><u>14A.2.2 Policy 6</u></p>	<p>Objective 4: New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.</p> <p>Policy 1: Planning decisions contribute to well-functioning</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>Provides direction on the need to respond to the diverse and changing needs of communities, not just the status quo. This is particularly important for responding to</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p><u>variety of housing types with a mix of densities.</u></p>	<p>Enable a variety of housing developments such as infill development, comprehensive residential development, retirement villages, papakāinga and pocket neighbourhoods in a manner which responds to the specific needs of the community which they are designed for.</p> <p><u>14A.2.2 Policy 5</u></p> <p>Provide for developments not meeting permitted activity status, while encouraging high-quality developments.</p>	<p>urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p> <p style="padding-left: 40px;">(i) meet the needs, in terms of type, price, and location, of different households;</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:</p> <p style="padding-left: 40px;">(i) may detract from amenity values appreciated by</p>	<p>the aging population, which is a major demographic change.</p> <ul style="list-style-type: none"> <li>Provides support for enabling the different types of residential development that are needed to provide for residential needs. This is particularly important for retirement villages, which are different to standard residential development.</li> </ul>





RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
		<p>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</p> <p>(ii) are not, of themselves, an adverse effect.</p> <p>(c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1).</p>	
<p><b>Policy 14A.2.2 Px – Larger sites</b></p> <p><u>Recognise that intensification opportunities provided by larger sites within the Ōmokoroa and Te</u></p>	<p><u>14A.2.2 Policy 1</u></p> <p>Enable a variety of housing types with a mix of densities within the zone, including three-storey</p>	<p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>• Will better enable a variety of housing types for all people,</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p><u>Puke Medium Density Residential Zone by providing for more efficient use of those sites.</u></p>	<p>attached and detached residential units, and low-rise apartments.</p> <p><u>14A.2.2 Policy 6</u></p> <p>Enable a variety of housing developments such as infill development, comprehensive residential development, retirement villages, papakāinga and pocket neighbourhoods in a manner which responds to the specific needs of the community which they are designed for.</p>	<p>urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p> <p style="padding-left: 40px;">(i) meet the needs, in terms of type, price, and location, of different households; ...</p> <p>(b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and ...</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban</p>	<p>given the growing demand for the retirement village typology that requires larger sites to meet functional and operational requirements.</p> <ul style="list-style-type: none"> <li>Provides for more efficient use of sites in relevant zones, recognising that these larger sites provide development opportunity differently to that of smaller lot sizes. They provide opportunities to achieve high quality design, with higher levels of intensification.</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
		environments (as described in Policy 1).	
<p><b><u>Policy 14A.2.2 Px – Role of density standards</u></b></p> <p><u>Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.</u></p>	<p><u>14A.2.2 Policy 5</u></p> <p>Provide for developments not meeting permitted activity status, while encouraging high-quality developments.</p>	<p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p> <p style="padding-left: 40px;">(i) meet the needs, in terms of type, price, and location, of different households;</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban</p>	<p>Supports both MDRS and NPS-UD provisions.</p> <ul style="list-style-type: none"> <li>• Provides further specificity on the day to day living needs of retirement village residents.</li> <li>• Provides further direction for retirement villages, which are not a permitted residential development, as to what is considered high quality outcomes.</li> </ul> <p>Consequential to the MDRS provisions as:</p> <ul style="list-style-type: none"> <li>• Provides clarity and efficiency by ensuring the standards are workable, particularly when applied to this specific development type.</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
		environments (as described in Policy 1).	
<p><b>Rule 14A.3.1 Permitted Activities</b></p> <p>...</p> <p><u>m. Up to three retirement units on a site.</u></p>	<p><u>14A.2.1 Objective 2</u></p> <p>Provide for a variety of housing types and sizes that respond to housing needs and demand and the neighbourhood’s planned urban built character, including three-storey buildings.</p> <p><u>14A.2.1 Objective 3</u></p> <p>Provide for a variety of housing developments including infill development, comprehensive residential developments, retirement villages, papakāinga and pocket neighbourhood typologies with a variety of different tenures.</p> <p><u>14A.2.2 Policy 1</u></p> <p>Enable a variety of housing types with a mix of densities within the</p>	<p>Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</p> <p>Objective 4: New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.</p> <p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>• Will better enable a variety of housing types for all people, given the growing demand for the retirement village typology by providing a specific rule framework.</li> <li>• Will help realise the benefits of urban development and contribute to a well-functioning urban environment.</li> <li>• Will help add significantly to development capacity for a particular demographic in need of housing and care.</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
	<p>zone, including three-storey attached and detached residential units, and low-rise apartments.</p> <p><u>14A.2.2 Policy 6</u></p> <p>Enable a variety of housing developments such as infill development, comprehensive residential development, retirement villages, papakāinga and pocket neighbourhoods in a manner which responds to the specific needs of the community which they are designed for.</p>	<p>(a) have or enable a variety of homes that:</p> <p style="padding-left: 40px;">(i) meet the needs, in terms of type, price, and location, of different households; ...</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1).</p>	
<p><b>Rule 14A.3.3 Restricted Discretionary Activities</b></p> <p>a. Permitted and Controlled land use activities that do</p>	<p><u>14A.2.1 Objective 2</u></p> <p>Provide for a variety of housing types and sizes that respond to housing needs and demand and</p>	<p>Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic,</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>• Will better enable a variety of housing types for all people,</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p>not comply with the density standards or other standards in Rules 15A.4.1 and 14A.4.2.</p> <p>...</p> <p>d. <u>Four or more retirement units on a site</u></p> <p>e. <del>retirement villages (except for residential units which are permitted by complying with the density standards).</del></p>	<p>the neighbourhood's planned urban built character, including three-storey buildings.</p> <p><u>14A.2.1 Objective 3</u></p> <p>Provide for a variety of housing developments including infill development, comprehensive residential developments, retirement villages, papakāinga and pocket neighbourhood typologies with a variety of different tenures.</p> <p><u>14A.2.2 Policy 1</u></p> <p>Enable a variety of housing types with a mix of densities within the zone, including three-storey attached and detached residential units, and low-rise apartments.</p> <p><u>14A.2.2 Policy 3</u></p> <p>Encourage development to achieve attractive and safe streets</p>	<p>and cultural wellbeing, and for their health and safety, now and into the future.</p> <p>Objective 4: New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.</p> <p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p> <p>(i) meet the needs, in terms of type, price, and location, of different households; ...</p>	<p>given the growing demand for the retirement village typology by providing a specific rule framework.</p> <ul style="list-style-type: none"> <li>• Will help realise the benefits of urban development and contribute to a well-functioning urban environment.</li> <li>• Will help add significantly to development capacity for a particular demographic in need of housing and care.</li> <li>• Provides further specificity on the day to day living needs of retirement village residents.</li> <li>• Provides for retirement villages, which are not a permitted residential development.</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
	<p>and public open spaces, including by providing for passive surveillance.</p> <p><u>14A.2.2 Policy 4</u></p> <p>Enable housing to be designed to meet the day-to-day needs of residents.</p> <p><u>14A.2.2 Policy 5</u></p> <p>Provide for developments not meeting permitted activity status, while encouraging high-quality developments.</p> <p><u>14A.2.2 Policy 6</u></p> <p>Enable a variety of housing developments such as infill development, comprehensive residential development, retirement villages, papakāinga and pocket neighbourhoods in a manner which responds to the</p>	<p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1).</p>	



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
	specific needs of the community which they are designed for.		
<b>Relevant Standards submitted on.</b>	<p><u>12A.2.2 Policy 4</u></p> <p>Enable housing to be designed to meet the day-to-day needs of residents.</p> <p><u>14A.2.2 Policy 5</u></p> <p>Provide for developments not meeting permitted activity status, while encouraging high-quality developments.</p> <p><u>Density Standard 14A.4.1(b)</u> Building and structure height.</p> <p><u>Density Standard 14A.4.1(c)</u> Height in relation to boundary.</p> <p><u>Density Standard 14A.4.1(d)</u> Setbacks</p>	<p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p> <p>(i) meet the needs, in terms of type, price, and location, of different households;</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban</p>	<p>Supports both MDRS and NPS-UD provisions.</p> <ul style="list-style-type: none"> <li>• Will help add significantly to development capacity for a particular demographic in need of housing and care.</li> <li>• Provides further specificity on the day to day living needs of retirement village residents.</li> <li>• Provides for retirement villages, which are not a permitted residential development, and ensures high quality outcomes.</li> </ul> <p>Consequential to the MDRS provisions as:</p> <ul style="list-style-type: none"> <li>• Provides clarity and efficiency by ensuring the standards are</li> </ul>





RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
	<p><u>Density Standard 14A.4.1(e)</u> Building coverage</p> <p><u>Density Standard 14A.4.1(f)</u> Outdoor living space (per unit)</p> <p><u>Density Standard 14A.4.1(g)</u> Outlook space (per unit)</p> <p><u>Density Standard 14A.4.1(h)</u> Windows to street</p> <p><u>Density Standard 14A.4.1(i)</u> Landscaped area</p>	environments (as described in Policy 1).	<p>workable when applied to this specific development type.</p> <ul style="list-style-type: none"> <li>Removes standards that are inconsistent with the MDRS.</li> </ul>
<p><b>14A.5 Notification</b></p> <p><b>14A.5.1 Requirements</b></p> <p>(a) ...</p> <p>(b) Council shall not require:</p> <p>i. ...</p> <p>ii. ...</p> <p>iii. ...</p> <p>iv. ...</p> <p>v. <u>Public notification if the application is for the</u></p>	As outlined in 'Rule 14A.3.3 Restricted Discretionary Activities' above.	As outlined in 'Rule 14A.3.3 Restricted Discretionary Activities' above.	As outlined in 'Rule 14A.3.3 Restricted Discretionary Activities' above.



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p><u>construction of a retirement village.</u></p> <p>vi. <u>Limited notification if the application is for the construction of a retirement village that complies with density standards 14A.4.1(b) – (e).</u></p>			
<p><b>14.7 Matters of Discretion</b></p> <p><b><u>14A.7.X Restricted Discretionary Activities – Four or more Retirement Units on a Site.</u></b></p> <p><u>In considering an application for four or more retirement units on a site, Council shall consider the following:</u></p> <p>(a) The effects arising from exceeding the following activity performance standards.</p> <p>i) <u>Density Standards</u> • <u>Height, height in relation to boundary, setbacks, building</u></p>	<p><u>14A.2.1 Objective 2</u></p> <p>Provide for a variety of housing types and sizes that respond to housing needs and demand and the neighbourhood’s planned urban built character, including three-storey buildings.</p> <p><u>14A.2.1 Objective 3</u></p> <p>Provide for a variety of housing developments including infill development, comprehensive residential developments, retirement villages, papakāinga and pocket neighbourhood</p>	<p>Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</p> <p>Objective 4: New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>• Provides further specificity on the day to day living needs of retirement village residents.</li> <li>• Provides for retirement villages, which are not a permitted residential development, and ensures high quality outcomes by ensuring the matters of discretion are tailored to this particular activity.</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p><u>coverage, outdoor living space (per unit), outlook space (per unit), windows to street and landscaped area;</u></p> <p>ii) <u>Other standards</u> • <u>impervious surfaces, streetscape, earthworks, height of fences, walls and retaining walls and specific requirements for Lot 601 DP 560118 and Lot 603 DP 560118 (Ōmokoroa</u></p> <p>iii) <u>Other standards 14A.4.2   – z.</u></p> <p>(b) <u>The effects of the retirement village on the safety of adjacent streets or public open spaces;</u></p> <p>(c) <u>The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;</u></p> <p>(d) <u>The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;</u></p> <p>(e) <u>When assessing the matters in</u></p>	<p>typologies with a variety of different tenures.</p> <p><u>14A.2.2 Policy 1</u></p> <p>Enable a variety of housing types with a mix of densities within the zone, including three-storey attached and detached residential units, and low-rise apartments.</p> <p><u>14A.2.2 Policy 3</u></p> <p>Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</p> <p><u>14A.2.2 Policy 4</u></p> <p>Enable housing to be designed to meet the day-to-day needs of residents.</p> <p><u>14A.2.2 Policy 5</u></p>	<p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p> <p>(i) meet the needs, in terms of type, price, and location, of different households; ...</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1).</p>	<p>Consequential to the MDRS provisions as:</p> <ul style="list-style-type: none"> <li>Ensures retirement village development is enabled in line with multi-unit 4 or more developments, but with amendments to recognise the functional and operational needs of retirement villages and recognises the interface with the adjacent environment.</li> <li>Addresses cross references to 'non-density' aspects/ other standards that were already in the existing provision to ensure there are no gaps.</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p><u>a – d, consider:</u></p> <p>i) <u>The need to provide for efficient use of larger sites;</u></p> <p>ii) <u>The functional and operational needs of the retirement village.</u></p> <p>(f) <u>The positive effects of the construction, development and use of the retirement village.</u></p> <p><u>For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a retirement village.</u></p>	<p>Provide for developments not meeting permitted activity status, while encouraging high-quality developments.</p> <p><u>14A.2.2 Policy 6</u></p> <p><i>Enable a variety of housing developments such as infill development, comprehensive residential development, retirement villages, papakāinga and pocket neighbourhoods in a manner which responds to the specific needs of the community which they are designed for.</i></p>		
<p><b>Retirement village definition.</b></p> <p><u>"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,</u></p>	<p><u>12A.2.2 Policy 4</u></p> <p>Enable housing to be designed to meet the day-to-day needs of residents.</p>	<p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>• Provides further specificity on the day to day living needs of retirement village residents.</li> <li>• Provides for retirement villages, which are not a permitted residential</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
<p><u>welfare and medical facilities (inclusive of hospital care) and other non-residential activities”.</u></p>		<p>(i) meet the needs, in terms of type, price, and location, of different households; ...</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1).</p>	<p>development, and ensures high quality outcomes.</p> <p>Consequential to the MDRS provisions as:</p> <ul style="list-style-type: none"> <li>• Provides clarity and efficiency in terms of how a number of the performance standards are to apply to retirement villages.</li> </ul>
<p><b>Retirement unit definition.</b></p> <p><u>“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”.</u></p>	<p><u>12A.2.2 Policy 4</u></p> <p>Enable housing to be designed to meet the day-to-day needs of residents.</p>	<p>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <p>(a) have or enable a variety of homes that:</p>	<p>Supports both MDRS and NPS-UD provisions:</p> <ul style="list-style-type: none"> <li>• Provides further specificity on the day to day living needs of retirement village residents.</li> <li>• Provides for retirement villages, which are not a permitted residential</li> </ul>



RVA/Ryman provision	Related MDRS provisions	Related NPS-UD provisions	Summary comment (see EIC and other RVA and Ryman Evidence for fuller discussion)
		<p>(i) meet the needs, in terms of type, price, and location, of different households; ...</p> <p>Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:</p> <p>... (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1).</p>	<p>development, and ensures high quality outcomes.</p> <p>Consequential to the MDRS provisions as:</p> <ul style="list-style-type: none"><li>• Provides clarity and efficiency in terms of how a number of the performance standards are to apply to retirement villages.</li></ul>

**Appendix C**  
**Section 32AA Evaluation**

The s32AA evaluation is to be undertaken at a scale and degree that is commensurate with the anticipated effects of the amendments.

**Having regard to Section 32AA, the following is noted:**

<p>The specific provisions recommended to be amended are:</p> <ul style="list-style-type: none"> <li>• Insert one new objective (being the 'ageing population' objective) into the Ōmokoroa and Te Puke Medium Density Residential Zone;</li> <li>• Insert four new policies (being the 'provisions of housing for an ageing population', 'changing communities' 'larger sites' and 'role of density standards' policies) into the Ōmokoroa and Te Puke Medium Density Residential Zone;</li> <li>• Insert one new policy (being the 'provisions of housing for ageing population' policy) into the Commercial Zone;</li> <li>• Integrate a new rule for 'up to three retirement units on a site' as a permitted activity and 'four or more retirement units on a site' as a restricted discretionary activity in the Ōmokoroa and Te Puke Medium Density Residential Zone;</li> </ul>	<p><b>Effectiveness and Efficiency</b></p> <p>The recommended insertions / amendments fill a critical gap in the policy and rule regime of Plan Change 92 to the Western Bay of Plenty District Plan, that is, actively supporting the provision of housing and care for the ageing population, and in particular retirement villages, in the Western Bay of Plenty District.</p> <p>The provisions are considered to appropriately respond to the acute housing and care needs of the ageing population. They will more appropriately achieve the efficient use of land and patterns of development which are compatible with the role, function and predominant planned character of each particular zone.</p> <p>The provisions provide clarity that retirement villages are anticipated activities and focus regulation on what adverse effects need to be managed and provide direction on how to assess effects and determine where notification is necessary, and therefore, will improve the efficiency of the consenting processes.</p> <p>The recommended insertions / amendments add to the MDRS to better fit the particular characteristics of retirement villages. They will be more efficient and effective to implement. Without the provisions, retirement villages will be subject to unnecessary restrictions and added consenting uncertainty and complexity.</p> <p>The adoption of a similar approach in the Commercial Zone as in the Ōmokoroa and Te Puke Medium Density Residential Zone, with amendments to address the commercial context, will be more efficient. Common understandings of meaning will develop. There will be no confusion as to how retirement villages are managed in the Commercial Zone.</p> <p>The provisions will contribute to a nationally consistent approach being sought by the RVA and therefore will provide efficiency benefits for the delivery of retirement villages.</p> <p><b>Costs/Benefits</b></p> <p>The provisions will enable retirement village operators to better respond to the critical shortage of appropriate housing and care for the ageing population, and therefore, will provide substantial wellbeing benefits for a vulnerable sector of the community. Broader employment and economic benefits for the Western Bay of Plenty District will also result from enabling the construction and</p>
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- Integrate a new rule for retirement villages as a restricted discretionary activity in the Commercial Zone;
- Provide a public notification preclusion for retirement villages that do not comply with performance standards and a limited notification preclusion for retirement villages that comply;
- Amend the matters of discretion to include a specific standalone assessment for retirement villages in the Ōmokoroa and Te Puke Medium Density Residential and Commercial Zone;
- Replace the definition of 'Retirement Village Dwelling' with a new definition for 'retirement unit';
- Amend the definition of 'residential unit' so that it does not incorporate 'retirement unit'; and
- Replace the 'retirement village' definition with one that complies with the National Planning Standards.

**The specific amendments are set out in Appendix A**

operation of retirement villages.

The recommended insertions / amendments better enable retirement village development to occur within the Ōmokoroa and Te Puke Medium Density Residential Zone and Commercial Zone, in line with the direction of the NPSUD and Enabling Housing Act. This will have benefit in encouraging residential intensification to support the outcomes expressed in both Plan Change 92 and the NPSUD. It will also enable older people to 'age in place', thereby supporting their wellbeing.

The provisions will encourage quality design outcomes for retirement villages, without the costs associated with unnecessary regulatory controls.

The provisions continue to ensure the adverse effects of retirement villages will be managed in line with the direction of the NPSUD and Enabling Housing Act, and therefore, do not result in inappropriate or unanticipated environmental costs.

#### **Risk of acting or not acting**

I do not consider there is uncertain or insufficient information about the subject matter of the recommended insertions / recommendations. Retirement villages and their environmental effects are well understood. The evidence presented by the RVA and Ryman sets out sufficient section 32 information to support the provisions. Nevertheless, I have considered the risk of acting or not acting for completeness.

The risk of not acting is that the housing and care needs of the growing ageing population will not be adequately met. This would have significant wellbeing impacts for this portion of the community and their families.

I consider that the appropriateness of adopting the relief sought must also be considered in the context of the direction set out in the higher order policy documents, and in particular the NPSUD and the Enabling Housing Act. These documents provide for a significant step change in meeting the needs of communities, including providing a variety of homes for a range of households.

The NPSUD seeks to enable growth by requiring local authorities to provide development capacity to meet the demands of communities, address overly restrictive rules, and encourage quality, liveable urban environments. It also aims to provide growth that is strategically planned and results in vibrant urban areas. In my opinion, the relief sought by the RVA and Ryman will better achieve the outcomes expressed in the NPSUD. The risk of not acting is that intensification will occur without providing for the variety of homes required to meet the needs of the ageing population.

The risk of unintended consequences arising from the exclusion of 'retirement units' from 'residential units' can be addressed through minor consequential drafting amendments.